

**JUDICIARY INVOLVEMENT IN SUPPRESSING VEHICULAR
POLLUTION**

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ABSTRACT

As the world progresses at a blindingly fast pace with constant new innovations and development in technology, there is an alarming increase in pollution of air, land and water with air pollution taking the lead. Air pollution is at present one of the biggest concerns faced by all countries. Several factors have contributed to the increase of pollutants in the air, but emission of particles and gases due to burning of fuels by vehicles is a primary factor. The growing population and development has led to an increase in the number of vehicles, thereby leading to further increase in air pollution. Though there are various environmental laws to curb pollution, they are not being properly executed. It is essential for the government to formulate better policies to reduce if not eliminate this menace, which should be well implemented by the Judiciary. Apart from this, citizens should also play an active role by employing various measures that can help reduce the pollution.

Keywords: pollutants, emission, policies, environmental laws, curb, pollution, implementation, Judiciary, citizens

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❖ “The environment and the economy are really both two sides of the same coin. If we cannot sustain the environment we cannot sustain ourselves” –

Wangari Maathai

INTRODUCTION

As the world moves on with a fast pace in development of technology, the adverse effects it brings to our environment tends to go unnoticed. Mahatma Gandhi famously said, ‘Earth provides enough to satisfy every man’s need but not every man’s greed.’ This statement highlights the ignorance of man towards nature and the resulting degradation of the environment. Where once, India prided upon being a nation of green wealth, this is not the case anymore. The ever increasing land, water and air pollution has taken a toll on the environment which is in turn becoming more toxic day by day. Out of these the biggest form of pollution is air pollution which is hugely being contributed to by automobiles.

The automobile industry is one of the key drivers of the Indian economy. Since the liberalization of the sector in 1991 and allowing of 100 percent FDI through automatic route, Indian automobile sector has come a long way. Today, almost every global auto major has set up facilities in the country. Different types of vehicles are produced in India, broadly classified into Passenger Vehicles and Commercial Vehicles. The manufacturing of automobiles including truck, buses, cars, three wheelers/two wheelers etc. in India risen at a very high pace. Now, India is the one of the largest producers of automobiles in the world.³

WHAT IS VEHICLE POLLUTION

Vehicle pollution is the addition of harmful pollutants such as Carbon monoxide, Hydrogen, Nitrogen Oxide, particulate matter, Ammonia and Sulphur Dioxide in the air.

Vehicular pollution has grown at an alarming rate due to growing urbanisation in India. The air pollution from vehicles in urban areas, particularly in big cities, has become a serious problem. The main cause of vehicular pollution is the rapidly growing number of vehicles. In India, the number of vehicles increased from 0.3 million in 1951 to 58.3 million in 2001-02.

³ *Automobiles and Pollution in India*, COMMUNITY.DATA.GOV.IN (January 5,2016)
<https://community.data.gov.in/automobiles-and-pollution-in-india/4/>

About half the vehicles are concentrated in 39 metropolitan cities (cities with population of over one million). The two wheelers are the major contributors of vehicular air pollution followed by four-wheeler (e.g., car, jeep, taxi etc.), trucks and buses in decreasing order of magnitude. Besides air traffic also adds to the air pollution. More than 750 tonnes of pollutants are released by air traffic every day. With the increase in Air Traffic this pollution is bound to increase in future. Even smog (mixture of smoke and fog) is becoming a real threat to Delhi's air environment.⁴

Some of the causes of vehicle pollution are the release of burnt fuel byproducts into the atmosphere, use of non eco-friendly vehicles, particulate matter, evaporation of fuel, lack of vehicle maintenance, un-burnt hydrocarbons.

AIR POLLUTION

In recent years, air pollution has acquired critical dimensions and the air quality in most Indian cities that monitor outdoor air pollution fail to meet WHO guidelines for safe levels. The levels of PM (Particulate matter) 2.5 and PM10 (Air-borne particles smaller than 2.5 micrometers in diameter and 10 micrometers in diameter) as well as concentration of dangerous carcinogenic substances such as Sulphur Dioxide (SO₂) and Nitrogen Dioxide (NO₂) have reached alarming proportions in most Indian cities, putting people at additional risk of respiratory diseases and other health problems. According to World Health Organization (WHO), Delhi tops the list of most polluted cities. Among the world's 20 most polluted cities in the world, 13 are in India. India is in the group of countries that has the highest particulate matter (PM) levels. Its cities have the highest levels of PM10 and PM2.5 (particles with diameter of 10 microns and 2.5 microns). At the level of more than 150 micrograms, Delhi has the highest level of airborne particulate matter PM2.5, considered most harmful. These figures are six times more than the WHO "safe" limit of 25 micrograms. Uncontrolled vehicular traffic seems to be the primary reason.⁵

