



Environment legislation in India

Madhu Soodan Rajpurohit¹, Sonia Saini²

¹ Professor, Department of Law, Government P.G. Law College, Pali, Rajasthan, India

² Research Scholar, Department of Law, Jai Narain Vyas University, Jodhpur, Rajasthan, India

Abstract

The word "environment" refers to the entirety of all living and non-living elements that surround an organism or group of organisms, and is most frequently used to describe the "natural" environment. Everything that affects an organism's ability to grow and develop is considered part of its environment. The environment is made up of both biotic and abiotic elements that affect the organism under observation.

The standard of the environment determines the quality of life. Hence, the right of individuals to live in a clean and healthy environment is a fundamental human right. It is also important to live in a way that minimises disruption to the ecological balance and does not pose an unnecessary risk to them, their cattle, their homes, or their agricultural land.

India's environmental laws are setting the standard for environmental protection. Even with the latest efforts to increase sustainability, India's economy is still expanding quickly, and there is a dearth of enforcement. As a result, Indian authorities are updating the country's current environmental laws and regulations, which should lead to stricter specifications for businesses.

This paper deals with various aspects related to Indian environmental protection law and policy, including the causes, sources, and effects of environmental pollution, different environmental protection laws, the role of the Indian judiciary in environmental protection, and more.

Keywords: Pollution, environment, environment legislation, environmental laws

Introduction

Any government organisation must have an understanding of environmental law. It consists of a number of laws and rules pertaining to environmental issues such as air and water quality. The way environmental laws are put into practice largely determines their success. Another effective tool for educating people about their duty to preserve a healthy environment is legislation. The principles of environmental law serve as the foundation for Indian environmental law, which is concentrated on the management of specific natural resources like fisheries, forests, and minerals. The Constitution's provisions are directly reflected in Indian environmental law. Both India's international commitments and its constitutional framework uphold the need to preserve the environment and use natural resources sustainably.

Nevertheless, India's expanding economy is still ill-equipped to address environmental issues despite numerous attempts to establish sustainability in the field of environmental law. Furthermore, Indian authorities are working to amend the country's current environmental laws and regulations, which could lead to stricter business requirements. However, these programmes won't succeed if society as a whole ignores them. Since public awareness is crucial to the creation of these policies, it is imperative that we collaborate to address these pressing concerns. To address environmental problems, the government and non-governmental organisations must collaborate, and environmental laws should be enforced more strictly.

What is environmental legislation

A collection of laws and rules pertaining to various environmental aspects, such as air and water quality, wildlife extinction, and water quality, is known as

environmental legislation. Environmental legislation encompasses a wide range of laws and regulations, but they all aim to control interactions between humans and the natural world in order to lessen environmental threats and enhance public health. Since the natural environment is multifaceted, environmental law is, as one might expect, quite expansive. This means that everything from the air we breathe to the natural resources we rely on to the plants and animals that coexist with us on this planet has to be considered when creating environmental laws.

We all share the same resources, so it becomes crucial that we comprehend environmental laws after all of this interconnection.

Climate change in India

India is among the nations most impacted by climate change, to use it as an example. India's population is largely dependent on agriculture and other climate-sensitive industries. India is prone to 16% of droughts and 12% of floods. After the United States and China, India is currently the third-largest emitter of greenhouse gases worldwide. India's annual emissions nearly tripled from less than 600 tonnes to more than 1,700 tonnes between 1990 and 2009. India's yearly carbon emissions are predicted to rise by almost 2.5 times between 2008 and 2035. In 2007, India's land use, change, and forestry activities resulted in net greenhouse gas emissions of 1,727.71 million tonnes of carbon dioxide. The industrial, agricultural, and waste sectors contribute 22%, 17%, and 3% of net CO₂ emissions, respectively, with the energy sector accounting for 8% of total emissions. Consequently, local, state, and national concerns worldwide are now centred on energy and climate change. India has become a major player in international negotiations, despite previously stressing that it is a

developing nation with historically low per capita emissions rates and is not accountable for previous greenhouse gas emissions. It has started putting a variety of laws into effect, enhancing energy economy, creating clean energy, and getting people both nationally and locally ready for the effects of climate change.

Need for environment legislation

Environmental concerns serve as the basis for many national laws. The environment should be effectively protected by law; otherwise, the expanding population will wreak havoc and destroy it. Enforcing these laws is another crucial element. To keep pollution and environmental degradation from getting worse, we need to enforce the law strictly and effectively. Ignoring legislative jurisdiction and political territory, pollution is a significant factor. As a result, environmental issues are universal in nature. Enacting environmental laws at both the national and international levels is essential to preventing such issues.

