

**A COMPARATIVE CRITICAL ANALYSIS OF ENVIRONMENTAL LAWS OF INDIA AND
THEIR IMPLEMENTATION**

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Abstract:

Environment sustainability is an important topic; every country has adopted their environment related policies likely India have regulated many environments related acts. Indian Government are working hard on environment related issues. Many initiatives and programs were organized by various concern organizations. With reference to this, legal measures should be correlative / supportive to said cause.

In this research I have analyzed previous research papers on said topic as well as dissertations made by the scholars, report of a company and NGOs who are working on environment sustainability projects. By this study it is observed that, the acts regulating in India on environment related topics were regulated and timely amended. The environment courts are ensuring the due use of these laws but, it is observed that certain loop holes can be fulfilled while referring the laws and policies of foreign countries.

The companies and the NGOs who are taking initiatives on environment related issues should get more motivation and funding to promote this noble cause. Inculcation of environmental studies in traditional and professional courses is duly important. By saving the environment humans, wildlife and natural resources can be protected. Such research study shall help in the future as a guideline as well as a source of direction towards the change in environmental issues.

Keywords: *Environment Laws, Sustainable Development, Laws and Policies, Pollution, Measures, Conservation, Implementation, Remedies etc.*

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Introduction:

A study of the environmental law includes the legal measures and the policies adopted by the society, i.e, The Forest Act 1927, The Wildlife Protection act 1972, The Water prevention and Control of Pollution act 1974, The Forest Conservation Act 1980, The Air prevention and control of pollution Act 1981 and The Environment protection act 1986. This research paper focuses on comparative law methods, concepts of adoption of policy and socio legal and political approaches. This study also takes measures to make improvement in environmental laws and their timely amendment as per change in the approach of the society. In India, there are environmental courts which enforces above laws in their jurisdiction.

This research, also analyses regulatory provisions and approach of the society. This research, discusses measures over the environmental problems. Subject to environmental laws certain criminal approaches were showcased during the said study. There are multiple organizations like, NGOs, Associations, Executory body like Police and other administrative body were handling issues related to it.

The research methodology used in this paper is descriptive research and interviewing method was used to carry out the analysis. Some NGOs and employees of a company were interviewed as the sample for the study. Primary and Secondary Data was used in the Data Analysis.

Objective of This Study:

- 1) Analysis of different environment related laws after independence.
- 2) Comparative criticism of difference environmental laws and policies

Hypothesis:

- 1) The environmental laws in India are not implemented as per regulations.
- 2) There is a need of amendment in policies related to environmental issues with ref. to foreign countries

Review of Literature:

A literature review includes previously published content on the relevant topic. Here are some research papers which I have gone through during the study. As a secondary source, I have observed some online books, environment related policies, and reports of NGO and companies who are working on sustainable developments.

1) A Comparative study of India and UK with special reference to their enforcement, by Govind Narayan Sinha, School of Law, The University of Birmingham, August 2003.

In this research, the scholar have tested the environment laws and policies in India and UK, in which he have adopted descriptive comparative law method, in which revise policies of the pollution, the treaties which meets the obligation and adopting a cooperative approach to proceed the environment law. In this study, how India can take some lessons from the laws in UK were compared.

Also, the appraisal of the environmental policies and environmental legislations of India and UK were also analysed. The Amendment in the policies in India and how the environmental courts can look in the environmental problems in a legal manner were directed by the researcher.

2) Comparative Environmental Governance Laws and Policies: An analysis of judicial techniques in India and Nigeria, by Prof. Orubebe Bibobra Bello, 2017.

In this research how India and Nigeria, governing their environmental laws were studied. The growth of environment, sustainable development through balancing environmental, social, and economic and its judicial decision-making process were observed. There are some survey that were carried out of municipal legislations which deals with environmental governance. The study says, the governance module were negatively impacted on the citizens, which will in turn compel the government, all other stake holders who are dealing with laws and policies in both the countries.

