LAW SCHOOL NOTES

SUBJECT TITLE:

ENVIRONMENTAL LAW

PRINCIPLES AND PRACTICE

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Date: 04 / 08 / 23

* Ancient Indian Philosophy relating to Environment Protection

(a) Introduction

> Our universe created of sub-atomic particles,
> Earth, water, fire, air and space including living organism, animate or inanimate.
> 5 inherient elements are related with 5 human organs.
> Nose - Earth Eyes - Fire, touch - wind/air, ear - space

(b) History.

> Ancient tradition to protect environment.
> Dharma of each individual in any society to protect nature.
> Environment protection can be traced back to 321 to 300 BC
> Kautilya Arthashashtra - provided imp. & punishment for violation
Manusmriti. - mention optimum use of natural resources.

i) Hindu Religion.

> mention in Vedas, Upanishad & other ancient scripture
> Rig Veda mentions 5 elements.
> Rig Veda - clear mention of existence of ozone layer which filters sun rays.
> Atharva Veda - concept of using natural resources wisely and cautiously.
protection of wild life, domestication of animal.
> Yajur Veda :- mentioned yajna to be performed by offering butter and firewood into the sacrificial fire so that it makes environment free from impurities.
> Sam Veda

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> Varah Puran says " One who plants one peepal, one neem, one Bar, ten flowering plants or creepers, two pomegranates, Two oranges and five mangoes. Does not go to Hell"

* Ramayan, Mahabharat and Bhagvad Gita
> Ravan says 'I haven't cut down any fig tree in the month of Vaisakh' Why then does this calamity befall me?'
> Nature is mother of child (human being)
> In Bhagvad Gita World was compared with Banayan tree.

* Kautilya's Arthashashtra

* Manusmriti
punishment for cutting medicinal plants.

5) Buddhism
> laid stress on truth, non-violence and love for all living creatures including tree, plants and flora-fauna
> king Ashoka is known to have relinquished the throne out of compassion for living creatures & preached Ahimsa
> He opened veterinary hospital, nursery for plant.

3) Jainism
> abhored killing of animals and plants
>

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4) Sikhism.

> Preservation of environment is one of their sacred duties.
> Human body made of panchtatva
> Believes that imminent spirit of God is present in nature.

5) Islam.

> believe in peace with nature and natural resources
> Protection of environment against any kind of pollution has been cardinal principle of Islamic religious philosophy.

6) Christianity.

> Pope Paul VI of Vatican city advocated purity of environment.
>

* Constitutional Provisions and Environment.

(A) Introduction

> Main cause for pollution human activity
> Law is regulator of human conduct. (previously, dharma governed it!)
> C.O.I. contains specific provision regarding environment protection
> Basic Human Right - to live in pollution free environment
> Supreme Court has held essential feature of;
    a) Sustainable Development.
    b) Precautionary principle.
    c) Polluters pay principle.

Date: / /

(1) * Preabhble & Environment Protection

(i) Socialist (socialist pattern of society)

> dealing with societal problem not only individual
> Protecting interest of public at large.
> Responsibility of state to provide pollution free & humane condition

(ii) justice.

> right to environmental justice
> To provide clean and pollution free environment.

(iii) democratic. (right to vote & participate in govt. decisions)

> People have right to know & access of environmental policies
> people look upon the conduct of state and provisions being taken by the govt. from time to time towards protection of environ

(2) Federal system of Govt.

> Division of power b/w Union & state.
> Part XI – Art. 245 to 263 – regulates administrative & legislative relation b/w the state & Union.
> Art. 246 – further divides subject area of legislation b/w the Union & States → given III List of Schedule VII
> Art. 254 – Removes inconsistency which may arise b/w law made by Parliament & law made by state.
> Environment Impact assessment – conflict b/w development & Env.

(3) Obligation to implement International Agreement

> Object – to effectively implement uniform laws.
> Art. 51(c) :- To endeavour to foster respect for International law and treaty obligations in the dealings of organized people with one another.

