



## Environmental law through ages - from ancient to contemporary India

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### Abstract

This article delves into the evolution of environmental law in India, tracing its roots from ancient era to modern legislative frameworks. The concept of environmental consciousness is deeply embedded in Indian culture and has been longstanding with spirituality and ethical teaching by religious such as Hinduism, Jainism and Buddhism. In ancient times sustainability, conservation and ecological balance were attached with religious duties. This period made a strong foundation for modern environmental consciousness. However, with the arrival of British Colonial rule the environmental law transformed into economic exploitation, exemplified by forest acts of 19th century, Shore Nuisance Act etc. In post-independence era, India saw great shift towards environment protection through legal frameworks such as Environmental Protection Act, 1986, Wildlife Protection Act of 1972, etc. These laws showed India's commitment towards both economic development as well as environment protection. This article highlights the India's environmental law not only limited to modern construct but a continuation of ancient traditions.

**Keywords:** Environmental, Sustainable, economic development, environment protection, culture

### Introduction

"Earth provides enough to satisfy every man's needs but not every man's greed."

- Mahatma Gandhi.

As the quote articulates our environment has enough to provide but less to satisfy the escalating greed. Owing to this the necessity of environmental law is essential. "Environmental Law" which incorporates with all the elements like air, water, forest, waste management and many more. All these components are being safeguarded by the legislation and policies. Also, it is not only protected in this modern time, but environmental consciousness is also embedded in Indian culture since the mythological era. The axiom like sustainable development, precautionary theories, conservation can be found in Indian traditions back then. While ancient era perspective was rooted with spirituality, ethics and values, modern environmental law is committed through legal provisions, policies, and acts. This article essentially examines the transition from ancient environmental law to modern.

### Ancient

Let us retrace the history, back in early Indian civilization environment protection was deeply followed by the people in form of religious and cultural traditions. This period had the foremost respect for the nature and environment. During those times environmental conservation was deemed as moral and religious duty, unlike in modern time it is seen more as the state obligations. In that era various religions played a part in promoting the ideas of sustainability, prevention from degradation, moral codes and much more. The contribution and idea towards environment by all the religion are being classified further:

#### Hinduism- one of the oldest religions

Hinduism one of the oldest religions has a great and ancient relationship with nature and is deeply connected through environment with its philosophy, rituals and books. The idea to develop environmental law and principles were inspired

through the ancient Hindu text and is considered pioneer to modern environmental law. Below is the elaborated look of Hinduism involvement for environmental law:

#### 1. Sacred Text

Sacred Hindu text is rich area for study. Hindu texts are rooted for nature and many teachings are related with the axioms of modern environment protection. Examples of how Hindu text relate to environmental ethics are: -

##### 1.1 Rigveda

It contains the message that praises the nature's powers like sun, river, wind, Earth etc. Also, for example "Mata bhumi putro aham prithivyah" (Earth is our mother and we are her children).

##### 1.2 Bhagavad Gita

Encourages lolasangraha (welfare of the world) inspires that humans must act in a way that protects the world.

#### Jainism: The strictness for environmental code

Jainism founded in the 6th century BCE, is one of the strictest religions in the topic of environment protection and conservation. Jainism always promotes reliance and way of life that is deeply rooted with environmental conservation. Below is the glance of Jain philosophy enriching environmental law:

##### 1.3 Ahimsa (non-violence)

This principle of Jainism as applied on the all the living organisms not only humans. It stimulates minimal or least harm to the environment, supporting vegetarianism, non-exploitation of natural resources and sustainable living.

##### 1.4 Aparigraha (non-possessiveness)

This conviction promotes the minimal material possession by reducing consumption and resource exploitation. This synchronizes with the idea of sustainable development and climate-conscious consumption.

### **Buddhism: that teaches harmony with nature**

Buddhism and environmental law both blends well together in terms of nature conservation and environment protection. Here's a meticulous information, covering its practical implications and philosophical foundations facilitating in adapting the modern legal principles.

#### **1. Interdependence (pratīyasamutpāda)**

This principle of Buddhism states the dependency and origination of all the beings. This concept primarily means that everything in the environment is interconnected to each other. By impairing one element indirectly mean harming oneself.

#### **2. Compassion (Karuna) and loving-kindness (Metta)**

This precise principle Encourages ethical responsibility towards all the beings and the environment. These values leverage individual by promoting animal welfare, environment protection, sustainable living and nature conservation.

