



ISSN: 2395-7852



# International Journal of Advanced Research in Arts, Science, Engineering & Management

Volume 10, Issue 3, May 2023



INTERNATIONAL  
STANDARD  
SERIAL  
NUMBER  
INDIA

Impact Factor: 6.551

+91 9940572462

+91 9940572462

ijarasem@gmail.com

www.ijarasem.com



# Environmental Laws in India and their Impact on Environmental Protection

Dr. Rekha Mandowara

Professor, Dept. of Zoology, BBD Govt. College, Chimanpura, Shahpura, Jaipur, Rajasthan, India

**ABSTRACT:** Indian environmental law concerns the law and policy of India concerning the protection of the environment, measures taken to reverse climate change and achieve a zero carbon economy.

Since the sixties concern over the state of environment has grown the world over. There has been substantive decline in environment quality due to increasing pollution, loss of vegetal cover and biological diversity, excessive concentration of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environment accidents and threats to life support systems. The Decision which were taken at united nation conference on the human conference on the Human Environment held in Stockholm in June 1972 were based on the world community's resolve to protect and enhance the environmental concerns. Although several measures had been taken for environmental Protection both before and after the Conference it was found necessary to enact a comprehensive law on the subject to implement the decision of the conference.

**KEYWORDS:** environmental laws, India, impact, protection, policy, zero carbon, climate change, quality

## I.INTRODUCTION

Accordingly the Environment (Protection) Bill passed was introduced in the Parliament Various different areas of environmental protection have been covered by different laws, drawn up at different times.

Some of the areas covered include :-

- Air pollution
- Water pollution
- Forest and wildlife protection
- Waste management
- Wild Life<sup>1</sup>

As with environmental protection legislation in many countries, the regulations are only effective if they are properly enforced, which hasn't always been the case in India, for a number of reasons, some of which are down to local administrative authorities.

Because of the huge population of India, there have been enormous demands placed on the environment, with the regulations not proving to be entirely satisfactory in dealing with the tremendous pressures.<sup>2</sup>

The Environment Protection Act, 1986.<sup>[1]</sup> is enforced by the Central Pollution Control Board and the numerous State Pollution Control Boards.<sup>27</sup>

- The National Green Tribunal established under the National Green Tribunal Act of 2010<sup>[2]</sup> has jurisdiction over all environmental cases dealing with a substantial environmental question and acts covered under the Water (Prevention and Control of Pollution) Act, 1974.
- The Public Liability Insurance Act, 1991<sup>3</sup>
- National Green Tribunal Act

1. Air pollution



- The Air (Prevention and Control of Pollution) Act, 1981
- Air (Prevention and Control of Pollution) (Union Territories) Rules, 1983<sup>4</sup>

Legislation to protect water quality include:

- The Water (Prevention and Control of Pollution) Act, 1974
- The Water (Prevention and Control of Pollution) Cess Act, 1977
- Water (Prevention and Control of Pollution) Cess Rules, 1978
- Ganga Action Plan, 1986
- National Water Policy
- Coastal Regulation Zone
- Godavari Water Disputes Tribunal
- Interstate River Water Disputes Act
- Krishna Water Disputes Tribunal<sup>5</sup>

Forests and wildlife<sup>26</sup>

- Indian Forest Act, 1927
- Wild life protection act, 1972
- Forest (Conservation) Act, 1980
- National Forest Policy, 1988
- M. C. Mehta v. Kamal Nath (1997) 1 SCC 388
- Biological Diversity Act, 2002
- Protection of Plant Varieties and Farmers' Rights Act, 2001
- Wild Life Protection Act, 1972, which does not fall within the jurisdiction of the National Green Tribunal.<sup>[3]</sup> Appeals can be filed in the Supreme Court of India.<sup>[4]</sup>
- Prevention of Cruelty to Animals Act 1960<sup>6</sup>
- CAMPA bill