Even though environmental concerns in the world are becoming more and more pressing in today's society, developing nations also face complicated, serious, and quickly expanding pollution issues. Foreign businesses that operate with little consideration for the effects on the local environment exacerbate the potent combination of industrialization development and mass consumption trends. Since pollution has the power to destroy families and communities, it is more than just a health problem. It is also a social problem. Concerns about pollution and the pace of development in developing nations are closely related. However, a lot of developing nations lack the necessary enforcement mechanisms or lack pollution control policies altogether, making it difficult to guarantee that regulations are followed.

Pollutant emissions have significantly increased as a result of strong economic growth, unprecedented urban expansion, and fast industrial development, particularly in the petrochemical and heavy industries.

Purpose of environment legislation

The necessity of environmental legislation stems from the fact that proper laws and regulations are necessary to protect the environment. The best ways to prevent environmental destruction and preserve it for future generations are to increase public awareness of environmental issues and to support environmental education. But laws are what really make sure that environmental protection is applied in day-to-day life. Businesses, corporations, the general public, industries, etc. are all required by law to safeguard the environment and stop environmental degradation. It imposes harsh penalties on people who break the laws and regulations. In the end, this kind of enforcement makes sure that concepts and strategies are implemented into real-world environmental protection initiatives. Numerous environmental conventions and treaties attempt to address environmental issues on a global scale. The United Nations started to place more emphasis on environmental issues after the Stockholm Conference on the Human Environment in 1972. Numerous countries have ratified 70 international treaties, declarations, charters, agreements, and the like since then. These actions were taken to protect the environment and strike a balance between environmental preservation and human development.

Laws related to environment in India

Significant efforts have been made at the national level to amend the Indian Constitution in order to preserve and enhance the environment. The protection of the environment was not expressly outlined in our Constitution at first. However, the Indian Constitution was changed to make environmental protection a mandate after the 1972 United Nations Conference on the Human Environment in Stockholm. Article 51A of the Indian Constitution, 42nd Amendment, clause (g) declares that it is a fundamental duty to protect and improve the natural environment. Every Indian citizen has a responsibility to preserve and enhance the country's natural environment, which includes rivers, lakes, forests, and wildlife, as well as to show compassion for all living things. Since protecting and enhancing the environment is one of the Directive Principles of State Policy, a policy or directive gives the state more authority. According to Article 48A, the state works to safeguard the nation's forests and wild animals as well as to preserve and enhance the environment. In order to guarantee a safe environment for the people of India, the Ministry of Environment was founded in 1980. In 1985, this changed its name to the Ministry of Environment and Forests. The administration and implementation of environmental laws and regulations fall under the purview of the Ministry. Acts and Rules are the set of laws that support constitutional provisions. Acts of Parliament or State Legislatures make up the majority of our environmental laws. In general, these Acts grant regulators the authority to create regulations in order to carry them out. Because it addressed numerous gaps in pre-existing legislation, the Environmental Protection Act (EPA) of 1986, which went into effect soon after the Bhopal Gas tragedy, is regarded as protective legislation.

To address particular environmental issues, a large number of environmental laws have been passed since then. For instance, CNG is now required for public transport vehicles in Delhi. This lessens Delhi's air pollution.

Environment laws in India

India has numerous environmental laws in effect, some of which are listed below:

The Public Liability Insurance Act and Rules 1991 and Amendment, 1992

In order to offer public liability insurance to people involved in unintentional accidents while handling any hazardous material, the Public Liability Insurance Act, Rules, 1991, and Amendment, 1992 were introduced.

The National Environmental Tribunal Act, 1995, Amendment, 2010

The Act aims to compensate for harm done to people, property, and the environment as a result of activities involving dangerous materials. The three primary objectives are:

- Handle cases pertaining to the preservation of the environment, forests, and other natural resources in an effective and timely manner. The Tribunal is also hearing cases that were previously pending.
- Its goal is to uphold all environmental legal rights.
- It also takes into consideration giving relief and compensation to those impacted by the damage.

The National Environment Appellate Authority Act, 1997

The National Environmental Appellate Authority Act, 1997 was established to consider appeals concerning areas that are restricted by the Environmental Protection Act, which prescribes specific safeguards for certain industries, etc.

The Biomedical Waste (Management and Handling) Rules, 1998

Any waste produced during the diagnosis, treatment, or immunisation of humans or animals, associated research activities, or the production or testing of biological waste is referred to as biomedical waste, including the categories specified in the Rules. Hospital waste management procedures, including collection, sorting, and disposal, are made simpler by the Biomedical Waste (Management and Handling) Rules of 1998.

