

that given the nature of contents of the Chapters 9 and 10, they deserve regular updates to serve the target audience better. One minor point may be taken care of in future editions of the book the abbreviation list at the beginning is useful but rather incomplete.

However, limitations of the book are not a major problem. Environmental economists, scientists, policy advisors, corporate sector and government sector policy makers and consultants should examine this volume in considerable detail.

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***Environmental Law and Policy in India: Cases, Materials and Statutes*** by Shyam Divan and Armin Rosencranz, Second Edition, Oxford University Press, New Delhi, 2001. pp. 837, Rs. 395.00

The environmental scenario in India is dominated by several vocal activists who are demanding sustainable development. At the same time, in this country there is an acute gap of professional competence based on local research, that could ably indicate policies towards sustainability. How can sustainable development be achieved and what are the difficulties in that process, thus, constitute important questions. At the ground level, the answer to this question lies to a great extent in the adoption of policies and effective functioning of the regulatory instruments governing development and the environment. The book by Divan and Rosencranz concentrates on these issues in the Indian context and would prove to be an important resource book for the students of law, administrators, industries, environmental activists as well as policy makers in India. The book can be described in three parts. The first part, covering Chapters 1 to 4, presents the broad framework of law within which environment may be seen. The second part, covering Chapters 5 to 13, addresses the specifics of environmental law with reference to India.

The third part, covering Chapters 14 and 15, relates to the legal framework in the regional and global contexts.

In the beginning of the book, the authors make the significant observation that in the case of environmental protection in India, 'the law works badly, when it works at all'. As a result, they make the crucial observation, that 'the judiciary, a spectator to environmental despoliation for more than two decades, has recently assumed a pro-active role of public educator, policy maker, super-administrator, and more generally, *amicus* environment'. They interpret the recent developments in environmental law in India as 'the story of India's judiciary responding to the complaints of its citizens against environmental degradation and administrative sloth'. This observation is aptly substantiated by a recent observation of the Supreme Court of India that 'if the mere enactment of laws relating to the protection of environment was to ensure a clean and pollution free environment, then India would, perhaps, be the least polluted country in the world. But, this is not so'. This failure of effective functioning of the usual mechanisms for implementation of the law has led to the 'new pattern of judge-driven implementation' of the environmental administration in India. In the various parts of the book one finds the substantiation of this viewpoint.

The authors provide in the introduction, a useful overview of the environmental regulations in India that emerged during the 1990s. Long quotes from relevant literature and from cases help the reader in correlating the process of environmental litigation and new legislation. The second chapter on environmental policy in India can also be described as an extended introduction to the topic. In order that the regulatory framework can be seen in an appropriate perspective, the authors have presented in some detail the constitutional and legislative provisions related to the environment in chapter 3. They point to the important fact that the Indian Constitution is amongst the few in the world that contains specific provisions on environmental protection. The provisions of the Constitution on Directive Principles of State

Policy and the Fundamental Duties explicitly enunciate the national commitment to protect and improve the environment. Judicial interpretation has further strengthened this constitutional mandate.

The Public Interest Litigation (PIL) on the limestone quarrying in Doon Valley (Bandyopadhyay, 1989) has been identified as the watershed in respect of bringing the right to a wholesome environment within the boundaries of the fundamental right to life. The other element of right to livelihood, as relates to the unsatisfactory rehabilitation of the millions of project-displaced people, was recognised by the Supreme Court in the judgement on a case challenging the deportation of pavement dwellers from Bombay, to their places of origin (*Olga Tellis vs BMC*). Accepting the petitioners' argument, the court held the view that you 'deprive a person of his right to livelihood and you shall have deprived him of his life'.

In the later part of this chapter, the reader is exposed to a digest of environmental legislation in India. It is an important source of information, since many environmental actors are often found to be ignorant of the laws related to environment. Describing the importance of the 1970s in the evolution of environmental laws in India, mention is made of The Wildlife (Protection) Act of 1972 and The Water (Prevention and Control of Pollution) Act of 1974 as forerunners of an impressive series of environmental laws. Following them were The Forest (Conservation) Act of 1980 and The Air (Prevention and Control of Pollution) Act of 1981. Due space is given to the description of very crucial The Environment (Protection) Act of 1986, passed in the aftermath of the Bhopal industrial disaster in 1984. It has been explained as an 'umbrella' legislation and an implementation of the decisions of the UN Conference on the Human Environment held in Stockholm in 1972. The details of the scope of this potent act has been explained, in particular, the provision under Section 23 of the Act which empowers the Union Government to delegate its powers and functions to any officer, state government or other authority.