Waste management<sup>24</sup>

- Batteries (Management and Handling) Rules, 2001
- Recycled Plastics, Plastics Manufacture and Usage Rules, 1999
- Basel Convention on Control of Transboundary Movements on Hazardous Wastes and Their Disposal, 1989 and Its Protocols<sup>25</sup>
- Hazardous Wastes (Management and Handling) Amendment Rules, 2003<sup>[5]</sup>
- Construction and Demolition Waste Management Rules, 2016<sup>7</sup>

## II.DISCUSSION

Environment Protection Act, 1986 is an Act of the Parliament of India. It was enacted in May 1986 and came into force on 19 November 1986. It has 26 sections and 4 chapters. The Act is widely considered to have been a response to the Bhopal gas leak. The Act was passed by the Government of India under the Article 253 of the Constitution of India, which empowers to union government to enact laws to give effect to international agreements signed by the country. The purpose of the Act is to implement the decisions of the United Nations Conference on the Human Environment.<sup>8</sup> They relate to the protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. The Act is an “umbrella” legislation that has provided a framework for the environmental regulation regime in India, which covers all major industrial and infrastructure activities and prohibits and regulates specific activities in coastal areas and eco-sensitive areas. The Act also provides for coordination of the activities of various central and state authorities established under other environment-related laws, such as the Water Act and the Air Act.<sup>[1]</sup> This act was enacted by the Parliament of India in 1986. As the introduction says, "An Act to provide for the protection and improvement of environment and for matters connected therewith: Where as the decisions were taken at the United Nations



Conference on the Human Environment held at Stockholm in June 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment. <sup>9</sup>Where as it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property". <sup>121</sup>This was due to Bhopal Gas Tragedy which was considered as the worst industrial tragedy in India. <sup>10</sup>

Sections for environment protection act

This act has four Chapters and 26 Sections.

Chapter one consists of Preliminary information such as Short Title, Extend, Date of Commencement and Definitions. The definitions are given in the second section of the Act. Chapter two describes general powers of Central Government. Chapter 3 gives the Central Government the power to take action to protect the environment. Chapter 4 allows government to appoint officers to achieve these objectives. <sup>11</sup> It also gives the government the power to give direction to closure, prohibition or regulation of industry, pollution. The act has provisions for penalties for contravention of the provisions of the act and rules, orders and directions. It also gives detail if the offence is done by a company or government department. It says for such offence the in-charge and head of department respectively would be liable for punishment. <sup>12</sup>

Environmental protection is the practice of protecting the natural environment by individuals, groups and governments. <sup>11</sup> Its objectives are to conserve natural resources and the existing natural environment and, where possible, to repair damage and reverse trends. <sup>12</sup>

Due to the pressures of overconsumption, population growth and technology, the biophysical environment is being degraded, sometimes permanently. This has been recognized, and governments have begun placing restraints on activities that cause environmental degradation. Since the 1960s, environmental movements have created more awareness of the multiple environmental problems. There is disagreement on the extent of the environmental impact of human activity, so protection measures are occasionally debated. <sup>12</sup>

Voluntary environmental agreements

In industrial countries, voluntary environmental agreements often provide a platform for companies to be recognized for moving beyond the minimum regulatory standards and thus support the development of the best environmental practice. For instance, in India, Environment Improvement Trust (EIT) has been working for environmental and forest protection since 1998. <sup>13</sup> In developing countries, such as Latin America, these agreements are more commonly used to remedy significant levels of non-compliance with mandatory regulation. <sup>13</sup>

Ecosystems approach

An ecosystems approach to resource management and environmental protection aims to consider the complex interrelationships of an entire ecosystem in decision-making rather than simply responding to specific issues and challenges. Ideally, the decision-making processes under such an approach would be a collaborative approach to planning and decision-making that involves a broad range of stakeholders across all relevant governmental departments, as well as industry representatives, environmental groups, and community. This approach ideally supports a better exchange of information, development of conflict-resolution strategies and improved regional conservation. Religions also play an important role in the conservation of the environment. <sup>14</sup>

