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# Legal Perspective on Mitigating Water Pollution: A Critical Analysis of India's Constitutional Framework for Environment Safeguards

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## ABSTRACT

*The Rig Veda underscores the significance of the Panch Tatva, or five elements, which include Prithivi (earth), Vayu (air), Jal (water), Agni (Fire), and Aakash (sky). It emphasizes that the balance and coordination of these elements are fundamental to the functioning of life systems on Earth. Water i.e. Jal, stands as an indispensable element for human existence. Without it, survival becomes impossible. Unfortunately, water pollution remains a pressing issue in India, posing serious threats to both human health and the environment. Water pollution is also critical global challenge, impacting ecosystems, human health, and socioeconomic well-being. This issue has grown significantly in recent years as a result of India's Rapid industrialization and urbanization. Right to Access water is a fundamental human right. A human cannot survive in contaminated water. The only thing that can save your health is clean water. Water pollution is the primary cause of many ailments. This research paper critically examines India's constitutional framework for environmental safeguards, with a focus on its effectiveness in mitigating water pollution. Through evaluating the legal structures, regulations, and judicial interventions, research intends to identify advantages, disadvantages, and potential for improvement within the existing legal framework.*

**Keywords:** *Water pollution, Legal framework, Constitutional Provisions, International Achievements, Legislative Instruments.*

## I. INTRODUCTION

Pollution, defined as the addition of substances into the environment that render it unclean or unhealthy or hazardous, poses a significant threat to ecosystems and public health worldwide. Among various forms of pollution, water pollution stands out as a critical concern, particularly in regions experiencing rapid industrialization, urbanization, and population growth. In the context of India, a nation grappling with these challenges, addressing water pollution requires

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a comprehensive legal framework that effectively safeguards water bodies and ensures sustainable management practices. Water, a fundamental resource for life, faces an escalating threat due to rampant pollution, jeopardizing ecosystems and public health. In the context of India, a country grappling with rapid industrialization, urbanization, and population growth, mitigating water pollution demands a comprehensive legal framework. The detrimental impacts of water pollution extend beyond the present generation, affecting the prospects of future generations as well. Consequently, addressing water pollution emerges as a pressing imperative for sustainable development and environmental conservation efforts. The constitutional framework of India provides a foundational basis for environmental protection, underscoring the obligation of both the state and its citizens to conserve and enhance the environment.

### **(A) Research Objectives**

This research paper aims to critically analyse India's constitutional framework for environmental safeguards, focusing specifically on water pollution. The objectives of the study include:

1. To Analysis in brief Water (Prevention and Control of Pollution) Act, 1974 in mitigating water pollution.
2. To examine judicial interventions and their impact on mitigating water pollution: This objective involves analysing landmark judgments and directives from the Supreme Court.
3. To provide a concise analysis of international conventions on water pollution in brief.

### **(B) Methodology:**

The methodology utilized in this research paper solely employs the case study method. It involves the selection of specific cases relevant to India's legal framework for addressing water pollution. Data collection includes primary sources such as court documents and interviews, along with secondary sources like scholarly articles. The analysis focuses on identifying trends, patterns, and insights from the selected cases, with the aim of drawing conclusions and offering recommendations for policy improvement.

### **(C) Background**

Water pollution is a pressing environmental issue with profound implications for ecosystems and human health on a global scale. As industrialization, urbanization, and agricultural intensification accelerate, the contamination of water bodies intensifies correspondingly. In India, a nation grappling with rapid development and a burgeoning population, water pollution

presents significant challenges to sustainable development and public health. Understanding the legal framework for mitigating water pollution within the context of India's constitutional safeguards is essential for effective environmental management and policy formulation.

Religious texts also underscore the importance of preserving water quality. The ManuSmriti, for instance, admonishes against polluting water sources: "Let him not throw urine or faeces into the water, nor saliva, nor (clothes) defiled by impure substances, nor any other impurity, nor blood, nor poisonous thing."<sup>2</sup> These ancient teachings emphasize the sanctity of water and the imperative to protect it from contamination.

Also, various religious scriptures impart wisdom on environmental stewardship. The Yajur Veda, for instance, advises against disturbing the natural balance: "Do not disturb the sky and do not pollute the atmosphere."<sup>3</sup> This resonates with the reverence for nature inherent in Vedic philosophy, which prioritized cleanliness and harmony with the environment.

Similarly, the Bible exhorts followers to safeguard the land they inhabit: "You shall not pollute the land in which you live"<sup>4</sup> This injunction underscores the responsibility of humanity to act as stewards of the Earth and preserve its resources for future generations. In Sikhism, the Sri Guru Granth Sahib extols the interconnectedness of all elements of creation: "Air is the Guru, Water the Father, Earth the great Mother, and Day and Night the two male and female nurses in whose lap the entire world plays"<sup>5</sup> This profound verse emphasizes the sacredness of water and the need for reverence and protection.

