



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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FROM POLICY TO PRACTICE ENVIRONMENTAL LAWS IN INDIA

~*Vikrant Chaudhary*

ABSTRACT

In India, the development of environmental jurisprudence is bound to be a complex path as it began with an aspiration of policy goal setting and now looks toward a strict, but difficult implementation phase. India's first step in the direction of environmental stewardship was the 42nd Amendment to its Constitution, which was spurred by the 1972 Stockholm Conference, and explicitly integrated the protection of the natural environment into its constitutional framework, in particular Article 48A and 51A (g). This policy paved the way for the development of comprehensive statutory frameworks such as the Water Act (1974), the Air Act (1981) and the overarching Environment (Protection) Act (1986).

But there has always been a gap between statutory policy and its implementation, and this has depended more on the judiciary than the executive. The Supreme Court of India's interpretation of the right to a wholesome environment in Article 21 of the Constitution, through its public interest litigation (PIL) doctrine, extended the scope of the right to a wholesome environment to a much wider extent than the original law intended, and also introduced two very powerful legal principles, namely, the Polluter Pays and Precautionary Principles¹. The latter, in fact, attempted to reconcile the law with the actual ground situation by establishing the National Green Tribunal (NGT) in 2010.

¹ **M.C. Mehta v. Union of India** (1997) 2 SCC 353. (Supreme Court of India)

This complex system of legislation leaves a clear gap between policy and practice in the enforcement of environmental regulations. The structural enforcement gaps, the fragmentation in the bureaucracy and the under-resourcing of State Pollution Control Boards are known to be significant deterrents to environmental compliance, while the socio-economic pressure to speed up industrialisation often outweigh environmental requirements, leading to the formal compliance with environmental clearances. This takes a critical look at the 'policy to practice continuum' in Indian environmental law. It contends that India has an extremely forward-looking normative template, but it's not enough: to achieve Sustainable Ecological² Governance, a paradigm shift from judicially oriented remediation towards strong, institutionalized administrative compliance and decentralized public participation is needed.

Keywords : living as well as non living, factors affecting the Environment, Environment protection Act, Safety procedure etc.

INTRODUCTION

Environmental awareness and legislation for its strict enforcement is necessary for nation to protect its eco-diversified environment as more than quarter population of country like India depends upon forest products and by product for their survival and daily use requirement. Environments include forest, national parks designated area, several international conventions also held for the inclusion of Ramsar site which is famous for their land and water mixed park best for habitation and migration of bird from different place during winter time in India for Ex- Keoladeo National park in Bharatpur, Rajasthan. People often trade and cut illegally timber woods as it has high market value. Firewood being also cut extensively as its main use for village people for their livelihood.

Many times we have witnessed that in order to collect money for those who fell down to cut down. Cut and use firewood, whether legally or illegally, from trees. Speaking of ancient A lot of people engage in illegal trade, history. Properly managed and maintained, the timber trade can be a major source of income for local communities and nations. I believe that in certain countries in particular In Africa, South America,

² L. Rajamani, Public Interest Environmental Litigation in India: Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability, 19 J. Env'tl. L. 293 (2007)

India and other countries, 50% of those who cut down the sell the timber wood illegally. Illegal harvesting and selling of around timber is taking place. Government maladministration, weak enforcement and corruption are all factors that can cause excessive degradation, land loss and monetary losses. But, since the enactment of Environment Protection Act, 1986 above mentioned activities have been reduced³.

ENACTMENT OF ENVIRONMENT PROTECTION ACT, 1986

The implementation and enactment of this law come after United Nation Convention on Environment of human and people happened in Stockholm. Which aims to protect harm against the environment and human rights of the environment. Others plants, animal,

OBJECTIVE OF ENVIRONMENTAL PROTECTION ACT, 1986

This act was created to cover the whole aspect of environmental protection in India looking human being. Environment protection includes preventing chemicals that are often drained into the rivers, making them heavily polluted protecting eco-diversified biology that being damaged for the mere profit of human beings. The purpose of Environment Protection Act, 1986 is to regulate and prevent the environment by applying safety measures setting up of sewage treatment plant near a river to treat hazardous water that is drained into the river through factory. The setting of a plan for national emergency in the situation of natural disaster to prevent spill and speedy evacuation to prevent the loss of lives.

1. He older act where were many loopholes. This act was created comprehensively frame worked to bring more clarity and stability environmental framework in India.
2. United Nation conference on human environment held in 1972 in Stockholm. India was of the participant country of this confrence to implement the decision of this confrence India enacted Environment protection act, 1986
3. The purpose of this law is to cover the loopholes that have been left previous environment laws in India and bringing clarity into the framework. Establishing coordination between the state and central authority with the

³Sharma, Dr. (2020). Impact of Environment Protection Act, 1986 on the Society. Legal Research Development. 5. 01-06. 10.53724/lrd/v5n2.02.

various environment laws in the country. This act covers all form of air, water, soil, and noise.

4. This act provide power to central government to take nessacry and effective step to protect and take action to safeguard environmet in India⁴.

