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## SUSTAINABLE NATURAL RESOURCE MANAGEMENT: GLOBAL PERSPECTIVES AND CONTEXTUALIZED ACTION



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## AWARENESS OF ENVIRONMENTAL LEGISLATIONS AND POLICY

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### ABSTRACT

*The awareness and consideration for environment covers several environmental issues such as pollution of water, air and soil, land degradation, industrialization, urbanization, depletion of natural resources etc. Environmental law plays a very crucial role in regulating the use of natural resources and in protecting the environment. The success of environment legislations mainly depends on the way they are enforced. Legislation also serves as a valuable tool for educating masses about their responsibility in maintaining healthy environment. Numerous legislations have already put forth at national and international levels. Indian legislations are called as Acts, whereas the international legislations are in the form of conventions, protocols and treaties. The genesis of various legislations and policies in the country lies in the environmental problems. There should be effective legislations to protect the environment or else the need for resources by the growing population will create havoc on the environment. The other important aspect is enforcement of these laws. To safeguard our environment from further degradation and pollution these must be enforced laws forcefully and effectively. Despite such deep rooted environmental and societal problems the methods of combating the problems have advanced markedly. Measure includes the enactment of literally dozens of pieces of legislation, some overarching, others specify dealing with environmental problems.*

*Key words: awareness, pollution, natural resources*

### Introduction

India has well evolved institutes at central, state, district and local levels and has established a National Environmental Council headed by the Prime Minister to control the direction of environmental matters. The higher echelons of the Council hierarchy represent a think tank for the creation and development of appropriate plans and strategies. Recently in 2003, a National Forest Commission has also been established to control forestry matters under the Chairmanship of a retired

Supreme Court Judge. A media campaign was launched to increase public awareness and meetings were arranged to discuss development issues. A stakeholder group was established, consisting of government, academics, media and NGOs to review the inputs from the far-reaching community consultations, and to discuss issues of waste management and the concerns to improve slum areas.

### National Legislation

At national level serious efforts have been made for the improvement and protection of environment by incorporating changes the constitution of India. Our constitution, originally, did not contain any direct provision regarding the protection of natural environment. However, after the United Nations Conference on Human Environment, held in Stockholm in 1972. Indian constitution was amended to include protection of the environment as a constitutional mandate. Although India had an Elephant's Preservation Act of 1879 and a Forest Act of 1927, environment related legislation came very late in 1972 with Wild Life Protection Act 1971. As we all know, India is one of the twelve mega diversity countries. There are innumerable species, whose potential is not even known till date. Biodiversity has direct consumption value in agriculture, medicine and industry apart from it being a nations' wealth. There is constitutional provision in India for biodiversity conservation. The forty second amendment Clause (g) to Article 51A of the Indian constitution made it a fundamental duty to protect and improve the natural environment. "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." There is a directive, given to the State as one of the Directive Principles of State Policy regarding the protection and improvement of the environment. Article 48A states "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country". The department of Environment was established in India in 1980 to ensure a healthy environment for the country. This later became the Ministry of Environment and Forests in 1985. This Ministry has overall responsibility for administering and enforcing environmental legislations and policies. The constitutional provisions are backed by a number of legislations – Acts and rules. Most of our environmental legislations are Acts of the Parliament or the State Legislatures. These Acts generally delegate powers to regulating agencies, to make rules for the purpose of their implementation. The Environment Protection Act of 1986 (EPA) came into force soon after the Bhopal Gas Tragedy and is considered umbrella legislation as it fills many lacunae in the existing legislations. Thereafter, a large number of environmental legislations have been passed to deal with specific environmental problems. For example, in the recent past the

use of CNG for public transport vehicles has been made mandatory in Delhi. This has reduced air pollution in Delhi.

The need for protection and conservation of environment and sustainable use of natural resources is reflected in the constitutional framework of India and also in the international commitments of India. The Constitution under Part IVA (Art 51A-Fundamental Duties) casts a duty on every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Further, the Constitution of India under Part IV (Art 48A-Directive Principles of State Policies) stipulates that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Several environment protection legislations existed even before Independence of India. However, the true thrust for putting in force a well-developed framework came only after the UN Conference on the Human Environment (Stockholm, 1972). After the Stockholm Conference, the National Council for Environmental Policy and Planning was set up in 1972 within the Department of Science and Technology to establish a regulatory body to look after the environment-related issues. This Council later evolved into a full-fledged Ministry of Environment and Forests (MoEF). MoEF was established in 1985, which today is the apex administrative body in the country for regulating and ensuring environmental protection and lays down the legal and regulatory framework for the same. Since the 1970s, a number of environment legislations have been put in place. The MoEF and the pollution control boards ("CPCB", ie, Central Pollution Control Board and "SPCBs", ie, State Pollution Control Boards) together form the regulatory and administrative core of the sector.

**Some of the important legislations for environment protection are as follows:**

- The National Green Tribunal Act, 2010
- The Air (Prevention and Control of Pollution) Act, 1981
- The Water (Prevention and Control of Pollution) Act, 1974
- The Environment Protection Act, 1986
- The Hazardous Waste Management Regulations, etc.

