



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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ENVIRONMENT LAWS IN INDIA-

PROTECTING THE EARTH IS NOT A CHOICE- IT IS A LEGAL OBLIGATION

- **Chitranshi Singh**

I. INTRODUCTION

India boasts many of the most beautiful geographical landmark in the world majestic show-covered, Himalayan ranges, extensive Gangetic plains, Western Ghats known for its biodiversity, the Sundarbans known for their mangroves and numerous rivers that had been feeding entire civilisations for centuries. Sadly, however, nowadays this natural heritage is endangered heavily. Every year, thousands of Indians die because of air pollution. Rivers are getting contaminated with both industrial and domestic wastes. The shrinking of forests is caused by intensive mining and development in general. Climate change has made droughts and floods more frequents and destructive.

In this regards, environmental law is something much bigger than a mere branch of legal service. This the field where the rule on how our society is going to preserve whatever natural resources we still have and guarantee that current generations won't deprive their successors of the opportunity to enjoy them in the future. In India, the law concerning the environment because much more developed in recent decades but, regrettably, the gulf between legislation and its practical application has become extremely wide in the meanwhile.

II. CONSTITUTIONAL FRAMEWORK

Initially, the constitution of India did not have any specific clause on the environment. However, through the 42nd Amendment of the constitution of 1976¹, there was added two significant clauses. Article 48-A² of the Directive Principles declares that it shall be the duty

¹ The Constitution (Forty-second Amendment) Act, 1976.

² INDIA CONST. art. 48-A.

of the state to improve the environment and safeguard the forests and wildlife of the country. On the other hand, Article 51-A (g)³ of Fundamental Duties states that it is the duty of every citizen to conserve the natural environment, including forests, lakes, rivers, and wildlife.

In addition, the Supreme Court of India, by an amendment in the Interpretation of Article 21⁴, when provides for the right to life, has declared that the citizens have a right to a clean and sustainable environment. In *Subhas Kumar vs State of Bihar* case (1991)⁵, the Supreme Court declared that the right to life include right to pollution-free water and air.

“The right to environment is a fundamental right. No one can be deprived of a pollution-free environment. The State has a duty to protect it”- Supreme Court of India

III. KEY ENVIRONMENT LAWS IN INDIA

India has reasonable environment laws. The following are the primary laws in the country.

The Environment (Protection) Act, 1986⁶ is the overarching act regarding environmental protection. It was passed in the afternoon of the Bhopal Gas Tragedy that took place in 1984⁷ where thousands died and many others were left injured. This act gives the Central Government sweeping powers to enact measures for environment protection and improvement of its quality. The act enables the government to put in place environment standards, regulate the use of hazardous materials and even shut down or restrict industries that harm the environment.

The water (Prevention and Control of Pollution) Act, 1974⁸ sets up Pollution Control Boards at the central and state levels to regulate water pollution. The industrial units require to seek consent from the board before disposing off their effluents in water. Non-compliance will be met with imprisonment and heavy fine. Even with such a law, all Indian rivers including those of religions significance like Ganga and Yamuna have not been able to escape severe water pollution.

The Air (Prevention and Control Pollution) Act, 1981⁹ provides for control of air pollution and improvement of air quality. Pollution Control Boards are entrusted with the task of monitoring

³ INDIA CONST. art. 51-A(g)

⁴ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597, which broadened the interpretation of Article 21 to include a wide range of rights beyond mere physical existence.

⁵ *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

⁶ Environment (Protection) Act, 1986.

⁷ Bhopal Gas Leak, 1984.

⁸ Water (Prevention and Control of Pollution) Act, 1974.

⁹ Air (Prevention and Control of Pollution) Act, 1981.

the quality of air and the emission from industries and motor vehicles. The legislation is a very old one which preceded the air pollution crisis of India and even now its implementation remains inadequate.

The Forest (Conservation) Act, 1980¹⁰ requires prior permission of the Central Government for diversion of any forest land for non-forest uses. It is a powerful provision that helped reduce deforestation. But recently the act has undergone amendment that some experts think dilute forest protection measures especially for people who live by forests.

