

# Environmental Protection in India: A Legal Study with Special Reference to Water Pollution

## Abstract of Thesis

SUBMITTED TO THE  
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY  
LUCKNOW

BABASAHEB  
BHIMRAO  
AMBEDKAR  
UNIVERSITY



प्रज्ञा शील करुणा  
ESTABLISHED 1996

FOR AWARD OF THE DEGREE OF

## Doctor of Philosophy

IN  
LAW

SUPERVISOR

**Dr. SHASHI KUMAR**

Associate Professor  
Department of Human Rights  
School for Legal Studies

CO-SUPERVISOR

**Prof. S.K. BHATNAGAR**

Dean  
School for Legal Studies

SUBMITTED BY

**LAV LESH KUMAR**

Enrollment NO. 043/09

DEPARTMENT OF HUMAN RIGHTS  
SCHOOL FOR LEGAL STUDIES  
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY  
(A CENTRAL UNIVERSITY)  
VIDYA VIHAR, RAEBARELI ROAD  
LUCKNOW-226 025

**2018**

## **Abstract**

### **Introduction**

It may be appreciated, at the outset, that a substantial portion of environmental jurisprudence in India has been the product of judicial creativity and innovation. In the administration of environmental justice in India, judicial activism, which is a necessary adjunct of the judicial function had power has played a vital role. The constitutionally institutionalized judicial process has been admirably and effectively invoked and utilized by the constitutional courts not only to create and enforce a new constitutional fundamental right to hygienic environment as an emanation of the right to life guaranteed in Article 21 of the Indian Constitution but also to enforce the statutory duties of the statutory authorities created under various environmental laws enforce in the country. Since the Indian constitutional courts, in a large number of cases, have been called upon not only to enforce the fundamental right to clean environment but also to give effect to the relevant environmental laws, rules and regulations made pursuant to the state's constitutional obligation under Article 48-A of the Indian Constitution, it is necessary to explain the constitutional contours and the frame work of the concept of the judicial process in the country. Therefore before an examination and discussion of various aspects of environmental jurisprudence and justice, as expounded by the Indian constitutional courts, is undertaken, it may be appropriate to give a brief account of the constitutional format of the judicial process and power in India.

In contrast when the constitutional courts exercise their judicial power as protectors or guardians of fundamental rights, they do not function as part of the “state” which is evident from the import of Article 12 of the Indian constitution. As protectors of fundamental rights, these courts exhibit a kind of “progressive Judicial Activism” by effecting fundamental changes in the traditional concept of judicial process, which are both procedural and substantive. In their substantive aspects, the changes pertain to the expansion of the reach of the fundamental rights by innovative interpretation and, in their procedural aspect, they pertain to the reform of procedures to ensure easy access to judicial justice. The reformed new and activist judicial process, which is called “Public Judicial Process”, is more democratic and participatory. The Courts, as protectors of fundamental rights, in using this new and more dynamic judicial process do not adhere strictly to the traditional rules of *locus standi*, ratio decidendi and justiciability. In this process, the courts are not inhibited in the exercise of their judicial review power by the demands of the Laxman-Rekha of the doctrine of separation of powers, for, they not only extend their jurisdiction to areas that traditionally belong to the concerns of the legislative and executive organs of the government but also shape and innovative new reliefs, new remedies and strategies to do justice. This is more so in the realm of environmental justice.

One of the Hallmarks of the Indian constitutionalism has been the doctrine of Judicial Review, which has been one of the two invaluable gifts of the American Constitutionalism to the Asian Constitutional Governments. Since the right to pollution-free environment is an aspect of the right to life, which is one of the fundamental rights guaranteed by Part-III of the Constitution which are enforceable against the State action, it is necessary to

examine and appreciate the constitutional framework for the enforcement of these rights. The Indian constitution, as a Grundnorm of the Indian Legal System not only guarantees fundamental rights but also prohibits the state legislative organ from taking away or abridging any of these rights except as provided in the various provisions of Part III of the constitution. To enforce this prohibition, the same constitution confers on the High Judiciary the potent power of judicial review which is an inseparable and integral part of judicial process. The constitution has also taken care to provide that the right to move the Supreme Court for the enforcement of fundamental right is itself a guaranteed fundamental right. Thus, under the Indian Constitution, the Indian Supreme Court enjoys original concurrent writ jurisdiction for the enforcement of fundamental rights along with the High courts. Article 32 of the constitution, which is the mainstay of the judicial power of the Supreme court for the enforcement of fundamental rights , including right to clean environment , read:

