

# Environmental Law v/s Development: Discuss the Agents of Framework, Development and Implementation

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## ABSTRACT

In this period, the graph of rapid industrialization and further activities for development and growth in countries has been growing which might have an impact on their natural environment. This is an international problem, and not only governments but also international organisations and conferences recognise this as a globally important issue with recommendations on how to ensure the environment and health of human beings in good time for development. Development is the need of the present which is crucial for the advancement of the countries but somehow it compromised the natural environment. As we can see that the rate of global warming, climate change, excessive carbon emission, etc. increasing rapidly. In order for human society to live in a healthy environment, it is important that certain laws and regulations are introduced by governments of various countries as well as the judiciary has an important role to play. In doing so, awareness of the environment increased and provided a way for development to be done with no adverse environmental impact. The article seeks to analyse Indian legislation on the environment and examine its effectiveness in curbing damage caused by development processes, as well as examines how international organisations and conferences play a role in protecting the environment.

**KEYWORDS:** Development, Environment, Industrialization, Human Health, Rules and Regulations, International Organizations.

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## INTRODUCTION

The word 'environment' is derived from the name "environ" which means, "to surround". So, the environment is a set of conditions, circumstances affecting people's lives. Biological and abiotic components are included in the environment. The cumulative effect of human activity is affecting the ecological balance as a result of which climate change, Global warming and other problems are becoming increasingly complex.

The environment includes water, air, land and the associated interrelationships that exist between water, air, land, human beings, living organisms, plants microorganism and property as set out in section 2 (a) of the Environmental Protection Act, 1986. According to P.N. Bhagwati J., "This term is used to mean that the physiological and social conditions surrounding an organism influence its behaviour, growth or development in a direct or indirect way. The conditions under which the organism is interacting with each other are included in that definition." The word 'environment' is a broad spectrum which brings

within its sweep the hygienic atmosphere and ecological balance.

The Environment Protection Act was passed with the foreign background and to fulfill the constitutional obligation as provided under Article 48- A. the Act was passed to fulfill the obligation as provided under the Stockholm Declaration of 1972. The 26 principles have been included in this declaration and they are called the Magna Carta of Human Environment. It was a declaration which contained 26 principles, called the Magna Carta of Human Environment. The Stockholm Declaration has called upon governments to make it a priority to develop legislation that protects and improves flora and fauna, sustainable natural resources such as wildlife and people's health. There are 26 parts to the Act in total, with four chapters. It was also found to have seven schedules dealing with emission standards of air, noise, effluents etc.

All of this is relevant to development and the environment. The place around us where we work and earn a living but also live in compliance with

the environment, its changes, tends to be the environment. Inclusionary development is not feasible without an appropriate focus on the conservation of the environment. We've seen that there are two sides to a coin in today's age, development and the environment. The atmosphere is a concern, as we know that the main challenges such as climate change, greenhouse gases, water and air pollution have been increasing at regular intervals, but sustainability needs to be ensured when poverty reduction and economic growth rise. A country is not going to pull itself out of its cruel cycle of poverty unless it develops economically. A good balance between economic prosperity and the use of natural resources has to be found. There is no significance in development that does not have an atmosphere. This will require us to conserve energy in the coming centuries, but only if we understand sustainable development.

Environmental pollution can be described as adding to an environment any substance or energy such as heat, at a rate quicker than the environment has been able to cope with this by dispersing, breaking down, recycling and storing in some innocuous form. Human activities related to production, transport, agriculture and disposal of waste result in unintended or unreasonable impacts on the natural environment. By its very nature, pollution is a civil offence, and it is a crime against the community as a whole. Therefore, the damage resulting from environmental and ecological restoration must be compensated for by a person.

The importance of legislation to protect the environment is that without a proper regulation and law, it will not be possible to ensure environmental protection. The way in which humans do not destroy the environment but ensure its future protection is to raise awareness about it and promote ecological education. However, ensuring that environmental protection actually takes place in daily life is the responsibility of legislation. In order to protect the environment and prevent environmental degradation, legislation requires businesses, companies, government bodies, industry etc.

Developing countries also face difficult, serious and rapid developments of pollution as a result of their modern society's increasing concern for global environmental issues. Foreign firms which do not pay sufficient attention to local environmental impacts are exacerbating the potent combination of industrialization development and consumption trends. In developing countries, pollution also has a very strong link with development patterns.

