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NAVIGATING ENVIRONMENTAL JUSTICE: THE ROLE OF LAW AND COMMUNITY ENGAGEMENT IN PROTECTING VULNERABLE POPULATIONS AND PROMOTING SUSTAINABLE DEVELOPMENT

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ABSTRACT

This research explores the critical intersection of environmental justice, legal frameworks, and community engagement in safeguarding vulnerable populations from environmental hazards while promoting sustainable development. It examines how laws at various governance levels serve as tools for protecting marginalized communities from environmental degradation, ensuring equitable access to natural resources, and enabling legal recourse against polluters. Furthermore, the study highlights the vital role that community engagement plays in sustainable development, showcasing how local knowledge, participatory governance, and grassroots advocacy contribute to resilience and equitable resource management. By incorporating interdisciplinary approaches and examining the interplay between policy, social movements, and economic factors, this research reveals how systemic inequalities can be addressed through targeted legal reforms. Through case studies and qualitative analysis, the research aims to identify best practices that empower communities and leverage legal protections to foster a more just and sustainable future. Ultimately, this work underscores the necessity of integrating legal frameworks and community initiatives to address environmental injustices and achieve sustainable development goals, advocating for a collaborative approach that prioritizes the voices and rights of vulnerable populations.

Key Words: Pollution, Marginalised Communities, Environmental Legislation, Sustainable Development

1. INTRODUCTION

As India moves forward in the 21st Century, it is facing various new challenges. Development and the quest for economic prosperity for a better future often create challenges that are lethal not only for the population of the country but also for the environment. New Delhi, yet again in 2024, was one of the most polluted cities in the world. The air quality index has been consistently getting poor with every passing year. The conditions have deteriorated so low that it has been having a declining effect on the health of residents of the capital city. The limitations of market-induced correctives make

environmental measures to control emissions of air and water pollution crucial.

Recently, Justice Vikram Nath stated in a speech at the National Conference on Environment 2025 at Vigyan Bhavan that, *“The capital city of India regularly experiences high levels of pollution. I believe we can all agree that it is not acceptable for our children to grow up in an environment where they need masks to play outside or worry about respiratory ailments at a young age”*⁹¹

⁹¹ *“Not acceptable that children need to wear masks to play outside: SC judge Justice Vikram Nath”*, The Print, March 29, 25.

Furthermore, the obligation due to informational gaps in scientific knowledge, lengthy legal proceedings, and inadequate compliance monitoring, India's system is unable to improve the nation's environmental quality.

"You must teach your children that the ground beneath their feet is the ashes of our grandfathers. So that they will respect the land. Tell your children that the earth is rich with the lives of our kin. Teach your children what we have taught our children, that the earth is our mother. Whatever befalls the earth befalls the sons of the earth. If men spit upon the ground, they spit upon themselves."⁹²

These factors led the Indian government to set up pollution control boards (PCBs), a regulating mechanism, at the federal and state levels. Regulating the environment for thirty years hasn't stopped environmental destruction, unfortunately. This calls for a review of the ex-ante strategy in terms of internalization and pollution externality prevention. obstacles, which consequently cost the public money. With this ex-ante method, parties pay a fine after breaking rules, sometimes even before damage has been done. The state, which is also heavily involved in law enforcement, sets standards. Liability, on the other hand, takes an ex-post approach, meaning that parties compensate for damages after the harm has already happened. According to this method, if injury occurs, the courts determine the appropriate degree of care based on the circumstances and character of the case. According to the notion of culpability versus regulation, each system has benefits and drawbacks in terms of encouraging the wrongdoer to take preventative action to lower the likelihood of injury. However, neither completely safeguard citizens.

To better understand the impact of pre-emptive steps mandated by law is proof of the positive impact of law in protecting the environment. There have been various laws that

have been successfully able to help mitigate the various threats to the environment. Further, it is quintessential to understand that the law takes you only so far, but it fails in the long run without the support of the people. It is not only a duty but an unavoidable necessity to be more engaging in the context of environmental protection. This becomes more evident when one realizes that it is the marginalised communities who suffer the most at the expense of the increasing pollution.

