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RESEARCH ARTICLE

ENVIRONMENTAL LEGISLATIONS IN INDIA SINCE INDEPENDENCE

*Rabindra Kumar Saroniya, Manish Kumar Verma and Reetesh Kumar Khare

Raghuveer Singh Government Degree College, Lalitpur, Uttar Pradesh, India

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ABSTRACT

As human culture develops cities and townships it also led to industrialization and heavy urbanization. These processes put load on environmental resources and led to degradation of environment at various levels. The human activities has become the main factor for pollution of soil, air and water resources, poaching of wild animals, degradation of ecosystem, extinction of wild resources, radioactive pollution, electromagnetic pollution, space pollution etc. This situation has been posing a threat to human health as well as of animals. Entire life is under threat due to continuous deterioration of the nature and natural resources. Any environmental problems faced by humans needs a solution for future generation and for sustainable development. There is urgent need of the legislation to protect entire environment at global level as pollution has no boundaries. In India effective legislation took place after independence. The Indian government legislated various acts to prevent further deterioration of environment and to protect the whole environment. It also includes some provisions in its constitution for effective foundation on the government. This review paper focuses on various legislations that came into force after independence in India. This also provides a glimpse of important regulations for protection of environment in India. It will give necessary information to research scholars and students and increase awareness about environmental regulations for better future.

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INTRODUCTION

The word 'environment' consists of our surroundings which affects life of all living beings on the earth. The environment has two components, abiotic and biotic factors whose interdependence and their interaction affects each other. Mainly human activities give rise to the various types of pollution. The term 'Pollution' refers to unfavorable changes to the surroundings which makes natural resources unfit for use. Any unwanted changes to soil, water and air make them toxic and injurious for all. The anthropogenic activities like Industrialization, urbanization, poverty, population explosion, over-exploitation of natural resources, use of insecticide, pesticides, manures, etc. are the main factors which led to environmental deterioration. These problems led to the needs of legislation to save the environment on large scale in India. Pure and natural environment was on top priority in ancient India as it reflected in daily lives of the people and was a part of Indian tradition. In Indian culture, the moral principles inspired the people for environment protection. Yagyavalkya Smriti, Charak Samhita, and Arthashastra had many instructions for protection of wild life.

*Corresponding author: Rabindra Kumar Saroniya

Raghuveer Singh Government Degree College, Lalitpur, Uttar Pradesh, India

There was no proper system or legal measures to protect environment in India before independence of India. The awareness among people, public movement and the United Nations Conference on Human Environment, held in Stockholm in 1972 led to legislation of various provisions to protection of environment. Some provisions included in Indian constitution to become as constitutional mandate to bindings on all governments as well as on the public.

The Constitution of India: The Constitution of India includes the right to clean and human environment in the article-21 that contains 'Right to Life'. Article-38 of the Constitution put obligation on State to ensure a social order for the welfare of people, which can fulfilled by an unpolluted and clean environment only. The Article-48A was inserted in the Directive Principles of State Policy in the Constitution by 42nd amendment which states "The State shall endeavour to protect and improve the environment and safeguard forests and wildlife of the country"^(1,2). The 42nd amendment to Article 51A (g) of the constitution made it a fundamental duty to protect and improve the natural environment. It States "It shall to be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and have compassion for living creatures"^(1,2). In 1980, the department of Environment was established in India to ensure

a healthy environment for the country which changes into the Ministry of Environment and Forests in 1985, now it changes to the Ministry of Environment, Forests and Climate change taking overall responsibility for making and enforcing environmental legislations and policies.

