

ENVIRONMENTAL LAW AND POLICY: CASES, MATERIALS AND STATUTES (2001). By S. Divan and A. Rosencranz. Oxford University Press, New Delhi. Pp. xxxviii + 837. Price Rs. 400/-.

THE BOOK under review mainly focuses on environmental provisions incorporated in the Constitution, environmental legislations, available judicial remedies, forest policy, urban problems, environmental degradation due to large projects, pollution at coastal zones, the problems of hazardous substances, the Bhopal gas tragedy, transnational environmental problems, and international laws and norms towards achieving sustainable development. There are in total 15 chapters, and 200 pages annex about relevant environmental bare acts and rules. In fact, the authors of the book made a lot of effort in incorporating relevant extracts from different sources (such as, articles¹, reports², and court cases³) in order to cover the origin and development of environmental protection measures in ancient, medieval and modern India. They pronounce, in the initial chapters, that the country has not only amended Constitution but also a good number of enacted rules and regulations in order to protect and promote environmental quality. However, there is a lack of co-operation, co-ordination, and sincerity among the authorities to implement the enacted legislations thus, in turn, are unable to provide incentives to the tortfeasor to take precautionary measures in order to reduce the risk of harm.

The authors argue that the judiciary's proactive role compared to the executive and the legislation helps, at least, to partial enforcement of enacted environmental legislations. Moreover, the Supreme Court widely discussed the concepts of *sustainable development*, *precautionary*, and *polluter pay* principles in a public interest litigation case⁴ in order to promote the environmental protection measures in the country. The

1. Gadgil & Guha, *This Fissured Land An Ecological History of India* (1983); Dwivedi, *India's Environmental Policies, Programmes and Stewardship* (1997); Rosencranz and others, *Economic Approaches for a Green India* (1999), Chopra, *Forest and other Sectors. Critical role of Government Policy* (1995), etc.

2. US Council on Environmental Quality (1970); the Second (1986), the Third (1991), and the Fifth (1999); Citizens; *Our Common Future* (1987); Royal Commission on Environmental Pollution (1971), etc.

3. *Narula Dyeing & Printing Works v. Union of India*; *Ram Baj Singh v. Babulal*; *Indian Council for Enviro-Legal Action v. Union of India*; *Municipal Council, Ratlam v. Vardhichand*, etc.

4. *Vellore Citizens Welfare Forum v. Union of India*.



court, indeed, at times even monitors the implementation of its order. Hence, it is through the court order that the Government of India established regulatory authorities such as, the National Coastal Management Authority⁵. They argue that there has been a shift in India's environmental policy that is from *environment versus development* to *environment and development*, by opening up of the economy.

The authors have reviewed the directive principles, the fundamental rights, and the importance of the 42nd amendment of the Constitution, the environmental legislations, and the newly established pollution preventive measures such as, coastal zone regulation, in chapter 3. They have addressed the remedies (such as injunction, damages, etc.) available under tort law in common law system, the advantages to the public and challenges faced by courts in public interest litigation, and the importance of class action, under the heading of judicial remedies and procedures. They have also discussed about the executives' misuse of the officers' secrets provision and the need for the right to information.

The authors have focused on the initiatives of the Government of India to prevent water contamination within the scope of enacted legislations such as, Water Act, Water Cess Act, and Environmental Protection Act, and reviewed the effectiveness of these legislations based on the disposed court cases⁶. They have briefly touched upon the present status of lakes such as, Badkhal & Surajkund, and indiscriminate groundwater exploitation, and called for proper legislation for its sustainability, in chapter 5.

The authors have explained the existing rules and regulations such as, Air Act, Environmental Protection Act, to control air pollution, and the working of pollution control boards⁷ and the courts⁸. The prevention of noise pollution such as, electric and air horns in vehicles, firecrackers, loud speakers, etc., have been widely discussed by reviewing court cases⁹. They have addressed the forest laws¹⁰, policy¹¹ and its effectiveness in preservation of forest resources. They have also pronounced that the National Forest Policy is unable to preserve forest coverage mainly because of developmental projects such as the Narmada, Tehri, etc. In addition, the courts' proactive role in cases such as, *Dehradun Valley* has little effect on the preservation of forests in India¹².

5. *S. Jaganathan v. Union of India*.

6. Such as, *Kamal Nath, Ganga Action Plan*, etc.

7. By formulation of Minimum National Standards and its monitoring.

8. By its orders in the PIL cases such as, *Taj Trapezium, Motor Vehicles*, etc.

9. Such as, Ganesh festival, Navaratri Celebrations, Loudspeakers, etc., in chapter 6.

10. Such as, the Indian Forest Act, 1927 and the Forest Conservation Act, 1980.

11. Such as, the National Forest Policy.

12. Chapter 7.



Similarly, they have discussed the Wild Life Preservation Act, 1972 and its amendment in 1991, in terms of protection of wild animals, plants and their habitats by reviewing the court cases such as the *Jamnagar Marine Park*, *The Nagarahole Hotel*, *Sangi cement*, etc. They have even argued, in chapter 8, that the human activity in the national parks and sanctuaries is adversely affecting the existence of wildlife in India. Further, they have described about the environmental degradation (sanitation, solid waste management, violation of zoning, etc.) in the wake of urbanization with the help of extracted material from court cases such as Bangalore Medical Trust, Delhi Master Plan, etc., under the heading of urban problems.

The development of large projects such as Mettur dam, Dahanu thermal power, Konkan railway, etc., has led to environmental degradation and human rights violations. So, the authors highlighted the importance of introduction of environmental impact assessment for proposed projects¹³. In addition the modernised commercial farming and myopic behaviour of humans is noted to be one among other factors, which leads to destruction of the coastal ecosystem in India. They have even described the introduction of coastal zone regulations by reviewing cases of shrimp farming, Kolkata wetlands, etc., in chapter 11. They have briefly discussed about the rules of hazardous substances¹⁴ and its effectiveness in preventing harm with the help of court cases such as, *Shriram Gas Leak*, *Bicchhri*, etc. They have argued that the accumulation of hazardous waste is mainly because of the usage of chemicals and pesticides in the production process of goods or services. They have reviewed the Bhopal gas tragedy (the lacuna on the part of the constitutional functionaries in providing remedies to the victims) in a detailed manner in chapter 13.

India is sharing water resources with her neighbouring countries. Thus, there is a need for co-operation and co-ordination in preservation and utilisation of natural resources efficiently and effectively across national boundaries. Otherwise, the countries may face severe environmental degradation. For example, the diversion of the Ganga in India may impose economic and environmental threats to Bangladesh. The authors have highlighted the Indus Water Treaty between India and Pakistan¹⁵. They have also briefly explained India's commitment in international conferences and conventions to preserve the environment.

13. Chapter 10.

14. Such as, the Hazardous Waste Rules, 1989; the Public Insurance Liability Act, 1991; the National Environmental Tribunal Act, 1995; the Chemical Accidents Rules, 1996; the Bio-Medical Waste Rules, 1986, etc., in chapter 12.

15. Chapter 14.



They have even discussed the norms of international law and north-south conflicts on global environmental issues such as climate change¹⁶ in the last chapter.

The book has its unique feature in terms of detailed discussion about the problems, policies and status of environmental protection in India. It will provide incentives to the students, scholars, lawyers, environmentalists, and policy makers to make efforts for shaping up of the environmental protection measures to achieve sustainable development in India.

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16. The concept of sustainable development, Montreal Protocol, 1982; Earth Summit, 1992; Kyoto Protocol, 1997, etc.

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