

## WATER PREVENTION ACT

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### Introduction :

#### **1.1 Introduction to the Water (Prevention and Control of Pollution) Act, 1974**

<sup>293</sup>The **Water (Prevention and Control of Pollution) Act, 1974**. Was to prevent and the first enactment of the parliament ( govt. of India ) with the first primary object of securing and preventing and regulating & controlling water pollution and maintaining & restoring the wholesomeness of water. Whether, this Act was presents one of the first efforts by the indian govt. to securing over the environment , especially groundwater contamination of the water bodies due to liberalisation, urbanization, and industrialization and population growth. It is also the first legislation which gives particularly and specific power to the regulatory bodies to controlling water pollutions.<sup>294</sup> As a result of this enactment the Act, the pollutions control board of the state and the central came into force . this Act gives one of the most important powers to the State Board for controlling pollution and preventing water bodies as mention under **section 25** of this Act. Which says that,“ No person can establish or use new outlets for sewage/trade effluent discharge, or begin a new discharge without the State Board's prior consent”. It gives the powers to the State Board to statutory authority/bodies new outlets & new discharge takes actions with notice to any unauthorized new outlets.

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<sup>293</sup> “Indianjournals.Com/Ijor.Aspx?Target=ijor:Ijps&volume=2&issue=6&article=040.”

<sup>294</sup> Civil Engineering Department, Maharishi Dayanand University, Rohtak-124001, Haryana, India, Rathee, and Mishra, “Water Policies in India.”

## 1.2 Review Of Water Prevention And Control Act In India.

This Act came into force in 1974 and its applicable to the across India like, Andhra Pradesh, Assam, Bihar, Arunachal Pradesh, Chhattisgarh, Haryana, Himachal Pradesh, Goa, Gujarat, Jharkhand, Kanataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Mizoram, Nagaland, Rajasthan and the union territories. It also be adopted by any state through a resolution passed declaring to adopt Act. **The water prevention and control act, 1974** was enactment to prevent and control water pollution and to recycle and maintaing the wholesomeness of water for the establishment.<sup>295</sup> Only around 2% of the earth's total water supply is made up of the fresh water that is so vital to life for humans. However, almost all of this is trapped in the masses of clouds, glaciers, and ice caps; and make up roughly 1.998 percent of the entire amount. Over ages, the world's lakes and subsurface sources have accumulated the last little bit of fresh water. Nearly 85% of the rain never makes it to land; instead, it falls straight into the sea. On land, the little reminder falls. This water, which makes up just 0.00008 percent of the total, is what fills lakes, wells, subterranean supplies, and keeps rivers moving. For every five liters of total water, humanity is left with just one teaspoon of delicious water. The threat of contamination has prevented humanity from preserving and safeguarding this tiny portion of this precious and essential component of the ecosystem. India faces a terrible situation. It has the worst water pollution crisis, despite having good water resources. The country worries about safeguarding and maintaining its key waterways. These include eleven large, fifty-five medium, and forty-four small rivers, among others. These waterways have become highly polluted. The Water (Prevention and Control of Pollution) Bill, 1974's

Statement of Objects and Reasons confirms this. It states.

## 2. CONTROL OF WATER POLLUTION CONSTITUTIONAL ASPECT IN INDIA

<sup>296</sup> Water and life go hand in hand. India's Constitution doesn't recognize clean water as a basic right. However, courts have interpreted Article 21's right to life to include access to safe and adequate water. India faces water pollution from many sources. The 42nd amendment to India's Constitution brought in key provisions to protect the environment. Under Article 252 of the Constitution, the Indian Parliament passed the Water (Prevention and Control of Pollution) Act in 1974. All states have agreed to put this Act into practice. The Act now covers all states and union territories. Water falls under the State List in the Indian Constitution. Parliament made changes to this Act in 1978 and again in 1988. The Water Act sets up central and state pollution control boards. The central board can advise the government on water pollution matters, sync up state board activities back research on water pollution, and create a full plan to control and prevent water pollution. The Water Act covers a wide range of water bodies, including streams, inland waters underground waters, and sea or tidal waters. The Act itself doesn't set specific standards for effluent discharge or the quality of receiving waters. Instead, it has a system of permits or 'consents' to keep water pollution in check. The Act bans the disposal of polluting substances in streams, wells, and sewers, or on land beyond the limits set by state boards.

