Introduction

Environmental laws are an important part of any governance body. It comprises a set of laws and regulations concerning air quality, water quality, and other aspects of the environment.

The environmental laws in India are guided by environmental legal principles and focus on the management of specific natural resources, such as forests, minerals, or fisheries.

The environmental laws in India are a direct reflection of what was envisaged in the constitution. The need for protection and conservation of the environment and sustainable use of natural resources is reflected in the constitutional framework of India and also in the international commitments of India.

Different environment laws in india

The government of India has made [numerous acts to protect the environment and biodiversity](https://www.clearias.com/100-must-know-acts-indian-parliament/). The important and impactful environmental laws and acts are listed and explained below.

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**(2) The Water (Prevention and Control of Pollution) Act, 1974**

**Objective:** To provide prevention and control of water pollution. Maintaining or restoring of wholesomeness and purity of water in the various sources of water.

It vests regulatory authority in **Centre Pollution Control Boards (CPCB)**and**State Pollution Control Board (SPCB).**

CPCB and SPSB are statutory bodies created under the Water Act, 1974. It empowers CPCB and SPCB to establish and enforce effluent standards for factories discharging pollutants into water bodies.

CPCB performs these same functions for union territories along with formulating policies related to the prevention of water pollution and coordinating activities of different SPSBs.

SPCB controls sewage and industrial effluent discharge by approving, rejecting, and granting consent to discharge.

**(3) The Air (prevention and control of pollution) act, 1981**

The act targets to control and prevent air pollution in India and its main objectives are:

* To provide for prevention, control, and abatement of air pollution.
* To provide for the establishment of the boards at the central and state levels to implement the act**.**

CPCB and SPCB were given the responsibility.

It states that the sources of air pollution such as internal combustion engines, industry, vehicles, power plants, etc., are not permitted to release particulate matter, lead, carbon monoxide, sulphur dioxide, nitrogen oxide, volatile organic compounds (VOCs), or other toxic substances beyond the predetermined limit.

It empowers the state government to designate air pollution areas.

**(4) The Environment (Protection) Act, 1986**

This act was passed under **article 253 (legislation for giving effect to international agreements)**

This was passed in the wake of the **Bhopal gas tragedy**in December 1984.

It was enacted to achieve the UN conference on the human environment, 1972- Stockholm declaration**.**

Eco-sensitive zones or ecologically fragile areas are notified by MoEFCC under EPA, 1986 – 10 km buffer zones around protected areas.

Statutory bodies under the EPA, 1986:

1. **Genetic Engineering Appraisal Committee**
2. **National Coastal Zone Management Authority** (later converted to **National Ganga Council** under Ministry of Jal Sakthi)

### The ozone-depleting substances (regulation and control) rules, 2000.

It set deadlines for phasing out of various [Ozone](https://www.clearias.com/oxygen-cycle/) Depleting Substances (ODSs) and regulating production, trade import, and export of the product containing ODS.

These rules prohibit the use of CFCs, halons, ODSs such as carbon tetrachloride and methyl chloroform, and SFC except in metered-dose inhalers and for other medical purposes.

**(5) The energy conservation act, 2001**

It was enacted as a step towards improving energy efficiency and reducing wastage. It specifies the energy consumption standards for equipment and appliances.

It prescribes energy consumptions norms and standards for consumers. It prescribes energy conservation building codes for commercial buildings.

**Bureau of energy efficiency (BEE)** is a statutory body established under the act.

**(8) The National Green Tribunal Act, 2010**

It was established in concurrence to **Rio Summit 1992** to provide judicial and administrative remedies for the victims of the pollutants and other environmental damage.

It also agrees with **article 21, the Right to a healthy environment to its citizens of the constitution.**

The NGT has to dispose of the cases presented to it within 6 months of their appeals.

NGT has original jurisdiction on matters related to substantial questions of the environment.

