

## ENVIRONMENTAL LAWS AND ACTS IN INDIA

Snigdha Panda\*

Tilottama Senapati\*\*

### ABSTRACT

To protect the environment, laws are enacted at regional, national and international level. The Ministry of Environment and Forests (MoEF) of India is the apex administrative body for regulating, ensuring environmental protection and formulating such laws. These laws reflect the Government's concern about environmental protection and conservation.

**Key words:** Environmental Laws, Acts

\* Snigdha Panda completed her graduation in 1992 from Utkal University, M. Sc in Botany 1994 from Sambalpur University and M Ed in 1998 from Utkal University, Odisha. Presently, she is working as Assistant Teacher in Government High School, IRC Village, Bhubaneswar, under Director, Secondary Education, Odisha, India.

\*\* Tilottama Senapati completed her graduation with Education (Honours) from Samanta Chandra Sekhar College, Puri, Odisha in 1983, M A in Education 1985 and M Phil in Education 1988 from Ravenshaw College (presently known as Ravenshaw University), Cuttack, Odisha. She was awarded Ph D in 1993 from Utkal University. She has already published 33 papers and 23 articles in different journals, newspapers, magazines and books. She has already guided 29 scholars. Presently, she is working as Assistant Director in Directorate of Teacher Education and State Council for Education, Research and Training, Government of Odisha, Bhubaneswar.

## INTRODUCTION

Environmental hazards are occurring frequently throughout the world. It is alarming as civilization progress with advances in science and technology. The reasons for frequent occurrences of these hazards may be due to population growth, industrialization, and increase in production of crops, conversion of forest land into agriculture, residential plots and industrial use. To protect the environment, laws are enacted at regional, national and international level. Constitution of India describes the responsibility of Central and State governments towards environmental protection. Article 48(A) of Indian constitution states, “the state shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”. This paper describes available policies, principles, acts and laws formulated at different time for protecting the environment in India.

### **Environmental policy of Government of India:**

A good environment is a constitutional right of the Indian Citizens. Directive Principles of State Policy 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'. It imposes Fundamental duty on every citizen 'to protect and improve the natural environment including forests, lakes, rivers and wildlife'.

The Ministry of Environment and Forests (MoEF) of India is the apex administrative body for (i) regulating and ensuring environmental protection; (ii) formulating the environmental policy framework in the country; (iii) undertaking conservation & survey of flora, fauna, forests and wildlife; and (iv) preparing plan for promotion, co-ordination and overseeing the implementation of environmental and forestry programmes. The Ministry is also the Nodal agency in the country for the United Nations Environment Programmes (UNEP). The organizational structure of the Ministry covers number of Divisions, Directorate, Board, Subordinate Offices, Autonomous Institutions, and Public Sector Undertakings to assist it in achieving all these objectives.

Besides, the responsibility for prevention and control of industrial pollution is primarily executed by the Central Pollution Control Board (CPCB) at the Central Level, which is a statutory authority, attached to the MOEF. The Government has enacted several laws for Environmental Protection. Following is a list of the environmental legislations that have come into effect.

**General****1986 - The Environment (Protection) Act:**

The necessity of the Act was felt after the severe Bhopal gas tragedy. This Act was conceived as an Umbrella Act.

General Powers of the central Government (with reference to this Act) are as follows:

The central Government has assumed wide powers under the act to make appropriate measures as deemed fit for the purpose of protecting and improving controlling environmental pollutions. Such measures are as follows

- i) Co-ordination of actions by the State Government officers and other authorities under this Act and rules made under any other law on line relating to the subjects of the Act.
- ii) Planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution.
- iii) Laying down standards for the quality of environment in its various aspects.
- iv) Laying down standards for emission and discharge of environmental pollutants from various sources.
- v) Restriction of areas in which operation on process of industries or class of industries shall not be carried out or shall be carried out subject to certain safeguards.
- vi) Laying down procedures and safeguards for prevention of accidents which cause environmental pollution and remedial measures for each accident.
- vii) Laying down procedures and safeguards for handling hazardous substances.
- viii) Examination of such manufacturing process materials and substances that is likely to cause environmental pollution.
- ix) Inspection of plants, machineries, processes etc. and giving such orders to persons, officers or authorities for prevention, control and abatement of environmental pollution.
- x) Regulations of the need for establishment of environmental laboratories and institutes to carry out functions laid down under the Act.