Legislations related to Environment and Biodiversity

1. The Wild Life (Protection) Act, 1972 –The Indian parliament enacted this act in 1972, later it was amended several times in 1982, 1986, 1991, 1993, 2002 and 2006. This act contains six schedules and 66-sections, some sections repealed and some are added later by different amendments. This act provides wild life related terminology. It states ‘An Act to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country’⁽³⁾. The salient features of this act were⁽³⁾

- It has provisions for appointment of Director of Wild Life preservation, Chief wild life wardens, their powers and duties.
- It gives authority to constitution of National Board for Wild Life at national level and State Board for Wild Life at State level. Their functions are to promote the conservation and development of wild life and forests.
- It provides for setting up of and management of National Parks, Sanctuaries and other protected areas and on matters relating to restriction of activities in those areas.
- It also has provisions for the formation of the Central Zoo Authority.
- It completely prohibited the hunting of endangered species. It also prohibited trade of protected flora and fauna and dealings in trophies, animal articles, etc., derived from scheduled animals.
- It provides for licenses to the sale, transfer and possession of some animals and plants.
- It provides for the establishment of the National Tiger Conservation Authority and gives legal authority to Project Tiger.
- It has provisions for prevention and detection of different offences, forfeiture of property derived from illegal hunting and trade.
- It supports India to be a part of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

2. The Forest (Conservation) Act, 1980- During British rule, the Forest Act 1865 was the first law which gives the all rights and powers to use the forest for their benefit. This Act came into force in 25 October 1980. It was amended in 1988. It contains five sections. This act has provisions for restriction on the de-reservation of forests or use of forest land for non-forest purpose, constitution of Advisory Committee, penalty for contravention of the provisions of the Act, offences by authorities and Government departments, power to make rules for carrying out the provisions of this Act⁽⁴⁾.

3. The Environment (Protection) Act, 1986- This act enacted by parliament in the wake of Bhopal gas tragedy in 1984 and came into force on 23rd May 1986. It states that ‘An act to provide for the protection and improvement of

environment and matter connected there with: whereas decisions were taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated to take appropriate steps for the protection and improvement of human environment: and whereas it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and prevention of hazards to human beings, other living creature, plant and properties’⁽⁵⁾. It has 26 sections. This act gives general powers to the Central Governments to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. It has provisions for prevention, control and abatement of environmental control; rules to regulate environmental pollution; appointment of officers and their powers and functions; power to give directions; powers of entry and inspection; power to take sample; power to establish one or more environmental laboratories; penalty for contravention of the provisions of the act and the rules, orders and directions^(5, 14).

4. The Public Liability Insurance Act, 1991- This act came into force on 22nd January 1991 and amended in 1992. It is an Act to provide for public liability insurance for the purpose of providing immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto. It has 23 sections and one schedule. It has provisions for duty of owner to take out insurance policies; Award of relief and establishment of Environmental Relief Fund; provisions as to other right to claim compensation for death, etc. It gives power to make application to Courts for restraining owner from handling hazardous substances. It provides penalty for contravention of sections, penalty for failure to comply with direction and power to make rules⁽⁶⁾.

5. The National Environment Tribunal Act, 1995-This act came into force on 17th June 1995. It has 31 sections and one schedule. It is An Act to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment and for matters connected therewith or incidental thereto. Whereas decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, calling upon the States to develop national laws regarding liability and compensation for the victims of pollution and other environmental damages; and whereas it is considered expedient to implement the decisions of the aforesaid Conference so far as they relate to the protection of environment and payment of compensation for damage to persons, property and the environment while handling hazardous substances. It has provisions for compensation for death, injury to a person and damage to property and environment; establishment of National Environment Tribunal and their Benches; jurisdiction and proceedings of the Tribunal and penalty for failure to comply with orders of Tribunal and power to make rules⁽⁷⁾.

6. The National Environment Appellate Authority (NEAA) Act, 1997- This act came into force on 26th March 1997. It has

23 sections. It An Act to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto⁽⁸⁾.

7. Biological diversity Act 2002- It came into force on 5th February 2003 and contains 65 sections. It provides for regulation of access to biological diversity; establishment of National Biodiversity Authority and their functions and powers; approval by National Biodiversity Authority for undertaking certain activities; establishment of State Biodiversity Board and their functions and powers; constitution of National Biodiversity Fund. It gives authority to Central Government to develop National strategies, plans, for conservation, etc., of biological diversity and to declare Biodiversity heritage sites. It also has provisions to penalty for contravention for directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards and gives powers to make rules⁽⁹⁾.