Schedule IX (9) agrarian reform

Date: / /

> Art. 253 :- Implementatn of treaty, agreement or convention
> Entries 13 & 14 deals with the same.
↳ Air Act 1981 & Environment Protectn Act 1986
PUCL v. U.O.I (1997)
Vellore Citizen's forum v. U.O.I. (1996)

(4) Fundamental Rights (Part - III)

(1) Art. 14 - Right to Equality

> It casts a duty upon the state to be fair while taking actions in regard to environment protection and thus cannot infringe Art. 14.
> In cases of exercise of arbitrary powers on behalf of the state authorities, the judiciary has ~~helped~~ played strict role in disallowing the arbitrary sanction
> Discretion is an effective tool of administration
> Discretionary powers without measuring the interest of public violates the Art. 14.

Case law :- Bangalore Medical Trust v. B.S. Muddappa 1991(4)SCC54
Facts :- an improvement scheme introduced for extending city
> lower level part, to be converted into civic amenity site for hospital > allowed by H.C. > Appeallants appealed to S.C.
Held :- S.C. rejected appeal
> open spaces, recreation, playing ground are matter of vital imp. in interest of public.
> It cannot be given in lease
>

(2) Freedom of Speech & Expression (Art. 19)

→ most of the environmental jurisprudence has developed by Judicial activism
Public opinion → letter to S.C. → PIL → Judicial Activism

Date: / /

> Public opinion & media played imp role

(a) Rural Litigation & Entitlement Kendra, Dehradun v. State of UP AIR (1985) SC 652

→ where petitioner expressed violation of right to live in clean environment and considered to the court

(b) P.A. Jacob v. S.P. Kottayam AIR (1993)

Art. 19(1)(a) does not include freedom to use loudspeaker or sound amplifier. Thus noise pollution can be controlled U/Art. 19(6)

(c) Moulana Mufti Syed v. State of W.B AIR (1999)

→ Right to sleep at night (Calcutta H.C.)

→ banned use of loudspeaker in the early morning & late night.

(3) Art. 19(1)(g) :- Freedom of Trade and Commerce & Environmental

→ Reasonable restriction - Art. 19(6)

→ It shall not degrade the environment

(a) M.C. Mehta v. U.O.I. (1988) SC 1037

Facts :- Tanneries discharing effluents in Ganga river.

> without being treated (no treatment plant)

> Causing pollution in

> Effluents drained river 10 times more noxious

Held :- Court held and closed tanneries

Court was conscious about unemployment but more concerned about ecology.

(b) S. Jagannath v. U.O.I. (1997)

Facts :- Shrimp farming were polluting sea and sea bead

Date: 09/08/23

IX Schedule

→ not originally part of Consti
→ 1st Amendment Act
→ agrarian reform for abolition of Zamindari system.
→ Any law can be placed in 9th schedule - it makes them immune to legal challanges.
→ It includes a list of central & state laws that cannot be challanged in Courts
→ Originally, 13 laws now 284 laws included.

Q] Are laws in the 9th schedule are comp. exempt from Judicial Scrutiny?

→ a) Golakhnath case } Parliament has supreme power
b) Shankari Prasad
c) Sajjan Singh (1965) } 2 judges gave dissentiry judgement [Hidayatullah J. Mudalkar J.]
d) Keshavanand Bharati case (1973).

Resulted in → Limitation power of Parlia

(I) Keshawanand Bharati v. State of Kerala (1973)
> 'Basic structure of the Indian Constitution cannot be altered'
> Prospective overruling

(II) Waman Rao v. U.O.I.

(III) I.R. Coehlo

Ratnam case

Date: / /

* Important Cases.

(1) Vellore Citizen's Welfare Union V. U.O.I. (1996) 5 SCC 647

(a) facts :- untreated effluents from Industries in the state of T.N. - damage to agricultural rivers and wells.

> affected 59 villages.

> 350/467 wells polluted

> 35,000 hectors agricultural land unfit

> U/Art. 32 approached S.C. - deals with precautionary principles

> ~~onou~~ onus of proof

* It is almost an accepted proposition of law that the rules of customary Int. Law which are not contorary to the municipal law shall deemed to have been incorporated and shall be followed by court

(2) PUCL V. U.O.I. (1997) 3 SCC 433

(3) N.D. Jayal V. UOI (2004) 9 SCC 362

Since India is a signatory of various International agreements and understanding in the field of Environment important principle like Precautionary principle has become a part of Domestic Law, i.e. Environmental Protection Act 1986

fundamt (4) L.K. Koolwal V. State of AIR (1986) Raj. 2.

