

Assessment of Environmental Laws and Policies: Indian Perspective

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ABSTRACT

Environment issues such as climate variation, the depletion of natural resources and pollution are major concern of worldwide consequence concerning governments, business and consumers globally. Processes such as industrialization, changes in farming methods and depletion of natural resources are some of the factors responsible for damaging the environment. The growth and development of societies and civilizations have led to the misappropriation of natural resources causing changes in ecosystems with disquieting and alarming concerns. In the Constitution of India it is clearly stated that it is the duty of the state to ‘protect and improve the environment and to safeguard the forests and wildlife of the country’. It imposes an onus and responsibility on all native ‘to defend and improve the natural environment including forests, lakes, rivers, and wildlife’ as we share the common universe. In India the Department of Environment was established in 1980 to guarantee a vigorous environment for the nation. This far ahead in 1985 became the Ministry of Environment and Forests. The constitutional provisions are supported by a number of laws – rules and acts. Soon after the Bhopal Gas Tragedy the EPA (Environment Protection Act), 1986 came into force and is considered a sunshade lawmaking as it seals many splits in the prevailing laws. Later a large number of laws came into actuality as the problems began ascending. The main objective of the present paper is to analyze the environmental laws and policies in India as the need of the hour is the effective enforcement and implementation of these Legislations to control and monitor ever- increasing environment pollution.

Keywords: environmental laws, policies, natural environment, safeguards.

1. INTRODUCTION

India’s inhabitants has already crossed a billion. Although, it sustains 17% of the world population in a land mass of about 2.4% of the world’s terrestrial area. Upsurge in the density of population is a matter of great concern as it puts enormous pressure on our natural resources and may adversely affect the quality of life. India have attained notable victory in its economic expansion characterized by a high rate of Gross Domestic Product (GDP) growth in the last two eras. Every

twelve months growth rate in GDP has been sustained over the past few years at 8-10 per cent, occasionally even higher. It has been a threatening balancing among economic growth and environmental protection specifically in developing countries. Strategy creators in developing countries are well aware of the importance of environmental protection. India's speedy economic growth, the scale and significance of environmental glitches are no longer in doubt.

India suffer from high ecological vulnerability with severe effects of potential sea-level growth and climate-related natural disasters and the most reduced agricultural outputs.

2. INDIA'S LAWS AND POLICIES

India's environmental protocols are known to be among the more established of the non-Organization for Economic Co-operation and Development (OECD) countries. Department of Environment (DOE) was formed in 1980, to appraise the environmental aspects of development projects, to monitor air and water quality, to begin an environmental information system, to endorse environmental research and to coordinate activities between federal, state and local governments. A Ministry of Environment and Forests (MoEF) was created in 1985. It sustained the identical roles that the DOE initially had, such as observing and enforcement, accompanying environmental assessments and analyses, but also did marketing work about the environment.

The government of India has been progressively alarmed and rightly so, on the subject of environmental pollution as evidenced by the increasing amount of environment laws, policies and courses. However, these laws, once approved, also need to be accomplished efficiently. With this in mind, the Central Pollution Control Board (CPCB) was established to set environmental criteria for all portions of the country.

<ul style="list-style-type: none"> •1986 - The Environment (Protection) Act •1986 - The Environment (Protection) Rules •1989 - The objective of Hazardous Waste (Management and Handling) Rules •1989 - The Manufacture, Storage, and Import of Hazardous Rules •1989 - The Manufacture, Use, Import, Export, and Storage of hazardous Micro-organisms/ Genetically Engineered Organisms or Cells Rules •1991 - The Public Liability Insurance Act and Rules and Amendment •1995 - The National Environmental Tribunal Act 	<ul style="list-style-type: none"> •1927 - The Indian Forest Act and Amendment •1972 - The Wildlife Protection Act, Rules 1973 and Amendment 1991 •1980 - The Forest (Conservation) Act and Rules 	<ul style="list-style-type: none"> •1882 - The Easement Act •1897 - The Indian Fisheries Act •1956 - The River Boards Act •1970 - The Merchant Shipping Act •1974 - The Water (Prevention and Control of Pollution) Act •1977 - The Water (Prevention and Control of Pollution) Cess Act •1978 - The Water (Prevention and Control of Pollution) Cess Rules •1991 - The Coastal Regulation Zone Notification 	<ul style="list-style-type: none"> •1948 – The Factories Act and Amendment in 1987 •1981 - The Air (Prevention and Control of Pollution) Act •1982 - The Air (Prevention and Control of Pollution) Rules •1982 - The Atomic Energy Act •1987 - The Air (Prevention and Control of Pollution) Amendment Act •1988 - The Motor Vehicles Act
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GENERAL:

- **1986 - The Environment (Protection) Act** authorizes the central government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and /or operation of any industrial facility on environmental grounds.
- **1986 - The Environment (Protection) Rules** lay down procedures for setting standards of emission or discharge of environmental pollutants.
- **1989 - The objective of Hazardous Waste (Management and Handling) Rules** is to control the generation, collection, treatment, import, storage, and handling of hazardous waste.
- **1989 - The Manufacture, Storage, and Import of Hazardous Rules** describe the terms used in this context, and sets up a power to examine, once a year, the industrial doings associated with harmful chemicals and inaccessible storage accommodations.

- **1989 - The Production, Consumption, Export, Import, and Storage of unsafe Micro-organisms/ Genetically Caused Organisms or Cells Rules** were familiarized with an opinion to defend the environment, wildlife, and health, in association with the application of genetic factor technology and microorganisms.
- **1991 - The Public Liability Insurance Act and Rules and Amendment, 1992** was drawn up to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident while handling any hazardous substance.
- **1995 - The National Environmental Tribunal Act** has been created to award compensation for damages to persons, property, and the environment arising from any activity involving hazardous substances.
- **1997 - The National Environment Appellate Authority Act** has been created to hear appeals with respect to restrictions of areas in which classes of industries etc. are carried out or prescribed subject to certain safeguards under the EPA.
- **1998 - The Biomedical waste (Management and Handling) Rules** is a legal binding on the health care institutions to streamline the process of proper handling of hospital waste such as segregation, disposal, collection, and treatment.
- **1999 - The Environment (Siting for Industrial Projects) Rules, 1999** lay down detailed provisions relating to areas to be avoided for siting of industries, precautionary measures to be taken for site selecting as also the aspects of environmental protection which should have been incorporated during the implementation of the industrial development projects.
- **2000 - The Municipal Solid Wastes (Management and Handling) Rules, 2000** apply to every municipal authority responsible for the collection, segregation, storage, transportation, processing, and disposal of municipal solid wastes.
- **2000 - The Ozone Depleting Substances (Regulation and Control) Rules** have been laid down for the regulation of production and consumption of ozone depleting substances.
- **2001 - The Batteries (Management and Handling) Rules, 2001** rules shall apply to every manufacturer, importer, re-conditioner, assembler, dealer, auctioneer, consumer, and bulk consumer involved in the manufacture, processing, sale, purchase, and use of batteries or components so as to regulate and ensure the environmentally safe disposal of used batteries.
- **2002 - The Noise Pollution (Regulation and Control) (Amendment) Rules** lay down such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems during night hours (between 10:00 p.m. to 12:00 midnight) on or during any cultural or religious festive occasion
- **2002 - The Biological Diversity Act** is an act to provide for the conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of the use of biological resources and knowledge associated with it

FOREST AND WILDLIFE:

- **1927 - The Indian Forest Act and Amendment, 1984**, is one of the many surviving colonial statutes. It was enacted to ‘consolidate the law related to forest, the transit of forest produce, and the duty leviable on timber and other forest produce’.

- **1972 - The Wildlife Protection Act, Rules 1973 and Amendment 1991** provides for the protection of birds and animals and for all matters that are connected to it whether it be their habitat or the waterhole or the forests that sustain them.
- **1980 - The Forest (Conservation) Act and Rules, 1981**, provides for the protection of and the conservation of the forests.