NGT deals with the civil cases under the 7 acts related to the environment:

1. Water (Prevention And Control Of Pollution) Act, 1974
2. Water (Prevention And Control Of Pollution) Cess Act, 1974
3. Air (Prevention And Control Of Pollution) Act, 1977
4. Forest Conservation Act, 1980
5. Environmental Protection Act, 1986
6. Public Liability Insurance Act 1991
7. Biological Diversity Act, 2002

The decisions of the NGT can be challenged in High Courts and the Supreme Court.

**(9) Compensatory Afforestation Fund Act, 2016**

The CAF Act was enacted to manage the funds collected for compensatory afforestation which till then was managed by **ad hoc Compensatory Afforestation Fund Management and Planning Authority (CAMPA).**

* **Compensatory afforestation**means that every time forest land is diverted for non-forest purposes such as mining or industry, the user agency pays for planting forests over an equal area of non-forest land, or when such land is not available, twice the area of degraded forest land.

As per the rules, **90% of the CAF money is to be given to the states while 10% is to be retained by the Centre.**

The funds can be used for the treatment of catchment areas, assisted natural generation, forest management, wildlife protection and management, relocation of villages from protected areas, managing human-wildlife conflicts, training and awareness generation, supply of wood saving devices, and allied activities.

### **Other Laws Relating to Environment**

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

### **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 Ministry has proposed further amendments in the law by introducing more rigid measures to strengthen the Act. The objective is to provide protection to the listed endangered flora and fauna and ecologically important protected areas.

### **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. To this end the Act lays down the pre-requisites for the diversion of forest land for non-forest purposes.

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

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.

### **Public Liability Insurance Act, 1991**

The Public Liability Insurance Act, 1991 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.

### **Coastal Regulation Zone Notification**

The Ministry of Environment and Forests had issued the Coastal Regulation Zone Notification vide Notification no. S O. 19(E), dated January 06, 2011 with an objective to ensure livelihood security to the fishing communities and other local communities living in the coastal areas, to conserve and protect coastal stretches and to promote development in a sustainable manner based on scientific principles, taking into account the dangers of natural hazards in the coastal areas and sea level rise due to global warming.

Problems

Environmental laws in India are strong but it lacks obedience from the people. Despite having a specialized court which deals with environmental cases. India still ranks high in terms of pollution around the world.  According to the Environmental Performance Index India currently ranks 177 out of 180 countries. Environmental law in India truly faces an implementation crisis.  [[1]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn1) With rapid industrialization, deforestation, increase in population at a booming rate and lack of knowledge amongst people about the environment and pollution our natural resources are decreasing at a terrifying rate.

