

ENVIRONMENT AND ITS LAWS IN INDIA

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Abstract

Environment is "that which surrounds us". Ruthless industrialization has inadvertently jeopardized the quality of the environment to such an extent that even the bare minimum prerequisite for the healthy life of every human being has been taken away. Environmental hazards are not only limited to the introduction of pollutants into the natural environment but also include human interference which has the potential to disturb the ecological equilibrium. The framework for the protection of the environment is premised on three intrinsic strings. The Constitution of India along with various laws acts as an instrument for preserving, protecting, and conserving the environment thereby improving upon its quality.

Keywords: *Environment, Industrialization, Environmental Law, Pollutants*

Reference to this paper
should be made as follows:

Received: 28.05.2020

Approved: 30.06.2020

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*ENVIRONMENT AND ITS LAWS IN
INDIA*

RJPSSs 2020, Vol. XLVI,

No. 1, pp. 15-21

Article No.02

Online available at:

<http://rjpss.anubooks.com/>

[https://doi.org/10.31995/](https://doi.org/10.31995/rjpss.2020v46i01.02)

[rjpss.2020v46i01.02](https://doi.org/10.31995/rjpss.2020v46i01.02)

Introduction

The word environment epistemologically is derived from French preposition “environ” referring to “around”, and conceptually includes both biotic and abiotic factors surrounding an organism. For the proper growth of living forms, the existence of a healthy environment is of prime importance. The byproduct of unbridled growth and ruthless industrialization has inadvertently jeopardized the quality of the environment to such an extent that even the bare minimum prerequisite for the healthy life of every human being has been taken away. It is high time for us to rethink the growth model by giving humanitarian content to the attached normative value of the development.

The framework for the protection, preservation, and conservation of environment treads on three strings- formal framework, outside formal framework, and extra-legal framework. By extra-legal framework, I mean socio-political factors influencing the efforts of environmental beings or formal plus framework. A cursory glance at these respective frameworks and its outreach and impact will lead us to believe that most of the work of protection and conservation is premised on the second and third-string, namely outside formal and formal plus.

The Constitution of India contains provisions underlining the national committee for the environment on the part of the state, as its fundamental non-derogatory duty, as well as of the citizens as its fundamental duty. Apart from the constitutional provisions, there is a wide array of legislation, along with ‘executively enacted’ rules, notifications and bye-laws, together constituting the formal structure of protection. Moreover, the state has been active enough that for citizens’ set of, civil as well as penal, laws have been enacted to regulate their conduct towards the environment; however, no such enforceable measures exist against the state.

Despite this paraphernalia of laws governing environmental aspects, the environmental travesty is that India has been ranked 169 in the 2020 Environment Performance Index, which is better than Burundi and Haiti but lagging from Ghana, prepared by the Yale Center for Environmental Law & Policy .ⁱⁱ

The formal plus framework of environmental protection offers a meta-rule analysis of various practices in our society directed, in a subtle manner, towards creating an environmental consciousness among the people.

The measure for the protection of the environment often comes into conflict with the developmental aspirations of the individual. Moreover, such confrontations get a sharp edge in countries where developmental dividends have not yet been evenly distributed to a potential where its “own people” have realized and uplifted

themselves from the vicious circle of poverty. How far, and fairly, the environmental laws in India respond to the demands for development, and reconcile the conflicting interest of protection of the environment with that of realizing the goals of development has always been a bone of continuing contention among scholars.

The Constitution of India reflects the need of protection and conservation and under Part IV A (Art 51A-Fundamental Duties) it has been stated that it is the duty of State to 'protect and improve the environment and to safeguard the forests and wildlife of the country'.ⁱⁱⁱ Directive Principles of State Policy (Part I, Art. 48A) also directs on the role of the state in protection and improvement of environment which includes lakes, water bodies, forests, and wildlife.^{iv} Although many environmental protection legislations were in a scene before 1947 but the actual action and functioning of this legislation marked their presence after the UN Conference at Stockholm in 1972 which focused on Human Environment. This conference led to the establishment of the National Council of Environmental Policy and Planning (1972) within in the Department of Science & Technology which later in 1985 evolved into MoEF (Ministry of Environment and Forests). At present, MoEF acts as an apex body which looks after all the aspects of environmental protection. National Policy on Pollution Abatement (1992) and National Conservation Strategy and Policy Statement on Environment and Development (1972) are a few amongst the several policies running for environmental management in India, however, these policies cannot be forced by law on people but they function as principles for central and state government to function.

Indian legal framework covers nearly two hundred laws focusing primarily on issues related to the protection of the environment. v Some of the important facts and rules governing the protection of our environment in chronological order are as follows:

- 1) **The Wildlife (Protection) Act 1972:** It provides for protection to listed flora and fauna. It also establishes a network of ecologically important protected areas. This Act empowers the State and Central government to declare any area a wildlife sanctuary, national park, or closed area. This act provides a protective cover to plants and animals and also prohibits hunting of animals.
- 2) **Water (Prevention and Control of Pollution) Act 1974:** It is also referred to as the Water Act. The act supervises the prohibition of discharge of effluents (pollutants) into rivers and lakes above given standards. It also directs the penalties imposed in the condition of non-compliance with the act. Water act

also identifies the functions and power of environmental agencies such as the Central Pollution Control Board and the State Pollution Control Board. This was the first law passed in India to ensure that both, domestic and industrial effluents are not directly discharged into water bodies without proper treatment.