Wildlife Protection Act, 1972¹¹ regulates the protection of wild life animals and birds; regulation of hunting and providing protection to the wildlife sanctuaries and National Parks. Efforts have made in the right direction to preserve the endangered species like tigers; but poaching, destruction of habitats, and man- animal conflicts continue to threaten these species.

The Nation Green Tribunal Act, 2010¹² was enacted for establishment of the National Green Tribunal (NGT). This is a special tribunal meant to solve environmental problems efficiently. The NGT has jurisdiction over cases pertaining to environmental protection, conservation of forests, and all other environmental laws. The NGT can provide compensation to the people who have suffered because of environmental damage. The NGT has been well appreciated for its proactive role and has dealt with thousands of cases which otherwise would have remained pending in civil courts.

IV. THE CURRENT SCENARIO: WHERE ARE WE FAILING?

However, India continues to confront an environment emergency of shocking dimensions. Delhi is always one of the worst-polluted cities of the world. Studies have shown that air pollution, which is a result of vehicular emissions, crop burning, industries, and construction, causes India a loss of billions of rupees every year in teams of health cost and economic losses. The Ganga Action Plan, which has been implemented since 1985¹³ and in which thousands of crores of rupees have been spent, has failed to make the river clean in many stretches.

There are various factors behind this failure. Pollution Control Boards are under-staffed, lack resources, and face political influence. Those industries, which are notorious violators of environmental laws, continue to operate because stopping them can affect jobs or as they are

¹⁰ Forest (Conservation) Act, 1980.

¹¹ Wildlife (Protection) Acts, 1972.

¹² National Green Tribunal Act, 2010.

¹³ Ganga Action Plan, 1985.

politically influential. Environmental Impact Assessment (which is supposed to estimate the ecological impact of the proposed project) is done in such a manner that there is a conflict of interest involved as the assessment is prepared by consultants paid by the very project promoter.

Communities of the forest and tribal areas, who have traditionally protected forests and natural resources, have been displaced owing to development activities without any proper consultation or compensation. The Forest Rights Act, 2006¹⁴, passed with the intention to protect their interests, has not been implemented with the importance it should be given. In some instances, forest areas have been diverted for various projects without seeking consent from gram sabhas.

We cannot protect the environment by writing laws alone. We must ensure that those who live closest to nature – and who depend on it most – are the first to be heard, not the last.

V. CLIMATE CHANGE AND INDIA'S LEGAL OBLIGATIONS

India has signed the 2015 Paris Agreement¹⁵, wherein it has pledged to reduce its emission intensity of GDP, increase the proportion of renewable energy sources, and develop additional carbon sinks from forests. It is commendable and shows India's active involvement in dealing with the problems of climate change.

On the other hand, climate change raises issues of justice. India's contribution to the global historical emissions is not high; however, it is the poorest section of the country, the farmers, fisherfolk, tribal groups, and slum dwellers who are highly affected. Floods in Assam, droughts in Marathwada, cyclones in Odisha, and glaciers melting in the Himalayan region are causing huge damage already. The response from the legal system should be not only a reduction in emissions, but also an effort towards building resilience and ensuring that money allocated for climate adaptation reaches the vulnerable population groups.

The Indian judiciary has recently become more active in climate litigation; Thus, the Supreme Court of India has in 2024 acknowledged the right against the adverse impacts of climate

¹⁴ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

¹⁵ Paris Agreement, 2015

change to be linked to the right to life and liberty guaranteed in Article 14 and Article 21 of the Indian Constitution¹⁶.

VI. THE ROLE OF THE NATIONAL GREEN TRIBUNAL

The National Green Tribunal has been one of the most encouraging events in Indian environment law. Unlike civil courts, the NGT has expertise, specialization in the environmental field, and an ability to take prompt action. It has issued significant orders regarding solid waste management, river pollution, emissions from vehicles, illegal constructions in environmentally sensitive areas, and conservation of wetlands and biological diversity.