## The Constitutional Scheme for Water Conservation in India

Part IV-A of Directive Principles of State Policy Fundamental Duties came to be included in Aggressive amendment of the Constitution in 1976 through the 42nd Amendment. Article 51-A(g) provides that the duty of every citizen to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to

<sup>295</sup> Venkat, "PRECAUTIONARY PRINCIPLE AS AN EFFECTIVE JUDICIAL TOOL IN THE PREVENTION AND CONTROL OF WATER POLLUTION IN INDIA."

<sup>296</sup> Hewamecalla, "CONTROL OF WATER POLLUTION: CONSTITUTIONAL ASPECT IN INDIA."

have compassion for living creatures. [1] The state must implement the directive principles.

Article 39-A of the Constitution provides the citizen with the right of access to courts. The power of judicial review in its exercise, the courts may enforce the constitutional and legal rights by interpreting Articles 21, 48-A, and 51-A(g) of the Constitution.

The environmental acts passed by Parliament under Articles 252 and 253 of the Constitution of India. The Water Act (preventing and controlling pollution) came into force on October 15, 1974, by virtue of Article 252 of the Constitution. [2] The implementation of this Act is at the State level. The Central Government's role in mediation in inter-State water disputes with regard to the provisions under Article 262 of the Constitution. Under this Article, Parliament passed the Inter-State Water Disputes Act of 1956. Under this enactment, several tribunals have been set up from time to time to resolve water disputes among States. The Central Government can also legislate on water when two or more States desiring uniform legislation on the subject request the Union Government.

### 3. Legislative Measures for Water Conservation in India

Statutory water legislation encompasses various pre- and post-independence laws across multiple domains. These laws address issues like embankment construction, drinking water provision, irrigation, flood management, water conservation efforts, river pollution, the rehabilitation of evacuees and displaced individuals, as well as regulations regarding fisheries and ferries. Overall, water legislation is primarily under state jurisdiction. This is a result of the constitutional framework, which has historically granted states the authority to enact laws in this domain since the Government of India Act, 1935. Consequently, states possess the exclusive right to oversee water distribution, irrigation systems, canals, drainage and embankments, water storage, hydropower generation, and fisheries. However, there are limitations concerning the utilization of rivers

that cross state lines. Additionally, the Union has the authority to legislate on specific matters. These matters include shipping and navigation on national waterways, along with the power to regulate tidal and territorial waters. Furthermore, the Constitution states that the Union can legislate regarding the resolution of disputes over interstate water issues. Article 262 of the Constitution stipulates that "Parliament may by law establish provisions for the adjudication of any disputes or complaints concerning the use, distribution, or management of the waters of, or within, any interstate river or river valley."

### 4. Evaluation of legal and institutional frameworks

<sup>297</sup>The 'Right to Water' is not directly addressed in Article 21 of the Indian Constitution, but falls under the wider interpretation of the 'Right to Life.' Article 51A of our Constitution states that it is the fundamental responsibility of every Indian citizen to safeguard and enhance the natural environment, which includes forests, lakes, rivers, and wildlife, as well as to show compassion towards living beings. In order to conserve water resources, several water-related policies have been formulated. The National Water Policy (NWP) was first formulated in 1987 and updated and notified it in 2002 and in 2012, respectively. The scope of coverage widened with each notification. NWP is considered to be a comprehensive water policy that highlights NRW, water-efficient technologies, rainwater harvesting, reuse of treated water etc. It provides an overview of the water resource situation, addresses the problem because of its scarcity and suggests development with conjunctive use of surface and groundwater.

**5. POLICY IMPLICATIONS AND ISSUES**<sup>298</sup>Despite the seeming lack of global success stories in pollution avoidance thus far, particularly in poorer nations, there is enough data to imply

<sup>297</sup> "0769\_Urban-Water-Efficiency-and-Conservation ."

