

Part IV

Summary of the Suggestions and Recommendations of the Seminar

A brief resume of the deliberations of the Seminar is as follows :

Water Pollution

The participants noted the framework of the Water (Prevention and Control of Pollution) Act, 1974 to deal with water pollution. The following suggestions were made with a view to improve the effectiveness of the statute :

- 1) There should be legal representation on the water pollution control boards.
- 2) The liability for violating the standards laid down by the board or consent-orders issued by it should be strict, but in such a case there should not be a minimum punishment of six months as now provided in the statute, but the courts should have discretion to award the punishment of imprisonment at their discretion.
- 3) The courts should continue to have power to impose criminal penalties but power to impose civil penalties should be with the boards.
- 4) The boards should operate through small committees for efficiently discharging some of their functions like imposing civil penalties, grant of consent orders, etc. The legal element may be associated with such committees. The boards should give fair hearing in taking these actions.
- 5) In the matter of licensing of industries under the Industries (Development and Regulation) Act, or under any other statute or administrative order, no licence should be issued unless the board has given clearance with regard to the disposal of pollutant by the licensee. It was noted that the industries were not being sanctioned financial loans in the states unless the concerned industries had received clearance from the board as regards treatment of pollution.
- 6) The government may think of giving tax rebates and easy financial loans to industries particularly small scale industries for installing treatment plants to purify pollution. Amendment of the Act to empower boards to

levy cess to collect funds for construction of treatment plants for industries (particularly small units) may also be considered.

7) The board should be given the power even to order closure of a recalcitrant industrial unit not complying with the standards laid down by it or for violating the provisions of the Act.

8) In the case of apprehended pollution or where the pollution had actually taken place, the board itself had no power to remove pollution and take other necessary action except in case of emergency, but had to follow the tedious process of obtaining an injunction from the court. It was noted that under the British Control of Pollution Act, 1974 the relevant authority itself possesses power to take the corrective action.

9) The industries should be encouraged to recycle water for its own use both to avoid pressure on water and to lessen water pollution.

10) The board should have power to control the discharge of trade effluents into the sewers of municipality ultimately connected with the streams and the Act may be amended to that effect.

11) A view was expressed that there was overlapping between the provisions relating to laying down standards and the consent orders, and from that point of view the Act needed redrafting.

12) It was noted that under S. 24 the offence was committed only when a person violated the standards laid down by the board. The board may not lay down standards for various kinds of pollutions other than trade or sewage effluent. In such a case the person may not be guilty of any offence under the Act. Further, even for minor pollutions, where the board has laid down standards, the person will have to suffer the drastic punishment of imprisonment for a minimum period of six months. The Act was, therefore, recommended to be suitably amended.

13) It was stated that the Act did not go far enough to control pollution through storage of material on land or other activities carried on land which ultimately resulted in pollution through percolation. It was felt that the Act should specifically provide for such situations.

14) The necessity to have coordination between irrigation authorities and the boards was emphasised.

15) It was stated that the effluent quality standards should have to vary from industry to industry and also from unit to unit in the same industry depending upon such factors as availability of water, rainfall, temperature,

capacity of dilution of stream, finances, need for industrialisation, etc.

16) The predominant view was that no prosecution should be instituted under the Act without the concurrence of the board.

17) There should be coordination between the town and country planning organisation and the boards with regard to location of industries and that a mechanism should be developed to build sewage treatment plants by autonomous bodies (it could even be the water board) to treat the sewage of the local authorities on a commercial basis. There could be a common treatment plant for a number of small adjoining municipalities.

Air Pollution

The need to have a common institutional framework to deal with air and water pollution was emphasised. The Seminar expressed the view that parliament should enact legislation on air pollution as soon as possible. The general format of the proposed legislation was discussed. The proposed Act should deal with all kinds of air pollution including pollution by industries and motor vehicles, etc. It was felt that the existing Smoke Nuisance Acts in different states were not sufficiently enforced to ensure their compliance.

Noise Pollution

It was emphasised by the various participants that noise pollution had assumed alarming proportions threatening public health in various ways. Even noise pollution, according to them, could prove fatal in some cases. The Seminar noted a few spattering provisions in various enactments to deal with noise pollution but those provisions were not of much efficacy. There was a need to enact a comprehensive legislation on noise pollution. In the meanwhile, the existing statutory provisions should be vigorously enforced.

Concluding Session

Three suggestions were made in the concluding session. Firstly, that there should be an intergrated approach to deal with all kinds of pollution, particularly water, air and noise, and that there should be one uniform statute to cover all kinds of pollution. A high-powered committee composed of members from diverse fields should examine this question and if possible to draft a model legislation on the subject of environmental pollution. The committee may be a non-official body though it may be appointed by the Government of India. Secondly, the subject of environmental law may

be included as a course of study at the Law Schools in India. The course may include not only municipal law but also international law and comparative law. Thirdly, an attempt should be made to collect legal materials, both Indian and foreign, at a central library. This could be done at the level of Ministry of Health, or Ministry of Works and Housing, or National Committee on Environmental Protection and Coordination, or at the Indian Law Institute, with the necessary financial grant provided by the government. At present there is dearth of available legal material on the subject, particularly relating to foreign countries, making it difficult for the researchers to study the comparative law position.