



India's environmental legal and policy framework: From pollution control to sustainable development and environmental justice

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Abstract

Environmental protection in India has evolved through a complex interplay of constitutional mandates, statutory enactments, judicial innovations, and policy frameworks. This article critically examines India's environmental governance architecture through a detailed analysis of key environmental legislations and national policies, including the Water (Prevention and Control of Pollution) Act, 1974; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986; the Public Liability Insurance Act, 1991; the National Green Tribunal Act, 2010; biodiversity, wildlife, and forest-related laws; and the Forest Rights Act, 2006. Alongside statutory instruments, the paper also evaluates major policy documents such as the National Environment Policy, 2006; National Forest Policy, 1988; National Water Policy, 2012; Wildlife Conservation Strategy, 2002; and the landmark international report *Our Common Future* (1987). The study adopts a doctrinal and analytical approach to assess how these laws and policies collectively address pollution control, conservation of natural resources, protection of indigenous and forest-dependent communities, environmental justice, and sustainable development. Special emphasis is placed on institutional mechanisms such as Pollution Control Boards and the National Green Tribunal, as well as principles like the precautionary principle, polluter pays principle, and intergenerational equity. The article argues that while India possesses one of the most comprehensive environmental legal frameworks among developing nations, persistent challenges such as weak enforcement, regulatory overlap, developmental pressures, climate change, and marginalization of vulnerable communities continue to undermine environmental outcomes. The paper concludes by advocating integrated governance, stronger community participation, ecological federalism, and alignment of national laws with global sustainability goals.

Keywords: Environmental law, sustainable development, pollution control, biodiversity conservation, forest governance, environmental justice, National Green Tribunal, forest rights, wildlife protection, environmental policy, precautionary principle, polluter pays principle, indigenous rights, climate governance, water law, air pollution, environmental institutions, natural resources, India, green jurisprudence

Introduction

Environmental degradation has emerged as one of the most pressing challenges confronting modern societies. Rapid industrialization, urbanization, population growth, and unsustainable consumption patterns have severely strained natural ecosystems. In India, these challenges are intensified by socio-economic inequalities, developmental imperatives, and ecological diversity. Recognizing these concerns, India has developed an extensive legal and policy framework aimed at protecting the environment while promoting sustainable development.

Environmental governance in India is constitutionally anchored in Articles 48A and 51A (g), which impose obligations on the State and citizens to protect and improve the environment. Over the decades, Parliament has enacted several specialized laws addressing pollution control, biodiversity conservation, forest management, wildlife protection, and environmental justice. Complementing these statutes are national policies that provide strategic direction for resource management and sustainability. This article undertakes a comprehensive examination of India's environmental legal regime and policy frameworks, tracing their evolution, objectives, institutional mechanisms, and limitations.

Pollution Control Legislations

1. The Water (Prevention and Control of Pollution) Act, 1974

The Water Act, 1974 represents India's first major legislative initiative to combat environmental pollution. Its primary objective is to prevent and control water pollution and maintain the wholesomeness of water bodies. The Act established Central and State Pollution Control Boards (CPCB and SPCBs) to monitor water quality, regulate effluent discharge, and enforce standards. Despite its significance, enforcement challenges, limited technical capacity, and industrial non-compliance continue to affect its effectiveness.

2. The Air (Prevention and Control of Pollution) Act, 1981

Enacted in response to growing air pollution concerns, the Air Act, 1981 empowers Pollution Control Boards to regulate emissions from industrial plants and automobiles. The Act recognizes air pollution as a public health issue and provides regulatory tools such as emission standards and consent mechanisms. However, rising urban air pollution highlights the gap between legal provisions and ground-level implementation.

Umbrella Environmental Legislation

1. The Environment (Protection) Act, 1986

The Environment (Protection) Act (EPA), 1986 was enacted in the aftermath of the Bhopal Gas Tragedy. It functions as an umbrella legislation empowering the central government to take comprehensive measures for environmental protection. Under the EPA, several rules and notifications—such as Environmental Impact Assessment (EIA) Notification—have been issued. The EPA reflects a shift from sector-specific regulation to integrated environmental management.

2. The Public Liability Insurance Act, 1991

This Act operationalizes the principle of “no-fault liability” by mandating industries handling hazardous substances to provide immediate compensation to victims of industrial accidents. It strengthens environmental accountability and victim protection.

Environmental Adjudication and Justice

1. The National Green Tribunal Act, 2010

The National Green Tribunal (NGT) was established to provide speedy and specialized adjudication of environmental disputes. The NGT has significantly advanced environmental jurisprudence by enforcing principles such as sustainable development, polluter pays, and precautionary principle. The tribunal has emerged as a key institution for environmental justice, though concerns remain regarding access, compliance, and executive resistance.

Biodiversity and Wildlife Protection

1. The Biological Diversity Act, 2002

The Biological Diversity Act aims to conserve biological diversity, ensure sustainable use, and promote equitable benefit-sharing. It aligns domestic law with the Convention on Biological Diversity (CBD) and recognizes community knowledge systems.

2. The Wildlife (Protection) Act, 1972

This Act provides legal protection to wildlife species and habitats through protected areas such as national parks and sanctuaries. Amendments have strengthened penalties and expanded species coverage.

Forest Governance and Indigenous Rights

1. The Indian Forest Act, 1927

A colonial-era law, the Indian Forest Act focuses on state control over forests, often at the expense of local communities.

2. The Forest (Conservation) Act, 1980

This Act restricts diversion of forest land for non-forest purposes and mandates central approval, thereby strengthening conservation oversight.

3. The Forest Rights Act, 2006

The Forest Rights Act (FRA) marks a paradigm shift by recognizing the rights of Scheduled Tribes and traditional forest dwellers. It seeks to correct historical injustices and promote participatory forest governance.

National Environmental Policies

1. National Environment Policy, 2006

The NEP emphasizes sustainable development, integration of environmental concerns into development planning, and public participation.

2. National Forest Policy, 1988

This policy prioritizes ecological stability, biodiversity conservation, and community participation through Joint Forest Management.

3. National Water Policy, 2012

The policy recognizes water as a scarce resource and promotes integrated water resource management.

4. Wildlife Conservation Strategy, 2002

The strategy focuses on habitat protection, community involvement, and scientific management.

Global Influence: Our Common Future (1987)

The World Commission on Environment and Development’s report *Our Common Future* introduced the concept of sustainable development, profoundly influencing India’s environmental policies and judicial interpretation.

Challenges and Way Forward

Despite a robust framework, India faces challenges such as enforcement deficits, regulatory fragmentation, climate change pressures, and conflicts between development and conservation. Strengthening institutions, ensuring community participation, and integrating environmental justice into governance are essential.

Conclusion

India’s environmental laws and policies collectively represent a comprehensive attempt to balance development with ecological protection. However, effective implementation, social equity, and adaptive governance remain critical to achieving sustainable development.

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