

# IMPACT OF ENVIRONMENTAL LAW IN INDIA WITH CLIMATE CHANGE: AN ANALYTICAL STUDY

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**Abstract :** We depend on the environment for our health and way of life, thus protecting it is urgently needed. Environment degradation is a result of deforestation, air pollution, water pollution, overgrazing, and soil erosion as a result of decades of constant usage of natural resources. With 1.3 billion people, India is unable to meet the growing demand; we need more resources and land to meet their basic needs, which is causing the environment to deteriorate in the nation. We have environmental laws to reduce air pollution, water pollution, and deforestation to make the environment stable and save for future generations. Due to the increase in global warming and climate change, the majority of people today are experiencing food and water shortages. We need to update our environmental regulations in light of the current situation, encourage sustainable growth through innovative thinking and cutting-edge technology, set limits on the use of natural resources, and enforce penalties for disobeying the law. Environmental awareness needs to be cultivated in any society to be an ideal society, or rather to be more precise, in other words, an ideal society means, and a society which has environmental awareness. There is no dearth of legislation on environmental protection in India but their enforcement has not been satisfactory.

Pursuant to the Constitutional provisions contained in Articles 48A and 51A (h), many Public Interest Litigations have been instituted in the Supreme Court of India against many industries for failing to provide adequate pollution control. This research paper is focused on the study of environmental laws for environmental protection in India.

**Keywords:-** Environment Law, Climate Change, Sustainable Development, India, Act

**1.0 Introduction:** The environment in which we live is degrading at a rapid rate, and we are seeing a fundamental deterioration in the quality and quantity of our basic life-supporting resources including air, water, soil, and other resources. This awareness and worry has grown over the previous few decades. Our environment is deteriorating owing to pollution of the air we breathe, contaminated water, unpredictable rain patterns, disappearing forests, extinction of numerous plant and animal species, excessive rainfall-related soil erosion, and other natural disasters. The ozone layer is deteriorating, and the likelihood of a global warning is strong. Human survival itself is threatened by environmental degradation. Several issues, including population expansion, indiscriminate urbanization, poverty, unplanned industrialization, increased energy use, and transportation, can contribute to environmental deterioration. Land degradation is a widespread issue in today's society as a result of ongoing deforestation, river damming, industry, mining, and logging, as well as development initiatives including human settlement, motorways, and road networks. Land degradation is a result of natural disasters like drought, floods, landslides, and earthquakes. Between 1975 and 1990, 200 million hectares of forest were destroyed for food production. Water resources have been degraded; their exhaustion and contamination render the water unfit for human consumption. Today, the majority of water bodies, including lakes, rivers, seas, and groundwater, are produced as a result of excessive industrial waste disposal, intensive farming, and deforestation. Floods occur every year as a result of siltation of rivers and lakes brought on by soil erosion, which lowers their water holding capacity. The country is currently experiencing a water crisis as a result of past and present activities that have no limits when it comes to destroying the environment. This is also accompanied by the loss of flora and fauna because of the need for more land to build homes and other development projects as a result of the growing population. Over the past 2000 years, we have taken away the homes of flora and fauna, which has led to their extinction. Apart from the state of Gujarat, where there are no longer any Asiatic lions. Air pollution has killed millions of people worldwide, and in India, more than half of the population suffers from asthma. Greenhouse gas emissions in India are also contributing to air pollution and climate

change. Deforestation has existed since the dawn of civilisation. Due to inadequate environmental policies, fuel wood collecting, farming's overpopulation, and poverty, it has led to desertification and soil erosion.

