

LEGAL AND CONSTITUTIONAL FRAMEWORK ON ENVIRONMENTAL PROTECTION IN INDIA

Abstract

The constitution of India evolves over time. As a result of this and the evolution of the nature brought in the provisions on protecting the environment and growth potential of the laws of the land.¹ In The Environment Protection Act (EPA), 1986 environment is defined as “anything that includes components like water, air, land and interrelationship that exists between human beings and other living creatures, plants, micro-organism and property”.

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Author

Seelapureddy Shamita

Vellore Institute of Technology

AP School of law

VIT-AP University

Vijayawada, Andhra Pradesh, India

shamita.22bal7004@vitapstudent.ac.in

¹ <https://pib.gov.in/newsite/printrelease.aspx?relid=105411>

I. INTRODUCTION

There was an extensive economic and industrial expansion experienced by India over the past decade and a half along with the development came in a few consequences. This rapid growth has shown a negative impact on the environment and caused pollution which later resulted in unhealthy condition in people and also affected the infant mortality rates and life expectancy rates. ²The act's legal provisions are not just limited to the administrative bodies, and allow citizens to be active custodians of the environment. This includes the avenue of public interest litigation, and enables the individuals to raise their voices and seek legal remedies for the protection of the environment. The act acknowledges the intrinsic value of biodiversity and habitats, reflecting a holistic understanding of environmental well-being. A detailed framework for the protecting the environment was drafted after the conference held in UN on Human Environment that was held in Stockholm in the year 1972. The EPA was enacted on May 23, 1986, and came into force on November 19, 1986 and it extends to the whole of India.

II. UNION CARBIDE CORPORATION VS UNION OF INDIA ETC ON 4 MAY, 1989, 1990 AIR 273, 1989 SCC (2) 540

- 1. The Bhopal Gas Tragedy:** The Bhopal gas tragedy, also referred as the Bhopal disaster, is considered to be one of the world's biggest industrial disasters that occurred. The uncertainty took place during the night of December 2-3, 1984, in Bhopal, Madhya Pradesh, India. It all occurred when the toxic methyl isocyanate gas was leaked into the residential areas from a pesticide plant owned by Union Carbide Corporation (UCC) and resulted in the death of thousands of people and leaving a long term effect on the health conditions on the people residing in the nearby areas. This disaster has highlighted the requirement for more stricter environmental regulations on the industries and the need of safety measures in the industrial operations. In the view of the Bhopal gas tragedy and other environmental concerns, the Government of India legislated the Environment Protection Act 1986. This legislation emphasises on the protection and improvement of the environment.
- 2. The Environment Protection Act, 1986:** The Environment Protection Act, 1986, is a critical piece of legislation that plays a crucial role in India's efforts to conserve its environment. It empowers regulatory authorities to monitor and control pollution and ensures active participation of public in environmental matters, and sets the legal framework for environmental impact assessments. It plays a vital role in safeguarding India's environment for both the present and future generations. India as a country of diverse ecosystems and population explosion faces complex environmental challenges that demand robust legal frameworks. The Environment Protection Laws in India, spearheaded by the EPA, 1986, constitute a comprehensive system for safeguarding the nation's environment and promoting sustainable development.

III. OBJECTIVES & KEY FEATURES OF EPA, 1986

1. The main aim of this act is to provide framework for the protection and improvement of the environment. The EPA 1986 aims to protect and improve the quality of the environment.

² <https://heinonline.org/HOL/LandingPage?handle=hein.journals/jibla15&div=7&id=&page=>