#### **The National Green Tribunal Act, 2010**

The National Green Tribunal Act, 2010 (No. 19 of 2010) (NGT Act) has been enacted with the objectives to provide for establishment of a National Green Tribunal (NGT) for the effective and

expeditious disposal of cases relating to environment 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. The Act received the assent of the President of India on June 2, 2010, and was enforced by the Central Government vide Notification no. S.O. 2569(E) dated October 18, 2010, with effect from October 18, 2010. The Act envisages establishment of NGT in order to deal with all environmental laws relating to air and water pollution, the Environment Protection Act, the Forest Conservation Act and the Biodiversity Act as have been set out in Schedule I of the NGT Act. Consequent to enforcement of the National Green Tribunal Act, 2010, the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 stand repealed. The National Environment Appellate Authority established under s 3(1) of the National Environment Appellate Authority Act, 1997 stands dissolved, in view of the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010 vide Notification no. S.O. 2570(E) dated October 18, 2010.

#### **The Air (Prevention and Control of Pollution) Act, 1981**

The Air (Prevention and Control of Pollution) Act, 1981 (the "Air Act") is an act to provide for the prevention, control and abatement of air pollution and for the establishment of Boards at the Central and State levels with a view to carrying out the aforesaid purposes. To counter the problems associated with air pollution, ambient air quality standards were established under the Air Act. The Air Act seeks to combat air pollution by prohibiting the use of polluting fuels and substances, as well as by regulating appliances that give rise to air pollution. The Air Act empowers the State Government, after consultation with the SPCBs, to declare any area or areas within the State as air pollution control area or areas. Under the Act, establishing or operating any industrial plant in the pollution control area requires consent from SPCBs. SPCBs are also expected to test the air in air pollution control areas, inspect pollution control equipment, and manufacturing processes.

#### **The Water (Prevention and Control of Pollution) Act, 1974**

The Water Prevention and Control of Pollution Act, 1974 (the "Water Act") has been enacted to provide for the prevention and control of water pollution and to maintain or restore wholesomeness

of water in the country. It further provides for the establishment of Boards for the prevention and control of water pollution with a view to carry out the aforesaid purposes. The Water Act prohibits the discharge of pollutants into water bodies beyond a given standard, and lays down penalties for non-compliance. At the Centre, the Water Act has set up the CPCB which lays down standards for the prevention and control of water pollution. At the State level, SPCBs function under the direction of the CPCB and the State Government. Further, the Water (Prevention and Control of Pollution) Cess Act was enacted in 1977 to provide for the levy and collection of a cess on water consumed by persons operating and carrying on certain types of industrial activities. This cess is collected 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. The Act was last amended in 2003.

### **The Environment Protection Act, 1986**

The Environment Protection Act, 1986 (the "Environment Act") provides for the protection and improvement of environment. The Environment Protection Act establishes the framework for studying, planning and implementing long-term requirements of environmental safety and laying down a system of speedy and adequate response to situations threatening the environment. It is an umbrella legislation designed to provide a framework for the coordination of central and state authorities established under the Water Act, 1974 and the Air Act. The term "environment" is understood in a very wide term under s 2(a) of the Environment Act. It includes water, air and land as well as the interrelationship which exists between water, air and land, and human beings, other living creatures, plants, micro-organisms and property. Under the Environment Act, the Central Government is empowered to take measures necessary to protect and improve the quality of environment by setting standards for emissions and discharges of pollution in the atmosphere by any person carrying on an industry or activity; regulating the location of industries; management of hazardous wastes, and protection of public health and welfare. From time to time, the Central Government issues notifications under the Environment Act for the protection of ecologically-sensitive areas or issues guidelines for matters under the Environment Act.

In case of any non-compliance or contravention of the Environment Act, or of the rules or directions under the said Act, the violator will be punishable with imprisonment up to five years or with fine up to Rs 1,00,000, or with both. In case of continuation of such violation, an additional fine of up to Rs 5,000 for every day during which such failure or contravention continues after the



conviction for the first such failure or contravention, will be levied. Further, if the violation continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

### **Hazardous Wastes Management Regulations**

Hazardous waste means any waste which, by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics, causes danger or is likely to cause danger to health or environment, whether alone or when in contact with other wastes or substances. There are several legislations that directly or indirectly deal with hazardous waste management. The relevant legislations are the Factories Act, 1948, the Public Liability Insurance Act, 1991, the National Environment Tribunal Act, 1995 and rules and notifications under the Environmental Act.

**Some of the rules dealing with hazardous waste management are discussed below:**

- **Hazardous Wastes (Management, Handling and Transboundary) Rules, 2008**, brought out a guide for manufacture, storage and import of hazardous chemicals and for management of hazardous wastes.
- **Biomedical Waste (Management and Handling) Rules, 1998**, were formulated along parallel lines, for proper disposal, segregation, transport, etc, of infectious wastes.
- **Municipal Solid Wastes (Management and Handling) Rules, 2000**, aim at enabling municipalities to dispose municipal solid waste in a scientific manner.

