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A STUDY ON INTERNATIONAL CONVENTIONS AND NATIONAL LAWS IN ENVIRONMENT PROTECTION

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Abstract

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Environment consists of naturally occurring living and nonliving things. Nature itself makes balance of all its components but due to over-exploitation of the natural resources, environment of earth is getting polluted. There is no deficiency of legislations on environment protection in India but their enforcement has been far from satisfaction. Before independence several environmental legislations existed but the real infusion for bringing about a well-developed framework came only after the UN Conference on the Human Environment. The extent of the environmental legislation clearly seen from the several legal laws in addition to the provisions of Constitutional law of India but the enforcement of these laws is still a matter of concern.

INTRODUCTION:

According to Chinese Proverb "If you plan for one year, plant rice, if you plan for 10 years, plant trees and if you plan for 100 years educate people" Sustainability of environment is a key of a developing nation and protection of environment is a major concern throughout the world.. The word environment is derived from the French word "Environner" which refers to encircle or surround. All the biological and non-biological things surrounding an organism thus included in environment. Stockholm declaration of 1972 was perhaps the first major attempt to conserve and protect the human environment at the international level. After the Stockholm Conference 1972, Constitutional Sanction was given to environmental concerns through the 42nd Constitutional Amendment in 1976. The extent of the environmental legislation clearly seen from the several legal laws in addition to the provisions of Constitutional law of India but the enforcement of the laws has been a matter of concern.

HISTORICAL BACKGROUND:

The environment received little attention of the nations as trans boundry problem, but such challenges were viewed as local or to some extent regional problems. In this regard some of the international conventions are:

Stockholm declaration 1972, The world commission on environment and development 1983, Basal Convention 1989, UN Convention on the Sea 1982, Vienna Convention on Protection of Ozone layer

1985, Montreal Protocol 1987, Convention on international trade in Endangered species of wild fauna and flora 1973, Bonn Convention on the Conservation of Migratory Species of Wild Animals 1979, Convention on wetlands of International Importance 1971 and 1982, World charter for Nature 1982, Earth Summit-The Rio Declaration on Environment and Development 1992, Kyoto Protocol 1997, and Copenhagen climate change Conference 2009.

CONSTITUTIONAL PROVISIONS¹:

India is the first country in the world to have made provisions for the protection and conservation of environment in its constitution. Some Constitutional provisions are discussed as under²:

- a) The State's responsibility with regard to environmental protection has been laid down under **Article 48-A³** of our Constitution, which reads as follows: "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country".
- b) Environmental protection is a fundamental duty of every citizen of this country relevant provisions are mentioned as under **Article 51-A (g)⁴** of our Constitution which reads as follows: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."
- c) Article 21 "No person shall be deprived of his life or personal liberty except according to procedure established by law."
- d) Article 47 "The State shall restrict the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating agents, drinks and of drugs which are injurious to health".

LEGAL PROVISIONS⁵

Water (Prevention and Control of Pollution) Act, 1974⁶ This Act represented India's first attempt to comprehensively deal with environmental issues. The Act prohibits the discharge of pollutants into water bodies beyond a given standard, and lays down penalties for non-compliance. The Act was amended in 1988 to conform closely the provisions of the Environment Protection Act, 1986. It set up the CPCB (Central Pollution Control Board) which lays down standards for the prevention and control of water pollution. At the State level, the SPCBs (State Pollution Control Board) functions under the direction of the CPCB and the state government.

Air (Prevention and Control of Pollution) Act, 1981⁷ The Act empowers the central and state pollution boards to meet grave emergencies. The boards have been authorized to take immediate measures to tackle such emergencies and recover the expenses incurred from the offenders. The power to cancel consent for non-fulfillment of the conditions has also been emphasized in the Amendment. The Air (Prevention and Control of Pollution) Rules formulated in 1982 also defines the procedures for conducting meetings of the boards, the powers of the presiding officers, decision-making, the quorum; manner in which the records of the meeting were to be kept. These rules also prescribed the manner and the purpose of seeking assistance from specialists and the fee to be paid to them for their advice.

ENVIRONMENT (PROTECTION) ACT, 1986 (EPA)⁸ Under this Act, the Central Government is empowered to take necessary measures to protect and improve the quality of the environment by setting standards for emissions and discharges; 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 EPA for the protection of ecologically-sensitive areas and guidelines in this regard from time to time.

THE BIOLOGICAL DIVERSITY ACT, 2002⁹ This Act also provides methods of conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto. As per the provision of Act certain areas, which are rich in Biodiversity and encompasses unique and representative ecosystems are identified and designated as biosphere reserve to facilitate its conservation. All restrictions applicable to protected areas like National Park & Sanctuaries are also applicable to these reserves. SJVNL abides by the provision of the Act wherever applicable and try avoiding these biosphere reserves while finalizing the project infrastructure locations.

JUDICIAL CONTRIBUTION - The right of a person to pollution free environment is a part of basic jurisprudence of the land. Supreme Court has also interpreted the article 21 to include the right as a whole for environment. The Court through its various judgment has held that the mandate of right to life includes right to clean environment, drinking-water and pollution-free atmosphere.¹⁰

A FEW RULINGS AS CITED BY APEX CODE ARE MENTIONED AS UNDER

Rural Litigation & Entitlement Kendra V. State Of U.P¹¹ In this case, carrying haphazard and dangerous limestone queries in the Mussoorie Hill range of the Himalaya, mines blasting out the hills with dynamite, extracting limestone from thousands of acres had upset the hydrological system of the valley was observed. The Supreme Court ordered the closing of limestone queries in the hills it was also noticed that would undoubtedly cause hardship to them, but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance of ecological balance.

- **M.C. Mehta V/S Union Of India-** In that case, a major leakage of Oilium Gas affected a large number of persons, both amongst the workmen and public at large. The Supreme Court held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to any one on account of an accident in the operation of such hazardous and inherently dangerous activity resulting in the escape of toxic gas the enterprise is strictly and absolutely liable to compensate all those who are affected by the accident and such a liability is not subject to any exception.
- **M.C.Mehta V/S Union of India¹²**-In Taj Mahal's case the Supreme Court issued directions that coal and coke based industries in Taj Trapezium (TTZ) which were damaging Taj should either change over to natural gas or to be relocated outside Taj. Again the Supreme Court directed to protect the plants planted around Taj by the Forest Department as under ¹³ The Divisional Forest Officer, Agra is directed to take immediate steps for seeing that water is supplied to the plants... The Union Government is directed to release the funds immediately without waiting for receipt of the proposal from the U.P. Government on the basis of the copy of the report. Funding may be subsequently settled with the U.P. Government, but in any set of circumstances for want of funds the officer is directed to see that plants do not wither away.
- **Order of the National Green Tribunal-s** The National Green Tribunal ON 9TH NOVEMBER, 2016 pulled up the Delhi government for failing to take timely preventive measures on pollution.

The tribunal directed the government to sprinkle water on roads to avoid dust and if needed use choppers.¹⁴

CONCLUSION:

Above review clearly demonstrate the need of proper protection acts and their implementations through legal framework for the sustainability of environment. After reviewing various literatures, it can be concluded that we have more than 200 central and state legislations about environment protection but the enforcement of law has been a matter of concern. A positive attitude of society is essential for effective and efficient enforcement of these legislations.

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