The Indian constitutional system and India's international commitments both take into account the need for environmental preservation, protection, and sustainable resource usage. The existence, growth, and improvement of humanity and all of its activities are determined by the environment, which is the source of all life on Earth, including water, air, soil, and others. India had a population of 1.21 billion people by the end of 2011, and its economy is expanding at the second-fastest rate behind China, or 8.5%. India moves on with aggressive industrial development as a result of population pressure. As a result, tens of thousands of industrial clusters across the country generate a vast amount of toxic waste that is not handled and frequently ends up in rivers, lakes, forests, and landfills. The idea of preserving and protecting the environment is not new. It was fundamental to numerous ancient civilizations. Ancient Indian literature protecting nature is everyone's duty in society, and that 'nature' comprises things like land, water, trees, and animals that are vital to our survival. The ancient Hindu sceptors wrote: "What of thee I dig outlet that rapidly blooms over" in the Atharva Veda.

The Government of India has established an environmental legal and institutional system to meet these challenges within the overall framework of India's development agenda and international principles and norms. In the Constitution of India, it is clearly stated 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 a duty on every citizen to protect and improve the natural environment including forests, lakes, rivers, and wildlife. Reference to the environment has also been made in the Directive Principles of State Policy as well as the Fundamental Rights. The Department of Environment was established in India in 1980 to ensure a healthy environment for the country.

## **2.0 Objective of this Paper**

- The Main Objective of this Research Paper is to identify the Present Scenario and Study the Nature and Extent of Till date Developments in Various Environmental Statuses Through Various Statutes, Laws, and conventions.
- To Know Major Environment laws in India.
- To know Current Environment Issues in India and the Impact of these Laws.

## **3.0 Methods**

The necessary information was gathered from secondary sources, including the internet, websites, professional magazines, referred journals, newspapers, conference books, as well as books on environmental law and reports that have been published, in order to meet the study's aforementioned objectives.

## **4.0 Law Pertaining to the Environment**

Environment refers to physical surroundings. It contains almost everything. It can be characterised as anything that is viewed as including our shared physical surroundings, such as the air, the land, the water, the plants, and the wildlife. It is described as the "Aggregate of all the External Conditions and Influences Affecting the Life and Development of an Organism" in the Webster Dictionary.

The environment is defined as "water, air, and land and the interaction which exists among and between water, air, and land, and human beings, other living creatures, plants, microorganisms, and property" under Section 2(a) of the Environment (Protection) Act of 1986. The primary notion that can be drawn from examining all the aforementioned definitions is that environment refers to the circumstances in which we live and is crucial to our survival. Three factors combine to form environmental law: the first is the statute that is enacted by the legislature. The second is a collection of rules the Environmental Protection Agency has put in place in connection with that specific act. The third is how the Indian courts would interpret these rules legally if there is an environmental concern or problem.

## **5.0 Constitutional and Legislative Protections for the Environment**

The Stockholm Declaration of 1972 was the first significant international effort to preserve and safeguard the human environment. As a result of this Declaration, the States were obligated to pass laws to safeguard and enhance the

environment. The Indian constitutional system and India's international commitments both take into account the need for environmental preservation, protection, and sustainable resource usage. Every Indian citizen has a responsibility to preserve and enhance the natural environment, including forests, lakes, rivers, and animals, as well as to have compassion for all living things, according to Part IVA of the Constitution (Article 51A-Fundamental Obligations). Also, the State shall endeavour to maintain the nation's forests and animals as well as to protect and promote the environment, according to Part IV of the Indian Constitution (Article 48A-Directive Principles of State Policy). The legal system in India is complex, with more than 200 statutes specifically addressing environmental protection. The Ministry of Environment and Forests (MoEF) was founded in 1985 and is now the country's top administrative authority for regulating and insuring environmental protection, as well as setting the necessary legal and regulatory framework. The regulatory and administrative center of the industry is comprised of the MoEF and the state and federal pollution control boards (Together referred to as CPCBs and SPCBs). The following sentences provide a quick explanation of several significant environmental laws:

### **5.1 Act on Water (Prevention and Control of Pollution) 1974**

The Water Prevention and Control of Pollution Act, 1974 (the Water Act) was passed to address water pollution prevention and control as well as to preserve or restore the nation's water's wholesomeness. In order to carry out the aforementioned aims, it also provides for the establishment of Boards for the prevention and control of water pollution.