International environmental agreements

Many of the earth's resources are especially vulnerable because they are influenced by human impacts across different countries. As a result of this, many attempts are made by countries to develop agreements that are signed by multiple governments to prevent damage or manage the impacts of human activity on natural resources. This can include agreements that impact factors such as climate, oceans, rivers and air pollution. <sup>14</sup> These international environmental agreements are sometimes legally binding documents that have legal implications when they are not followed and, at other times, are more agreements in principle or are for use as codes of conduct. These agreements have a long history with some multinational agreements being in place from as early as 1910 in Europe, America and Africa. <sup>15</sup>

Many of the international technical agencies formed after 1945 addressed environmental themes. By the late 1960s, a growing environmental movement called for coordinated and institutionalized international cooperation. The landmark United Nations Conference on the Human Environment was held in Stockholm in 1972, establishing the concept



of a right to a healthy environment. It was followed by the creation of the United Nations Environment Programme later that year.<sup>[6]</sup> Some of the most well-known international agreements include the Kyoto Protocol of 1997 and the Paris Agreement of 2015.

On 8 October 2021, the UN Human Rights Council passed a resolution recognizing access to a healthy and sustainable environment as a universal right. In the resolution 48/13, the Council called on States around the world to work together, and with other partners, to implement the newly recognized right.<sup>[7]</sup>

On 28 July 2022, the United Nations General Assembly voted to declare the ability to live in “a clean, healthy and sustainable environment” a universal human right. UN High Commissioner for Human Rights Michelle Bachelet hailed the decision and called for urgent action to make it a reality for all.<sup>[8][9]</sup>

### III.RESULTS

The Constitution of India has a number of provisions demarcating the responsibility of the Central and State governments towards Environmental Protection. The state's responsibility with regard to environmental protection has been laid down under article 48-A of our constitution which stated that "The states shall endeavor to protect and improve the environment and to safeguard the forest and wildlife of the country".<sup>[22]</sup>

Environmental protection has been made a fundamental duty of every citizen of India under Article 51-A (g) of the constitution which says "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures".<sup>[21]</sup>

Article 21 of the constitution is a fundamental right, which states that "No person shall be deprived of his life or personal liberty except according to the procedure established by law".<sup>[23]</sup> In the Directive Principles of State Policy, Article 48A says "the state shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country"; Article 51-A states that "it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."<sup>[1]</sup>

India is one of the parties of the Convention on Biological Diversity (CBD) treaty. Prior to the CBD, India had different laws to govern the environment. The Indian Wildlife Protection Act 1972 protected the biodiversity. It was amended later multiple times. The 1988 National Forest Policy had conservation as its fundamental principle. In addition to these acts, the government passed the Environment (Protection) Act 1986 and Foreign Trade (Development and Regulation) Act 1992 for control of biodiversity.<sup>[2]</sup>

Since about the late 1980s, the Supreme Court of India has been pro-actively engaged in India's environmental issues. In most countries, it is the executive and the legislative branches of the government that plan, implement and address environmental issues; the Indian experience is different. The Supreme Court of India has been engaged in interpreting and introducing new changes in the environmental jurisprudence directly. The Court has laid down new principles to protect the environment, re-interpreted environmental laws, created new institutions and structures, and conferred additional powers on the existing ones through a series of directions and judgments.<sup>[3]</sup>

The Court's directions on environmental issues goes beyond the general questions of law, as is usually expected from the highest Court of a democratic country. The Supreme Court of India, in its order, includes executive actions and technical details of environmental actions to be implemented. Indeed, some critics of India's Supreme Court describe the Court as the Lords of Green Bench or Garbage Supervisor. Supporters of India's Supreme Court term these orders and the Indian bench as pioneering, both in terms of laying down new principles of law, and in delivering environmental justice.<sup>[3]</sup>

