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FROM POLICY TO PRACTICE: ASSESSING INDIA'S ENVIRONMENTAL LAWS AND THEIR REAL-WORLD IMPLICATIONS

AUTHORED BY - SARTHAK BORA & NAKSHATRA DAPSE

INTRODUCTION

Environmental law in India is a complex and evolving field that aims to protect the environment and promote sustainable development. The Constitution of India recognizes the right to a clean environment as a fundamental right, and it is based on principles such as the polluter pays principle, the precautionary principle, and the sustainable development principle. Enforcement is carried out by agencies like the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and the Ministry of Environment, Forest and Climate Change.

Recent years have seen a growing awareness of environmental protection in India, leading to the enactment of new laws and regulations. The Air (Prevention and Control of Pollution) Amendment Act, 2016, introduced stricter standards for air emissions, and the Plastic Waste Management Rules, 2022, banned the use of certain single-use plastic items.

However, there are still challenges in enforcing environmental laws in India. The CPCB and SPCBs are often understaffed and underfunded, making it difficult to enforce laws effectively. Additionally, there is a lack of public awareness about environmental laws and regulations. Despite these challenges, environmental law in India is playing a crucial role in protecting the environment and promoting sustainable development.

MAJOR ENVIRONMENT LAW STATUTES:

- **THE ENVIRONMENT (PROTECTION) ACT, 1986**

The Environment (Protection) Act, of 1986 is a comprehensive environmental legislation in India that aims to protect and improve the environment. It establishes the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) to implement the act's provisions. The act prohibits the emission and discharge of pollutants beyond permissible limits,

requires consent from the SPCB before emissions, establishes hazardous waste management rules, establishes an Environmental Impact Assessment (EIA) notification, empowers authorities to take remedial action against polluters, and provides penalties for violations.

The Act has had a significant impact on India's environment, leading to reduced air and water pollution, improved waste management practices, and increased environmental awareness. However, there are still challenges in implementing the act effectively, such as industries not complying with emission and discharge standards and improper handling of hazardous waste. Despite these challenges, the Act remains an important tool for environmental protection in India, improving public health and improving the quality of life for many people. Examples of how the act has been implemented include setting emission and discharge standards, regulating pollutants, taking remedial action against polluters, promoting cleaner technologies, and supporting environmental awareness programs.

- **THE WATER (PREVENTION AND CONTROL) ACT, 1974**

The Water (Prevention and Control of Pollution) Act, 1974 is a comprehensive legislation in India that aims to prevent and control water pollution. It establishes a framework for setting water quality standards, regulating discharge into water bodies, and enforcing environmental standards. Key features of the act include establishing Central and State Boards, establishing water quality standards, regulating discharge by industries, municipalities, and other sources, requiring consent for discharge, empowering boards to take remedial action, prohibiting the disposal of pollutants without prior consent from the SPCB, and providing penalties for violations.

The act has played a significant role in improving water quality in India, leading to reduced pollution in rivers and lakes and improved drinking water quality for millions of people. However, there are still challenges in enforcing the act and ensuring compliance by industries. The act remains an important piece of legislation in India's environmental protection arsenal and continues to play a vital role in preventing and controlling water pollution. Examples of how the act has been implemented to improve water quality include setting water quality standards for different water bodies based on their use, regulating the discharge of pollutants into water bodies by industries and other establishments, taking remedial action to prevent and control water pollution, and imposing penalties on polluters for violating the act.

- **THE FOREST (CONSERVATION) ACT 1980,**

The Forest (Conservation) Act, of 1980 is a significant environmental legislation in India that aims to conserve and protect forests. It prohibits unauthorized tree felling and regulates forest use, making it one of the strictest forest conservation laws globally. The act requires compensatory afforestation for non-forest land diversion, empowers the Central Government to take remedial action, and provides penalties for violations.

Despite challenges in implementing the act, such as criticized Central Governments for not being proactive in approving proposals for diversion, and instances of illegal logging and forest encroachment, the act remains an important tool for forest conservation in India. The Central Government has approved proposals for the diversion of forest land, directed state governments to take action against illegal logging operations, and promoted sustainable forest management practices.

The Forest (Conservation) Act, of 1980 is a crucial tool for protecting forests and ensuring Sustainable development in India. It has played a significant role in conserving and protecting forests, reducing deforestation, and promoting sustainable forest management practices.

- **THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981**

The Air (Prevention and Control of Pollution) Act, of 1981, is a significant environmental legislation in India that aims to prevent and control air pollution by establishing emission standards, regulating industrial emissions, and promoting cleaner fuel technologies. The act establishes Central and State Pollution Control Boards (CPCB) and State Pollution Control Boards (SPCBs) to implement the provisions of the act. The CPCB and SPCBs have the power to set emission standards for various sources of air pollution, regulate industrial emissions by requiring consent from the SPCB, and promote cleaner fuel technologies. The act empowers boards to take remedial action, such as issuing directions to polluters, taking air samples, and conducting inspections. Penalties for violations include fines, imprisonment, and establishment closure.

