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## Environment Protection with a Focus on Restoring Human Health and Reducing Air Pollution

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### ABSTRACT

While clean air is the best input for a healthy life, a balanced environment is the best place to live. The right to breathe clean air is unalienable, but industrialization has accelerated the decline in air quality. Life itself is being destroyed by environmental degradation. And the importance of economic development has put environmental sustainability on the back burner. The release of industrial exhaust and maintaining clean air are perpetually at odds. Lack of proper disposal regulation increases the severity of being harmed by air pollutants. Untreated gas leakage contributes to environmental pollution and lowers air quality.

A non-doctrinal research methodology is used to assess the effects of such gas leakage in an area that is predominately populated by children and elders. This study examines the effective implementation of environmental laws in the nation with a focus on sustainable development policies for reducing air pollution. Additionally, it suggests actions to improve air pollution and gas leakage regulations and implement the precautionary principle.

**Keywords:** Industrialization, polluter-pays principle, precautionary principle, gas leaks, and air.

### Introduction:

*<sup>60</sup>"Our leaders' intentional lack of action is a betrayal toward all present and future generations" - Greta Thunberg (Swedish environmental and Climate Change Activist)*

Industrialization and economic growth has increased the rate of environmental pollution to a high like never before. The vital element of the environment that sustains life on earth is Air. Air pollution is often neglected due to the fact that the amount of pollution cannot be witnessed by one's naked eye and at times the real extent of pollution is concealed. Emission of greenhouse gases and negligent gas leakage adds up to environmental degradation, thus, contributing to the everlasting problem of global warming. These resources of nature that are polluted can never be restored back to their pristine form. It is our duty to conserve them for the future generation. It is the obligation of each and every human to contribute their part in conserving the elements of nature for the generations that are yet to come. The only key solution to this is taking stringent environmental protection measures collectively. This paper focuses on how emissions and gas leakage from industries are a serious threat to the environment. The paper bases its research in the recent gas leakage at The Chennai Petroleum Corporation Limited in Manali, Chennai. It further devolves into the ways to mitigate the emission of greenhouse gases which also causes serious repercussions to human health. It advocates the collective role that should be played by the leaders and the people to conserve the environment and restore human health.

### Objectives of the Study:

- Analyze the current Indian legislations that are brought to mitigate air pollution and if they are performing the desired function to conserve the environment.

<sup>60</sup> Youth4Climate conference in Milan, October 2021.

- To check how far the international conventions made for sustaining the environment for the future generations are put into action by the member states.
- Discuss the implications of air pollution on human health and provides suggestive measures to avoid infringement of human rights.
- States the need for immediate action in conserving the environment, keeping in mind the younger generation.
- Survey the prevailing conditions of air pollution in the industrialized region of Chennai.

#### **Review of Literature:**

<sup>61</sup>P. Leelakrishnan's book on Environmental Law in India, gave an insight on the basic air pollution legislations in the country and the principles evolved after the Bhopal gas leakage and the development thereafter.

<sup>62</sup>Sanjay Upadhyay and Videh Upadhyay's book on Water Laws, Air Laws and the Environment, provided a bird's eye view on the international instruments that speak for environmental conservation.

#### **Indian Legislations:**

- Environmental Protection Act, 1986.
- Environmental Protection Rules, 1986.
- The Air (Prevention and Control of Pollution) Act, 1981.
- Prevention and Control of Pollution (Uniform Consent Procedure) Rules, 1998.
- Ozone Depleting Substance (Regulation and Control) Rules, 2000.
- The National Environmental Act, 1995.
- The National Environment Appellate Authority Act, 1997.

<sup>61</sup> P. Leelakrishnan, "Environmental Law in India", LexisNexis Publication, Third Edition, 2015.

<sup>62</sup> Volume 2, Sanjay Upadhyay, Videh Upadhyay, "Water Laws, Air Laws and the Environment, LexisNexis Butterworths Publication, 2002.

#### **International Conventions and Protocols:**

- Stockholm Declaration of the UN Conference on the Human Environment, 1972.
- The Geneva Convention on Long-Range Trans Boundary Air Pollution, 1979.
- Vienna Convention for the Protection of the Ozone Layer, 1985.
- Helsinki Declaration on Protection of the Ozone Layer, 1985.
- Montreal Protocol on Substances that Deplete the Ozone Layer, 1987.
- Kyoto Protocol
- Rio Declaration on Environment and Development, 1992.

