

Safeguarding Environment by Constitutional Provisions in India

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Abstract

The paper discusses the provisions enshrined in the Constitution of India which are explicitly or implicitly related to the protection of environment in the country. It gives a general introduction about the constitutional provisions, and deliberates how the legislation has been enacted or amended by the government from time to time to give effect to the ecosystem interpretation of the rights and the duties enlisted in the Constitutions.

For achieving the goal of sustainable environmental protection and conservation in India, the Apex court has also made some outstanding pronouncements to give wider interpretation to the fundamental rights of the citizens and to ensure an effective implementation of the directive principles of the governments.

The paper delves into how the tools such as writs, public interest litigation (PIL) have been employed by the judiciary to redress the damage caused and also execute the legislation and corresponding amendments incorporated into the acts and provisions of the Constitution.

Keywords: Ecology, Preservation, Forest, Waste, Pollution, Emissions

Introduction

Environment protection is not only incorporated in the Constitution of India but it is also an integral part of the Indian cultural values and traditions. In Atharvaveda, it has been said that 'Man's paradise is on earth; this living world is the beloved place of all; It has the blessings of nature's bounties; live in a lovely spirit'. Thus, Earth is our paradise and it is our duty to protect our paradise. (Vardhan, 2014)

The term 'environment' has been variously defined and is extensive enough to include water, air and land, and the inter-relationship which exists among and between water, air and land and human beings, alternative living creatures, plants, micro-organism and property. The definition is wide enough to incorporate inside its ambit all living creatures as well as plants and micro-organism and their relationship with water, air and land.

Both physical and biological environment are inter-dependent. Industrialisation, urbanisation, explosion of population, over-exploitation of resources, disruption of natural ecological balances, destruction of a multitude of animal and plant species for economic reasons are the major factors which have contributed to environmental deterioration.

The constitution of India embodies the framework of protection and preservation of Mother Nature, without which life itself cannot be enjoyed, or even exist as we know it. The knowledge of constitutional provisions relating to setting protection is want of the day to bring bigger public participation, environmental awareness, and environmental education and to sensitize the folks to preserve ecology and environment.

Discussion

The Constitution being the fundamental law of the land enshrines our national commitment towards protection and conservation of our natural environment. Several provisions contained in this body of laws, explicitly or implicitly, provides for the measures relating to the maintenance of a healthy environment for the people of India and for the redressal of issues resulting in any imbalance in the ecology and degradation of the

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environment. Some of the provisions which constitute the large body of legislative measures in the Indian Constitution are the Fundamental rights and duties, the Directive Principles of State Policy, the Seventh Schedule (Article 246), the Forty-second amendment act, Constitutional remedies (Article 32, 226) etc.

Fundamental Rights

The Preamble of the United Nations Declaration on Human Environment, adopted in Stockholm in June 1972 states: 'Man is both creature and moulder of his environment, which gives him physical substance and affords him the opportunity for intellectual, moral, social and spiritual growth' (Preamble, 1972).

Principle 1 of the Stockholm Declaration finds reflection in Article 14, 19 and 21 of the Constitution of India dealing with the Right to Equality, Freedom of Expression and Right to Life and Personal Liberty, respectively. (Chouhan and Dalei, 2014)

Fundamental Rights are contained in the Part III of the Constitution of India which are judicially enforceable. Thus, the Judiciary of India has contributed significantly since 1980s in broadening the contents and contours of these basic rights.

