



Research Paper

Lack of Social Responsibility related to Environmental Administration

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I. INTRODUCTION

India's economic development propelled by rapid industrial growth and urbanization is causing severe environmental problems that have local, regional and global significance. Deforestation, soil erosion, water pollution and land degradation continue to worsen and are hindering economic development in rural India, while the rapid industrialization and urbanization in India's booming metropolises are straining the limits of municipal services and causing serious environmental problems. Strengthening enforcement and compliance systems has become a subject of particular interest in the context of designing policies that can stimulate sustainable development and economic growth. Recent discussions have shown the need to promote better understanding of the incentive structures facing firms and the need to provide governments with approaches that can optimize their expenditure on assuring environmental compliance.

Objectives

The objective of this rapid assessment is to help India to define priorities to address its key challenges in environmental compliance and enforcement was designed to identify program strengths and weaknesses, priority reform areas and opportunities for strategic interventions in eight principal areas:

- Legal enforcement authority;
- Institutional arrangements and capacity building;
- Compliance monitoring: policies and procedures on inspections, self-monitoring and permitting;
- Enforcement response;
- Compliance assistance and data management;
- Economic and other incentive-based instruments;
- Indicators to evaluate program success; and
- Public participation in environmental compliance and enforcement.

Environmental Challenges

More than 20 cities in India have populations of over one million, and some of them, including New Delhi, Mumbai, Chennai, and Kolkata, are among the world's most polluted. Assuming continued economic liberalization and increased urbanization, the damage to environment and health could be enormous if precautionary measures are not taken. The challenge, therefore, is to maintain the quality of air, water and land and protect the environment by reconciling environmental, social and economic imperatives.

Air quality data in India's major cities indicate that ambient levels of air pollutants exceed both the World Health Organization and Indian standards, particularly for particulate matter. Of the total air pollution load nationwide, vehicular sources contribute 64 percent, thermal power plants 16 percent, industries 13 percent, and the domestic sector 7 percent. Environmental effects from growing fossil fuel use can only worsen as India seeks to meet the energy needs of its growing economy. It is estimated that over 96 percent of India's total demand for commercial energy is met by fossil fuel with coal contributing 60 percent and petroleum products providing the remaining 36 percent.

India's rivers and streams suffer from high levels of pollution from waste generated primarily from industrial processes and municipal activities. Untreated sewage and non-industrial wastes account for four times as much pollution as industrial effluents. While it is estimated that 75 percent of the wastewater generated is from municipal sources, industrial waste from large and medium-sized plants contributes to over 50 percent of the total pollution loads. In major cities, less than five percent of the total waste is collected and less than 25 percent of this treated.

To address these environmental challenges in coordination with the state governments, the central government has identified and targeted 17 highly polluting industries and 24 environmental problem areas. The chemical and engineering industries are at the top of the government's list, since they are the major contributors to air, water, and waste pollution. These industries include integrated iron and steel plants, non ferrous metallurgical units, pharmaceutical and petrochemical complexes, fertilizers and pesticide plants, thermal power plants, textiles, pulp and paper, tanneries and chloralkali units.

As detailed below, the Government of India has established an environmental legal and institutional system to meet these challenges within the overall framework of India's development agenda and international principles and norms. Most recently, the Government put forward the National Environment Policy of 2006 which provides a guide to action in regulatory reform, environmental conservation, and enactment of legislation by government agencies at all levels.

Indian Constitution and National Policies

India took a bold step to include environmental protection rights and duties in its Constitution. The Constitution of India specifies that the State shall endeavor to protect and improve the environment and to safeguard the natural resources of the country. According to the Constitution, it is the fundamental duty of every citizen of India to protect and improve the natural environment and to have compassion for living creatures. By raising environmental concerns to the constitutional level, India has provided its citizens with a powerful policy tool to protect the environment.

National Policies. In addition to the Constitutional mandate, India has a number of national policies governing environmental management, including the National Policy on Pollution Abatement (NPPA, 1992) and the National Conservation Strategy and Policy Statement on Environment and Development (NCS/PSED, 1992). While these national policies are not judicially enforceable, they serve as guiding principles for the central and state governments to follow the policy adopts the following guiding principles:

- prevention of pollution at source;
- adoption of best available technology;
- the polluter pays principle; and
- public participation in decision making.

National Environment Policy of 2006. Building on earlier policies, the National Environment Policy (NEP) of 2006 is the most recent pronouncement of the government's commitment to improving environmental conditions while promoting economic prosperity nationwide. The NEP's key environmental objectives include conservation of critical environmental resources, intra-generational equity, livelihood security for poor, integration of environment in economic and social development, efficiency in environment resource use, environmental governance, and enhancement of resources for environmental conservation. This policy promotes mainstreaming of environmental concerns into all development activities, advocating important environmental principles and identifying regulatory and substantive reforms.

