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Improving Air Quality



Traffic during morning rush hour in New Delhi, India.

Delhi's recent success converting commercial vehicles to CNG in place of more polluting fuels has been the focus of attention from many of its neighbors. A number of speakers mentioned Delhi as an actual or potential model for their own countries during the recent BAQ 2003 meetings in Manila in December (this was an annual meeting that brought together about 600 air quality professionals from throughout Asia).

Funding from AID and the Ford Foundation, Delhi made it possible for researchers from Resources for the Future in Washington, D.C. and the Centre for the Study of Law and Governance at Jawaharlal Nehru University in Delhi to undertake an independent inquiry of this unusual developing-world environmental regulatory success story. They examined the record, reconstructed events, spoke to the key actors, and then critiqued the policy process and the policies themselves from a non-allied, non-advocacy point of view.

Their purpose was to test the story that is commonly repeated in India and around the region: M.C. Mehta, a lawyer and head of a local NGO, filed a "public interest litigation" before the

Indian Supreme Court invoking fundamental constitutional rights against the failure of the government to protect Delhi's environment. An activist Supreme Court took charge when legislative and regulatory agencies would not. One of several remedies imposed by the Court was the conversion to CNG. Often the impression is left that much of this happened in a very short time.

RFF and JNU concluded that the Supreme Court did play a central role, especially for the conversion to CNG. But the Court did not act alone, nor could it have. Most of the policies attributed to the Court originated in the government. But the government apparently lacked the political will to undertake the bold action necessary to carry out the programs it had announced. When the government was paralyzed, or renege, the Court forced it to implement its announced policies and in some cases to develop new ones.

The Court's authority to issue orders to the government that would be obeyed derived from its unique status in Indian public life. Over time, the Court had become to be seen the protector of fundamental rights in Indian society. It is perceived in India as independent and relatively uncorrupted. But the Court also acted under the watchful eye of public watchdogs in the form of an active NGO community and a free press, whose actions in turn helped create public awareness that put pressure on the government.

None of this deliberation or decision-making happened overnight. Issues were chewed over and worked through over a long period of time, as illustrated by the 1998 CNG decision. In fact, CNG was being considered as an alternative fuel for the transportation sector as early as 1988. In part, the lengthy decision process seemed to reflect the extraordinary difficulties of introducing

new technology, and was further extended by a battle that raged even after the Court issued definitive orders. The final resolution came when the government and stakeholders decided that the Court would not back down from its decision.

Internal and external critics argued that the Court-driven decision process led to outcomes that were more costly and inefficient than India could afford. RFF concluded that in an ideal world, it might have been more cost effective to set vehicular and fuel standards, and leave the decision of which technology to use to the consumers. But the Court had evidence that fuel adulteration was rampant and politically impossible to check. CNG's gaseous nature made adulteration impracticable. It became the most efficient option, in view of the institutional realities in India.

Whether the Court's actions constituted good government may be the most difficult question to answer. The Court acted with relative restraint. Its reliance upon independent committees was admirable and a good model for future such deliberations that are placed before a court of law. But, should courts should be making these kinds of decisions at all, or should they be made by technical experts in the executive branch? In the case of Delhi's pollution, the Indian Supreme Court apparently was the only authoritative body willing to take hard decisions and make them stick. One can also speculate whether something is at least better than nothing. The jury is out, however, on the question whether the Court's pervasive presence ultimately will encourage firmer future actions by environmental regulators or whether they will continue to avoid direct responsibility.

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