Similarly, in Islam, water is recognized as a divine gift deserving of gratitude and respect. The Quran questions human ingratitude towards this precious resource: "And have you seen the water that you drink? Is it you who brought it down from the clouds, or is it We who bring it down? If We willed, We could make it bitter, so why are you not grateful?"<sup>6</sup> This passage underscores the importance of acknowledging the source of water and cherishing its life-sustaining properties.

## **II. TYPES OF WATER POLLUTION**

Water pollution is a complex environmental issue with multiple causes and kinds of contamination, each providing its own set of threats to ecosystems and human health. Here's a more in-depth look at common types of water pollution caused by human conduct:

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<sup>2</sup> Chapter 4.56

<sup>3</sup> (5:43).

<sup>4</sup> (Numbers 35:33).

<sup>5</sup> (SGGS, 8).

<sup>6</sup> (56: 58-70).

**1. Surface Water Pollution:** This type of pollution occurs when contaminants enter water bodies such as rivers, lakes, streams, and reservoirs. Sources of surface water pollution include industrial discharges, agricultural runoff containing pesticides and fertilizers, urban storm water carrying pollutants from streets and drainage systems, and untreated sewage discharge. These contaminants can degrade water quality, harm aquatic life by disrupting ecosystems, and pose health risks to humans who rely on these water bodies for drinking, recreation, and irrigation.

**2. Groundwater Pollution:** Groundwater, sourced from underground aquifers, is vulnerable to contamination from various sources. Industrial spills, leaking underground storage tanks, agricultural chemicals leaching into the soil, and inadequately treated sewage can all introduce pollutants into groundwater. Once pollutants infiltrate aquifers, they can persist for long periods, posing significant challenges for remediation. Contaminated groundwater can pose serious health risks to communities reliant on wells and other groundwater sources for drinking water.

**3. Nutrient Pollution:** Excessive levels of nutrients, particularly nitrogen and phosphorus, can lead to nutrient pollution in water bodies. This often occurs due to runoff from agricultural lands where fertilizers are used, discharge from wastewater treatment plants, and urban stormwater runoff. Nutrient pollution can cause eutrophication, a process in which excessive nutrients stimulate the rapid growth of algae and aquatic plants. This can lead to algal blooms, oxygen depletion, and the degradation of aquatic habitats, ultimately harming fish and other aquatic organisms.

**4. Chemical Pollution:** Chemical pollution involves the release of toxic substances and hazardous chemicals into water bodies. Industrial activities, such as manufacturing, mining, and chemical processing, can introduce a wide range of pollutants into waterways. Oil spills from transportation and offshore drilling operations are another significant source of chemical pollution. These pollutants can bioaccumulate in aquatic organisms, posing risks to human health when contaminated fish and shellfish are consumed. Additionally, chemical pollution can disrupt aquatic ecosystems and harm biodiversity.

**5. Microbial Pollution:** Microbial pollution, also known as microbiological contamination, occurs when water bodies are contaminated with pathogenic bacteria, viruses, and protozoa. This contamination often results from untreated sewage and wastewater discharges, as well as runoff from agricultural lands and animal feeding operations. Microbial pollutants can cause waterborne diseases such as cholera, typhoid fever, and gastroenteritis, posing significant public

health risks, especially in communities with inadequate sanitation and drinking water treatment facilities.

**6. Sediment Pollution:** Sediment pollution, or sedimentation, occurs when soil particles and other suspended solids are transported and deposited in water bodies. This typically results from erosion of bare soil surfaces due to deforestation, agriculture, construction projects, and urban development. Sediment pollution can degrade water quality by clouding the water, reducing light penetration, and smothering bottom-dwelling organisms. It can also impair aquatic habitats, disrupt ecosystems, and contribute to habitat loss for fish and other aquatic organisms.

**7. Thermal Pollution:** Thermal pollution refers to the elevation of water temperatures in natural water bodies due to human activities. Industrial processes, power plants, and urban runoff can release heated water into waterways, causing temperature increases that can stress aquatic organisms. Elevated water temperatures can disrupt ecological processes, reduce oxygen levels, and degrade water quality, ultimately harming aquatic life and biodiversity.

**8. Plastic Pollution:** Plastic pollution occurs when plastic debris accumulates in water bodies, posing risks to marine life, birds, and ecosystems. It is primarily caused by improper disposal of plastic waste, littering, and inadequate waste management practices. Plastic debris can harm marine animals through ingestion or entanglement, leading to injuries, suffocation, and death. Additionally, plastic pollution can fragment into smaller pieces, known as micro plastics, which can be ingested by aquatic organisms and enter the food chain, posing risks to human health when contaminated seafood is consumed.

