

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 1

2023

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The Impact of Environment Related Laws on the Indian Society

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ABSTRACT

Both before and after independence, India has had around 200 laws addressing environmental protection. The laws in force prior to independence, however, did not simply address environmental protection. Public health, safety, and convenience related offences are covered in Chapter XIV of the Indian Penal Code (IPC), which also covers water, air, and noise pollution. Post-independence legislation, however, only focuses on environmental preservation. There are many different topics covered by environmental law. They are all united by the need to protect nature and the environment. The public becomes aware of and concerned with environmental legislation through pollution, which is the earliest and most evident way. Resource sustainability laws are necessary. This is defined as the capability or desire to sustain a resource at a specific level and is based on three scientific principles, including a higher reliance on renewable energy sources, biodiversity, and the biochemical cycle. In most cases, usage restrictions or replacement standards were imposed. The general philosophies and ideas, including responsibility across international borders, equity and equality, polluter pays, the precautionary principle, prevention, and sustainable development, are put into practise for a number of different reasons. Some are intended to promote the general public's welfare, safety, and health. Others are implemented in order to protect against additional sorts of harm. so that the same levels of health and prosperity that the rest of us have enjoyed for generations will be available to future generations.

Keywords: *environmental laws, sustainable development, future-proof, general principles, ecology.*

I. INTRODUCTION

Globally, the safety, enhancement, and preservation of the human environment are currently key goals. People are affected by both the biological environment and the physical environment. Land, water, and air make up the natural environment. Plants, animals, and other living things comprise the biological environment in its whole. The biological environment consists of all living things, like animals, plants, and other species. Physically and biologically, environments are connected.[1] Damage to the environment in one country has an international impact on the

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environments of all other countries.[2] India is not an exception to the growing global issue of environmental degradation. The Indian laws that are primarily and more pertinently focused on protecting and developing the environment have been concisely summarised in this article. The efficiency of these legislation has also been researched and evaluated.

II. LEGISLATIVE AND CONSTITUTIONAL MEASURES

Perhaps the first big multinational initiative to protect and preserve, in 1972, the Stockholm Declaration addressed the human environment. The States were required to implement environmental protection and improvement laws after the passage of this Declaration. Two additional articles, 48A and 51A, were added to the Indian Constitution by the Indian Parliament in 1976. In accordance with the Constitution's Article 48A, the State must act to protect the country's wildlife and forests in addition to trying to develop and maintain the environment.

Like this, Article 51A's section (g) mandates that all Indians show compassion for every living being while improving and upholding the environment's natural resources together with its wildlife, rivers, forests, and lakes. Combining Articles 48A and 51A(g), both the "State" and the "people" have a responsibility under the Constitution to safeguard, perceive, and enhance the environment. The nation's natural resources must be improved and preserved as much as possible for future generations. The phrase "protect and improve" appears in Article 48A as well as in Article 51A(g), which suggests that the government may take steps to improve environmental quality as opposed to merely maintaining the ecosystem in its damaged state.

There are many laws addressing the matter in addition to the constitutional duty to preserve increase environmental awareness, yet the Water (Prevention and Control of Pollution) Act of 1974, the Water (Prevention and Control of Pollution) Cess Act of 1977, the Air (Prevention and Control of Pollution) Act of 1981, the Environment (Protection) Act of 1986, the Public Liability Insurance Act of 1991, and the National Environment Tribunal Act are more pertinent laws for the location. [3]

In the instance of the Ganga Water Pollution [4], some tannery owners in the Kanpur area were discharging the effluent from their businesses into the Ganga without putting in even the most basic filtration systems. The Supreme Court convened that the tanneries' financial situation must not be taken into account while mandating that they build primary treatment facilities. The Court has been given permission by the State Pollution Control Board to halt operations at these tanneries and to forbid trade pollutants from the tanneries from being discharged in the river Ganga, either directly or indirectly prior to the establishment and approval of primary treatment plants.

To boost the funds available to the Central Pollution Control Board (CPCB) and the State Pollution Control Board (SPCB) established for the preventing and controlling water pollution, the Water (Prevention and Control of Pollution) Cess Act of 1977 aims to establish a levy and collection of a cess on water used by people engaged in particular industries and regional authorities. The objective is to collect money from those whose acts result in pollution so that they can pay for the maintenance and operation of such. An industry may be eligible for a reimbursement of 25% if it installs a sewage treatment facility or a trade effluent facility.

