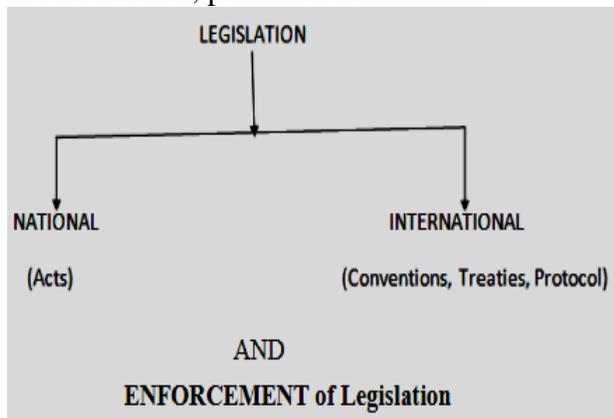


23. ENVIRONMENTAL LEGISLATION

- Environmental Law plays a very crucial and important role in regulating the use of natural resources and in protecting the environment. The success of environmental legislations mainly depends on the way they are enforced.
- Indian legislations are called Acts whereas the international legislations are in the form of conventions, protocols and treaties.



- Need for legislation Legislations are made to protect the environment or else the need for resources by the growing population will create havoc on the environment.

National legislation

- Our constitution, originally, did not contain any direct provision regarding the protection of natural environment. However, after the United Nations Conference on Human Environment, held in Stockholm in 1972.

- Indian constitution was amended to include protection of the environment as a constitutional mandate.
- The forty second amendment Clause (g) to Article 51A of the Indian constitution made it a fundamental duty to protect and improve the natural environment.
- “It shall to be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and have compassion for living creatures.”
- Article 48A states “The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”.
- The department of Environment was established in India in 1980 to ensure a healthy environment for the country. This later became the Ministry of Environment and Forests in 1985. This Ministry has overall responsibility for administering and enforcing environmental legislations and policies.
- The Environment Protection Act of 1986 (EPA) came into force soon after the Bhopal Gas Tragedy.

Pollution related acts

- Air and water are necessary to fulfill the basic survival needs of all organisms. So, to protect them from degradation the water, air and environment acts have been passed.

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Water Acts	Air Acts	Environment Acts
<p>The Water (Prevention and Control of Pollution) Act of 1974 and Amendment, 1988 -The main objective is to provide prevention and control of water pollution and maintaining or restoring of wholesomeness and purity of water (in the streams or wells or on land). - Act implies State Pollution Control Boards and empowers to establish and enforce effluent standards for factories discharging pollutants into water bodies. -A CPCB performs the same functions for Union Territories and formulates policies and coordinates activities of different State Boards. -The SPCB control sewage and industrial effluent discharges by approving, rejecting or impose conditions while granting consent to discharge. -The 1988 amendment strengthened the Act's implementation the pollution provisions. Board may close a defaulting industrial plant or withdraw its supply of power or water by an administrative order; the penalties are more stringent, and a citizen's suit provision supports the enforcement machinery.</p> <p>(ii) The Water (Prevention and Control of Pollution) Cess Act of 1977 -The Water Cess Act was passed to generate financial resources to meet expenses of the Central and State Pollution Boards. -The Act creates economic incentives for pollution control and requires local authorities and certain designated industries to pay a Cess (tax) for water effluent discharge. -These revenues are used to implement the Water Act. -The Central Government, after deducting the expenses of collection, pays the central board and the states such sums, as it seems necessary. -To encourage capital investment in pollution control, the Act gives a polluter a 70% rebate of the applicable cess upon installing effluent treatment equipment.</p>	<p>The Air (Prevention and Control of Pollution) Act of 1981 and amendment, 1987 - -The main objectives of this Act are to improve the quality of air and to prevent, control and abate air pollution in the country. -To implement, the decisions were taken at the United Nations Conference in June 1972. -Air Act expanded the authority of the central and state boards established under the Water Act, to include air pollution control. -States not having water pollution boards were required to set up air pollution boards. -Under the Air Act, all industries operating within designated air pollution control areas must obtain "consent" (permit) from the State Boards. - States are required to prescribe emission standards for industry and automobiles after consulting the central board and noting its ambient air quality standards. -The 1987 amendment strengthened the enforcement machinery and introduced stiffer penalties. -The 1987 amendment introduced a citizen's suit provision into the Air Act and extended the Act to include noise pollution.</p>	<p>Environment Acts (i) The Environment (Protection) Act of 1986 -The purpose of the Act is to implement the decisions of the United Nations Conference 1972, related to protection and improvement of the human environment and the prevention of hazards to human beings, other living creatures, plants and property. -The Act is an "umbrella" for legislations designed to provide a framework for Central Government, coordination of the activities of various central and state authorities established under previous Acts. -In this Act, emphasis is given to "Environment" and the inter-relationships which exist among water, air, land, human beings and other living creatures, plants, micro-organisms and property. The main provisions of this Act are: -Section 3 (1) of the Act empowers the centre to "take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution". -The Central Government is authorized to set new national standards for the quality of the environment. - To regulate industrial locations, to prescribe procedures for managing hazardous substances; to establish safeguards preventing accidents, and to collect and dismantle information regarding environmental pollution. -The Environment (Protection) Act gives authority to the Central Government to issue direct orders, included orders to close, prohibit or regulate any industry, operation or process or to stop or regulate the supply of electricity, water or any other service to an industry, operation and process. -The Act provides provision for penalties. Any person who fails to comply with any of the provisions of the Act, or the rules, orders, or directions issued under the Act shall be punished. - Section 19 provides that any person, in addition to authorized government officials, may file a complaint with a court alleging an offence under the Act.</p>