**9. Oil Spillages:** Water can become polluted from accidental oil spills, transportation, runoff, and intentional dumping. Oil spillage can have devastating effects on water environments, suffocating marine life and posing risks to humans. Oil spills make up a significant portion of the oil entering the world's oceans, with just one litre of oil capable of polluting one million litres of water. Once oil enters the water, it spreads quickly, reducing oxygen levels and sunlight penetration, which affects photosynthesis in plants and suffocates fish. Oil pollution also affects seabirds, smothering their feathers and preventing them from flying, as well as exposing them to oil ingestion when they catch fish.

### **III. TIMELINE OF INTERNATIONAL ACHIEVEMENTS IN WATER RIGHTS**

- United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972:

The 1972 United Nations Conference on the Human Environment in Stockholm was the first world conference to make the environment a major issue. Representatives from 113 world

governments convened at the UN Conference in Stockholm, where they established 26 principles aimed at safeguarding and enhancing the environment. Often referred to as 'the Magna Carta of Human Environment', this conference laid the groundwork for global environmental protection efforts. These principles, also known as 'The Magna Carta on Environment', serve as guidelines for governments worldwide to enhance and preserve the present-day environment for the well-being and future generations of all humanity. The participants adopted a series of principles for sound management of the environment including the Stockholm Declaration and Action Plan for the Human Environment and several resolutions. The Principles given in the declaration emphasises the need on safeguard water for present and future generation and highlighted the need stop the discharge of toxic substances in water. (Principle 2,6)

- United Nations Water Conference, Mar del Plata, 14-25 March 1977:

In March 1977, during the Mar del Plata UN Water Conference, the Action Plan acknowledged water as a fundamental right for the first time, affirming that everyone, regardless of their level of development or social and economic circumstances, has the right to access drinking water in amounts and of a standard that meets their essential requirements.

- The Convention on the Rights of the Child (CRC), 20 November 1989:

The Convention had explicitly cited on water. Article 24(2) states: “States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: ... to combat disease and malnutrition, including within the framework of primary health care, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and CLEAN DRINKING WATER, taking into consideration the dangers and risks of environmental pollution: ...

- International Conference on Water and Sustainable Development (Dublin Conference), 26 to 31 January 1992:

Principle 4 of the Dublin Conference emphasizes the crucial importance of acknowledging the fundamental entitlement of every individual to access clean water and sanitation at a reasonable cost.

- United Nations Conference on Environment and Development, Rio Summit, 3-14 June 1992:

Chapter 18 of Agenda 21 supported the resolution from the Mar del Plata Water Conference affirming the universal right of all individuals to access drinking water, referring to this as the

widely accepted principle.

- United Nations International Conference on Population and Development, 5 September 1994:

The Programme of Action of the UN International Conference on Population and Development asserts that every person has the entitlement to a satisfactory standard of living for themselves and their families, which encompasses adequate provisions such as food, clothing, housing, water, and sanitation.

- UN General Assembly Resolution A/Res/54/175 “The Right to Development”, December 1999:

Article 12 of the Resolution confirms that as part of achieving the complete realization of the right to development, among other things, the rights to food and clean water are fundamental human entitlements. Promoting these rights is not only a moral imperative for both national governments and the international community but also crucial for fostering development.

- World Summit on Sustainable Development, 26 August to 4 September 2002: The Political Declaration of the Summit expresses satisfaction with the Johannesburg Summit's emphasis on the inseparability of human dignity. It resolves to accelerate efforts through setting targets, timelines, and partnerships to enhance access to fundamental necessities like clean water, sanitation, energy, healthcare, food security, and biodiversity conservation.
- General Comment No. 15 on the right to water, November 2002:

General Comment 15 offers an interpretation of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), confirming the inclusion of the right to water in international law. This Comment provides guidance on understanding this right, linking it to Article 11 on the adequate standard of living and Article 12 on the highest attainable standard of health. It clearly outlines the responsibilities of state parties regarding this right and defines actions that would constitute violations. Article I.1 of the Comment emphasizes that access to clean water is indispensable for human dignity and is a prerequisite for realizing other human rights.

- Human Rights Council Decision 2/104, November 2006:

Human Rights Council directed the Office of the United Nations High Commissioner for Human Rights to conduct a comprehensive study, considering input from states and other stakeholders, on the extent and specifics of human rights obligations regarding fair access to

safe drinking water and sanitation according to international human rights agreements. The study would include pertinent findings and recommendations to be presented before the sixth session of the Council.