> Acute sanitation problem

> Co existence of Rights & Duties Art. 21 - 51A - Bringing out notice of court

Art. 51A (g) :- F.D. to protect environment, forest
Art. 48 :- State's obligation to protect environment.

Date: / /

> Insanitation leads to slow poisioning.
> Direction - cleaning within 6 months.

(5) Ratlam Municipality Vs. Varadchand AIR (1980) SC 1622
> Art. 51A(g), Art. 48A, Art. 21 [Blended FD + FR]
> S. 133 Cr.P.C. Executive Mag. to S.C. case.
> If the legislature or the state govt. feels that the law enacted by them can't be implemented they have a liberity to scrap it, but the law that remains on statutory books will have to be implemented particularly when it relates to primary duty.

(6) Nature Lover's Movement V. St. of Kerala AIR (2000) Ker. 131
> Diversion of Forest Land - PIL
> Held govt. orders were not opposed to 48-A and 51-A sustainable developement of economy.

X X X

> depletion of sea plantation
> Court held sea and beaches as gift of nature
> Such farming shall be subject to strict environmental test & thus reasonable restriction can be imposed.

(4) Art. 21 :- 'Right to Life and Liberity' Personal
> It includes Right to have dignified life
> Right to live in decent and clean environment
> Rural Litigation and Entitlement Kendra, Dehradun V. State of U.P. AIR (1985)

Held :- People filed PIL
forest was being cut down for mining which resulted in soil erosion causing Landslides Adverse effect on environment.

Date: / /

> first time right to live in a healthy environment was recognized.

(2) M.C. Mehta v. U.O.I. AIR (1987) SC 1086 [Oleum gas]

(3) P.A. Jacob v. S.P. Kottyam
> Right to sleep u/Art. 21.

(4) Narmada Baccho Andolan v. U.O.I. (2000)
→ Court held Right to water is a fundamental right.

(5) DPSP
→ Part IV → essential for governance of state
→ not enforceable.
→ 42nd amendment in 1976
→ Initially no provision in Part IV regarding environment protection
→ But, Art 48-A was introduced
↳ Protection & improve forest & Wildlife.

(a) Sachidanand Pandey v. State of W.B. AIR (1987) SC 1109
> S.C. held court must bear in mind Art 48A & Art. 51(A)(g)
> Court must not shrug its shoulders and say that priorities are matter of policies

(6) fundamental Duties
> Part IV-A
Art. 51A(g) :-

Common Law Remedies

Date: 18/08/2023

* Introduction
> derived from Latin term 'Lex communis"
> It is a body of customary law of England which is based on judicial decision
> protected U/A. 372 of C.O.I.
> Common Law remedies ~~available~~ against the environmental pollution are available under the law of torts

> The liability of the polluter under the law of torts is one of the major and oldest legal remedy to abate pollution.
> Most imp. remedies
i) Nuisance ii) Trespass iii) Strictly & liability

i) Nuisance
> causing annoyance, hurt or that is hurting
> in the form of obnoxious smells, noise, fumes, air or water pollution due to effluent discharge
> Two types.
a) Public nuisance :- action of an individual affects many individuals or community at large
> It affects health, safety and/or the dignifiable standard of life
(i) * Ramlal Vs. Mustafabad Oil & Cotton Ginning (1968) [Noise pollut]
(ii) Rambhaj Singh Vs. Babulal AIR (1982). [Grinding machine causing annoyance to medical practitioner, thus held to be pvt. nuisance]

b) Private nuisance :- when a person's attack individually to another

Ramlal.
↳ Held :- noise level crosses a certain threshold value it should be considered as a public nuisance. fall under category of public nuisance

Remedy

Public nuisance is a tort as well as crime
Pvt. nuisance is a tort

per se - by itself

Date: / /

* How damages (remedy) are granted?
(1) Forseeability.
(2) Reasonableness

ii) Trespass
> intentional invansion of the interests of the plantiff over the property in his exclusive possession
> Invasion may direct or through some tanyible object
> Two essentials
a) Intentional interference
b) Such interference must be direct rather than consequential
In envrionment law :- dumping garbage, ~~dum~~ spraying pesticide

iii) Negligence
> Where there is duty to take care and the same is not taken
> which results in some harm to another person.
> Result must be some kind of loss, inconvenience or annoyance to another
> The defendant ~~must~~ have taken reasonable care

