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# **FRAMEWORK OF ENVIRONMENTAL LAWS**

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## Abstract:

In recent years, we have seen a change in the understanding of people that there is a relationship between financial growth and quality of environment jointly with a broad awareness on environmental issues. The Indian culture promotes a focus on environmental wellbeing and the requirement for preservation and continuous utilization of three thousand years old habitual wealth and is added in the law, parliamentary work, and national environment policy structure with some international commitments. In this study, we tried to understand the basic concept of the Environment, Environment Law which is attempting to protect the Environment. We further tried to understand the nature and complete scope of the Environmental law in India's prospect. The environment is mainly gets destructed by Pollution; Pollution is the mixing of a polluting or poisonous substance into the environment that makes the environment impure and results in an adverse effect on nature. Pollution is classified based on affected elements of the environment namely air, water, and land. We tried to study the mechanism to protect the environment and found that the Indian law system has guided about the separate authorities towards environmental protection of the State and Central governments. Environmental protection is practiced through a voluntary environment protection agreements, ecosystem approach, etc. we also studied the ash disposal strategy by NTPC, India in detail. Further, We studied "The National Green Tribunal Act, 2010 (No. 19 of 2010)" also known as NGT act had been deployed having a key objective to allocate for creation of a National Green Tribunal (NGT) for the efficient and speedy discarding of issues related to forest safeguarding, environment protection, and other natural assets. Finally, we conclude that it is a responsibility of every Indian to protect and improve the environment including rivers, lakes, forests, and wildlife, further, we must try to follow the rules deployed by the Indian legislation to protect the environment at the same time we should come with innovative ideas to reduce or eliminate the environmental pollution.

**Keywords:** Environment, Framework of Environmental Law, Nature and Scope of Environmental Law, Pollution, Mechanism to Protect Environment, National Green Tribunal Act, 2010.

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## INTRODUCTION

In recent years, we have seen a change in the understanding of people that there is a relationship between financial growth and quality of environment jointly with a broad awareness on environmental issues; people also have considered that both the terms are complementing each other. The Indian culture promotes a focus on environmental wellbeing and the requirement for preservation and continuous utilization of three thousand years old habitual wealth and is added in the law, parliamentary work, and national environment policy structure with some international commitments. UN's Human Environment conference framed well-structured several environmental laws rather before the independence of India in 1947. In the year 1972, the National Committee for Environmental planning and policy at the Science and Technology Department had been initiated. This committee progressed into a complete Environment and Forests Ministry in 1985 which now a day is the main managing body in India for controlling and sustaining the mechanism of environmental protection. Fundamental approval was allowed to environmental problems through the 42<sup>nd</sup> amendment in 1976, after the Stockholm meeting, which engulfs them into the guiding Principles of Fundamental Rights, Policy, and responsibilities of states. In the year 1992, Environment and Forests Ministry introduced Statement of policy for Pollution Control and the action plan for the preservation of the National resource, and to build the initiatives for the environment protection<sup>2</sup>.

### What is the Environment?

The ACT 107 of 1998 NEMA that is National Environmental Management Act defines environment as the element that consists of the land, atmosphere, water, plant, and animal where human is also being a part of this habitat; also any combination and the relationship in between any of them; and the external, chemical, physical and cultural characteristics of the preceding that affect human health.

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<sup>2</sup> MoEF, retrieved from

<http://moef.gov.in/wpcontent/uploads/wssd/doc2/ch2.html#:~:text=Forconservationanddevelopmentof,legislationwasenactedin1959.&text=Therelevantlegislationarethe,EnvironmentalProtectionof1986>.

## LITERATURE REVIEW

### What is Environmental Law?

Environment Law is a consolidated concept explaining the system of agreement, rules, and normal laws inscribing the consequence of human actions on the environment. Some of the key environmental protection laws are mentioned below<sup>3</sup>:

The Water Pollution Prevention and Control Act, 1974.

The Air Pollution Prevention and Control Act, 1981.

The Environment Protection Act, 1986.

The Hazardous Waste Management Regulations.

The National Green Tribunal Act, 2010, etc.