(1) The right to move the supreme court by appropriate proceedings for the enforcement of rights conferred by this part is guaranteed.

(2) The supreme court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, *prohibition* ,*quo warranto* and *certiorari*, which ever may be appropriate for the enforcement of the rights conferred by this part.....

As clear from the text of the above provision, the right to move the Supreme court by appropriate proceeding for the enforcement of fundamental rights is itself a guaranteed fundamental right. Under this provision the Supreme court has both the right and duty to protect and safeguard fundamental rights “zealously and vigilantly.” That is the reason

why its role has been eulogized as the protector and guarantor of fundamental rights.

It is axiomatic that water is one of the most invaluable natural resources which the nature has bestowed on human kind. By the same token, it is a vital life sustaining nature's gift to mankind, which has unfortunately been most defiled with serious deleterious consequences to human welfare. Man's ecological misbehavior, which is more pre dominant in the area of water management than in other areas of vital human concerns, has been the main cause for the growing shortage of fresh water sources throughout the world. It may be noted that in many parts of the world lack of sufficient fresh water is likely to be one of most crucial issues of the twenty-first century. It is apprehended future wars among the members of international community might centre on water disputes more than anything else. The importance of water resource for the survival of humanity has been highlighted by the Indian Centre Board for Prevention and Control of Water thus: "*the fresh water that is so essential to our lives is only a small portion of the earth's total water supply; it is only two percent of the total....*"

India, which is comparatively better off in respect of water resource, is in an unenviable position, facing the worst water pollution problem. India's major watercourses, which among others, consist of fourteen major, fifty-five medium and forty-four small rivers, have all become highly polluted, evoking national concern for their protection and preservation. This is evident from the Statement of Objects and Reason of Water (Prevention and control of Pollution) Bill, 1974, which reads:

The problem of pollution of rivers and streams has assumed considerable importance and urgency in recent years as a result of the

growth of industries and the increasing tendency to urbanization. It is therefore, essential to ensure that the domestic and industrial effluents are not allowed to be discharged into the watercourses without adequate treatment as such, discharges would render the water unsuitable as source of drinking water as well as for supporting fish life and for use in irrigation. Pollution of rivers and streams also causes increasing damage to the country's economy.

In order to achieve the above stated objects, the water Act, 1974 and the Water Cess Act , 1977 have been enacted. These laws, which have been intended to combat the menace of water pollution and to restore the wholesomeness of water, have been in operation for almost three decades. Despite this fact, the problem of water pollution has not been mitigated, on the contrary the problem has aggravated mainly due to the lackluster implementation of the legislative mandates by the concerned administrative agencies constituted there under. In this context, expressing its serious concern, the Supreme court , "*Indian council for Enviro- Legal Action v. Union of India,*" observed:

There are stated to be over 200 Central and state statutes, which have at least some concern with environment protection either directly or indirectly. The plethora of such enactments has unfortunately, not resulted in preventing environmental degradation, which one of the contrary has increased over the years.... Violation of anti pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of the environment, the adverse effect of which will have to be born by the future generations.

The judicial remedies that are available to the victims of water pollution can, broadly, be divided into two categories. One is civil remedies and other is remedies by resort to the criminal process. While civil remedies can again be classified into civil remedies based on common law tort action and statutory civil remedies, the remedies by resort to criminal process can be subdivided into those based on Section 133 of Criminal Procedure Code, 1973 read with section 188 of Indian Penal Code, 1870 and those based on the “command and control” regime envisaged under the Water Act, 1974. Again, the aspect of statutory civil remedies can be conveniently divided into those based on the invocation of writ jurisdiction of the higher courts under Article 32 and 226 of the Constitution and those based on the regulatory regime of the Water Act, 1974.