### **Colonial era and the transformation of environmental law**

Colonial era ruled by the east India company Aldo had contribution in today's environmental law. India's environmental law matured significantly during that era. Colonial environmental policies had significant as well as lasting impact on India. East India company exploited resources (especially timber) for railway expansions by centralizing the customary rights and practices. Though it is found that conservation actions were taken by the Britishers, but it was often economically motivated, not ecological. So, the colonial era was the combination of exploitation and conservation. Some of the examples of Colonial polices are mentioned below:

#### **Forest Act and its amendments**

Forest Act in 1865 - Forest act was foremost implemented in 1865 which had the main objective to regulate the forest use. This act gave the British government power to declare any land as the British government forest. This predominantly focused on the commercial exploitation for the government benefit notably timber for railway sleepers.

**1. Forest Act in 1878:** In 1878 new Indian forest act was implemented with the intent to strengthen forests control over forest. Also, this act creates the role of forest officers to enforce the rules. This act classified forest into three types: -

- a. Reserved forests - Which had maximum control of the government with no local rights given
- b. Protected forests- In the protected Forest some of the local rights were allowed by the British government but eventually state had the significant control.
- c. Village forest - This type of forest was basically meant for the local community use, but it was rarely implemented.

**2. Forest Act in 1927:** In 1927 again the Indian forest act was implemented with the same objective as before to give amplify control on the forest. This act incorporated previous act and added stringent regulations. This act of 1927 criminalized the traditions like gazing, shifting cultivation and collection of forest produce. Also, gave the power to forest department to arrest, fine and evict.

#### **2. Shore Nuisance Act, 1853**

Shore nuisance (Bombay and kolaba) Act, 1853 is another illustration of an act implemented by the British Government in relation to environment. This act was specifically concerned about the public health related to the waterfront and shores of Bombay and kolaba now known as modern day Mumbai. Some of the features of this act are: -

- a. Purpose- this act focused on restraining the nuisance along the waterfront like activities that pollutes the shore, unauthorized structure or etc.
- b. Enforcement- The British government could stop the illegal construction and can also mandate penalties for non-compliance.
- c. Authority- this act endorsed powers to the colonial authorities to act against anu entities or individuals causing nuisance.

We can articulate that this act was one of the initial examples of environment protection with the strong focus on public safety and sanitation precisely in the context of the shoreline.

### **Contemporary India**

Environmental law and Contemporary India are an extensive concept which addresses the legal frameworks of modern India and how India is dealing with environmental issues with prompt growth of development. Some examples of modern legal frameworks are mentioned below: -

#### **1. The Environment (protection) Act, 1986**

This fragment of legislation provides a framework for Improvement and protection of the environment. This act was enacted on 19, November 1986 after the unfortunate incident of Bhopal gas tragedy. This act was brought with an aim to prevent from hazardous substances to human beings, plants or any other living creatures. This act gave power to central government to concur actions of state authorities, set standards of emission and discharge, restrict areas for certain operations and many more. For proper regulations penalties were also decreed of up to 5 Years imprisonment, fine up to ₹100000 or both.

#### **2. Wildlife Protection Act, 1972**

The wildlife protection act 1972 is an important segment of legislation which is aimed to protect the wild animals, birds and plants. It came into force on 9<sup>th</sup> September 1972. The main objective of this act was to provide a legal framework for protection of wildlife and to prevent illegal hunting, trading and exploitation of wildlife. This act established many authorities like wildlife wardens, wildlife advisory boards, national and state boards for wildlife, etc to protect areas categorised into sanctuaries, national parks, conservation reserves, community reserves. The act gas also undergone several amendments with the latest on 2022, aligning with the "convention on international trade in endangered species of wild fauna and flora (CITES)".

#### **3. National Green Tribunal Act, 2010**

National green tribunal act, 2010 is a specialized body which has expertise to handle disputes relating environmental issues. This act provides relief and compensation for damages to property and person. It deals with matters under different acts like the environment protection act 1986, the forest conservation act 1980, the

biological diversity act 2002 etc. It consists of pf chairperson, judicial members and expert members. The chairperson is a retired judge of the supreme court or Chief Justice of a High Court.

### **Conclusion**

From the sacred quotes of the Vedas to the modern judgements passes by tribunals, the revolution of environmental law in India is a journey like tale. What once was rooted in rituals, philosophies are now formalized in acts, tribunals and legal frameworks. The ancient seers talked of harmony with nature while modern lawmakers echoed the same mindset in a structural policy. It proves that environmental consciousness is not new to India. As we are in position of environmental urgency and development aspiration, it becomes crucial for India to not only enforce laws but to also revive the ancient culture which once treated nature as divine. India must learn from both colonial eras to not exploit the nature and ancient era to respect the nature. True progress lies where both law and legacy walk hand in hand.

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