



Environmental laws in Indian perspective: An overview

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Abstract

An uncontrollable increase in population over the previous century put a significant strain on the natural resources that were accessible. Mother Nature has given everything she can, but the excessive use of pesticides, harsh chemicals, and groundwater combined with disproportionately high levels of farming have left the land itself dog-eared. The pollution of water supplies is severe, and the release of hazardous pollutants from vehicles and industry has deprived us of clean air. Large metabolizes with their issues of unregulated sewage and undisposed rubbish have been created as a result of industrialization and a burgeoning consumer economy. Given the alarming rate at which the hardships are escalating, it won't be long before the entire world—not just India—becomes a desert.

'Environment' is defined under Indian law in accordance with Section 2(a) of the Environmental Protection Act, 1986. 'Environment' includes water, air, and land as well as the relationships that exist between water, air, land, and people, other living things, plants, microorganisms, and property. The word "environmental law" refers to the body of common and customary rules, treaties, ordinances, and regulations that address how human activity affects the environment. The study of laws relating to environmental protection is the subject of this article. The examination of numerous laws being drafted by the Indian government and judicial system is shown in the article. It is made quite obvious that the government and the Indian court system have been working to protect the environment since very early years.

Keywords: Indian judiciary system, environmental awareness, environmental protection act, 1986, Rev. Stansilaus vs. Madhya Pradesh, Hiroshima and Nagasaki in 1945

Introduction

Nature provides a free lunch, but only if we control our appetites

The preceding century has witnessed an unmanageable boost in population, placing tremendous burden on the available natural resources. Mother nature has offered all she had, the earth itself is dog-eared due to disproportionate excessive cultivation, use of harsh chemicals and pesticides and excessive use of ground water. Water resources are badly polluted and discharge of toxic fumes from industry and vehicles has dispossessed us of uncontaminated air. Industrialisation and a growing consumer economy have led to the creation of huge megapolises with their problems of undisposed garbage and uncontrolled sewage. The alarming rate at which the ordeals are increasing, the day is not far when not only India but the whole world would get converted into a desert^[1].

'Environment' defined under Indian Law according to Section 2(a) of the Environmental Protection Act, 1986, 'Environment' includes Water, air and land and the inter-relationship which exists among and between, water, air, land, and human beings, other living creatures, plants, microorganisms and property. Environmental law is a collective term describing the network of treaties, statutes, and regulations, common and customary laws addressing the effects of human activity on the natural environment. This article pertains to study of laws associated with protection of environment. The article shows the study of various laws which were being framed by Indian government and Indian judicial system. It clearly states that

for the protection of environment the government and the Indian judicial system have worked since very early year's^[2].

The environmental awareness needs to be cultivated in any society to be an ideal society, or rather to be more precise, in other words, an ideal society means, the society which has the environmental awareness. The dictionary meaning of the word 'environmental' is surrounding objects, region or circumstances and the phrase environmental awareness' will mean that one should be aware of his surrounding so that this surrounding is not disturbed. This relation of the environment with the human life has in recent years developed into an independent branch of scientific inquiry, which goes by the name environmental science. As per the literature, the human-environment interaction goes back to the remotest possible times in the history of humanity. Sometimes, it is seen as a manifestation of a struggle between the two. There have also been times when this relationship took the form of respectable coexistence. While the history of humanity of the last several millennia is noted for its constant and/or consistent progress in different walks of life, the mysteries of nature have often proved to be quite tempting to be solved by human thinking and actions. The key-theme of which is that the natural balance between human life and the surroundings should not be lost. This is the basic requirement for any life to flourish especially for human life. The major contribution of this paper would be to help the respective agencies in the government in building up the environmental awareness among citizens of India^[3].

Importance of environmental laws

Today we are living in nuclear arena. No one can overlook the harm caused to the environment by the nuclear bombs,

dropped by airplanes belonging to the United States on the Japanese urban communities of Hiroshima and Nagasaki amid the last phases of World War II in 1945. Day to day innovation and advancement of technology, apart from development additionally expands the risk to human life. Accordingly, there arises an intense and an acute need of the law to keep pace with the need of the society along with individuals.

The Constitutional Provisions on Environmental Law

The Indian Constitution is amongst the few in the world that contains specific provisions on environment protection. The chapters directive principles of state policy and the fundamental duties are explicitly enunciated the nation commitment to protect and improve the environment. It was the first time when responsibility of protection of the environment imposed upon the states through Constitution (Forty Second Amendment) Act, 1976. (Yadav 2011) Article 48-A¹⁶ the provision reads as follows: “The State shall endeavor to protect and improve the environment and to safeguard the forest and wildlife of the country. Amendment also inserted Part VI-A (Fundamental duty) in the Constitution, which reads as follows: Article 51-A (g) 17 “It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes,, and wildlife and to have compassion for living creature.” In *Sachidanand Pandey v. State of West Bengal* The Supreme Court observed “whenever a problem of ecology is brought before the court, the court is bound to bear in mind Article 48-A and article 51-A (g). So now the question of environmental protection is a matter of worldwide concern, it is not confined to any country or territory ^[4].