But the NGT also has some problems. It suffers from non-compliance of its orders at the hands of the state government and local authorities. The mechanism for compliance is lacking. NGT too has come under criticism over delayed hearing in some cases and over its monitoring powers regarding the enforcement of its orders. There is a need to build up the institutional infrastructure surrounding the NGT to ensure that its orders make a difference on the ground.

VII. ENVIRONMENTAL LAW AND THE ORDINARY CITIZEN

Public Interest Litigation, or PIL, is another significant component of the environmental law of India. In PIL, a person can approach the Supreme Court or the High Court in his/her capacity as a concerned citizen, without having to prove himself/herself as being personally affected by the harm in question. Almost all the major environmental judgements of India have been delivered in PIL cases- the clean-up of Yamuna River, banning of diesel vehicles in Delhi, the protection of Ridge Forest, sand mining, etc.

It implies that any citizen of India whether he/she is a common man, a student, a professor, a retail official or a farmer who observes any damage to environment, can approach the court and seek relief from such wrong-doings. It is a democratic weapon of power in the hands of the people, which indicates that the protection of environment is the duty of everyone, and not only of the government alone.

The citizens can also directly approach the NGT, without a lawyer in most of the cases, and without court fees. They can lodge complaint to the Pollution Control Boards. They can demand the relevant information under the Right to Information Act about clearances given to

¹⁶ Re: Protection of Great Indian Bustard v. Union of India (2024).

industries and about the results of environmental monitoring. These legal tools are available but they need to be used more widely, by more people, more confidently.

VIII. WHAT MUST CHANGE

Implementation, accountability, and public participation are the three most important aspects of environment legislation in India.

As far as the implementation is concerned, the Pollution Control Boards have to be freed from political pressure they have to be properly staffed by skilled scientists and lawyers, and they have to have proper enforcement powers. Fines for violating environmental legislation must be strict enough to become a better solution than complying with the rules.

As for accountability, a fundamental reform of the EIA process is needed. Public hearing has to be really conducted in order to make a decision about the project. The quality of the EIA report should be improved and there has to be same independent scrutiny.

When it comes to public participation, people living near the forests, rivers, mines, and industrial areas have to participate in making the decisions concerning their environment. This is provided for already in several provisions of the environmental law in particular, under the Forest Rights Act¹⁷, in the public hearing according to the EIA Notification, and the right to file a petition before the NGT.

IX. CONCLUSION

In India, environmental law is drafted well in the sense that it reflects the country's commitment to environmental protection. The constitution provides for a sound framework from the perspective of the environment and those who have suffered due to such. Organization like the NGT are proof that there is some positive development.

However, all this will amount to nothing without implementation. The task before India is, in the coming years, to prevent its environmental law from just being on paper but making it a reality in the air that Indians breathe, in the rivers that Indians need for irrigation, in the forests that are crucial for survival of millions of people and in the climate which will determine the future of both India and the whole planet. Environmental protection is an obligation and not a burden. This is true because of what it entails and for this reason, India's environmental law

¹⁷ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition o Forest Rights) Act, 2006.

acknowledges this principle. The question now is whether or not India's practices will match its principles.

REFERENCES:

- INDIA CONST. art. 14.
- INDIA CONST. art. 21.
- INDIA CONST. art. 48-A
- INDIA CONST. art. 51-A(g)
- The Constitution (Forty-second Amendment) Act, 1976.
- The Water (Prevention and Control of Pollution) Act, 1974.
- The Air (Prevention and Control of Pollution) Act, 1981.
- The Environment (Protection) Act, 1986.
- Forest (Conservation) Act, 1980.
- Wildlife (Protection) Acts, 1972.
- The National Green Tribunal Act, 2010.
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition o Forest Rights) Act, 2006.
- The Right to Information Act, 2005.
- Paris Agreement, opened for signature 22 April 2016, 3156 U.N.T.S. 79 (entered into force 4 November 2016)
- Maneka Gandhi v. Union of India, AIR 1978 SC 597
- Subhash Kumar v. State of Bihar, AIR 1991 SC 420.