- 3) **The Forest (Conservation) Act 1980:** This Act was passed for protection and conservation of forests. This Act restricts the powers of the state in respect and regulates the de-reservation of forests or the use of forest land for non-forest purpose.
- 4) **Air (Prevention and Control of Pollution) Act 1981:** This Air Act came into the role of prevention, control, and abatement of air pollution in India. It aims at maintaining the quality of air and control air pollution.
- 5) **Air (Prevention and Control of Pollution) Rules 1982:** It defines the protocols for Board meetings, the powers possessed by presiding officers, quorum, etc.
- 6) **Atomic Energy Act 1982:** It is concerned with radioactive wastes.
- 7) **The Environmental (Protection) Act 1986:** E.P. Act aims at protecting and improvement of environmental quality and reduces or controls all sorts of pollution. This acts as an umbrella that enables the central government to take necessary action to maintain standards of a healthy environment.
- 8) **Hazardous Waste (Management and Handling) Rules 1989:** It aims at controlling the production, collection, treatment, storage, transportation of hazardous waste.
- 9) **Public Liability Insurance Act 1991:** It was enacted with the objective to provide relief funds to victims of accidents caused by handling any hazardous substance. This act applies to all owners of hazardous chemical industries.^{vi}
10. **Coastal Regulation Zone Notification 1991:** Regulates the protection of backwaters and estuaries thereby ensuring security to fishing communities living in coastal areas.
11. **National Environment Tribunal Act 1995:** Aims at providing compensation for damage to human and environment arising by hazardous substances.^{vii}
12. **The National Environment Appellate Authority Act 1997:** This was set up by the Ministry of Environment and Forests to look into the cases related to environmental clearance.

13. **The Biomedical Waste (Management and Handling) Rules 1998:** A legal binding with healthcare institutes which directs for proper disposal and segregation of hospital wastes.
14. **The Noise Pollution (Regulation and Control) Rules 2000:** The Central government framed this rule which aims at maintaining ambient air (noise) quality standards leading to the reduction of noise pollution.
15. **The Ozone Depleting Substances (Regulation and Control) Rules 2000:** It relates to the production and utilization of ozone-depleting substances.
16. **The Biological Diversity Act 2002:** It aims at the conservation of biological resources and for its implementation; The National Biodiversity Authority was established in Chennai.
17. **E-Waste (Management and Handling) Rules 2011:** Aims at reducing the use of hazardous material in electrical and electronic equipment in order to lower down the generation of e-waste.

Statutory Bodies for Environmental Screening: The main regulatory bodies constituted to protect and promote the environment and control pollution are:

- **Ministry of Environment and Forests (MoEF):** This is the administrative body of the Central Government dealing with the planning, promotion, and implementation of environmental and forestry policies in India. MoEF primarily focuses on the conservation of water bodies, biodiversity, etc.
- **The Central Pollution Control Board:** CPCB was constituted in 1974 under the aegis of Water (Prevention and Control Pollution) Act 1974. It aims at promoting cleanliness of the water, improving the quality of air and prevention of water as well as air pollution.
- **The State Pollution Control Boards (SPCB):** The State Government also have their pollution control boards which primarily advises the State Government on matter relating to pollution and lays down effluent and emission standards for industries.

The CPCB and SPCB can issue penalties including fine and imprisonment under Water and Air acts .^{viii}

Conclusion

The Courts of India have tried to implement environmental laws through PIL (Public interest litigation) led by public-spirited citizens contributing to a better environment (IGCMC 2001). The environmental sustainability can be improved by addressing the environmental abuses by the industries and can be forced to pay penalties for the non-compliance of the laws. The need for the present is to maintain

balance and harmony between the growth and environment of a country since both are equally important. The National Green Tribunal should be well equipped to resolve the complex problems related to pollution. The society shows its dual behavior with respect to cleanliness, as people prefer clean homes on one hand and on the other they spill out the garbage and pollutants in their surroundings. Such a contrasting situation is a big problem; therefore behavioral changes with regard to the environment should be brought. India has been known for its spirituality for ages. Our ancestors have been great followers and worshippers of water bodies and nature. Resources such as plants, trees, and landscapes. Their eco-friendly belief promoted a healthy environment in the past which has been ruined in present at the expense of development and growth. Now the rivers of India are turning out to be dumping sites of wastes that are threatening state for all sorts of life forms. The pace of degradation of the environment has been increasing continuously which has led to the formulation of different environmental acts and rules. The environmental problems can be solved by increasing awareness of these environmental laws and building up an environmentally conscious being in the society.

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Footnotes

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