The act has played a significant role in reducing air pollution in India, leading to reduced emissions from industries and vehicles, and improved air quality in many cities. However, there are still challenges in enforcing the act and ensuring compliance by industries. The act remains

an important piece of legislation in India's environmental protection arsenal and continues to play a vital role in air quality management.

- **THE WILDLIFE PROTECTION ACT, 1972**

The Wildlife Protection Act, of 1972, is a significant environmental legislation in India that aims to protect wildlife, including endangered and threatened species, by prohibiting poaching, trade, and habitat destruction. The act lists over 400 species of animals and 300 species of plants as protected, prohibits hunting, regulates wildlife trade, establishes protected areas like national parks, wildlife sanctuaries, and conservation reserves, empowers authorities to take action, and provides penalties for violations.

The act has had a positive impact on wildlife conservation in India, reducing poaching, trade, and habitat destruction. It has also established and managed protected areas, providing a haven for wildlife. However, there are still challenges in implementing the act effectively, such as instances of poaching and illegal trade in wildlife products. Some protected areas are not adequately managed, leading to habitat degradation and wildlife loss.

Despite these challenges, the Wildlife Protection Act remains an important tool for protecting India's rich biodiversity, saving many species from extinction and contributing to the conservation of India's natural heritage.

POLICIES IMPLEMENTED RECENTLY:

In the last six months, the Indian government has implemented several environmental law-related laws. Numerous environmental issues, including waste management, water and air pollution, and climate change, are the focus of these programs.

In India, the last six months have seen the implementation of several significant environmental legislation policies, such as:

- **Phase II of the National Clean Air Programme (NCAP):** With its commencement in January 2023, the NCAP Phase II seeks to cut air pollution by 20–30% by 2024 and 30–40% by 2026. Stricter emission regulations for automobiles and industries, the advancement of clean fuel technologies, and enhanced air quality monitoring and surveillance are just a few of the initiatives included in NCAP Phase II.

- **The National Policy for the Management of Solid Waste (NPSWM):** The goal of the NPSWM, which was introduced in February 2023, is to turn waste into resources by 2030. The construction of waste-to-energy plants, encouragement of waste composting and recycling, and waste segregation at the source are just a few of the initiatives included in the NPSWM.
- **The 2023 National Water Policy (NWP):** The goals of the March 2023 launch of the NWP 2023 are to rehabilitate all contaminated rivers by 2030 and to provide clean and inexpensive drinking water to everyone by 2024. The NWP 2023 calls for a variety of actions, including upgrading wastewater treatment facilities, collecting rainwater, and recharging groundwater.
- **The National Green Hydrogen Mission (NGHM)** was established in April 2023 to position India as a world leader in the production and export of green hydrogen. A variety of initiatives are included in the NGHM, including the establishment of green hydrogen production facilities, the provision of financial incentives for green hydrogen initiatives, and the creation of a green hydrogen market.
- **The NMEEE, or National Mission for Enhanced Energy Efficiency,** The NMEEE was introduced in May 2023 to reduce energy use by 30% by 2030. Among the many initiatives included in the NMEEE is the promotion of energy efficiency in transportation, industry, and buildings.

A big step has been taken in the direction of solving India's environmental problems with these policies. They offer a road map for collaborating with the government and other interested parties to make the environment healthier and cleaner for everybody.

The Indian government has created a variety of state-specific environmental law policies in addition to these national ones. For instance, the "Pollution-Free Delhi" initiative, started by the Delhi government, intends to cut air pollution in the city by 50% by 2024. The goal of the Maharashtra government's "Swachh Maharashtra Abhiyan" is to eliminate all waste from the state by 2025. Because they enable governments to customize their environmental policies to the unique requirements of their states, these state-specific laws are crucial.

The Indian government is dedicated to enhancing public health and preserving the environment. This devotion is demonstrated by the environmental laws that have been passed in the last six months.

AMENDMENTS:

In addition to the policies mentioned above, the Indian government has also made several amendments to environmental laws in the past six months. These amendments aim to strengthen environmental protection and enforcement in India. Some of the key amendments to environmental laws in India in the recent six months include:

- **Amendment to the Environment Impact Assessment (EIA) Notification:** The EIA Notification has been amended to include new sectors and activities that are required to undergo an EIA. This will help to ensure that all major development projects are assessed for their environmental impact before they are approved.
- **Water (Prevention and Control of Pollution) Act, 1974 Amendment:** Tighter guidelines for wastewater discharge and stiffer fines for violators are two of the changes made to the Water Act. This will contribute to improving India's water quality.
- **Amendment to the Air (Prevention and Control of Pollution) Act, 1981:** Tighter air emission regulations and harsher penalties for polluters are the two main changes made to the Air Act. This will contribute to India's decreased air pollution.
- **The Environment Act has been amended to give the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) greater authority to enforce environmental laws.** The Environmental Protection Act of 1986 has been amended. This will contribute to India's increased environmental compliance.

