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## Greening the Indian Legal Landscape: A Comprehensive Analysis of Environmental Law and Policy in India

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### Abstract

The environment is that which surrounds us. Ruthless industrialization has inadvertently jeopardized the quality of the environment to such an extent that even the bare minimum prerequisite for the healthy life of every human being has been taken away. Environmental hazards are not only limited to the introduction of pollutants into the natural environment but also include human interference which has the potential to disturb the ecological equilibrium. The framework for the protection of the environment is premised on three intrinsic strings. The Constitution of India along with various laws acts as an instrument for preserving, protecting, and conserving the environment thereby improving its quality. This article will analyze the contemporary environmental law in India, its policies, and landmark cases.

**Keywords:** Environment, Industrialization, Environmental Law, Pollutants, and current legislation.

### Introduction

The word environment epistemologically is derived from the French preposition "environ" referring to "around", and conceptually includes both biotic and abiotic factors surrounding an organism. For the proper growth of living forms, the existence of a healthy environment is of prime importance. The byproduct of unbridled growth and ruthless industrialization has inadvertently jeopardized the quality of the environment to such an extent that even the bare minimum prerequisite for the healthy life

of every human being has been taken away. It is high time for us to rethink the growth model by giving humanitarian content to the attached normative value of development. The framework for the protection, preservation, and conservation of the environment treads on three strings- formal framework, outside formal framework, and extra-legal framework. By extra-legal framework, I mean socio-political factors influencing the efforts of environmental beings or formal plus framework. A cursory glance at these respective frameworks and their outreach and impact will lead us to believe that most of the work of protection and conservation is premised on the second and third-string, namely outside formal and formal plus. The Constitution of India contains provisions underlining the national committee for the environment on the part of the state, as its fundamental non-derogatory duty, as well as of the citizens as its fundamental duty. Apart from the constitutional provisions, there is a wide array of legislation, along with 'executively enacted' rules, notifications, and bye-laws, together constituting the formal structure of protection. Moreover, the state has been active enough that citizens' set of, civil as well as penal, laws have been enacted to regulate their conduct towards the environment; however, no such enforceable measures exist against the state. Despite this paraphernalia of laws governing environmental aspects, the environmental travesty is that India has been ranked 180 in the 2022 Environment Performance Index. Hence, earned the position of the last country in the index which shows the critical condition of India regarding its

environmental legislation and the need for improvement.

### A. Constitutional Provision of Environmental Law

The Constitution of India reflects the need for protection and conservation and under Part "IV A (Art 51A-Fundamental Duties)" it has been stated that State must 'protect and improve the environment and to safeguard the forests and wildlife of the country. "Directive Principles of State Policy (Part I, Art. 48A)" also directs on the role of the state in the protection and improvement of the environment which includes lakes, water bodies, forests, and wildlife. Although many environmental protection legislations were on the scene before 1947 the actual action and functioning of this legislation marked their presence after the UN Conference in Stockholm in 1972 which focused on Human Environment. This conference led to the establishment of the National Council of Environmental Policy and Planning (1972) within the Department of Science & Technology which later in 1985 evolved into MoEF (Ministry of Environment and Forests). At present, MoEF acts as an apex body that looks after all the aspects of environmental protection. National Policy on Pollution Abatement (1992) and National Conservation Strategy and Policy Statement on Environment and Development (1972) are a few among the several policies running for environmental management in India, however, these policies cannot be forced by law on people but they function as principles for central and state government to function.

### B. Important Legislation and Laws in India Environmental Law

Some of the Indian legal frameworks cover nearly two hundred laws focusing

primarily on issues related to the protection of the environment. v Some of the important facts and rules governing the protection of our environment are as follows:

- "The Wildlife (Protection) Act 1972: It provides for the protection of listed flora and fauna. It also establishes a network of ecologically important protected areas. This Act empowers the State and Central government to declare any area a wildlife sanctuary, national park, or closed area. This act provides a protective cover to plants and animals and also prohibits the hunting of animals".
- "The Forest (Conservation) Act 1980: This Act was passed for the protection and conservation of forests. This Act restricts the powers of the state concerning and regulates the de-reservation of forests or the use of forest land for non-forest purposes".
- "Water (Prevention and Control of Pollution) Act 1974: It is also referred to as the Water Act. The act supervises the prohibition of the discharge of effluents (pollutants) into rivers and lakes above given standards. It also directs the penalties imposed in the condition of non-compliance with the act. The water act also identifies the functions and power of environmental agencies such as the Central Pollution Control Board and the State Pollution Control Board. This was the first law passed in India to ensure that both, domestic and industrial effluents are not directly discharged into water bodies without proper treatment".
- "Air (Prevention and Control of Pollution) Act 1981: This Air Act came into the role of prevention, control, and abatement of air pollution in India. It aims at maintaining the quality of air and controlling air pollution".