WATER:

- **1882 - The Easement Act** allows private rights to use a resource that is, groundwater, by viewing it as an attachment to the land. It also states that all surface water belongs to the state and is a state property.
- **1897 - The Indian Fisheries Act** establishes two sets of penal offences whereby the government can sue any person who uses dynamite or other explosive substance in any way (whether coastal or inland) with intent to catch or destroy any fish or poisonous fish in order to kill.
- **1956 - The River Boards Act** enables the states to enroll the central government in setting up an Advisory River Board to resolve issues in inter-state cooperation.
- **1970 - The Merchant Shipping Act** aims to deal with waste arising from ships along the coastal areas within a specified radius.
- **1974 - The Water (Prevention and Control of Pollution) Act** establishes an institutional structure for preventing and abating water pollution. It establishes standards for water quality and effluent. Polluting industries must seek permission to discharge waste into effluent bodies. The CPCB (Central Pollution Control Board) was constituted under this act.
- **1977 - The Water (Prevention and Control of Pollution) Cess Act** provides for the levy and collection of cess or fees on water consuming industries and local authorities.
- **1978 - The Water (Prevention and Control of Pollution) Cess Rules** contains the standard definitions and indicate the kind of and location of meters that every consumer of water is required to affix.
- **1991 - The Coastal Regulation Zone Notification** puts regulations on various activities, including construction, are regulated. It gives some protection to the backwaters and estuaries.

AIR:

- **1948 – The Factories Act and Amendment in 1987** was the first to express concern for the working environment of the workers. The amendment of 1987 has sharpened its environmental focus and expanded its application to hazardous processes.
- **1981 - The Air (Prevention and Control of Pollution) Act** provides for the control and abatement of air pollution. It entrusts the power of enforcing this act to the CPCB.
- **1982 - The Air (Prevention and Control of Pollution) Rules** defines the procedures of the meetings of the Boards and the powers entrusted to them.
- **1982 - The Atomic Energy Act** deals with the radioactive waste.
- **1987 - The Air (Prevention and Control of Pollution) Amendment Act** empowers the central and state pollution control boards to meet with grave emergencies of air pollution.

- **1988 - The Motor Vehicles Act** states that all hazardous waste is to be properly packaged, labelled, and transported.

3. AMENDMENTS

Meanwhile in the early 1980s, the Supreme Court of India has been pro-actively involved in India's environmental concerns. In most nations, it is the administrative and the legislative branches of the government that propose, implement and address environmental issues; the Indian skill is dissimilar. The Supreme Court of India has been involved in understanding and familiarizing new variations in the environmental jurisprudence directly. The Court has arranged down new values to guard the environment, re-interpreted environmental laws, formed new organizations and assemblies, and consulted supplementary powers on the remaining ones through a chain of directions and decisions.

The Court's command on environmental disputes goes past the general queries of law, as is typically expected from the highest Court of a democratic country. The Supreme Court of India, in its command, includes executive movements and procedural details of environmental actions to be applied. Indeed, some critics of India's Supreme Court define the Court as the *Lords of Green Bench* or *Garbage Supervisor*. Followers of India's Supreme Court term these commands and the Indian bench as revolutionary, both in terms of placing new values of law, and in distributing environmental justice.

The aim for the growing interjection of India's Supreme Court in governance grounds are, specialists claim, difficult. A key factor has been the failure of government organizations and the state maintained enterprises in liquidating their Constitutional and Statutory duties. This has encouraged civil society groups to file public interest grievances with the Courts, above all the Supreme Court, for appropriate remedies.

Public interest litigation and judicial activism on environmental subject covers outside India's Supreme Court. It comprises the High Courts of particular state.

India's judicial involvement on environmental issues has, some propose, distributed optimistic effects to the Indian experience. Advocates claim that the Supreme Court has, through powerful judicial activism, become a sign of faith for the people of India. As an outcome of judicial activism, India's Supreme Court has brought a new normative administration of rights and claimed that the Indian state cannot act illogically but must act practically and in public interest on discomfort of its action being nullified by judicial intervention.

India's judicial involvement on environmental subjects has others advise, had adverse consequences. Public interest circumstances are frequently filed to block organization jobs meant for resolving environmental issues in India, such as electricity power generation projects, expressways, land acquisition for projects, and not limiting to water works. The litigation regularly postpones such plans, at the same time as pollution stays in India, and tens of thousands expire from the accidental effects of pollution. Even afterward a stay associated to an organization plan is evacuated, or a court instruction provides a green light to certain project, new matters turn out to be grounds for new public attention litigation and court notices.