In view of the short-comings and overlapping of some categories causing inconvenience in implementation of the Biomedical Waste (Management and Handling) Rules, 1998 as well as the Municipal Solid Wastes (Management and Handling) Rules, 2000, the Ministry of Environment, Forest and Climate Change has formulated the draft Bio-Medical Waste (Management & Handling) Rules, 2015 (Draft BMW Rules) and the draft Solid Waste Management Rules, 2015 (Draft SWM Rules) and sought comments on the draft Rules.

The Draft BMW Rules are to replace the Biomedical Waste (Management and Handling) Rules, 1998, and the Draft SWM Rules are to replace the Municipal Solid Waste (Management and Handling) Rules, 2000. The objective of the Draft BMW Rules is to enable the prescribed authorities to implement the rules more effectively, thereby, reducing the bio- medical waste generation and also for its proper treatment and disposal and to ensure environmentally sound management of these

wastes, and the Draft SWM Rules aim at dealing with the management of solid waste including its segregation at source, transportation of waste, treatment and final disposal.

- **E - Waste (Management and Handling) Rules, 2011** have been notified on May 1, 2011 and came into effect from May 1, 2012, with primary objective to reduce the use of hazardous substances in electrical and electronic equipment by specifying threshold for use of hazardous material and to channelize the e-waste generated in the country for environmentally sound recycling. The Rules apply to every producer, consumer or bulk consumer, collection centre, dismantler and recycler of e-waste involved in the manufacture, sale, purchase and processing of electrical and electronic equipment or components as detailed in the Rules.

- **Batteries (Management & Handling) Rules, 2001** deal with the proper and effective management and handling of lead acid batteries waste. The Act requires all manufacturers, assemblers, re-conditioners, importers, dealers, auctioneers, bulk consumers, consumers, involved in manufacture, processing, sale, purchase and use of batteries or components thereof, to comply with the provisions of Batteries (Management & Handling) Rules, 2001.

#### **Other Laws Relating to Environment**

- **The Wildlife Protection Act, 1972** - The Wild Life (Protection) Act, 1972 was enacted with the objective of effectively protecting the wild life of this country and to control poaching, smuggling and illegal trade in wildlife and its derivatives. The Act was amended in January 2003 and punishment and penalty for offences under the Act have been made more stringent. The Ministry has proposed further amendments in the law by introducing more rigid measures to strengthen the Act. The objective is to provide protection to the listed endangered flora and fauna and ecologically important protected areas.

- **The Forest Conservation Act, 1980** -The Forest Conservation Act, 1980 was enacted to help conserve the country's forests. It strictly restricts and regulates the de-reservation of forests or use of forest land for non-forest purposes without the prior approval of Central Government. To this end the Act lays down the pre-requisites for the diversion of forest land for non-forest purposes. The Scheduled Tribes and Other Traditional Forest Dwellers

(Recognition of Forest Rights) Act, 2006, recognises the rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers over the forest areas inhabited by them and provides a framework for according the same. The Indian Forest Act, 1927 consolidates the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

- **Public Liability Insurance Act, 1991**-The Public Liability Insurance Act, 1991 was enacted with the objectives to provide for damages to victims of an accident which occurs as a result of handling any hazardous substance. The Act applies to all owners associated with the production or handling of any hazardous chemicals.)
  
- **The Biological Diversity Act, 2002** -The Biological Diversity Act 2002 was born out of India's attempt to realise the objectives enshrined in the United Nations Convention on Biological Diversity (CBD), 1992 which recognises the sovereign rights of states to use their own Biological Resources. The Act aims at the conservation of biological resources and associated knowledge as well as facilitating access to them in a sustainable manner. The National Biodiversity Authority in Chennai has been established for the purposes of implementing the objects of the Act.
  
- **Coastal Regulation Zone Notification** -The Ministry of Environment and Forests had issued the Coastal Regulation Zone Notification vide Notification no. S O. 19(E), dated January 06, 2011 with an objective to ensure livelihood security to the fishing communities and other local communities living in the coastal areas, to conserve and protect coastal stretches and to promote development in a sustainable manner based on scientific principles, taking into account the dangers of natural hazards in the coastal areas and sea level rise due to global warming.

## **Conclusion**

Environmental sensitivity in our country can only grow together a major public, awareness campaign. This has several tools- the electronic media, the press, school and college education, adult education, which are all essentially complementary to each other. Green movements can grow out of

small local initiatives to become major players in advocating environmental protection to the Government. Policy makers will only work towards environmental preservation if there is sufficiently large bank of voters that insist on protecting the environment. A recurring theme in India 's strategy has been to place a heavy onus on developed countries to lead the way to environmental improvement and effectively assist developing countries. Ultimately there is still a need for identification of programs that have multiple benefits and can exploit ecological linkages between agreements. Public awareness of the various conventions would also stir the impetus of implementation.

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