- xi) Collection and dissemination of information in respect of matters relating to environmental pollution.
- xii) Such other matters the central government may deem fit for securing effective implementation of the provisions of the Act.

### **Penalty under the Act- Section 15**

The section provides the punishment which may be imprisonment for a term which may extend to five years or fine up to one lakh rupees or both. In case of environmental pollution countries, in addition to above, he may be punished with a fine, which may extend to five thousands rupees for each day. In the environmental pollution countries beyond a period of one year after the date of conviction, the offender shall be punished with imprisonment, which may extend to seven years.

**1986 - The Environment (Protection) Rules** lay down procedures for setting standards of emission or discharge of environmental pollutants.

**1989 - The objective of Hazardous Waste (Management and Handling) Rules** is to control the generation, collection, treatment, import, storage, and handling of hazardous waste.

**1989 - The Manufacture, Use, Import, Export, and Storage of hazardous Micro-organisms/ Genetically Engineered Organisms or Cells Rules** were introduced with a view to protect the environment, nature, and health, in connection with the application of gene technology and microorganisms.

**1989 - The Manufacture, Storage, and Import of Hazardous Rules** define the terms used in this context, and sets up an authority to inspect, once a year, the industrial activity connected with hazardous chemicals and isolated storage facilities.

### **1991 - The Public Liability Insurance Act and Rules and Amendment, 1992:**

The law was enacted to provide immediate relief to the victims of an accident involving a hazardous substance. To achieve this object, the Act imposes 'no fault' liability upon the owner to compensate the victims irrespective of any neglect or default on her part. The Act stipulates the maximum compensation in respect of damage to private property to Rs6.000/-. The right of a victim to claim additional relief under any other law is expressly reserved.

The Act obligates every owner to take out an insurance policy covering potential liability from an accident. An accident is defined to cover a sudden, unintended occurrence while handling any hazardous substance resulting in continuous, intermittent or repeated exposure leading to death or injury to any person or damage to property or the environment. Accidents by reason for war or radio activity are excluded from the scope of the Act. The expression 'handling' is defined widely to include manufacture, trade and transport of hazardous substances.

Along with insurance premium every owner must make a contribution to an Environment Relief fund established by the central government. The fund is designed to provide relief to the victims of an accident. The principal administrative authority under the Public Liability Insurance Act is the collector, who is required to verify the occurrence of an industrial accident, give publicity to the event and invite applications for compensation and award relief.

The Act was amended in 1992 to introduce provisions relating to the relief fund. Rules framed in 1991 lay down the procedure for inviting the processing compensation applications and also cap the potential liability of an insurer at Rs450 million.

#### **1995 - The National Environmental Tribunal Act:**

The Act substantially alters the law of torts relating to toxic substances in India. National Environmental Tribunal Act extends the principle of no-fault liability which first received statutory recognition under the Public Liability Insurance Act, beyond the statutory compensation limits prescribed under the 1991 Act. The National Environmental Tribunal Act applies in cases where death or injury to any person or damage to any property is caused by an accident during handling any hazardous substance.

The Act empowers the centre to establish a national tribunal at New Delhi with power to entertain applications for compensation hold an enquiry into each such claim and make an award determining the compensation to be paid. The tribunal is empowered to make interim awards after granting an opportunity to the affected party and may determine its own procedure for processing the compensation claims, consistent with the principles of natural justice.

Section 19 of the National Environmental Tribunal Act 1995 imposes a bar on all civil courts from entertaining any application or action for any claim or compensation which may be

entertained or dealt with by the tribunal. An award under the Act may be challenged before the Supreme Court or impugned in a petition to the High Court under Articles 226 and 227.

**1997 - The National Environment Appellate Authority Act:**

The statute requires to central Government to constitute a national environment appellate authority for hearing appeals against orders granting environmental clearance in areas where restrictions are imposed on setting up any industry or carrying on any operation or process. Being cognate to the Environment Protection Act of 1986, the statute is discussed.

**1998 - The Biomedical waste (Management and Handling) Rules** is a legal binding on the health care institutions to streamline the process of proper handling of hospital waste such as segregation, disposal, collection, and treatment.