⁴ Smriti Chand , Vehicular Pollution in India, YOURARTICLELIBRARY(2016)
<http://www.yourarticlelibrary.com/pollution/vehicular-pollution-in-india-2118-words/19796/>

⁵ Automobiles and Pollution in India, COMMUNITY.DATA.GOV.IN (January 5,2016)
<https://community.data.gov.in/automobiles-and-pollution-in-india/4/>

WHAT IS AIR POLLUTION

Air pollution is the presence of pollutants in the atmosphere. Air pollution affects the whole ecosystem equally. It causes respiratory, pulmonary and heart diseases, allergies and poor immune system in humans. It leads to damage of flora and fauna and causes natural dangers such as depletion of ozone layer, global warming and acid rain.

KOLKATA CASE STUDY: Kolkata, one of the fastest growing metropolises in India has been suffering from air pollution for many decades. The rapid urbanization coupled with ineffective government control has been fuelling this problem. The study aims to portray the current air pollution situation in this megacity as it analyses the present level of different air pollutants like Suspended Particulate Matter (SPM), NO₂ and SO₂. The result of the analysis shows the critical level of air pollutants specially the SPM and NO₂ in different parts of city. By zoning the city into residential, commercial and industrial areas, the result shows the difference between the levels of pollution in each area. The second part of the study explored the seasonal variation of air pollution and it has been found all of the pollutants reach its highest concentration during winter. The results show an inverse relation between the concentration of pollutants and the metrological factors such as precipitation, wind, temperature and relative humidity.

DELHI CASE STUDY: Air pollution is responsible for many health problems in the urban areas. Of late, the air pollution status in Delhi has undergone many changes in terms of the levels of pollutants and the control measures taken to reduce them. The urban air database released by the World Health Organization in September 2011 reported that Delhi has exceeded the maximum PM₁₀ limit by almost 10-times at 198 µg/m³. Vehicular emissions and industrial activities were found to be associated with indoor as well as outdoor air pollution in Delhi. Studies on air pollution and mortality from Delhi found that all-natural-cause mortality and morbidity increased with increased air

pollution. Delhi has taken several steps to reduce the level of air pollution in the city during the last 10 years⁶

EMISSION NORMS/ STANDARDS IN INDIA

The first emission norms were introduced in India in 1991 for petrol and 1992 for diesel vehicles. In 2002, the Indian government accepted the report submitted by the Mashelkar committee. The committee proposed a road map for the roll out of Euro based emission norms for India. It also recommended a phased implementation of future norms with the regulations being implemented in major cities first and extended to the rest of the country after a few years. Based on the recommendations of the committee, the National Auto Fuel policy was announced officially in 2003. The roadmap for implementation of the Bharat Stage norms was laid out till 2010. The policy also created guidelines for auto fuels, reduction of pollution from older vehicles and R&D for air quality data creation and health administration. Bharat stage emission standards are emission standards instituted by the Government of India to regulate the output of air pollutants from motor vehicles. The standards, based on European regulations were first introduced in 2000. Progressively stringent norms have been rolled out since then. All new vehicles manufactured after the implementation of the norms have to be compliant with the regulations. Since October 2010, Bharat stage III norms have been enforced across the country. In 13 major cities including Delhi (NCR), Mumbai, Kolkata, Chennai etc., Bharat stage IV emission norms have been in place since April 2010.⁷

FUEL ECONOMY STANDARDS

The better the fuel economy of a vehicle the lower would be the CO₂ emissions. The standard is calculated on the basis of a Corporate Average Fuel Consumption System. A vehicle's fuel consumption is calculated by multiplying the co₂ measured over the NEDC

⁶ Khushboo Keshari, Air Pollution with case study,SLIDESHARE (May 7, 2016)
<https://www.slideshare.net/KhushbooKeshari2/air-pollution-with-case-study>