Supreme Court, the highest court of the country, has elevated the 'right to healthy environment' to the status of fundamental human right under Article 21 of the Constitution. The Court has adopted an extended view of 'life' under Article 21 and enriched it to incorporate environmental rights by reading it in conjunction with Articles 47, 48-A and 51A(g) and declaring: Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment together with their right to life with human dignity encompasses within its scope, the protection and preservation of natural surroundings, ecological balance which is free from air and water pollution, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental, ecological, air, water, pollution, etc. should be considered amounting to violation of Article 21. (Kothari and Patel, 2006)

In Maneka Gandhi's case, the Supreme Court has laid down that any law enacted by the legislature which curtails the life and liberty of a person has to stand the scrutiny of Articles 14 and 19 of the Constitution and if the procedure established by the law is found to be unreasonable, unfair and unjust it will be regarded as amounting to the violation of Article 21 of the Constitution. (Basu, 2011)

The concept of right to a 'wholesome environment' was evolved in Dehradun Quarry's case (Rural Litigation and Entitlement Kendra vs. State of U.P., AIR 1988 SC 2187) wherein the Supreme Court entertained complaints from the Rural Litigation and Entitlement Kendra, Dehradun alleging that the operations of limestone quarries in the Mussoorie-Dehradun region had resulted in degradation of the environment affecting the fragile ecosystems in the area. Hence, exercising its writ jurisdiction under Article 32, the apex court in Dehradun Quarry's Case ordered the closure of limestone quarries in the Mussoorie-Dehradun region that were degrading the fragile ecosystem in the area.

The Right to Livelihood as a part of Right to Life under Article 21 was recognized by the Supreme Court in Olga Tellis vs. Bombay Municipal Corporation. In Olga Tellis v. Bombay Municipal Corporation, the court entertained the petition against government's decision to evict all pavement and slum dwellers in the city of Bombay and to deport them to their respective places of origin and directed the municipal corporation to provide alternative sites or accommodation to the slum and pavement dwellers of the City of Bombay and also prepare a housing scheme for the poor and provide basic amenities to the slum dwellers. This was to guarantee that no person shall be deprived of their right to livelihood except according to the procedure established by law as enshrined in Article 21 of the Constitution. (Basu, 2011)

Similarly, exercising writ jurisdiction under Article 32, the Supreme Court in Banwasi Sewa Ashram v. State of Uttar Pradesh instructed the National Thermal Power Corporation Ltd. (NTPC) for Rihand Super Thermal Power Project that the ousting of the tribal forest dwellers and the acquisition of the forest land could be done only after providing facilities approved by the court to the ousted dwellers who rely on the forest products- fruits, vegetables, fodder, flowers, timber, animals and fuel wood for their daily needs. (Basu, 2011)

The Article 14 of the Constitution, which states that no person shall be denied equality before the law or the equal protection of the laws within the territory of India, have been resorted to by the environmentally conscious groups to challenge the constitutional validity of the arbitrary official sanctions such as construction

in contradiction to development regulations or mining without adequate appreciation of environmentally damaging consequences.(Basu,2011)

The Article 19(1)(g) of the Constitution confers upon every citizen of India the right to practice any profession or to carry on any occupation, trade and business. However, this right is also subjected to reasonable restrictions that may be imposed in the interest of the general public as in the case of *Abhilash Textiles v. Rajkot Municipal Corporation*. The court upheld that the business of dyeing and printing works of the factory could not be carried out at the cost of public health for the dirty water discharged from the factory without purification on the public road and public drainage could result in severe health menace.(Basu,2011)

Constitutional Remedies

In India, most of the environmental jurisprudence has been developed through writ jurisdiction. (Basu,2011) The writ jurisdiction of the High Court under Article 226 and that of the Supreme Court under Article 32 may be invoked by the litigant to assert his or her right to a wholesome environment against state by a writ petition to either the Supreme Court or a High Court. The writs of mandamus, certiorari and prohibition are generally issued by the courts in environmental matters. (Basu,2011)

A writ of mandamus is issued to command a public authority to act when it is vested with the power but wrongfully refuses to exercise it. As in the case of *Rampal v. State of Rajasthan*, the Rajasthan High Court commanded the Municipal Board to construct the sewers and drains for the discharge of domestic including dirty water as well as rain water. The writs of certiorari and prohibition are issued to restrain the public authorities from acting in excess of their authority. A writ of certiorari would be invoked against a state pollution control board when it wrongly sanctions an industry to discharge pollutants beyond prescribed levels or may be issued against a municipal authority that permits any constructional activity contrary to development rules or in areas reserved for recreational utilities such as parks or garden. (Basu,2011)