The Environment (Siting for Industrial Projects) Rules, 1999

The Environment (Siting for Industrial Projects) Rules, 1999 provide comprehensive guidelines on which areas should not be used for the construction of industrial plants, what safety measures should be taken when choosing a site, and how environmental protection should be taken into account when carrying out industrial development projects.

The Municipal Solid Wastes (Management and Handling) Rules, 2000

Every municipality authority is subject to these rules. It is their responsibility to guarantee that the solid waste produced by the city or municipality is managed in compliance with the laws governing collection, sorting, storage, transportation, processing, and disposal.

The Batteries (Management and Handling) Rules, 2001

The Ministry of Environment and Forests (MoEF) notified the final rule governing the collection and recycling of all used lead-acid batteries in India, known as The Batteries (Management and Handling) Rules, 2001, on May 16, 2001. This was done because the Central Government views battery waste management as being more important than battery production. The Act covers battery management in India and is based on the Environment (Protection) Act of 1986. Given that battery waste disposal has become a global concern, India should take the appropriate action to stop it from contaminating our soil, water, or air.

The Noise Pollution (Regulation and Control) (Amendment) Rules, 2010

These regulations outline the requirements for minimising noise pollution and permit the use of public address systems or loudspeakers during nighttime cultural or religious events (between 10:00 p.m. and midnight).

The Air (prevention and control of pollution) Act, 1981

The Act's primary goals are to prevent and control air pollution in India, including:

- Stop, manage, and lessen air pollution.
- To provide for the creation of state and federal enforcement boards for the law. The task was assigned to the State Pollution Control Board (SPCB) and the Central Pollution Control Board (CPCB).

It is mandated that sources of air pollution, including internal combustion engines, factories, automobiles, and power plants, must not release more lead, carbon monoxide, sulphur dioxide, nitrogen oxides, particulate matter, volatile organic compounds (VOCs), or other harmful substances than what is allowed. States now have the authority to identify regions with high air pollution.

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

For Forest Dwelling Scheduled Tribes (FDSTs) and Other Traditional Forest Dwellers (OTFDs) who have lived in these forests for generations, the Act recognises and grants them the right to occupy and use the forest lands. The Department of Tribal Affairs serves as the Act's chair. The law also lays out who is responsible for what and how much when it comes to biodiversity preservation, ecological balance maintenance, and the sustainable use of OTFD and FDST. In addition to guaranteeing FDST and OTFD livelihoods and food security, it fortifies forest protection systems. Because they are essential to the survival and sustainability of forest ecosystems, it seeks to redress the colonial injustice of the OTFD and FDST.

The Forest (Conservation) Act, 1980

One valuable resource that nature has given to humans is forests. As a result, it is everyone's duty to preserve the forest ecosystem. However, fast deforestation upsets the natural cycle. Laws must therefore be passed in order to protect forests. The primary goal of the Act is to maintain the integrity and range of forests while safeguarding their diverse ecological components, including flora, fauna, and other elements. Additionally, it is forbidden to convert forest land for grazing, agriculture, or other commercial purposes.

The Wildlife Protection Act, 1972

In order to guarantee environmental safety, the Act protects the country's wildlife, bird, and plant species. In addition to other things, the law forbids the hunting of numerous animal species. In 2006, the legislation was last changed. 2013 saw the submission of an amendment to the Rajya Sabha, which was referred to the Standing Committee before being withdrawn in 2015.

Wild animals are protected in India by the Wildlife (Protection) Act of 1972. The law is the result of an era in which India's environmental jurisprudence is growing quickly and merits recognition for its judicial activism. This law's adoption recognises the shortcomings of all earlier legislation, including the 1912 Wild Birds and Animals Protection Act. The majority of the gaps in the prior law are filled by the current comprehensive law.

Nonetheless, the relevant legislation still has a number of significant gaps. The application of theoretical laws in real life is lacking. Furthermore, bureaucratic meddling dilutes the law's intended purpose.

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

In order to prevent and control water pollution and preserve or restore the nation's water health, the Water (Prevention and Control of Pollution) Act, 1974 was passed. In 1988, the law was changed. In order to provide for the imposition of taxes on water used by individuals involved in specific

industrial activities, the Water (Prevention and Control of Pollution) Cess Act was passed in 1977. It was imposed by the Act in order to increase the Central and State Commissions' funding for the purpose of preventing and controlling water pollution. The last time the law was changed was in 2003.