* Naresh Dutt Tyagi v. State of U.P. (1995)
Facts :- Chemical pesticides were stored in godown in residential area > fumes emanating from the pesticides leaked to the contiguous prop. through ventilator which resulted in death of 3 children & an infant in mother's womb
It was clear case of negligence

iv) Strict Liability (Rule of no fault liability)
Evolved in case of Ryland v. Fletcher (J. Blackburn)

Date: / /

Exception :- i) Act of God ii) Volenti non fit Injuria iii) Act of 3rd party
iv) plantiff's fault

v) Absolute Liability – no defense
> M.C. Mehta v. U.O.I. (Oleum gas leak case)

vi) Injunction
> Judicial process by which
a) Temporary (3 essentials)
b) Perpetual.
> Generally in case of trespass

* Statutory Remedies
> Laws of Crime & Environment Protection Act
> Chap XIV of IPC S. 268 - S. 294-A (offences relating to

1) S. 268 :- defines public nuisance inter alia noise poll^n can be controlled
2) S. 290 :- Punishment for public nuisance → fine upto ₹200/-
↳ It even includes even smoking at public places
6 months 3) S. 269 :- Neligent act likely to spread infection / disease dangerous to life
2 years 4) S. 270 :- Malignant act ——"——
5) S. 272 :- Adulterated food
6 months 6) S. 271 :- Disobedience to quarantine rule
7) S. 274 :- Adulteration of drugs
8) S. 277 :- Fouling water of public spring or reservior [Water Poll^n]

Punishment for. Date: / /

* S. 426 :- Mischief

S.425 :- definition of mischief

any act against

Punishment :- 3 months, fine or both

* S.431 :- mischief by injury to public road, bridge or channel
* S.430 :- Mischief by injury to irrigation
* S.432 :- mischief by causing damage to public drainage

* Cr.P.C., 1930 - prevents polln of almost all kinds
> Chap. X Part B containing Sec. 133 to 143
> Part C → S.144 can provide most effective and speedy remedy for preventing and controlling public nuisance causing air, water & noise poll^n.
> S.133 CrPC :- Power to make conditional order to remove public nuisan to DM/SMD on reciept of police or other info.
→ can be even used against Municipalities, Corporation, etc.

* Ratlam Municipality V. Vardhichand AIR (1980)
> CPC and public nuisance
> Sec 91 of CPC
> Cr.P.C. - sec. 133

Date: / /

* Writ Jurisdiction

→ Art. 32 & 226

→ M.C. Mehta V. Kamalnath → can award damages in PIL

5 writs.

1) Habeas Corpus - produce the body
2) Quo Warranto - by what authority / warrant
3) Prohibition
4) Certiorari
5) Mandamus

WATER ACT, 1974

Date: 30/08/23

1) To prevent water pollution
2) To est. central and state Board for prevention & control
3) To maintain or restore wholesomeness of water
4) To provide for penalties for contravention.
5) To est. central & state labrotaries
   a) Central Pollution Control Board
   b) state Pollution Control Board

* Sources of Water Pollution

1) Industrial Activities.
2) Agricultural activities. (Insecticides & pesticides)
3) Domestic waste (75%.) (detecgent, cleanser)
4) Thermal pollution - inc. temprature of water bodies.
5) Radioactive wastes

* Water is a state subject.

Art. 252(1) :- though the subject fall within the state list but the state give consens to the Parliament, then Parliament can frame law.

Art. 253

Date: / /

* Amendment in 1988 (2nd Amendment)

* Definitions

(1) Occupier - person who has control over the factory premises.

(2) outlet - pipe or channel, open or closed carrying sewage or trade effluent or anything likely to cause pollution.

* Chap - II.

Constitution of Boards.