In the famous *Vellore Citizens' Welfare Forum v. Union of India*,(1996) 5 SCC 647 at 659-660, which is popularly known as *T.N.Tanneries Case*, the Supreme Court held that the essential feature of 'sustainable development' such as the 'Precautionary Principle' and the 'Polluter Pays Principle' are part of the Environmental Law of the Country.(Basu,1994) Judicial activism and the development of the concept of public interest litigation (PIL) under the writ jurisdiction of the Supreme Court and the High Courts have brought a mutation change in procedural jurisdiction and it has played an essential role in developing and providing impetus to Environment Jurisprudence with Human Rights approach.(Jaiswal and Jaiswal,79)

Forty-second Amendment Act, 1976

The Indian Constitution is perhaps one of the rare constitutions of the world which reflects the 'human rights' approach to environment protection through various constitutional mandates. In India, the concern for environment protection has not only been raised to the status of fundamental law of the land, but it is also wedded with the human right of every individual to live in pollution free environment with full human dignity. The Constitution of India obligates the 'State' as well as 'citizens' to 'protect' and 'improve' the environment.

The Indian Constitution, 1950, originally contained no specific provision regarding environment protection or nature conservation. The Constitution forty-second Amendment Act was passed in 1976 to make provision for an affirmative state action towards both protection and improvement of the quality of the environment. (Basu,2011)

The Forty-second Amendment Act, 1976 of the constitution incorporated specific provisions relating to certain aspects of the environment in Part IV-Directive Principles of the State Policy, Part IV-A Fundamental Duties and Seventh Schedule (Article 246).The amendment inserted Article 48-A in Part IV on Directive Principles of State Policy. The provision reads as: Article 48-A: Protection and improvement and safeguarding of forests and wild life: The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. (Basu,2011)

It also inserted Article 51-A(g) in Part IV-A on Fundamental Duties which makes it a fundamental 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.(Basu,2011) In the words of Ranganath Mishra, J.: 'Preservation of environment and keeping the ecological balance unaffected is a task which not only

Government but also very citizen must undertake. It is a social obligation and let us remind every citizen that it is his fundamental duty as enshrined in Article 51-A (g) of the Constitution'.

It also introduced certain changes in the List III (Concurrent List) of the Seventh Schedule (Article 246) of the Indian Constitution. It inserted entry 17-A which provides for forest and entry 17-B which provides for the protection of wild animals and birds. (Thakur, 1997)

Directive Principles of State Policy

Part IV of the Indian Constitution enshrines certain fundamental principles that every State government in India should take into account while framing laws and policies for the welfare and development of the citizens. These directives known as Directive Principles of State Policy are not enforceable in the court of law. However, the judiciary have been guided by the language and content of these directives of State policy in deciding several environmental cases. (Thakur, 1997)

H.M. Seervai has correctly pointed out: 'Article 48-A reflects an increasing awareness of people all over the world of the need to preserve the environment from pollution, especially in urban areas. Smoke, industrial waste, deleterious exhaust fumes from motor cars and other combustion engines are injurious to the health and well-being of the people and foul the atmosphere. The preservation of forests and their renewal by afforestation has long been recognised in India as of great importance both with reference to rainfall and to prevent erosion of the soil by depriving it of forests which protect it. The preservation of wildlife is looked upon as necessary for the 'preservation of ecological balance'. Article 48-A rightly emphasises the fact that the State should try not only to protect but to improve the environment.' (Seervai, 1991)

In *Sachidanand Pandey v. State of West Bengal*, the Supreme Court observed that 'whenever a problem of ecology is brought before the court, the court is bound to bear in mind Article 48-A of the Constitution... and Article 51-A(g).' and not shrug the matter as that of concern of the policy-making authority. The High Court of Himachal Pradesh has also described the provisions of Article 48-A and 51-A(g) as the Constitutional pointer for the State and a constitutional duty of every Indian, high or low, towards protecting and improving the environment and to preserve and safeguard the forests, the flora and fauna, the rivers and lakes and all the other water resources of the country. The neglect or failure to abide by it is a betrayal of the fundamental law of the land.

