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# AN ANALYSIS OF INDIAN ENVIRONMENTAL LAWS FOR RESOURCE SUSTAINABILITY AND MANAGEMENT

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## INTRODUCTION

It is a set of laws in India for the preservation of the environment that controls how people interact with their surroundings. The goal of environmental legislation is to safeguard the environment and provide guidelines for the use of natural resources. In addition to ensuring that the environment is safeguarded from harm, environmental legislation in India also serves as a reminder of who has the right to use natural resources and under what conditions. Conservation of Forests and Wildlife Act, 1972 and Environment (Protection) Act of 1986 are three key environmental laws.

Ecological preservation is a vital component of sustainable growth. Development is impossible without sufficient preservation of the environment. Sustaining growth can only be achieved with the help of aggressive environmental measures. Furthermore, the Environment (Protection) Act of 1986 includes sustainable development as one of its goals. The Act's objectives and purposes may only be achieved by sustainable development, which is outlined in Article 21 of the Act.

## WHAT ARE INDIAN ENVIRONMENTAL LAWS

*"Protect and improve the environment and to safeguard the forests and wildlife of the country,"* states Article XVII of India's Constitution as the state's obligation. Each and every one of us is required by law to "guard and develop" the natural environment. The Directive Principles of State Policy and the Fundamental Rights both make mention of the environment.<sup>1</sup>

It was in India in 1980 that the Department of Environment was founded in order to guarantee the country's environmental well-being. In 1985, the Ministry of Environment and Forests was established. Acts, regulations, and notices provide legal support for the constitution's

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<sup>1</sup> Govind Narayan Sinha, *"A comparative study of the environmental laws of India and the UK with special reference to enforcement,"* The University of Birmingham (2003).

provisions. There were several loopholes in existing laws before the Bhopal Gas Tragedy and EPA (Environment Protection Act) 1986 was passed to remedy them.

#### CONSTITUTIONAL PROVISIONS FOR ENVIRONMENTAL LAWS:

*“The Environment (Protection) Act, 1986” defines environment as “environment encompasses water, air and land and the interrelationship which occurs among and between air, water and land and human beings, other living animals, plants, micro-organism and property”.*

The chapter on basic obligations of the Indian Constitution explicitly lays responsibility on every person to maintain the environment. Article 51-A (g), declares that *“It shall be the obligation of every citizen of India to maintain and develop the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.”*

The Directive principles under the Indian constitution aimed towards the objectives of constructing a welfare state. “Healthy environment is also one of the components of the welfare state. Article 47 specifies that the State should consider the increasing of the level of nutrition and the quality of life of its people and the development of public health as among its major tasks. The enhancement of public health also involves the conservation and improvement of the environment without which public health cannot be ensured. Article 48 deals with organisation of agriculture and animal husbandry. It instructs the State to take initiatives to organise agricultural and animal husbandry on modern and scientific lines.” In particular, it should take actions for maintaining and developing the breeds and preventing the slaughter of cows and calves and other milch and draught livestock. Article 48 -A of the constitution specifies that *“the state should attempt to maintain and promote the environment and to safeguard the forests and wildlife of the country”*. The Constitution of India under section III protects basic rights which are important for the development of every individual and to which a person is intrinsically entitled by virtue of being human alone. “Right to environment is also a right without which growth of person and fulfilment of his or her full potential shall not be attainable. Articles 21, 14 and 19 of this section have been utilised for environmental protection.”<sup>2</sup>

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<sup>2</sup> Press Information Bureau, *Environment Protection under Constitutional Framework of India*, 4 June, 2014 <https://pib.gov.in/newsite/printrelease.aspx?relid=105411>

Pursuant to Article 21 of the constitution, “*no individual shall be deprived of his life or personal liberty unless according to process provided by law*”. Article 21 has received liberal interpretation from time to time after the decision of the Supreme Court in *Maneka Gandhi vs. Union of India*.<sup>3</sup>