2. ENVIRONMENTAL PROTECTION LAWS IN INDIA

Environmental protection laws in India aim to safeguard the natural environment, including air, water, land, and biodiversity, from pollution and degradation. Over the years, India has enacted various laws and regulations to address environmental concerns, promote sustainable development, and fulfil its international obligations. These laws are intended to regulate industries, prevent harmful practices, and ensure that both government and private entities take responsibility for the environment.

The Indian legal framework for environmental protection draws upon various sources, including the Constitution of India, specific statutes, executive orders, and international treaties. The Constitution itself plays a significant role, especially through provisions like Articles 48A and 51A(g), which mandate the protection and improvement of the environment. The cumulative effect of Articles 48A and 51A (g) seems to be that the 'State' as well as the 'citizens' both are now under constitutional obligation to conserve, perceive, protect, and improve the environment. Every generation owes a duty to all succeeding generations to develop and conserve the natural resources of the nation in the best possible way.⁹³

"Whenever a problem of ecology is brought before the Court, the Court is bound to bear in

⁹² Sachidananda Pandey vs State of West Bengal & Ors, AIR 1987 SUPREME COURT 1109

⁹³ State Of Tamil Nadu vs Hind Stone Etc AIR 1981 SUPREME COURT 711

mind Art. 48A of the Constitution, the Directive Principle which enjoins that "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country," and Art. 51A(g), which proclaims it to be the fundamental duty of every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."⁹⁴

Some of the key objectives of environmental protection laws in India include:

- **Prevention of Pollution:** To control the emission of pollutants and ensure that industrial activities do not cause harm to the environment.
- **Conservation of Resources:** Protecting natural resources like forests, water bodies, and wildlife for sustainable use.
- **Promotion of Sustainable Development:** Ensuring that development activities meet the needs of the present without compromising the ability of future generations to meet their own needs.
- **Public Awareness and Participation:** Encouraging the involvement of the public in environmental decision-making.

These laws are enforced by government agencies like the *Ministry of Environment, Forests and Climate Change (MoEFCC)* and various state-level pollution control boards. Additionally, the judiciary plays a crucial role in interpreting and enforcing environmental laws, ensuring that environmental issues receive adequate attention in legal proceedings. The introduction of these laws reflects India's growing recognition of the need to balance economic development with environmental sustainability, and they continue to evolve in response to emerging environmental challenges.

To better understand the impact of strong institutions and legislation, let's take a look at

some of the major functions of the "Central Pollution Control Board"

- Advise the Central Government on any matter concerning the prevention and control of water pollution;
- Collect, compile and publish technical and statistical data relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith;
- Lay down, modify or annul, in consultation with the State Government concerned, the standards for a stream or well.⁹⁵
- Advise the Central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution
- 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;
- Lay down standards for the quality of air.
- Co-ordinate the activities of the State Boards and resolve disputes among them;
- Provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;
- Plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution on such terms and

⁹⁴ *Supra* Note 4

⁹⁵ Section 16, The Water (Prevention and Control of Pollution Act), 1974, available at: <https://www.indiacode.nic.in>

conditions as the Central Board may specify⁹⁶

The Central Board of Pollution Control also provides for the publishing of an Annual Report mandated by Section 39 of the *Water (Prevention and Control of Pollution Act), 1974*, and Section 35 of the *Air (Prevention and Control of Pollution Act), 1981*.

According to the Annual Report published in the year 2023, various actions were proposed by the CPCB in order to better tackle the issue of pollution. These actions were being decided with close discussions with the Central and the concerned state governments. The results of these steps and their efficiency and implementation shall be put forth in the next Annual Report. These steps are as follows.

- Environmental Quality Monitoring, Data Management and Strengthening of Ambient Water, Air and Noise monitoring network.
- Development & Revision of Standards for industrial sectors
- Rejuvenation of River Ganga
- Implementation of action plan for polluted river stretches and nonattainment areas
- Special attention for Management of Delhi Air Quality and all non-attainment /million population plus cities under National Clean Air Programme⁹⁷

One of the most important parts of environmental protection in India is through the pen of Judicial System of the country. The judicial landscape is filled with examples from various judgements where the court has played an important role in not only protecting the environment but promoting sustainable growth as well. The courts have played a crucial role in combating both water and air pollution in the country.

