

Environmental Crimes: Current and Emerging Threats

M C Mehta

Environmental crimes are
due to a worldwide focus
on unsustainable
development



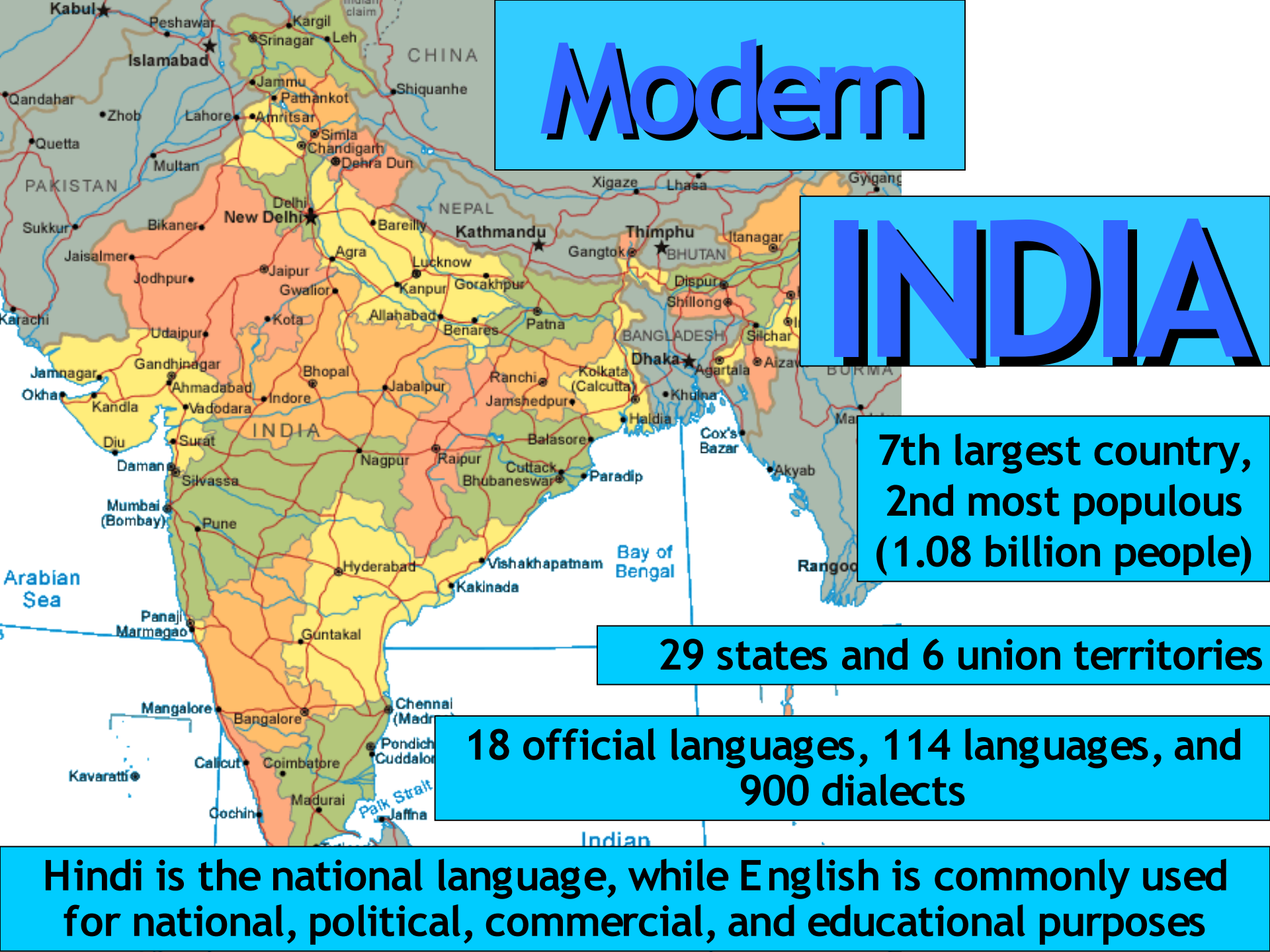
The
environment
is entirely
overlooked.