Similarly, the Andhra Pradesh High Court has also interpreted the provision of Article 48-A as an obligation on both the government and the judiciary to protect the environment. (Thakur, 1997)

Articles 39(e), 47 and 48-A of the Directive Principles of State Policy have a definite bearing on environmental problems. They by themselves and collectively impose a duty on the State to secure the health of the people, improve public health and protect and improve the environment. Article 49 of the Directive Principles of State Policy provides for the obligation of the State to protect monuments, places and objects of national importance.

In the *Taj* case, the Supreme Court of India seems to have got inspiration from Article 49 while protecting the Taj Mahal, a monument protected under the Ancient Monuments and Archaeological Sites and Remains Act, 1958, from harmful Industrial emissions originating in and around Agra.

Article 243-B, Article 243-G

The Constitution (Seventy-third Amendment) Act 1992 and the Constitution (Seventy-fourth Amendment) Act 1992 have given a constitutional status to the panchayats and the municipalities, respectively. The Eleventh Schedule along with other matters also contains the following matters which are directly or indirectly related to environment, like, agriculture, soil conservation, water management and watershed development; fisheries; social forestry and farm forestry; minor forest produce; drinking water; health and sanitation; and maintenance of community assets. (Basu, 2011)

The matters which are related to environment in the Twelfth Schedule may be enumerated as follows: urban planning including town planning regulation of land use water supply; public health, sanitation, conservancy and solid waste management, urban forestry, protection of the environment and promotion of

ecological aspects; provision of urban amenities such as park grounds; cremation grounds and electric crematoriums; prevention of cruelty to animals regulation slaughter houses and tanneries.(Basu,2011)

The case *Municipal Council, Ratlam vs. Vardhichand* (AIR 1980 SC 1622) stands like a signpost, wherein the Supreme Court has identified the responsibilities of local bodies towards the protection of environment, and also developed the law of public nuisance in the Code of Criminal procedure as a potent instrument for enforcement of their duties.

Article 253 and Environmental Legislation

The Article 253, contained in Part XI of the Indian Constitution, states that 'the Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.'(Tiwari,2006)

The Parliament exercising this law-making power under Article 253, has enacted the Air (Prevention and Control) Act, 1981, and the Environment (Protection) Act, 1986 to give effect to the provisions of the Stockholm Declaration of 1972, whereby India as a member of the United Nations and a signatory of the treaty of the Stockholm Declaration had pledged to work for the mission of preserving the world's natural resources. Also, the transfer of two subjects from the State List, i.e. forests and preservation of wild animals and birds to the Concurrent List as the effect of the Forty-second Amendment Act, 1976 has further enlarged the ambit of Parliament legislative powers to address the issue of preserving natural resources. (Thakur,1997)

The constitutional provisions are also backed by a number of laws, acts, rules and notifications. Following is the list of environmental legislations that have come into effect. (Kothari and Patel,2006)