Nevertheless, there are no clean air policies or adequate enforcement mechanisms to ensure the effectiveness of such policies in a large number of emerging countries. Significant rises in pollution have been caused by the combination of rapidly developing industry, particularly petrochemicals and automotive industries, along with robust economic growth as well as unprecedented urbanisation.

#### **ENVIRONMENTAL LAWS AND THEIR IMPACTS ON THE DEVELOPMENT PROCESS**

Environmental law plays a vital role in regulating activities which may adversely affect the environment. The environment cannot be safeguarded if it is not protected by such protective legislation and also through the development process which may have a major negative impact on its evolution. Although there is the unavoidable need for this development process, it needs to be pursued in a way that will keep pace with its impact on the environment and also increase employment opportunities for numerous people. In India, parliament enacted several acts related to the environment which are as follows:

***Environmental Protection Law of 1986:*** Enacted by the Indian Parliament, aimed at protecting and improving the environment: India was a part of the 1972 conference in Stockholm where they adopted an environmental protection law 1986. It is a broad act, empowering the government to take all needed steps in order to prevent environmental pollution and making it possible for institutions to adopt precautionary measures.<sup>1</sup> Prior to the implementation of the Environmental

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<sup>1</sup> Section 3 of The Environment (Protection) Act, 1986.

Protection Act, India has already passed a number of acts but due to changes in its conditions and need for detailed rules and regulations, they have been adopted. The Stockholm conference also makes it mandatory for all decisions to be adopted by governments of the countries after this meeting.

### **The most important features of the Environment Protection Act, 1986**

- The Central Government may, by means of this act, plan and implement a national programme for the prevention, control, and abatement of environmental pollution and for the restriction of areas in which any industry, operation or process or category of industry, operation or process is not carried out or is subject to certain safeguards. (Section 3).
- The central government may order the closure, prohibitions or regulation of any industry, operation and process; cease to supply electricity or water for a period of not more than one year; or regulate further services. (Section 5)
- These acts require that any person carrying out any activity, operation or process shall not discharge or emit or permit any environmental pollutant to be discharged or emitted in excess of such standards as may be laid down. (Section 7)
- The provisions of this act provide for the setting up of Environmental Laboratories to test samples and certain related functions as laid down in that Act. (Section 12)
- The law imposes a penalty on those who breach one or more of the provisions of this act and cause damage to the environment. (Section 15)

**The Forest (Conservation) Act of 1980:** This act is particularly important because it ensures the conservation of forests. Forests are of vital importance for ecosystem balance but the increasing pace of development exerts significant influence on forests. Deforestation had been a major issue and on 25 October 1980 the Law was implemented in order to prevent it.

### **Features of the Forest (Conservation) Act of 1980**

- The provisions of this Act shall only enable the Central Government to take any decision and can give directions concerning restrictions on deforestation or use of forest land for non-forestry purposes. (Section 2)
- For the purpose of providing advice to the Government on matters relating to forest conservation, the central government may constitute an advisory committee. (Section 3)
- The fine imposed on the person who breaches this provision shall be mentioned in that act. As a result of an amendment made in 1988, the provision on punishment was added.

**The Wildlife (Protection) Act, 1970:** India is endowed with a diversity of plant and animal species but due to deforestation in the forests, there are some unknown losses that could have an adverse effect on the ecological balance. In such a case, the Wildlife Protection Act of 1970, which protects plants, birds and wildlife, was adopted by India's parliament as a preventive measure. Initially, it was a state subject but after the 42nd amendment it was transferred to the concurrent list and also it can be noticed that after the enactment of this act, it gives better protection to wildlife and also the number of national parks in India has been increases which are 106 till now. In the framework of this Law, certain bodies or authorities shall be set up as follows:

**National Board for Wildlife**<sup>2</sup> :The Central Government may set up a National Board for Wild Life, which will be chaired by the Prime Minister and the Minister in charge of Forests and the Vice Chair of Wild Life. In the field of policies concerning conservation of wildlife as provided for under Section 5C, the Committee shall provide advice to the Central and State Governments.

**State Board for Wildlife**<sup>3</sup> : Through this provision, the state government is empowered to constitute the State Board for Wildlife in which the Chief Minister of the State and in the case of the Union territory, either Chief Minister or

<sup>2</sup> Section 5A of Wildlife (Protection) Act, 1970

<sup>3</sup> Section 6 of Wildlife (Protection) Act, 1970

Administrator, as the case may be will be the Chairperson and the Minister-in-charge of Forests and Wild Life will be the Vice Chairperson. The Committee shall assist the State Governments to establish rules on conservation and protection of wildlife and specified plants as set out in Section 8, with a view to ensuring that all areas are designated Protected Areas.