- The Convention on the Rights of Persons with Disabilities (hereinafter “CRPD” or “Convention”), United Nations General Assembly on 13 December 2006:

Disabilities Article 28, defines the right of persons with disabilities to an adequate standard of living and states “State Parties to recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures: (a) To ensure equal access for persons with disabilities to CLEAN WATER SERVICES, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs”

- United Nation General Assembly Resolution A/RES/64/ 292, 28 July 2010:

This United Nation Resolution marks the initial formal recognition of the right to water and sanitation, affirming the critical role of clean drinking water and sanitation in upholding all human rights. It urges both states and international organizations to allocate financial resources towards capacity-building and technology transfer, especially for developing nations, to ensure the provision of safe, accessible, and affordable drinking water and sanitation for everyone.

#### **IV. LEGAL FRAMEWORK FOR MITIGATING WATER POLLUTION**

##### **(A) Constitutional Provisions:**

India's constitutional framework provides the foundation for addressing environmental issues, including water pollution, through various provisions that emphasize environmental protection, sustainable development, and the rights of citizens. The following constitutional provisions are particularly relevant:

##### **1. Article 48A - Directive Principles of State Policy:**

- Article 48A was added to the Directive Principles of State Policy by the 42nd Amendment Act, 1976. It mandates that the State shall endeavor to protect and improve the environment and to safeguard forests and wildlife.
- This provision underscores the State's duty to promote environmental conservation and ecological balance, recognizing the interconnectedness between human activities and the environment.

- It emphasizes the importance of sustainable development and underscores the need for policies that balance developmental goals with environmental protection.

## 2. Article 51A - Fundamental Duties:

- Article 51A lists fundamental duties that every citizen of India is expected to uphold. Clause (g) specifically highlights the duty to protect and improve the natural environment, including forests, lakes, rivers, and wildlife.
- This provision places an obligation on citizens to contribute to environmental conservation efforts and promote a culture of environmental stewardship.
- It recognizes the collective responsibility of individuals in ensuring environmental sustainability and underscores the principle of intergenerational equity, whereby the current generation must protect natural resources for the benefit of future generations.

## 3. Article 21 - Right to Life:

- Article 21 guarantees the right to life and personal liberty, which has been interpreted expansively by the Indian judiciary to include the right to a clean and healthy environment.
- The Supreme Court of India has held that the right to life encompasses the right to clean air, water, and a pollution-free environment, essential for the enjoyment of life with dignity.
- This interpretation has led to significant judicial interventions in environmental matters, with the courts playing a proactive role in safeguarding environmental rights and holding authorities accountable for environmental degradation.
- Right to water under Article 21 of The Constitution of India was held by the apex court in the case of *Subhash Kumar v State of Bihar* (1991)<sup>7</sup>.

## 4. Article 253 - Legislative Power of the Union:

- Article 253 empowers the Parliament to enact laws for implementing international treaties and agreements, including those relating to the environment.
- This provision enables the central government to legislate on matters concerning water pollution control and environmental protection, especially in cases where international obligations require legislative action at the national level.
- It underscores the importance of harmonizing domestic laws with international

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<sup>7</sup> AIR 1991 SC 420

commitments to address transboundary environmental issues effectively.

#### 5. Article 246 - Distribution of Legislative Powers:

- Article 246 delineates the division of legislative powers between the Union (central government) and the States.
- While the central government has exclusive jurisdiction over matters listed in the Union List (List I), including inter-state rivers and pollution control in respect of these rivers, the States have legislative authority over water-related issues within their territories unless provided otherwise.
- This division of powers reflects the federal structure of the Indian polity and allows for tailored approaches to address water pollution based on regional needs and priorities.

#### 6. Jurisprudence:

Judicial decisions, particularly those of the Supreme Court, have played a significant role in shaping environmental law and policy in India. Landmark cases such as *M.C. Mehta v. Union of India* and *Vellore Citizens Welfare Forum v. Union of India* have established principles of strict liability for polluters, the precautionary principle, and the polluter pays principle, which have implications for mitigating water pollution.

### V. CASE LAWS FOR MITIGATING WATER POLLUTION

#### 1. *Susetha v. State of Tamil Nadu*<sup>8</sup> :

The Hon'ble Supreme Court pronounced a significant decision, the court observed that The preservation of water bodies is imperative. This necessity is not solely based on the recognition of the right to water, which provides essential sustenance, but also because it fosters opportunities for intellectual, moral, social, and spiritual development. Throughout the complex history of human civilization on Earth, we have reached a stage where advancements in science and technology enable us to significantly alter our environment in various ways and on an unprecedented scale. Both the natural and human-made aspects of our environment are crucial for human well-being and the enjoyment of basic human rights, including the fundamental right to life itself. The preservation of water bodies is essential, not only because the right to water and quality of life are envisioned under Article 21 of the Constitution of India but also because this recognition is echoed in Articles 47 and 48-A of the Constitution. Article 51-A of the Constitution of India also imposes a fundamental duty on every citizen to safeguard and enhance

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<sup>8</sup> (2006) 6 SCC 543.

the natural environment, which includes forests, lakes, rivers, and wildlife.

