

Constitution of India and Environmental Governance:

Administrative and Adjudicatory Process

Dr. M. K. Ramesh

Professor of Law

National Law School of India University

Lecture - 41

Basic Legal Framework and Strategies for Waste Management - 1

(Refer Slide Time: 00:14)



9. WASTE MANAGEMENT LAW

**A. BASIC LEGAL FRAME AND STRATEGIES FOR
WASTE MANAGEMENT**

**Dr. M.K. RAMESH
PROFESSOR, NLSIU**



From the greener aspects of natural resource management, we move into the ninth module to take a final shot at the browner aspects of environmental management, and that is to look into the legal regime concerning the unwanted, undesirable aspect of any activity. And that is waste, managing the waste, the legal regime in relation to management of the waste.

First, I will lay out the basic legal frame and the strategies for waste management as evolved in law, then I will follow it up with very specific aspects of waste management in the remaining sections of this particular module. First, the basic legal frame and strategies for waste management.

(Refer Slide Time: 01:30)



There are certain perceptions that we have about anything concerning environment and more so in the case of waste. And this is depicted in a humorous cartoon, which I am displaying it on the screen. Here is the very typical husband and wife situation, where the husband is carrying waste bundles on his two hands and he is waiting by the roadside for the waste collector to come and collect the domestic waste.

And please look at the cartoon, one bundle is marked his, another bundle is marked hers. This is his understanding of separating waste or segregating waste. He thinks wastes have to be separated in two, those that are contributed by himself in one bundle, and those contributed by his wife in another bundle. And here is the wife who looks askance towards him and tells him I do not think that is how they want our trash to be separated.

Now, let us try to understand the whole legal regime concerning waste management by trying to get introduced to this aspect of the law. Keeping aside any preconceived notions or perceptions, as obviously, the cartoon illustrates a misconception about segregation of waste before it gets into the entire assembly line of its disposal.

(Refer Slide Time: 03:43)

A FEW PRELIMINARY OBSERVATIONS



- "WASTE"- AN UNWANTED BY-PRODUCT OF ANY ACTIVITY THAT MAY HAVE HEALTH, HYGIENE SANITARY AND ENVIRONMENTAL IMPACTS, IF NOT PROPERLY AND EFFECTIVELY "DISPOSED"
- HUMAN HEALTH AND SANITATION CONCERNS , INITIALLY DOMINATED POLICY AND LEGAL RESPONSES, PRIMARILY AT THE DOMESTIC LEVEL; GROWING ENVIRONMENTAL CONCERNS OF LONG LASTING ADVERSE IMPACTS, IN THE TRANS-NATIONAL CONTEXT, LED TO A FLURRY OF LAW-MAKING AND ENFORCEMENT ACTIVITY, IN A MAJOR WAY, INTERNATIONALLY , REGIONALLY AND DOMESTICALLY , IN THE LAST FOUR DECADES.
- EUROPEAN LEGAL DEVELOPMENTS HAVE INSPIRED AND PROVIDED THE TEMPLATE FOR INTERNATIONAL LEGAL DEVELOPMENTS , IN RECENT TIMES
- SCIENTIFIC AND TECHNOLOGICAL SOLUTIONS AND PRIVATE PARTICIPATION, HAVE SIGNIFICANT PRESENCE IN THE MANAGEMENT OF WASTES IN THE CURRENT CORPUS OF THE LAW



First, let us have a look at a few basic understandings, a few preliminary observations concerning the waste. What is a waste? In very simple common man's understanding, waste is an unwanted by-product of any activity, definitely a developmental activity, human intervention being the important part of it that may have a health, hygiene, sanitary, and environmental impacts if it is not properly and effectively disposed.

Disposal has a wide variety of meanings. As we go along, we will understand that it is not just dumping it somewhere, but it is much more than that. There is a science behind it and there is a lot of regulation in relation to that. But let us just try to understand some of the basic things.

Why are we really concerned or agitated about waste? For the obvious reason, it is something that would affect human health and concerns of sanitation. In fact, these are the ones which had initially dominated all policy and legal responses all over the world, primarily at that domestic or the national level.

But the growing environmental concerns over a long period of time and its (last, last,) long-lasting adverse impacts on the environment, not just locally, not just within a particular country, but something that spills into the transnational context. This has led to a flurry of law-making

and enforcement activities in a major way globally, regionally, and domestically in the last four decades.