CLIMATE CHANGE



A map of India and its surrounding regions, including Pakistan, China, Nepal, Bhutan, Bangladesh, and Burma. Major cities like New Delhi, Mumbai, Kolkata, and Chennai are marked. The map is overlaid with several blue text boxes containing information about India. The word 'Modern' is in a blue box at the top. 'INDIA' is in a large blue box on the right. A box on the right lists statistics: '7th largest country, 2nd most populous (1.08 billion people)'. A box at the bottom right states '29 states and 6 union territories'. A box at the bottom center lists '18 official languages, 114 languages, and 900 dialects'. A final box at the very bottom explains the national language: 'Hindi is the national language, while English is commonly used for national, political, commercial, and educational purposes'.

Modern

INDIA

**7th largest country,
2nd most populous
(1.08 billion people)**

29 states and 6 union territories

**18 official languages, 114 languages, and
900 dialects**

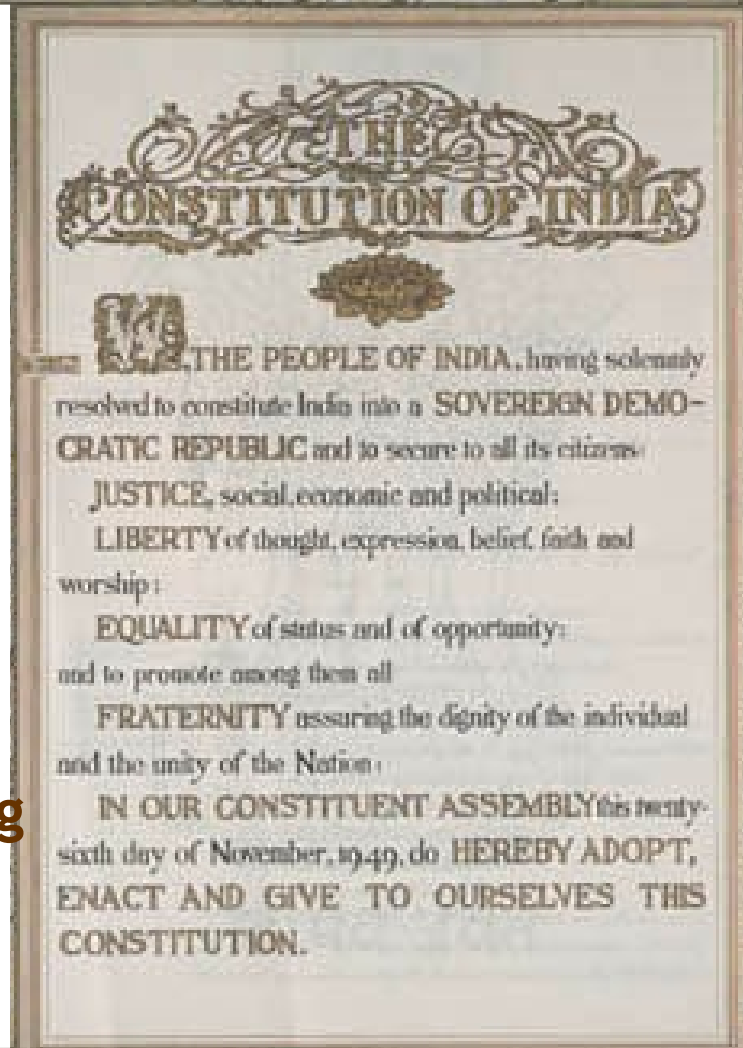
**Hindi is the national language, while English is commonly used
for national, political, commercial, and educational purposes**

Article 21: Protection of Life and Personal Liberty

Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health

Article 48A: Protection and improvement of environment and safeguarding of forests and wild life