### **5.2 Act on Air (Prevention and Control of Pollution) Act 1981**

The Air (Prevention and Control of Pollution) Act of 1981 (Air Act) establishes boards at the central and state levels to carry out the aforementioned functions as well as the prevention, control, and abatement of air pollution.

### **5.3 The Act on Environment Protection Act (E.P.A.) 1986**

The Environment Protection Act of 1986 (Environment Act) addresses environmental preservation and enhancement. The Environment Protection Act lays out a framework for researching, organising, and putting into practice long-term environmental safety criteria. It also sets a mechanism for prompt and adequate reaction to environmental threats.

### **5.4 National Green Tribunal Act of 2010.**

The National Green Tribunal Act, 2010 (No. 19 of 2010) (NGT Act) was passed with the intention of establishing a National Green Tribunal (NGT) for the quick and efficient resolution of issues involving the preservation of the environment and forests.

### **6.0 Regulations for the Management of Hazardous Waste**

Many laws either directly or indirectly address the management of hazardous waste. The Factories Act of 1948, the Public Liability Insurance Act of 1991, the National Environment Tribunal Act of 1995, and rules and notices under the Environmental Act are the pertinent pieces of legislation. The following is a discussion of some of the laws governing the management of hazardous waste:

A handbook for the manufacture, storage, and import of hazardous chemicals as well as for the management of hazardous wastes was released in 2008 under the Hazardous Wastes (Management, Handling and Transboundary) Rules.

The Biomedical Waste (Management and Handling) Rules, 1998 were developed in a similar manner to ensure that infectious wastes were properly disposed of, separated, transported, etc.

Municipal Solid Wastes (Management and Handling) Rules, which were introduced in 2000, were created to give towns the tools they needed to dispose of municipal solid trash properly.

The Regulations for Batteries (Management and Handling), 2001 address the safe and proper handling of lead-acid battery waste. All producers, assemblers, reconditioners, importers, dealers, auctioneers, bulk consumers, and consumers involved in the production, processing, sale, and acquisition of these products are subject to the Act.

The principal goal of the E-Waste (Management and Handling) Regulations, 2011, which were first announced on May 1 and went into effect on May 1 of 2012, is to decrease the use of hazardous materials in electrical and electronic equipment by defining the threshold for usage of the material.

### **7.0 Many More Environmental Legislation**

There are other additional laws pertaining to the environment, including the following:

1. The Indian Forest Act of 1927, for example, codifies the law governing forests, the transportation of forest products, and the taxable value of timber and other forest products.
2. The wildlife protection act of 1972: The Wild Life (Protection) Act of 1972 was passed with the intention of controlling poaching, smuggling, and the illegal commerce in wildlife and its byproducts.
3. The Forest Conservation Act of 1980: This law was passed to aid in the preservation of the nation's forests. Without the prior consent of the Central Government, it rigorously prohibits and regulates the de-reservation of forests and the use of forest land for non-forest purposes.
4. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 recognises the rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers over the forest areas they call home and establishes a framework for doing so.
5. Public liability insurance act, 1991: The Public Liability Insurance Act, 1991 was passed with the purpose of compensating accident victims for losses resulting from handling dangerous materials. All proprietors involved in the handling or manufacturing of any hazardous chemicals are subject to the Act.
6. The biological diversity act, 2002: India's efforts to achieve the goals outlined in the United Nations Convention on Biological Diversity (CBD), 1992, which recognises the sovereign rights of states to exploit their own Biological Resources, gave rise to the Biological Diversity Act, 2002.
7. In year 2011 notice of coastal regulatory zones: In order to protect the fishing communities' means of subsistence, the Ministry of Environment and Forests issued the Coastal Regulation Zone Notification via Notification No. S O. 19(E), dated January 6, 2011.