Central Pollution Control Board → Sec. 3

State Pollution Control Board → Sec. 4

* Sec. - 3

3(1) Constitution within 6 months of passing of this Act

3(2) Composition of CPCB

i) a full time chairman

→ Qualification :- a) special knowledge / practical experience in matter of Env. protectn

b) experience in administering institution

Shri S.P.S. Parihar

155321

Date: / /

ii) Not more than 5 officials
↳ Will be appointed by C.G.

iii) Not more than 5 among st member of State Board
↳ will be appointed by C.G.

iv) Not more than 3, non-official members to represent the interest of agriculture, fishery or industry or trade or in opinion of C.G.
↳ will be appointed by C.G.

v) Two person will be appointed to represent companies or corporation owned or controlled or managed by C.G.

vi) a full-time member secretary
↳ possession qualificat, knowledge, experience of scientific engineering or management aspect of poll.

* CBCP
→ It shall be a body corporate
→ have perpetual succession
→ acquire common seal
→ aequire, hold & dispose of prop.
→ can enter into contract
→ can sue or can be sued.

* C.B. ~~has~~ shall exercise power & perform function for Union Territory
Sec. 4(4)

Date: / /

* Disqualifications – S.6.

1
(1) He is declared insolvent.
(2) declared by competent court that he is insolvent.
(3) convicted of an offence which involves moral turpitude.
(4) convicted of any offence under this act.
(5) partnership, share or interest in any firm carrying of sale, manufactur
(6) director, secretary, manager or other salried officer or employee of any company or firm having contract with ~~company~~ board.
(7) he is abusing his powers

* Terms & Condn of Service of Members
(1) Member of Boards shall hold offiar ~~fore~~ for a term of three years from the date of nomination.

Sec.7 If a member of board is disqualified as per S.6, his seat shall become vacant

Sec.8 Meeting of Boards
→ shall meet once in every three months
→ as rules of procedure in regard to transaction of business

contiguous - adjacent

Date: / /

Sec.9 Constitution of Committees.

(1) It can make as many as committee
→ with or without member and other persons

(2) → Committee shall meet at such time & place as observed by rules of procedure

(3) → shall be paid fees & allowances

S.10 Temporary Association of person with board for particular purposes

Chap III

JOINT BOARDS [S. 13, 14]

S.13 Agreement may be entered into with

(a) 2 or more govt. of contiguous state

(b) by C.G (one or more U.T.) and S.G. contiguous to such UT

* Contents of Agreement.

1) Appo

Date: / /

Penalties under Water Act

S.47 Offences by companies

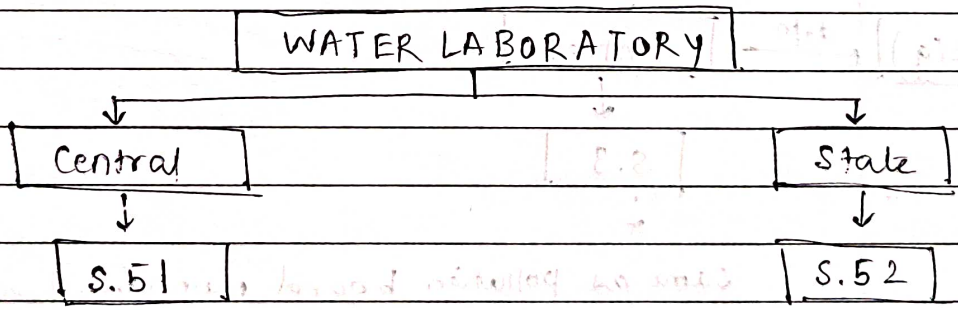
S.49 Cognizance of offences

→ Court to take cognizance only on complaint being made by

a) Board or any officer of it

b) any person who made 60 days prior notice & intents to make complaint to Board or officer

→ Only Metropolitan Mag. or a JMFC shall try such offence



AIR Act, 1981

Date: / /

→ applies to the whole of India

> Made under Art 253

> made after Stockholm Convention → India was signatory member (1972)

↳ United Nations Conf. on Human Environment

* Aim

(1) Preservation of the quality of air

(2) Control of air pollution

* air pollutant – means any solid, liquid or gaseous substance present in environment

→ including noise (amendment 1987)

Chap II

Pollution Control Board

S. 2(g) ← defn — Central → S.3 → same as pollution board mentioned in Water Act, 1974

State → defn S.2(o) → S.4 → State Board

State Board → Sec 4 → old board to functn as Air PCB

State Board → Sec 5 → New constitn of APCB

S.49 :- Dissolution of State Board under this Act

↳ When APCB is already in force and Water Act is also made applicable later.