2. *M. C. Mehta v. Union of India (Ganga River Pollution Case)*<sup>9</sup>:

In a Public Interest Litigation (PIL) filed by Mr. M. C. Mehta under Article 32 of the Indian Constitution, the Hon'ble Supreme Court noted that the water of River Ganga near Kanpur city was highly polluted due to untreated effluents discharged by tanneries in the area. Additionally, nine streams were releasing sewage effluents and sludge into the river, while dead and half-burnt bodies were also being disposed of in the river. Furthermore, the water supply and sanitation conditions in the entire city were inadequate compared to the standards of a typical city. The petitioner requested the issuance of a writ or directive to restrain the State of Uttar Pradesh from allowing trade effluents into River Ganga. The respondents argued that the tanneries lacked the physical infrastructure, technical expertise, and funds to install proper treatment facilities. Rejecting their arguments, the Hon'ble Court stated that the financial capacity of a tannery should not be considered when requiring them to establish primary treatment plants. Just as an industry unable to pay minimum wages to its workers cannot operate, tanneries without proper treatment plants cannot continue operating. The Hon'ble Court also noted that the levels of iron and manganese in the river water exceeded ISI limits, posing significant health risks. The Hon'ble Court ordered tanneries that did not appear before the court to cease operations until they installed pre-treatment machinery for trade effluents. Additionally, the Kanpur Municipal Corporation was held liable, and the Hon'ble Court issued several directives for the Prevention, Control, and Abatement of pollution in River Ganga. These included enlarging sewers in labor colonies, constructing latrines and urinals, preventing the disposal of bodies and ashes into the river, installing treatment plants in tanneries and other factories, observing "Keep the Village Clean Week," and displaying slides on the importance and purity of water in theaters during intervals.

3. *Vellore Citizens Welfare Forum v. Union of India*<sup>10</sup>:

This landmark case involved a critical examination by the Hon'ble Supreme Court of the relationship between the environment and development. The petitioner, the Vellore Citizens Welfare Forum, filed a Public Interest Litigation under Article 32 of Constitution, highlighting the extensive pollution of River Palar caused by the discharge of untreated effluents from tanneries and other industries in Tamil Nadu. The river serves as the primary source of drinking and bathing water for the local population. Additionally, research conducted by the Tamil Nadu

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<sup>9</sup> (1997) 2 SCC 353

<sup>10</sup> AIR 1996 SC 2715; (1996) 5 SCC 647

Agricultural University Research Centre in Vellore revealed that approximately 35,000 hectares of agricultural land had become either entirely or partially unsuitable for cultivation. The central question before the Supreme Court was whether the tanneries should be permitted to continue operating at the expense of endangering the lives of countless individuals. Upon examining the report, the Supreme Court delivered its judgment, striving to strike a balance between environmental conservation and economic development. The Court acknowledged that while tanneries in India contribute significantly to foreign exchange earnings and provide employment to thousands, they also cause environmental degradation and pose health risks to the public. In its ruling favouring the petitioners, the Court directed all tanneries to pay a fine of Rs. 10,000 to the Collector's office. Furthermore, the State of Tamil Nadu was instructed to award Mr. M. C. Mehta with Rs. 50,000 in recognition of his efforts to protect the environment. Also The Court emphasized the need to establish Green Benches in India dedicated to handling environmental protection matters, as well as ensuring the prompt and efficient adjudication of environmental cases.

4. *Indian Council for Enviro-Legal Action v. Union of India*<sup>11</sup>:

In this case, five factories in Bicchari village, Udaipur, were producing Hyaluronic Acid [H-acid] and discharging highly toxic untreated effluents, causing significant environmental damage to the soil and groundwater. As a result, water in around 60 wells covering 350 hectares became contaminated and unfit for consumption, rendering the land infertile. The Sub-Divisional Magistrate invoked Sec 144 Cr.P.C to order the factories' potential closure. A writ petition was subsequently filed by the Indian Council for Enviro-legal Action before the Supreme Court, which considered legal precedents such as *Rylands versus Fletcher* and applied the Principle of Absolute Liability. The Court ordered the factories' closure and imposed damages of Rs. 4 Crores for ecological restoration. Additionally, the Court recommended the establishment of Green Benches in all State High Courts.