<sup>298</sup> Kraemer, "PPRROOTTEECCTTIINNGG WWAATTEERR RREESOOOUURRCCEESS: PPOOLLLLUUTTHIOONN PPRREEVEENNTTHIOONN."

that the challenge of managing water quality in the future is manageable despite its complexity. While aiming for zero water pollution is undoubtedly unrealistic, it is possible to achieve a level of contamination that is both socioeconomically acceptable and respects the integrity of ecosystems. A number of crucial areas, including governance, legal, institutional, and technology transfer concerns,

### 5.1 Advocacy for policies and governance

One of the biggest challenges facing both developed and developing nations is the necessity of formulating regulations and implementing tools to promote sustainable water usage and consumption. The polluter pays principle, the precautionary principle, the idea that pollution should be prevented at its source, and the prevention principle are typically the foundations of policy solutions to water pollution. At all decision and policy levels, precautionary and preventative measures rather than end-of-pipe solutions must be encouraged, and the best possible mix of political, legal, and economic tools must be used.

To stop and reverse water degradation, reasonable objectives and priorities must be established based on the relevant indicators. The goal of protecting water resources is not served by vague claims of improvements in water quality or by unenforceable discharge

## 6. India's Water Pollution Regulation Challenges

Accountability, Standards, Enforcement, and Monitoring<sup>299</sup> Over the past few decades, India's water pollution problem has significantly worsened due to the country's fast industrialization and urbanization. But the regulatory framework has fallen behind. The main proximal causes include significant gaps in standard establishment, such as the absence of ambient water quality standards, inadequate monitoring, and lax enforcement by the

pollution control boards. It will take a coordinated effort to address these regulatory shortcomings in order to control water contamination restrictions. The inclusion of water quality in national policies, which has not yet been done, is a top priority. To tackle water contamination, national working programs should be created with clear goals and deadlines. International initiatives like the Vision of the 2000 Hague World Water Forum will not accomplish much if national governments do not take action and move forward with innovative institutional frameworks. National policies should be in line with pertinent international accords and conventions on freshwater biodiversity preservation and water pollution.

### 5.2 monetary resources

The development of investment mechanisms and the involvement of the private sector to mobilize financial resources can enhance the effectiveness of good water governance and administrative structuring. To enhance and expand the use of funding, governments, donors, non-governmental organizations, the local and global private sector, and water user associations can collaborate. More effective and efficient investments should be made in water management and services, particularly in emerging nations. Despite the fact that the government is the biggest investor, there is a noticeable trend toward the corporate sector (66).

Since major emitters' non-compliance is still quite widespread, governments should guarantee and expand the authority and funding for environmental enforcement. One should not undervalue the "polluter pays" principle's strength and efficacy. Point source pollution should be held accountable and financed by the private sector and industry. The money raised by stiffer fines and penalties for polluting companies might be put toward combating water contamination. When combined with effective enforcement of the rules controlling waste management practices,

<sup>299</sup> "Challenges in Regulating Water Pollution in India | Economic and Political Weekly."

such environmental enforcement tools can compel the industry to develop novel approaches to wastewater treatment, recycling, and non-contamination.

### 5.3 Reforming the law

In order to address frequent or small water use and the contamination it causes, water pollution should be made a crime with a de minimis rule. Competent authorities may then issue (temporary) discharge permits and prescribe restrictions on any pollution based on that rule (maximum concentration, maximum loads, reference to environmental quality objectives, seasonal variations, monitoring duties, data reporting, emergency responses, etc.). Priority should be given to establishing water quality standards, both for effluents and receiving waters, on a suitable legal basis in cases where none now exist. National law ought to mandate a thorough and trustworthy data analysis. Priorities and future water pollution prevention policies are developed using this data collection and national reporting as a foundation.

A timeline for the phase-out of dangerous or persistent chemicals must be established. Because they encourage technological advancement, legally based drug prohibitions, limitations on their use and trade, including substitution policies, and emission standards derived from technology are especially useful

tools for achieving this goal. For example, ratifying and putting into effect the Convention for Implementing International Action on Certain Persistent Organic Pollutants is crucial.

### 5.4 Water management that is integrated

Whenever feasible, a catchment management strategy should be created since it deals with the reduction of water pollution. This strategy, when paired with community-based participatory networks, offers an alternative to traditional top-down and sectoral approaches, which frequently result in additional deterioration of water resources and may not provide the intended outcomes. In light of this, land and water management ought to be more closely coordinated, and land clearing operations—which affect water quality by causing soil erosion—should be subject to more regulation.

Successful integrated water resource management requires the removal of institutional and legal obstacles separating various sectors. To achieve administrative efficiency and effectiveness, government branches and authorities in charge of water policy, particularly water pollution management, should be reorganized and better coordinated.