In India Judicial activism has, in numerous key cases, found state-directed economic expansion unproductive and a letdown, then interpreted laws and delivered instructions that inspire superior competition and unrestricted market to diminish environmental pollution. In additional cases, the instructions and interpretations have well-kept industry protection, labour practices and extremely polluting state-owned firms detrimental to environmental quality of India.

India's afforestation programme and National Forest Commission

India set up a National Forest Commission in 2003 to analysis and evaluate India's law and policy, its outcome on India's forests, its influence of limited forest communities, and to make references to attain sustainable forest and ecological safety in India.

- Animal husbandry policies to address local communities need to find affordable cattle fodder and grazing and rural development must be followed in India. To elude demolition of local forest shelter, fodder must reach these communities on dependable roads and other infrastructure, in all season's year..
- The government must work strictly with mining companies. Revenue produced from lease of mines should be shared into a committed fund to protect and increase the quality of forests in the areas where the mines are situated.
- Command to announce ecologically sensitive zones must be with each Indian state.
- The command of State Forest Corporations and government possessed monopolies must be improved.
- Government must change regulation and guidelines that ban felling of trees and transfer of wood inside India. Sustainable agro-forestry and farm forestry need to be encouraged by means of regulatory and monetary reforms, mainly on privately possessed lands.
- Many Indian capitals remain to interrupt India's and world air quality targets. In spite of the common non-attainment, few cities presented far more progress than others. A declining trend has been witnessed in levels in cities like Solapur and Ahmedabad in the past few years. This progress may be due to limited measures taken to decrease sulphur in diesel and stringent enforcement by Gujarat government.

- During last few years in many cities like Bhopal and Solapur a declining trend has been observed in nitrogen dioxide. This declining trend is due to the introduction of new vehicles emission standards and instead of using coal and fuel woods, using LPG as a domestic fuel.
- Because of the biomass burning and garbage, power plant emissions, vehicles, industrial sources, most of the Indian cities significantly exceed acceptable levels of suspended particulate matter.
- As confirmed by the Indian air quality monitoring stations, the quality of air degrades in winter months, and advances with the onset of monsoon season. They testified lower levels of PM10 and suspended particulate matter throughout monsoon months possibly due to wet deposition and air polishing by rainfall. Higher levels of particulates were observed during winter months probably due to lower mixing heights and more calm circumstances.
- Astonishingly, the average annual SO_x and NO_x radiations level and periodic violations in industrial areas of India were significantly lower than the emission and violations in residential areas of India
- Air pollution was unfailingly worst in the capital, each year over the 5 year period (2004–2008), of the four major metropolitan Indian cities. Close second was Kolkata, trailed by Mumbai. Chennai air pollution was least of the four.

4. CONCLUSION

Climate change is a worldwide issue. It disturbs everybody, the rich and the poor, the developing and the developed deprived of any preference. All are affected by the adverse influence of climate change. Therefore there is consensus in the world that there is an urge to abate carbon emissions.

As we have seen putting the extra finance burden on the developing countries is a cause of major financial crisis in these countries. India's power sector, already plagued with problems does not have to intensify its problems multifold by committing itself to inject huge financial resources in developing alternate forms of friendly technology.

However India understands the gravity of the circumstances the moderation of climate change at the price of its development appears like an biased bargain. The main emitters of the preceding period which increased their carbon discharges ceaselessly to chase the path of quick development cannot assume developing countries to forget their own development to clean up the developed countries mess.

India being a fast growing economy has many obligations towards its own citizens to provide them with better standards of living which can only be obtained through a massive expansion of the economy. India's infrastructure sector which is the major driver of economic growth cannot be unnecessarily burden with the monumental task of mitigating climate change and incurring huge financial expenditure in the process when itself is financially starved and in need of assistance from private sector.

Thus, India being a minor provider to the globe's GHG discharges and having one of the lowest per capita discharges in the world, must be permitted to follow the development track and achieve high levels of GDP growth rate in order to meet the demands of its population and provide its citizens with a high standard of living without incurring huge financial expenditure on climate change mitigation which proves to be an impediment in the growth story of the country. They should be allowed to emit at an increased rate as necessitated by the development process the countries did in their developing phase.

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