Article 51A (g): It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures



Stockholm Summit 1972

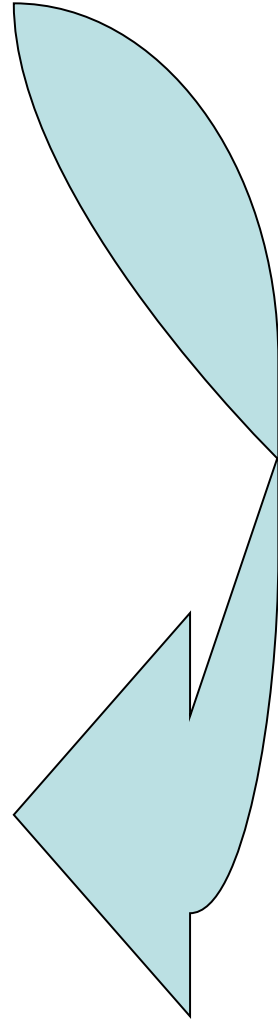
United Nations Summit on
the Human Environment



x **India**

**Water (Prevention and
Control of Pollution) Act 1974**

**Air (Prevention and
Control of Pollution) Act 1981**





Environment Protection Act 1986

Motor Vehicles Act 1988

**Hazardous Waste (Management and Handling)
Rules 1989**

Public Liability Insurance Act 1991



Public Interest Litigation and the Supreme Court of India



The Taj Mahal Case

Cultural heritage: the Taj Mahal, 4 World Heritage Sites and 254 monuments within the Taj Trapezium Zone

Life and health of the people, particularly the residents of Agra

Environment: animals and plants, Yamuna River, Holy Kunds

M.C. Mehta v. Union of India
1996 (4) SCALE (SP) 29

The Ganges



Praveen Kumar



Praveen Kumar

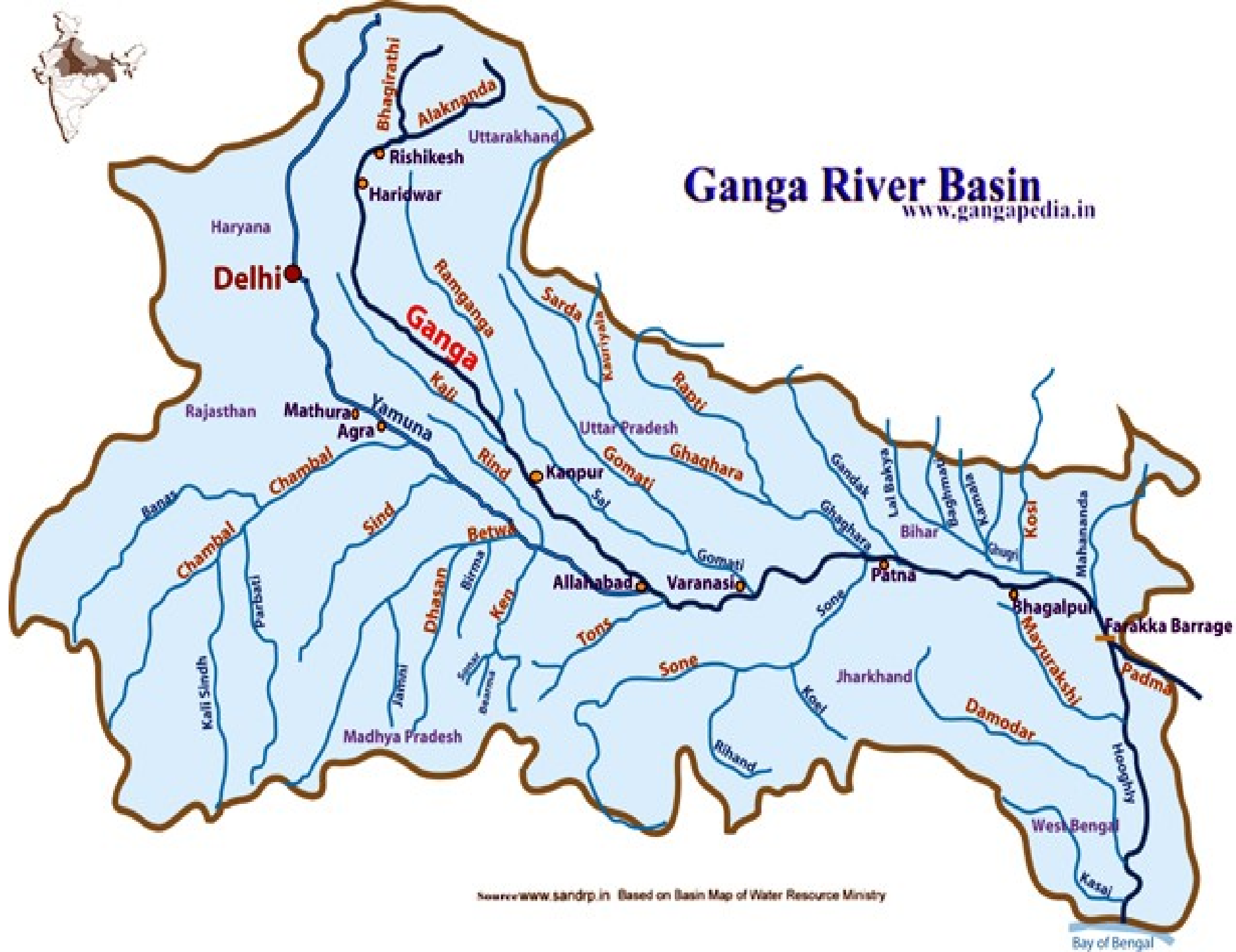
Gangotri has receded over 850 meters over the last 25 years, 76 meters from 1996 to 1999 alone.