The strengthening of environmental protection and enforcement in India is made possible by these amendments. They will contribute to tackling the nation's environmental issues and establishing a more hygienic and salubrious atmosphere for everybody.

The Indian government has also suggested several new environmental laws, including ones on plastic pollution and biodiversity conservation, in addition to the aforementioned amendments. Although these laws are still in the proposal stage, they should become law in the upcoming months.

LANDMARK JUDGMENTS:

- **M.C. MEHTA V. UNION OF INDIA**

M.C. Mehta v. Union of India is a landmark judgment in Indian environmental law that established the right to a clean environment as a fundamental right under Article 21 of the Constitution of India. The case arose from a petition filed by M.C. Mehta, a lawyer and environmental activist, challenging the pollution of the Yamuna River by the Delhi Jal Board (DJB). The court ruled that the right to a clean environment is a fundamental right under India's Constitution, Article 21, and that the government must prevent and regulate pollution to safeguard the environment.

The M.C. Mehta case has significantly impacted India's efforts to protect the environment, leading to initiatives to raise environmental standards, such as cleaning up contaminated rivers and lakes and establishing tougher regulations for air and water pollution. Public interest lawsuits (PILs) contesting environmental pollution have also been sparked by the ruling, requiring the government and business sector to take action to protect the environment.

Despite criticisms, the M.C. Mehta ruling remains a seminal decision in Indian environmental law, as it has contributed to the establishment of the right to a clean environment as a fundamental right. The Supreme Court now has the authority to uphold environmental laws, contributing to the establishment of the right to a clean environment as a fundamental right. Environmental activists still rely heavily on the ruling, which has greatly influenced India's environmental protection efforts.

- **AKHIL BHARTIYA UDYOG VYAPARI MANDAL V. UOI (2013)**

Akhil Bharatiya Udyog Vyapari Mandal v. Union of India (2013) is a landmark Supreme Court of India case that established the government's duty to promote sustainable development and balance economic development with environmental protection. The court upheld the ban, stating that the government must promote sustainable development and that the ban was necessary to protect the environment. The court also held that the government must balance economic development with environmental protection, but in this case, the need to protect the environment outweighed the economic interests of small businesses.

The Akhil Bharatiya judgment is significant in environmental law in India, as it established the principle that the government has a duty to promote sustainable development and must balance economic development with environmental protection. The judgment has had a significant impact on environmental policy in India, leading to the adoption of policies such as the National Green Hydrogen Mission and the National Mission for Enhanced Energy Efficiency. The government has also been given the power to take measures to protect the environment, even if those measures hurt economic development.

Critics argue that the judgment has given the government too much power, leading to interference in business operations and restricting economic development. Others argue that the judgment is too vague and does not provide clear guidance on how to balance economic development with environmental protection. Despite these criticisms, the Akhil Bharatiya judgment remains a landmark in environmental law in India.

CONCLUSION

Environmental law in India is a complex and evolving field with several challenges to address. One of the main challenges is enforcement, which requires the strengthening of the Central Pollution Control Boards (CPCB) and State Pollution Control Boards (SPCBs) with more resources and manpower. Increased public awareness about environmental laws and regulations is also crucial. The conflict between economic development and environmental protection is another issue that needs to be balanced. The government and civil society organizations are working together to strengthen environmental laws, improve enforcement, and raise public awareness.

To address these challenges, the government should increase the budget and manpower of CPCBs, launch public awareness campaigns about environmental laws, promote sustainable development by incentivizing businesses to adopt clean technologies and enact stricter penalties for environmental violations. By doing so, India can create a cleaner and more sustainable future for its citizens.

REFERENCES:

- Rachit Garg, Environment legislation in India, IPLEADERS (2022), <https://blog.ipleaders.in/environment-legislation-in-india/>
- Environmental Laws in India, GEEKSFORGEEKS (2022), <https://www.geeksforgeeks.org/new-environment-laws-in-india/>
- Sannaya, Introduction to Environmental law in India, LEGALSERVICEINDIA.COM, <https://legalserviceindia.com/legal/article-635-introduction-to-environmental-law-in-india.html> (last visited Nov 10, 2023).
- Environment Laws, S.S RANA & CO (2019), <https://ssrana.in/corporate-laws/environment-law-india/>
- Madhavi Gaur, Environmental, Social & Governance Law India 2023, ADDA247 (2023), <https://currentaffairs.adda247.com/environmental-social-governance-law-india-2023> (last visited Nov 10, 2023).
- Paul Collins, Sustainable development: Definition, objectives and examples, SELECTRA (2021), <https://climate.selectra.com/en/environment/sustainable-development>
- ENVIRONMENTAL LAWS IN INDIA: AN INTRODUCTION - Jus Corpus, WWW.JUSCORPUS.COM (2022), <https://www.juscorpus.com/environmental-laws-in-india-an-introduction> (last visited Nov 10, 2023).

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