

# Environmental Policies

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## ABSTRACT

*It is a basic right of all to live in a healthy environment. The acute poverty in the country requires developmental process to be accelerated. But we cannot do so at the cost of environment thereby endangering not only the present generation but also the future generation. The crying need of the hour is the "sustainable development". "Sustainable development" is that development which meets the need of the present without compromising the ability of future generations to meet their own needs.*

*Indian constitution is perhaps one of the rare constitutions of the world which contains specific provisions relating to environment protection. It puts duty on the 'State' as well as 'citizens' to protect and emptive the environment.*

*The extent of the environmental legislation network is evident but the enforcement of the laws has been a matter of concern. Fines are levied on a flat basis and in addition, there are no incentives to lower the discharges below prescribed levels. Various economic incentives have been used to supplement the command-and-control policies. Depreciation allowances, exemptions from excise or customs duty payment, and arrangement of soft loans for the adoption of clean technologies are instances of such incentives. Another aspect that is evident is the shift in the focus from end-of-pipe treatment of pollution to treatment at source. The role of remote sensing and geographical information systems in natural resource management and environmental protection has also gained importance over time. Environment play an important role in any society, for providing better environment legislation made a many laws. Like*

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

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

*The Wild life (protection) Act, 1972*

*The Forest (Conservation) Act, 1980*

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## ***The Noise Pollution***

***Through above laws we change the environment of society which gives good effect in the society and on human health.***

***Hence, in this research paper we would like to focus mainly on environmental policies and the initiatives which are being taken for the implementation of these polices to protect our environment and to create awareness. We will also try to provide certain suggestive measures which will ultimately benefit the human race and which will further be helpful in maintaining the ecological balance and sustainable development.***

***Keywords: Environment, Humanity, Sustainable Development, Environmental Awareness, Future Generation.***

### **1. INTRODUCTION**

It is a basic right of all to live in a healthy environment. The acute poverty in the country requires developmental process to be accelerated. But we can not do so at the cost of environment thereby endangering not only the present generation but also the future generation. The crying need of the hour is the "sustainable development". "Sustainable development" is that development which meets the need of the present without compromising the ability of future generations to meet their own needs.

There is a close relationship which exists between a healthy environment and economic condition of the community at large. The problem of environmental pollution is the problem of both developed and under developed or poor nations.

### **2. CONSTITUTIONAL COMMITMENTS**

India constitution is perhaps one of the rare constitutions of the world which contains specific provisions relating to environment protection. It puts duty on the 'State' as well as 'citizens' to protect and emptive the environment. Now it is considered as an integral part of right to life under article 21 of the Constitution. Articles 32 and 226 of the Constitution empowers the Supreme Court and the High Courts, respectively, to issue directions, orders or writs, including writs of habeas corpus, mandamus, prohibition, quo warranto and certiorari. The wilts of mandamus, certiorari and prohibition are generally resorted to environment matter.

The Indian judiciary has made an extensive use of these constitutional provisions and developed a new "environmental jurisprudence" of India. In India most of the environmental matters have been brought before the judiciary through 'Public Interest Litigation' (PIL). Out of all the legal remedies

available for the protection of environment, the remedy under the constitution is preferred because of its relative speed, simplicity and cheapness.

The Supreme Court while developing a new environmental jurisprudence has held that the powers of the Supreme Court under article 32 are not restricted and it could award damages in public interest litigation or writ petition in those cases where there has been any harm or damage to the environment due to pollution. In addition to damages, the person guilty of causing pollution can also be held liable to pay exemplary damages so that it may act as deterrent for others not to cause pollution in any manner. The said approach of the Supreme Court is based on “Polluter Pays Principle.” Recently the Supreme Court has imposed exemplary damages on multinational companies such as Coca Cola and Pepsi for damaging the ecology in the States of Himachal Pradesh and Jammu & Kashmir by painting advertisements on the rocks. The Supreme Court directed the companies to remove these advertisements without further polluting the environment.

