



**REGIONAL CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE
STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE
ASIA-PACIFIC: DEVELOPING ENVIRONMENTAL LAW
CHAMPIONS**

TRAIN-THE-TEACHERS PROGRAM

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SESSION 5: ENVIRONMENTAL PROTECTION LAW

Tutorial Problem (Water Pollution Control and Management in Yamuna River)

The Yamuna river in northern India originates from the Yamunotri glacier situated in the lower reaches of the Himalayas mountain range in Uttarakhand and flows through the five states of Uttarakhand, Himachal, Haryana, Delhi and then in Uttar Pradesh where it rejoins in Ganga in Allahabad. Till the Wazirabad barrage, the quality and flow of the river is quite good. However after the barrage and till the Okhla barrage, there are more than fifteen drains that discharge household and small industrial waste water into the Yamuna. This stretch of the Yamuna between these two barrages is heavily polluted with very low BOD levels and high coliform content. However, it is also this water from which Delhi draws 70% of its water requirements.

The entire stretch of the Yamuna is divided into Upper and Lower Yamuna. The stretch from Yamunotri to Okhla barrage is designated as upper Yamuna and thereafter it is designated as lower Yamuna. In 1995 the five riparian states entered into an MOU to establish the Upper Yamuna River Board (UYRB). The UYRB is tasked with allocation of available water flows between riparian states, monitoring and conservation of water quality, water shed management and maintenance of hydrological data.

In 1990 the Government of India with funding from JICA (Japan International Cooperation Agency) launched the Yamuna Action Plan (YAP) with the objective of expansion of sewage treatment capacity for the abatement of pollution in the Yamuna. Since its launch there have been three consecutive plans, which have expanded the financial investment in the plan. However due to rapid expansion of the population in the riparian states especially Delhi, the ground level impact of the plan in terms of BOD levels have shown no improvement.

The Central Pollution Control Board and the State Pollution Control Boards are the primary agencies which provide for licenses to pollute to establishments and industries through consent to establish and consent to operate (an effluent discharge).

The National Green Tribunal in Delhi has also taken cognizance of the pollution in Yamuna and has ordered the imposition of an environmental compensation charge to be levied on all households in Delhi. Further industrial units have also to pay a pollution charge based on the Polluter Pays Principle and it has also imposed penalties on the authorities including the CPCB for failing to implement the YAP. It has also fined

regulatory agencies such as the Delhi Development Authority (DDA) and the municipal authorities in Delhi for failing to control illegal construction of housing settlements and for providing permission to large scale public events which resulted in the damage to the flood plain.

The High Court of Uttarakhand in a recent judgment recognised that the River Yamuna provides both physical and spiritual sustenance by supporting the sustenance of the entire communities. It has declared that “Rivers Ganga and Yamuna, all their tributaries, streams, every natural water flowing with flow continuously or intermittently of these rivers, are declared as juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna.” It has appointed the Director of NAMAMI Gange (a river pollution action plan to clean River Ganga), Chief Secretary, Uttarakhand Government and Advocate General of the State of Uttarakhand as *persons in loco parentis*, who are obligated to protect, conserve and preserve the rivers by promoting their health and well being.

Resident Welfare Associations of housing societies located along the river in Delhi have been disproportionately affected by the pollution. They have called for a public meeting to which they have invited representatives of the governments of the riparian states, municipal corporations in Delhi, Delhi Development Authority, Ministry of Environment, Forests and Climate Change, National Human Rights Commission, Ministry of Water Resources and CPCB in an attempt to find a workable solution to the issue.

CONSIDER THE FOLLOWING QUESTIONS:

Suppose that you are a member of the local commission appointed by the National Green Tribunal to attend this public meeting. Your role is to explain the legal options available to the stakeholders and advise them on a plan to draw up an equitable solution to address pollution in the Yamuna River. Please consider the following questions:

1. What is the main legislation for controlling the discharge of industrial and household wastewater? What water quality standards apply to the various discharges under this legislation?
2. Which of the following administrative agencies has the lead responsibility to regulate the wastewater discharges by various industries into the canal: the UYRB, Municipalities in Delhi, State Government of Uttarakhand, , MOEF-CC. MOWR and CPCB?
3. What administrative actions can be pursued by the lead administrative agency to regulate the industrial wastewater discharges?
4. What legal action could be taken by the lead agency against any of the industries that fail to respond to administrative sanctions imposed by it?
5. What action can be taken by the lead agency with respect to the discharges from communities and residents living next to the canal?