### **8.0 Climate Change**

Overgrazing, soil erosion, deforestation, crop rotation, various types of farming, and human avarice have all contributed to the degradation of the ecosystem over time despite the current environmental laws and many decisions by the supreme court. India's situation is becoming worse. The greatest threat to current human civilization is climate change, which is a result of the ongoing use of the environment and its resources. Many health problems have been caused by overuse of natural resources. The concept of environmental degradation is a response to human activity, which has led to the development of countless industries. To build, mine, and log, we need land, which is obtained by clearing forests. We also need a large amount of water for construction, which comes from rivers and groundwater. Finally, industrial waste is dumped into these rivers, rendering the water unfit for drinking. Due to the increased overuse of natural resources, India is currently experiencing a water crisis, a food crisis, and a majority of its citizens are living in poverty. Moreover, the construction of dams in many areas has made it difficult for many peasants to maintain their way of life.

Indian cities no longer have access to ground water since it is used for agriculture 70% of the time and for development the other 30%. There is no ground water in 21 cities. Many people, especially the tribal people, who completely rely on the forest for their economics and way of life, reside there. They engage in primitive agriculture and depend on forest resources to survive. In reality, many people are engaged in the forest because it produces the raw materials for a variety of goods. For example, wood is needed to make furniture, paper, and buildings, as well as other timber products and medicinal herbs. Every minute a tree is taken down, which has an equal impact on food production. Forests also serve to replenish ground water during natural disasters, protecting the top soil from erosion. Currently, the environment and climate change have become major global issues. International conferences

have been conducted over the years on how to avert environmental damage by cutting greenhouse gas emissions. The majority of people in India today lack access to food and water, people are dying from terrible environmental conditions, and natural disasters are on the rise as a result of the deplorable state of the environment. Several laws have been developed over the years to safeguard the environment, but due to expanding demand and population, people in India have not abided by them. Nevertheless, the government is attempting to enact new legislation and enforce new regulations to reduce tree cutting. There is a national tribunal court established for environment protection and to resolve matters pertaining to environment protection in order to protect animals.

### **9.0 Environmental Contamination Legal Remedies and Important Cases**

The legal options for environmental protection in India include both tort and statutory law remedies. The Supreme Court of India's Article 32 and the High Court's Article 226 both allow for the filing of writ petitions. The following painful remedies have been created by the Indian judicial system:

1. According to Blackburn J.'s ruling in *Rylands v. Fletcher* from 1868, anyone who brings something onto their property for personal use, collects it, and keeps it there must keep it as their risk; if they don't, they are prima facie responsible for any damage that results from the escape of that item. In cases involving environmental contamination, especially those involving the harm brought on by the release of dangerous materials, the idea of strict liability is quite useful.

2. The Apex Court held that the amount of damages awarded must be proportionate to the capacity and magnitude of the polluter to pay in the case of *M.C. Mehta v. Union of India* (1987) *Shriram Gas Leak*, which involved a leakage of oleum gas that caused significant environmental harm to the citizens of Delhi. In the *Bhopal Gas Disaster*, the Apex Court, however, departed from this standard.

3. *Union Carbide Corporation v. Union of India* in the *Bhopal Case*, (1990) In this case, the court determined that where an enterprise engages in an activity that is inherently dangerous or hazardous and harm is caused to any person as a result of an accident that occurs during the operation of such dangerous or naturally unsafe activity, such as the escape of poisonous gas, the enterprise is strictly and completely obligated to compensate every person who is impacted by the accident, and such risk is not subject to any exemptions. As a result, the Supreme Court established a new trend of absolute liability devoid of any exceptions.

4. The *Vellore Citizen's Welfare Forum v. Union of India* case was decided in 1996. The polluter pays principle is a crucial component of sustainable development, according to the Supreme Court.

