



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## **Mrs.S.Kalpana**

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **INDIAN ENVIRONMENTAL LAW FOR SUSTAINABILITY OF THE RESOURCES AND MANAGEMENT (CRITICAL ANALYSIS)**

AUTHORED BY - SHIVANSHU SOMNATH TAMBE

(5<sup>TH</sup> YEAR B.B.A. LL.B )

## **ABSTRACT**

Environmental degradation and the unsustainable use of natural resources have emerged as significant global challenges. In the context of India, a country with a burgeoning population and diverse ecosystems, effective environmental legislation is crucial. This research paper critically assesses the evolution, scope, and effectiveness of Indian environmental laws in promoting resource sustainability and management. It explores the strengths and weaknesses of these laws, analyzes their implementation, and suggests improvements. Through this assessment, the paper emphasizes the importance of robust environmental legislation in safeguarding India's natural resources for future generations.

## **INTRODUCTION**

### **BACKGROUND**

India's rapid industrialization and urbanization have brought about unprecedented environmental challenges. The country's abundant and diverse natural resources are under increasing pressure due to population growth and economic development. Protecting and sustainably managing these resources are critical for the well-being of current and future generations. In India, there exist laws that aim to preserve the environment and regulate human interaction with natural resources. The purpose of these environmental laws is to protect the environment and provide guidance on the sustainable use of natural resources. These laws also help to define who has the right to access and utilize natural resources and under what conditions. The Conservation of Forests and Wildlife Act of 1972 and the Environment (Protection) Act of 1986 are among the most important environmental laws in India. Ecological conservation is a fundamental aspect of sustainable development, and it is impossible to achieve development without adequate preservation of the environment. To achieve sustainable development, aggressive environmental measures are

needed, which are outlined in the Environment (Protection) Act of 1986. This act also includes sustainable development as one of its objectives, which can only be accomplished through the preservation of the environment, as stated in Article 21

## **OBJECTIVES**

This research paper aims to provide a comprehensive analysis of Indian environmental laws, with a specific focus on their role in promoting resource sustainability and management. It seeks to:

Evaluate the scope and effectiveness of existing environmental legislation.

Analyze the implementation and enforcement of these laws.

Suggest policy recommendations for strengthening the legal framework.

## **DEVELOPMENT OF SUSTAINABLE DEVELOPMENT IN INDIA**

It is worth noting that environmental protection was not a top priority during the planning process since 1952. However, the Fourth Five-Year Plan (1969-1974) made a significant move by explicitly declaring nature preservation. India's environmental movement began with the United Nations Conference on Human Environment in Stockholm, Sweden, in June 1972. The 42nd Amendment to the Indian Constitution, passed in 1976, included additional laws to protect the environment across the country due to the Conference. The Seventh Five-Year Plan (1985-1990) saw environmental and ecological progress, and the Ganga Action Plan was introduced to prevent the pollution of the river water of Ganga and restore its purity. It was suggested that all future growth plans should consider environmental factors, and that any actions that may harm the environment should be closely monitored. The Indian government accepted the well-established concepts of Polluter Pays and Sustainable Development as policy initiatives to prevent all forms of pollution in the Eighth Five-Year Plan (1992-1997).

The 12th Five-Year Plan (2012-2017) emphasizes that the stated objectives can be achieved through a comprehensive strategy, which is the main focus of "faster, sustainable, and more inclusive growth." As a result, environmental preservation is being strongly recommended to achieve sustainable development and a better quality of life. The Ministry of Environment and Forests (MoEF) has played a crucial role in promoting environmental preservation and sustainable development in the 21st century. The MoEF created a national unit called the Ozone Cell to implement the Montreal Protocol and the Vienna Convention. The International

Cooperation and Sustainable Development Division (IC&SD) was also established by the MoEF to coordinate sustainable development initiatives as part of its mission. India's constitution and legislation include several legal and constitutional measures that demonstrate the nation's commitment to environmental preservation and sustainable development.

It is important to note that environmental preservation should be the primary goal of economic advancement. There should be a balance between the use of natural resources and their pace of regeneration. Both the government and citizens should use non-renewable natural resources responsibly and continue to look for better alternatives. The goal is to provide a better quality of life for everyone. Therefore, it is essential to use natural resources responsibly, both now and in the future, so that they can be enjoyed by future generations as well.

