

# **Environmental Law in India – Problems and Challenges**

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**Abstract:** *There are numerous laws in India that deal with environmental protection, however they have not been well implemented. The Constitutional mandate and other environmental regulations must be successfully and efficiently implemented. The judiciary has made a significant and admirable contribution. Sustainable development in the modern day must inevitably include green development as it provides the best means of addressing the dual issues of protecting the environment and boosting the economy. India has ratified several international environmental treaties and agreements, such as the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, and the Stockholm Convention on Persistent Organic Pollutants. These international commitments have led to the integration of environmental principles, such as the precautionary principle, polluter pays principle, and sustainable development, into India's constitutional provisions. This study explores the implementation challenges of environmental laws and policies in India. It reveals the difficulties and problems associated with breaking environmental laws and regulations in India. This study's primary goal is to list the several obstacles India must overcome in order to put environmental laws and policies into effect.*

**Keywords:** Air pollution; Challenges; Corruption; Deforestation; Sustainable Development, Public Interest Litigations

## **I. INTRODUCTION**

Environmental law is an important part of any regulatory body. It includes a set of laws and regulations related to air quality, water quality and other aspects of the environment. Environmental law in India is guided by environmental legal principles and focuses on the management of specific natural resources such as forests, minerals or fisheries. Environmental law in India directly reflects what is envisioned in the constitution. The detailed and developed framework for environmental protection came after the United Nations Conference on the Human Environment in Stockholm in 1972. This led to the creation of the National Environmental Policy and Planning Council. in 1972 at the faculty of science and technology. This was created to establish a regulatory body to review environmental issues and concerns. According to the 2014 Environmental Performance Index (EPI), India ranks 155th out of 178 countries in terms of efforts to address environmental challenges.

Environment laws are very significant regarding this subject matter and also, and they can be considered as a part of basic human rights which is important for the development of human society. At the international level the Stockholm Conference, Rio Conference, and other declarations and conferences play a significant role to give principles and a set of guidelines for environmental policies. In India, the constitution and other legislations recognized environmental issues like Articles 48-A and 51-A of the constitution and acts like, The Forest (Conservation) Act of 1980, The Environment Protection Act of 1986, and other acts which give the set of guidelines and rules which have to be followed to protect the environment. However, there is various nationally and internationally framed rules and regulation but it is not implemented correctly by the authorities and governments which leads human society to this kind of problem.



### **List of Environmental acts in India**

- National Green Tribunal Act, 2010: Environment protection and conservation of forest resources
- Biological Diversity Act, 2002: To provide for conservation of biological diversity
- The Environment Protection Act, 1986: Providing for protection and improvement of the environment
- Forest Conservation Act, 1980: Check deforestation and encourage afforestation of non-forest areas.
- Water Prevention and Control of Pollution act, 1974: Provides maintenance and restoration and quality of all types of surface and groundwater's.

### **ENVIRONMENTAL LAWS AND THEIR EFFECT ON THE DEVELOPMENT PROCESS**

Environmental laws are important to regulate the activities which can affect the environment. Without such protective laws environment cannot be secured and also it can be affected by the development process which can heavily harm the development process.

In India, parliament enacted several acts related to the environment which are as follows:

Environment Protection Act of 1986: India participated in the Stockholm conference which was held in 1972 and in furtherance of it, the Indian Parliament enacted the Environment Protection Act 1986 which aims to protect and improvement of the environment. This act is comprehensive in nature and it empowers the central government to take all necessary steps and can for authorities to take preventive measures for curbing environmental pollution.<sup>1</sup>

#### **Salient features of the Environment Protection Act, 1986:**

1. Through this act central government can plan and execute the nationwide program for the prevention, control, and abatement of environmental pollution and restriction of areas in which any industries, operations, or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards. (Section 3)
2. The central government has the power to direct the closure, prohibition, or regulation of any industry, operation, or process and the stoppage or regulation of the supply of electricity or water, or any other service. (Section 5)
3. This acts mandates that no person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutants in excess of such standards as may be prescribed. (Section 7)

The Forest (Conservation) Act of 1980: This act is very crucial as it is made for the conservation of forests. The forests are very crucial for the ecosystem balance but the forests are much affected by the rise in the development process. The main problem was deforestation and for preventing it, this act was enforced on 25th October 1980.<sup>2</sup>