Let us discuss these key environment protection laws in detail,

**The Water Pollution Prevention and Control Act, 1974:** The "Water Act" had been started to prevent or eliminate water pollution. It does not allow the ejection of harmful pollutants into the water above a set standard value and award punishment for non-following. Further, in the year 1977, the Water Cess Act was initiated to issue for the collection of a cess on utilized water for industrial purposes. This Water cess is charged to raise the income of the State and Central Boards for water pollution prevention. The last amendment in the water act was done in 2003.

**The Air Pollution Prevention and Control Act, 1981:** The Air Pollution Prevention and Control Act, 1981, also called as the "Air Act" is aimed to prevent, manage and lessening of pollution of air. The Air act defined quality standards for ambient air to keep pollution of air under control. The Air Act tries to manage air pollution by restricting the polluting fuel usage, as well as by controlling the devices that raise the air pollution.

**The Environment Protection Act, 1986:** The Environment Protection Act, 1986 also called the "Environment Act". It constructed the action plan to survey, plan, and deploy the long-term needs of environmental safety and preparing a fast response process to deal with bad situations of the

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<sup>3</sup> Vinay Vaish, 2016, *Environment laws in India*, retrieved from <https://www.mondaq.com/india/waste-management/624836/environment-laws-in-india>.

environment. It is collaboration between state and central authority under the Air and Water Act. The Environment Act strengthens the Central Government to deploy necessary actions to improve the environment quality by defining standards for an industry discharge in the environment, controlling the locations of the industry, Hazardous waste disposal management, and public health protection. Violation of the Environment Act is resulting in the punishable offense with five years of jail or up to rupees one lakh penalty or both. If the violation is continued, an excess penalty of up to Rupees 5,000 per day will be charged. Further, the person will be jailed up to seven years, if the violation is continued for more than a year after the previous penalty date. Hazardous Wastes Control Legislation: Hazardous waste causes ailment to human health or system of the environment by its chemical, toxic, explosive, flammable, or corrosive nature, whether individually or in addition with other wastes. The similar laws are the National Environment Tribunal Act, 1995, the Public Liability Insurance Act, 1991, the Factories Act, 1948, and regulations defined by the Environmental Act. Hazardous Wastes Rules, 2008, inform the standard storage, import, and manufacturing of hazardous wastes. Biomedical Waste Rules, 1998, were defined for transport, sorting, and discarding of wastes that are infecting. Municipal Solid Wastes Rules, 2000, ask corporations to dispose of their solid waste in a technical way. E-Waste Rules, 2011 communicated on May 1, 2011, and deployed on May 1, 2012, with the main target to lessen the utilization of hazardous elements in electronic and electric devices by defining standard permissible values for hazardous substances and to initiate the effective recycling of the e-waste generation in India. Batteries Rules, 2001 defines the standard procedure of lead-acid handling in the batteries manufacturing process and applicable to complete value chain.

The National Green Tribunal Act, 2010: It is also known as NGT act, it guides the efficient and speedy disposal with reference to the forest, and other natural resources, also its conservation and protection.

## Nature and scope of the Environmental law

**Nature:** Environmental law by nature is a series of agreement, laws, rules, and regulations tries to transparently present the adverse result of human actions on the habitat, environment. Environmental law provides law-based standard procedures that control and continuously improve the environment<sup>4</sup>.

**Scope:** The Environmental laws application area includes the natural conditions around the human for example water, air, atmosphere, and land, organisms, animal, and trees, or any combination of all of the above; also Chemical, external, and cultural characters of all that affect human life. The Environmental law application further includes plan and development for land usage, natural resource protection and usage, waste control and management, control of various pollutions, and legislation formation and deployment to sustain all these activities.

## The definitions of Various Types of Pollution

### The definitions of Pollution

Pollution is the mixing of a polluting or poisonous substance into the environment that makes the environment impure and results in an adverse effect on nature. Pollution creating element is called as pollutants, can be either external or naturally occurring substance. Pollution is consisting of a recipient and a source. The source is the start point of pollution, whereas the recipient is the endpoint that is a human, animal, plant, water, or air whoever become contaminated.