* One of the main reasons for this is that the there is no independent regulatory body for environmental governance. It is looked after the Ministry of Environment Forest and Climate Change (MoEF). Due to excessive interference by government on the governance of the Ministry, there is poor implementation of environmental law. [[4]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn4)
* There is also a lack of political will and public awareness. [[5]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn5)
* Almost all laws related to environment consider the superiority of human over ecosystem and nature.[[6]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn6)
* We have an ineffective pollution control mechanism. The present framework under the Water Prevention and Control of Pollution Act, 1974 and Air Prevention and Control of Pollution Act, follows the command and control structure.[[7]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn7)
* Industries are obligated to take permission from the State Pollution Control Board to discharge effluents and causing emissions but there is laxity in compliance due to lack of strong penalty measures. The Comptroller and Auditor General in India in its 2011-12 report on Performance Audit of Water Pollution in India say that the penalties for contravention of WPCA 1974 are too weak.[[8]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn8)
* There is lack of independence given to the central and the state boards who still have to depend on the state and the central government for the appointment. This leads to a lack of competent people.[[9]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn9)The appointment is at the wish of the government.
* PCB’s don’t have legal authority and their decisions tend to be overruled by the government.[[10]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn10)
* There is also a lack of funds to the Pollution Control Boards and they don’t even have proper infrastructure or laboratories.[[11]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn11)
* There are certain laws which are not very elastic.[[12]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn12)
* The existing laws give importance to some specific types of pollution or specific categories of hazardous substances. [[13]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn13)
* The present mechanism fails to accept the polluter pay principle.
* Environmental Litigation is more expensive compared to other disputes as it involves expert testimony and technical evidences [[14]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn14)
* **Environmental Governance and excessive Governmental control-**Ministry of Environment Forest and Climate Change (MOEF) is the main body to look after the environment in India; but there is excessive interference by Government on the Ministry. The body cannot function independently and thus, there is no proper implementation of environmental laws in India.
* **Lack of political will and public awareness-**Our politics and governance in India majorly focus on other matters like voting rights, economics, technology development, etc. The environment is always ignored. The public is also not aware of the hazardous effects of environmental degradation on their health and other factors.
* **Lack of strong penalty measures-**Many laws prohibit from undertaking actions hazardous for the environment; but penalty or punishment measures are not taken. For instance, industries are obliged to take permission from the State Pollution Control Board to discharge effluents and causing emissions. But there is laxity in compliance due to the lack of strong penalty measures. Water Pollution Control Act’s penalties for contravention are too weak.
* **Lack of independence to Control Boards-**There is a lack of independence given to the Central and the State Boards; they still have to depend on the State and Central Government for the appointments.
* **Lack of funds and legal authority-**These pollution control boards don’t have the legal authority and their decision tend to be overruled by the Government. Pollution Control Boards don’t have enough funds to maintain, proper infrastructure.
* **Environmental litigation-**is more expensive compared to other disputes as it involves expert testimony and technical evidences.
* **Less elastic laws-**the laws of India are not much elastic. They give importance only to certain hazardous substances and ignore other categories.
* **Pollution Pays Principle-**Pollution Pays Principle imposes liability on a person who pollutes the environment. They are to compensate for the damage caused and return the environment to its original state regardless of the intent. The present mechanism fails to accept Pollution Pay Principle.
* **Judiciary’s weakness-**More than two-thirds of the states/ UTs don’t bother to comply with the orders passed by the Supreme Court; nor do they comply with the directions given by the Ministry of Environment, Forests and Climate Change( MoEF&CC). The judiciary is already struggling to clear the existing backlog of over 21,000 environment-related cases. Lack of respect and poor implementation of the judiciary’s orders only explains the degradation of environment we live in.
* **Laws are human-centric-**The making of these law are mostly human-centric. They focus on the development and well being of human beings at the expense of the environment. In certain laws where the progress of humans is important, the exploitation of natural resources are common.
* **Population-**India’s population is still increasing at a fast rate. More population means more pressure on the natural resources. It also brings with it many other problems like poverty, unemployment, etc. which deviates the focus of authorities from the environment to these social issues.
* **Urbanization and Industrialization –**These two phenomenons are increasing in India from the last 2-3 decades; this is why everyone is busy in the mad race of progress without considering the environment’s exploitation.

**Conclusion**

Air Pollution kills around 1.2 million people annually in India. New Delhi’s air quality is 20 times above the safe limit. 70% of India’s surface water and groundwater is contaminated and unfit for drinking.[[23]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn23) By 2020 it is expected that 21 cities won’t have any groundwater left. This is according to the recent Niti Aayog report. [[24]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn24)Around 47 species of animals and plants are critically endangered in India according to the International Union for Conservation of Nature’s Red Data Book. [[25]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn25)Phalodi in Rajasthan recorded India’s hottest day which was 51 C that is equivalent to 123.87 F back in May 2016.[[26]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn26) Urban India is the world 3rd largest garbage generator and by 2050 waste is expected to rise to a staggering 436 million tonnes. [[27]](https://blog.ipleaders.in/poor-implementation-environmental-laws/" \l "_ftn27)So it is very essential that environmental laws need to implemented strongly because by the looks of it India’s future does not look bright.

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