3) Comparative Analysis of Environmental Laws: Implementation and Lack, by Niranjan Sundaranjan, Sarthak Chandak, Griish Bagale, Vol. 6, Issue 4, April, 2017.

This research paper shows current environmental conditions of five countries, i.e. India, China, Russia, Brazil, and United States of America. These countries are large as per their territorial boundaries and have taken major contributions in environment protections at global front. In this research scholars have studied, topics like environment degradation, natural forest loss, water pollution, air pollution, carbon emissions and also, difficulties in the implementations of environmental Laws. The environmental problems like water pollution, air pollution, issues with regards to soil degradation and pollution and forest destruction issues were studied by separate analysis of every country.

4) An Overview of Comparative Environment Laws and Policy, by A Dan Tarlock, Pedro Tarak, Denver Journal of International Law and Policy, Vol. 13, Article 6., January 1983.

In this research, the factors influencing environmental protection level were explained. It is said that, it changes

From country to country and amended on the basis of the culture, history and political influence. Due to industrialization, political organization and ideology, opportunities of the public influence the environmental laws were affected. It also explains legal strategies to control environmental insults and the private and public actions were addressed. Also, the legislative declarations on environmental policies and their implementations and non-compliances of the same. The alternative regulations for the same were stated.

Methodology Used:

Different environment laws and policies framed as per requirement of society and environment the present investigation highlights on post-independence policies and laws related to environment. The information and data will be collected from different secondary sources such as constituency, laws and policies, articles and research papers and books as well as different online sources and websites. Also, the analysis and field reports of the following company were taken into consideration, i.e. The Green India Initiative Pvt. Ltd. Along with this, the reports of NGO like – The Green India Initiative Foundation and Janiv Charitable trust were studied. All said organizations are working on sustainable and development projects in rural areas and projects of renewable energy like Solar Energy. Apart from this, environmental protection laws were also being studied and case laws were analysed.

Findings:

1. In 42nd amendment of constitution of Article 48A, which is a directive principle states that “The state shall endeavour to protect and improve the environment and to safeguard forest and wild life of the country.” Which explains the timely amendment were made in 48A to safeguard the environment and wildlife, which is also explained in Article 51A i.e a duty of the citizen is to protect and improve natural environment including forest, lakes, rivers, wildlife and living creatures.
2. India has over 200 laws with relation to environmental protection as well as national laws in the prevention and control of industrial and urban pollution.
3. Water (Prevention and Control of Pollution) Act 1974 which prohibits discharge of pollution into waterbodies, Environment Protection Act 1986, setups central pollution board which lay downs prevention and control of water pollution. It also, gives direction to state pollution control board.
4. Water (Prevention and Control of Pollution) Cess Act 1977, this act provides collection of levy and cess controlled by local authorities and industries. Municipal Councils were constituted for the supply of water. This act entitled to get rebate of 25% of the cess payable if one installs the treatment plants for the sewage or influents.
5. Air (Prevention and Control of Pollution) Cess Act 1981, it examines the standard of air quality and prohibits the polluting fuels and substances which pollutes the air. The board were constituted to tackle the emergencies and to recover the penalties from the offenders.
6. The Wildlife Protection Act 1972, this act provides protection to species were listed and the development of protected areas. This act directs the State government and central government to declare a particular area as forest, sanctuary or closed wildlife area.
7. The Forest Conservation Act, 1976, this particular act restricts the power of the state, in the revision of conversion of forest into industrial or non-forested areas. Due to which areas that is located near developing cities can be secured from growing industrialization.
8. Environment Protection Act, 1986, this act handles all the matters related to the environment and the sustainable developments. It says that the standard for the emission and discharges, topic related to location of industries, disposal of industrial waste and protection of public wealth and welfare of society and environment.
9. National Environment Appellate Authority Act, 1997, due to this act industrial process cannot be carried out in
10. The specific areas to safeguard the environment. The areas like forests and wildlife sanctuaries can be declared As restricted areas by this law.