- **BIODIVERSITY RELATED ACTS**

(i) The Wild Life (Protection) Act of 1972 and Amendment, 1982

- The wild life protection Act, provides for state wildlife advisory boards, regulations for hunting wild animals and birds, establishment of sanctuaries and national parks, regulations for trade in wild animals, animal products and trophies, and judicially imposed penalties for violating the Act.
- Harming endangered species listed in Schedule I of the Act is prohibited throughout India. Hunting species, like those requiring special protection (Schedule II), big game (Schedule III), and small game (Schedule IV), is regulated through licensing.
- A few species classified as vermin (Schedule V), may be hunted without restrictions. Wildlife wardens and their staff administer the act.
- An amendment to the Act in 1982, introduced a provision permitting the capture and transportation of wild animals for the scientific management of animal population.
- India is a signatory to the Convention of International Trade in Endangered Species of Fauna and Flora (CITES 1976). Under this convention, export or import of endangered species and their products are governed by the conditions and stipulations lay down therein.
- Indian government has also started some conservation projects for individual endangered species like Hungal (1970), Lion (1972), Tiger (1973), Crocodiles (1974), Brown-antlered Deer (1981) and Elephant (1991-92).

(ii) The Forest (Conservation) Act of 1980

- First Forest Act was enacted in 1927.
- It was enacted to consolidate the law related to forest, the transit of forest produce and the duty livable on timber and other forest produce.

- Subsequently, the Forest (Conservation) Act was implemented in 1980 to make certain reforms over the preceding Act of 1927.
- The 1927 Act deals with the four categories of the forests, namely **reserved forests, village forests, protected forests and private forests.**
- A state may declare forestlands or waste lands as reserved forest and may sell the produce from these forests.
- Any unauthorized felling of trees quarrying, grazing and hunting in reserved forests is punishable with a fine or imprisonment, or both. Reserved forests assigned to a village community are called **village forests.**
- The preservation of protected forests is enforced through rules, licenses and criminal prosecutions. Forest officers and their staff administer the Forest Act.
- Under the provisions of Forest (Conservation) Act in 1980 Act, prior approval of the Central Government is required for diversion of forestlands for non-forest purposes.

(iii) Biodiversity Act 2000

- The Biological Diversity Bill, was introduced in the Parliament on 15th May, 2000, was referred to the department related Parliamentary Standing Committee for Science, Technology, Environment and Forests for examination and report.
- The legislation aims at regulating access to biological resources so as to ensure equitable sharing of benefits arising from their use.
- After examination of witnesses and recording evidences, the Standing Committee approved the Bill with some amendments.
- The Cabinet approved the proposal for moving the official amendments based upon the recommendations of the Committee.

- The Biological Diversity Bill 2002 has been passed by the Lok Sabha on 2nd December, 2002 and by the Rajya Sabha on 11th December, 2002.

Salient features of the biodiversity legislation

- The main purpose of this legislation is to protect India's rich biodiversity and associated knowledge against their use by foreign individuals and organizations without sharing the benefits arising out of such use, and to check biopiracy.
 - The Act provides for setting up of a National Biodiversity Authority (NBA), State Biodiversity Boards (SBBs) and Biodiversity Management Committees (BMCs) in local bodies.
 - NBA and SBB are required to consult BMCs in decisions relating to use of biological resources or related knowledge within their jurisdiction and BMCs are to promote conservation, sustainable use and documentation of biodiversity.
 - All foreign nationals or organizations require prior approval of NBA for obtaining biological resources and associated knowledge for any use.
 - Collaborative research projects and exchange of knowledge and resources under these projects are exempted provided they are drawn as per the policy guidelines of the Central Government and have its approval.
 - The monetary benefits, fees, royalties as a result of approvals by NBA to be deposited in National Biodiversity Fund,
 - These will regulate access to plant and animal genetic resources and share the benefits. The proposed National Biodiversity Authority (NBA) will deal with all cases of access by foreigners.
 - Its approval will be required before obtaining any intellectual property right on an invention based on a biological resource from India, or on its traditional knowledge.
- International legislations

- Certain issues of multinational concern are addressed by collection of policies, agreements, and treaties that are loosely called International Environmental Legislations.
- These agreements are generally finalized through international conventions or treaties.
- Convention provides a framework to be respected by each party, which has to adopt its own national legislations to make sure that convention is implemented at national level.
- A protocol is an international agreement that stands on its own but is linked to an existing convention.

