

## 6. Environmental Laws in India

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### **Abstract:**

Environment is defined as the totality of human surroundings. Environment means the nature and ecology surrounding a society. Environment includes nature and natural resources in a society. The common constituents of environment are earth i.e. land, water resources, air and natural resources like minerals, metals, forests, rivers, ground water etc. Environmental laws comprise of all legal rules, strategies or guidelines that are envisioned to protect our environment.

The main objective of environmental laws is to preserve and protect the natural environment i.e. air, water, earth, forests, rivers etc. from pollution. Further, the objective of environmental law is to permit a life of dignity and wellbeing to everyone and which also protect the man's fundamental rights of freedom, equality and suitable conditions of life. Thus, the objective of the present paper is to discuss various environmental laws of India and to suggest ethical practices and its need or importance to control pollution.

### **6.1 Introduction:**

Today's generation is going through a valuable phase. Nature and environment. Which gave birth to man and nursed him in its peril. Environmental preservations, on which the very existence of mankind is dependent, is posing an overriding challenge to him. Environmental degradation is not a new problem. It has been arising ever since the human civilization began on earth and man began to exploit the natural resources for his survival. At that time the natural resources for his survival. At that time the population was not so imposing a problem as it is now.

Therefore, environment was not much affected. With the arrival of western culture in India, consumerist culture began to flourish, and worked havoc on environment. Nature and environment was given great importance from the Rigvedic period the medieval period. A Sulkta (Verse) of Rigveda states that, "The sky is like a father, the earth is like a mother and the space like their son.

This, universe consisting of these three is like a family. Any kind of damage to any one of the three throws the universe off balance". The aim in giving such messages was to warn the people of the hazards of environmental pollution. In Chanakya Niti, it is said that planting even single tree with fruits and flowers makes the environment full of fragrance just as a family becomes delighted with a worthy son. Hence, we will be safe, so far the earth is full of nature.

## **6.2 Environmental Protection: Who's Concern?**

The main power is in the hands of Central Government to take all such measures as it considers necessary for the people of the country through which to protect and improve the quality of environment and to prevent environmental pollution. It can lay down standards for quality of environment / emissions or discharge of pollutants, specify areas where certain industries shall not be located and in other cases may lay down measures and safeguards for inhibition of accidents that may cause environmental pollution. The government may also examine manufacturing or other processes that can cause pollution, inspect, investigate and carry out related research besides establishing / recognizing environmental laboratories and institutions to carry out functions entrusted under the act. There is heavy punishment of contravention of Act, rules, direction in the form of fines of imprisonment, or both, irrespective of the fact that the defaulter is a firm, company or government department. The Government, if it deems fit, may direct closure, prohibition, or regulation of an industry, operation and process or that of any service such as electricity, water etc.

## **6.3 Environment Protection in India:**

Environmental disasters can create serious problems to the society. Bhopal gas tragedy was the greatest industrial disaster in the world that took place on 3 December 1984 at a Union Carbide pesticide plant in the Indian city of Bhopal, Madhya Pradesh. The plant accidentally released methyl isocyanate (MIC) gas, exposing more than 5, 00,000 people to MIC and other chemicals. The first official immediate death toll was 2,259. Around 25,000 people have since died from gas-related diseases, making it the deadliest man-made environmental disaster in history. Another tragic incident occurred on July 14, 2010, when chlorine gas leaked from the Sewri industrial area on land owned by the Mumbai Port Trust and nearly 76 people were treated in hospital. The infamous list of the most polluting industries in the world includes industries of recycling of lead batteries, lead industry, mines, tanneries, industrial discharges or municipal industrial sites, artisanal gold mining, manufacturers, petro chemistry, drycleaners.

Indian government, entrepreneurs, politicians and businessmen all have now realized that the time has come to consider seriously about this severe issue of environment pollution. India's approach towards environment issue is changing and social workers, NGOs and government involvement in environmental concern is increasing. To make our younger generations aware of environmental theories, laws, harms and effects of environment pollution, a subject in the course curriculum has been started at different stages. Even before India's independence, several environmental legislations existed but the real impetus for bringing about sophisticated framework came after the UN conference on Human Environment which was held on Stockholm in 1972. After that environmental policy and planning was done with the department of science and technology which was set up in 1977. This council later on in 1985, grown into full-sized ministry of environment and forests (MOEF). Today, it is the apex administrative body for regulating and ensuring environmental protection in the country. The Environment Protection Act, 1986 was enacted under Art. 253 of the Constitution of India to contrivance the decisions of UN Conference on Human Environment which was held at Stockholm for providing a progressive policy for protecting the eco-system.