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Sec6 → In U.T., CPCB to be functions

Chap III : Powers & functions of Boards

Sec.16 - functions of Central Board

Sec17 - functions of State Board

Date: / /

Penalties.

S.37 Failure to comply with provisions of Sec. 21 or Sec. 22 or with the direction issued u/s. 31A

→ Imp. not less than 1 year six months. — extend to 6 yrs.

→ 5,000/- Rs fine

S.41

S.41

S.42 Protection of action taken in good faith

* Cases :- M.C. Mehta Case v. U.O.I. (1991)

→ Vehicle poll^n case

→ introduction of CNG in Delhi

→ lead free petrol

Environment Protection Act, 1986

Date: / /

→ 42nd amendment → Art. 48-A was added to protect environment
↳ To protect forest, lake, etc

→ This result of UN conf. on Human Environment, Stockholm

↓

Wildlife Protection Act, 1972

↓

EPA was passed by Parliament in the wake of Bhopal Gas Tragedy.

* Aim

(1) Implement the decision of Stockholm conf.
(2) Creation of a govt. authority to regulate industry that can issue direct orders including closure order.
(3)
(4) Enact regular laws for protection
(5) To impose punishment & penalties
(6) Engaging in the sustainable development of Environment.
(7) Attaining protection of Right to life under Art. 21

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* Salient feature

(1) Set up of govt. authorities.

(2)

(3) Restrictn on pollutn discharge.

(4) Compliance with procedural safeguard.

(5) Power of Entry & Inspection

(6) Est. of Environmental Laboratories.

(7) Appointment of Govt. Analyst

(8) Penalties for offences

(9) Offences by Govt. Dept.

(10) Cognizances of offence

* Drawbacks of the Act.

(1) Complete centralization of the Act.
→ wide powers are provided to the centre

(2) No public participation.

(3) Incomplete coverage of pollution.
→ does not address modern concept of pollⁿ

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* Sustainable Development *

↓

balance b/w development & environmental concern

↓

- It is a policy & strategy to continue development w/o affecting/polluting environment.
- It is not a new concept
- Came to be known in 1972 → Stockholm Convention
- This concept got definite shape in report by world commission on environment was known 'our common future'

↓

Chaired by Ms. G. H. Brundland (Norway P.M.)

↓

Defn :- Development that meets

* Principles of Brundtland Comm.

1. fundamental human right.
2. Inter-Generational Equity.
3. Conservation & sustainable use.
4. Environment Standards & monitoring.
5. Prior environmental assessment.
6. Prior notification, access and due process
7. Sustainable development & assistance.
8. General Obligation to co-operate.

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> from above principles, it is evident that for achieving sustainable development, economy and ecology will have to merge.
> Sustainable developement must become the overriding goal of all Governments.

* Role of Judiciary.
> Major role played by S.C. & H.C. in preserving in doctrine of 'Sustainable development'

(1) First case regarding S.D. :- Vellore Citizen Welfare Forum V. Union of India AIR (1996)
→ regarding tanneries discharging effluent w/o treatment in (Palar) river in Tamil Nady → it was main source of drinking water.
S.C. held Remediation of the damaged environment is part of the process of sustainable developement

(2) Rural Litigation & Entitlement Kendra Dehradun V. State of U.P.
→ mining → deforestation → landslides

(3) Tarun Bhagat Singh v. Union of India.
S.C. issued direction that no mining

Environment Impact Assessment

Date: 21 / 09 / 23

→ It is a process of evaluating the likely environmental impact of proposed project or development.
→ taking into ~~cost~~ account inter-related socio-economic, cultural and human health impacts, both beneficial and adverse
→ It is use to calculate positive and negative environmental, economic and social impact of a project.
→ It is a pre-planning stage itself so that decisions can be taken to reduce adverse impacts.

* Evolution & History.

→ Best policy innovations in 1900s

① Birth of EIA can be dated back to 1970s
In 1969 - USA had brought its first National Environment Policy Act, 1969.
② Initially it was practiced by developed nations later introduced in developing nations including India
③ ↳ eg Columbia in 1974 & Philippines in 1978.
④ Worldwide, now practiced in almost 100 countries.
By 1990s → 110 countries
⑤

* Objectives

① To identify, predicting and evaluating economic, environmental and social impacts of developmental activities
② Providing information on the environmental consequences for decision making.