**1999 - The Environment (Siting for Industrial Projects) Rules, 1999** lay down detailed provisions relating to areas to be avoided for siting of industries, precautionary measures to be taken for site selecting as also the aspects of environmental protection which should have been incorporated during the implementation of the industrial development projects.

**2000 - The Municipal Solid Wastes (Management and Handling) Rules, 2000** apply to every municipal authority responsible for the collection, segregation, storage, transportation, processing, and disposal of municipal solid wastes.

**2000 - The Ozone Depleting Substances (Regulation and Control) Rules** have been laid down for the regulation of production and consumption of ozone depleting substances.

**2001 - The Batteries (Management and Handling) Rules, 2001** rules shall apply to every manufacturer, importer, re-conditioner, assembler, dealer, auctioneer, consumer, and bulk consumer involved in the manufacture, processing, sale, purchase, and use of batteries or components so as to regulate and ensure the environmentally safe disposal of used batteries.

**2002 - The Noise Pollution (Regulation and Control) (Amendment) Rules** lay down such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems during night hours (between 10:00 p.m. to 12:00 midnight) on or during any cultural or religious festive occasion

**2002 - The Biological Diversity Act** is an act to provide for the conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of the use of biological resources and knowledge associated with it

### **Forest and wildlife:**

**1927-**The Indian Forest Act and Amendment, 1984 is one of the mini surviving colonial statutes. It was enacted to consolidate the law related to forest, the transit of forest produce and the duty leviable in timber and other forest produce.

**1972-** The Wild Life Protection Act, Rules 1973 and Amendment 1991: The most serious threat to wild life is posed by habitat destruction. Expanding agriculture, industry and urbanization etc are the causes of this destruction. Realising the importance of the wild life resource and in order to prevent the gene erosion, our country has taken up steps by setting up an Indian Board of Wild Life (1952), creation of wild life parks and sanctuaries, enactment of an all India Wild Life protection Act (1972)etc.

The Wildlife (Protection) Act of 1972 provides the statutory framework for protecting wild animals, plants and their habitats. The act adopts a two-pronged conservation strategy, specified endangered species are protected regardless of location and all species are protected in designed areas called sanctuaries and national parks.

The Wildlife Act was enacted by Parliament under Article 252 after eleven State Legislatures passed the required resolutions. The subject wild life was moved to the concurrent list by the 42<sup>nd</sup> Amendment in 1976. Then the parliament was empowered to enact laws relating to wild life without recourse to Article 252(1). By the 1991 Amendment to the Wild Life Act, Parliament extended the Act to the whole of India except Jammu and Kashmir which has its own Wild Life Protection Act similar to national law.

Except under specified conditions, the Act prohibits hunting the animals listed in schedule I, II, III and IV. Under the Act, the state Government may declare any area of adequate ecological faunal, floral, geomorphologic, natural or zoological significance as a sanctuary or a national park. In both sanctuaries and national park, public entry is restricted and the destruction of any wild life or habitat is prohibited.

In theory, national parks enjoy a higher degree of protection than sanctuaries. For example, the grazing of life stock is prohibited within a national park but permissible in a sanctuary.

By the 1991 Amendment specified plants were brought under the protective umbrella of the Act. The Amendment also envisaged establishment of a Central Zoo Authority to regulate the management and functioning of zoos. The boundaries of sanctuaries and national parks may not be altered except by a resolution of state legislature. The Act regulated trade and commerce in wild animals, animal articles, trophies and derivatives from certain animals. Any violations of the provision in the Act attract imprisonment and fines.

Our country has also taken up steps by starting conservation projects for individual endangered species like Hungal (1970), Lion(1972), Tiger (1973), Crocodiles (1974) and Brown antlered Deer (1981).The center provides financial assistance to states for i) strengthening management and protection of infrastructure of national parks and sanctuaries ii) protection of wild life and poaching and illegal trade in wild life products iii) captive breeding programmes for endangered species of wild life iv) wild life education and interpretation and v) development of selected zones.

**1980, The Forest (Conservation) Act:** According to this Act no state government or any other authority can de-reserve a reserve forest, use any forest land for non forest purposes or clear trees naturally grown in a forest for the purpose of re-afforestation without the approval of central government. Contravention of this by any department of the government or authority is liable for punishment or imprisonment up to 15 years.