The constitutional Preamble and the Directive Principle of State Policy plays a very important role in the development of Indian legal system. A new and latest feature fulfilling the objectives laid in the preamble and directive principle is the increasing number of Public Interest Litigation (here and after to be known as PIL) that has opened a new chapter in the Indian judicial system. The relaxed procedural rules under PIL can be invoked in cases where the plaintiff is seeking enforcement of the constitutional or legal rights of those persons or groups of persons who by reason of poverty, disability or due to socially or economically disadvantageous position find it difficult to approach the appellate courts for redress.

## **Statement Of The Problem**

Today, our interaction with nature is so extensive that the environmental issues have assumed such proportions as to affect all humanity. Urbanisation industrialization, overexploitation of resources, population explosion, depletion of traditional sources of energy, and the search for new ones, the disruption natural ecological balances, as well as the destruction of a multitude of animal and plant species for economic reasons are the major factors that have contributed to environmental deterioration. (*See also Shri Sachidanand Pandey v. State of West Bengal. AIR 1987 SC 1109 at 1114, as quoted in Dharmendra S. Sengar's ENVIRONMENTAL LAW.*)

Nature provides the most hygienic and healthy environment for the survival of mankind, but this environment has been changed by mankind for selfish ends by adding concrete, charcoal, plastics, toxic chemicals, hazardous wastes and many more objects, devices and processes. These man-made additions have unbalanced the ecosystem and are primarily responsible for environmental pollution and consequent health hazards.

Industrial revolution, which brought enormous comforts to mankind also been responsible for manifold miseries and disadvantages to it. The process of industrialization, which aimed at mass-production of goods of better quality to fulfill the human needs, is also polluting the environment, and now it is fast assuming menacing proportions. In India, as elsewhere in the world, almost the metropolitan as well as other big cities are afflicted with this problem. Most of the available water in the country is polluted. The pollution of air is also on the rise at an alarmingly high rate. The polluted

environment is affecting human health, causing deadly diseases and reducing the lifespan.

Industrialisation is a striking feature of modern civilization and has led to an major centres which use hazardous industries. They have been identified as the major centres which hazardous substances and produce toxic and hazardous wastes. They have not only exploited the natural resources to their maximum for economic gain but have also disrupted the ecological balance and degraded the environment, resulting in huge human health hazards, including the loss of life. Industries, predominantly chemical in nature, pose potential as well as real health hazards. They have virtually created killer environment, destroying overnight what nature had taken thousands of years to create, as exhibited by the Bhopal Gas Tragedy.

Industrial development is believed to be essential for rapid economic growth of the country by maximum use of all its resources. It is aimed at increasing the production of better quality goods by an application of modern science and sophisticated technology. But man, prompted by his avaricious nature and quite often unreasonable behavior, has considered it as a licence to anxiety to improve living conditions and to have a comfortable lifestyle conflicts with the desired environmental quality. Such a conflict is at the root of basic issues which have to be resolved in a practical way; otherwise, the price for industrial progress and development may have to be paid in terms of environmental disasters, which may pose a threat to the very survival of mankind.

On the global plane, the environmental threats are noticeable in various forms; acid rain, ozone layer depletion, global warming and other climatic

modifications. The release of billions of tones of carbon dioxide, methane and chlorofluorocarbons into the air may result in chemical imbalances of natural cycles leading to warning of earth, melted ice-caps; new environmental pollution may adversely affect the ocean-dwelling phytoplankton, a primary source of oxygen. The nitric oxide emissions may also deplete the protective ozone layer, rendering the stratosphere without an ozone layer to shield man from the deadly ultraviolet rays. The Cesspool Rivers from industrial cities all around the world may fill the oceans with hazardous toxic wastes.

