

Environmental Protection Laws in India

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***Abstract---** This paper discusses Environmental pollution and the various aspects of it. It talks about how the earth is being continuously contaminated by various activities of humans. The sources of pollution have been discussed, the major source being fossil fuels, the other sources include livestock farming and trading activities. The paper throws light at the various laws that have been brought into force in India to curtail the environmental harm and various decisions given by the Supreme Court by way of Public Interest Litigations. It concludes with the urgent need of the governments of various countries to come together in order to combat the crisis facing the world.*

***Index Terms---** CRISIS, ENVIRONMENT, JUDICIARY, LAWS, NATURAL RESOURCES, POLLUTION.*

I. INTRODUCTION

The amalgamation of all the things, whether living or non-living, on the planet Earth can be termed as Environment. It has within its ambit, all the elements that play a role in the growth and development of the organisms on the planet. Many organisms are born with the inherent capability to the changing environment as environment by its nature is ever changing. A lot of the organisms on the other hand are not capable of dealing with the changes in the environment which leads to environmental stress.

In the more recent years, the environment has started to show the ill effects of years of exploitation by the human kind in order to give way to infrastructure for a more enhanced lifestyle. "Environment is the immediate surrounding space around man. It includes a biotic and biotic component. So environment not only means our environment but also varies of issues connected with human activity and its impact on natural resources. It has been observed that in recent past far reaching changes have taken place. Man has played a key role in modifying the environment in his constant efforts towards improving the standard of living"¹

The living beings are highly dependent on the natural environment in order to satisfy their needs such as oxygen, food and shelter. "The things that man requires for his survival and comfort are called the resources. The environment is a reservoir of resources. Maintaining the natural resources of the environment and their careful use is called conservation. The conservation of environment involves the conservation of the natural resources."²

The health of the organisms is highly dependent on the health of the environment. Only a healthy environment will be able to yield resources which are vital for the survival of these organisms. "All our needs, big and small are being met

¹ L.D Saini, Environmental Education, Kalyani publisher, Ludhiana, p 1.

² Our Environment Introduction, Retrieved from <http://www.tutorvista.com/content/science/science-ii/environment>.

by the environment. However, man having reached the pinnacle of evolution is trying to bring about changes in the environment to suit his convenience. Unfortunately, this convenience is temporary. In the long run, man is losing out on a healthy environment.”³

Environmental Pollution:

“Environmental pollution is “the contamination of the physical and biological components of the earth/atmosphere system to such an extent that normal environmental processes are adversely affected”⁴ Pollution causes disturbance in the day to day lives of the living organisms as it contaminates the environment the organisms live in. The said pollution can be in the form of chemical substances or noise, heat or light. “Pollutants can be naturally occurring substances or energies, but are considered contaminants when in excess of natural levels.”

Pollution is caused when a substance is accumulated in the environment at a rate which is higher than the environment can accommodate. These substances then accumulate and harm the environment as they cannot be dispersed, broken down or recycled.

“Environmental pollutants are constituent parts of the pollution process. They are the actual “executing agents” of environmental pollution. They come in gaseous, solid or liquid form. It is interesting to note that, as of 1990, there were around 65,000 different chemicals in the marketplace, i.e. potential environmental pollutants that were to be released into air, water and land on a regular basis.”⁵ As of 2020, there has been a rapid increase in the pollutants and environmental pollution has become one of the major problems faced collectively by the world and calls the whole world to come together to take stringent measures to combat this crises.

Three general features of the Environmental pollutants have been identified by Miguel A Santos as follows:⁶

- “Pollutants don't recognize boundaries, i.e. they are Trans boundary”;
- “Many of them can't be degraded by living organisms and therefore stay in the ecosphere for many years”;
- and
- “They destroy biota and habitat”.