We have the concept of the Polluter Pays Principle stating that once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by their activity, irrespective of the fact whether they took reasonable care while carrying on their activity. The rule is premised upon the very nature of the activity carried on. This principle was laid down in the case of *Vellore Citizens Welfare Forum v. Union of India & Ors.*⁹⁸

This is one of the many examples where the courts have helped in shaping the Environment Protection Landscape by way of laying down judgements which later achieved the power of law, guiding the way of the other future cases. The case also laid down the “Precautionary Principle,” which is widely used in cases since this judgement.

2.1 Span Motel Case : Establishment of the Public Trust doctrine

The Supreme Court of India rendered a significant environmental ruling in the Span Motels case. To safeguard their property situated on forest territory, Span Motels Pvt. Ltd., a business associated with former Environment Minister Kamal Nath, illegally redirected the Beas River. The Court determined that this was a violation of environmental regulations and a misuse of public authority. The Court determined that natural resources, such as rivers and forests, are held by the state in trust for the public and cannot be used for private gain by applying the Public Trust Doctrine. This case laid the groundwork for future environmental protection in India by resulting in the cancellation of the lease and an order for the motel to remediate the environment.

“The Public Trust Doctrine primarily rests on the principle that certain resources like air sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a

⁹⁶ Section 16, The Air (Prevention and Control of Pollution Act), 1981, available at: <https://www.indiacode.nic.in>

⁹⁷ Annual Report of 2023, Central Pollution Control Board, available at: <https://cpcb.nic.in>

⁹⁸ JT 1996(7) S.C.375

subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority.⁹⁹

2.2 Taj Trapezium Case

To shield the Taj Mahal from harm brought on by air pollution from adjacent industries in the Taj Trapezium Zone (TTZ), the Taj Mahal case was filed. According to environmental reports, the Taj's marble was deteriorating and turning yellow due to emissions from industries that burn coal and coke, a condition known as "marble cancer." Over 292 industries were ordered to either relocate outside the TTZ or switch to clean fuel (natural gas) after the Supreme Court ruled that this pollution infringed the right to life under Article 21. The ruling marked a significant step towards tying cultural heritage preservation and environmental protection together. The Judgement stated,

"In view of the above mentioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principal and the polluter pays principle are part of the environmental law of the country." Based on the reports of various technical authorities mentioned in this judgment, we have already reached the finding that the emissions generated by the coke/coal consuming industries are air-pollutants and have damaging effect on The Taj and the people living in the TTZ. The atmospheric pollution in TTZ has to be eliminated at any cost. Not even one per cent chance can be taken when – human life apart – the preservation of a prestigious monument like The Taj is involved. In any case, in view of the precautionary

principle as defined by this Court, the environmental measures must anticipate, prevent and attack the causes of environmental degradation. The 'onus of proof' is on an industry to show that its operation with the aid of coke/coal is environmentally benign. It is, rather, proved beyond doubt that the emissions generated by the use of coke/coal by the industries in TTZ are the main polluters of the ambient air.

We, therefore, hold that the above-mentioned 292 industries shall as per the schedule indicated hereunder change-over to the natural gas as an industrial-fuel. The industries which are not in a position to obtain gas connections – for any reason – shall stop functioning with the aid of coke/coal in the TTZ and may relocate themselves as per the directions given by us hereunder."¹⁰⁰

3. IMPACT OF POLLUTION ON MARGINALIZED COMMUNITIES

Pollution has a disproportionately negative impact on marginalized communities, exacerbating existing social, economic, and health inequalities. These communities, which often include low-income groups, people of colour, Indigenous populations, and those living in rural or informal urban areas, face greater exposure to environmental hazards and have fewer resources to mitigate the consequences.