Adverse health effects associated with exposure to chemicals in the work environment as well as in general environment are also being increasingly noticed in India. The direct, constant and slow exposure to toxic substances has affected the reproductive capacity of female workforce. The use of hazardous chemicals has not even spared the safest source of infant food-mother's milk- which has shown DDT contamination. Allergies, damage to vital organs, genetic disorders, and even carcinogenic diseases are caused by hazardous substances used in industries. In other words, we produce a number of potentially hazardous chemicals as main products, such as insecticides and pesticides, as well as by- products like industrial effluents and emissions.

The air is polluted by slow as well as sudden release of toxic emissions from the hazardous industries. The concentration of toxic gases increases with the expansion of industries and affects the environment and human health. It causes many diseases and, thus, reduces the lifespan. The phenomenon of air pollution has reached an alarming proportion in big cities. Delhi is considered as one of the most polluted cities of the world

(though with the introduction of CNG and metro, the situation has improved), where pollution levels have exceeded many times more than the prescribed limits.

The industrial accidents causing air pollution have been reported from many parts of the world. The first case of accidental air pollution in modern times occurred in the Meuse valley in Belgium in 1930, followed by the Pennsylvania smog incident in 1948 and the London smog disaster in 1952. The 'Episode 104' which occurred in 1969, blanketed 22 states of the Mississippi with air pollution haze. However, the Bhopal Gas Tragedy may be cited as the worst industrial disaster amounting to air pollution by the release of 40 tones of poisonous methyl isocyanate (MIC), killing an estimated 15,000 people and injuring lakhs of residents of Bhopal.

Accidents of lesser magnitude have also occurred elsewhere. In Delhi, several people died and scores were affected when toxic oleum gas leaked from the Shriram Chemicals plant in 1985 (See *M.C. Mehta v. Union of India. AIR 1987 SC 965*). Tragedy also struck at Panipat in 1992 when deadly ammonia gas leaked, resulting in instant death of ten persons. In March 1993, ten people were killed by pungent fumes of strong sulphuric acid floating in the air, which from a chemical unit at Dhakta Shahad in Maharashtra. These are only some instances of reported pollution accidents; many more remain unreported.

There is no doubt that these pollution accidents are not everybody occurrences, but the magnitude of this problem is bound to increase due to the increasing number of hazardous industries which cause slow as well as sudden environmental pollution. The slow release of hazardous wastes from

smaller units is usually stronger and sometimes larger in volume than those produced by bigger industries. Therefore, the concern is about the accidental or regular industrial pollution which causes sudden as well as slow deterioration of environment.

Due to rapid industrialization, the problem of pollution of natural water sources is also attaining alarming proportions. The most disturbing features of the modern wastes disposal system is that those who cause water pollution are seldom the people who suffer from it. Industries and cities discharge their untreated or only partially treated wastewaters and industrial effluents into neighboring streams and thus, expose the down stream's riparian population to dangerously unhygienic conditions. (*M.C. Mehta v. Union of India (Ganga Pollution case). AIR 1988 SC 1115 at 1125*). Polluted water causes many waterborne diseases resulting in death. The World Health Organisation (WHO) estimates that as much as 80 per cent of all diseases in the world are associated with water. It states: "One hospital bed out of four in the world is occupied by a patient who is ill because of polluted water." It further states that about 25 million people die every year from the water-borne diseases in developing countries including India.

As per Expert Committee on Ganga Action Plan in India. In total volumetric domestic pollution is 75 per cent and industrial pollution 25 per cent; yet in toxic terms, the industrial pollution is much more because industries discharge chromium, mercury, arsenic and other hazardous chemical substances. Besides human health hazards, the polluted water also affects aquatic life. The biggest aquatic tragedy occurred in North India when hundreds of tones of fish perished, having consumed poisonous

effluents discharged by National Fertilizer Naya Nangal into the River Sutlej.

The toxic effluents not only contaminate the local river water but also seep down to the water level, poisoning the groundwater supply in many places. Thus, the impact of hazardous industries on the environment and health of human beings and other biota is obvious.

