



# Policy Strategies To Augment India's Environmental Concerns: An Analysis

Advaita R. Prasad,

Assistant Professor,

Department of Political Science,

M.S.M. College, Kayamkulam. Kerala, India

**Abstract:** The Stockholm Conference of 1972 was a significant milestone in the development of global environmental governance. It played a crucial role in bringing about a fundamental change in international policy and had a profound impact on national legal frameworks around the world. The conference centred around the acceptance of the Stockholm Declaration, a significant document that confirmed principles asserting the entitlement to a healthy environment and the need to protect it for future generations. The Stockholm Conference had a significant impact in India, leading to constitutional amendments and legislative measures focused on environmental conservation. In 1976, the Indian Constitution was amended with the 42nd Amendment, which included clauses that made it mandatory to safeguard the environment. This amendment laid the foundation for future environmental laws. The Environment Protection Act of 1986 was established as a comprehensive framework to govern pollution and hazardous industries in response to international imperatives and domestic environmental catastrophes, such as the Bhopal Gas Tragedy. This article offers a concise summary of how the Stockholm Conference of 1972 had a widespread impact, greatly influencing India's environmental laws by passing the Environment Protection Act in 1986.

**Keywords:** Environment Protection Act 1986; Environmental legislation; Stockholm Conference 1972; Pollution control

## INTRODUCTION

The environment includes humans, natural resources, flora, fauna and their habitat. A clean, healthy and vibrant environment is inevitable for the survival of human race. So, environmental protection and environmental laws are very essential. The need for laws, rules and regulations for protection, conservation of environment and sustainable use of natural resources started being reiterated time and again in international conventions and forums.

Gradually, several environment related legislations began to emerge globally, and it influenced domestic policies in India. Amongst all environment related legislations enacted in India, the most prominent one is the Environment Protection Act, 1986. The Environment Protection Act was enacted to bolster and encourage the proper administration, protection, preservation and utilization of natural resources. As India was a party to most of the international conventions on environment, it was constrained to adopt an environment protection act. This paper aims at discussing the emergence of Environment Protection Act, the most prominent environment legislation in India, and the circumstances that led to its enactment.

## Stockholm Conference 1972

Prior to the Stockholm Conference, Rachel Carson's 1962 book, *Silent Spring*, unveiled the catastrophic impacts of pesticides and other chemical compounds on both humans and the environment (Carson 1962). It was during this time that scientists initiated a study on the negative impact of industrialization on environment. The scientists and leaders of developing countries decried the ongoing exploitation of raw materials by the colonizers.

The 1972 United Nations Conference in Stockholm was the first world conference that highlighted 'environment' as a major issue. It is considered as the Magna Carta of environment protection and sustainable development. The Stockholm Declaration, which contained 26 principles, placed environmental issues at the forefront of international concerns. It marked the advent of a dialogue between industrialized and developing countries on the link between economic growth, the pollution of the air, water, and oceans and the well-being of people around the world. (United Nations 2021). One of the main results of the Stockholm conference was the establishment of the United Nations Environment Programme (UNEP).

The conference established the following key principles: (i) It granted every individual the inherent entitlement to reside in an environment that guaranteed them dignity and welfare. (ii) It underscored the obligation of each person to safeguard and enhance the environment for both current and future generations. The Stockholm Conference resulted in the creation of the Stockholm Declaration, which comprised a worldwide collection of principles for the future of the human environment. The participants at the meeting overwhelmingly adopted the Declaration, so making a significant contribution to the advancement of international environmental law.

### Constitutional Provisions for Environmental Protection

The Stockholm Conference created a mixed response among developing countries. They were dubious regarding the new issue of 'environment' raised by the developed countries. The developing countries suspected a hidden agenda in the issue of environment upheld by developed countries. The then Indian Prime Minister Indira Gandhi emerged as a figurehead to represent developing countries' fears and priorities. Representing the developing countries, she stated that the developed countries of the North largely caused environmental problems and that the environmental concerns of the North should not be used as an excuse to restrict the development and to exert control over the resources and destinies of the developing South. (Mathiesen 2014). Thus, Indira Gandhi's speech at the Conference, hinted that India was ready for a change. After the Stockholm Conference of 1972, India brought about the 42<sup>nd</sup> constitution amendment in 1976.