## **ENVIRONMENTAL LAWS IN INDIA**

After independence, India's Constitution recognized environmental protection as a fundamental duty. Key milestones in the development of environmental laws include:

The Environment (Protection) Act, 1986:

The Environment (Protection) Act, 1986 defines the environment as including water, air, and land, as well as the interrelationships that occur between these elements, human beings, other living creatures, plants, micro-organisms, and property. The Indian Constitution's chapter on basic obligations explicitly assigns responsibility to every individual for maintaining the environment. Article 51-A (g) declares that it is every Indian citizen's obligation to maintain and develop the natural environment, including forests, lakes, rivers, and wildlife, and to show compassion for living creatures. The Directive Principles of State Policy under the Indian constitution aim to accomplish the goals of constructing a welfare state. A healthy environment is one of the components of the welfare state. Article 47 specifies that the state should consider increasing the level of nutrition and the quality of life of its people and the development of public health among its major tasks. The enhancement of public health also involves the conservation and improvement of the environment, without which public health cannot be ensured. Article 48 deals with the organization of agriculture and animal husbandry. It instructs the state to take initiatives to organize agricultural and animal husbandry on modern and scientific lines. It specifically states that the state should take action to maintain and develop breeds, prevent the slaughter of cows and calves, and protect other milch and draught livestock. Article 48-A of the

constitution specifies that the state should attempt to maintain and promote the environment and safeguard the forests and wildlife of the country. The Constitution of India's section III protects basic rights that are essential for the development of every individual, to which a person is intrinsically entitled by virtue of being human alone. "Right to environment is also a right without which growth of person and fulfilment of his or her full potential shall not be attainable. Articles 21, 14 and 19 of this section have been utilised for environmental protection."<sup>1</sup>

The Indian constitution's Article 21 guarantees that no individual shall be deprived of their life or personal liberty unless according to process provided by law. This basic right to life has been interpreted liberally over time, with the right to environment, free of threat of sickness and infection being inherent in it. The right to a healthy environment is a key aspect of the right to live with human dignity. In India, this right was first established in the case of *Rural Litigation and Entitlement Kendra vs. State*, in which the Supreme Court decided to halt illegal mining under the Environment (Protection) Act, 1986<sup>2</sup>. The right to live in a pollution-free environment was further recognized as a component of the basic right to life under Article 21 of the Constitution in the case of *M.C. Mehta vs. Union of India*.<sup>3</sup>

Water (Prevention and Control of Pollution) Act, 1974:

The 1986 Environmental Protection Act (EPA) was a landmark legislation in India as it addressed environmental issues for the first time. The Act sets standards for environmental protection, and noncompliance with the standards is punishable by fines or even criminal prosecution. The Act was amended in 1988, and it established the Central Pollution Control Board (CPCB), which provides guidelines for water pollution prevention and control. At the state level, the work of SPCBs (State Pollution Control Boards) is overseen by the CPCB and the state government.

Air (Prevention and Control of Pollution) Act, 1981:

To combat the effects of pollution, the 1981 Act established standards for ambient air quality in India. The Act aims to control and abate air pollution by targeting polluting fuels, substances, and appliances that contribute to air pollution. Under the law, state boards must approve the construction or operation of any industrial facility in the pollution control zone. In addition to

---

<sup>1</sup> Press Information Bureau, Environment Protection under Constitutional Framework of India, 4 June, 2014  
<https://pib.gov.in/newsite/printrelease.aspx?relid=105411>

<sup>2</sup> *Rural Litigation and Entitlement Kendra vs. State*, AIR 1988 SC 2187

<sup>3</sup> *Maneka Gandhi vs. Union of India*, (AIR 1978 SC 597).

testing air quality in pollution control areas, the boards are also expected to inspect pollution control equipment and manufacturing processes to ensure compliance with the Act.

The Wildlife (Protection) Act, 1972, Amendment 1991:

The Wildlife Protection Act (WPA) of 1972 is an important piece of legislation in India that established a network of ecologically significant protected areas to conserve designated species of flora and wildlife. The act empowers the federal and state governments to designate wildlife sanctuaries, national parks, and closed areas. These protected areas play a crucial role in conserving and protecting India's rich biodiversity.

Environment (Protection) Act, 1986 (EPA):

The Water (Prevention and Control) Act, 1974, and the Air (Prevention and Control) Act, 1981, established federal and state bodies to coordinate efforts to prevent and control water and air pollution in India. These laws give the federal government the authority to preserve and enhance the quality of the environment by establishing rules for emissions and discharges, regulating the placement of companies, managing hazardous wastes, and ensuring public health and welfare protections. This is an important step toward protecting the environment and ensuring sustainable development in India.

The Environment (Protection) Rules, 1986:

Guidelines have been established to define environmental pollution standards in India. These guidelines outline the methods for establishing pollution standards, and orders of ban and limitation on industrial site and operation may only be issued by the Central Government in accordance with these rules. In accordance with the guidelines, samples are taken, notices are given, samples are submitted for analysis, and laboratory reports are prepared. The Rules also outline the duties of the labs, as well as the credentials of the analysts who work there. These guidelines are important in ensuring that environmental pollution standards are established and enforced properly.