### Various Types of Pollution

Pollution is classified based on affected elements of the environment namely air, water, and land. Let us discuss the types of pollutions in brief.

a. **Water pollution:** It is identified by the existence of substances in excess by its chemical, biological, or physical nature that changes the water quality and is harmful to humans. Good quality water does not

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<sup>4</sup> Planet Botany, retrieved from [http://planet.botany.uwc.ac.za/nisl/ESS\\_2017/ESS122/ESS122-L1-Nature,ScopeandHistoryofEnvironmentalLaw.pdf](http://planet.botany.uwc.ac.za/nisl/ESS_2017/ESS122/ESS122-L1-Nature,ScopeandHistoryofEnvironmentalLaw.pdf).

have a color and odor. However, some pesticides may not be visible or tasted and causes water-related ailments. Hence, water pollution is more than the visible impression of the water.

Different substances which lead to water pollution are:

Suspended particles, in the monsoon season these suspended particles are mixed in the water makes it brown in color. Micro-organisms are dangerous to human health and they are also called biological pollutants. Chemical usually pesticides, fertilizers which are used for cultivation of crops get mixed with river water. These chemicals are also produced from the human wastes and are major surface water pollutants. Heavy metals are a class of poisonous pollutants that comprise of preserving metals such as lead, chromium, cadmium, and mercury. The existence of heavy metals above standard safe levels in water may result in sickness and fatality among living animals through drinking water. Persistent organic pollutants (POPs) are artificial chemicals that are used as pesticides, for example, aldrin and polychlorinated biphenyls.

**Air pollution:** Air pollution is the existence of the excess of chemical substances in the ambient air causing ailments to humans. Air by chemical composition is consists of 78% nitrogen, 21% oxygen, and  $\approx 1\%$  trace of other gases. Polluted air contains many oxides and hydrocarbons in the gas form above its permissible limits. The main air pollution sources include the burning of coal, wood, and other fuel by the vehicle, manufacturing industry, households, and bakeries.

**Land pollution:** Land pollution is primarily connected with water. Liquid wastes contain poisonous chemicals or disease-causing micro-organisms. This liquid waste seeped into the soil and may go down to pollute the groundwater, which directly affect the health of human who is using it. The other sources of this waste are open excretion, public toilets leakage, and industrial chemical containers leakages. Solid

waste decay and get converted to a liquid named leachate which drips in the soil. Leachate is a thick liquid that pollutes the land with its contents of poisonous substances and biological micro-organisms<sup>5</sup>.

## **The mechanism to Protect Environment**

The Indian law system has guided about the separate authorities towards environmental protection of the State and Central governments. Article 48 A states that "The respective states will take responsibility to protect the wildlife, environment, and the forest"<sup>6</sup>. Article 51 A (g) states that "Every Indian resident should be responsible to protect and improve the environment including rivers, lakes, forests, and wildlife and should show kindness for all animals"<sup>7</sup>.

### **Voluntary environment protection agreements**

Environment Improvement Trust that is EIT is working for forest and environmental protection since 1998 in India. Green Volunteers are working with Green and Clean India's objective.

### **Ecosystems approach**

An ecosystems approach for planning and decision making of the natural resource management and environmental protection aims by considering the deep relationships of a complete ecosystem with each other rather than only reacting to specific incidents and problems. This approach involves stakeholders who are governmental and industry representatives, social groups, and the general community with the purpose of information exchange, disputes resolution, and improved conservation strategies making.

Example of Ash Disposal strategies by NTPC, India

The National Thermal Power Corporation Limited, India a power generation station using coal was mainly affecting the environment by ash creation after coal burning. NTPC, India performed the following strategies to promote environment protection,

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<sup>5</sup> Open, retrieved from, <https://www.open.edu/openlearncreate/mod/oucontent/view.php?id=79946&printable=1>.

<sup>6</sup> The Government of India, *Constitution of India/Part IV*

<sup>7</sup> The Government of India, *Constitution of India/Part IVA*



**Special Purpose Vehicle for Afforestation:** A Special Purpose Vehicle is deployed by NTPC and other Central Power authority jointly to take up afforestation initiatives to reduce the carbon dioxide in the atmosphere.

**Fly Ash usage Action Plan:** All the coal using power generation plants all together produce approximately 90 million tonnes fly ash per year. The Fly Ash Mission of TIFAC gave many guidelines for usage of ash in the production of bricks, parking pavement bricks, tiles, wall boundary, and road building, and filling of the land. The Ministry of Power is making compliance for using fly ash in road construction, and Government offices construction.