5. *S Jagannath v. Union of India*<sup>12</sup>:

The petitioner in this PIL seeks to enforce the CRZ Notification, 1991 to prohibit intensive and semi-intensive prawn farming in fragile coastal areas and establish a National Coastal Management Authority to protect marine life and coastal areas. Commercial aquaculture has led to mangrove ecosystem degradation, water pollution, and decreased fish catch. The court emphasized preserving the aesthetic and recreational value of coastal areas and noted that

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<sup>11</sup> AIR 1996 SC 1446: (1996) 3 SCC 212

<sup>12</sup> (1997) 2 SCC 87: AIR 1997 SC 811

aquaculture effluents qualify as environmental pollutants. It ordered: no conversion of agricultural land or salt farms into aquaculture farms, establishment of a Central Government authority under Sec 8(3) of the EPA, 1986, adherence to the Precautionary Principle and Polluter Pays Principle, prohibition of shrimp culture ponds in coastal areas, compensation for affected persons near Chilika Lake, and mandatory permission for aquaculture outside CRZ.

6. *Subhash Kumar v State of Bihar* (1991)<sup>13</sup>:

In this case, the Supreme Court of held that “the right to live ‘includes the right of enjoyment of pollutionfree water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to Article 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life.’”

In the case, The Court found that the Public Interest Litigation (PIL) lacked merit as it was motivated by personal interests rather than the broader public good. The petitioner's self-interest was evident from the materials on record, leading the court to deem the petition non-maintainable. Subhash Kumar's plea was dismissed, and he was ordered to pay Rs. 5000/- as costs to the Respondents. The court concluded that the State Pollution Control Board had already taken appropriate measures to prevent industrial effluent discharge into the Bokaro river, thus rejecting the petition. Moreover, the court emphasized that Art. 32 should be invoked to protect fundamental rights, not to settle personal grievances. The petitioner alleged that the West Bokaro Colleries and Tata Iron and Steel Co. were polluting River Bokaro, but the respondents denied the allegations, asserting that they had taken effective steps to prevent pollution. The court found no merit in the petitioner's claims, noting his history of purchasing slurry from the respondents and his motive for filing the petition, ultimately dismissing it.

## **VI. INTERPLAY WITH INTERNATIONAL LAW**

India is a signatory to various international agreements and conventions related to environmental protection, such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD). Constitutional provisions must be aligned with international obligations to ensure effective implementation and compliance. These constitutional provisions provide a robust framework for environmental governance in India, guiding legislative and policy initiatives aimed at mitigating water pollution and promoting sustainable development. They reflect the nation's commitment to

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<sup>13</sup> AIR 1991 SC 420

environmental conservation and underscore the importance of balancing developmental imperatives with environmental protection.

### **(A) Legislative Instruments**

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

**Definition of Water Pollution:** The Act defines water pollution as the presence of any toxic, radioactive, or other pollutants in water beyond permissible limits, which could be harmful to public health or aquatic life or could make water unsuitable for its designated use. The Water (Prevention and Control of Pollution) Act, 1974 is a significant legislation in India aimed at preventing and controlling water pollution. It establishes central and state pollution control boards tasked with various functions, such as setting quality standards, conducting research, and planning to promote cleanliness of streams and wells, and to prevent and control pollution of water.

**Regulatory Authorities:** The Act establishes State Pollution Control Boards (SPCBs) and the Central Pollution Control Board (CPCB) as regulatory authorities responsible for implementing and enforcing pollution control measures. These boards have the authority to issue directions to regulate industries, operations, or processes, and to control the supply of water, electricity, or other services. Additionally, the Act prohibits the establishment of any industry likely to discharge sewage or trade effluents without obtaining consent from the state board. Furthermore, the Act introduces economic incentives for controlling water pollution, such as levying taxes on water consumed by certain industries and local authorities.

**Pollution Control Measures:** The Act empowers the regulatory authorities to take measures for the prevention, control, and abatement of water pollution. This includes setting standards for the quality of water, regulating the discharge of pollutants into water bodies, and prescribing penalties for non-compliance.

**Prohibition on Discharge of Pollutants:** The Act prohibits the discharge of any pollutant into water bodies or streams without obtaining the necessary consent from the relevant pollution control board. It also mandates the treatment of industrial effluents before discharge.

**Penalties and Offences:** The Act prescribes penalties for contravention of its provisions, including fines and imprisonment for offenders. It also specifies offences related to the discharge of pollutants into water bodies and provides for the prosecution of individuals or entities responsible for such offences.

**Public Participation:** The Act emphasizes the importance of public participation in the

prevention and control of water pollution. It provides for the establishment of committees at the local level to facilitate public involvement in pollution control activities.

