

# WATER POLLUTION IN INDIA: AN OVERVIEW

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## **I. Introduction**

Water, according to Greek traditions, is the best of all things. It is the most precious gift of nature and most important element for human life. Water is vast natural resources but for the purposes of consumption, it is in short in supply because the sea water which constitutes 97% of the world's water is unfit for consumption, and rest 3% is only fresh water, which is a requirement of entire world's population. It is universal solvent in which all the minerals, present in soil, may be dissolved. Water consists of one atom of oxygen and two atom of hydrogen. It can vanish as a gas in the atmosphere; reappear as dew, fog, clouds, rain, and snow, and in the cold change into a solid.<sup>2</sup> It covers about one third of the earth's surface. Water is an essential element of human living but it is useful only when it is unpolluted. The higher standard of living, the greater the danger of pollution. To make it fit for use, removal of water pollutants is essential. Water is polluted when natural is mixed with chemical, radioactive or pathogenic microbial substances which can cause large scale illness and deaths. According to eearth.org water related illness accounts for approximately 50 million deaths per year worldwide, most of these deaths occurring in Africa and Asia.<sup>3</sup> Pollution of water has been defined as the addition or doing of something to water which changes its natural quality. When water is polluted or contaminated, it loses its quality and becomes unfit for use. Polluted water creates problems for human beings, birds and animals etc. Thus, Pollution of water means rendering the water unfit for human consumption by bringing changes in its natural quality.

## **II. Causes of Water Pollution**

### **(i) Point Sources**

Those sources which can identify at a single location are known as point sources. For instance, the flow of water pollutants through regular channels like sewage system etc. Infiltration of industrial effluents, municipal sewage etc. contamination the ground water and cause water pollution. Point sources can be minimized if all domestic sewage and

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<sup>2</sup> Robert Lea Smith, Ecology & Field Biology, 5<sup>th</sup> Ed. 1995, at 64.

<sup>3</sup> <http://www.eearth.org>; visited on May, 01, 2016

industrial effluents are all centrally collected, treated up to requisite acceptable levels and reused for different beneficial purpose.

Discharge sewage is harmful to us in many ways. In coastal regions, it can flow through to the beaches and can cause health issues to the people who was in bathing or surfing in the sea water. It also adversely affects the fish which are found in the coastal region and can eventually affect us who consume fish as part of their meal.

### **(ii) Diffused Sources**

These sources whose location cannot be easily identified are called diffused (non-point) sources. In this case, the pollutants scattered on the ground ultimately reach the water sources and cause water pollution, for instance, mining, construction, agriculture (fertilizers, pesticides). So, many of the common inorganic chemical water pollutants are produced by defused sources, chiefly relating to intensive agriculture and high-density urban areas.

## **II. Effects of Water Pollution**

The effects of water pollution are numerous. Water pollution affects the wells, streams, rivers, excess plant nutrients, water-ways by way of depletion of oxygen level and sedimentary and erosional processes. Moreover, it also affects the public health & safety, wild life, aquatic life, property and economy. A water pollutant brings many physical and chemical changes in water. For instance, dyes, chromium and iron compounds change the color of water; suspended particles make water turbid; oils, detergents, chlorine phenols etc. impart an unlikable taste to water. All over the world, there is a problem of fresh and pure water. In India, most of the rivers lakes and other sources of water are polluted by the direct discharge of industrial effluents and sewage into them. Pollution level high in river Ganga and other rivers in certain areas, and it is unfit for drinking. Sewage is the main water pollutant in India, which comprise 90% of the pollutant, while 10% comes from industry. Groundwater contamination is becoming severed in many areas.<sup>4</sup>

## **III. Legislative Measures**

Right to life is most precious. The legal documents of every country recognize sanctity of human life. Article 21 of the Constitution of Indian recognize right to life. Various International Covenants and Declarations incorporate the provisions of right to life. Article 3 of the Universal

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<sup>4</sup> I.A.Khan, Environmental Law (2000) at 41

Declaration of Human Rights, 1948 incorporates the provisions of right to life. It has also been recognized in this Declaration that everyone has right to life and adequate standard of living for health etc. Similarly, Covenant on Economic, Social and Cultural Rights, 1966 and European Convention for the protection of Human Rights and Fundamental freedom has recognized right to life and it shall be protected by State.