Article 21 provides basic right to life. The right to environment, free of threat of sickness and infection is inherent in it. The right to healthy environment is key aspect of right to live with human dignity. The right to live in a healthy environment as part of Article 21 of the Constitution was first established in the case of *Rural Litigation and Entitlement Kendra vs. State*<sup>4</sup>. “It is the first case of this sort in India, addressing concerns pertaining to environment and ecological balance in which Supreme Court decided to halt the excavation (illegal mining) under the *Environment (Protection) Act, 1986*. In *M.C. Mehta vs. Union of India*<sup>5</sup> the Supreme Court recognised the right to live in pollution free environment as a component of the basic right to life under Article 21 of the Constitution.”

#### LEGISLATIONS FOR ENVIRONMENTAL PROTECTION IN INDIA

##### ***“Water (Prevention and Control of Pollution) Act, 1974”***

Environmental issues were addressed for the first time in India with this legislation. Noncompliance with the standards set by the Act is punishable by fines or even criminal prosecution. The 1986 Environmental Protection Act (EPA) was closely followed in the 1988 amendments to the Act. It established the Central Pollution Control Board (CPCB), which establishes guidelines for water pollution prevention and control. CPCB and the state government oversee the work of SPCBs (State Pollution Control Boards) at the state level.

##### ***“Air (Prevention and Control of Pollution) Act, 1981”***

In order to combat the effects of pollution, the 1981 Act established standards for ambient air quality. Air pollution can be controlled and abated through the provisions of the Act. Polluting fuels and substances, as well as appliances that contribute to air pollution, are among the targets of the Act's efforts to combat air pollution. State boards must approve the construction or operation of any industrial facility in the pollution control zone under the law. Besides testing

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<sup>3</sup> *Maneka Gandhi vs. Union of India*, (AIR 1978 SC 597).

<sup>4</sup> *Rural Litigation and Entitlement Kendra vs. State*, AIR 1988 SC 2187.

<sup>5</sup> *M.C. Mehta vs. Union of India*, AIR 1987 SC 1086.

air quality in pollution control areas, the boards are also expected to inspect pollution control equipment and manufacturing processes.

***“The Wildlife (Protection) Act, 1972, Amendment 1991”***

The 1972 WPA (Wildlife Protection Act) established a network of ecologically significant protected areas to save designated species of flora and wildlife. Wildlife sanctuaries, national parks, and closed areas may be designated by the federal and state governments under the WPA.

***“Environment (Protection) Act, 1986 (EPA)”***

Under the Water (Prevention and Control) Act, 1974, and the Air (Prevention and Control) Act, 1981, both federal and state bodies were formed to coordinate their efforts. This law gives the federal government the authority to preserve and enhance the quality of the environment by establishing rules for emissions and discharges; regulating the placement of companies; managing hazardous wastes and ensuring public health and welfare protections.

***“The Environment (Protection) Rules, 1986”***

In order to define environmental pollution standards, these guidelines outline the methods for doing so. Orders of ban and limitation on industry site and operation may only be issued by the Central Government in accordance with these rules. Samples are taken, notices are given, samples are submitted for analysis, and laboratory reports are prepared in accordance with the Rules. The Rules also outline the duties of the labs, as well as the credentials of the analysts who work there.

***“The National Environment Appellate Authority Act, 1997”***

Under this legislation, an environmental appellate authority was established for the purpose of hearing appeals related to environmental restrictions imposed under the 1986 Environment (Protection) Act, as well as those imposed by the National Environment Appellate Authority.

***“National Environment Tribunal Act, 1995”***

The Act established a National Environment Tribunal for the effective and expeditious resolution of cases arising from any accident resulting from the handling of any hazardous

substance, with the aim of providing relief and compensation for damages to persons, property, and the environment and for the matters connected thereto or incidental thereto.