Also, the Act prohibits the establishment of any industry likely to discharge sewage or trade effluents without obtaining consent from the state board. Furthermore, the Act introduces economic incentives for controlling water pollution, such as levying taxes on water consumed by certain industries and local authorities. Overall, the Act provides a comprehensive framework for addressing water pollution, defining pollutants, establishing regulatory authorities, implementing pollution control measures, monitoring water quality, prescribing penalties for non-compliance, and promoting public participation in pollution control activities.

## **2. The Environment (Protection) Act, 1986**

The Environment (Protection) Act addresses water quality and the control of water pollution. According to Section 2(a) of the Act, the environment encompasses water and the complex relationships between water and various elements such as human beings, living creatures, plants, microorganisms, and property. Under this Act, the Central Government is empowered to set standards for environmental quality and regulate the emission or discharge of pollutants from any source.

## **3. Indian Easements Act, 1882**

The Indian Easements Act, enacted in 1882 during British rule, acknowledges the entitlement of a riparian owner (one who possesses land adjacent to a river or watercourse) to uncontaminated waters. According to this Act, a riparian owner possesses the right to utilize the water from the flowing stream alongside their property on par with other riparian owners. They are entitled to receive the water in its original state, without any reduction in flow, volume, or quality, and to allow it to pass through their land without hindrance. Section 7 of the Easement Act stipulates that each riparian owner holds the entitlement to maintain the uninterrupted flow of natural stream waters in their natural state, free from destruction or unreasonable pollution.

## **4. Central Water Commission**

The Central Water Commission is a leading technical organization in India's water resources sector. It operates as an attached office of the Ministry of Jal Shakti, specifically within the Department of Water Resources, River Development, and Ganga Rejuvenation, under the Government of India. The commission is tasked with several key responsibilities, including initiating, coordinating, and advancing schemes related to water resource management in consultation with relevant state governments. These schemes focus on controlling, conserving, and utilizing water resources across the country for purposes such as flood control, irrigation,

navigation, drinking water supply, and water power development. Additionally, the commission undertakes investigations, construction, and execution of various water-related projects as needed. The Central Water Commission is headed by a Chairman, who holds the status of Ex-Officio Secretary to the Government of India. Its work is organized into three wings: Designs and Research (D&R) Wing, River Management (RM) Wing, and Water Planning and Projects (WP&P) Wing. Each wing is overseen by a full-time Member with the status of Ex-Officio Additional Secretary to the Government of India. These wings comprise multiple organizations responsible for carrying out tasks and duties within their respective areas of focus.

## **VII. RECOMMENDATIONS**

### **1. Prohibition of Pouring Fat, Oil, and Grease Down the Sink:**

- Legislation should explicitly prohibit the discharge of fat, oil, and grease (FOG) from cooking or any other sources into drains and sewers. This should include both residential and commercial establishments.
- Regulations should mandate the use of FOG collection systems, such as grease traps or fat jars, to capture FOG before it enters the sewer system.
- Strict penalties should be imposed for violations, including fines and possible suspension of business licenses for repeat offenders.

### **2. Regulation of Household Chemical Disposal:**

- Laws should prohibit the disposal of household chemicals, cleaning agents, and pharmaceuticals down drains and toilets.
- Public awareness campaigns should be conducted to educate citizens on proper disposal methods, such as taking unused or expired medications to designated collection points for safe disposal.
- Pharmaceutical companies should be required to provide take-back programs for unused medications to prevent their disposal in waterways.

### **3. Encouragement of Solid Waste Management Practices:**

- Legislation should promote composting of organic waste, including vegetable scraps, as an alternative to disposal in landfills or down drains.
- Incentives such as tax breaks or subsidies could be provided to households that adopt composting practices or purchase composting equipment.

- Municipalities should establish composting facilities and provide education and outreach programs to encourage participation.

#### **4. Promotion of Water-Efficient Fixtures:**

- Building codes should be updated to require the installation of water-efficient toilets in new constructions and during renovations.
- Government subsidies or rebates could be offered to homeowners who retrofit their toilets with water-saving devices or install water-efficient fixtures.
- Public awareness campaigns should be conducted to educate consumers on the benefits of water-efficient toilets and the importance of water conservation.

#### **5. Regulation of Appliance Usage:**

- Regulations should encourage households to use dishwashers and clothes washers only when they have a full load to maximize water and energy efficiency.
- Time-of-use pricing structures could be implemented to incentivize off-peak usage of appliances, reducing strain on water and energy resources during peak hours.
- Utility companies could offer rebates or incentives for the purchase of energy-efficient appliances, further encouraging conservation practices.