The UNO have been passed a resolution in 1977, in its *United Nations Water Conference*. India is also a signatory country. It resolved unanimously, inter-alia, as under:

*“All people, whatever their stage of development and their social and economic conditions, have the right to have access to deinking water in quantum and of a quality equal to their basic needs<sup>5</sup>.”*

On November 10, 1980 when *International Drinking Water Supply Sanitation Decade* was proclaimed by the UNO, in which emphasized the importance of purity of water. India is also signatory to this Declaration.

#### **(i) The Constitution of India, 1950**

Pure and fresh drinking water is a basic need for the human being. It is a fundamental right and human right as enshrined in Article 21 of the Constitution of India<sup>6</sup> and it is the duty of the State to provide clean drinking water to its citizens.<sup>7</sup> Article 48-A of the Constitution of India provides that the State shall endeavor to protect and improve the environment and to safeguard the forest and wild life of the country. Further, Article 51-A(g) also imposes as one of the fundamental duties on every citizen to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

#### **(ii) Indian Penal Code, 1860**

Similarly the Indian Penal Code, 1860, one of the earliest legislation, had some provision relating to public health, safety etc.<sup>8</sup> Particularly, section 278 reads as whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment

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<sup>5</sup> Also cited in *Atma Linga Reddy v. Union of India*, 2008 7 SSC 788 at 799-800.

<sup>6</sup> *Subhas Kumar v. State of Bihar*, (1991) 1 SCC 598. In this case remarked that right of enjoyment of pollution-free water and air, is a fundamental right under Article 21 of the Constitution.

<sup>7</sup> *A. P. Pollution Control Board (II) v. M.V. Nayudu*, (2001) 2 SCC 62 at 69.

<sup>8</sup> Chapter XIV of the Code which deals with offences affecting the public health, safety etc.

of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.<sup>9</sup>

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

‘Water’ as a subject has been put by the Constitution of India in the State list<sup>10</sup> and Parliament has no power to enact legislation on such matter except “desired by two or more States, thereby enabling the Parliament to make laws for the States”<sup>11</sup> But the Legislatures of the States of Assam, Bihar, Haryana, Gujarat, Rajasthan, M.P., Karnataka, Haryana, Tripura W. B. & Jammu and Kashmir has passed resolutions requesting Parliament to enact a law to this effect and therefore, Parliament has enacted this Act under Article 252(1) of the Constitution of India.

In order to prevent and control of pollution of water in India, the above Water Act, 1974 was passed. This was first attempt to deal comprehensively with an environmental issue. This Act was inspired from the resolution adopted by the United Nations Conference on the Human Environment, held at Stockholm from 5<sup>th</sup> to 6<sup>th</sup> June, 1972, in which Late Smt. Indira Gandhi was represented by the Indian delegates.

The purpose of the legislation is not only the prevention and control of water pollution but also the maintenance and restoration of the wholesomeness of water. Its chief objectives are as follow:

1. To provide for prevention and control of water pollution.
2. To maintain or restore wholesomeness of water.
3. To establish Central and States Boards for the prevention and control of water pollution.
4. To provide for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.
5. To provide penalties for contravention of provisions of the Act.
6. To establish Central and State Water Testing Laboratories to enable the Board to assess the extent of pollution, lay down standards and establish guilt or default.

## **IV. Role of Judiciary**

The right to life in India, was at one time was restricted to ‘mere criminal existence’ while interpreting the scope Article 21 of the Indian

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<sup>9</sup> Fouling water of public spring or reservoir.

<sup>10</sup> Entry 17 in List 11 of the 7<sup>th</sup> Schedule.

<sup>11</sup> Article 252(1) of the Constitution of India.

Constitution.<sup>12</sup> But in course of time the Court recognized that the right to life is not animal existence only but it includes dignity. Further, the Supreme Court of India recognizes that pollution free water, air is included within the ambit of Article 21 of the Constitution.

In **Charan Lal Sahu v. Union of India**<sup>13</sup> the Supreme Court recognized that right to life, liberty, pollution free air and water is guaranteed by the constitution under Article 21, 48-A & 519(g) and it is duty of the State to take effective steps to protect these constitutional rights. Protection of environment is a matter of great public concern and needs sincere effort in its protection. Thus, it can be safely inferred that right to healthy environment is one of the dimensions of right to life due to environmental in equilibrium affects the precious right to life.