India has a relatively extensive set of regulations designed to improve both air and water quality. Its environmental policies have their roots in the Water Act of 1974 and Air Act of 1981. These acts created the Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs), which are responsible for data collection and policy enforcement, and also developed detailed procedures for environmental compliance. Following the implementation of these acts, the CPCB and SPCBs quickly advanced a national environmental monitoring program (Responsible for the rich data underlying our analysis). The Ministry of Environment and Forests (MoEF), created in its initial form in 1980, was established largely to set the overall policies that the CPCB and SPCBs were to enforce ^[5].

‘Environmental Law’ is an instrument to protect and improve the environment and to control or prevent any act or omission polluting or likely to pollute the environment. An environmental legal system is essentially a set of laws and administrative rules which regulate the relationships and conflicts between all the people concerned with the environment, as well as defining the relationships between people and the environment itself. The Honourable Supreme Court in *K. M. Chinnappa v. Union of India* defined “Environmental Law” as an instrument to protect and improve the environment and control or prevent any act or omission polluting or likely to pollute the environment.

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 a duty on every citizen “to protect and improve the natural environment including forests, lakes, rivers, and

wildlife”. Reference to the environment has also been made in the Directive Principles of State Policy (Part IV) as well as the Fundamental Rights (Part III). The Department of Environment was established in India in 1980 to ensure a healthy environment for the country. This later became the Ministry of Environment and Forests in 1985.

The participation of civil society is important to counterbalance the influence of economic interest groups, whose environmental externalities are often insufficiently addressed by State intervention or consumer behavior. Organizations such as Greenpeace, the World Wildlife Fund (‘WWF’) or the International Union for the Conservation of Nature (‘IUCN’),⁴⁶ are but a few prominent examples of a vast and thriving body of environmental NGOs active at both the national and international levels, who have devoted substantial efforts to raise public awareness regarding environmental degradation and to channel public pressure.⁴⁷ Indeed, the main functions performed by these NGOs can be classified into three main categories:⁴⁸ (i) the formulation of the interests of civil society, (ii) assistance in implementation and (iii) channeling public pressure ^[6].

Environmental Assessment

The National Green Tribunal Act, 2010, No. 19, 2 June 2010, to provide for the establishment of a Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons or property and for matters concerned. The National Environment Appellate Authority Act, 1997, No. 22, 26 March 1997, to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to 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 under the Environment (Protection) Act, 1986 and for matters concerned therewith or incidental thereto.

The Indian Wildlife Protection Act, 1972, amended 1999

The Wildlife (Protection Act) Amendment Act, 2002, No. 16 of 2003, 17 January 2003, to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country. Biological Diversity Act, 2002, No. 18 of 2003, 5th February 2003, to provide for 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, knowledge and for matters connected therewith or incidental thereto.

Government Documents

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- Taking on Climate Change Post Copenhagen
- Domestic Actions, 30 June 2010
- India’s 12th Five-Year Plan, October 2011
- National Electricity Plan, January 2012
- Integrated Energy Policy Report, 2006
- India: Greenhouse Gas Emissions, 2007
- National Solar Mission, June 2010
- Incentives for Wind Power, 2009, ceased March 2012
- Solar Power Generation Based Incentive, 2008

- Energy Conservation Building Code, 2007
- Ethanol Production Incentives, 2007
- Tariff Policy, 6 January 2006, amended 2011
- National Electricity Policy, 3 February 2005
- National Auto Fuel Policy, 2003.
- Recycled Plastics Manufacture and Usage Rules, 1999, 2 September 1999, to define rules for the manufacture and use of recycled plastics carry bags and containers [7].

Conclusion

There is a consensus that the increasing concentrations of green house gases in the atmosphere are raising global temperatures and changing in earth's climate and prevailing weather patterns, with startling consequences new knowledge and technical and policy solution are critical if the rural poor in developing countries are to free pressure from climate change. The Indian Government has enacted many climate change laws and policies but the policies of state should not harmful to development of present and future of developing countries. Appropriation of gift of nature without any return to it is nothing but a theft. If the life supporting eco system of the planet is to survive for future generations; the consumer society will have to dramatically curtail its use of resources, partly by sifting to renewable sources of energy and partly through improvement of technology and equipment. Finally let me conclude with words of "Bhagawad Geeta" TAP and DAN, these two sermons of Geeta are for Individual growth and achieving "social justice" for maintaining ecological balance and sustaining nature.

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