In India, there have been considerable changes in the industrial and technological situations, on account of setting up of many industries that produce hazardous and toxic substances, causing environmental pollution. These developments have made essential a review of the existing industrial and environmental laws. The recent catastrophic events have also raised the question of adequacy of existing laws relating to hazardous substances. The increasing trend of the problem also exposes administrative and judicial efficacy to provide remedy to reduce environmental pollution from hazardous processes and compensate the victims of pollution.

In spite of a number of legislations to check industrial pollution, the quest for more and more profit by the industrialists has led to the violation of laws relating to environmental pollution. Industrialists who spend crores of rupees on a project are unwilling to spend a few lakhs of rupees on pollution prevention devices. The applicants, who are required to obtain a certificate from Pollution Control Boards to the effect that the proposals meet with environmental requirements, submit an affidavit to the Pollution Control Boards that the factory can scrub the gases and incinerate the highly toxic wastes. However, they start production without installing incinerator and scrubbers. The production units argue that if they have to obey all the

environmental legislations, they cannot remain productive and will have to close down their factories, rendering thousands of workers jobless. However, environmentalists argue that if pollution is allowed to continue, it may cause a threat to human survival itself. No justification can be made for non-observance of the measures to control environmental pollution even if it is argued that industrial development is in the interest of society. In case we do not take appropriate measures for sustainable development without further loss of time, environmental degradation will seriously threaten the socio-economic progress of the country, and our future generations may discover that life-support systems have been damaged beyond repair.

The legal measures should ensure that industrial projects are safe, protective and environmentally sound. They are not aesthetically displeasing or annoying. Before the projects are formally launched and commissioned, they should adopt the prescribed norms. It may even be necessary to create awareness among people for directing the industrial location and insisting on adoption of measure to prevent, mitigate or solve environmental problems arising subsequently. As pollution prevention by legal means may pave the way for development without destruction of environment, it becomes crucial to broaden the horizon of pollution prevention and environmental protection laws in the country. The existing legislations, therefore, call for evolution with a view to strengthening the legal measures to check economic deterioration without hindering environmental development.

### **Objectives Of The Study**

In the present work following objectives are included:-

1. To analyse the constitutionals and statutory provisions for environmental protection and water rights in India.
2. To examine the international efforts for environmental protection and water resources.
3. To examine the International initiatives in protection of Environment and framing water law.
4. To analyse the existing environmental policies especially related to water conservation in our country.
5. To study the role played by our apex judiciary especially in the protection of Environment.
6. To find whether the Indian Judiciary is being implemented and provides enough remedy to combat with water pollution.
7. To study the cases relating to the environmental problem.
8. To find out the role of Indian judiciary in sensitizing the government and civil society towards protection of environment.
9. To analyze the challenges before protection of environment and water resources in the era of liberalization, privatization and globalization (LPG).
10. To make suggestions in order to control the water pollution.

### **Research Methodology**

The research work is primarily doctrinal in nature and based on the authoritative texts such as the Constitution of India, The National Environmental Act, 1986, Law of Torts Indian Penal Code 1860, Civil

Procedure code 1908, Criminal Procedure code 1973, Case laws, Books, newspaper articles, Periodicals and internet sites etc which are duly acknowledged.

The sources for the information literature for research work have been collected from primary and secondary sources. Through various libraries and government and private institutions data are collected from reports judgments and legislations will be critically analysed and inferences are drawn. The work has been concluded with appropriate suggestions and conclusions.

### **Hypothesis**

1. The Indian Judiciary plays a significant role in litigating the environment problems.
2. The decision pronounced by the higher judiciary in combating the water pollution has helped in drawing the attention of governments.
3. Indian judiciary is instrumental towards enactment of water protection legislations in India.
4. There are many challenges before us on the issue of water protection and water as a human rights in contemporary period in wake of liberalization, privatization and globalization (LPG).