According to the 42<sup>nd</sup> amendment of the constitution of India, the government is obligated to ensure the preservation and enhancement of the environment, as well as the protection of the country's forests and animals. The amendment explicitly incorporated concepts of environmental protection into the constitution under Articles 48A and 51A(g). In terms of legislative authority, the amendment also transferred the matters of forests and the safeguarding of wild animals and birds from the state list to the concurrent list.

The Constitution of India, namely in Part IVA (Art 51A (g)-Fundamental Duties), explicitly states that every citizen of India has the obligation to save and enhance the natural environment, which encompasses forests, lakes, rivers, wildlife, and also to demonstrate empathy for living beings. (Basu 2015). The Directive Principles of State Policy (Part IV) also mention the environment. Article 47 states that the State has a primary duty to raise the level of nutrition and standard of living of its people, as well as improve public health. Ensuring public health necessitates both safeguarding and enhancing the environment, as it is an indispensable prerequisite for public health. According to Article 48-A of the constitution, the state is obligated to make efforts to conserve and enhance the environment, as well as protect the forests and wildlife of the country. (Ibid.). The Constitution of India, under Part III, ensures fundamental rights that are indispensable for the progress of each individual and are inherently granted to every person only by virtue of their humanity. The right to the environment is essential for the growth of individuals and the realization of their full potential. Articles 21, 14, and 19 of this section have been utilized for the purpose of safeguarding the environment. The utilization of Public Interest lawsuits

under Article 32 and 226 of the constitution of India led to a surge of environmental lawsuits. Panchayats, at the local and village level, have been granted authority by the constitution to implement measures such as soil conservation, water management, forestry, environmental preservation, and promotion of ecological aspects. (PIB 2014).

The legislative entries have not given sufficient attention to the problem of environmental contamination. However, the majority of the environmental legislation in India, such as the Air Act, Water Act, EPA, etc., were established based on the restrictions outlined in Article 252 and 253. According to article 252, if the legislative bodies of two or more states pass resolutions granting Parliament the authority to make laws on any subjects listed under the state list, then Parliament has the competence to do so. (Basu 2015). Parliament has the authority to change or abolish any Act that it has passed, rather than the state or states' legislature. Article 253 of the Constitution grants authority to the Parliament to enact legislation for the entire or any portion of India in order to enforce any treaty, agreement, or convention with any foreign country or any decision taken at an international conference, association, or other organization. (Ibid.). This power is binding on matters mentioned in the state list, treaties and agreements.

Apart from the provisions mentioned in the constitution of India, the Department of Environment was established in India in 1980, with a view to ensure a healthy environment. In 1985, this Department became the Ministry of Environment and Forests. Ever since its establishment, many legislations have been passed from time to time by the government, to ensure the protection, preservation and improvement of the environment. The prominent legislation discussed here is: The Environment Protection Act, 1986.

### **Factors that led to the enactment of Environment Protection Act, 1986**

India has ratified numerous international environmental conventions. The Stockholm Conference indeed expedited the progress of environmental legislations in India. This has exerted a significant impact on the formulation of domestic environmental policy. The government adopted numerous environmental legislations during the 1970s and 80s. The two significant legislations that were passed prior to the implementation of the Environment Protection Act were the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. Both the acts were a sequel to the Stockholm Conference.