(i) Wetland Convention (Ramsar Convention)

- It came in force in 1975. This convention provides the framework for international cooperation for the conservation and wise use of wetland habitats.
- UNESCO serves as the Depository for the Convention, and its secretariat in. *The Ramsar Bureau*, is in Gland, Switzerland. India became signatory to this convention in 1981
- The Convention aims to halt the loss of wetlands and to ensure the conservation of fauna and flora and their ecological processes.
- **Obligations of parties include:**
 - Designating one or more wetlands for inclusion in the list of Wetlands of International Importance.
 - Promoting wise judicious use of wetlands, including mangroves.
 - The Chilika lagoon in Orissa and Keoladeo National Park in Rajasthan are the first two wetlands designated as Ramsar sites in 1981.

(ii) Montreal Protocol

- Through this, nations committed themselves to protecting the ozone layer and to cooperate with each other in scientific research to improve understanding of the atmospheric

processes and serious consequences of ozone depletion.

- UNEP has been addressing this issue since 1977. Under the auspices of UNEP, the nations of the world arrived at The Convention for the Protection of the Ozone Layer in Vienna in 1985.
- For the protection of ozone layer the Montreal Protocol on Substances that deplete the Ozone layer was agreed to by nations in 1987 and has since been amended five times so far.(London (1990), Copenhagen (1992),Vienna (1995), Montreal (1997) and Beijing (1999).
- The Protocol aims to reduce and eventually eliminate the emission of man-made ozone depleting substances.
- The Montreal Protocol uses three kinds of provisions as economic incentives to encourage participation and compliance with the Protocol's control regime;
 - entry into force requirements,
 - controls on trade with non-parties, and
 - research and technology transfer benefits.
- The Protocol promotes technology transfer to developing countries.

(i) Climate Convention

- Global warming is mainly caused by gases (gases like carbon dioxide, methane, nitrous oxide, CFCs and water vapors) emitted by industrialized countries on the burning of fossil fuels (coal, oil and gas) for electricity, heating and transport.
- Many nations have prepared national plans and are actively pursuing programmes and policies that will result in green gas emission reduction.

- At the global level, countries, around the world have expressed a firm commitment stop climate change and strengthen international action and broader participation under the auspices of the UN Framework Convention on Climate Change (UNFCCC).
- The UNFCCC commits signatory countries to limit anthropogenic (i.e. human induced) greenhouse gas emissions to levels that would prevent dangerous anthropogenic interference with the climate system
- In pursuance with the objectives of the Convention on Climate Change the **Kyoto Protocol** was agreed upon in December 1997 in Kyoto, Japan.
- The Protocol calls on developed nations and developing nations to take a number of steps to formulate national and regional programmes to improve “local emission factors”, activity data, models, and national inventories of greenhouse gas emissions and sinks that remove these gases from the atmosphere.

(ii) Biological Diversity Convention

- The Convention on Biological Diversity (CBD) was adopted during the United Nations Conference on Environment and Development (UNCED - or the “Earth Summit”) in Rio de Janeiro on 5th June 1992.
- CBD has been instrumental in highlighting conservation of biodiversity on the international agenda and its implementation on national level.



Check Yourself

1. It shall to b duty of every citizen of India to protect and improve the national environment including forest, lakes, river, wild life and have compassion for living creature. Which article of our constitution state this?
 - a. Article 51A
 - b. Article 48A
 - c. Article 19A
 - d. Article 42A
2. When was Ministry of forest constituted in India?
 - a. 1971
 - b. 1972
 - c. 1980
 - d. 1985
3. When was air act introduced and amended:
 - a. 1974 and 1988
 - b. 1981 and 1987
 - c. 1972 and 1980
 - d. 1974 and 1985
4. Ramsar Convention came in existence year:
 - a. 1981
 - b. 1985
 - c. 1986
 - d. 1975
5. Many countries impose taxes on green house gas emission from fossil fuel is known as:
 - a. Water Cess
 - b. Carbon tax
 - c. Climate tax
 - d. Carbon sequestration

Ans: 1. a 2.c 3.b 4. d 5.b



Stretch Yourself

1. What is the aim of Ramsar Convention?
2. What are the highlights of Kyoto protocol?
3. What are the main objective of Montreal Protocol
4. Mention one of the most important feature if the biodiversity legislation in India



Test Yourself

1. Why do we need environmental legislation? Explain in brief.
2. What provision has been added in water act in 1988?
3. Do you think that there is any provision for penalty in the Environment (Protection) Act of 1986? If yes, explain in brief?
4. Discus salient features of biodiversity legislation.
5. Describe the main objectives of climate change.