## **6.4 Regulatory Framework of Environment Protection in India:**

Under Indian Constitution, the Directive Principles of State Policy directs the state to ensure protection and improvement of environment and to protect forest and wild life. The Directive Principle of State Policy on Environment has been eloquently articulated in Article 48A of the Constitution, introduced by the 42<sup>nd</sup> Amendment in 1977. It is mentioned in that, the State shall make an attempt to protect and improve the environment and to protect or safeguard the flora and fauna of the country. Similarly, Article 51 (A) (g) lays down protection and improvement of environment as one of the fundamental duties of every citizen. This duty of citizens would mean that it is the duty of every citizen to protect and improve the environment together with lakes, forests and wild life and to have concern for all living creatures of the country. Ministry of Environment and Forest (MoEF) is responsible to enforce the Regulations established pursuant to major legal enactments which are as under:

- a. The Water (Prevention and Control of Pollution) Act was passed in 1974. This Act provides several measures to keep the level of water pollution caused by the discharge of effluents by industry in rivers, lakes and similar water sources. It also makes it compulsory for the industries to install the water purifying equipment so as to keep the pollution within limits.
- b. The Air (Prevention and Control of Pollution) Act 1981 provides several measures to keep the level of air pollution caused by smoke, fume, dust, and gas etc., emitted by industry.
- c. The Environment (Protection) Act was enacted in 1986 with the objective of providing for the protection and improvement of the environment. This legislation was passed to regulate the pollution caused by industry and to save the environment. As per this law no polluting industry can be started without obtaining the approval of appropriate authority. The approval is granted if the level of pollution caused by such industries is within the permissible limits. To keep the pollution under control a central pollution control board has been established along with state pollution control boards.
- d. Public Liability Insurance Act 1991 was made for the purpose of providing relief to the persons affected by accident occurring while handling any hazardous substance and matters connected therewith or incidental thereto.
- e. National Green Tribunal (NGT): The National Green Tribunal was established under the National Green Tribunal Act 2010. The main aim of this Act is to effectively and promptly dispose of the cases relating to environmental protection and conservation of forests, wildlife and other natural resources of the country. It is like a specialized body having necessary know-how to handle various environmental disputes involving various issues. The Tribunal shall be guided by principle of natural justice and is not bound by the procedure laid down under the Code of Civil Procedure, 1908.
- f. The Tribunal's dedicated jurisdiction in environmental matters shall provide speedy environmental justice. It helps to decrease the burden of hearing before the courts. The Tribunal is also directed to make an attempt promptly to dispose of the applications or appeals within 6 months of the filing. National Green Tribunal will require to follow a procedure which make it more accessible. For that, it is proposed to set up at five places of sitting which includes New Delhi as the major place of sitting and other four place of sitting are Bhopal, Pune, Kolkata and Chennai.

- g. The Prevention of Cruelty to Animals Act 1960 is to prevent the infliction of unnecessary pain or suffering on animals and to amend the laws relating to the prevention of cruelty to animals. After the enactment of this Act, the Animal Board of India was formed for the promotion of animal welfare.
- h. The Government of India enacted Wild Life (Protection) Act 1972 with the main objective of effectively or efficiently protect the wild life and its derivatives of the country. It further controls the illegal trade, plundering and smuggling in wildlife. The Act have made rigorous or strict punishment as well as penalty for offences of the same. In January 2003, the Act was amended. It further proposed by the Ministry to make amendments in the law by announcing more rigid measures in order to strengthen the Act. The objective is to provide protection to the listed endangered flora and fauna and ecologically important protected areas.
- i. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, recognizes and provides rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers over the forest areas occupied by them. It further provides a framework for the same.
- j. Forest Conservation Act 1980 was enacted which provide rules for protection of and the conservation of forests of the country. It strictly restricts and regulates the de-reservation of forests. Without approval of Central Government, it restricts the use of forest land for non-forest purposes.
- k. Indian Forest Act, 1927 make the law relating to forests timber or produce. It makes laws on the transportation of forest-produce and the duty leviable on timber and other forest-produce.
- l. Biological Diversity Act 2002 aims at conservation and sustainable use of biological diversity or resources and its components of the country. It also provides fair and equitable distribution of the benefits arising out of its use. Further, through a just process for purposes of implementing the objects of the Act it establishes the National Biodiversity Authority in Chennai.