In 1980, the Government of India established a committee led by Shri. N.D. Tiwari, the Deputy Chairman of the Planning Commission at the time, with the purpose of investigating and comprehending the environmental legislation in India. The committee presented its findings in September 1980, which included a multitude of recommendations. The committee's findings are as follows: (i) Firstly, it was highlighted that the majority of the laws were outdated and not in line with the current environmental conditions. (ii) Secondly, the laws lacked clarity in terms of their policy objectives. (iii) Thirdly, the laws were contradictory to each other. (iv) Fourthly, they did not have sufficient provisions for effectively implementing these regulations. (v) Lastly, there is a lack of a procedure for evaluating the effectiveness of the implemented laws. The committee's primary recommendations can be summarized as follows: (i) a comprehensive overhaul and evaluation of certain central and state Acts related to the environment is necessary; (ii) the current laws lack provisions for regulating toxic substances; and (iii) environmental protection should be added to the concurrent list of the seventh schedule. (Ahmad 2001).

Although, the water and air acts were enacted soon after the Stockholm Conference, no act was enacted, which comprehensively dealt with all the aspects of preservation of environment. Two major pushes, one from the international community and one from the national community, led to the enactment of the Environment Protection Act (EPA) 1986.

The Environment Protection Act contains 26 sections, divided into 4 chapters. The origin of the Act can be traced to the Indian Constitution, especially Article 253. The peculiarities of the act are that, firstly it has been enacted with an aim to protecting the environment, preventing and reducing environmental pollution, and giving the authority full power to exercise strict action against offenders. Secondly, this is an act that takes precedence over other acts. This means that, if an offence is committed, that is liable to be booked under multiple legislations, including this act, the EPA 1986 will

be given the highest priority. Finally, this act has forced the country to deal with environmental pollution in a serious manner. Thus, this Act supplemented the existing environmental laws and addressed the environmental concerns in totality.

While indulging deep into the background of this act, it could be noticed that there was both international and national pressure behind the enactment of this act. The Stockholm Conference was the first major international conference that dealt with international environmental issues, which was in fact considered to be a turning point in international environmental politics. India, having been an active participant in the conference, there was an urgency to implement the decisions reached therewith. The international impetus which came from the Stockholm Conference of 1972, discussed the role of Humans beings in the environment, leading to helping India in implementing its promises for protecting the environment. The purpose of the EPA was to implement decisions of the Stockholm Conference in so far as, they were related to the protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. The primary goals of the Act were to execute the resolutions established at the Stockholm Conference. (ii) To establish comprehensive legislation on environmental protection aimed at mitigating significant environmental dangers. The current legislation primarily addresses certain types of pollution and particular classifications of dangerous compounds, consequently neglecting significant aspects of environmental risks. (iii) The Act facilitated the coordination of actions among several regulatory agencies operating under current legislation and the establishment of one or more authorities responsible for protecting the environment. (iv) The Act also included provisions for imposing severe penalties on those who pose a threat to the well-being of the environment, as well as the safety and health of humans.

The national impetus to enacting an environmental legislation came after the Bhopal Gas Tragedy of 1984, that led to thousands of deaths, in a gas leakage that happened at the Union Carbide India Limited pesticide plant in Bhopal, Madhya Pradesh. The government was severely criticized for not having appropriate legislations and laws for environmental safety and for settlement of claims through the establishment of liability. This compelled the government to enact the Environment Protection legislation in India. The EPA strengthened the regulations on environment protection and pollution control by hazardous industries. This act gave the Central government, wide powers to protect the environment. Hence it can be understood that both international and national, political and institutional factors influence the enactment of laws.

## CONCLUSION

The publication of Rachel Carson's, *Silent Spring*, in 1962 was the first to grab international attention as it highlighted the harmful impact of chemicals on man and environment. But it required another ten years to convene an international conference (the Stockholm Conference) to initiate legal measures for environmental protection and sustainable development. Consequent on the Stockholm Conference, a drastic amendment was made in the constitution of India in 1976, pertaining to environmental protection. It took another decade to enact the Environment Protection Act, 1986 in India, based on the provisions of the Stockholm Conference. The implementation of the Environment Protection Act was a positive step towards environment protection. The law had supplemented the pre-existing environmental laws and strengthened the overall structure of environmental protection laws in India. Apart from constitutional provisions, international, domestic, political, social and ethical commitments have led to the enactment of Environment Protection Act in India.

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