8. National Green Tribunal Act, 2010- This act is promulgated by the parliament and came into force on 2nd June 2010. This act contains 38 sections and 3 schedules. This is an Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto and whereas in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution; and whereas it is considered expedient to implement the decisions taken at the global conferences and to have a National Green Tribunal in view of the involvement of multi-disciplinary issues relating to the environment. This act has provisions for establishment of the Tribunal, Jurisdiction, Powers and its Proceedings. It also has provisions for penalty for offences and power to make rules. This act give power to NGT to deal with civil cases under the seven laws of the environment protection which include, the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002⁽¹⁰⁾.

Legislations related to Pollution

1. The Water (Prevention and Control of Pollution) Act, 1974- This act came into force on 23 March, 1974 and amended in 1988. It contains 64 sections. It defines as an Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith. Whereas it is expedient to provide for the prevention and control of water pollution and the maintaining

or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto. It has provisions for constitution of the Central and State boards for prevention and control of water pollution, the Joint Boards and their functions and powers. It also gives power for prevention and control of water pollution to the authorities. It has provisions for penalties for the offences and to establish Central and State laboratories. It also gives power to make rules for further implementation^(11, 14).

2. The Water (Prevention and Control of Pollution) Cess Act, 1977- This act came into force on 7th December 1977 and later amended many times. This is an Act to provide for the levy and collection of a cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974. This act contains 17 sections and 2 schedules. It gives power to authorities to levy and collection of cess, power to assessment of cess and power to entry any place or house. It has provisions for penalty for offences and recovery of due amount. It also give powers to make rules for better implementation⁽¹²⁾.

3. The Air (Prevention and Control of Pollution) Act, 1981- This act came into force on 29th March 1981 and later amended in 1987. This is an Act to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith. Whereas decisions were taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972, in which India participated, to take appropriate steps for the preservation of the natural resources of the earth which, among other things, include the preservation of the quality of air and control of air pollution; and whereas it is considered necessary to implement the decisions aforesaid in so far as they relate to the preservation of the quality of air and control of air pollution. This act provides constitution of Central and State Boards for the prevention and control of air pollution and their power and functions. It also gives power for prevention and control of air pollution to the authorities. It has provisions for penalties for the offences and gives power to make rules for further implementation^(13, 14).

Most of the law has power to makes rules for detail information and better implementation. Some important rules made and implemented by governments besides that of above given legislations includes-

- The Hazardous Wastes (Management and Handling) Rules of 1989.
- Manufacture, Storage and Import of Hazardous Chemical Rules of 1989.
- The Manufacture, Use, Import, Export, and Storage of hazardous Microorganisms/ Genetically Engineered Organisms or Cells Rules, 1989.
- The Biomedical waste (Management and Handling) Rules, 1998.

- Noise Pollution (Regulation and Control) Rules, 2000
- The Ozone Depleting Substances (Regulation and Control) Rules, 2000
- The Municipal Solid Wastes (Management and Handling) Rules, 2000
- The Batteries (Management and Handling) Rules, 2001
- Plastic Waste Management Rules, 2016
- Construction and Demolition Waste Management Rules, 2016
- E-Waste (Management) Rules, 2016.

Conclusion

Pure and natural environment is required for good health and for all living beings. These all legislations pave the way for protection of environment and wild life at large. Nature has the power to clean and maintain itself if undisturbed by the human activities. It was also evident from the lockdown period of Covid-19 pandemic, which gave 3-4 months undisturbed and unpolluted environment to the nature and the nature has shown wonderful results thereafter by cleaning polluted waters of rivers and oceans, free movements of wild animals, pure air in the cities etc, that are noticed by tv channels and scientists. So it is the best time to curtail the unwanted human activities and strictly enforce the laws for the better and sustainable environment.

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