3.1 Health Impacts:

It has been noted that communities that are found to be living near industries, factories, or construction projects are susceptible to higher levels of pollution. They are exposed to deadly chemicals and pollutants like particulate matter (PM), nitrogen dioxide (NO₂), and sulphur dioxide (SO₂) lead to respiratory diseases, cardiovascular problems, and higher rates of asthma, especially in children.

Not to mention, it has been proven in studies that the marginalised communities do not or have very limited access to clean drinking

⁹⁹ M.C. Mehta vs Kamal Nath & Ors, AIR ONLINE 1996 SC 711

¹⁰⁰ M.C. Mehta vs Union of India & Ors, AIR 1997 SUPREME COURT 734

water. Industrialisation and excessive urbanization have polluted clean streams and sources of groundwater, and people from the lower strata of life are the ones who suffer the most.

Both air and water pollution are responsible for various chronic health diseases in people from the marginalised communities. These include lung and skin cancer, developmental disorders and a threat to reproductive health.

3.2 Environmental Injustice:

Marginalized communities are often situated in areas with higher environmental risks such as near toxic waste sites, factories, or heavily trafficked roads.

This is referred to as environmental injustice, where the burden of pollution is disproportionately placed on those who are already vulnerable.

These communities often have limited political power, which means they have fewer resources to fight against harmful practices like pollution or environmental degradation. They also lack access to technologies and infrastructure to protect themselves, such as air filters or clean water systems.

3.3 Economic Impacts:

Many marginalized communities depend on industries that are linked to high levels of pollution (e.g., coal mining, waste management). As pollution regulations increase or as environmental degradation worsens, these communities may lose jobs or see their economic stability disrupted.

Living in polluted areas can also reduce the value of homes and land, making it harder for people to build wealth through property ownership. This perpetuates cycles of poverty and inequality.

3.4 Climate Change Vulnerability:

Marginalized communities are more vulnerable to the impacts of climate change, such as floods, heat waves, and extreme weather

events. These communities often live in substandard housing or informal settlements that are more likely to be damaged in natural disasters. The combination of environmental degradation and climate change worsens their situation, making it harder to recover after disasters.

Due to economic hardships, these communities often lack the resources to adapt to climate change, such as relocating to safer areas or investing in climate-resilient infrastructure. This leaves them more exposed to environmental shocks.

3.5 Social and Psychological Effects:

Stress and Mental Health: Constant exposure to pollution and environmental degradation can lead to significant mental health challenges, including anxiety, depression, and stress. The stress of living in an unhealthy environment, coupled with the frustration of not having the means to improve one's living conditions, compounds the issue.

Social Disempowerment: The inability to address pollution-related issues due to lack of political representation and resources can create a sense of disempowerment and social marginalization, deepening feelings of isolation and helplessness.

3.6 Environmental Activism and Resistance:

Despite these challenges, marginalized communities are often at the forefront of environmental justice movements, advocating for cleaner environments, safer living conditions, and greater governmental accountability. These movements often involve grassroots organizations that fight against pollution and seek to promote sustainable, equitable policies.

3.7 Bhopal Gas Tragedy:

The Bhopal Gas tragedy is a perfect example of how it is the people from the lower and marginalised communities who have the most devastating effects of any environmental disaster or even a man-made tragedy that can affect generations.

More than 3,000 people were killed in the immediate aftermath and at least 25,000 are estimated to have died overall. Local groups have claimed the true number is probably even higher due to the long-term effects of the poisonous gas, which include high rates of cancers, kidney and lung diseases. High numbers of babies have been stillborn or born with severe disabilities to gas-affected mothers in recent years.¹⁰¹

The demographics and spatial orientation of the factory within the city of Bhopal illuminate the assumed disposability of the population most affected by the leak. Union Carbide set up the factory close to a shanty town next to a small lake in the city. It promised employment to the poor, largely Muslim and low-caste labourers who already worked in subpar conditions of the informal economy due to the lack of jobs in the slowly growing postcolonial economy.¹⁰²

“It is indeed a matter for national introspection that public response to this great tragedy which affected a large number of poor and helpless persons limited itself to the expression of understandable anger against the industrial enterprise but did not channel itself in any effort to put together a public supported relief fund so that the victims were not left in distress, till the final decision in the litigation. It is well known that during the recent drought in Gujarat, the devoted efforts of public-spirited persons mitigated, in great measure, the loss of cattle wealth in the near-famine conditions that prevailed. This Court considered it a compelling duty, both judicial and humane, to secure immediate relief to the victims.”¹⁰³

This shows that it is indeed the marginalised and lower strata of society that suffers the most from the effects of pollution or environmental degradation in a country.