Ganga River Basin

www.gangapedia.in



Source: www.sandrp.in Based on Basin Map of Water Resource Ministry

2017 Oct 2012
10/17 Oct 2012

Ganga is now a deadly source of cancer

Anirban Ghosh | EISAMAY

The holy Ganga is a poisonous river today. It's so full of killer pollutants that those living along its banks in Uttar Pradesh, Bihar and Bengal are more prone to cancer than anywhere else in the country, says a recent study.

Conducted by the National Cancer Registry Programme under the Indian Council of Medical Research, the study throws up shocking findings: The river is thick with heavy metals and lethal chemicals that cause cancer, it says. "We know that the incidence of can-

► Gall bladder cancer, P 17

cer was highest in the country in areas drained by the Ganga. We also know why. Now, we are going deeper into the problem. Hopefully, we'll be able to present a report to the health ministry in a month or two," NCRP head A Nandkumar said.

The worst-hit stretches are east Uttar Pradesh, the flood plains of Bengal and Bihar. Cancer of the gall bladder, kidneys, food pipe, prostate, liver, kidneys, urinary bladder and skin are common in these parts. These cases are more frequently found here than elsewhere in India, the study says.

THE TIMES OF INDIA, NEW DELHI
WEDNESDAY, OCTOBER 17, 2012

'Gall bladder cancer is rampant in Ganga belt'

Anirban Ghosh | EISAMAY

A study conducted by the National Cancer Registry Programme (NCRP) under the Indian Council of Medical Research, has found that cases of gall bladder cancer along the course of the Ganga are the second highest in the world and prostate cancer highest in the country.

A survey by the National Cancer Registry Programme (NCRP) throws up more scary findings: Of every 10,000 people surveyed, 450 men and 1,000 women were gall bladder cancer patients. Varanasi in Uttar Pradesh, Bihar's Vaishali and rural Patna and the extensive tract between Murshidabad and South 24-Parganas in West Bengal are the hot zones.

In these parts, of every 1 lakh people surveyed, 20-25 were cancer patients. This is a national high. Relentless discharge of pollutants into the

riverbed is responsible.

"This is the consequence of years of abuse. Over years, industries along the river have been releasing harmful effluents into the river. The process of disposing of waste has been arbitrary and unscientific. The river and those living along its banks are paying a price for this indiscretion," Chittaranjan National Cancer Institute director Jai-deep Biswas said. The Kolkata-based cancer institute is an associate of the National Cancer Registry Programme.