The reasons for the increasing interjection of India's Supreme Court in governance arenas are, experts claim, complex. A key factor has been the failure of government agencies and the state owned enterprises in discharging their Constitutional and Statutory duties. This has prompted civil society groups to file public interest complaints with the Courts, particularly the Supreme Court, for suitable remedies.<sup>15</sup>

Public interest litigation and judicial activism on environmental issues extends beyond India's Supreme Court. It includes the High Courts of individual states.<sup>16</sup>

India's judicial activism on environmental issues has, some suggest, delivered positive effects to the Indian experience. Proponents claim that the Supreme Court has, through intense judicial activism, become a symbol of hope for the people of India. As a result of judicial activism, India's Supreme Court has delivered a new normative regime of rights and insisted



that the Indian state cannot act arbitrarily but must act reasonably and in public interest on pain of its action being invalidated by judicial intervention.<sup>[4]</sup>

India's judicial activism on environmental issues has, others suggest, had adverse consequences. Public interest cases are repeatedly filed to block infrastructure projects aimed at solving environmental issues in India, such as but not limiting to water works, expressways, land acquisition for projects, and electricity power generation projects. The litigation routinely delays such projects, often for years, whilst rampant pollution continues in India, and tens of thousands die from the unintended effects of pollution. Even after a stay related to an infrastructure project is vacated, or a court order gives a green light to certain project, new issues become grounds for court notices and new public interest litigation.<sup>[5][6][7]</sup>

Judicial activism in India has, in several key cases, found state-directed economic development ineffective and a failure, then interpreted laws and issued directives that encourage greater competition and free market to reduce environmental pollution. In other cases, the interpretations and directives have preserved industry protection, labour practices and highly polluting state-owned companies detrimental to environmental quality of India.<sup>[8]</sup> Proactive measures should be taken to conserve the depleting environment.<sup>[9]</sup>

The Indian government tried to stop Greenpeace freedom of expression in 2015.<sup>[10]</sup>

#### IV. CONCLUSIONS

In 1973, the government launched Project Tiger, a conservation program aimed at protecting the national animal, the tiger. Its population reached as low as 2000 in 1970. Human population growth, cultivation of forest land and mainly hunting were the key factors for this decline. Aided by the World Wildlife Fund (WWF)<sup>[17]</sup> and the International Union for Conservation of Nature (IUCN), Indian conservationists were instrumental in getting the government to ban hunting and set aside national parks. Project Tiger further served as a model for protecting endangered species like the Indian elephant and rhinoceros.<sup>[26]</sup> Around that year, after a protest in a village by the locals against loggers<sup>[20]</sup> sent by a company, by threatening to hug the trees, similar protests got triggered, collectively known as the Chipko Movement. In the same year, the National Committee for Environmental Protection and Control was formed;<sup>[18]</sup> in 1980, a department for Environment and finally five years later the Ministry of Environment, Forest and Climate Change was formed. The environmentalist movement in India began with these incidents.<sup>[26]</sup> Historian Ramachandra Guha calls Medha Patkar as "the most celebrated environmental activist in contemporary India".<sup>[26]</sup> New age India is concerned about the air and water quality, several civil society groups such as Environmentalist Foundation of India have forged a successful community<sup>[19]</sup> based conservation model to revive lakes across the country.<sup>[27]</sup>