The National Environment Appellate Authority Act, 1997:

The National Environment Tribunal Act was enacted in India in 1995 to establish an environmental appellate authority. This authority is responsible for hearing appeals related to environmental restrictions imposed under the 1986 Environment (Protection) Act, as well as those

imposed by the National Environment Appellate Authority. The appellate authority plays an important role in ensuring that environmental regulations are enforced and that any disputes related to environmental issues are resolved fairly and impartially.

National Environment Tribunal Act, 1995:

The National Environment Tribunal Act, enacted in India in 1995, established a National Environment Tribunal for the effective and expeditious resolution of cases arising from any accident resulting from the handling of any hazardous substance. The tribunal aims to provide relief and compensation for damages to persons, property, and the environment, as well as address any matters connected thereto or incidental thereto. This is an important step towards ensuring that individuals and companies are held accountable for their actions with regard to hazardous substances and that those affected by such actions are adequately compensated.

The National Green Tribunal Act, 2010:

The National Green Tribunal Act was enacted in India in 2010 to create a National Green Tribunal (NGT). The NGT is responsible for the effective and expeditious resolution of cases relating to environmental protection and conservation, as well as the enforcement of any legal right relating to the environment and compensation for damages to persons and property, as well as matters connected or incidental to those issues. The NGT plays an important role in ensuring that environmental laws and regulations are enforced and that those who violate them are held accountable.

## LEGAL FRAMEWORK

The legal framework in India comprises a variety of laws, regulations, and policies aimed at environmental protection, resource conservation, and sustainable management. These include the Wildlife Protection Act, 1972, the Forest Rights Act, 2006, and various other sector-specific laws. "Protect and improve the environment and to safeguard the forests and wildlife of the country," states Article XVII of India's Constitution as the state's obligation. Each and every one of us is required by law to "guard and develop" the natural environment. The Directive Principles of State Policy and the Fundamental Rights both make mention of the environment.<sup>4</sup>

---

<sup>4</sup> Govind Narayan Sinha, "A comparative study of the environmental laws of India and the UK with special reference to enforcement," The University of Birmingham

The Department of Environment was established in India in 1980 to ensure the country's environmental well-being, and in 1985, the Ministry of Environment and Forests was established. Acts, regulations, and notices provide legal support for the constitution's provisions. However, before the Bhopal Gas Tragedy, there were several loopholes in existing laws. To address these issues, the Environment Protection Act (EPA) of 1986 was passed. The EPA aimed to fill the gaps in existing laws and regulations and provide a comprehensive legal framework for environmental protection in India. The act provides for the prevention, control, and abatement of environmental pollution and the protection of the environment, including forests, wildlife, and biodiversity. It also establishes the regulatory authorities responsible for enforcing environmental regulations and ensuring compliance with environmental standards.

## **STRENGTHS AND WEAKNESS OF INDIAN ENVIRONMENTAL LAWS:**

While India's environmental laws provide a comprehensive framework for resource management, several strengths and weaknesses must be considered:

**Strengths:**

Holistic approach, covering air, water, land, forests, and wildlife.

Constitutional recognition of the right to a healthy environment.

Mechanisms for public participation and access to environmental information.

**Weaknesses:**  
Inadequate enforcement and compliance.

Overlapping jurisdiction among regulatory bodies.

Lack of stringent penalties and accountability.

Inadequate focus on climate change and emerging environmental issues.

Implementation and Enforcement

## **CHALLENGES**

The implementation of environmental laws in India faces several challenges, including:

Inadequate funding and human resources.

Delays in project clearances and environmental impact assessments.

Corruption and lack of transparency.

Resource constraints for monitoring and enforcement.

Policy Recommendations

One of the significant challenges for India is to create acceptable indicators to accurately measure the achievement of Sustainable Development Goals (SDGs). The main definitions for sectors, such as poverty, hunger, clean drinking water, and education, need to be revised to properly execute the SDGs. Despite India's best efforts and prioritizing poverty alleviation since the Fourth 5-year Plan, it still has the highest number of people living below the povertyline. At the current level of investment, there is a significant financing shortfall that hinders the pace of accomplishing SDGs. Although NITI Aayog is expected to play a crucial role in taking ownership of the implementation process, the members of the Aayog have expressed their concerns repeatedly about the insufficient personnel they have to undertake such a daunting task.

The Indian government has acknowledged the lack of statistics, particularly from sub-national territories, as a significant issue in measuring progress. Incomplete coverage of administrative data is another factor that has hindered the assessment of progress even for the Millennium Development Goals (MDGs), which were the predecessors to SDGs.

## **STRENGTHENING ENFORCEMENT**

Enforcement is a critical component of any environmental law regime. Without effective enforcement, laws are toothless and polluters have little incentive to comply. There are a number of ways to strengthen enforcement of environmental laws:

Increase the number of environmental inspectors and other enforcement personnel. This will allow for more frequent and thorough inspections of potential polluters.