### **3. COMMON LAW REMEDIES**

The Common Law remedies against the environmental pollution are available under the law of Torts. Tort is a civil wrong other than breach of trust or contract.

The Supreme Court in the case of *M.C. Mehta v. Kamal Nath*, rightly observed that environmental pollution amounts to civil wrong and by its nature it is a tort committed against the whole community. The court observed.

Pollution is a civil wrong. By its very nature, it is a tort committed against the community as a whole. A person, therefore, who is guilty of causing pollution, has to pay damages (compensation) for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the act of the offender... In addition to damages... the person guilty of causing pollution can also be held liable to pay exemplary damages, so that it may act as a deterrent for others not to cause pollution in any manner.

The liability of the polluter under the law of tort is one of the major and oldest legal remedies to abate the pollution are under the following heads.

- (i) Nuisance;
- (ii) Trespass;
- (iii) Negligence; and
- (iv) Strict Liability

#### **4. WATER (PREVENTION AND CONTROL OF POLLUTION) ACT. 1974**

##### ***Objectives:***

This specialized legislative measure is meant to tackle one facet of environmental pollution. The fundamental objective of the Water Act is to provide clean drinking water to the citizens. Its other main objectives are :

- (i) To provide for the prevention and control of water pollution and the maintaining restoring of wholesomeness of water.
- (ii) To establish Central and State Boards for the prevention and control of water pollution.
- (iii) To provide for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.
- (iv) To provide penalties for the contravention of the provisions of the Water Act.

##### ***Penalties and Procedures***

Under the Water Act different penalties have been prescribed for violating different provisions of the Water Act. Sections 41 to 45-A are relevant provisions in this regard.

Section 41 provides that for failure to give information as required under Section 20 of the Water Act. The punishment is imprisonment for a term which may be extended to three months or with fine which may be extended to Rs. 10, 000/- or with both. In case the failure continues, an additional fine may be imposed which may be extended to Rs. 5, 000/- per day during the period the period for which failure continues after the conviction for the first such failure.

#### **5. THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981**

##### ***Objectives***

The Air (Prevention and Control of Pollution) Act, 1981 is a specialized legislative measure, meant to tackle one facet of environmental pollution. Its main objectives are the following :

- (i) To provide for the prevention, control and abatement of air pollution.
- (ii) To provide for the establishment of Central and State Boards, with a view to implement the aforesaid purpose :
- (iii) To provide for conferring on such Boards powers and assigning to such Boards functions relating thereto; and
- (iv) To lay down the standards to maintain the quality of air.

Keeping in view these objectives the Air Act has provided for measures, which are preventive in nature, in the cases of industries to be established; and in the cases of industries already established, they are remedial. In the case of established industries, it insists on obtaining consent of the Board, making the industry amenable to the administrative control of the Board

## **6. THE WILD LIFE (PROTECTION) ACT, 1972**

### ***Purposes of the Act .***

- (i) To provide for protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto
- (ii) To ensure the ecological and environmental security of the country

## **7. THE FOREST (CONSERVATION) ACT, 1980**

### ***Need to Conserve Forests:***

Forests are of great importance to life and prosperity of human beings. They maintain climate stabilize water and soil resources. They also help in safeguarding diversity of wild animals and plants.

### ***Objects***

Deforestation causes ecological imbalance and leads to environmental deterioration. Deforestation had been taking place on a large scale in the country and it had caused widespread concern.

With a view to checking further deforestation, the President promulgated on 25th October, 1980, the Forest (Conservation) Ordinance, 1980. The Ordinance made the prior approval of the Central Government necessary for reservation of reserved forests and for use of forest-land for non-forest purposes. The Ordinance also provided for the constitution of an Advisory Committee to advise the Central Government with regard to such approval.

### ***Penalty for contravention of the Provisions of the Act .-***

Section 3-A of the Act provides that whoever contravenes or abets the with simple imprisonment for a period, which may extend to fifteen days. A perusal of this section shows that the Act contemplates only the punishment of simple imprisonment and it does not contemplate any punishment in terms of fine.