Environmental Protection Acts

India has an over two hundred laws relating to environmental protection. Key national laws for the prevention and control of industrial and urban pollution include the following:

- Water (Prevention and Control of Pollution) Act of 1974, amended in 1988
- Water (Prevention and Control of Pollution) Cess Act of 1977, amended in 1991
- Air (Prevention and Control of Pollution) Act of 1981, amended in 1987
- Environment (Protection) Act of 1986 (EPA)
- Public Liability Insurance Act of 1991
- National Environmental Tribunal Act of 1995
- National Environmental Appellate Authority Act of 1997

The medium-specific legislation (the Air Act and the Water Act) empower the central and state pollution control authorities to enforce emission and effluent standards for industries discharging pollutants into air and water. The Water Cess Act, among other things, stipulates the use of fees for water abstraction.

Environmental Protection Boards

The primary institutions responsible for the formulation and enforcement of environmental acts and rules include the Ministry of Environment and Forests (MOEF), the Central Pollution Control Board (CPCB), State Departments of Environment, State Pollution Control Boards (SPCBs) and Municipal Corporations.

Ministry of Environment and Forests. Established in 1985,

The objectives of the MOEF are:

- conservation and survey of flora, fauna, forests and wildlife;
- prevention and control of pollution;
- afforestation and regeneration of degraded areas;
- protection of the environment; and
- welfare of animals.

Central Pollution Control Board.

The CPCB has wide ranging powers and responsibilities to:

- advise the central government on any matter related to prevention and control of water and air pollution and improvement of air quality;
- plan nationwide programs for the prevention, control and abatement of water and air pollution;
- coordinate the activities of SPCBs and resolve disputes among them;
- provide technical assistance and guidance to the State Boards,
- carry out and sponsor investigations and research relating to problems of water and air pollution and for their prevention, control and abatement;
- prosecute polluting industries pursuant to the Water Act;
- collect, compile and publish technical data on air and water pollution and measures recommended for their prevention, control and abatement;
- organize training of staff engaged in environmental programs;
- prepare manuals, codes and guidelines relating to industrial emissions and effluents;
- organize mass media awareness programs on environmental protection;
- disseminate information on water and air pollution and their prevention and control; and
- perform such other functions as prescribed by the central government.

State Pollution Control Boards.

In general, SPCBs perform the following functions:

- advise the state governments on pollution related issues;
- plan a comprehensive state-level pollution control/prevention/abatement program;
- implement and enforce national standards, making them more stringent if warranted by local conditions;
- grant consents to establish and to operate under the Air and Water Acts and authorize hazardous waste disposal per rules under the EPA; and
- collect water cess for the use of water.

Role of the Judiciary. Over the last twenty years, the Supreme Court of India and some High Courts of the states have led the way in the enforcement of environmental laws through citizen-led public interest litigation (PIL) that has its legal basis in the constitutional right to a healthy environment. Through this judicial activism, the courts have issued orders with specific implementation requirements that not only remedy the case at hand, but also set new policies and practices with widespread implications for the regulated community as well as regulatory agencies.

COMPLIANCE MONITORING

Self-monitoring and Reporting. According to the national Environmental (Protection) Rules of 1986, each polluting facility must submit an Environmental Statement at the end of each financial year (April through March). The Environmental Statement should include the following information:

- water and raw material consumption;
- air and water pollution discharged by parameter (average daily quantity and concentration as well as percentage of variation from the prescribed limits);
- hazardous waste generation (total quantity from the production process and pollution control installations) and methods of disposal;
- solid waste generation, reuse, recycling, and disposal; and
- pollution abatement measures implemented.

Area-Based Environmental Management Programs. The area-based approach to environmental regulation has been tried in India since 1991 through different CPCB and SPCB programs. For example, the CPCB and concerned SPCBs identified 24 “critically polluted/problem areas”, action plans for which (including

compliance monitoring measures) have been developed and are in various stages of implementation. Similarly, Urban Air Action Plans have been designed in 17 cities (out of 53 identified by the CPCB).

- a) gather information on non-compliance based on-site visits and compliance monitoring;
- b) analyze legal samples at a certified laboratory;
- c) issue a “show cause” notice (warning letter) and, if the violation continues, a legal notice of violation;
- d) review (in a hearing at the SPCB) evidence provided by the suspected violator in its defense;
- e) issue a notice of proposed directive detailing enforcement response (which may include utilities cut-off or closure) and/or corrective action and compliance schedules;
- f) after review of possible objection by the violator, issue a final directive; and
- g) in case of non-compliance with the directive, initiate prosecution in criminal court.