***“The National Green Tribunal Act, 2010”***

“National Green Tribunal Act, 2010 was enacted with the aim of creating a National Green Tribunal (NGT) for the effective and expeditious resolution of cases relating to environmental protection and conservation, as well as the enforcement of any legal right relating to the environment and compensation for damages to persons and property, as well as matters connected or incidental to those issues.”

**DEVELOPMENT OF SUSTAINABLE DEVELOPMENT IN INDIA**

There hasn't been much consideration given to environmental protection in the planning process since 1952. When it came to planning, however, nature preservation was explicitly declared in the Fourth Five-Year Plan (1969-1974). The United Nations Conference on Human Environment in Stockholm, Sweden, in June 1972 marked the beginning of India's environmental movement. In 1976, the 42nd Amendment to the Indian Constitution included additional laws to protect the environment across the nation as a result of the Conference. Environmental and ecological progress was made in the Seventh Five-Year Plan (1985-1990) and the Ganga Action Plan was established to avoid the polluting of the river water of Ganga and restore its purity. It was therefore proposed that all future growth plans should take environmental factors into account, and that any actions that may harm the environment should be closely regulated<sup>33</sup>. The well-established ideas of Polluter Pays and Sustainable Development were accepted by the Indian government as policy initiatives to prevent pollution of all kinds in the Eighth Five Years Plan (1992-1997).

The 12th Five-Year Plan (2012-2017) underlines that the stated goals may be reached by following a comprehensive strategy, which is the main subject of "faster, sustainable, and more inclusive growth." Consequently, environmental preservation is being well-advised to accomplish both sustainable development and a higher quality of life<sup>34</sup>. The Ministry of Environment and Forests (MoEF) has played an important role in promoting environmental preservation and sustainable development in the 21st century. India's Ministry of Environment and Forests (MOEF) has established a national unit called the Ozone Cell to execute the Montreal Protocol and the Vienna Convention. MoEF has also formed the International Cooperation and Sustainable Development Division (IC&SD), which is responsible for co-

coordinating sustainable development initiatives, as part of its mission. There are several legal and constitutional measures that demonstrate India's commitment to environmental preservation and sustainable development in its constitution and legislation.

### **OBJECTIVE OF SUSTAINABLE DEVELOPMENT**

Environmental preservation is the primary goal of economic advancement.

- There should be a balance between the use of natural resources and their pace of regeneration.

Government and citizens should use non-renewable natural resources responsibly, and they should continue to search for better alternatives to them.

- To provide a better quality of life for all of us.

For this reason, we must use natural resources responsibly now and in the future so that they may be enjoyed by future generations as well.

### **SUSTAINABILITY AND MANAGEMENT**

Sustainability is a progressive approach to economic planning in an environmental law that aims to foster economic growth while protecting the environment for future generations.

The legal framework in India is one of the few that includes extensive provisions for the protection of the environment. When it comes to environmental issues, Indian courts have relied heavily on Article 21 of the Constitution to apply the law in a variety of ways. Environmental protection in a developing country can present many difficulties. In order to ensure environmental harmony, administrative and legal strategies are critical. For High Courts in India, the landmark case of “*T Damodar Rao v Special Officer, Municipal Corporation of Hyderabad*” was a call to action. The enforcement of environmental laws in some areas appears erratic and ineffective at many administrative levels, despite the fact that the penalties are severe. Environmental Science has been made mandatory in schools and universities, but how effective this has been is still up in the air, even with the involvement of the UGC and making it compulsory in schools and universities. Is it possible to balance environmental values with the interests of economic growth or production value by enforcing a specific individual right

to an environmentally just and humane environment?<sup>6</sup>

When it comes to Environmental Law, there are many instances where implementation and feasibility are at odds. It can be difficult to understand the federal balance and perspective when there are gaps in both the human and natural spheres. A right to environmental protection and improvement has been established by the courts for all institutions in the country. The concept of Sustainable Development arises from the fact that India is a developing country with an interest in growth and burgeoning development ideologies. In terms of resource utilisation, a new concept for India is to focus on reducing our carbon footprint and pollution levels. International economic law, international environmental law, and international social law all intersect to form sustainable development law. Legal instruments, norms, and treaties, supported by distinct procedural elements, are referred to as "substantive legal instruments." This is based on the idea that future generations will benefit from policies and laws that protect the environment while also promoting economic growth.<sup>7</sup>