The basic objective of the Act is to regulate the indiscriminate diversion of forest lands for non-forestry uses and to maintain a logical balance between the development needs of the country and the conservation of natural heritage.

The Act has succeeded in controlling the indiscriminate release of forest land for non-forestry purpose. Prior to 1980, the rate of diversion of forest lands for non-forestry purposes was about 1.43 lakh hectare per annum. But with the advent of the Forest (Conservation) Act, 1980, the rate of diversion of forest lands has come down to around 15,000 hectare per annum and mostly diversion of forest land is allowed to meet the development needs for drinking water projects, irrigation projects, transmission lines, railway lines, roads, power projects, defence related

projects and mining etc. For such diversions of forest lands for non-forestry purposes, compensatory afforestation is stipulated and catchment area treatment plan, wild life habitat, improvement plan, rehabilitation plan etc are being implemented to mitigate the ill effects of diversion of such vast area of green forests.

## Water

**1882 - The Easement Act** allows private rights to use a resource that is, groundwater, by viewing it as an attachment to the land. It also states that all surface water belongs to the state and is a state property.

**1897 - The Indian Fisheries Act** establishes two sets of penal offences whereby the government can sue any person who uses dynamite or other explosive substance in any way (whether coastal or inland) with intent to catch or destroy any fish or poisonous fish in order to kill.

**1956 - The River Boards Act** enables the states to enroll the central government in setting up an Advisory River Board to resolve issues in inter-state cooperation.

**1970 - The Merchant Shipping Act** aims to deal with waste arising from ships along the coastal areas within a specified radius.

**1974 - The Water (Prevention and Control of Pollution) Act:** The Water Act 1974 defines water pollution, prescribes penalties and establishes administrative machinery called the Water Pollution Boards, at the central and state levels in order to control and prevent pollution of water. The Act was passed by the Parliament pursuant to enabling resolution by twelve states under Article 251(1) of the constitution. Article 252 empowers Parliament to enact laws on state subject for two or more states where the state legislatures have consented to such legislation. The coverage of the Act is quite comprehensive. It includes streams, rivers water courses, island waters, sub-terranean waters, sea and tidal waters under state jurisdiction. The state and central Boards are widely represented and are given comprehensive power to advise, to coordinate and provide technical assistance in the prevention and control of abatement of water pollution. More importantly, these boards are entrusted with the task of monitoring the state of water pollution in the country and laying down standards of permissible and impermissible level of pollution.

The Water Act prohibits dumping of poisonous noxious or polluting matter into streams and wells as well as any activity which impedes the proper flow of the water of a stream causing aggravation of pollution due to other causes. The Act subjects the discharge of sewage or trade effluents in to the streams and wells to the prior consent of Boards. These Boards are authorized to take action against polluters by imposing conditions aimed at discouraging pollution and can prosecute polluter. In practice, however, the Boards have not been as effective as expected because of budgetary constraints, paucity of expertise and inability to take punitive action against the big industrial polluters. Also the already overburdened judiciary has not been of great help to the Boards for combating polluters and pollution as large numbers of cases are pending.

**1977 - The Water (Prevention and Control of Pollution) Cess Act:** The Water Cess Act was passed to meet the expenses of Central and State Water Boards. The act creates economic incentives for pollution control through a differential tax structure (with higher rates applicable to defaulting units) and requires local authorities and certain designated industries to pay a cess (tax) for water consumption. These revenues are used to implement the Water Act. The central government, after deducting the expenses of collection, pays such sums as it deems necessary to the Central Board and the States to enforce the provisions of the Water Act. To encourage capital investment in pollution control, the Act gives a polluter a 25% rebate of the applicable cess upon installing effluent treatment equipment and meeting the applicable norms.

**1978 - The Water (Prevention and Control of Pollution) Cess Rules** contains the standard definitions and indicate the kind of and location of meters that every consumer of water is required to affix.

**1991 - The Coastal Regulation Zone Notification** puts regulations on various activities, including construction, are regulated. It gives some protection to the backwaters and estuaries.