#### REFERENCES

1. "THE ENVIRONMENT (PROTECTION) ACT, 1986". envfor.nic.in. Archived from the original on 13 June 2002. Retrieved 27 August 2015.
2. ^ "Archived copy" (PDF). Archived from the original (PDF) on 10 August 2013. Retrieved 13 November 2017.
3. ^ "THE INDIAN WILDLIFE (PROTECTION) ACT, 1972". envfor.nic.in. Retrieved 27 August 2015.
4. ^ Rhuks Temitope, "THE JUDICIAL RECOGNITION AND ENFORCEMENT OF THE RIGHT TO ENVIRONMENT: DIFFERING PERSPECTIVES FROM NIGERIA AND INDIA"<sup>[permanent dead link]</sup>, NUJS LAW REVIEW, 2 January 2015
5. ^ Surendra Malik, Sudeep Malik (2015). Supreme Court on Environment Law (2015 ed.). India: EBC. ISBN 9789351451914.
6. "THE ENVIRONMENT (PROTECTION) ACT, and the motions of the restrictions will depend on the history of environment. 1986". envfor.nic.in. Archived from the original on 13 June 2002. Retrieved 2 February 2014.
7. ^ "Environment (Protection). Act, 1986" (PDF). Minister of Environment, Forest and Climate Change.
8. ^ "Environmental legislation", The Statesman, 19 January 2017
9. "Environment Protection and Biodiversity Conservation Act". Department of Sustainability, Environment, Water, Population and Communities. Retrieved 21 September 2011.
10. ^ "About the EPBC Act". Department of Sustainability, Environment, Water, Population and Communities. Retrieved 21 September 2011.
11. ^ "Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) fact sheet". Department of Sustainability, Environment, Water, Population and Communities. Retrieved 21 September 2011.



12. ^ "Protected areas". Commonwealth of Australia. Archived from the original on 27 February 2012. Retrieved 21 September 2011.
13. ^ "Human Development Index (HDI) - 2010 Rankings" (PDF). Human Development Report Office; United Nations Development Programme. Retrieved 24 September 2011.
14. ^ "Overview of the Australian Government's Balance Sheet". Budget Strategy and Outlook 2011-12. Commonwealth of Australia. Archived from the original on 6 April 2015. Retrieved 24 September 2011.
15. ^ "The Australian Coal Industry - Coal Exports". Australian Coal Association. Archived from the original on 2 October 2011. Retrieved 25 September 2011.
16. ^ Short, Jeff; Smith, Andrew (1994). "Mammal Decline and Recovery in Australia". *Journal of Mammalogy*. 75 (2): 288–297. doi:10.2307/1382547. JSTOR 1382547.
17. ^ Johnson, Chris (2006). *Australia's Mammal Extinctions*. Melbourne: Cambridge University Press. pp. vii. ISBN 0-521-84918-7.
18. ^ Murphy, Cameron. "Australia as International Citizen - From past failure to future Distinction". 22nd Lionel Murphy Memorial Lecture. The Lionel Murphy Foundation. Retrieved 26 September 2011.
19. ^ "Climate Change and Energy". The Australian Greens. Archived from the original on 16 September 2011. Retrieved 26 September 2011.
20. ^ The United States Environmental Protection Agency. Retrieved on (23 August 2008). "About Us (section)". U.S. EPA.
21. ^ "State Environmental Agencies". United States Environmental Protection Agency. Accessed May 2010.
22. ^ "Seven Priorities for EPA's Future" Archived 18 August 2012 at the Wayback Machine. United States Environmental Protection Agency. Accessed May 2010.
23. ^ The Government of India. Constitution of India/Part IV – via Wikisource.
24. ^ The Government of India. Constitution of India/Part IVA – via Wikisource.
25. ^ The Government of India. Constitution of India/Part III – via Wikisource.
26. ^ *Environmental Psychology: Principles and Practices*. Bankston Cotton. 4 March 2019. p. 310. ISBN 9781839474088.
27. ^ Stewart, Desmond (February 1972). "The Limits of Trooghaft". *Encounter*. London. 38 (2): 3–7. Retrieved 24 September 2011.



INTERNATIONAL  
STANDARD  
SERIAL  
NUMBER  
INDIA



# International Journal of Advanced Research in Arts, Science, Engineering & Management (IJARASEM)

| Mobile No: +91-9940572462 | Whatsapp: +91-9940572462 | [ijarase@gmail.com](mailto:ijarase@gmail.com) |

[www.ijarase.com](http://www.ijarase.com)