11. National Environment Tribunal Act, 1995, this act gives damages, remedies for effective and expeditious disposal of cases arising in environmental issues. Due to which, one may understand damages for accidents happened in environmental matters.
12. National Forest Act, 1998, and National Veld and Forest Fire Act, 1998, Republic of South Africa, with the enforcement of this act the country have exercise sustainable management and development of forest. Also, provides special measures for the protection of forests and trees. This act aims not only the environmental sustainability but also contains economic educational and recreational purposes.
13. As per the UK Forestry Standards, published in 1998 and revised in 2004 & 2011, the government approaches toward the sustainable forestry. This policy is divided into two parts, i.e., legal requirements and good forestry practices. These legislations are applicable to Scotland, Wales, and Northern Irelands. The good forestry practices exercise the regulatory framework of the forest.

In India, the ecosystem services can be divided in to major categories like provisioning services, which provides food and water, regulatory services that provided climate and regulations of natural resources, cultural services do provide non material but spiritual and religious sense in the cultural heritage with the help of knowledge of education. And lastly, the supporting services can provide formation, production, disposal and recycling.

14. The Forest Code of Russian federation no. 200-FZ 2006, it explains the basics of forestry legislations. This includes hygiene and sanitary forest management, biological diversity, the forest and their global ecological importance. The topic like – farming, scientific research, educational activities as well as logging which shall be constituted as a type of business activity with cutting down of the forests.

Such legislations can be helpful in India where business activities were stopped due to the existence of the forests. By logging there will be a meet of industrial and environmental requirements.

15. The Forest Law of the People’s of Republic of China, made for the purpose of implementing the ideal lucid waters and lush mountains which valuable assets of the country. For the protection of the same land greening, ecological civilization by achieving the harmonies of coexistence of the human and nature. In this the forests rights, development plans, management and administration, supervision and inspections as well as legal liabilities were explained.
16. Penalties due to any circumstances if one fails to comply all above acts or responsible for failure or contraventions should be punishable for imprisonment for 5 years and fine up to 1lakh rupees. And if the contravention continues the additional fine of Rs. 5000 for every day and the imprisonment can be increases till the term of 7 years.
17. Offences by the companies, in case of environmental related offences is made by the company, the person will be charged at the time of offence been committed also the company shall be deemed to be guilty for the offence. The office bearers of the company shall be charged accordingly. Likely the offences committed by the government departments for which the head of the department deemed to be guilty and the penalties will be charged against him.
18. The activity reports of the company and the NGOs stated that there are, some areas where sustainable development can be made are surveyed properly, due to which it is underdeveloped. They are taking corporates to make them aware to give CSR funding for sustainable developments. Because of such activities, the people and wildlife can be made avail to progressive arrangements.

Conclusion:

As per the research carried out the protection of the environment were be carried in a strict way, but timely Amendments are required. The laws which are amended have passed almost two decades, hence necessary changes Should be made as per the contemporary scenario and challenges. In the legislation, provisions should be made for

the industrialization in the forest area by which development can be made.

The foreign countries are having some strict policies and the touch of the humanity to the policies where the systematic arrangements were made as per requirement and categories of the problems. Though they have separate departments as per the categories the matter can be observed and resolution can be made by the legislations. It is seen that these countries are having wide forest areas in comparison to India where they are regulating their forests policies.

Suggestions:

1. The environment related laws in India, should be amended as per the current scenario with reference to foreign countries stated above.
2. Environmental courts should be given more powers to exercise in their jurisdictions.
3. The inclusion of these laws should be made compulsory as core subject in traditional as well as professional courses.
4. Awareness related to laws like Environment Protection, Animal Acts, Green Consumerism, Sustainable Growth, Eco-friendly atmosphere, Use of renewable energies should be given more priorities.
5. The NGOs and companies who are working in the rural areas, for the development of people and environment should be highlighted at the global level, by which fundings can be arranged as a CSR activity by corporates.

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