**Central Zoo Authority**<sup>4</sup>: The central government may lay down an institution which will be named as the Central Zoo Authority, consisting of a Chair, at least ten Members and one Member's Secretary. They will be appointed accordingly to the central government and the authority will regulate the functioning of the zoos. Consequently, these environmental laws are very important for regulating policies relating to protection and conservation of the natural environment as well as establishing and preventing any activities which may have a detrimental effect on ecological balance. In this context, environmental laws play a major role in addressing rapid development that can have adverse effects on the environment.

### **Role of Judiciary in Right to Life and Environment Protection**

The right to life is mentioned in Article 21 of the Indian Constitution, this article is a one-liner but includes many things or liberties which are indirectly connected to Article 21. The judiciary has an important role to play as it recognises in various judgments that the fundamental right of a clean, healthy environment falls within the scope of Article 21. The case laws like:

**M.C. Mehta v. Union of India**<sup>5</sup>: In order to prevent leather tanneries from dumping household and industrial waste in the Ganga, a writ petition was filed before the Supreme Court. In order to reduce water pollution, the applicant requested an injunction stopping sewage from entering the river until such time as a treatment plan is drawn up. This case is also known as the "Ganga Pollution Case". The Court of Justice found that contaminated water can cause a wide range of drinking waterborne disease, and it is extremely harmful to the public. In respect of

who is responsible for ensuring that the waste is properly handled and subsequently disposed of, the Court found it to be the responsibility of the industry. The Court also found that Mahapalika was guilty of not fulfilling its duties in the area of preventing water pollution. In this respect, it ordered that immediate measures be taken by Mahapalika. Furthermore, in order to increase awareness of environmental issues, the Court called upon the Federal Government to make public information on it available for free. It added that the decision will be applicable to any Mahaparika who has jurisdiction over the Ganga. In our country, this decision continues to be regarded as one of the most important in terms of environment law. Some new scenarios and interpretations in relation to legislation and fundamental rights are included in the Decision. In this case, Supreme Court ordered to close-off of the tanneries and Singh J. stated that the closure of tanneries may create unemployment and also there is loss of revenue, but life, health, and ecology have greater importance for the people because no person shall be deprived of his life under Article 21 of the Constitution.

**Charan Lal Sahu v. Union of India**<sup>6</sup>: The Supreme Court found that the State has to take appropriate and proportionate action in order to fulfil and protect Constitutional Rights set out in Articles 21, 48-A, 51-A (g).

A number of significant efforts have been made in the field of environment protection and improvement since changes to the Indian Constitution were adopted. Indeed, our Constitution does not directly provide for the protection of the natural environment. In 1972, however, after a UN conference on the environment in Stockholm, India's constitution was amended to add protection of natural resources as a legal mandate. The 42nd Amendment clause (g) of Article 51A of the Constitution of India states that protecting and improving the natural environment is a fundamental duty. The protection and improvement of the natural environment, including lakes, forests, wildlife, and rivers, is a duty of every citizen of India, which is to be sympathetic to living things. In general, authorities have the power to establish rules for

<sup>4</sup> Section 38A of Wildlife (Protection) Act, 1970

enforcement of these acts. Some gaps in the existing legislation are being considered to have been closed by the 1986 Environmental Protection Act, which entered into force shortly after the Bhopal Gas disaster and was described as a protective measure. A number of important legislations has been put in place since then with the aim of dealing with particular environmental issues. In Delhi, for example, compressed gas is now required in the supply of fuel to vehicles. This is the way to clean up Delhi's air.

### **Climate Change in India**

On the other hand, India is considered to be a land of spirituality and philosophy and is also the land of rivers as it has 14 major rivers, 44 medium rivers, and 55 minor rivers. From the Ganges in the north to Kaveri in the south, the waterways are considered sacred by most devout Hindu pilgrims, as religious texts say the Ganges can purify the sins of the bathers. It is said that the sight of Narmada is enough to purify the waters. Nevertheless, India's rivers are increasingly being used to dispose of waste from households, industry and agriculture. The polluted environment poses a threat to human lives on Earth, which could put people in danger. A country's borders cannot limit these environmental issues to a specific country or region, but their impact is global. The global concern for the protection and conservation of the earth's environment has been raised by such a large deterioration.

