

# What is the necessity to amend law to prevent water pollution?



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The United Nations report ‘World Water Day 2017: Why waste water?’ has said that 80 per cent of effluents and waste water discharged from all factories and municipalities all over the world is released untreated into the environment. This practice poses a danger to all creatures including humans and also to the environment. It is a given that most water-bodies and rivers flowing in towns across India have been polluted. The Asian Development Research Institute (ADRI) has pointed out that 70 per cent of surface water in the country is unfit for consumption.

In these circumstances, it is necessary to review the Water (Prevention and Control of Pollution) Amendment Bill-2024 tabled in

Parliament on Feb. 24. The Bill proposes to amend the 1974 Act.

### **Background behind amendment**

As far as a legal amendment is concerned, the law draft will categorically put forth the purpose and reason for amendment. Accordingly, the amendment Bill in question draws attention to the problems pertaining to water management. 'The faith that the government reposes in its citizens and institutions is the basis of democratic administration. But obsolete laws and controls sabotage the faith'. So, the government proposes to implement the principle of 'minimum government and maximum governance.'

When 'small rule violations' mentioned in a few provisions of the law in question do not harm humans and environment, imprisonment for the minor errors will amount to harassment of citizens and industrial enterprises. Therefore, the law draft says, "Changes are proposed in the Act to facilitate the citizens' ease of living and ease of doing business and to ensure that they function without fears of imprisonment."

But the important question is if this argument is tenable.

### **Removal of imprisonment**

Generally the primary feature of democracy is to establish the rule of law. When the rule of law is established, the citizens' and industries' loss of faith in government will not happen. Rather the faith in government will get strengthened. Besides, as the climate change spurred by anthropogenic pollution of the environment poses a threat to all creatures on the earth, it is not right to implement the principles such as 'minimum government and maximum governance' and 'ease of living and ease of doing business' enshrined in environment protection laws. All laws germane to protection of the environment are anthropocentric. Hence, we seek to remove the legal provision stipulating imprisonment as punishment. On the contrary, the European and North American countries have been strengthening their laws, realising the importance of environmental protection.

As mentioned in the law draft, if ‘small rule violations’ do not harm the people and environment, it will be inferred that in the eye of law, there is no offence happening. The rule violation, even if minor, will not fail to make a minimum impact. That is why the provision has been incorporated into the law, awarding imprisonment for such rule violations. Particularly, sections 24, 25, and 26 are related to prevention of mixing of waste water or effluents from commercial units into water-bodies. More importantly, though the sections stipulate jail term, there is also a legal possibility of the offenders being levied with mere penalties, depending on the impact of the offences. In these circumstances, one cannot help but ask how it is right to have removed imprisonment totally.

At the same time, it is welcome that the penalty amount has been enhanced for environmental offences termed as ‘minor rule violations.’ But there is a catch. The rich and affluent proprietors of big corporates will not shy away from paying hefty penalties. At the same time, they will not like to undergo imprisonment. The fact is that imprisonment will serve as a deterrent, helping in preventing offences. And so removing it legally is meaningless.

### **Are environmental laws threatening?**

By way of answering this question, it is necessary to understand how the laws against environmental offences are being implemented in the country. According to the National Crime Records Bureau data, the number of cases registered across the country from 2014 to 2022 under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 was 1,094 only. It means that on an average, annually 122 cases have been registered and that each state or Union Territory has witnessed the registration of three cases. So, it is manifest that under the specific laws on environment, only a minimum number of cases are registered. How can the Water (Prevention and Control of Pollution) Act, 1974, being implemented ineffectively, create fears of imprisonment in industries, companies and people for rule violations? In addition, the removal of punishment through imprisonment will aggravate the situation. Therefore, the laws for environment protection must be

more effectively and vigorously implemented and attempts must be avoided to amend the laws for unjustifiable reasons. This is essential for protection of the environment and water management.

**Translated by V. Mariappan.**