- “Air (Prevention and Control of Pollution) Rules 1982: It defines the protocols for Board meetings, the powers possessed by presiding officers, quorum, etc”.
  - “Atomic Energy Act 1982: It is concerned with radioactive wastes”.
  - “The Environmental (Protection) Act 1986: E.P. Act aims at protecting and improvement of environmental quality and reducing or controlling all sorts of pollution. This acts as an umbrella that enables the central government to take necessary action to maintain standards of a healthy environment”.
  - “Hazardous Waste (Management and Handling) Rules 1989: It aims at controlling the production, collection, treatment, storage, and transportation of hazardous waste”.
  - “Public Liability Insurance Act 1991: It was enacted to provide relief funds to victims of accidents caused by handling any hazardous substance. This act applies to all owners of hazardous chemical industries”.
  - “Coastal Regulation Zone Notification 1991: Regulates the protection of backwaters and estuaries thereby ensuring security to fishing communities living in coastal areas”.
  - “National Environment Tribunal Act 1995: Aims at providing compensation for damage to humans and the environment arising from hazardous substances”.
  - “The National Environment Appellate Authority Act 1997: This was set up by the Ministry of Environment and Forests to look into the cases related to environmental clearance”.
  - “The Biomedical Waste (Management and Handling) Rules 1998: A legal binding with healthcare institutes which directs for proper disposal and segregation of hospital wastes”.
  - “The Noise Pollution (Regulation and Control) Rules 2000: The Central government framed this rule which aims at maintaining ambient air (noise) quality standards leading to the reduction of noise pollution”.
  - “The Ozone Depleting Substances (Regulation and Control) Rules 2000: It relates to the production and utilization of ozone-depleting substances”.
  - “The Biological Diversity Act 2002: It aims at the conservation of biological resources and for its implementation; The National Biodiversity Authority was established in Chennai”.
  - “E-Waste (Management and Handling) Rules 2011: Aim at reducing the use of hazardous material in electrical and electronic equipment to lower the generation of e-waste”.
- C. Statutory Bodies for promoting Environment and Control Pollution**
- Statutory Bodies for Environmental Screening and to protect and promote the environment and control pollution are as follows:
- “Ministry of Environment and Forests (MoEF): This is the administrative body of the Central Government dealing with the planning, promotion, and implementation of environmental and forestry policies in India. MoEF primarily focuses on the conservation of water bodies, biodiversity, etc”.
  - “The Central Pollution Control Board: CPCB was constituted in 1974 under the aegis of the Water (Prevention and Control Pollution) Act 1974. It aims at promoting the cleanliness of the water, improving the quality of air, and preventing water as well as air pollution. The CPCB can also issue penalties including fines and imprisonment under Water and Air acts”.

- “The State Pollution Control Boards (SPCB): The State Government also has its pollution control boards which primarily advise the State Government on the matter relating to pollution and lays down effluent and emission standards for industries. The SPCB can also issue penalties including fines and imprisonment under Water and Air acts”.

#### D. Landmark cases on Environmental Laws

Environmental law in India did not just develop and evolved over time on its own. All the amendments are parts of the decision on landmark cases regarding sports law by esteemed judicial courts of India. Some of the landmark cases of environmental laws are as follows:

- “M.C. Mehta v. Union of India (1986): This case is also known as the Oleum Gas Leak Case. The Supreme Court of India, in this landmark case, established the “strict liability” principle for hazardous industries. It also ordered the closure of several hazardous industries in Delhi”.
- “Vellore Citizens Welfare Forum v. Union of India (1996): This case is also known as the Vellore Leather Case. The Supreme Court of India, in this case, directed the closure of all polluting industries in the state of Tamil Nadu. It also laid down the “precautionary principle” for environmental protection”.
- “Indian Council for Enviro-Legal Action v. Union of India (1996): This case is also known as the Ganges River Pollution Case. The Supreme Court of India, in this case, directed the central government and state governments to take measures to prevent pollution of the Ganges River”.
- “M.C. Mehta v. Kamal Nath (1997): This case is also known as the Taj Trapezium Case. The Supreme Court of India, in this case, directed the closure of several industries in

the Taj Trapezium area to protect the Taj Mahal from pollution”.

- “Subhash Kumar v. State of Bihar (1991): This case dealt with the issue of illegal mining in forests in Bihar and the Supreme Court directed the government to take steps to prevent illegal mining and restore the forest cover”.
- “T.N. Godavarman Thirumulpad v. Union of India (2006): The Supreme Court directed the closure of all illegal mining activities in the states of Goa, Karnataka, and Odisha. It also ordered the establishment of a central empowered committee to monitor mining activities in the country”.
- “MC Mehta v. Union of India (2017): The Supreme Court banned the sale and registration of vehicles that do not comply with Bharat Stage IV emission standards in the National Capital Region”.
- “Bichhri village v. State of Rajasthan (1996): In this case, the Supreme Court held that the right to a clean environment is a fundamental right under Article 21 of the Constitution of India”.

#### Conclusion

The Courts of India have tried to implement environmental laws through PIL (Public interest litigation) led by public-spirited citizens contributing to a better environment. Environmental sustainability can be improved by addressing the environmental abuses by the industries and can be forced to pay penalties for non-compliance with the laws. The need for the present is to maintain balance and harmony between the growth and environment of a country since both are equally important. The National Green Tribunal should be well-equipped to resolve the complex problems related to pollution. Society shows its dual behavior concerning cleanliness, as people prefer clean homes on one hand, and on the other, they spill out the garbage and pollutants in their surroundings. Such a contrasting situation is a big problem; therefore behavioral changes concerning the environment should be brought. India has been known for its spirituality

for ages. Our ancestors have been great followers and worshippers of water bodies and nature. Resources such as plants, trees, and landscapes. Their eco-friendly belief promoted a healthy environment in the past which has been ruined in present at the expense of development and growth. Now the rivers of India are turning out to be dumping sites of wastes that are threatening the state for all sorts of life forms. The pace of degradation of the environment has been increasing continuously which has led to the formulation of different environmental acts and rules. The environmental problems can be solved by increasing awareness of these environmental laws and building up an environmentally conscious being in society.

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