The Water Act was passed with the intention of preventing and controlling water pollution in India. Any discharge of sewage or commercial sewage or other liquids, gases, or solids (whether directly or indirectly) into the water, or as appropriate to cause a nuisance or harmful to public health or safety, or to domestic, commercial, industrial, agricultural, or other lawful uses, or to the life and health of an animal, plant, or aquatic tissue, is considered pollution.

In India, controlling and preventing water pollution are major issues as well. We haven't been successful in spreading knowledge about the significance of water conservation thus far. Naturally, the law establishes a number of authorities that will try to stop this; it also establishes a number of complaints procedures and agency powers. To strengthen the law as a powerful deterrent with harsher penalties, more work must be done to make it more comprehensive and involve more locals. Above all, the enforcement component needs to be given more weight because, in addition to being controlled by law, pollution needs to be properly enforced.

The Ozone-Depleting Substances (Regulation And Control) Rules, 2000

The production, commercial import, and export of goods containing ozone-depleting substances (ODS) are regulated and there are deadlines for their phase-out set out in the Ozone-Depleting Substances (Regulation and Control) Rules, 2000. With the exception of metered-dose inhalers and other medical applications, these regulations forbid the use of ODS, halons, carbon tetrachloride, and methyl chloroform.

The Energy Conservation Act, 2001

In an effort to improve energy efficiency and cut waste, the Energy Conservation Act, 2001 was enacted. It addresses the energy standards for appliances and equipment. Moreover, it addresses energy consumption norms and other relevant standards directly for consumers. Natural resources are being depleted in India due to the country's expanding population and rising energy consumption, which means that once something goes extinct, it cannot come back. In an attempt to combat this fact, the Indian government contemplated passing the Energy Conservation Act in 2001 in order to control energy use and conservation in the country. According to the law, consumers whose energy consumption falls below the established norms and standards are eligible to receive certificates from the Central Government that promote energy conservation. Customers may purchase an energy savings certificate in order to meet the prescribed norms and standards if their energy consumption exceeds those set forth. Large energy users must abide by the Act's energy consumption requirements, new construction must follow the Energy Conservation Building Code, and equipment must meet energy performance requirements and have energy consumption labels visible.

The Biological Diversity Act, 2002

The Biological Diversity Act of 2002 was passed in order to implement the Convention on Biological Diversity (CBD), establish State Biodiversity Boards (SBBS), Biodiversity Management Committees (BMCS), and the National Biodiversity Authority (NBA), as well as to prevent biopiracy and safeguard biological diversity and local growers through the use of a three-tiered structure composed of central, state, and local boards and committees. The primary goals of the Act are to safeguard biodiversity, regulate and protect the appropriate use of its components, and guarantee the just distribution of the benefits resulting from such use. The law's declared objectives include safeguarding traditional knowledge, discouraging biopiracy, forbidding the filing of patent applications without official government approval, and more. While the sustainable use of its components suggests regulation of the use of natural resources rather than consumption, Chapter IX of this Act describes various aspects of biodiversity conservation objectives, in particular Sections 36, 37, and 38 which relate to the development of national plans and programmes for the conservation of biodiversity, state notification and conservation of biological diversity areas, and with the authority of the central government to notify species that are dangerously endangered, on the verge of extinction, endangered species, prohibit collection, etc.

Benefit sharing is provided for in Article 21 of the Act. It attempts to guarantee that the person seeking such benefits and the local bodies involved share fairly in the benefits derived from the biological resources, their byproducts, knowledge, and related practices.

The National Green Tribunal Act, 2010

In order to offer victims of pollution and other environmental damage judicial and administrative remedies, the National Green Tribunal Act, 2010 was created. Dedicated to resolving environmental cases in the nation, the National Green Tribunal (NGT) is a specialised judicial body that was founded in 2010. The Law Commission, the Supreme Court, and India's international law duties to create and successfully carry out national environmental laws all advised against the establishment of the Tribunal because the majority of environmental cases involve multidisciplinary issues and are best handled in forums specifically designed for that purpose. In cases pertaining to environmental protection, the preservation of forests and other natural resources, and the enforcement of all environmental legal claims, the Tribunal's job is to swiftly and effectively find remedies.

The Tribunal's ruling is final and enforceable, and it may grant impacted parties damages and compensation.

It also complies with citizens' right to a healthy environment as stated in Article 21 of the Constitution. Cases submitted to the National Green Tribunal must be resolved within six months of the tribunal's establishment. The NGT is principally in charge of issues pertaining to significant environmental concerns.