Administrative Response. The use of emergency orders by a board to cut off the power or water supply of an industrial plant in violation of an effluent or emission standard has proved to be an effective deterrent. Between January 2005 and September 2006, for example, the West Bengal PCB disconnected the electricity for 373 facilities, though reconnected 257 over the same time period. Between 1997 and 2002, the Maharashtra PCB disconnected services for 858 for violation of the Water Act, and 145 for violation of the Air Act. Closure is also used fairly often in some states. In March 2006, for example, the West Bengal PCB issued 74 closure orders, although most of them were temporary. The SPCB may also revoke the violating facility’s consent, which does not guarantee that the operations would actually cease, so board officials consider closure to be a more effective instrument.

Criminal Response. A court can impose stringent criminal penalties, including imprisonment of 18 months to 6 years plus fines. The government may also seek compensation for damage caused by the violation. However, the problem of long delays in getting a trial renders this instrument ineffective. In addition, the conviction rates are low. Since 1989, the Maharashtra PCB has had a 35 percent success rate in prosecutions under the Water Act, which it attributes to reluctance by courts to hand down harsh sentences for environmental violations and to the weak legal expertise of the boards themselves. Many cases are dismissed on the grounds that the samples are not properly collected in strict accordance with mandatory provisions in the Act. Monetary fines, even if ordered by the court, are too low to create effective deterrence. As a result, PCBs resort to courts less and less and prefer to use emergency administrative orders and forfeiture of bank guarantees (see Section 3.6).

Enforcement actions, like compliance monitoring programs, focus primarily on large industry. Small scale industries are most often ignored by PCBs. In some cases, even large polluters are left off the hook because of the pressure exerted by powerful political groups and industrial lobbies.

Compliance Assistance and Data Management

- organizing training and technical assistance;
- developing industry-specific reports outlining problems, compliance status and preventive/control options;
- disseminating the charter on Corporate Responsibility for Environmental Protection in the 17 categories of highly polluting industries, which seek voluntary compliance beyond the prescribed standards; and
- awareness campaigns.

Economic and Other Incentives-based Instruments

Rebate on Water Cess. The cess rate is specified by the Government and the same in all the states: it varies for industry from 0.5 Rs/m³ to 3 Rs/m³ depending on the purpose of water use and the presence of biodegradable or toxic pollutants in the eventual effluent. The cess amount is calculated based on metered water consumption. Out of the cess collected and credited to the Consolidated Fund of India, 80 percent is reimbursed to respective SPCBs to augment the resources of the Boards (see Section 3.2). Due to the uneven distribution of water resource availability and water consumption in India, cess revenues are also vary dramatically among the states.

Bank Guarantees. Some states (e.g., Maharashtra, Andhra Pradesh, West Bengal) employ a bank guarantee scheme as a means of ensuring compliance with SPCB directives. Under this scheme, a state board requires the non-complying firm to post a bank guarantee to ensure the implementation of corrective actions in accordance with the negotiated compliance schedule. Renewal of a CTO is conditional on posting the guarantee. Normally, 10% of the estimated total compliance cost is required as a bank guarantee. If the non-complying firm fails to comply in time, the SPCB forfeits a portion or all of the bank guarantee for its discretionary use. There is no official procedure to determine the amount of forfeiture, and the decision is made by the SPCB Chairman and Member Secretary (in principle, it should be proportionate to the extent of violation).

Subsidies for Pollution Control Installations. The central and state governments have introduced a number of subsidies for pollution control equipment and treatment installations. The Common Effluent Treatment Plant (CETP) subsidy scheme is undertaken by the MOEF to enable clusters of small-scale industries to establish or upgrade CETPs. The central and state governments subsidize each 25 percent of total project costs, 30 percent is secured through loans from financial institutions, and the remaining 20 percent is covered by the participating small industries themselves.

Public-Private Partnerships. Through economic incentives, both the central and state governments are promoting public-private partnerships (PPPs) for the development of infrastructure for environmental services. For example, in Gujarat, 10 percent of the total investment of USD 1,644 million for controlling pollution has come through a public-private partnership. CETPs, TSDF, and conveyance pipelines for treated wastewater disposal into deep sea are eligible for a 25 percent state subsidy. This is in addition to the 25 percent central government subsidies designated for CETP, TSDF and common hazardous waste incinerators. Some states, including West Bengal, Andhra Pradesh, and Maharashtra, are applying PPPs to address bio-medical and hazardous waste management.

Other Incentive Initiatives. Some states are introducing initiatives to encourage good environmental behavior through packages of economic and regulatory incentives. For example, the Gujarat PCB provides incentives to industries implementing environmental management systems (EMS) by issuing them consents on a priority basis and of longer validity (six years), providing 25 percent rebates in water cess and 50 percent discounts on fees for environmental audits (see Section 3.3). Some states have even tried to make ISO 14001 certification a precondition for consent renewal for the 17 most polluting categories of industries. However, turning EMS into a sector-wide requirement creates a disincentive for companies to adhere to voluntary initiatives in the future.