#### **Air**

**1948 – The Factories Act and Amendment in 1987** was the first to express concern for the working environment of the workers. The amendment of 1987 has sharpened its environmental focus and expanded its application to hazardous processes. Amendment was made on the Factories Act 1948 shortly after the Bhopal gas tragedy and the Supreme Court's judgement in the gas leak case in 1987. The Act introduced special provisions on hazardous industrial

activities. The Amendment empowers the states to appoint site appraisal committees to advise on the initial location of factories using hazardous processes. The occupier of every hazardous unit must also draw upon emergency disaster control plan, which must be approved by the Chief Inspector.

The occupier is required to maintain Workers Medical records and must employ operations and maintenance personnel who are experienced in handling hazardous substances. The permissible limits of exposure to toxic substances are prescribed in the second schedule of the Act. Safety committees consisting of workers and managers are required periodically to review the factories' safety measures.

The Factories Act after its 1987 Amendment ensures for the compliance with the Act's new provision relating hazardous processes. Noncompliance exposes the occupier to stiff penalties.

**1981 - The Air (Prevention and Control of Pollution) Act :** To implement the decision taken at the United Nations conference on Human environment held at Stockholm in June 1972 parliament enacted the nationwide Air Act under Article 283 of the constitution. The Act's statement of objects and reasons contains the government's explanation of the contents and the scope of the law and its concern for the detrimental effect of air pollution on the health of the people as also on animal life, vegetation and property.

The Air Act's frame work is similar to the one created by its predecessor, the Water Act 1976. To enable an integrated approach to environmental problems, the Air Act expanded the authority of the central and state boards established under the Water Act, to include air pollution control, states not having water pollution boards were required to set up air pollution boards.

Under the Air Act, all industries operating within designated air pollution control areas must obtain consent (permit) from the state boards. The states are required to prescribe emission standards for industry and automobiles after consulting the central board and its ambient air quality standards. The 1987 amendment strengthened the enforcement machinery and introduced stiffer penalties. Now the boards may close down a defaulting industrial plant or may stop its supply of electricity. A board may also apply to a court to restrain emissions that exceed prescribed standards. Notably, the 1987 amendment introduced a citizen's initiative provision in

to the Air Act. And extend the Act to include noise pollution. Noise prevention and control is important as noise affects us in hearing ability to communicate and behaviour.

**1982 - The Air (Prevention and Control of Pollution) Rules** defines the procedures of the meetings of the Boards and the powers entrusted to them.

**1982 - The Atomic Energy Act** governs the regulation of nuclear energy and radioactive substances in India. Under the Act the central government is required to prevent radiation hazards, guarantee public safety and the safety of workers handling radioactive substances and ensures the disposal of radioactive wastes.

**1987 - The Air (Prevention and Control of Pollution) Amendment Act** empowers the central and state pollution control boards to meet with grave emergencies of air pollution.

**1988 - The Motor Vehicles Act** states that all hazardous waste is to be properly packaged, labelled, and transported.

#### **Other Important Acts relating to Environment:**

##### **1957-The Mines and Minerals (Regulations and Development) Act:**

The thrust of this law is to promote the prospecting of minerals and the development of mines. Recognizing the devastating environmental impact of mining activity in several regions across the country, Parliament amended the Act in 1986 to introduce provisions, which would require greater environmental sensitivity whilst conducting mining operation.

Section 4-A permits government to terminate a prospecting license or a mining lease in order to preserve the natural environment or prevent pollution or harm to public health, monuments, buildings and other structures. Section 13 and 15 empower the center and the states to frame rules to resolve vegetation destroyed by mining operations in any area.

##### **1968-The Insecticide Act:**

The pesticides are basically toxic chemicals and their use is inherently accompanied by hazards and ecological consequences. Being aware of the prime responsibility of protecting the health of citizens and the environment, the Government of India enacted the Insecticide Act in 1968. This was enforced from 1971 to regulate, import, manufacture, sale, transport distribution and the use of insecticides with a view to preventing risk to human being and animals. Several agencies such

as the Central Insecticides Board, the pesticides registration committee, the pesticides environment pollution advisory committee, the central insecticide laboratory, the committee to ban/restrict the use of pesticides were created for effective enforcement of this Act.

### CONCLUSION:

Environment is the most debated topic of today. Many laws on environmental protection are there in our country. Despite these laws, acts, policies and principles, many environmental problems are seen in our country. So for proper implementation of these, awareness programmes by the Government as well as by private organizations should be carried on. Besides, individual's love and care for the nature is necessary for protection and conservation of the environment.

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