#### **Air pollution:**

According to <sup>63</sup>WHO, air pollution is contamination of the indoor or outdoor environment by any chemical, physical or biological agent that modifies the natural characteristics of the atmosphere. Air pollution is adding up of untreated poisonous gas to clean air. Untreated gas leakage from industries includes harmful gases such as SO<sub>2</sub>, CH<sub>4</sub>, CO<sub>2</sub>, N<sub>2</sub>O.

#### **Air pollution and Indian laws:**

The supreme law of the land has certain provisions regarding environment. Right to healthy environment is vested under <sup>64</sup>Article 21 of the constitution of India. This right was recognised in <sup>65</sup>Virendra Gaur & ors Vs State of Haryana. In this case, <sup>66</sup>SC stated that right to life with human dignity includes protection, preservation of environment, ecological balance; free from pollution of air and water. SC suggested sustainable development as a balancing concept for present utilization and future in <sup>67</sup>Vellore Citizens Welfare Forum Vs Union of India. In this case polluter pay principle

<sup>63</sup> [www.who.int](http://www.who.int), (Sept. 8, 2022)

<sup>64</sup> INDIA CONST. art. 21

<sup>65</sup> Appeal (Civil) 9151 of 1994

<sup>66</sup> Supreme Court

<sup>67</sup> AIR 1996 SC 2715

and precautionary principle were accepted as part of law. <sup>68</sup>Article 48A of the constitution of India emphasis the protection of environment. According to which the state shall endeavour to protect and improve the environment. India has made tremendous development in environmental legislation in the recent years. The environmental legislation developed in India only after <sup>69</sup>Bhopal gas tragedy. Before that only law of torts was used to deal with these matters. The principle of absolute liability was brought about. Then slowly government of India started making legislation related to environment. There is also a specific legislation for air. That is, Air (Prevention and control of pollution) Act, 1981. And there are set of rules and reports regarding air pollution. Notable rules are the air (prevention and control of pollution) rules, 1982 and the air (prevention and control of pollution) Appellate Authority Rules, 1999. The Environment (Protection) Act was enacted later to protect environment from any other distractions in 1986. People got their rights and similarly they should perform their duties prescribed under <sup>70</sup>Article 51 A(g). It is the duty of the people to protect and improve the natural environment including forests, lakes, rivers and wildlife and to compassion for living creatures. There is also <sup>71</sup>compensation mechanism prescribed by CPCB to compensate the people, and environment.

**The role of India in environmental conservation and the lacunas that should be focused:**

The newly independent India in 1947, first spoke of its long time perspective to conserve the environment in its fourth five year plan. Later ratifying international conventions lead to the framing of different legislations and organizational bodies to achieve the sustainable development goals. The department of environment created in 1980 got mutated to the Ministry of Environment, Forestry

and Climate Change in 2014. The MoEFCC serves as the nodal agency for environmental protection in India. Prevention and control of Pollution is one of its main objectives. It looks into the implementation of the policies and programs that are brought about the government. The ministry also approves the draft legislations that is submitted by the lower bodies functioning under it which get enacted into laws in the long run. The problem lies in the implementation function of the Ministry. It lags in making laws that are up to date. The hierarchy of consultation and approval of laws very much and procedural that takes three years to become an act if successfully passed. The public consultation in this process of making environmental legislations is not efficiently taken which leads to number flaws in the outcome.

The Central Pollution Control Board and the State Pollution Control Board are statutory organs created by the <sup>72</sup>Air (Prevention and Control of Pollution) Act, 1981 that function under the Ministry of Environment, Forestry and Climate Change. The central pollution control board has prime functions in regulating environment conservation mechanisms in the country. It is responsible for assessment of pollution in particular areas, involve in research and development to mitigate pollution and conserve the environment in the affected areas, implements plans and coordinates matters relating to implementation of mechanisms for abatement of pollution and finally it also focuses on pollution control in the urban areas. The CPCB is vested with indelible functions in conserving the environment. The irresponsive nature of CPCB when there is urgent requirement of directions and policy implementation to reduce urban pollution control and restoring human health is highly condemnable. Implementation of policies take a long due and the finances allocated are not utilized to its fullest potential. An effective

<sup>68</sup> INDIA CONST. art. 48A

<sup>69</sup> Union Carbide Corporation vs Union of India, 1990 AIR 273

<sup>70</sup> INDIA CONST. art. 51 A(g)

<sup>71</sup> Report of CPCB in house committee dated, July 15, 2017.

<sup>72</sup> Air (Prevention and Control of Pollution) Act, 1981, Sections 3,4, 14 of 1981, 1981.

functioning and vigilant CPCB is required to ensure environment conservation.