The goals of the Air Act is to decrease, manage, and inhibit air pollution. Factories, cars, home fires, and other factors are some of the main causes of air pollution. It has unfavorable impacts on the lungs, heart, and hemoglobin of the blood. Roggar Mustress, a scientist from America claims that air pollution-induced stress increases societal crime.

Any "solid, liquid, or gaseous substance present in the atmosphere in such concentration as may be or tend to be hazardous to humans or other living beings or plants, or to property or environment," according to the definition of an air pollutant in the Air Act. Noise is included in this definition. According to the Act, no industrial plant may be built or operated in a region that is subject to air pollution control without first receiving approval from the State Board. The CPCB and the SPCB, which were formed under the Water Act, even carry out the powers and responsibilities under the Air Act. Reducing air pollution and enhancing national air quality are the Boards' main duties under the Air Act.

The necessity for extra control and monitoring equipment and an increase in stack height are two criteria that the Board may impose before approving a proposal. It is explicitly specified that business owners must not allow the emission of air pollutants above the Board-established limitations. According to guidelines from the Supreme Court, Delhi's public transportation system, which includes buses and cabs, operates on a single-fuel CNG mode [5]. There was initially a lot of opposition from taxi and bus drivers. However, people can now clearly see that using CNG is cost-effective along with being environmentally benign.

Noise has been categorized as an air pollution under the Air Act. Noise is created when sound annoys or irritates. Noise pollution is caused by a variety of factors, including industry, automobiles, and reckless use of loudspeakers at weddings, religious ceremonies, and other events. The use of pyrotechnics during special occasions, team successes in athletic contests, and other similar events all add to air and noise pollution. The Air Act aids to prevent and control both pollutions.

In order to set rules for environmental protection, improving environmental quality, and

preventing, controlling, and reducing environmental contamination, the Environment (Protection) Act of 1986 was passed. The main inspiration behind the Act's establishment was the Bhopal Gas Tragedy. Land, water, and air are all included in the definition of "environment," along with the interactions that take place between them and with individuals, plants, animals, microorganisms, other living things, and property.

Every living thing, together with plants, microorganisms, and their interactions with the environment, are included in the term's broad definition (land, water, and air). The Act has permitted the CPCB jurisdiction to carry out nationwide initiatives for preventing, managing, and mitigating the environmental contamination. It grants the government the power to establish environmental quality standards, regulate industrial emissions and environmental pollution discharge sites, specify controls for hazardous substances, put in place safety precautions to prevent mishaps, and gather and share information about environment pollution.

Any breach of the orders, provisions, rules, or directives of the Act carries a maximum five-year prison sentence, a maximum fine of one lakh rupees, or sometimes both penalties. The Act was designed as a "umbrella" piece of legislation in order to coordinate their operations, a number of Central and State bodies formed under earlier laws need a framework from the Central Government. similar to the Air Act and the Water Act [2].

The Public Liability Insurance Act, 1991 was approved by the Parliament to provide public liability insurance in order to promptly aid anyone impacted by mishaps that happen when handling any harmful chemicals, and for issues linked to it. The Act requires public liability insurance for any facility dealing with harmful product in order to provide workers and accident victims with at least some recourse.

In order to coordinate their operations, a number of Central and State bodies established under earlier laws need a framework from the Central Government. Due to the fact that it only offers a limited level of support, such insurance would be based on "no fault" accountability. Along with safeguarding the legal rights of accident sufferers, such insurance will offer the industry safeguard and relieve it of the responsibility to cover large damages brought about by catastrophic incidents. Despite the passage of the Victims Act of 1995, which created the National Environment Tribunal, strict liability for any damages resulting from accidents when handling any hazardous chemical was established. The Act mandates the creation of National Environment Tribunal for quick and effective determination of cases brought about by such mishaps. It holds business owners accountable for paying compensation when an accident results in a fatality, a serious injury, or damages to the environment or property. The accident

must have been brought on by some handling of a potentially harmful material. A claimant may also ask for relief under the Public Liability Insurance Act of 1991 by submitting an application to the Tribunal. would be able to continue applying the laws.