Importance of This Act:

Until the 1980^s environment protection was not a major in the country like India. The government did not focus in the area to cover total environment protection in the unified and single law to enforce it throughout the country. Previous to this was speacilized law for diffrent category Air Act, 1981 The Water Act, 1974. India forest policy, 1988. After which two major series of event which lead to make the government unified law for the protection of enviornment in India. One event was stockholm confrence creating Internation pressure and another one was the bhopal gas leak disater case creating national pressure⁵

Under The Act The Central Government is Empowered to do so:

The Environment (Protection) Act, 1986 (EPA) as passed following the Bhopal Gas Tragedy of 1984 is umbrella legislation designed to fill gaps in the existing environmental legislation in India. In order to fulfil its statutory duties, the EPA gives the Central Government large and far-reaching administrative and regulatory powers, mainly in the form of administrative powers, as specified in Sections 3–6 of the Act. Section 3(1) of the EPA assigns to the Central Government plenary powers to take all measures that are "necessary and expedient" for the purpose of protecting and improving environmental quality and for the prevention, control and abatement of pollution. The administrative capacities are enumerated in Section 3(2). It provides authority to the Central Government to coordinate the action of the State Governments, to develop and implement national environmental programmes, as well as to set nationally binding standards for the ambient environment and for the emission or discharge of pollutants. Importantly, the government has the ability to limit or even ban

⁴ Lexlife India: Environment Protection Act, 1986: <https://lexlife.in/2020/05/07/environment-protection-act-1986/> Published on 07th May 2020, visited on 10th December 2020

⁵ Saurab Babu: India's Environment Protection Act, 1986 – An overview, published on 04th Dec. 2017, <https://eco-intelligent.com/2017/12/04/indias-environment-protectionact-1986/> visited on 12th December 2020

industrial activity in ecologically sensitive geographical zones, to tightly control the use of hazardous materials, and to prescribe procedures to prevent environmental accidents. Moreover, Section 3(3) of the act provides for the establishment of special statutory powers including Central Ground Water Authority or Dahanu Taluka Environment Protection Authority to facilitate implementation of these duties. In addition to standard-setting and planning, EPA provides the Central Government with powerful enforcement and coercive powers. Section 4 provides for the appointment of special officers having a wide range of powers for inspections and compliance monitoring purposes⁶.

The most effective tool of regulation, however, is contained in Section 5. This clause gives the Central Government power to make any written directions to any person, officer or authority, which are binding on them. The statute specifically states that this means the "closure, prohibition or regulation of any industry, operation or process" as well as the "stoppage or regulation of the supply of electricity or water or any other service. This enables the executive to take immediate measures to prevent serious damage to the environment, before going through long judicial proceedings. Last but not least, Section 6 gives the Central Government broad rule-making powers to establish pollutant maximums and to implement environmental labs. The EPA adopts a highly centralized administrative organization that brings together elements of standard-setting, institutional development, and punitive enforcement in the federal executive, and gives itself the power to effectively address complex environmental Issue⁷.

⁶ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* 61–63 (2d ed. 2002)

⁷Environment (Protection) Act, No. 29 of 1986, SS 3–6 (India)

CONCLUSION

Finally, the Indian story of environmental governance reflects a significant gap between the vision enshrined in statutory frameworks and the actual implementation of the policies. The government of India has created a vast repertoire of environmental laws that span from the basic Environment (Protection) Act, 1986, to more specific laws on water, air and biodiversity, but enforcement continues to be a major obstacle. Judicial innovation has historically been a key corrective mechanism, given the lack of policy, but the lack of capacity of the institutional structures (the State Pollution Control Boards) and weaker enforcement of those rules. In 2010, the National Green Tribunal (NGT) was established offering a specific forum to environmental justice that democratized access to it.

The NGT has been a gamechanger in deterring ecological damage and ensuring adherence to the law through its regular enforcement of the Polluter Pays and Precautionary Principles. But reliance on adjudicatory mechanisms is not structurally adequate for proactive environmental management. However, from an aspirational policy to effective practice will require a radical paradigm shift towards whole of government, whole of chain, proactive governance and prevention of environmental degradation, as analysts observe. First, the regulatory bodies have to be politically and industrially independent, and have to have the financial and technological means to do intensive ecological monitoring in real-time. Second, it is imperative to harmonize conflicting legal provisions to remove legal loopholes and ambiguities for effective enforcement. Last, but most importantly, it is necessary to make public participation an explicit part of the statutory framework.

Direct participation of local communities and civil society in environmental decision-making leads to policies that are translated into practice on a local level and sustainable. At the end of the day, the path towards ecological sustainability in India is not just about reactive jurisprudence. It requires the co-operation of an empowered executive, a vigilant judiciary and an engaged public. In order to achieve a resilient

environmental future for India, it is necessary to change the framework of regulation into participatory and dynamic governance systems that are strictly enforced⁸.

⁸ **Sahu, S., & Sethi, R. C. (2025).** "From Policy to Practice: Environmental Governance Framework for Sustainable Future in India." In *Integrating Climate Resilience Into Educational Curricula* (pp. 1-20). IGI Global.