### **6.5 Can Environmental Laws Bring Sustainable Development?**

Article 14 in constitution of India clearly provides for equality before laws and equal protection of laws, which is one of the concepts of Rule of Law as propounded by Sir A.V. Dicey. Hence it may be safely be said that, if we adhere to the law, we can protect the environment and bring the sustainable development, because it is said in Upanishads that,

“Law is the King of Kings. He (king) is not above the law. If he violates the law then him (even the king) could be punished like another citizen.

### **6.6 Role of Activists in Sustainable Development:**

The laws have not stopped pollution of the country’s air, water and land. The country’s forests present a bleak picture. Poverty and crass commercialism have been responsible for the rapid depletion of the rich ecological resources of India. Specialists and environmental activists have played a useful role in generating public awareness and attracting Government’s attention to the ignorant poor and their wanton destruction by rapacious commercial interests.

Their success has been dramatic, but limited. Community pressure to protect the environment is also a powerful factor than the formal rules. In many localities such efforts had set in motion sustained environmental reforms.

For example, 1960 in Japan the local medical association began to petition against oil refinery emissions and the health damages they caused. Many factories made an agreement and they were able to curb the pollution.

## **6.7 Ethical Practices to Control Pollution:**

Following are the ethical practices or approaches to control pollution:

### **6.7.1 Self-Regulation:**

The finest way to control pollution is self-restraint by industrial enterprises. Business enterprises must adopt themselves the measures so that there is minimum loss to environment. Self-regulation by enterprises includes any of the following environment friendly practices:

**a. Limited Extraction of Natural Resources:** Industries should exploit only that much of natural resources which are essentially required and which get replenished in a natural way. For example, only that much trees be cut during a time period which grow up naturally. Similarly water harvesting may be undertaken to maintain ground water.

**b. Replenishment:** Enterprises must try to replenish natural resources extracted. For example if an enterprise cuts 10,000 trees, it must plant similar number of trees and ensure that these grow.

**c. Least Waste:** Business enterprises must not take the nature for granted they should not waste natural resources.

**d. Environment Friendly Technology:** Business enterprises should adopt such technology that does not adversely affect environment. For example refrigeration industry may use eco-friendly gases in place of CFC, which has tempered the ozone layer.

**e. Recycling Waste:** Enterprises must reuse and recycle their waste. They should not throw the industrial waste as it is.

**f. Segregation of Waste:** Industrial waste must be divide into two parts i.e. Biodegradable substances and other before throwing them.

**g. Education and Awareness:** Enterprises must take awareness and educational programmes to inform their workers and public at large about environment issues.

**h. Environment Audit:** Enterprises should evolve a system of environment audit to access the damage made to environment periodically.

**i. Compliance of Environmental Laws:** Business enterprises must follow the laws made to check pollution. They must adhere to norms of air pollution, water pollution, noise pollution and land pollution.

**j. Upgradation and Modernization:** Industries must keep on modernizing their plant and machinery to check the pollution. They should spent on buying the latest technology.

### **6.7.2 Pollution Standards:**

Pollution can also be controlled by establishing pollution standards in areas like emission of smoke or gases, level of noise, treatment of discharges. In India Pollution Control Board has prescribed standards of emission of gases, heat and smoke. Industries emitting gas or smoke more than the standard prescribed are required to install equipment's to control pollution. To regulate pollution from smoke caused by automobiles, Euro-III emission norms have been enforced. Before throwing the industrial discharge, industries are required to clean and treat it.

### **6.7.3 Environment Audit:**

Environment audit means carrying out a complete check to ascertain loss to environment. It is carried out after a specified time interval. The exercise involves locating the reasons causing pollution and prescribing measures to rectify it. It studies sources of air, water and land pollutions.