The National Environment Tribunal Act of 1995 was approved to establish strict liability for any harm caused by a mishap while dealing with hazardous substance. In the event that an accident causes death, severe injury, property damage, or environmental harm, it places responsibility on business owners to offer reparation. A hazardous substance had to be handled during the accident. A claimant may also request the remedies outlined in the Public Liability Insurance Act of 1991 from the Tribunal.

The Environment (Protection) Act of 1986 limits the areas in which specific businesses, processes, or operations can be executed or carried out under specific protections. The National Environment Appellate Authority Act of 1997 was created to accomplish this goal and establish a National Environment Appellate Authority for hearing appeals. Once the Body is constituted, neither Civil Court nor any other authority would have the power to hear an appeal on subjects in which the Authority is permitted by the Act. It is clear that the purpose of this Act was to deliver prompt justice in environmental cases.

The Wildlife (Protection) Act, 1972 was approved to preserve the safety of wild animals, birds, and plants. The Act forbids the hunt of the listed birds and animals, as stated in the schedule. According to the Act, it is unlawful to select, uproot, injure, destroy, or otherwise remove any listed plant from a forest. According to the Act, the State Wildlife Advisory Board must suggest the State Government on the creation of the National policy for the conservation and protection of particular plants and wildlife, as well as the option of locations to be designated as national park, sanctuary, etc. The Act's administration is overseen by a Chief Wildlife Warden, other wardens, and their staff, as well as a Director of Wildlife Preservation and Assistant Director.

To stop the deforestation of forests, the Forest (Conservation) Act of 1986 was approved. The Act forbids using forest property for purposes other than forestry and prohibits the destruction of the forest property without the Central Government's permission. In addition to the safety and preservation of present-day forests, reforestation is a part of forest conservation. Continued reforestation is required to replenish the declining forests. It is an ongoing, essential procedure [6]. The Act's noble purpose must be upheld, and it must be correctly applied for the public's benefit. There is no doubt that India has many laws protecting the environment. But the way these laws have been put into practise has not been at all pleasing. Other environmental laws must also be effectively and efficiently enforced, as per the constitution.

III. ORGANIZATIONAL FRAMEWORK

The Air Act and the Water Act are jointly managed by the SPCB, the CPCB, and the Governments of States. The Boards have been given extensive power, including the ability to direct the termination or suspension of the provision of water, energy, or other services to the pollution causing units. It should be emphasised that the Central Government is given similar power in the Environment (Protection) Act.

Norms regarding the discharge or emission of contaminants into the discharge environment in relation to specific key enterprises under the Environment (Protection) Act were determined by the Environment (Protection) Rules, 1986 [7]. The SPCB, the Bureau of Indian Standards (BIS), and regional organisations like Municipal Corporations are among the organisations that participate in standard-setting. It seems that many businesses have varying standards for pollution control. In accordance with the 1986 Environment (Protection) Act, however, the Central Government has the authority to set criteria for the quality of water, soil, air, etc. This is intended to ensure uniformity of standards across the country. It's also possible that a lot of the standards that the applicable Pollution Control Acts need but that haven't yet been set are due to the lack of tools that can measure the pollution's properties. This will have a negative impact on how laws are applied.

IV. JUDICIAL CONTRIBUTION

A person's right to an environment which is free from pollution is recognised by the country's fundamental law. A fundamental right to life and individual freedom is assured by Article 21 of the Indian Constitution. According to the Supreme Court, the rights to life and individual freedom are also protected by the environment [8]. The Court has declared in a number of decisions that having access to clean water for drinking and a pollution-free environment are both essential elements of the right to life.

(A) Case of Taj Mahal

In the Taj Mahal's case [9], the Supreme Court mandated the coke and coal dependent Taj Trapezium (TTZ) businesses adapt to natural gas or leave TTZ because they were harming Taj. The Supreme Court once more ordered the Forest Department to safeguard the plants it had grown surrounding the Taj. [10]. The Divisional Forest Officer in Agra has been given instructions to move quickly to make sure Plants receive water. The Union Government is given the go-ahead to transfer the money without holding off until the U.P. Government to send its request using a copy of the report as a basis. No matter what, the officer is responsible with

ensuring that plants don't wither away owing to a deficit of funds until the U.P. government provides cash.