So, what you see is an evolution of a body of law which initially starts very humbly at the domestic level to take care of human health, hygiene, and comforts, the health issues, but over a period of time it has taken a global dimension to it for wastes are something, substances that are something which have a long-lasting impact on not just the people in the particular locality, but community of nations as a whole, the global environment as a whole, and so a matter of global concern.

So, something that starts in terms of finding legal answers to the problem at the local and the national level now has snowballed into an international concern for which international solutions are found and these international solutions once again come back to inform guided influence, the domestic law and its enforcement. That has been the development in the last 40, 50 years and we are going to trace and track these developments in this particular module.

One of the outstanding features of the legal developments that you notice is the developments that took place in Europe, in the European Union. These are very advanced and these developments have inspired and have provided the template for further international legal developments and even guiding and even steering the making of laws and their working in various countries, including in India.

And another important feature is scientific and technological solutions and the engagement of the private players and the whole scenario having very significant presence in not just in generation but in its management, constitute an internalized aspect of the current corpus of the law that is prevailing now and we should examine it in a little while from now.

(Refer Slide Time: 08:24)



I. ISSUES AND CONCERNS

A FEW FACTS:

- **URBAN INDIA GENERATES 62 MILLION TONNES OF SOLID WASTE ANNUALLY (-ESTIMATED TO CROSS 165 MILLION TONS BY 2030)- 43 MILLION TONS OF IT IS COLLECTED, 31 MILLION DUMPED IN LANDFILLSITES AND ABOUT 12 MILLION TREATED- CLASS-I CITIES GENERATE 80% TOTAL WASTE OF THE COUNTRY!**
- **AROUND 40000 INDUSTRIES GENERATE 7.5 MILLION METRIC TONNES OF HAZARDOUS WASTES, ANNUALLY- 45% REACH LAND FILL SITES, 10% GET INCINERATED AND AROUND 45% ARE RECYCLED**



But before we do that, let us just look to what are the real concerns that we have. And to understand the concerns and issues in relation to that, a little exposure to hard facts, and these facts we all know about it. And so, we will get into the familiar one to get into the unfamiliar one of the laws. What are the familiar problems that we have and what are the facts in relation to waste generation and the problems in relation to that?

I just picked a couple of them just to present to you the gravity of the situation in which we are in. Urban law - urban India generates 62 million tons of solid waste and mind-boggling. And that is the estimate that was made a couple of years back.

And if you projected to the year 2030, it has been estimated to cross 165 million tons per annum only in India and of these 62 million tons, two-thirds of it are collected and half of it is a dumped in landfill sites and about a 12 million of that is treated.

That means what? You only treat and make it in inert or useless or to be used for some other purpose. The remaining 50, you can only account for about two-thirds of it and that is put into landfill sites and rest of what happens we just do not know. Even with so much of law and administrative missionary consequently day after day, day to day, every day being engaged in its, manageable.

And please note, class one cities in India generate 80 percent of the total waste produced in this country. And so, the real culprits in waste generation are the major 8 to 10 cities or a dozen cities that we have in India, which has actually a population of over one-tenth of the Indian population and generating 80 percent of total waste of the country. And so, the problem with the urban areas is so huge, topping which is the problem of waste generation and its management. Look at the problem here.

And the real contributors to the unbearable volume of the waste generated in this country are the industries and there are about 40,000 odd industries in India. All these are official figures, all these are verified by industries as well as, ASSOCHAM is one of those which has been able to gather so much of information and some of the information that I make available is drawn from official records and also from very reliable, authentic, and verified information base.

More than 40,000 odd industries generate 7.5 million metric tons of hazardous waste annually. Sort of, while all other kinds of wastes account for about 62 million tons of solid waste, about 7.5 million tons of hazardous waste in addition to that and of which 45 percent reach landfill sites, 10 percent get incinerated and 45 percent are recycled.

Between the solid waste and hazardous waste, statistically speaking, hazardous waste account for about a little over 10 percent of what you generate through other kinds of wastes, but this 10 percent has such a deleterious impact on health, hygiene, well-being, and environment, which is many times over the volume in a solid waste that is generated otherwise.