#### **6. Promotion of Environmentally Friendly Detergents:**

- Legislation should mandate the labelling of phosphate-free soaps and detergents to inform consumers of environmentally friendly options.
- Educational campaigns should be conducted to raise awareness about the environmental impacts of phosphates and promote the use of phosphate-free alternatives.
- Retailers could be encouraged to stock a wider range of environmentally friendly cleaning products and detergents to provide consumers with more choice.

#### **7. Control of Chemical Usage and Disposal:**

- Regulations should restrict the use of pesticides, herbicides, and fertilizers in residential and agricultural settings to minimize runoff into waterways.
- Government-sponsored programs could provide training and support for farmers to adopt sustainable agricultural practices that reduce reliance on chemical inputs.

- Hazardous waste disposal facilities should be established to safely collect and dispose of household chemicals, motor oil, and automotive fluids to prevent contamination of water sources.

#### **8. Prevention of Sump Pump Pollution:**

- Building codes should require the installation of sump pump systems that discharge water to the surface or designated drainage areas rather than directly into the sanitary sewer system.
- Inspections and enforcement measures should be implemented to ensure compliance with regulations and prevent illegal connections to the sanitary sewer system.
- Public education campaigns should inform homeowners about the proper maintenance and operation of sump pump systems to prevent pollution of waterways.

By incorporating these detailed provisions into legislation and regulations, the government can effectively address water pollution at its source and promote sustainable water management practices across various sectors of society.

### **VIII. CONCLUSION**

When examining India's constitutional framework regarding environmental safeguards, particularly in the context of mitigating water pollution, it becomes apparent that while the legal structure lays a strong foundation, significant challenges remain unaddressed. This analysis will delve into these complexities, highlighting both successes and failures of current policies, and propose recommendations for future action. India's Constitution, with its focus on fundamental rights and directive principles, forms the basis for environmental protection, including the preservation of water resources. The acknowledgment of the right to clean water access as a fundamental human right underscores the government's responsibility to ensure safe drinking water for all citizens. However, despite these constitutional assurances, the situation on the ground presents a stark contrast. Water pollution in India has escalated to alarming levels due primarily to rapid industrialization, urbanization, and inadequate wastewater management practices. This contamination poses significant risks to human health, ecosystems, and the economy. Despite legislative efforts like the Water (Prevention and Control of Pollution) Act, 1974, and the Environment Protection Act, 1986, enforcement remains weak, leading to widespread non-compliance and ongoing degradation of water quality.

Judicial interventions, such as public interest litigations and directives from the Supreme Court and High Courts, have played a crucial role in highlighting environmental issues and holding authorities accountable. However, the judiciary's capacity to address the multifaceted challenges of water pollution is limited, necessitating stronger regulatory frameworks and institutional mechanisms.

Given these challenges, several recommendations can strengthen India's legal stance on mitigating water pollution:

**1. Strengthen enforcement mechanisms:** Improve monitoring, inspection, and enforcement of environmental regulations to ensure compliance by industries and municipalities. Impose strict penalties for violations, including fines, shutdowns, and criminal prosecution for severe offenses.

**2. Upgrade wastewater treatment infrastructure:** Invest in enhancing and expanding wastewater treatment facilities to treat industrial and municipal effluents effectively before discharge. Promote adoption of advanced treatment technologies and decentralized wastewater management systems.

**3. Encourage pollution prevention and resource conservation:** Advocate for industries and households to adopt pollution prevention practices like waste minimization, recycling, and water resource reuse. Offer incentives for cleaner production technologies and sustainable water management practices.

**4. Enhance public participation and awareness:** Empower local communities to engage in decision-making processes regarding water pollution mitigation through public consultations, awareness campaigns, and access to information. Foster partnerships among government, civil society, and the private sector for collective action.

**5. Invest in research and innovation:** Support research and development of innovative water pollution control solutions, including bioremediation, phytoremediation, and nanotechnology-based treatments. Back interdisciplinary research to address emerging contaminants and pollution hotspots.

**6. Foster intergovernmental cooperation:** Facilitate collaboration among central and state governments, as well as different ministries and departments, to streamline regulatory processes and ensure integrated water management approaches. Strengthen local institutional capacities for effective implementation and enforcement of environmental regulations.

**7. Ensure access to justice:** Improve access to environmental justice for affected communities, including marginalized and vulnerable groups, through legal aid, support for public interest litigations, and grievance redressed mechanisms. Promote transparency and accountability in decision-making processes and judicial proceedings related to water pollution.

In Conclusion, tackling water pollution in India requires a comprehensive approach that combines legal, regulatory, institutional, and sociological initiatives. While the constitutional framework establishes the foundation for environmental protection, significant efforts are required to close the implementation gap and ensure effective enforcement of environmental regulations. By implementing a holistic and proactive policy, India can prevent water pollution, safeguard its water resources, and promote sustainable development for current and future generations.

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