4. **ROLE OF COMMUNITY ENGAGEMENT IN PROTECTING THE ENVIRONMENT**

Community engagement plays a crucial role in protecting the environment. When communities are actively involved in environmental decision-making and initiatives, it leads to more sustainable outcomes, greater public awareness, and stronger collective actions. Here are some key ways in which community engagement contributes to environmental protection.

4.1 Raising Awareness and Education

Increased Knowledge: Community engagement fosters a better understanding of environmental issues, such as pollution, climate change, and biodiversity loss. When people are educated about these challenges, they are more likely to adopt eco-friendly practices and advocate for change.

Behavioural Change: By engaging communities in educational campaigns and hands-on activities like recycling drives or tree planting, individuals can develop more sustainable behaviours and lifestyles. Community members may become more conscious of their energy consumption, waste generation, and use of resources.

4.2 Empowering Local Action

Grassroots Initiatives: Community members are often best positioned to understand local environmental issues and the specific needs of their area. Engaging communities in environmental decision-making empowers them to take action at the local level. This can range from organizing clean-up campaigns to promoting local sustainable farming practices.

Local Solutions: Communities are more likely to implement practical, context-specific solutions that align with their needs. For example, a community-based approach to waste management, such as composting or local recycling programs, can be more effective than top-down government interventions, as locals have a direct interest in the outcomes.

¹⁰¹ “Removal of waste from site of 1984 Bhopal disaster dismissed as ‘farce’”, The Guardian, January 2, 2025

¹⁰² Pandya, J. S. (2023). “Crip Life Amidst Debilitation: Medicalization, Survival, and the Bhopal Gas Leak. Disability Studies Quarterly, 43(1). Available at: <https://doi.org/10.18061/dsq.v43i1.9653>

¹⁰³ Union Carbide Corporation vs Union of India 1990 AIR 273

4.3 Building Trust and Collaboration

Inclusive Decision-Making: When communities are involved in environmental decision-making, they are more likely to support policies or projects that address their concerns. This can lead to better cooperation between local governments, NGOs, businesses, and residents, ensuring that solutions are both equitable and effective.

Stronger Partnerships: Community engagement fosters partnerships between diverse stakeholders. This can include collaborations with schools, local businesses, environmental organizations, and governmental agencies, all working together to address environmental challenges.

4.4 Promoting Sustainable Practices

Resource Conservation: Communities often develop and promote sustainable resource management practices, such as water conservation, forest protection, and sustainable agriculture. In rural or indigenous communities, traditional ecological knowledge can play a significant role in environmental conservation.

Sustainable Economies: By involving communities in eco-friendly practices, such as sustainable tourism, renewable energy projects, and eco-friendly agriculture, it can help create local, sustainable economies. This also provides employment opportunities while protecting the environment.

4.5 Advocating for Policy Change

Strength in Numbers: Communities that are actively engaged in environmental issues can mobilize to advocate for better environmental policies. Whether through protests, petitions, or collaboration with policymakers, communities can have a strong voice in shaping laws and regulations that protect the environment.

Local Environmental Laws: Community-led movements often push for stricter environmental regulations and enforcement of existing laws. For example, local advocacy might lead to the banning of harmful pesticides,

improved waste management practices, or stricter air quality standards.

5. CONCLUSION

Navigating environmental justice requires a multifaceted approach that integrates both legal frameworks and active community engagement to address the environmental inequities faced by vulnerable populations. These populations, often marginalized groups such as low-income communities, people of colour, and Indigenous peoples, are disproportionately affected by environmental degradation and pollution. However, with the right legal mechanisms and community-driven solutions, the environmental burdens they bear can be alleviated, ensuring that their rights to a clean and healthy environment are upheld.

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