(Refer Slide Time: 13:03)



ISSUES OF CONCERN :

- EVER INCREASING GENERATION AND LIMITED OPTIONS OF DISPOSAL
- POLLUTION, ENVIRONMENTAL DEGRADATION
- HEALTH, HYGIENE, SANITATION

PROBLEMS

- DESCRIPTION- VARIED UNDERSTANDING(– "WASTE IN ONE FORM , RAW MATERIAL FOR ANOTHER")- " COMMODIFICATION" OF WASTE
- INFORMATION GAP, FIXING RESPONSIBILITY, DISSEMINATION AND DELAYS IN ACTION
- MANAGEMENT: PERSONNEL, SKILLS, SEGREGATION , HANDLING, TRANSPORTATION, COORDINATION, DISPOSAL
- STATE-CENTRIC APPROACH AND "MODERN" SCIENTIFIC, TECHNICAL AND EXPERT SOLUTIONS - EXPENSIVE - NON-INCLUSIVE APPROACH AND PRACTICE -POPULAR PARTICIPATION AND TRADITIONAL INEXPENSIVE SOLUTIONS, KEPT IN THE MARGINS



Just a few facts, few facts to concern all of us. And what are the kinds of concerns? A factorial data that is made available to you is something that was generated a couple of years back. The matter of great concern is as we go along in this developmental bandwagon, in a consumerist society, there is an ever-increasing generation of these waste substances and our options of their disposal are highly limited. This you must mark. It is a matter of great concern.

And so, the problems of pollution, environmental degradation, impact on health, hygiene and sanitation is ever on the increase on account of waste generation and the not so satisfactory management of it.

So, what are actually the problems? We have a bit of a problem even in its definition and description. What do you consider as waste? I gave a very simplistic definition as an unwanted by-product of any kind of human activity. But it is not as simple as that, because waste is viewed from various angles. The mainstream understanding is waste is a useless stuff that is the common understanding.

But do you know that it is scientifically also well-established that the waste which is in one form becomes a raw material for another production process? And that actually shows and demonstrates the real reason as to why there is a thriving recycling industry, recycling the waste,

recovery of the cleaner one from the waste substance is a flourishing business world over, definitely in a developing country like India.

And there is an increasing commodification of waste, mainly because of the application of technology where, from the waste, you can extract very useful things even to the last ounce and only render a small portion as something which is absolutely useless. And so, waste is not waste per se.

This is both an advantage and also a problem. Advantage, if you have the technology if you have the access to that kind of a skill and an ability to transform waste into something useful. But if you do not have, you are confronted with a huge goliathan problem, unmanageable and to an extent, your quality of life suffers.

The second major problem is a problem of information gap. See, you can think of solutions and strategies if you know what is the magnitude of the problem. We know that waste is a huge problem for us, but how much of waste is generated. I gave you some official records, I gave you some authentic reports, but please remember that these records and reports were generated a couple of years back, and also remember that waste is constantly is on the rise.

So, with the result, you need to really think of ways and means and mechanisms of managing it provided you have information. Handling the problem once you know the extent of the problem. We do not have reliable information on real-time.

Number one, as to how, much as to the volume; number two, what is the extent of impact; number three, who are going to be affected, how many in numbers, and who has been responsible for its generation and has acted irresponsibly. And so, to fix responsibility and to disseminate all this information and get into action, there is a lot of time lag. And the more time you take waste will get the better of you. Time is the essence here and information gap acts as the enemy of that.

The third major concern and a problem is about the real management of waste. It is not one kind of waste that we have to handle. There are such wide variety of waste, both in terms of description and in terms of impact, some of them are harmless. You can just ignore and then still move on. But quite a few of them are so impactful that if you do not take proper precaution, it may affect your life, limb health, and well-being. And so, you should have the skills to handle them.

And you have a management mechanism provided through law and you expect the personnel who are going to be engaged to be skilled in a wide variety of activities of segregation of waste, of handling of waste, of transportation of waste, of disposal of waste in a proper, effective environmentally benign way.

And it is not one single agency or the state which is engaged in that. You have so many departments and institutions which are engaged in this activity and coordination is a casualty. And unless they work in tandem, management becomes a problem. And this is a serious problem, not just in India, everywhere in the world.

Then if you actually look to the policies, directions, plans, programs, legislations; I am just giving you a bird's eye view, both internationally and domestically. By and large, they are state-centric in approach and they have adopted modern, scientific, technical, and expert solutions. Well, by and large, it is required. But the problem with them is of accessing these modern solutions, affordability of these solutions, the expensive nature of these solutions.

And the problem is also of non-inclusive approach and the practice on the part of the state in the management of these unwanted by-product of human activity, popular participation, and traditional time-tested and time-honoured solutions are always kept in the margins.

This is a very serious issue, because many of the solutions that we have, what you call is the homespun wisdom, in dealing with the waste are very inexpensive methods, very cheap methods, but some or the other, these are either unknown to the powers that be are not mainstream to the

whole system of governance and so we end up with expensive solutions. These are real, real issues of concern when we actually look to the legal regime concerning waste management.