### **Testing of Hypotheses**

Following is the summarized position of hypotheses:

**The Hypothesis-1** stand proved and it is inferred that The Indian Judiciary plays a significant role in litigating the environment problems. The

formulation and recognition of various doctrines and strategies signify the role of Judiciary in the environmental related problem. This awareness is reflected in the cases that came before the courts for review. It has, therefore, evolved diverse principles such as absolute liability, and public trust doctrine to preserve the human environment and to uphold man's right to live in a wholesome environment. It has ordered the closure of hazardous industries, the shifting of the place of industrial operation and the imposition of criminal responsibility on directors, for their failure in taking necessary anti-pollution measures. On the whole, one may appreciate the bold attempts made by the Indian Judiciary to ensure the establishment of a clean, pollution-free environment. The recent pronouncements of the Supreme Court have stated about its new approach based on eco-centricism for the purpose of maintaining environmental ethics. However, the problem of *locus standi* is still to be sorted out. Protection and improvement of the environment is the constitutional commitment.

**The Hypothesis-2** stand proved and it is found that the decision pronounced by the higher judiciary in combating the water pollution has helped in drawing the attention of governments. The activist interpretation of cases decided by the Higher Courts substantially proved that it has enriched environmental jurisprudence in India. Extricating itself from the principles of *locus standi* and using the instrument of public interest litigation to the maximum effect, the apex court has laid down that sustainable development is a legal obligation of every government. In the first environment case before the Supreme Court itself, it was held that no municipality could put forth lack of money as a ground for not discharging its primary duty of looking after the health and safety of its residents.

**The Hypothesis-3** stand proved and it is found that Indian judiciary is instrumental towards enactment of water protection legislations in India. Apart from the provisions under the Water Act and the Air Act, there exists a clear constitutional mandate for protection of environment including prevention of air and water pollution. By an activist interpretation of these provisions, the High Courts have substantially enriched environmental jurisprudence in India. Extricating itself from the principles of *locus standi* and using the instrument of public interest litigation to the maximum effect, the apex court has laid down that sustainable development is a legal obligation of every government. Recently the Kerala High Court reiterated the position by holding that the Right to Sweet Water and the Right to Free Air are attributes of the Right to Life, for, these are the basic elements which sustain life itself

**The Hypothesis-4** stand proved and it is viewed that there are many challenges before us on the issue of water protection and water as a human rights in contemporary period in wake of liberalization, privatization and globalization (LPG). While globalization transforms the world, the quantity of the Earth's water resources remains roughly the same as throughout the ages. Globalization may prove to be one of the most salient factors driving the human search for effective management of the Earth's water resources.

## **Chapterization of the Thesis**

### **Chapter-1: Introduction**

The first chapter is the “Introduction” of research work. At the initial stage, the selected area of research work has been identified. After identification of research problem, a synopsis of research work and its basic

structure were developed. The main objectives of research study are put forth in this chapter. A review of literature is also put forth in this chapter. A para of hypothesis is constructed in which five assumptions are made. On the basis of research observations, utilizing qualitative and quantitative research method techniques of research methodology, all assumptions are proved. Further, the selection of research problem, statement of research problem, significance of research study, scope of research study are also briefly mentioned in this chapter.

## **Chapter-2: International Efforts for Environment Protection**

The development of International Environmental Law as a separate area of public International Law began with United Nations Conference on Human Environment 1972 (Stockholm Conference on Human Environment in 1972), parallel to the rise of environmental consciousness in the early 1970s throughout the developed world, especially in the USA and Western Europe. Since then interest has steadily increased and, over the course of the next two decades, it became one of the fastest growing areas of International law. Environmental law is also cutting across other new areas of International law, such as commercial or business law, trade, development and human rights. In the past four and half decades a record number of International treaties and soft law documents have been created by International organizations with the cooperation of states.

### **Chapter-3: Constitutional and Statutory Provisions for Environment Protection in India**

Various Judicial Decision and Constitutional Provisions have been discussed. Further Various Acts have been discussed starting from the policy and laws in ancient India till date. This chapter firstly provides a brief history of environmental law and water law in pre-colonial and colonial India, before moving on to discuss constitutional and statutory provisions. It closes with the present decade to highlight current challenges.