#### **Features of the Forest (Conservation) Act of 1980:**

1. This act only empowers the central government to make any decision and also the central government can give directions regarding the restriction on the de-reservation of forests or use of forest land for non-forest purposes. (Section 2)
2. The central government can constitute an advisory committee for advising the government regarding matters related to forest conservation. (Section 3)
3. This act mentions the penalty for the person who goes against the provisions of the section. The provision for punishment was inserted through the amendment made in 1988

<sup>1</sup> The Environment (Protection) Act 1986, s 3

<sup>2</sup> National Parks (Wildlife Institute of India) <  
[https://wii.gov.in/nwdc\\_national\\_parks#:~:text=There%20are%20106%20existin6g%20national,2023\).>](https://wii.gov.in/nwdc_national_parks#:~:text=There%20are%20106%20existin6g%20national,2023).>)

### **RIGHT TO LIFE AND ENVIRONMENT PROTECTION (ROLE OF JUDICIARY IN IT)**

The right to life is mentioned in Article 21 of the Indian Constitution, this article is a oneliner but includes many things or liberties which are indirectly connected to Article 21. Judiciary plays an important role in recognizing through



various judgements that the Right to have a clean and healthy environment is a fundamental right that comes under the ambit of Article 21. The case laws like:

M.C. Mehta v. Union of India<sup>3</sup> : This case is also known as the “Ganga Pollution Case”. In this case, Supreme Court ordered to close-off of the tanneries and Singh J. stated that the closure of tanneries may create unemployment and also there is loss of revenue, but life,

health, and ecology have greater importance for the people because no person shall be deprived of his life under Article 21 of the Constitution.

Charan Lal Sahu v. Union of India<sup>4</sup> : The Supreme Court held that the State must take adequate and effective steps to enforce and protect Constitutional rights enshrined under Articles 21, 48- A, and 51-A (g).

### **ROLE OF INTERNATIONAL ORGANIZATIONS AND CONFERENCES IN ENVIRONMENTAL ISSUES**

International organizations and conferences play an eminent role in policy- making regarding the protection of the environment. International organizations are present in every step of norm development—they set the agenda for international negotiations, prepare draft conventions, adopt guidelines and codes of conduct, directly alter the content of—or develop—treaty obligations, and adopt compliance regimes. Some of the International Organizations and Conferences are as follows: Stockholm Conference: It was the first conference on the issues related to the environment and recognised the right to have a healthy environment for living. This was held in Stockholm in 1972 with the theme of “Only one earth”. The Stockholm Declaration, which contained 26 principles, placed environmental issues at the forefront of international concerns<sup>5</sup> and also established the United Nations Environment Programme (UNEP).

3. 1988 SCR (2) 530

4. 1989 SCR Supl. (2) 597

5. Rita Guerreiro Teixeira, The Role of International Organizations in the Development of International Environmental Law: Adjusting the Lenses of Analysis (Case Western Reserve Journal of International Law, 2021)<  
<https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=2601&context=jil>> Accessed

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Rio Conference: The United Nations Conference on Environment and Development (UNCED) also known as Rio Conference was held in Rio de Janeiro (Brazil) from 3 to 14 June 1992. The primary objective of the Rio 'Earth Summit' was to produce a broad agenda and a new blueprint for international action on environmental and development issues that would help guide international cooperation and development policy in the twenty-first century<sup>6</sup> and it also recognises the concept of sustainable development.

### **II. CONCLUSION**

A clean and healthy environment is very crucial for every living being and for this various legislation were framed. This is a very sensitive topic and it is very crucial to preserve and protect the natural environment. Also, people’s awareness regarding the environment can help to develop a strong protective regime for the environment. Environmental laws must be amended according to the changing conditions of the world for achieving the goal of conserving the natural environment and the concept of sustainable development must be adopted. The judiciary, particularly the Apex Court has exhibited utmost dynamism and taken proactive steps in safeguarding human lives, plants, forests, wildlife, other natural resources including flora and fauna realizing their significance in sustaining life on the earth. Nevertheless, the Court’s sensitivity towards the protection of the environment has only laid the preliminary foundation for the legal framework to be built.