#### CHALLENGES IN THE ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT AND MANAGEMENT

**Defining the Key Indicators:** One of the biggest problems for India is to create acceptable indicators to properly measure the achievement of SDGs. The main definitions for sectors, such as poverty, hunger, clean drinking water, education need to be changed in order to properly execute the SDGs.

**Financing Sustainable Development Goals:** Despite India's greatest efforts and making poverty alleviation a priority since the Fourth 5-year Plan, India has the biggest number of people living below the poverty line. At today's level of investment, there is a substantial finance shortage that inhibits the pace of accomplishing SDGs.

**Monitoring & Ownership of Implementation Process:** "Although NITI Aayog is anticipated to play a major role in taking ownership of the implementation process, the members of the Aayog have stated their worries again and again about the inadequate personnel they have to undertake such a Herculean job."

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<sup>6</sup> *Constitutional provisions for the protection of environment with relevant case laws*, Indian Bar Association, 2013 <https://www.indianbarassociation.org/wp-content/uploads/2013/02/environmental-law-article.pdf>

<sup>7</sup> V.K. Agarwal, *Environmental laws in India: Challenges for enforcement*, Bulletin of the National Institute of Ecology 15: 227-238, 2005.

**Measuring the Progress:** “The government of India has accepted the non-availability of statistics, particularly from the sub-national territories. Incomplete coverage of administrative data is another aspect that has impeded the assessment of progress for even the Millennial Development Goals (MDGs) that were the forerunner to SDGs.”<sup>8</sup>

## CONCLUSION

A healthy environment is essential for human survival because it is an integral part of our daily lives. In order to ensure that future generations will inherit a healthy environment, we must take care of our surroundings and assist nature in maintaining ecological balance. The environment has suffered greatly in the recent past. There appears to be no end in sight to the pollution of the air, water, and soil.

Science and rapid industrialization have taken their toll on the human race. As the world enters a new era marked by unprecedented levels of industrialization and pollution, it is imperative that environmental protections be strengthened. Conservation is the best way to protect the environment. A conservationist's goal is to preserve natural resources for future generations as well as the present ones.

The destruction of tropical forests is increasing at an alarming rate. While there is a wide range in estimates, it appears that nearly half of all tropical forests on Earth have already been lost, and the rest will disappear within the next two to three decades. It's impossible to put a value on what we've lost. As many as half of the world's plant and animal species, as well as much of the world's population, depend on these forests for their water and energy needs. Clearing land for agriculture and commercial logging.

The judiciary has a reputation for being one of the best watchdogs for democracy. There are three towers in the framework of the constitution, and this is one of them.

The Indian court has unquestionably pushed for environmental protection and balanced growth in India. In India, environmental differences have resulted in a number of notable court cases. Because the Judiciary bravely and joyfully enforced the law and filled the vacuum in the sphere of environmental and sustainable development. It made it easier for lawmakers to pass legislation without really passing any legislation themselves. The Indian judiciary has always played the role of environmental defender and guardian, upholding the right to life and the need

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<sup>8</sup> KAILASH THAKUR, ENVIRONMENTAL PROTECTION LAW AND POLICY IN INDIA 308 (2003).



for sustainable development as basic human rights. It has made a significant contribution to the advancement of the sustainable development idea. Legislators have lately begun mentioning sustainable development in some of their legislation. The court, however, receives much of the credit for making sustainable development a core element of Indian law. When it comes to environmental policy in India, there is no lack of legislation. Unquestionably, several research has explored the idea of using an environmental protection legal strategy.