Efforts are therefore being put in place to increase awareness of environmental issues amongst the masses. Education will give people a better understanding of the environment and its problems. A large and complex system of documents and power conferred on specific bodies or persons is already formed by existing policies, laws, precedents, regulations, rules, etc. The problem also seems to be unresolved by the present laws, so it is inevitable that how much resources, wealth, power and intelligence India devotes to regulation and control will ultimately need to be determined. The problem of water pollution is one characterised by a deterioration in the quality of drinking water due to various activities carried out by humans. The estimated time it takes for a man to survive without food

and water after one day is 20 days, but he begins to struggle with life in the absence of water. Water is the need of maintaining plants and animals' lives; water for navigation and hydroelectricity. Global water pollution is a problem that affects both industrialized countries as well as emerging economies. The problem of water pollution is concentrated in rich and poor countries, which can be remedied through collective action and commitment on the part of governments.

No doubt, industrialization is the backbone of our economy and agrarian sector is not capable to fulfil the requirement of an employment opportunities but we cannot be compromised with environment, development should be made in such a manner to use the natural resources in a minimize waste with maximum satisfaction of the wants of the people. The best way to address our challenge is through sustainable development.

### **ROLE OF INTERNATIONAL ORGANIZATIONS AND CONFERENCES IN ENVIRONMENTAL ISSUES**

Policy-making on the protection of the environment is strongly influenced by international organisations and conferences. In every phase of the development of norms, there are transnational organisations present. They shall lay down the agenda of international negotiations, draw up draft conventions, adopt guidelines and codes of conduct, modify their content or develop Treaty obligations in a way that allows them to be complied with. There are a number of international organisations and conferences listed below:

**Rio Conference:** From 3<sup>rd</sup> to 14<sup>th</sup> June 1992 a UN Environment and Development Conference was held in Rio de Janeiro Brazil, also known as the Rio Convention. The Rio Earth Summit, which aimed to present a wide agenda and new blueprint for international action in the area of environment and development issues that could help establish policy towards international cooperation and development during the 20th Century, also recognised sustainable development as an important concept.

**Stockholm Conference:** This was the first conference addressing environmental issues and it recognised that one has a right to live in an environment free from pollution. In 1972 it was



held in Stockholm under the title of "Only one Earth". The Stockholm Declaration, which contains 26 principles, has put environment issues at the forefront of international affairs and set up a United Nations Environment Programme UNEP.

**Inter-governmental Panel on Climate Change:**

It was formed by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) in 1988. IPCC is the world's leading international institution on climate change, and provides a key source of scientific information and technical guidance to United Nations Framework Convention on Climate Change as well as Kyoto Protocol and Paris Agreement.

**CONCLUSION**

For every living being, a clean and healthy environment is of utmost importance. Different laws have been developed for this purpose. This is an extremely sensitive issue and conservation of the natural environment must be a priority. In addition, the development of a strong environment protection regime can be helped by people who are aware of environmental issues. In order to achieve the aim of conserving nature's resources, legislation on environment needs to be adapted in accordance with global conditions and it is necessary to adopt a Sustainable Development concept. Alternative sources of energy that can reduce dependence on resources which are scarce and also make them more environment friendly need to be found. It's time we seriously consider the changes in our environment and natural disasters are increasing, so all legislation is properly implemented with a view to preventing and restoring environmental health and safety for life.

Indeed, industrial development is an essential part of the economy and trade that also provides opportunities to our young generation for employment even though environmental factors must be taken into account. Sustainable development should take one hour, and it is necessary to preserve environmental factors and balance of the environment. The policy of Law makers, town planner, developers of industrial

sectors in such a manner, it should be satisfying the maximum wants, or desires, or claims of the human beings with minimum waste, means a balance between the competing interests in the society”.

In order to preserve the fertile land and industrial towns that can be built on unfertile land, natural resources can be exploited as little as possible and policy makers need to plan industrialization and urbanization policies in such a way as to protect and improve the environment and pollution free atmosphere. So, in order to allow farmers to develop groves and orchards due to the creation of oxygen to our lungs and the control of pollution, the green belt to be developed for the development of oxygen from trees and policy makers can be planned in such a way.

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