## **8. THE ENVIRONMENT (PROTECTION) ACT, 1986**

### ***Objects***

- (i) To implement the decisions made at the U.N. Conference on the Human Environment held at Stoc kholm In June, 1972.

- (ii) To enact general law on environmental protection which could cover uncovered gaps in the areas of major environmental hazards as the existing laws generally focused on specific types of pollution or on specific categories of hazardous substances and some major areas of environmental hazards were not covered.
- (iii) To co-ordinate activities of the various regulatory agencies under the existing laws and creation of an authority or authorities for environment protection.
- (iv) To provide for deterrent punishment to those who endanger human environment, safety and health

## **9. NATIONAL GREEN TRIBUNAL ACT, 2010**

NGT is a legislation enacted by the Parliament of India, under India's constitutional provision of Article 21, which assures the citizens of India the right to a healthy environment. The jurisdiction of Tribunal in environmental matters shall provide speedy environmental justice and help to reduce the burden of litigation in the higher courts. The Tribunal shall not be bound by the procedure of the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice. The Tribunal is directed to make for disposal of applications or appeals finally within 6 months of the filing. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other 4 place of sitting of the Tribunal

## **10. NOISE POLLUTION AND ITS CONTROL**

### ***Meaning And Concept***

Due to rapid growth of urbanization, industrialization and divorcement of science and technology the problem of noise pollution has emerged as one of the serious problems and it has become a serious challenge to the quality of life of the people In most of the countries. The problem of noise pollution has already crossed the danger point and noise like smog. is threatening as a slow agent of death.

## **11. CORPORATE RESPONSIBILITY FOR ENVIRONMENTAL PROTECTION (CREP), 2003**

CREP is a charter promoted by the Central Pollution Control Board of India for Commitment and voluntary initiatives of industry for responsible care of the environment for building a partnership for pollution control. It is an initiative which requires compliance by leading resource intensive industries. The Ministry of Environment & Forest has launched the Charter on “Corporate Responsibility for Environmental Protection (CREP)” in March 2003 with the purpose to go beyond the compliance of regulatory norms for prevention & control of pollution through various measures

including waste minimization, in-plant process control & adoption of clean technologies. The Charter has set targets concerning conservation of water, energy, recovery of chemicals, reduction in pollution, elimination of toxic pollutants, process & management of residues that are required to be disposed off in an environmentally sound manner. The Charter enlists the action points for pollution control for various categories of highly polluting industries. The Task Force was constituted for monitoring the progress of implementation of CREP recommendations/ action points.

## **12. CONCLUSION**

The extent of the environmental legislation network is evident from the above discussion but the enforcement of the laws has been a matter of concern. One commonly cited reason is the prevailing command and control nature of the environmental regime. Coupled with this is the prevalence of the all-or-nothing approach of the law; they do not consider the extent of violation. Fines are levied on a flat basis and in addition, there are no incentives to lower the discharges below prescribed levels.

Some initiatives have addressed these issues in the recent past. The Government of India came out with a Policy Statement for Abatement of Pollution in 1992, before the Rio conference, which declared that market-based approaches would be considered in controlling pollution. It stated that economic instruments will be investigated to encourage the shift from curative to preventive measures, internalise the costs of pollution and conserve resources, particularly water. In 1995, the Ministry of Environment and Forest (MoEF) constituted a task force to evaluate market-based instruments, which strongly advocated their use for the abatement of industrial pollution. Various economic incentives have been used to supplement the command-and-control policies. Depreciation allowances, exemptions from excise or customs duty payment, and arrangement of soft loans for the adoption of clean technologies are instances of such incentives. Another aspect that is evident is the shift in the focus from end-of-pipe treatment of pollution to treatment at source. The role of remote sensing and geographical information systems in natural resource management and environmental protection has also gained importance over time. Environment play an important role in any society, for providing better environment legislation made a many laws. Like

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