This provides the option to the government for the establishment of autonomous organisations in India, like the Environmental Protection Agency in the USA. However, as the authors point out, 'although the Central government may create a specialist agency under section 3(3), thus far, the Centre has chosen to leave the implementation of the EPA to the Ministry of Environment and Forests'. Such a reluctance of the executive, however, has not deterred the Supreme Court to direct the Government of India to constitute such an authority under section 3(3) with all necessary powers (as had happened, for example, in the case *Vellore Citizens' Welfare Forum vs Union of India*).

In Chapter 4 of the book, an account of the available judicial remedies and procedures is given. Here, a distinction is made of the three types of civil remedies a citizen can take recourse to. The first one is a common law tort action against the party causing damage to the environment, the second one is on the writ petition to compel the law enforcing agencies to do what is expected under the law and the third one is on the claim of compensation under the Public Liability Insurance Act of 1991. In this chapter the authors present a great number of interesting cases, the reading of which will offer to many environmental NGOs as well as the citizen at large, an idea of how the remedial measures existing in the law, can be utilised effectively to combat environmental destruction and damage.

Chapter 5 marks the beginning of a different part of the book describing the legal system for addressing issues of water. In this respect, two distinct areas of water supply and use have been considered. First is the question of the quantitative and ecological aspects of the rivers and natural watercourses and laws related to them. The second is the question of the pollution of waterbodies and laws governing protection of water quality. The Water Act of 1974 has been analysed in details and its various aspects are commented upon. The scope of the functions of the pollution control boards at the state level, and of judicial relief, has been presented with the help of a number

of cases, that will help the reader very much. While addressing the issue of water, the additional legal space provided by the EPA of 1986 has been identified and explained. Of special interest to the reader will be the cases related to the pollution of the Ganga waters. In this respect, references are frequently made of the various cases filed by environmental lawyer Mehta on Kanpur tanneries, Municipalities and Calcutta tanneries. In Chapter 6, a similar detailed presentation is made of laws related to air pollution, starting with the well-known case on the environmental impacts on the Taj Mahal of the industries in Agra. In this chapter, of special importance is the case story on the campaign of the Centre for Science and Environment related to vehicular pollution in Delhi, which later led to the recent court orders on the use of CNG.

Chapters 7 and 8 describe the legal framework for the management of the forests and the protection of the wild life. Several NGO activists have described the Indian culture as a forest culture. Customary laws on forests and wildlife had existed in India for a long time. However, the management of the forests was formalised by the British administration and the Indian forest Act of 1927 continues to provide the guiding force for the management of India's forests. The Forest Conservation Act of 1980 had, however, changed the scenario in some important ways. In the case of wildlife management, the issue of people versus parks or industry versus parks has been brought to the fore through presentation of several important cases.

Chapters 9 and 10 are on laws related to the urban problems and large projects. Of special importance are the cases filed against the Tehri high dam and the Sardar Sarovar Project, that are discussed in details. Chapter 11 deals with the coast, wetlands and heritage. Protection of the coastal environment has been taken up to the courts not only on matters related to the land area but also on water related questions like marine pollution, shrimp culture, unsustainable levels of fishing etc. In *Indian Council for Enviro-Legal Action vs. Union of India* the Supreme Court observed that the objective of the EPA

was compromised by the reduction of the Coastal Regulation Zone (CRZ) from 100m to 50m. Chapter 12 addresses the crucial legal framework on the hazardous substances. The Section 2(e) of the Environment (Protection) Act of 1986 defines a 'hazardous substance' to mean 'any substance or preparation which, by reason of its chemical physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment'. In the global context, the movement of the hazardous wastes fell under the Basel Convention of 1989, where international trade in hazardous substances for recycling purposes was virtually exempt from control. A large amount of hazardous substance moved into India through this path. In 2000 this process came to an end with changes in the Indian law. The next Chapter presents a detailed analysis of the Bhopal Gas Leak case.

The last two chapters address the international dimensions of environment at the regional and global levels. At the regional level, the attention of the authors had mainly been focussed on the two international river basins of Indus and the Ganges-Brahmaputra. The water of the Indus is managed under the Indus Treaty of 1960. This is considered as a very successful example of river basin cooperation. On the water of the Ganges-Brahmaputra, there is no basin-wide treaty in place. Presently there is a treaty between India and Nepal concerning the river Sharda/Mahakali. There is also a time-bound treaty between Bangladesh and India on the sharing of the water of the Ganges. The chapter provides useful details on these treaties. Chapter 14 on International Environmental Law and Global Issues describes India's international obligations and the established norms of international environmental law. The emerging conflict between the environment and free trade, especially in the context of the WTO has been outlined. In the later part of the chapter, discussions on the various multilateral Conventions of environmental issues have been made. The appendices provide the text of the important laws like The Air Act, The Water Act, The Environment Act and the related Rules etc.

The book is an important piece of scholarly presentation, which would have a wide public utility in India and in comparison to the length of the book, the price is very reasonable.

### References

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