“These points emphasize that pollutants present a serious long-term global problem that affects more or less every country and, therefore, can only be solved by a coordinated set of actions and unwavering commitment of nations to international environmental agreements. In order to develop and implement an effective international policy for pollutants’ management, it is important, among other factors, to understand their decomposition mechanisms. We know that decomposition of pollutants can occur either biologically or physic chemically.”⁷

³ Id.

⁴ Kemp, D. D. (1998). *The Environment Dictionary*. London: Rutledge, p. 129.

⁵ Santos, M. A. (1990). *Managing Planet Earth: Perspectives on Population, Ecology, and the Law*.

⁶ Ibid

⁷ Ibid

II. SOURCES OF ENVIRONMENTAL POLLUTION

II.I. Pollution through fossil fuels:

Fossil fuels, today, are used in many facets of life and have become unimaginable to live without. Their presence can be seen everywhere ranging from motor vehicles to the power generating industry. They are also vital for the manufacturing of products such as detergents, solvents, lubricating oils, chemicals used in industries, etc.

When these fossil fuels are combusted, it leads to very high level of pollution. The pollution through fossil fuels is not limited to air but also leads to soil and water pollution. For instance, there are oil leaks when the oil is transported from one point to the other through pipelines or ships. An oil leak through the pipeline pollutes the soil and the oil seeps through the soil and further pollutes the ground water. If the oil is being transported through ships, an oil spill causes great damage to the marine life.

II.II. Pollution through other sources:

Livestock farming is one of the major causes of environmental pollution today. The practice leads to major levels of ammonia emission which is very harmful to the environment. Other than the ammonia emissions, the practice also involves the use of high amounts of pesticides and fertilizers which contributes to the pollution through contaminating the water and soil.

The trading industry contributes to the pollution as well. The packaging of the products sold in supermarkets as well as online requires a large amount of material that is often non-biodegradable and only ends up in dumping grounds or municipal incinerators which leads to soil and air pollution.

III. LAWS RELATING TO ENVIRONMENTAL PROTECTION

The constitution of India states that “it is the duty of the state to protect and improve the environment and to safeguard the forests and wildlife of the country.” The constitution also bears upon the citizens, the duty “to protect and improve the natural environment including forests, lakes, rivers, and wildlife.” In 1980, the Department of Environment was set up to work towards maintaining a healthy environment in the country. The department was later given the status of Ministry of Environment and Forests in 1985.

The Bhopal gas tragedy shook the country to the core and environmental hazards were started to be seen in serious light. This led to the birth of the Environmental Protection Act, 1986. This is considered an umbrella legislation as it fills the voids that were present in the already existing laws. This also paved way for other laws such as Management of Hazardous Waste Rules, 1989.

The central government is authorized through the Environmental Protection Act to work towards a better environmental quality. The Act endeavours to control and reduce pollution as it enables the government to prohibit the establishment of industries which can cause potential threat to the environment. The permissible limits of emission are laid down by the Environmental Protection Rules, 1986 while the Hazardous Waste (Management and Handling) Rules,

1989 deals with the handling of hazardous substances through giving out the ways of their generation, collection, treatment, import, storage, and handling. The Public liability insurance Act was enacted in order to draw liability of the individuals for the harm caused to the public through mishandling of hazardous substances. The National Environment Appellate Authority Act was brought into force for appeals regarding industries emitting hazardous waste. The hospitals are also required to keep a check on the biomedical waste produced and dispose it off in a proper manner so that it does not harm the environment. The rules regarding this are laid down in The Biomedical waste (Management and Handling) Rules, 1998. The Environment (Siting for Industrial Projects) Rules, 1999 sees to the fact that the industries are not set up in areas which are more prone to environmental harm. The Ozone Depleting Substances (Regulation and Control) Rules have been laid down for the regulation of production and consumption of ozone depleting substances. Batteries pose a threat to the environment if disposed of negligently and hence The Batteries (Management and Handling) Rules, 2001 give directions to the persons dealing with batteries such as the manufacturers, importers, assemblers, dealers and auctioneers regarding the handling of batteries in a careful manner. Noise pollution, which is another major source of environmental pollution has been dealt with in The Noise Pollution (Regulation and Control) (Amendment) Rules, 2002. These rules lay down the provision regarding the permissible use of loud speakers.

