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ENVIRONMENTAL LAWS AND ACTIVISM IN INDIA-THE EVOLUTION, MOVEMENTS AND GAPS

-Rekhanshi Vasudev

INTRODUCTION

According to article 2(a) of the Environmental Protection Act (1986), 'environment' includes water, air and land and the interrelationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organisms and property. This definition reflects the interconnected nature of the concept of environment. In today's world, the environment is one of the most important subjects being discussed at every global platform because it affects the development of humanity as a whole, but this was not the case for developing countries like India in the 20th century.¹

After India gained its independence in 1947, it had many concerns regarding rebuilding the economy and attaining food security, but environmental protection and development weren't on the table, with no special laws and acts. The environmental degradation and protection only started gaining limelight in the 1960s, due to the rise in urbanisation levels and pollution of ecosystems due to the mismanagement of land and water resources.

HISTORY OF ENVIRONMENTAL LAWS IN INDIA

After independence, for many years the environmental laws in India were governed by different fragmented laws which lacked a unified structure, with no single law dedicated completely to the environment. The development of environmental consciousness in India began with the Stockholm Conference in 1972, which was one of the first global gatherings at an international level to discuss environmental issues where India was represented by Dr LK Jha, where we as a nation emphasised on the link between poverty and environmental degradation, which helped

¹ Environment (Protection) Act, 1986

in differentiation of responsibilities for developing countries. Following the conference, India saw the emergence of many laws and acts for the active protection of the environment.²

In the year 1976, India became the first country to constitutionally mandate environmental protection through the 42nd constitutional amendment act and constitutional provisions like article 48-A (DPSP), which directed states to protect and improve the environment, and article 51-A(g) (fundamental duty), which obligated every citizen to show compassion towards living beings and protect the natural environment.³

ENVIRONMENTAL LAWS IN INDIA

Wildlife Protection Act, 1972-It aimed at the protection of wild animals, plants and birds for the conservation of endangered species. It also declared hunting and poaching of certain species illegal. The establishment of many national parks, wildlife sanctuaries and biosphere reserves was also seen under this.

The Water Prevention and Control of Pollution Act, 1974-It was the first major environmental law in India which aimed at controlling water pollution which had increased due to the rapid industrialisation, and protecting the water bodies. It also helped in the establishment of water pollution control boards at both centre and state levels.

The Air Prevention and Control of Pollution Act, 1981-It aimed to reduce and prevent pollution of air and improve the air quality. It also regulated emissions of industries into the air and established air pollution control boards at both the centre and state levels.

The Environment Protection Act, 1986-This act gives the central government full power to take any action in favour of environmental protection. It was enacted under Section 253 of the constitution, following the Bhopal gas tragedy. The act also focused on control of pollution, inspection powers and penalties for people polluting. It strengthens the sustainable development goals of India, protects public health and natural resources and helps in the control of industrial hazards.

National forest policy, 1988-This policy was revised by the government after the national forest policy of 1952 it aimed at increasing the involvement of local bodies and communities in the development and protection of forests, like tribal communities. It also aimed for the protection

² Julextra.in -the 1972 Stockholm declaration: India's environment milestone.

³ Blog.finology.in- top environmental cases and laws that changed India

of flora and fauna and saving biodiversity. This was later developed further by the national forest policy of 2018 with new effective measures.

Biological Diversity Act, 2002-It aimed at the sustainable use of biological resources and protecting the knowledge which is traditionally passed between the local communities. It also focused on prevention of exploitation of Indian biodiversity by foreign individuals and organisations.⁴

Forest Rights Act, 2006-It recognised the rights of local communities, like the scheduled tribes, over the forest land to strengthen local self-governance amongst local communities and strengthen their means of living, i.e., the forests.

HISTORICAL MOVEMENTS REGARDING ENVIRONMENTAL PROTECTION IN INDIA

The Chipko moment was one of the most historically significant movements in the northern region of India, a moment led by women in Uttarakhand and the foothills of the Himalayas. It started in the year 1973 with leaders like Sundarlal Bahuguna, Gaura Devi, Suresha Devi and many others, with the main objective of protecting trees. The word 'Chipko' means 'to hug' in Hindi; hence, it is also called as 'hug the tree movement' where, as a sign of protest, women hugged the trees and tied threads around them for protection from deforestation for commercial purposes.

The Jungle Bachao Andolan started in the Singhbhum district of Bihar by the tribals against the government's move of replacing the Sal tree forest with expensive teak, this movement also ended up spreading to regions of Odisha and Jharkhand. This was a movement also against the commercial exploitation of forests and the protection of tribal culture and rights.⁵

The Appiko movement had started in the year 1983 in Karnataka inspired by the Chipko movement where villagers hugged trees to prevent commercial cutting of forests.

Narmada Bachao Andolan, which started as a protest against the lack of rehabilitation for people after the construction of Sardar Sarovar Dam, later turned into an ecological movement against the dams being built across rivers. In this case that river was Narmada, the protestors

⁴ Vajiramandravi.com- environmental laws in India, meaning, evolution, important laws

⁵ Clearias.com- major environmental laws in India

ended up appealing to the Supreme Court for a reduction in the height of the dam from 130m to 88m, which was later settled at 90m.

The Bishnoi movement took place in Rajasthan in 1730, led by Amrita Devi Bishnoi where 363 Bishnois sacrificed their lives to protect trees from being cut it was one of the earliest environmental movements.

The silent valley movement had started in Kerala against the hydroelectric project in Silent Valley Forest to save the rich tropical rainforest and the wildlife thriving in it.

ARTICLE 21 - THE RIGHT TO LIFE AND PERSONAL LIBERTY

Through various landmark judgements of the Supreme Court, Article 21 has been interpreted to include the right to a clean, healthy and sustainable environment. The judiciary's decision reflects the point that 'for life to be meaningful, it must be lived with dignity, health and in harmony with nature.' Although, it has not been explicitly constitutionally guaranteed as a fundamental right, it has been firmly established by proactive jurisprudence.

With landmark cases like *Maneka Gandhi v. Union of India*, the meaning of the right to life has been expanded to include a safe and clean environment as an important part of 'life'.⁶

PENALTIES AND PUNISHMENTS

Under different environmental laws, industries and individuals face both civil and criminal liabilities upon an environmental violation, including penalties; monetary compensations; seizure and closure of industries where the licence can be revoked or a complete shutdown of water and electricity supply can be seen; and compensation and environmental restoration based on legal principles like the polluter pays principle and absolute liability. Under the polluter pays principle, the polluter has to pay compensation to the victims and restore the damaged environment along with bearing cleanup costs.

CONCLUSION

India as a nation has made a long journey when it comes to the development of laws and policies for the protection of the environment. Today, it has strong laws, but due to the weak enforcement of laws and provisions by government, some laws end up existing only on paper and are never truly implemented. Furthermore, the presence of corruption, prioritisation of

⁶ Lawfullegal.in- the right to a clean environment under article 21 of the Indian constitution by Rakhi Jha.

economic development and lack of public awareness result in inadequate performance of environmental laws and provisions.⁷

⁷ International journal of research publication and reviews- environmental laws in India by Santosh Kumar and Dr. Shiv Pershan Sharma.