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③ Promoting environmentally sound & suitable development by identifying app.

* Importance.

① Good tool for prudent environment management.

* Environmental Components of ~~EIA~~ EIA

① Air environment.
② Noise.
③ Water environment.
④ Biological environment.
⑤ Land environment.

* PROCESS

* fundamental process of EIA.

① Screening - to determine which project need full ~~&~~ part EIA.
② Scoping - to identify which potential impacts are relevant to assess
- to identify alternative solutions that avoid, mitigate or compensate for adverse impact on biodiversity
- and finally to devise terms of reference for the impact assessment.
③ Assessment and evaluation of impacts & development of alternatives

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→ to predict and identify the likely environmental impact of proposed project or development including the detailed elaboration of alternatives

(4) Reporting the Environmental Impact Statement (EIS) or EIA report.
→ including environmental management plan (EMP)
→ a non-technical summary for general audience.

(5) Review of the EIS
based on → terms of reference (scooping)
→ public participation

(6) Decision-making → whether to approve project or not

(7) Monitoring, compliance.

* EIA in India.
started in 1976-77
↓
Planning Commission directed Dept. of Science & Technology to assess river valley project
↓
Later extended to all projects that req. approval from Public Investment Board.
↓
In 1986, Govt. gave it statutory recognition in EP Act, 1986

Date: / /

> 1982 → set up of ENVIS (Environmental Info. system)
↓
Web-based distributed network of specific database
↓
Collection of Data

EIA process → EP Rules, 1986
↓
for construction, expansion, Modernization, of specific project
↓
prior approval of Central, State Govt.

* EIA Notification, 2006

A band project	B band project
↓	↓
require approval from Ministry of Environment & Forest on behalf of C.G. on advice of Expert Appraisal Committee	require approval of State EIAA on advice of State Appraisal Committee
↓	
Construct of Port, Harbour, Airport, Nuclear Power, Primary metallurgical industries	

Date: / /

* Current EIA Reports

EIA Notification 2020 draft → made public

* Annual Submission of Reports.

→ new draft proposes the submission of compliance reports anually where as per the 2006 notification, the compliance report was to be submitted every six months.

* → New provision

'Post facto clearance'

↳ where a project that has been operating without environment clearance, can be regularised or allowed to apply for clearance.

Criticism against 2020 Notification

(1) Post facto clearance violates
(2) It furthermore categories A, B1, B2 provides immunity to some companies.

* Advantages of EIA

(1) Reduces cost & time of project implementation and design.
(2) Encourages environmentally sound projects which are compliant with environment legislation in place.
(3) Protection of environment alongwith balanced usage of resources
(4)
(5)
(6) It helps in predicting environmental impacts at an early stage as project planning & design.

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* Disadvantages

(1) Little public participation in actual implementation.
(2) Sometimes too focused on the scientific analysis and real time impact is neglected.
(3) Compliance monitoring after EIA is not carried out regularly.
(4) Impact assessment process are in place and applied in many countries, yet biodiversity is often adequately addressed.
(5) There is a need to better address & biodiversity consideration in environmental impact assessments and strategic environment assessment.

* Polluter Pays Principle

Date: / /

→ It is a part of Sustainable developement.

* Introduction

> I.R. has caused pollution
> I.R. improved lives of people
> oy. product are inevitable part of manufacturing process.
> thus there are constitutional mandate to curb such dyradation
  → Precautionary principle.
  → polluter pays principle.

* Meaning

▸ It holds polluter liable for damage caused to environment.
> Acc. to it, " compensate the victims of pollut but also compensate damage caused to environment
>
>

* History

→ first introduced in 1972 [OECD]
  [Organizatn of Economic Co-operatn & Development]
→ It said polluter is responsible for the controlling and prevention of pollution of associated with the process of factory.
→ Pollutants were soon recognized by the World Commission on Environment and Developement as form of waste.
→ Hence, dissemination of the pollutants into nature was considered as an inefficiency of industrial production
→ Thus, this tool was recognized as strong tool to control.