- 1897- The Indian Fisheries Act. Under this act the government can sue any person using dynamite or other explosive substance in any way, coastal or inland, to catch or destroy any fish, poisonous or otherwise.
- 1927- The Indian Forest Act, first enacted in 1927, was amended post-independence in 1984. The act created various categories of forests for different management and regulatory regimes and consolidated laws related to forests, the transit of forest produce, and the duty leviable on timber and other forest produce.
- 1948- The Factories Act is concerned with the working environment of the workers. As amended in 1987 it expanded its application to hazardous processes.
- 1960- The Prevention of Cruelty to Animals Act is to prevent infliction of unnecessary pain or suffering on animals.
- 1970- The Merchant Shipping Act deals with the waste arising from ships along the coastal areas within a specified radius.
- 1972- The Wildlife Protection Act, Rules 1973, and as amended in 1991 and 2002 provides for the protection of wild animals, birds and plants, their habitat and other matters related to or ancillary or incidental thereto and ensures the ecological and environmental security of the country.
- 1974- The Water (prevention and Control of Pollution) Act establishes institutional structure for preventing and abating water pollution, sets standards for water quality and effluent, grant permission to polluting industries for discharging waste into effluent bodies. It also constituted Central Pollution Control Board (CPCB).
- 1974- The Water (Prevention and Control of Pollution) Act with further amendments done in 1988 is to prevent and control water pollution, maintain or restore wholesomeness of water.
- 1980- The Forest (Conservation) Act and Rules, 1981 provides for the protection and conservation of the forests and for matters connected therewith or ancillary or incidental thereto.
- 1981- The Air (Prevention and Control of Pollution) Act entrusts the CPBC with the power to control and abate air pollution.
- 1982- The Atomic Energy Act deals with the radioactive waste.
- 1986- The Environment (Protection) Act came into effect in 1986 as an aftermath of the Bhopal Gas Tragedy and is considered as umbrella legislation. It empowers the Union government to safeguard and

enhance the quality of the environment, control and reduce pollution from all sources. The act also authorizes the government to prevent or curb the setting up and/or functioning of any industrial facility on environmental grounds.

- 1986- The Environment (Protection) Rules, with further amendments in 1991, has laid down procedures for setting standards of emission or discharge or environmental pollutants. It provides for the protection and improvement of environment and for matters connected with the following key rules/ notifications:
 - i. Declaration of coastal stretches as coastal regulation zone (CRZ), 1991, amended 2001.
 - ii. The scheme for labelling of environment friendly products (ECOMARK), 1991.
 - iii. A series of notifications for declaring specific sites as Eco-Sensitive Zone.
 - iv. Environment Impact Assessment Notification, 1994, amended 2002.
 - v. The Rules for the Manufacture, Use, Import, Export, and Storage of Hazardous micro-organisms, genetically engineered organisms or cells, 1989.
 - vi. Hazardous Substances Management (municipal solid wastes, batteries, recycled plastics, chemical accidents, hazardous micro-organisms and genetically engineered organisms / cells, hazardous chemicals, biomedical wastes etc.).
 - vii. Noise Pollution (Regulation and Control) Rules, 2000.
- 1987- The Air (Prevention and Control of Pollution) Amendment Act empowers the Central and State Pollution Control Boards to tackle grave emergencies of air pollution.
- 1988- The Motor Vehicles Act directs that all hazardous waste must be properly packaged, labelled and transported.
- 1988- The Forest Policy provides for the twin objectives of ecological stability and social justice. It also emphasizes the symbiotic relationship between tribals and other poor people and forests, establishes their needs as 'the first charge' on forest produce and recommends participation of forest-dependent communities in the management of forests.
- 1989- The Hazardous Waste (Management and Handling) Rules are to control the generation, collection, treatment, import, storage, and handling of hazardous waste.
- 1989- The Manufacture, Storage, and Import of Hazardous Rules defines the terminology to be used in this context and also sets up an authority to inspect, once a year, the industrial activity associated with hazardous chemicals and isolated storage facilities.
- 1989- The Manufacture, Use, Import, Export, and Storage of Hazardous micro-organisms/ Genetically Engineered Organisms or Cell Rules are to protect the environment, nature, and health from the effects of application of gene technology and microorganisms.
- 1991- The Coastal Regulation Zone Notification regulates activities such as construction and also protects the backwaters and estuaries.
- 1991- The Public Liability Insurance Act, with amendments made in 1992, provides for immediate relief to the persons affected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto.
- 1992- Constitutional (73rd Amendment) Act empowers panchayat bodies to manage local affairs, including environmental resources such as water, land, agriculture, animal husbandry, social/farm forestry, minor forest produce, and fisheries.
- 1992- The National Conservation Strategy and Policy Statement on Environment and Development provide guidelines for integrating environmental considerations into development.
- 1995- The National Environment Tribunal provides for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases of damages to persons, property and the environment arising from accidents while handling any hazardous substances and for ensuring adequate relief and compensation.
- 1996- Panchayat (Extension to Scheduled Areas) Act extends the provisions of the 73rd Constitutional amendment to Scheduled (predominantly tribal) areas and also provides for the ownership or control over some natural resources such as non-timber forest products (NTFPs) and other minor produce.
- 1997- The National Environment Appellate Authority Act for the establishment of a National