The forests and wildlife are also protected by the government by way of various Acts and Rules which oversee the safeguards to be granted to certain areas of high environmental value. The Indian Forest Act and Amendment, 1984 is one of the colonial Acts. It deals with the transportation of forest raw materials and the duty to be levied on timber. The protection of birds and animals is ensured by The Wildlife Protection Act, Rules, 1973. Water conservation is also necessary to ensure a good environmental health and to see the same, The Water (Prevention and Control of Pollution) Act establishes an institutional structure for preventing and abating water pollution. It establishes standards for water quality and effluent. Polluting industries must seek permission to discharge waste into effluent bodies. The Water (Prevention and Control of Pollution) Cess Act, 1977 provides for the levy and collection of cess or fees on water consuming industries and local authorities.

IV. INDIAN JUDICIARY AND ENVIRONMENT PROTECTION

The judiciary has time and again given judgments and orders to ensure that the environment protection is prioritized as it is the need of the hour. Public Interest Litigations are a tool in the hands of the public to bring to the notice of the courts, any public grievance including that relating to the environment and it is the PIL which has enabled the judiciary to actively participate in the process of environmental protection. Some of the cases decided by the Supreme Court in this regard are as follows:

M. C Mehta v State of Orissa⁸

In this case, a petition was put forward to the Supreme Court concerning the pollution being caused by the Municipal Committee of Cuttack and the SCB Medical College Hospital, Cuttack through sewage. The petitioners contended that the untreated waste water from the hospital was being dumped in the canal due to which the residents were facing serious

⁸ AIR 1992 Ori 225

health hazards.

The court condemned the act of the authorities and directions were given to the government to take immediate actions as regards to the matter. Recommendation was made to set up a committee to prevent and control water pollution in the state. The court said, “A responsible Municipal Council is constituted for the precise purpose of preserving public health. Provision of proper drainage system in working conditions cannot be avoided by pleading financial inability.”

M. C Mehta v Union of India⁹

In this case, the petitioner contended that the industries located around the Taj Mahal were producing sulphuric acid in the air which had a corroding effect on the marble of the monument. This led to the demarcation of 10, 400 sq. Kms. of area around Taj Mahal as Taj Trapezium and the industries were directed to shift to eco-friendly fuel and the Tanneries in the area were asked to shift from the trapezium.

M. C. Mehta (Badkhal and Sujratkund Lakes Matter) vs. Union of India¹⁰

It was said by the Supreme Court that the Constitution of India, through Articles 21, 47, 48A and 51A (g), directs the state to work towards protecting the environment and improving it. It talked about the precautionary principle which mandates the state to anticipate, prevent and attack the causes of environment degradation.

V. CONCLUSION

Environment is a vital part of human existence as there can be no life without the environment. This fact makes environment protection of utmost importance. There is an urgent need to protect the environment as it has been deteriorating at alarming rates. The natural resources such as Air, water and soil are being continuously contaminated by the activities of humans such as industrialization and scientific advancement. People need to have a collective realization that the environment needs to be protected before there is nothing left to be saved.

The forests are in a constant threat from the human activities. It has been estimated that over half of the world's tropical forests have already been lost. Forests are home to a large number of species of plants and animals and provide water and food to a large number of population.

Courts have displayed instances of judicial activism as regards to environmental protection. Certain activities harming the environment have been prohibited and certain measures to ensure a healthy environment have been brought into force. Though just making of policies is not enough, their implementation is of equal importance. The government needs to take efficient steps in order to combat the environmental crises. The governments of the world need to come together and realize the crucial need of the hour before it is too late to do anything.

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⁹ AIR 1997 SC 734

¹⁰ W.P. (C) No.4677/ 1985

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