(B) Smoking in Public

In the year 2001, the Indian Supreme Court issued a nationwide restriction on smoking cigarette in public. Smoking harms both smokers and those who are compelled to breathe secondhand smoke. Each year, smoking tobacco in India—including cigarettes and bidis—causes more than 3 million fatalities. In India, smoking causes lung cancer in 1 lakh persons annually. There is no doubt that lung cancer kills 95% of sufferers [10]. The Supreme Court's judgement is therefore of utmost social significance. However, nobody cares about the prohibition. As we are aware, bidis and cigarettes are openly accessible at tobacco-free bus stops, movie theatres, and train stations.

It is nearly impossible to read the legally mandated warning that "smoking is dangerous to your health" because it is written in a color and size so tiny. Even if it is legible, it has no purpose. Thus, the battle against smoking can only benefit from the social awakening.

(C) Pollution in Delhi

In *Almitra H. Patel v. Union of India* [11], capital of India, the ancient city of Delhi, one of the cities with the worst air pollution in the world, according to the Supreme Court's confirmation of the Wadehra case's findings. Environmental protection and pollution management officials have not been able to ensure Delhi inhabitants a clean and safe environment. Breathing is impossible because of how much the air is polluted. Residents of Delhi are increasingly likely to have respiratory and throat infections. Industrial waste and untreated sewage can be dumped for free in the main drinking water supply, the river Yamuna. The city is not just a waste dump, but it also has air and water pollution. Delhi frequently has rubbish all over the place. The Court commanded the authority concerned to start taking the required actions right away to reduce pollution as well as safeguard the environment.

(D) Case of Sri Ram Food and Fertilizer

In this case [12], a huge Oileum Gas leak had an effect on a large group of individuals, including the workers as well as the citizens. The Supreme Court declared that an entity is totally and strictly responsible to recompense every individual who was injured by an accident while engaging in an unsafe or innately risky activity and toxic gas escapes. This commitment cannot be disregarded.

(E) Public Health

The Supreme Court has highlighted the necessity to preserve the public's health. In the case of *Subba Rao v. State of Himachal Pradesh* [13], the Supreme Court directed that the bone factory be shut down because its foul odour was making people's lives more difficult and polluting the environment. Public health cannot be put at risk for commercial gain.

To preserve the ecology and lessen pollution in the area, the Supreme Court commanded that mining operations be stopped within a two-kilometer range of the tourist resorts of Suraj Kund and Badkhal [14]. In the case of *Municipal Council, Ratlam v. Vardhichand & Others* [15], the Supreme Court claims that the appalling lack of public facilities by local authority leads the unhappy slum inhabitants to discharge themselves in the streets, first discreetly and subsequently in the open, because under the weight of nature, modesty becomes a burden.

(F) Sustainable Development

Development that is satisfying the current demands without jeopardising future generations' capacity to fulfill their own needs is simply also known as "sustainable development."

The Indian Supreme Court in the case of *Vellore Citizens Welfare Forum v. Union of India* [16], elaborated on the idea of "sustainable development," that has been incorporated into national law. A key component of "sustainable development" is the "polluter pays principle" and the "precautionary principle." The State Government is required by the "precautionary principle" to predict, inhibit, and combat the root issues of environmental deterioration [17].

The Supreme Court in the case *M.C. Mehta v. Union of India* [17] noted: We definitely feel that for protecting the two lakes (Suraj Kund and Badkhal) from environmental deterioration, development activity in their close vicinity must be restricted. The "polluter pays principle" states that companies that pollute must cover the costs of preventing or fixing whatever damage they cause.

The "polluter pays principle" is upheld by the Supreme Court of India, and in accordance with its interpretation, it means that the cost of undoing the environmental deterioration and reimbursing those harmed by pollution is part of the absolute obligation for environmental harm. Both are the responsibility of the polluter. The expense of compensating the affected parties and the cost of repairing ecological damages because the restoration of the harmed environment is a phase in the "sustainable development" process.

The examination of the instances described above makes it plainly clear that the Supreme Court of India has made a substantial contribution to the preservation and enhancement of the environment. The court's jurisdiction has increased as a result of public interest litigation. The legal system made a significant and remarkable impact on the society.

V. ENVIRONMENT COURT

Over the recent years, we have seen the number increasing of legal proceedings concerning environmental contamination, ecological deterioration, and disagreements over natural resources. In the majority of these situations, natural science knowledge is necessary as a significant component to aid judges in making judgements. In these conditions, high-level scientific and technical complexity is required.