In **State of Orissa v. Government of India**,<sup>14</sup> Katju. M.J., opined that the right to get water is a part of our life guaranteed by Article 21 of the Constitution of India. It is a gift of nature. Human hand cannot be permitted to convert this bounty into curse, oppression. Right to life guaranteed in any civilized society, inter alia, right to water and decent environment. These are basic human rights known to any civilized society. These basic rights are protected and recognized by the various international treaties.

In **Amar Singh v. Union Territory, Chandigarh**,<sup>15</sup> the P&H High Court ruled that without the previous consent of the State Board, any person or any entity can, be permitted to discharge the sewage on any land. Without the consent of the Board, any permission granted is considered a constitutional offence.

Similarly, in **M. C. Mehta v. Union of India**,<sup>16</sup> the Supreme Court passed an order in which the trade effluents should be processed at the primary treatment plant as approved by the State Pollution Control Board before letting, the trade effluents from the tanneries directly or indirectly into the river Ganga. The Court while ordering the closing of tanneries opined:

*“Water is the most important of the element of nature. River valleys have been the cradles of civilization from the beginning of the world. Aryan civilization grew around the towns and villages on the banks of the river Ganga. Varanasi which is one of the cities on the banks of the river Ganga is considered to be one of the oldest human*

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<sup>12</sup> A.K. Gopalan v. State of Madras, AIR 1950 SC 27.

<sup>13</sup> 1990 1 SCC 619.

<sup>14</sup> (2009) 5 SCC 492 at 505

<sup>15</sup> AIR 1993 PH 100.

<sup>16</sup> AIR 1988 SC 1037 (also known as Kanpur Tanneries case).

*settlements in the world. .... Sewage of the towns and cities on the banks of the river and the trade effluents of the factories and other industries are continuously being discharged into the river. It is the complaint of the petitioner that neither the government nor the people are giving adequate attention to stop the pollution of the river Ganga. Steps have, therefore, to be taken for the purpose of protecting the cleanliness of the stream in the river Ganga, which is in fact the life sustainer of a large part of northern India.”<sup>17</sup>*

In **D. K. Joshi v. Chief Secretary, State of U.P.**,<sup>18</sup> the Apex Court entertained a PIL under Article 32 of the Constitution for preventing the water pollution and ensuring pure drinking water in Agra. The Court also directs to State to constitute a monitoring committee to observe functions of the government agencies responsible for the prevention and control of water pollution.

## **V. Measures to Control Water Pollution and Preserve Water**

There are following measures to control water pollution<sup>19</sup> --

- (i) **Reuse of Water:** The treated water can be reused for numerous purposes like industry, fishing, boating, irrigation, municipal purposes and cooling processes in thermal plants.
- (ii) **Judicious Use:** Pesticides (preferably less stable) and fertilizers should be very judiciously used to avoid chemical pollution of water through agricultural farm run-offs.
- (iii) **Prohibition:** The following prohibition should be enforced to avoid contamination of the main sources of drinking water-
  - (a) Discharging untreated or treated domestic, commercial and industrial sewage in water bodies.
  - (b) Bathing and washing of clothes in rivers and streams.

## **VI. Conclusion**

Water is the basic ingredient in the entire life cycle. There is need of the day to protect and preserve the water. There is no easy to solve water pollution. Though, we should our best. There are three different things that

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<sup>17</sup> AIR 1988 SC 1037 at 1038

<sup>18</sup> (1999) 9 SCC 578.

<sup>19</sup> Dr. Suresh K. Dhameja, Environmental Studies (2004), at 216-217

can help to tackle the problem— laws, education, and economics. They work together as a team.

One point of view is that water pollution can't be avoided. Primary argument in this point of view is that there will always be some water pollution in order to run the factories, cities, ships, oil, and coastal resorts. But this point of view overlooks the problems which water pollution brings over the long run for humans and aquatic life.

The Government as well Parliament both has taken a number of bold steps to control the water pollution, but nothing substantial has been achieved. The judiciary has done a great service by declaring the pollution free water as fundamental right, but the question remains to be determined is how to find out the pure and fresh water (pollution free water) which would infringe the fundamental right of the persons. Can the Court by any method control the "quality of the environment" and ensure to citizens safe environment"? These are the questions of great complexities which cannot be solved by the judiciary, government or legislative alone. In this regard, the co-operative efforts by the administrative wing of the State and realization of the duties of the citizens regarding the pollution free water.