5. *Kamal Nath and Others v. M.C. Mehta*, (1997). The Public Trust Doctrine's main tenet is that it would be completely unreasonable to submit resources like air, water, sea, and forests to private ownership because of their immense importance to society as a whole.

6. The Supreme Court reaffirmed the points stated in *Wadehra's case* in *Almitra H. Patel v. Union of India* (1998): India's capital, Delhi, is one of the most polluted cities in the world. The authorities in charge of environmental protection and pollution management have failed to provide a clean and safe environment.

### **10.0 Conclusion**

Any law cannot be implemented effectively and successfully without public knowledge, which is a necessary prerequisite for its execution. Hence, it is crucial that proper awareness be present. The judiciary makes an effort to fill in any gaps left by lax law in this way. These recent innovations and advances in India brought about by judicial activism bring up a wide range of potential aid options. The shared and collaborative participation of the populace, the government, business, and NGOs is the main component of this new project. This strategy looks to have been successful for a few nations, and it appears to be a workable alternative for India as well. A positive start in the right direction is the Public Liability Insurance Act of 1991, which mandates public liability insurance for handling and installing hazardous materials in order to give victims with some kind of relief. The fourth pillar of popular government in India is the media. It contributes significantly to the nation's overall improvement and is quite important. Economic activity should be influenced by more factors than only the profit motive, such as quality of life and ecological balance. Therefore instead of providing less, the secret to sustainable growth is to supply more effectively with the aid of an environmental management system. According to article 21, the right to life is guaranteed as a basic right. It is crucial for our environment and surroundings to be pollution-free and clean if we want to live a healthy life. There is an urgent need to expand the judiciary's capabilities in order to dispose of environmental issues properly. To do this, special environmental courts must be established with a professional judge in charge of handling environmental cases and criminal offences.

**11.0 References**

1. Veena bamba, Anjali (2017), Environment awareness in present scenario, International Journal of Research in Economics & Social Sciences.
2. Milind K, Gurumurthy R. (2000), The Causes and Consequences of Particulate Air Pollution in Urban India: A Synthesis of the Science, Annual Review of Energy and the Environment.
3. Lodha M. (2005) Environmental ruin: the Crises of Survival, New Delhi: Indus Publishing Company.
4. Parikh Madhuri (2019), Environmental Governance and the Role of Indian Supreme Court, with special focus on the period from 1988 to 1996, International Journal of Humanities and Social Science Invention.
5. Mehta MC, (1999), Growth of Environmental Jurisprudence in India.
6. Chandra Mahesh (2018) Environmental Concerns in India: Problems and Solutions-Journal of International Business and Law.
7. Striessnig, Erich. Wolfgang, Schopp; and Markus Amann, (2013), Effects on Well- Being of Investing in Cleaner Air in India, Environmental Science & Technology.
8. Jai Ram Upadhyay, (2005) Environmental Law, Allahabad: Central Law Agency.
9. Ussain S Syed, (2012) Seshaiiah Sepuri, Viswanath Buddolla. Environment and Their Legal Issues in India- International Research Journal of Environment Sciences.
10. Chandran M Vijaya, Aregai Mekonen, Reddy T Byragi. (2013) environmental appraisal - Indian scenario, International journal of engineering and management sciences.
11. Piers M. Forster , Harriet I.Forster , Steven T.Turnock , (2022) , August , Current and future global climate impacts resulting from COVID-19 , Nature climate change .
12. Muniyandi Balasubramanian, V.Dhulasi , (2015) , September , Climate change and its impact on India , Journal of Environmental Sciences , Volume 6 , Issue 2 .
13. Bajaj R. (1996) CITES and the wildlife trade in India, New Delhi: Centre for Environmental Law, WWF India.
14. Mejia, Robin (2012), The challenge of environmental regulation in India, Environmental Science & Technology.
15. Ranga Rao MV (2001), Role of Judiciary in Environmental Protection, Supreme Court Journal.