2. The act authorises the central government to make rules for the purpose of requiring an environmental impact assessment of certain projects and to take measures to protect the environment and improve the quality by setting standards for emissions and discharges of pollution into atmosphere due to the industrial activities, proper management of the hazardous wastes. Projects falling under these rules need to obtain environmental clearance before commencement.
3. Central Pollution Control Board is established at national level to promote and enforce environmental standards. State Pollution Control Boards are established in every state to implement environmental laws and standards.
4. EPA provides freedom citizens to take legal action, including public interest litigation, to protect the environment. It encourages public awareness and participation in environmental matters.
5. It aligns with India's international commitments under conventions like the Paris Agreement and the Convention on Biological Diversity.
6. These laws contribute to the country's long-term ecological and economic stability by addressing things like pollution control, biodiversity conservation, and sustainable development.
7. The act's legal provisions extend beyond administrative bodies, allowing citizens to be active custodians of the environment. This includes the avenue of public interest litigation, enabling individuals and organizations to seek legal remedies for protecting the environment. Furthermore, the act acknowledges the intrinsic value of biodiversity and habitats, reflecting a holistic understanding of environmental well-being.

IV. LAND MARK JUDGEMENTS

1. **M.C. Mehta And Anr vs Union Of India & Ors on 20 December, 1986 1987 AIR 1086, 1987 SCR (1) 819:** This case is often referred to as the "Oleum Gas Leak Case" or the "Shriram Gas Leak Case" because it dealt with a serious gas leak that occurred at the Shriram Food and Fertilizer Industry in Delhi.
 - **Facts:** The case arose due to the leakage of oleum gas from the Shriram Food and Fertilizer Industry in Delhi in 1985. The gas leak had severe consequences, including harm to human health and the environment. It raised significant questions about the liability of industries for environmental damage and the right to a safe environment.
 - **Legal Issue:** The main legal issues in the case included questions related to the constitutional right to a safe environment, the liability of industries for environmental damage, and the role of government agencies in regulating and preventing such incidents.
 - **Judgment:** The Supreme Court of India recognized right to a safe environment as a fundamental right under Article 21 of the Indian Constitution, which guarantees the

right to life. Industries have been held absolutely liable to compensate for environmental damage caused by their activities.

The case of *M.C. Mehta And Anr vs Union Of India & Ors* is significant not only for its immediate implications regarding the Oleum Gas Leak but also for its lasting impact on environmental law and the recognition of the right to a safe environment in India. It highlighted the responsibility of industries to prevent environmental harm and the duty of the government to ensure environmental protection.

2. Vellore Citizens Welfare Forum vs Union Of India & Ors on 28 August, 1996

- **Facts:** The case arose from the pollution caused by tanneries in and around the town of Vellore in Tamil Nadu. The tanneries were discharging untreated effluents into nearby water bodies, leading to severe environmental degradation and public health concerns.
- **Legal Issue:** The primary legal issue in this case was the pollution caused by tanneries and the need for effective regulation and control of industrial pollution. The case also dealt with questions related to the interpretation of statutory provisions related to environmental protection.
- **Judgment:** The Court reiterated the "polluter pays" principle, stating that industries that pollute the environment must bear the cost of remedying the damage caused. It emphasized the application of the precautionary principle, which means that when there is a potential threat to the environment or public health, lack of scientific certainty should not be used as an excuse for postponing measures to prevent environmental degradation. The Court also invoked the "public trust doctrine," holding that natural resources are held in trust by the government for the benefit of the public, and therefore, it is the government's duty to protect and preserve these resources. The judgment stressed the importance of obtaining environmental clearance for industrial projects and mandated that no new tanneries could be established without obtaining prior clearance from the relevant authorities. The tanneries in Vellore were held liable for the damage caused by their operations and were directed to take immediate measures to prevent further pollution. They were also required to pay compensation for the environmental damage caused. The judgment emphasized the role of regulatory authorities in enforcing environmental laws and ensuring compliance by industries.

In conclusion, India's Environment Protection Laws, underpinned by the Environment Protection Act, 1986, serve as a robust legal framework for environmental preservation. They provide the means to combat pollution, safeguard biodiversity, and promote sustainable development. In an era marked by growing environmental consciousness and global climate challenges, India's environmental laws stand as a testament to its commitment to preserving the natural world for current and future generations. Its multifaceted approach encompasses regulatory mechanisms, public participation, and ecological sensitivity. By championing the preservation and augmentation of the environment, this act remains an indispensable

instrument in India's pursuit of sustainable development and the harmonious coexistence of nature and society.

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