Increase the penalties for violating environmental laws. The current penalties for many environmental violations are too low to be a deterrent. Higher penalties would make it more costly for polluters to violate the law.

Provide environmental inspectors with the resources they need to do their jobs effectively. This includes providing them with adequate training, equipment, and support staff.

Make it easier for citizens to report environmental violations. This could be done by establishing a hotline or website for reporting violations.

Increase public awareness of environmental laws and the importance of compliance. This could be done through public education campaigns.

Create environmental courts or tribunals. This would allow for more specialized and efficient handling of environmental cases.

Promote cooperation between different government agencies responsible for environmental enforcement. This would help to ensure that enforcement efforts are coordinated and effective.

In addition to these measures, it is also important to address the root causes of environmental pollution. This includes promoting sustainable development practices, reducing reliance on fossil fuels, and investing in renewable energy.

## **PUBLIC PARTICIPATION**

Public participation is essential for effective environmental protection and sustainability. When the public is involved in environmental decision-making, they can provide valuable insights and perspectives that can help to improve the quality of decisions. Additionally, public participation can help to build support for environmental initiatives and increase compliance with environmental laws.

There are a number of ways to encourage public participation in environmental protection and sustainability. These include:

Providing opportunities for public comment on environmental proposals. This can be done through public hearings, comment periods, and online forums.

Establishing citizen advisory committees. These committees can provide advice to government officials on environmental issues.

Supporting environmental non-governmental organizations (NGOs). NGOs can play a vital role in educating the public about environmental issues and mobilizing support for environmental action.

Providing environmental education programs. These programs can help to teach the public about the importance of environmental protection and sustainability.

Making environmental information accessible to the public. This can be done through government websites, public libraries, and other means.

By encouraging public participation in environmental protection and sustainability, governments can help to ensure that environmental decisions are made in a transparent and accountable manner. Additionally, public participation can help to build a more informed and engaged citizenry that is committed to protecting the environment.

Here are some examples of successful public participation in environmental protection and sustainability:

In the United States, the Clean Water Act requires public participation in the development of water quality standards. This has helped to ensure that water quality standards are based on the needs and concerns of the public.

In India, the National Green Tribunal has been successful in using public interest litigation to address environmental problems. This has allowed the public to play a direct role in seeking redress for environmental harms.

In Brazil, the participatory budgeting process has been used to allocate public funds for environmental projects. This has helped to ensure that environmental projects are supported by the public.

These examples demonstrate the important role that public participation can play in environmental protection and sustainability. By involving the public in environmental decision-making, governments can help to ensure that environmental decisions are made in a more informed, transparent, and accountable manner.

## CONCLUSION

India's environmental laws play a pivotal role in promoting resource sustainability and management. However, their effectiveness is hindered by various challenges, including inadequate enforcement, evolving environmental issues, and the need for greater public participation. By addressing these challenges and implementing the policy recommendations outlined in this paper, India can enhance its environmental legal framework to safeguard its invaluable natural resources for current and future generations.

It's no secret that a healthy environment is crucial for human survival. We rely on it for our daily lives and we need to do our part in maintaining ecological balance and preserving it for future generations. Unfortunately, the environment has suffered greatly in recent years, with pollution taking a toll on the air, water, and soil. Rapid industrialization and advances in science have contributed to the damage done to our planet. As we enter a new era marked by even more industrialization and pollution, it is now more important than ever to strengthen environmental protections. Conservation is key to preventing further harm to the environment. The goal of conservationists is to protect natural resources for both present and future generations.

The destruction of tropical forests is a major concern as it is happening at an alarming rate. According to estimates, almost half of all the tropical forests on our planet have already been lost, and the remaining ones are expected to vanish within the next two to three decades. It's difficult to measure the value of what we've lost as these forests are home to numerous plant and animal species, and they also help sustain the water and energy needs of many people across the world. Sadly, these forests are being cleared for agriculture and commercial logging, which is causing irreparable damage to our environment. On a different note, the judiciary is known for being an excellent watchdog for democracy. It represents one of the three towers in the framework of the constitution that protects the rights of the people.

In India, the Judiciary has been a strong advocate for environmental protection and balanced growth. Many notable court cases have arisen in India as a result of environmental disputes. The Judiciary has taken the responsibility of enforcing the law and filling the gaps in the sphere of environmental and sustainable development, making it easier for lawmakers to pass legislation without actually doing so themselves. The Indian Judiciary has always been an environmental defender and guardian, upholding the right to life and the need for sustainable development as

basic human rights. It has made a significant contribution to the advancement of the sustainable development idea. While legislators have recently begun mentioning sustainable development in their legislation, the court deserves much of the credit for making it a core element of Indian law. There is no shortage of legislation when it comes to environmental policy in India. Indeed, several studies have explored the use of environmental protection legal strategies.