Indicators to Evaluate Program Success

As indicators of program success, presently some SPCBs track activity levels: the numbers of inspections, corrective actions, closures, bank guarantees imposed, court cases filed and won, monetary value of fines per year, even the amount of funds collected through water cess and administrative fees. At the same time, CPCB reports try to measure success against a few critical environmental quality indicators, which are not tied to any enforcement activity. It comprises the following five components:

- Approvals: number of different consents and authorizations issued and renewed, environmental clearances granted, and public hearings held;
- Pollution: total emission/effluent loads per key parameters, waste generation and management;
- Environment and Monitoring: number of locations monitored, ambient quality of air, surface freshwater, groundwater, and surface waters, and noise levels;
- Enforcement: number of complaints files, show cause notices, notices of violation and directives issued, prosecutions launched and convictions secured; and
- Infrastructure: staff numbers and breakdown, training, laboratory equipment, number of environmental infrastructure projects.

Key Challenges

- There is insufficient coordination and lack of nationwide implementing guidance on permitting and compliance monitoring between the CPCB and SPCBs
- Significant human and technical capacity constraints are an obvious factor that impacts effective execution of all compliance and enforcement functions at the central, state and local levels.
- In the absence of strong political will to address environmental challenges, funding limitations remain a significant challenge facing all environmental institutions.
- Legal limitations on the use of self-monitoring data as evidence in court and other proceedings puts an additional monitoring burden on SPCBs and serve as a disincentive for industry to conduct accurate self-monitoring and reporting.
- There is a lack of regulatory tools and flexibility to provide proportionate enforcement response with appropriate deterrent effect against violations that do not have an immediate severe impact on the environment but represent continuous non-compliance with regulatory requirements.
- Available punitive tools for non-compliance have proven ineffective because procedures are rigid and time-consuming while penalties are too low and fail to consider the full economic and environmental impacts of the violation.
- SPCBs have limited capabilities for providing targeted technical assistance to the regulated community. While the CPCB and SPCBs have developed some outreach tools (e.g., websites), informational and training materials, these need to be upgraded and expanded, including making more resources available in local languages rather than in English.

- Existing information management systems are far from satisfactory in most states, and there are no national guidelines aimed at uniform collection, management and sharing of environmental information that would enable improved collaboration on enforcement actions. SPCBs also lack trained staff to store and analyze data at both the national and state levels.
- The use of economic instruments for promoting regulatory compliance remains quite limited in India. Albeit emphasized in the new NEP, economic instruments are not explicitly authorized by the law and remain confined to pilot initiatives. Their positive experiences are disseminated very slowly across the states in the absence of national leadership and guidance.

II. RECOMMENDATIONS

Based on the above assessment, recommendations are proposed in conjunction with those already advanced in the recent years deal primarily with urgently needed measures to improve the application of a number of compliance and enforcement instruments (self-monitoring, fines, bank guarantees) and to build PCB capacity by establishing standardized policies and procedures and conducting extensive training programs. Another major direction for improvement in the short-term perspective is to focus more attention on SMEs, both in terms of compliance monitoring and financial assistance.

Short-term Recommendations

- Establish a system of administrative fines and streamline the system of criminal fines
- Overcome legal limitations on using self-monitoring information as evidence in court or other proceedings
- Establish and disseminate comprehensive standard compliance monitoring and enforcement policies and procedures, and develop and deliver related training programs
- Increase the emphasis on compliance monitoring and enforcement and prioritize inspection efforts based on environmental risk
- Develop more balanced compliance monitoring and compliance promotion programs by extending them to SMEs
- Develop a uniform, effective bank guarantee system

Medium-Term Recommendations

- Increase direct central and state government funding levels to PCBs
- Establish a public information disclosure program
- Upgrade and expand capabilities and capacity in information management
- Create performance management systems and nationwide performance indicators

REFERENCES

- [1]. Gupta O.K. and K. Priyadarshini (2003): Compliance to Environmental Regulations: The Indian Context, International Journal of Business and Economics, Vol. 2, No. 1, 9-26
- [2]. Planning Commission, Government of India (2001-2002): Evaluation Study on the Functioning of State Pollution Control Boards, New Delhi, <http://planningcommission.gov.in/reports/peoreport/peof.htm>
- [3]. U.S. EPA (2005): Report on Environmental Compliance And Enforcement In India, December 2005
- [4]. The World Bank (2006): India: Strengthening Institutions for Sustainable Growth, Country Environmental Analysis, October 2006
- [5].
- [6].
- [7].