# GANDHIAN PERSPECTIVE, MEASURE'S ON CLIMATE CHANGE & ENVIRONMENTAL LAW IN INDIA.

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**Abstract**

*Environment is a place where different things are such as a swampy or hot environment. It can be living (biotic) or non-living (abiotic) things. It includes physical, chemical and other natural forces. Living things live in their environment. They constantly interact with it and adapt themselves to conditions in their environment. In the environment there are different interactions between animals, plants, soil, water, and other living and non-living things. Since everything is part of the environment of something else, the word environment is used to talk about many things.*

*Thus, Environment includes the living and non-living things that an organism interacts with or has an effect on it. Living elements that an organism interacts with, are known as biotic elements: animals, plants, etc., abiotic elements are non-living things which include air, water, sunlight etc. Studying the environment means studying the relationships among these various things. An example of interactions between non-living and living things is plants getting their minerals from the soil and making food using sunlight. Predation, an organism eating another, is an example of interaction between living things. Things in the natural environment are called natural resources. These are renewable resources because they come back naturally when we use them. Non-renewable resources are important things in the environment that are limited for example, ores and fossil fuels. Some things in the natural environment can kill people, such as lightning.*

- *Ecological units which are natural systems without much human interference. These include all vegetation, microorganisms, soil, rocks, atmosphere, and natural events.*

- *Universal natural resources and physical phenomenon which lack clear-cut boundaries. These include climate, air, water, energy, radiation, electric charge, and magnetism.*

**INTRODUCTION:**

The environment is something you are very familiar with. It's everything that makes up our surroundings and affects our ability to live on the earth—the air we breathe, the water that covers most of the earth's surface, the plants and animals around us, and much more. In recent years, scientists have been carefully examining the ways that people affect the environment. They have found that we are causing air pollution, deforestation, acid rain, and other problems that are dangerous both to the earth and to ourselves. These days, when you hear people talk about "the environment", they are often referring to the overall condition of our planet, or how healthy it is.

The Three R's of the Environment:

Every year, Americans throw away 50 billion food and drink cans, 27 billion glass bottles and jars, and 65 million plastic and metal jar and can covers. More than 30% of our waste is packaging materials. Where does it all go? Some 85% of our garbage is sent to a dump, or landfill, where it can take from 100 to 400 years for things like cloth and aluminium to decompose. Glass has been found in perfect condition after 4,000 years in the earth! We are quickly running out of space. It's time to learn the three R's of the environment: Reduce, Reuse and Recycle.

**LAWS IN INDIA:**

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. On the other hand, 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 (Mo EF).

Mo EF 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. The Mo EF and the pollution control boards ("CPCB", i e, Central Pollution Control Board and "SPCBs", i e, State Pollution Control Boards) together form the regulatory and administrative core of the sector.

Some of the important legislations for environment protection have been briefly explained in the succeeding paragraphs.:

1. The National Green Tribunal Act, 2010
2. The Air (Prevention and Control of Pollution) Act, 1981
3. The Water (Prevention and Control of Pollution) Act, 1974
4. The Environment Protection Act, 1986
5. 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.

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. 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.

**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.

The Act 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 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. The cess so collected is utilised 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.

Non-compliance or contravention of the Environment Act, or of the rules or directions under the said Act, is 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 Trans boundary) Rules, 2008, It 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,

  These rules were formulated along parallel lines, for proper disposal, segregation, transport, etc, of infectious wastes.
- Municipal Solid Wastes (Management and Handling) Rules, 2000,

  These rules aimed at enabling municipalities to dispose municipal solid waste in a scientific manner.
- 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

  These rules 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:**

In addition, there are many other laws relating to environment, namely –

1. The Wildlife Protection Act, 197
2. The Forest Conservation Act, 1980
3. Public Liability Insurance Act, 1991
4. The Biological Diversity Act, 2002

**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.

**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 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.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006,

This right 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.

**Public Liability Insurance Act, 1991**

This Act 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.

**CONCLUSION:**

As a key environmental agency, EPA needs to support and maintain a strong research program. An evolving understanding of the complexity, magnitude and inter- relatedness of environmental problems leads us to conclude that a new balance of research programs may be helpful. This report describes a framework for conducting research in a way that will help alleviate the problems of the moment while providing a basis for solving tomorrow's problems. In the past, pressing environmental issues have been addressed primarily through focused research efforts directed toward solving particular problems. Although this approach to environmental research can be effective, has often been necessary, and will surely continue, it also has limitations. In order to address the abundance of established, emerging, and as-yet-unknown environmental issues, an expanded understanding of the scientific principles underlying environmental systems is needed. Achieving this understanding will require innovative, interdisciplinary approaches. To develop the knowledge needed to address current and emerging environmental issues, EPA should undertake both problem-driven research s well as Core Research While problem-driven research would focuses on understanding and solving identified environmental problems, Core research could focus on, generic information that will help understanding of many problems now and in the future.

Core research includes three components:

1. Understanding the processes that drive and connect environmental systems;
2. Development of innovative tools and methods for understanding and managing environmental problems; and
3. Long-term collection and dissemination of accurate environmental data.

Research activities within problem-driven and core research programs may often overlap. Fundamental discoveries can be made during the search for a solution to a

narrowly defined problem; likewise, as illustrated earlier in this report, breakthroughs in problem-solving often occur as a result of core research efforts. Both kinds of investigations are needed, and feedback between them will greatly enhance the overall environmental research endeavour.

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