Environment Appellate Authority for appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to the certain safeguards under the Environment (Protection) Act, 1986.

- 1998- The Bio-medical waste (Management and Handling) Rules are legally binding on the health care institutions for streamlining the process of proper handling of hospital waste such as segregation, disposal, collection, and treatment.
- 1999- The Environment (Siting for Industrial Projects) Rules laid down detailed provisions for siting of industries, the precautionary measures to be taken for the site selection and the aspects of environmental protection to be incorporated during the implementation of industrial development projects.
- 2000- The Municipal Solid Wastes (Management and Handling) Rules apply on the municipal authority responsible for the collection, segregation, storage, transportation, processing, and disposal of municipal solid wastes.
- 2000- The Ozone Depleting Substances (Regulation and Control) Rules laid down the norms for regulating production and consumption of ozone depleting substances.
- 2001- The Batteries (Management and Handling) Rules apply on the manufacturer, importer, re-conditioner, assembler, dealer, auctioneer, consumer, and bulk consumer involved in manufacturing, processing, and sale of, purchasing and use of batteries or components in order to regulate and ensure the environmentally safe disposal of used batteries.
- 2002- The Noise Pollution (Regulation and Control) (Amendment) Rules set down terms and conditions to reduce sound pollution, to allow the use of loud speakers or public address systems during night hours i.e. between 10:00 p.m. to 12:00 midnight or on the occasion of any festival, cultural or religious activity.
- 2002- The Biological Diversity Act provides for the conservation of biological diversity, its sustainable use, and fair and equitable sharing of benefits from the use and knowledge associated with the biological resources.
- 2005- The Right to Information Act grants all the citizens of India to access the information regarding environmental matters, including projects/processes that affect the environment.
- 2005- Scheduled Tribes (Recognition of Forest Rights) Bill recognises and vests forest rights and occupation in forest land in forest dwelling scheduled tribes, resident for generations. It also provides the nature of evidence required for such recognition and vesting and the framework for their recording.
- 2006- India's National Environment Policy, 2006 is the outcome of extensive consultations with experts in different disciplines, Central Ministries, Members of Parliament, State Governments, Industry Associations, Academic and Research Institutions, Civil Society, NGOs and the Public. It is a response to the national commitment to a clean environment, mandated in the Constitution in Articles 48 A and 51 A (g), (DPSP) strengthened by judicial interpretation of Article 21. (NEP, 2006)

The National Environment Policy also promotes the internalization of environmental costs, including through the use of incentives based policy instruments, taking into account the approach that the polluter ought to, in essence, bear the cost of pollution, with due respect to the general public interest, and should not distort international trade and investment. The Policy stresses on the need of diverse partnership and various strategic interventions by different public authorities at Central, State, Local Government levels for the realization of the above stated objectives. The Objectives of the National Environment Policy 2006 is given below (NEP, 2006)