⁷ Automobiles and Pollution in India, COMMUNITY.DATA.GOV.IN (January5,2016)
<https://community.data.gov.in/automobiles-and-pollution-in-india/4/>

emission test cycle by a factor dependant on the vehicle' fuel type. For vehicle using diesel, LPG or CNG, another factor is then used to convert to petrol equivalent fuel consumption. In simple terms it is a measure of CO₂ generated by burning per quantity of fuel. Attempts to set fuel economy standards stated back in 2007. However, they were not formulated due to inter-ministerial conflicts and problems and pressure from the auto industry. The first set of norms for minimum fuel efficiency for passenger vehicle was introduced in India in January 2014. Two sets of standards were introduced which apply to petrol, diesel, CNG and LPG vehicle with up to 9 seats and with a GVW of 1500kg or less. The expectation in regards of fuel efficiency as recently prescribed by government requires a formulaic improvement which broadly is equivalent to that average fleet fuel efficiency improving to 18.2 km by 2016-17 and further to 21 km by 2021-22. These targets imply annualised improvement of 1.7 % and 3.0 % respectively going forward.⁸

Human life is at risk due to daily advancement of technology and various innovations leading to an increased urgency of laws that protect the environment, a worldwide concern, which in turn protects all life.

AIR (PREVENTION AND CONTROL OF POLLUTION) ACT 1981⁹

Decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, includes the preservation of the quality of air and control of air pollution. The objective of this Act is to provide for the prevention, control and abatement of air pollution.

Section 19,20,21,22 of the Air Act

Section19. Declaration of air pollution control area.

⁸Sudhanshu Shekhar, Vehicular Pollution in India: Laws and Reactions, ACADEMIA.EDU (2017)
http://www.academia.edu/11723077/Vehicular_Pollution_In_India_Laws_and_Reactions

⁹ Environmental laws of India, CPREEC.ORG; CPREECENVIS.NIC.IN (2017)
<http://www.environmentallawsofindia.com/the-air-act.html>

As regards power to give instructions for ensuring standards for emission from automobiles, Section 20 of the Act lays down that with a view to ensuring that the standards for emission of air pollutants from automobiles laid down by the State Board under clause (g) of sub-section(1) of Section 17 are complied with the State Government shall, in consultation with the State Board, give such instructions as may be deemed necessary to the concerned authority in charge of registration of motor vehicles under the Motor Vehicles Act, 1988, and such authority shall notwithstanding anything contained in that Act or the rules made thereunder be bound to comply with such instructions.

Penalties for violation of various provisions the Air Act 1981
Section 37. Failure to comply with the provisions of section 21 or section 22 or with the directions issued under section 31-A.

- a. Whoever fails to comply with the provisions of section 21 or section 22 or directions issued under section 31-A, shall, in respect of each such failure, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.
- b. If the failure referred to in sub-section(1) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment with a term which shall not be less than two years but which may extend to seven years and with fine.

Section 39 -Penalty for contravention of certain provisions of the Act.

Power to give instructions for ensuring standards of emission from automobiles.

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THE MOTOR VEHICLES ACT, 1988 (59 OF 1988) (14 Oct. 1988)¹⁰

An Act to consolidate and amend the law relating to motor vehicles enacted by parliament in the Thirty-ninth Year of the Republic of India. This has been amended several times to keep it up to date.

Some of the more important provisions of the Bill provide for the following matters, namely laying down of standards for the components and parts of motor vehicles; standards for anti-pollution control devices ; provision for issuing fitness certificates of vehicles also by the authorised testing stations and others.

The Bill inter alia provides for certain exemptions for vehicles running on non-polluting fuels; punitive checks on the use of such components that do not conform to the prescribed standards by manufactures, and also stocking / sale by the traders;

Amendment Act 27 of 2000 – The Motor Vehicles Act, 1988 consolidated and rationalised various laws regulating road transport. The said Act was amended in 1994. Further amendments in the aforesaid Act have become necessary so as to reduce the vehicular pollution and to ensure the safety of the road users. It is, therefore, proposed to prohibit alteration of vehicles in any manner including change of tyres of higher capacity. However, the alteration of vehicles with a view to facilitating the use of eco-friendly fuel including Liquefied Petroleum Gas (LPG) is being permitted. Further, it is proposed to confer powers on the Central Government to allow the alteration of vehicles for certain specified purposes.