In INDIA

Date: / /

→ PPS was interpreted by SCI means absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental dyragation
→ Research Foundatn for Science v. U.O.I. (2005) 13 SCC

→ Indian Conuncil of Enviro-Legal Actim v. U.O.I. (1996) PPP was for the first time applied and defined in the 1996

Date: / /

Doctrine of Public Trust

* In India
"We don't inherit the earth from our ancestor, we borrow it from our children"
→ accepted under common law & landmark cases
→ Art. 21 root of this doctrine

* Two purposes
1) It makes it mandatory for the state to take effective control & management of natural resources.
2) It gives power to the citizens to raise questions against the ineffective.

* M.C. Mehta v. Kamalnath (1997) 1 SCC 308
→ first case related to doctrine of public trust
→ Motel → on riparian forest land → bank of River Beas → lease
→ Motel tried to change course of river
→ court ordered PPP.

* M.I. Builders Pvt. Ltd v. Radhey Shyam Sahu 1999 6 SCC 464
→ underground shopping mall

Stockholm Conference Date: / /

Forest Conservation Act, 1980

→ prior to this an ordinance was promulgated by President and later on withdrawn and this act was passed.

Sec 2 Restriction on the dereservation of forest or use of forest land for non-forest purpose
explanation
a)
b)
With prior permission of Central Govt, state Govt can

Sec. 2A Appeal to NGT
→ Aggrieved by order or decision of S.G. or other authority may file appeal to NGT u/s. 3

Sec. 3 Constitution of Advisory Committee. [C.G. may Constitute]
→ Forest Conservation Rules, 2003
* Function ↳ Composition — 5
Chairman 1) Ministry of Forest & Env. (DG of Forest)
Chairman in absence of above 2) (Addl DG of Forest)
3) Addl. Comm. of Soil Conservation (Min. of Agri.)
4) 3 non-official members having expertise knowledge in environment
5) 1 Insp. General of Forest

Date: / /

* Function. To advise C.G. regard to
i) To grant of approval U/s. 2
ii) any other matter connected with conservation of forest

Sec. 3A Penalty
→ contravenes
→ abets contravention of Sec 2
(Max) Simple Imp. For 15 days. (No fine)

Sec. 3B Offences by authorities & Govt. Dept

Sec. 4 Power to make Rules
→ C.G. by notification in Official Gazette

Sec 5 Repeal & Saving

Doon Valley Case
↓
(1) RL and E Kendra V. State of U.P. (Mining Case)

(2) Tarun Bharat Sangh V. U.O.I. (1992)
→ Rajasthan case (mining case)

Stockholm Conference 1972 Date: 11/10/23
↳ 26 Principles

> Stockholm Declaration on H.R.
U.N. Conference on Human Environment 1972
> 114 countries participated.
> 26 principles were laid down (all agreed to the same)
> They proclaimed man is both the creator & moulder of the environment Principle (1) – Fundamental Rights
Principle (2) > Inter-generational – using natural resources wisely
Rights diligently
> Intra-generational – within that generation

Principle (3) Capacity of the ~~earth~~ Earth
↳ for the ~~earth~~ both renewable & non-renewable resources

Principle (4) Safeguard Wildlife and its habitant.

Principle (5) Non-renewable resources
↳ do not exhaust ↳ use in such manner that it will be shared in all mankind.

Principle (6) Precautionary Principles
↳ EIA ↳ no irreversible damage to environment takes

Principle (7) Prevent pollution of seas
↳ Only legitimate use of sea

Principle (8) Economic and social development
↳ has to promoted by all states to lead quality of life
↳ includes industrialization & globalization

Principle (9)

Date: / /

Principle (9) Underdeveloped countries & Natural Disaster.
↳ Lack of technology, lack of scientific & financial assistance → Developed countries transfer the technology

Principle (10) Stability of prices of primary commodity and raw materials
→ about developing countries → where stability is imp [Environmental management]

Principle (11) Environmental policies should enhance and not adversely affect the present or the future development potential of developing countries.

Principle (12) Resources should be made available to preserve & improve the environment

Principle (13) State should adopt integrated & co-ordinated approach to their development planning. [To achieve more rational management]

Principle (14) Rational planning = need of development + need to protect & improve environment

Principle (15) Planning to be applied on human settlements and urbanization
→ To avoid adverse effect → To obtain max. social, economic & env. benefits

Principle (16) Demographic policies should be applied where rate of popln growth & excessive population concentration to have adverse effect on the environment.