

Environment Law and Policies in India:

A Historical Overview

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DOI: <https://doi.org/10.5281/zenodo.17334351>

ABSTRACT:

Environmental policies are influenced by a multitude of factors and determine how environmental resources are accessed, apportioned, consumed, conserved and governed. It led to the creation of an extensive protected area network, albeit by overlooking the needs of the forest dwellers. In the 1990s, the judiciary innovated by creating space for civil society to take up environmental issues and played an active role. This period also saw a gradual shift towards participatory natural resource management and collaboration between the state and the civil society. However, by the early 21st century this bonhomie weakened when civil society successfully secured the tenurial rights of the forest dwellers. The key influencing factors of environmental policy change were discerned as international diplomacy, political leadership, judicial activism, civil society advocacy and environmental disasters.

KEYWORDS:

Environmental Law, India, Historical Overview, Environmental Policy, Judicial Activism.

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Introduction

Environmental awareness can be said to have existed even in the pre-Vedic Indian Valley Civilization which flourished in northern India about 5,000 years ago. This is evident from the archaeological evidence gathered from Harappa and Mohenjo-Daro which were the prominent cities of the civilization. Their awareness about hygiene and sanitation as evident from their constructions of ventilated houses, orderly streets, numerous wells, bathrooms, public baths and covered underground drains. Protection and cleaning up of the environment were the essence of Vedic (1500–500 BC) culture. Charak Samhita (medical Science book of 900 BC – 600 BC) give many instructions for the use of water for maintaining its purity.

Environmental policy in India has largely been reactive, rather than proactive. Most important developments in this regime were either in response to international conferences or unfortunate incidents with costs to the environment or human life.

Many environmentalists and researchers have categorized developments in the Indian regime into four phases: the colonial era, the United Nations Conference for Human Environment (Stockholm), the Bhopal gas tragedy and finally, judicial actions.

The present time is all about rapid increase of industrialization and selfish human needs, Environment is suffering badly. The importance of conservation as well as improvement of the environment with supportable use of natural resources is shown really well in the Indian constitutional law of environment. Environmental laws of India provide the knowledge to maintain an ecological environmental balance by defending the forests and wildlife of the Indian country.

As the Environmental laws and policies in India have been

changed after independence 1947, the Indian constitution was adopted in 1950 and never dealt with the subject of environment or prevention before 1976.

Environmental Policy in Colonial and Post-Colonial Era

The policies from the colonial phase mainly saw the growth of laws that allowed the revenue growth of the British India government. The motive behind the first-ever environmental law, the Indian Forests Act of 1865, was to acquire a free source of wood to develop the rail-ways and other industries. While this law afforded certain protections to ‘reserved forests’, it was mainly in place to legalese huge amounts of tree felling for the growth of trade and industry.

A similar model was followed after independence, where India sought to formalize a National Forest Policy. Yet again, the Policy’s aim continued to be the development of trade, industry, defense and communication. However, this time, there was equal emphasis on tree plantations as well, possibly to address the obvious exhaustibility of this resource.

Historical Background of Environmental Laws

Laws in British India (1800–1947 AD):

- » Shore Nuisance (Bombay and Kolaba) Act, 1853 imposed restrictions on the fouling of seawater.
- » The Merchant Shipping Act of 1858 dealt with the prevention of sea pollution by oil.
- » The Fisheries Act, 1897
- » The Bengal Smoke Nuisance Act of 1905
- » Bombay Smoke Nuisance Act of 1912

» Wild Birds and Animals Protection Act, 1912

Post-Independence Scenario:

In the early years of Independence, there was no precise environmental policy and not many attempts were made to frame any specific policy or law for the protection of the environment. However, the concern for environmental protection was reflected in the national planning process and forest policy.