 - i. Conservation of Critical Environmental Resources.
 - ii. Intra-generational Equity: Livelihood Security for the Poor.
 - iii. Inter-generational Equity.
 - iv. Integration of Environmental Concerns in Economic and Social Development.
 - v. Efficiency in Environmental Resource Use.
 - vi. Environmental Governance.
 - vii. Enhancement of Resources for Environmental Conservation.
- 2010- The National Green Tribunal Act came into force on 18th October 2010 in response to the

Supreme Court's recommendation in 2003, the law proposed the construction of specialized Environment Courts (Law Commission of India, 2003), implemented through The National Green Tribunal Act, 2010. This act replaced the National Environmental Tribunal Act of 1995 and National Environmental Appellate Authority Act of 1997. (Bakshi and Yadav, 2011)

The National Green Tribunal Act has original jurisdiction over civil matters that: (Bakshi and Yadav, 2011)

- (a) Raise a substantial question relating to environment is involved, and
- (b) The question arising out of the implementation of enactments specified in Schedule I i.e. The Water (Prevention and Control of Pollution) Act, 1974; The Water (Prevention and Control of Pollution) Cess Act, 1977; The Forest (Conservation) Act, 1980; The Air (Prevention and Control of Pollution) Act, 1981; The Environment (Protection) Act, 1986; The Public Liability Insurance Act, 1991; The Biological Diversity Act, 2002).

A remedy for direct violation of an environmental obligation at three levels is provided by The National Green Tribunal Act, namely, for violations that affect the community at large, for an incidence of substantial property or environmental damage, or for public health damages. The National Green Tribunal Act integrated strict liability, precautionary and polluter pays as part of Sustainable Development management through stare decisis. (Singh, 2010)

The Government of India has launched various programmes and made extensive use of audio-visual media to educate the people and arouse their consciousness for the protection of environment. In February 1971, the University Grants Commission (India), in collaboration with other organizations, launched a symposium on the development of environmental studies in the Indian Universities. The consensus that emerged at the symposium was that ecology and environmental issues should form part of the courses of study at all levels. The Supreme Court (writ petition (Civil) No. 860 of 1991) directed the University Grants Commission to prescribe a course on 'Man and Environment'. In the light of this directive, the UGC issued a circular to various universities to introduce the course on 'Environmental Education'. And now we have compulsory environmental education at the University level for all students which aims to build sensitized citizens.

Conclusion

The Central Government, the Supreme Court through a series of judicial pronouncements and the Civil Society are the major actors that have significantly contributed to the shaping of the institutional and regulatory framework of India's environmental architecture. The Supreme Court has accepted the concept of sustainable development as the guiding principle for the laws of the land, and has affirmed the 'precautionary principle' and the 'polluter pays principle' as the essential features of sustainable development. Further, as directed by the Supreme Court of India, environment studies were also made a part of the curriculum at both school and college levels in graded system so that there should be a general growth of awareness of the students. India is now well-equipped with a large body of legislative measures relating to environmental issues, to combat the acute environmental problems being faced by the country. In fact, we have more than 200 Central and State legislations which deal with various aspects of environmental issues. However, more legislation also implies more difficulties in enforcement. There is a need to have a comprehensive and an integrated law on environmental protection for a more meaningful enforcement. What we need is social awareness that emanates from below the grassroots level, not laws that are thrust from the above because no law has been seen to work smoothly unless the interaction is voluntary and it is acceptable to the masses.

The role of other major stakeholders such as the state governments and the industry has been relatively marginal in legislations pertaining to environmental conservation. State governments and local bodies have general responsibilities to ensure compliance and enforcement. The role of the civil society has been increasing in highlighting environmental concerns and spotlighting the cases of environmental degradation and non-compliance. The use of cost-effective technologies is essential as the first prong of the strategy of controlling environment degradation. The environmental legislations by themselves will never be sufficient to be an effective check environmental degradation unless they are supported not only by the civil society but also

by other organizations at various levels.

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Endnotes

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