On the plus side, though, the National Green Tribunals are regarded as a crucial component of attaining justice in environmental matters because they incentivize solicitors to focus on environmental law. There will come a time when environmental laws focus primarily on protecting our environment.

The Wildlife (Protection) Act, 1972

The Act offers protection for flora, fauna, and wild animals. It crosses the entirety of India. Six schedules are available, each offering varying degrees of protection:

Complete protection is offered by Schedule I and Part II, and violations of these will result in the harshest punishments. While still protected, species included in Schedules III and IV face far less severe penalties.

Schedule V animals include common crows, fruit bats, mice, and rats; these animals are legally regarded as pests and are open to hunting.

The Wildlife (Protection) Amendment Bill, 2021

The Ministry of Environment, Forests, and Climate Change introduced the Wild Life (Protection) Amendment Bill, 2021 in the Lok Sabha. The Bill intends to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and increase the number of species protected by law.

Environment (Protection) Amendment Rules, 2024

The Environment (Protection) Amendment Rules, 2024 were released by the Ministry of Environment, Forests, and Climate Change (MoEF&CC) on January 30, 2024, as an additional amendment to the Environment (Protection) Rules, 1986. The ensuing modification has been articulated: The words "except production from continuous spun yarn technology" have been added after the words "Filament Yarn Units" in Schedule I, which states "Standards for Emission or Discharge of Environmental Pollutants," in serial number 2 relating to Man-made Fibre, under the heading "Environmental Standards for Man-made Fibre Industry," under subheading "A. Effluent Standards," in the "note" section.

Rajya Sabha passes Water (Prevention and Control of Pollution) Amendment Bill 2024

A bill that aims to decriminalise minor water pollution offences, give the Centre the authority to set terms of office for State Pollution Control Board chairs, and exempt specific types of industrial plants from legal constraints was approved by the Rajya Sabha on Tuesday. Union Environment Minister Bhupender Yadav stated that environmental protection and development must coexist while introducing the Water (Prevention and Control of Pollution) Amendment Bill 2024.

The amendment seeks to rationalise criminal laws and guarantee that people, businesses, and companies operate without fear of jail time for infractions that are minor, technical, or procedural, according to the bill's statement of objects and reasons.

The Bill states that the central government will have the authority to waive section 25, which imposes restrictions on new outlets and discharges, for a specific class of industrial plants.

The proposed law states that the nomination process for State Pollution Control Board chairs will be governed by guidelines set by the federal government. Additionally, it gives the central government the authority to establish guidelines regarding the granting, refusing, or rescinding of permission by any state board for the establishment of an industry, the operation of a process, the treatment and disposal system, or the use of newly created or modified outlets.

Conclusion

It is now widely accepted that everyone has the fundamental right to live in a pollution-free environment in India, where environmental protection has grown to become a national priority and is even linked to human rights policy. Human dignity is abundant in a welcoming atmosphere. It's time for the general public, government agencies, state governments, and the federal government to acknowledge the harm that our current development strategy is causing to the environment. It also needs to be strictly enforced. Laws are a potent tool for forcing people to follow hygiene regulations and thereby combat pollution. India needs to update its environmental protection laws to reflect contemporary society.

It's crucial to realise, though, that until everyone in society adopts a positive outlook, such enactment will not be sufficient.

References

1. Ghosh S. Demystifying the environmental clearance process in India. *NUJS Law Review*,2013:6(3):433.
2. Ghosh S. Reforming the liability regime for air pollution in India. *Environmental Law and Practice Review*,2015:4:125.
3. Ghosh S. *Indian environmental law: Key concepts and principles*. Orient Black Swan: 2019.
4. Gill GN. Human rights and the environment in India: Access through public interest litigation. *Environmental Law Review*,2012:14(3):200.
5. Mazoomdaar J. Environment panel against entertaining "anti-development" representations. *The Indian Express*,2017 Jan 14.
6. Murlidhar S. *India: Public interest litigation survey 1997-1998*. Indian Environmental Law Research Centre: 1998.
7. Parikh M. Public participation in environmental decision-making in India: A critique. *IOSR Journal of Humanities and Social Science*,2017:22(06):56–63. Available from: <https://www.iosrjournals.org/iosr-jhss/papers/Vol.%2022%20Issue6/Version-12/J2206125663.pdf>. DOI: <https://doi.org/10.9790/0837-2206125663>.
8. Rajamani L, Ghosh S. Public participation in Indian Environmental Law. In: Barrera-Hernandez L, *et al.*, eds. *Sharing the costs and benefits of energy and resource activity: Legal change and impact on communities*. OUP, 2016.