The evidence indicates that prosecutions started in ordinary Criminal Courts under the provisions of the Air Act, Water Act, and Environment (Protection) Act never concluded, either because of the workload in these Courts or due to those in authority of conducting such cases do not properly understand the importance of environmental problems. Furthermore, the businesses promptly contest any orders made by the government in accordance with the Air Act, Water Act, and Environment (Protection) Act. These processes take quite a long time to complete. Very frequently, interim temporary orders are acquired, successfully prohibiting the authority from making sure that their instructions are followed [18]. To reduce the delays impeding the application of environmental requirements, it is imperative to build a separate system. Additionally, it's possible that the judges themselves lack technical and scientific knowledge. Therefore, it is suggested that legislation be passed to create Environmental courts, which will comprise of one judge and two experts in ecological and other fields. The capacity to expand to the district level, we might first create a two-tier system, with one tier functioning at the State level and the other at the National level.

In addition to criminal prosecution proceedings brought under various environmental laws, these courts may have the ability to decide on civil claims for reimbursements from victims of any conduct producing environmental pollution or harm. These courts must be able to use summary procedures to swiftly settle disputes. For appeals from decisions made by State Environment Courts, the National Environment Court may be preferred, and for appeals from decisions made by the National Environment Court, the Supreme Court. Only one appeal will be subject to the rules.

VI. CONCLUSION AND SUGGESTIONS

The findings and suggestions from the research mentioned above are as follows: At the federal and state levels, there are over 200 laws that address environmental issues. The difficulty of enforcing more regulations increases.

- i) For effective enforcement, an all-encompassing and integrated environmental protection law is needed.
- ii) Simply passing laws is insufficient. To effectively and promptly enforce these principles, everyone in society must be positive.
- iii) The ability of Pollution Control Boards to stop pollution is weak. The Boards may only bring legal action against offenders as a result of protracted delays in case resolution since they lack the ability to penalise them. This ultimately defeats the purpose and goal of environmental regulations. Therefore, it is essential to give the Boards more authority.
- iv) The Environment Protection Laws' expected results have not been attained. To carry out the laws efficiently and properly, it is crucial to establish the Environment Courts, which will consist of one judge and two technical professionals from the domains of ecology and environmental science. Such courts ought to use summary procedures to swiftly settle disputes. Depending on the situation, such courts may be originally constituted at the State and Federal levels before being elevated to the district level. To prevent protracted legal challenges, the requirements should be restricted to a single appeal.
- v) There are numerous environmental pollution control norms for the similar types of businesses. As per the Environment (Protection) Act of 1986, the Central Government currently has the power to form standards for soil, water, and air quality. This is intended to guarantee consistency of standards across the nation.
- vi) To strictly impose the environmental standards, the courts should reject obvious misdescriptions and technical errors. The judiciary has contributed significantly and remarkably to society. The process of public interest litigation has assisted courts in using their expanded power. The Indian Supreme Court had a crucial role in repeatedly ordering the administrative agencies to take the required actions to repair the environment.

VII. REFERENCES

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- [2] See Armin Rosencranz, Shyam Divan and Martha L. Noble, Environmental Law and Policy in India
(1991)
- [3] E.g., Indian Forest Act, 1927; the Factories Act, 1948; the Atomic Energy Act, 1962; Insecticide 1968.
- [4] M.C. Mehta v. Union of India, AIR 1988 SC 1037. See also Bhavani River v. Sakthi Sugar Limited AIR 1998 SC 2059.
- [5] M.C. Mehta v. Union of India, AIR 1998 SC 2963.
- [6] Anupama Minerals V. Union of India & Others, AIR 1986 A.P. 225
- [7] E.g., Caustic soda, cement, electroplating, manmade fibers, oil-refinery, sugar industry, thermal power plants, cotton textile, stone crushing unit, composite woollen mills, etc.
- [8] Rural Litigation and Entitlement Kendra, Dehradun V. State of U.P., AIR 1988 SC 1037
- [9] M.C. Mehta v. Union of India, AIR 1997 SC 734; see also M.C. Mehta v. Union of India, AIR 1999 S.C. 3192
- [10] M.C. Mehta v. Union of India, (2001), 9 SCC 520
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