The legislative fight against pollution continued in independent India. But it is interesting to know that the Indian Constitution adopted in 1950 did not deal with the subject of environment or prevention and control of pollution as such. It was the Stockholm Declaration of 1972 that turned the attention of the Indian Government to the broader perspective of environmental protection.

Now there is a host of legislation in India aimed at protecting the environment from pollution and maintaining the ecological balance. The Environment (Protection) Act, 1986 is one major Act for environmental protection. The Government of India has launched various programs and made use of audio-visual media to educate the people and arouse their consciousness for the protection of the environment.

Fundamental status has been given to the concept of protecting the environment as it is essential to promote human health to have a healthy environment and affords a right to a healthy environment to all. Preserving the environment protects the health of every individual and a healthy individual promotes the development of the environment which is the need of the hour.

Law acts as a means of regularizing human conduct and provides the smooth functioning of society. Since the word 'Environment' did not find its existence in the Indian Constitution, it became

essential to insert provisions in the constitution as it is the supreme law of the land and such insertion thus, would prove to be fruitful to protect the environment from exploitation.

History of environmental laws in India:

The Indian Constitution adopted in 1950 never dealt with the subject of environment or prevention until the 1976 amendment was not passed. The post-independent Indian approach was centered on economic development and poverty alleviation.

The development of Environmental Law can be divided into two periods:

1. Pre 1972 Development

- During this period, tort laws, criminal law, laws regarding water, forest laws, special laws, etc. were there to deal with the subject of protection of the environment. We can say that there was not much development in the Indian Environmental Law during this period.

2. Post-1972 Development

- It was the post-Stockholm period and witnessed the development in the area of International Environmental Law at a very great level. Stockholm Conference resulted in highlighting the environmental protection concerns for the whole world, so is for the country of India.
- The detailed and developed framework for environmental protection came after the UN conference on Human Environment in Stockholm, in 1972. This led to the formation of the National Council for Environmental Policy and Planning in 1972 within the science and technology department. It was set up to establish a regulatory body for the overview of the environmental-related issues and concerns. This council was

later converted to the Ministry of Environment and Forests (MoE&F) in 1985.

Objectives of the Study

1. To study on environmental laws and policies in India.
2. To analysis of historical background of the environmental laws and policies in India.
3. To make suggestions for strengthening the environmental policies and laws of India.

Material and Methods

The presented study used secondary sources data to analysis and interpretation of the pa-per. Secondary sources are environmental annual reports, government policy and laws, books and journals. In terms of scope, in this paper the term ‘environment’ is used in a holistic manner encompassing environment, forests, wild-life, biodiversity, natural disasters and climate change. It includes policy, laws, judgments, guidelines, strategy and the like at the national level. In this paper the environmental laws and policy narratives are presented decade wise for the sake of simplicity.

Conclusion:

The environmental policy making space in India has been shaped by a multitude of fac-tors grounded in its historic, domestic and international contexts. The post-independence period from 1947–1970 prioritized economic development with environmental issues receiving only to-ken engagement. During the 1970s and 1980s, global environmental concerns, international obligations and strong political will drove transformation in the environmental policy space through comprehensive legislative frameworks. This period also saw several environmental movements that ultimately led to the adoption of participatory approaches to address environmental

concerns. The 1990s ushered in an era of collaborative engagement between the State and the local communities with regard to forest governance. Environment protection is part of our cultural values and traditions. In Atharvaveda, it has been said that “Man’s paradise is on earth; this living world is the beloved place of all; It has the blessings of nature’s bounties; live in a lovely spirit”. Earth is our paradise and we must protect our paradise. For the success of local environmental laws, it is essential to create a sense of civic awareness and public hygiene in the use of municipal services such as roads, public squares, drainage, etc. Strict compliance with the legal requirements is also required. Law is an effective tool for obliging people to practice cleanliness and thus fight pollution.

End notes

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Funding:

This study was not funded by any grant.

Conflict of interest:

The Authors have no conflict of interest to declare that they are relevant to the content of this article.

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