The SPCB is vested with the powers to issue directions, rules and notifications on pollution control measures. It can issue stringent measures for the abatement of pollution. The SPCB can regulate particular areas of excessive pollution by issuing proper emission standards and placing a check on the mechanisms to treat effluents before letting them out.

### **Global concern on trans-boundary Air Pollution:**

Air pollution is not only a concern in one particular country but a very urgent issue in the international fora. Global air pollution is a matter of high concern. Air pollution is one trans-boundary issue that should be dealt with the corporation of all the nations together. International environmental laws in the form of conventions and protocols have been devised to demand the collective action of all the nations in mitigating the emission of greenhouse gases and also reducing the emission of hazardous gases and particulate matters in the air that makes the air unfit for breathing. The two significant principles that should be emphasized in collective action are 1) the duty to prevent, reduce, control pollution and environmental harm. 2) Duty to cooperate in mitigating environmental risks and emergencies.

A <sup>73</sup>precautionary approach is required to be adopted by the countries in their obligation to conserve the environment for the common good of mankind. Only joining hands to mitigate air pollution will reduce global warming and ozone depletion. Socio-economic development of the world community poses a great challenge in the collective approach. Every country in the world is not in the equal plane when it comes to economic development. Every country is in a different strata with respect to the socio-economic parameter. Developed

countries and the developing countries should be directed accordingly by the international organ for environmental protection.

The developing countries are very much dependent on the fossil fuels to meet its energy needs. With the growing population in these developing countries the energy demands are also relatively higher. To meet the energy demands of its people along with environmental conservation is the need of the hour for those countries that are just raising forward in their economy. Implementing sustainable methods of energy efficiency would mean a lot of investment in the research and development and consequently in the department of science and technology. It is the need of the hour to build up research in the developing nations so that development along with efficient technology that conserves the environment shall be implemented. As stated in the international conventions developed countries should take proper efforts in conserving the environment. The percentage of contribution by the industrialized countries to the environmental damage in the process of development was higher. Thus the contribution of conserving the environment by the developed countries should also be in a greater ratio. There should be <sup>74</sup>transfer of technology among the developed countries and developing countries so that there will be an increased efficiency in contributing to environment protection. Improving the environment for the present and the future generations is a common goal for the benefit of the mankind. The industrializing countries also contribute to the deterioration of the environment. The profit earned through the development shall be invested in research and development. With the increase in proper research and up gradation of the emission standards from time to time there can be efficient environment conservation. National institutions shall be entrusted with the task of planning and managing of the natural

<sup>73</sup>(Adopted by the United Nations Conference on the Human Environment, Stockholm, 16 June 1972; see U.N. General Assembly Resolutions 2994/XXVII, 2995/UVII and 2996/XXII of 15 December 1972)

<sup>74</sup> UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE, Article 4,5,6,7, 1992.

resources in the country for environmental conservation.

Educating the masses on conserving the environment is inevitable. Every one living in the world should know the consequences of environmental degradation. When the impact of littering the environment is known and the effects of this on the future generation is educated, people would be cautious in conserving the environment for the future. This shall broaden the base for enlightened opinion and responsible conduct. This shall encourage the human kind to put their efforts in full dimension for sustainable development.

Awareness should be given to all the people about the environmental damages caused in the past years. When awareness is created among the public on the current issues of environmental degradation then the response from the public shall also be higher.

Implementation of the conventions and protocols and reporting such implementation to the international forum so that there is proper efforts taken by the countries for putting the words in action is required. Committees that are suggested in the paper should be brought into existence for assistance and for reporting the performance of the country. This shall pave way for a competitive spirit world wide in keeping the environment conserved in spite of development among the nations. The one instigation required is the leaders taking effective steps enforcing the conventions and agreements that are ratified by the country. Implementation mechanisms should be focused for maximized benefits to the environment and the future generations. Financial assistance should also be given to the countries that are still developing so that they implement technologies that are safer to the environment.

<sup>75</sup>Montreal Protocol was one remarkable convention that brought into its umbrella all the countries of the nation. It prescribed emission

standards for the ozone depletion substances as in the particular areas of air pollution. It also provided for the conference of parties that meet every year to decide on the sustainable development goals.

The initiatives taken by the international for a still remains in paper and awaits implementation through proper mechanism.