Biswas, a senior oncologist, said Ganga water is now laced with toxic industrial discharge such as arsenic, choride, fluoride and other heavy metals. Dipankar Chakarabarty, director, Jadavpur University School of Environmental Studies, concurs. "We've been extremely careless. Indiscriminate release of industrial effluents is to blame for this."

"The arsenic that's gets in-

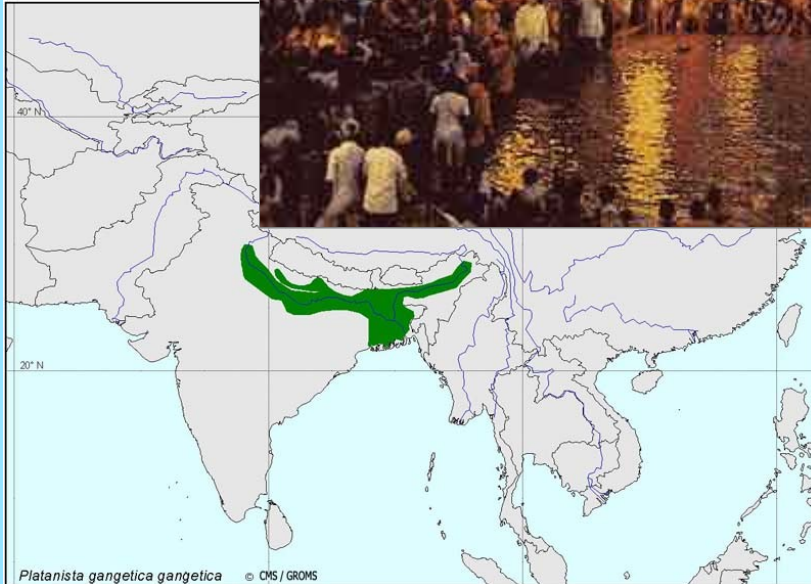
to the river doesn't flow down. Iron and oxygen present in the water form ferroso ferric oxide, which in turn bonds with arsenic. This noxious mix settles on the riverbed. Lead and cadmium are equally heavy and naturally sink in the river. This killer then leeches back into the groundwater, making it poisonous," Chakarabarty explains.

Surface water, Chakarabarty explains, is treated before use. But that's clearly not the case with groundwater and it's mostly consumed raw, often straight from source. The impact is devastating. "The consequences of using or drinking this poison can manifest earliest in two years and latest in 20. But by then, it's way too late." Those who've been bathing in this poison river are equally at danger, says Biswas. The need of the hour is to strictly implement laws regulating discharge of industrial waste into the river.

The Ganga Case

Pollution Fines

Polluter Pays Principle



Cultural heritage: holy river

M.C. Mehta v. Union of India and Others
W.P. (Civil) No. 3727 1985

The Beas River Case

Vital role of judiciary
when executive fails



Public Trust Doctrine

M.C. Mehta v. Kamal Nath and Others
W.P. (Civil) No. 182 1996



Bichhri Groundwater Pollution Case

ICELA vs. Union of India and Others (W.P. (Civil) No. 967 of 1989)



Building a Foundation for Public Interest Law in India

Right to a Healthy Environment

Strict and Absolute Liability Principle

Polluter Pays Principle

Precautionary Principle

Principle of Intergenerational Equity

Public Trust Doctrine

Exemplary Damages

Onus of Proof shifted to the Polluter

Possible Solutions:

1. A clear definition of environmental crimes.
2. Setting up eco-crime courts at the International, National and regional level for the delivery of speedy justice.
3. Strengthening institutions for the enforcement of environmental law and policy.
4. Setting up an Eco-Crime Police at the international and national levels.
5. Spreading awareness and information, as well as sharing experiences and learning.
6. Sensitisation of judges, lawyers, NGOs, pollution control authorities, senior officials, and legislators on emerging threat of national and international environmental crime, and solutions thereto.
7. Providing legal aid to the victims of environmental crime and eco-restoration at the cost of polluters at the international as well as national level.