**Initiatives for improving the environmental performance of coal-based stations:** NTPC has been certified with ISO 14001 for its 11 power generation facilities. NTPC also continuously trying to improve its Heat-rate.

**Clean Development Mechanism:** Tata Energy Research Institute (TERI) had been appointed for consulting on CDM to the Ministry of Power. CDM consist of project identification and formation, primary data surveys for respective project, talks with the CDM teams, finding of the equivalent CDM teams from the other CDM adopted nations, of CO<sub>2</sub> measurement cost, and CO<sub>2</sub> discharge reduction analysis and monitoring of CDM action deployment<sup>8</sup>.

## **The National Green Tribunal Act, 2010**

The National Green Tribunal Act, 2010 (No. 19 of 2010) also known as NGT act had been deployed having a key objective to allocate for creation of a National Green Tribunal (NGT) for the efficient and speedy discarding of issues related to forest safeguarding, environment protection, and other natural assets. It also includes the introduction of law and regulations to provide damage protection to an individual person in environmental cases. The President of India approved the act on June 2, 2010, and it was deployed by the Central Government with notification no. S.O. 2569 (E) on October 18, 2010. The NGT act introduced to protect environmental laws for pollution of water and air. The NGT act in its schedule one introduced the Forest Conservation Act, the Environment

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<sup>8</sup> Powermin, *protection environment*, retrieved from, <https://powermin.gov.in/en/content/protection-environment>.

Protection Act, and the Biodiversity Act. Following to implementation of the National Green Tribunal Act, 2010, “the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997” had been reversed. The National Environment Appellate Authority deployed under section 3(1) had been removed after the introduction of the National Green Tribunal Act, 2010 with notification no. S.O. 2570 (E) on October 18, 2010. Section 19 allows the Tribunal power to control its self-defined standard methods. Further, the Tribunal is not coming under the authority of the “Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872” and is directed by the concept of natural justice. However, the Tribunal is allowed legal rights under the Code of Civil Procedure with the authority of a civil court for dismissal of its tasks.

## **Procedure of NGT**

The Tribunal has constructed its own regulation rules or procedures as its deployment to the tribunal is different from civil cases as follows,

The Tribunal spot affected human or community as described in “Schedule I of the NGT Act, 2010” and reply instantly by email. The Tribunal accepts a letter of formal written request or appeal which brings to light on major environmental destruction. A well-grounded complaint case is considered even in no presence of the appellant party and reply is attempted to obtain by email and can be registered even in the absence of an advocate. The Tribunal deploys legal experts or authorities as a judge who receives “factual and action is taken report” to analyze the environmental destruction claims. An order is given to the respective in-charge or authority to deploy an action plan which includes pollution control, payment recovery, and instituting or conducting legal proceedings against environmental damage alleged<sup>9</sup>.

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<sup>9</sup> Green tribunal, *methodology ngt*, retrieved from, <https://greentribunal.gov.in/methodology-ngt>.

## CONCLUSION

The environment is the element that consists of the land, atmosphere, water, plant, and animal where human is also being a part of this habitat; also any combination and the relationship in between any of them; and the external, chemical, physical and cultural characteristics of the preceding that affect human health. Environment Law is a consolidated concept explaining the system of agreement, rules, and normal laws inscribing the consequence of human actions on the environment. Pollution is the mixing of a polluting or poisonous substance into the environment that makes the environment impure and results in an adverse effect on nature. Pollution is classified based on affected elements of the environment namely air, water, and land. The environment is protected by various channels for example Environment Improvement Trust that is EIT is working for forest and environmental protection since 1998 in India, Green Volunteers are working with Green and Clean India objective, and NTPC, India working to prevent ash mixing in the air through their various actions.

We conclude this study as although the Indian law system has also deployed the separate authorities towards environment protection that is the State and Central governments, still, it is a responsibility of every Indian to protect and improve the environment including rivers, lakes, forests, and wildlife, further, we must try to follow the rules deployed by the Indian legislation to protect the environment at the same time we should come with innovative ideas to reduce or eliminate the environmental pollution.

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