Amendment Act 39 of 2001– The Motor Vehicles Act, 1988 (59 of 1988) is a Central legislation through which the road transport is regulated in the country. By the Motor Vehicles (Amendment) Act, 1994, inter alia, amendments were made for make special provisions under sections 66 & 67 so as to provide that vehicles operating on eco-friendly fuels shall be exempted from the requirements of permits and also the owners of such vehicles shall have the discretion to fix fares and freights for carriage of passengers and good. However, it has been observed that during the last several years, not only the supply of eco-friendly fuels like CNG has increased tremendously, a large number of vehicles have come

¹⁰ The Motor Vehicles Act 1988, CHDTRANSPORT.GOV.IN (14 October 1988)
<http://chdtransport.gov.in/Forms/MVA1988.pdf>

on the road which in terms of sections 66 and 67, as amended by the Motor Vehicles (Amendment) Act, 1994, are operating without any requirement of permits and are, therefore, not subject to any control of the State Governments. The number of such vehicles is likely to further increase substantially. The aforesaid situation is likely to lead to indiscipline on the road and consequent increase in the road accidents. It is, therefore, considered essential to remove exemption provided under sections 66 and 67 of the said Act to CNG operated vehicles so that vehicles which operate on eco-friendly fuels are also covered by the terms and conditions applicable to all other vehicles. The proposed amendments are essential in the overall interest of securing road safety and maintaining a clean environment.

ROLE OF JUDICIARY

As we know, government of India has three branches which are legislature, executive and judiciary where Indian judiciary plays a vital role in implementing the policies made by the legislature. Judiciary plays a vital role in the democratic process. Judiciary interprets the constitution and acts as its guardian. The rights of the citizens are guaranteed by the judiciary. The following cases show the role that the judiciary has played in executing environmental laws and policies.

MC Mehta vs Union of India

A writ petition was filed by Mehta in 1985 under the article 21 of Constitution of India, where he challenged the inaction of the Delhi government and authorities regarding the severe air pollution in Delhi putting the population of Delhi at high risk due to industries and vehicle emissions leading to various chronic ailments. To deal with this situation, the Honourable Supreme Court passed various orders to tackle the vehicular pollution problem in Delhi.¹¹

Murali Purushothaman vs. Union of India

¹¹MC Mehta vs Union of India, AIR 1998 SCC 1037 <https://indiankanoon.org/doc/1512135/>

In this case, the petitioner brought to notice consequences caused by air pollution due to automobiles and urged the court to take appropriate steps to reduce the problem. The State Government was directed by the court to implement rule 115 and rule 116 of Motor Vehicle Rules and urge the installation process of equipment necessary to monitor quality of air.¹²

Ajay Singh Rawat vs. Union of India

The lake Nainital was becoming polluted on account of the traffic due to plying of heavy vehicles on Mall Road and bridle paths causing a lot of air pollution. The plying of vehicles was asked to be ended by the Supreme Court of India.¹³

METHODS TO SOLVE VEHICLE POLLUTION

- 1) Usage of unadulterated vehicular fuels
- 2) Sharing of vehicles through carpooling instead of using individual transport.
- 3) Proper vehicle maintenance -Proper servicing and maintenance of vehicles is essential. It helps limit excessive emissions and increase fuel efficiency. Vehicles should always be in good condition which is the responsibility of the owner to reduce the harmful effect in atmosphere. Old vehicles must and need to be discarded as they contribute highly to air pollution.
- 4) Civic education -Good and sufficient education must be provided to the public to increase awareness about pollution.
- 5) Progressive policies -New and progressive regulations must be built. Not only should legislations be drafted in ways to reduce air pollution, but citizens as well should take up the initiative to bring down the level of environmental pollution.
- 6) Alternative means of transport such as walking, cycling and so on are a great way of not polluting the environment as well as staying healthy and fit.

¹² Murali Purushothaman vs. Union Of India, AIR 1993 Ker 297
<https://indiankanoon.org/doc/1835267/>

¹³ Ajay Singh Rawat vs. Union of India, 1995 SCC (3)266
<https://indiankanoon.org/doc/1485647/>

CONCLUSION

‘We are living on the planet as if we have another one to go to,’ as rightly said by Terry Swearingen, we have only the earth that sustains life and hence we must do everything we can to safeguard it. What affects the environment, in turn affects everyone. Though transportation is the leading problem of pollution worldwide, we can actually start by taking small takes to reduce it, if not totally eliminate it, which requires active and proactive public as well as individual participation. At present, the Supreme Court is also taking crucial steps towards this problem by filling in the gaps in the legislation, introducing different legal provisions and new progresses in judicial activism.

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