### **6.7.4 Ban:**

A ban on certain activities can help to control environment pollution. Some of these measures include;

- Ban on use of timber and wood in industry
- Prohibition on cutting trees.
- Prohibition on discharge of effluents without treatment.
- Installing such equipment so as to minimize air pollution.
- Ban on use of leaded petrol.
- Introduction of use of Compressed Natural Gas (CNG).
- Banning smoking in public places.
- Ban on use of toxic substances by industries.
- Ban on use of polythene bags.

## **6.8 Need and Importance of Pollution Control / Prevention of Pollution:**

Some of the reasons to control pollution are as follows:

**a. To save environment:** All types of pollutions need to be checked to preserve and protect environment. If we do not check air pollution, ecological balance will be disturbed.

For example, the cutting of forests has not only reduced the agriculture land but has also depleted the flora and fauna. Availability of wood, firewood, chemicals, herbs, medicines and other forest and natural produces has reduced to a large extent. Air pollution is increasing global temperature, melting glaciers, reducing rain and increasing deserts. Similarly due to water Pollution Rivers, lakes and ponds have contaminated and their water is becoming unusable. Land pollution has even contaminated the ground water.

Thus pollution has depleted the availability of water and other natural resources for business and industry. It is therefore necessary to save environment so as to protect water reserves, forest reserves, prevent global warming and to avoid such climatic changes, which endanger the mankind and adversely affect business environment.

**b. To Prevent Health Hazards:** Pollution directly spoils environment. It lowers air quality, contaminates water and erodes land fertility. These pollutions together adversely affect human health. For example, noise pollution has caused hearing problem, problem relating to heart and blood pressure. Water pollution has added several water borne diseases. Air pollution has caused breathing ailments like bronchitis and other respiratory disorders. The incidence of heart and respiratory ailments in industrially developed cities has increased several times as compared to villages having almost zero pollution. Industrial diseases relating to lungs, brain, blood, skin and nervous system are increasing at a high rate. Therefore, pollution caused by industry has adversely affected health of masses. Business and industry owe responsibility to control pollution to save mankind.

**c. To Prevent Economic Losses:** Cost incurred by an enterprise is directly related to level of pollution. Higher the pollution level, higher the recurring cost. For example, special protective clothes / dress with gears or guards are to be provided to workers working in industrial processes, which emit greater smoke, gas, fume dust or heat etc. Similarly, expenditure on dress and washing etc. is also to be incurred. Industries with risky and hazardous processes need to spend on medical facilities and compensation to workers if they contact any disease caused by pollution. Pollution also affects the old monuments and cultural heritage in its surroundings. For example, the pollution of industries at Agra has immensely damaged the white stone of Taj Mahal. To save Taj the Supreme Court of India intervened and ordered closure of industry around Taj. The government has incurred heavy expenditure on protection of Taj from industrial pollution. Similarly to clean up Yamuna and Ganga government has incurred huge expenditure. Thus pollution has its economic coat as well losses, which can be prevented if business units keep pollution level in control.

**d. To Avert Natural Disasters:** Pollution disturbs balance of nature. Nature when disturbed takes its revenge by causing floods, earthquake and epidemics. Large scale cutting of forests and mining activities have lessened vegetation cover, resulting in large land becoming barren and mountains losing their natural grip. For example, unchecked mining activities in Aravali ranges of Rajasthan and Haryana has lowered ground water level, reduced rains and increased temperature in surrounding states. Haryana and Delhi have recently witnesses several jerks of earthquakes. To check this, the Supreme Court of India banned all deforestation and mining activities in Aravali ranges. Similarly, the unchecked cutting of trees in Himalayan ranges has also been regulated to save further melting of glaciers, the prime source of water for northern India.

## **6.9 Conclusion:**

Finally, it can be said that the pollution is an evil but no one can get out of it and hence it is not the responsibility of any single party. Here we can quote the observation of Justice Krishna Iyer. “Ultimate solution is not theoretical constitution and black letter laws but a profound movement for justice to Nature and Homosapians”. Thus, it is true that neither law nor judiciary (Rule of Law) can only bring sustainable development; unless a well mobilized public opinion (Rule of People) is created against environmental pollution by making people aware of its benefits.

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