### **Chapter-4: National Programmes and Policies for protection of environment and Water**

This chapter is dedicated to water protection in India. Time to time Government of India has framed various national water policies. These policies were successful on many fronts and on many areas these failed. The government has failed to operationalize these policies because of the prevalence of various contentious issues in these policies. The government has also spent a large amount of funds on the drinking water projects, but still a major chunk of population is devoid of safe drinking water.

### **Chapter-5: Role of Judiciary on Environmental Protection and Water Pollution in India**

India has enacted various laws at almost regular intervals to deal with the problems of environmental degradation. Apart from the provisions under the Water Act<sup>1</sup> and the Air Act<sup>2</sup>, there exists a clear constitutional mandate

---

<sup>1</sup> Water (Prevention and Control of Pollution) Act, 1974.

<sup>2</sup> Air (Prevention and Control of Pollution) Act, 1981.

for protection of environment including prevention of air and water pollution. By an activist interpretation of these provisions, the High Courts have substantially enriched environmental jurisprudence in India. Extricating itself from the principles of *locus standi*<sup>3</sup> and using the instrument of public interest litigation to the maximum effect, the apex court has laid down that sustainable development is a legal obligation of every government. When administrative avenues for environment enforcement fail, the public often turns to the judiciary to uphold and enforce Environment Law. Effective public participation is critical to India's development and conservation efforts.

### **Chapter 6: Water as Human Rights: Challenges in Globalized Era**

This chapter addresses the relevance of linking human rights and water. Why do we need such a right? What would be the benefits, if there were any? Why should we go into another academic debate when action is really what is necessary? These 'whys' will lead to another essential question: if there were to be such a right, what shape should it take? This issue is addressed in the third part of this chapter.

### **Chapter 7: Conclusion and Suggestions**

On the basis of this research study, certain conclusions are drawn and some suggestions are also placed for consideration. On the basis of findings of this research study, it is inferred that the problem of environmental protection and water pollution needs to be addressed urgently.

---

<sup>3</sup> *Locus standi* means, 'A place of standing; standing in court. A right of appearance in a court of justice. A right of appearance in a court of justice, or before a legislative body, on a given question', Black's Law Dictionary, 6<sup>th</sup> Edn, West Publishing Company.

The following are the suggestions of the researcher intended as a contribution for the protection of environment and ecological development in India.

The existing legal provisions are inadequate to control the enormous problems of environmental pollution of various types in the country. Therefore, the judiciary has to play a more active and constructive role. This has become all the more essential in view of the lack of awareness in the masses of the pollution problems; lack of planning and the plenty of the industries and the local bodies in this regard. New jurisprudential techniques have to be devised to deal adequately with the problems of pollution control and protection of environment.

No systematic procedure has been adopted for periodic review of Water Act. Therefore, Amendments be made in the Water Act, 1974 from time to time, in order to make it more effective. It is concluded that law alone cannot help in Restoring or Maintaining the Wholesomeness of Water Quality, unless the public are aware of Vice of Pollution and its Consequences. International efforts and co-operation is also needed to raise resources to support the developing countries in combating the menace of Water Pollution.

Environmental law should be implemented effectively by adopting new instruments, mechanisms and procedures like environmental impact assessment and environmental audit and incorporate environmental objectives in manufacturing processes, minimum usage of hazardous materials and toxic chemicals, careful usage of toxic gases will reduce environmental load.

Legal provisions granting a perspective right to pollute air and water should be construct restrictively by the courts.

Legal provisions intended to prevent or control pollution should be interpreted in such a way that even the subtle invasions of the antipollution laws are covered.

Government must initiate the programmes to create public awareness with regard to relation between human rights and environmental protection and also related laws.

Sincere commitment to good environmental practices must be supported throughout the globe for sustenance of life and adopting green technologies, viz, using solar energy, low CFC emitting technology, those which are highly innovative, cost-effective, ecofriendly technologies.