#### **Impact of air pollution on Human Rights:**

Human rights are vested in every individual. No one can be deprived of these rights which are inherently present by birth. Right to clean air is an inevitable human right. It is implicitly present in right to adequate standard of life which is recognised by <sup>76</sup>UDHR. Deprived of breathing clean air is deprived of right to healthy life. Right to healthy life is granted under <sup>77</sup>ICESCR. Breathing dirty air is causing a global public health crisis. Every minute a child dies because of air pollution. And annually at least five million people are dying out of breathing dirty air. Though there are committee on economic, social and cultural rights to formulate national policies with objective of reducing air pollution, majority of the world population lives in air polluted regions and are breathing dirty air. Human rights council has suggested seven key steps to overcome air pollution. They are establishing air quality monitoring system networks, quantifying the main sources of pollution, informing the public, enacting strong laws, developing national action plan, allocating adequate funds and evaluating the progress of the plans. These steps should be followed every member state to over the air pollution. Notably, India is a party to it.

#### **Consequences of air pollution on environment conservation and human health:**

The intentional emission and accidental gas leakage from industries have huge impact on the environment and human health as well. Violation of emission standards and letting out ozone depleting substances into the

<sup>75</sup> Montreal Protocol, 1987.

<sup>76</sup> Universal Declaration of Human Rights, Article 21 (1), 1948

<sup>77</sup> International Convention on Economic, Social and Cultural Rights, 1966

environment hikes up to global warming and ultimately affects the human survival and the ability of earth to sustain life. Air pollution although not properly measured and reported accordingly is a very rising issue that concerns human health. Air pollution deprives the right to life itself. Contamination of air with greenhouse gases leads to the formation of acid rain that in turn affects the crops and water bodies. It also affects the living organisms in the soil, water and air. Air pollution creates an imbalance in all the elements of nature and disturbs the environment. Air pollution adds up to ozone depletion. Polluting the air is polluting the quality of life we live on earth and also corrupting the natural resources from the future generations. Sustaining the environment not only benefits today's generation it also a good investment for a better tomorrow.

Air pollution infringes the basic right of health, right to a healthy environment and the right to life of all the living organisms. Human health drops down the scale due to air pollution. The report of the World Health Organization says that almost 70% of the entire human population breaths air of a marginal quality which is polluted. This degrades the health and results in fatal consequences.

#### **Non-doctrinal research:**

We visited, Manali where CPCL is located and we took a survey by direct interaction with the people in that area. Around 70 of them answered to our questions. We represented the important data collected in graph chart. Most of the people has experienced the smell of LPG gas. They get that smell very often. And also at times, they receive water in blackish colour. So, they are deprived of good air and water. It is fundamental right of every human to breathe clean air and consume good water. Thus, the people's fundamental rights are violated. Article 21 of the constitution of India is violated that encompasses right to life, right to healthy environment, right to clean air and water. People say the smell of that odour can be felt highly when it rains. When

such smell comes the people usually close the doors and windows and stay inside their homes. Those people deprived of living in the global race of economic development. The animals in that area were not so active as well. Their rights are also being violated.

#### **Suggestions:**

1. Emission standards should updated with increase in industrialization in order to regulate the amount of emissions from time to time.
2. Upgraded mechanisms to treat the air should be installed in the industries to reduce and regulate the emission of greenhouse gases.
3. The country should invest in research and development so that new technologies for the emerging scientific needs shall be innovated to regulate the amount of pollution.
4. Legislations that are drafted should also be amended as to the growing needs of mitigating air pollution.
5. Procedural barriers and hierarchical delay shall be avoided in amendment and drafting of new legislations and rules.
6. Air pollution and any other kind of pollution demands immediate action before it could further damage the environment.
7. Authorities under the Air Act, 1981 shall be vested with greater power for more efficient and stringent measures in abatement of pollution. The authorities in the vicinity of areas where there is excessive pollution shall take immediate action.
8. There should be a balanced focus on socio-economic development of the country and a sustainable environment.



9. The public should be educated on the lines of sustainable development and also given awareness on conserving the nature. This shall ensure a full dimensional impetus to environmental conservation.
10. All the rights of the living organisms can be restored if there is a healthy environment.

**Conclusion:**

Environmental resources are for the benefit of the human beings. Every living organism has the right to enjoy a healthy environment. Human beings can only explore and enjoy the resources of nature but not exploit and deteriorate them leaving none for the future. Along with the right to enjoy natural resources it also has a correlative duty of conserving the nature. It is the obligation of each and every human to preserve the nature and sustain the natural resources for the future generations. Air is one inevitable resource that is responsible to keep life going in the planet. Conserving the environment ultimately results in protecting and improving human health. A healthy environment is where a healthy life style thrives and human health is restored. Let's put into action all the efforts from every possible dimensions and thus restoring human health which in turn paves way for realization of all rights.