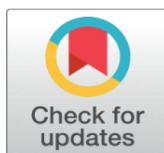


JUDICIAL TRENDS IN ENVIRONMENTAL LAW WITH SPECIAL REFERENCE TO ENVIRONMENT PROTECTION, ACT 1986

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ABSTRACT

This research paper explores the judicial trends in environmental law with a particular focus on environmental protection as observed in 1986. The year marked a pivotal moment in the evolution of environmental jurisprudence, reflecting a significant shift in how courts approached environmental issues. Key judicial developments from 1986 reveal an increased recognition of environmental rights and the judiciary's growing role in enforcing environmental regulations. This period saw a rise in landmark cases that emphasized the importance of environmental sustainability and the need for rigorous legal mechanisms to address pollution and ecological harm. The paper reviews notable judgments from 1986, analysing their impact on environmental law and policy, and examines how these judicial trends contributed to the strengthening of environmental protection frameworks. The analysis underscores the critical role of the judiciary in shaping environmental governance and highlights the continuing relevance of these early trends in contemporary environmental law.

Keywords: Environmental Protection, Sustainability, Judiciary



1. INTRODUCTION

The 1972 United Nations Conference on the Human Environment, held in Stockholm, was a seminal event in the history of global environmentalism. It marked the first time that environmental issues were addressed on a global stage with the aim of integrating environmental concerns into the broader context of international policy and development.

1) Stockholm Declaration:

The Stockholm Declaration was a central component of the conference, comprising 26 principles that articulated the need for international cooperation to address environmental challenges. These principles emphasized the intrinsic link between economic development and environmental protection, advocating for sustainable development practices that would ensure the well-being of present and future generations. The Declaration highlighted the necessity of managing natural resources wisely, preventing pollution, and fostering international cooperation to tackle global environmental issues.

2) Action Plan for the Human Environment:

The Action Plan outlined a framework for implementing the principles set forth in the Stockholm Declaration. It was divided into three main categories: Global Environmental Assessment Programme (watch plan): This component aimed at establishing mechanisms to monitor and assess the state of the global environment. It underscored the need for comprehensive data and analysis to guide environmental policy and management. Environmental Management Activities: This category focused on practical measures to manage environmental resources and mitigate pollution. It included recommendations for improving waste management, controlling pollution, and conserving natural resources. International Measures to Support Assessment and Management. This involved international collaboration to support and enhance national and global environmental management efforts. It included fostering cooperation among countries and providing financial and technical assistance for environmental projects. The Action Plan contained 109 specific recommendations across these categories, providing a detailed roadmap for addressing environmental issues at both national and international levels.

3) Establishment of the United Nations Environment Programme (UNEP):

One of the most significant outcomes of the Stockholm Conference was the creation of the UNEP. Established to coordinate international environmental activities and promote sustainable development, UNEP became the leading global institution for environmental matters. Its mandate included conducting environmental assessments, facilitating international cooperation, and supporting countries in their efforts to address environmental challenges.

2. SIGNIFICANCE AND IMPACT

The Stockholm Conference was groundbreaking in several respects:

- 1) **Global Awareness and Dialogue:** It raised global awareness about environmental issues and initiated a dialogue between industrialized and developing countries about the impact of economic activities on the environment. This dialogue helped to establish the understanding that environmental degradation is a shared concern that transcends national boundaries.
- 2) **Integration of Environment and Development:** The conference marked a shift towards integrating environmental considerations into economic and development policies. It highlighted the need for a balanced approach that would promote economic growth while protecting the environment.
- 3) **International Cooperation:** The conference underscored the importance of international cooperation in addressing environmental challenges. It set the stage for future global environmental agreements and initiatives, including subsequent conferences and treaties focused on climate change, biodiversity, and sustainable development.

In summary, the 1972 Stockholm Conference on the Human Environment was a landmark event that set the foundation for modern environmental governance. By articulating key principles and establishing the UNEP, it galvanized international efforts to address environmental issues and integrate environmental considerations into global policymaking. Its legacy continues to influence environmental discourse and action to this day.

The United Nations Sustainable Development Goals (SDGs) that focus on environmental protection are primarily:

- 1) **SDG 6: Clean Water and Sanitation** - Aims to ensure availability and sustainable management of water and sanitation for all. This goal emphasizes the need for clean water and proper sanitation, which are essential for healthy ecosystems and human well-being.
- 2) **SDG 7: Affordable and Clean Energy** - Seeks to ensure access to affordable, reliable, sustainable, and modern energy for all. This includes promoting renewable energy sources and improving energy efficiency to reduce environmental impacts.
- 3) **SDG 13: Climate Action** - Urges urgent action to combat climate change and its impacts. This goal focuses on reducing greenhouse gas emissions, enhancing resilience to climate-related hazards, and integrating climate change measures into national policies and strategies.
- 4) **SDG 14: Life Below Water** - Aims to conserve and sustainably use the oceans, seas, and marine resources. This includes reducing marine pollution, protecting marine ecosystems, and supporting sustainable fisheries.

- 5) **SDG 15: Life on Land** - Focuses on managing forests sustainably, combating desertification, halting and reversing land degradation, and stopping biodiversity loss. It encompasses efforts to protect and restore terrestrial ecosystems and biodiversity.

These goals reflect a comprehensive approach to environmental protection, addressing water, energy, climate, oceans, and land.

3. NATIONAL ASPECTS

The Indian Penal Code of 1860 marked the beginning of legislative history. Section 268 defined what is public nuisance. Sections 133 to 144 of the I.P.C. also address the mitigation of public nuisances. These are only prohibitive provisions. Sections 269 to 278 of the Indian Penal Code are penal provisions which means that a person guilty of violating any of the provisions is liable to prosecution and punishment.

India continued to fight pollution through legislation after gaining independence. Now there is a host of legislation in India aimed at protecting the environment from pollution and maintaining the ecological balance. The Environment (Protection) Act, 1986 is one major Act for environmental protection. The Government of India has launched various programmes and made use of audio-visual media to educate the people and arouse their consciousness for the protection of environment. In February 1971, the University Grants Commission (India), in collaboration with other organizations, launched a symposium on the development of environmental studies in the Indian Universities. The consensus that emerged at the symposium was that ecology and environmental issues should form part of the courses of study at all levels.

Moreover, to raise awareness of the significance of preserving ecological balance. To keep the environment pure and to obviate the hazards of pollution and ecological imbalance, the Department of Laws, Punjab University, Chandigarh organised a three-day National Seminar in 1984 on "Law Towards Environmental Protection" Fifty-five delegates from all over India participated in the seminar.

It claimed:

- 1) It is fundamental human right to live in an unpolluted environment.
- 2) It is fundamental duty of every individual to maintain purity of environment.

Soon after the Stockholm Conference, many Acts were introduced i.e. Wildlife Act, 1972; Water Act, 1974; Air Act, 1981 etc. The Indian Constitution was amended to include the mandate to protect and improve the environment within five years of the Stockholm Declaration. Under the Constitution, protecting and enhancing the environment is now a fundamental duty under constitution Act of 1976. Govt., of India has set up a National Committee on Environmental Planning and Coordination.

Government of India's programme for environment included the programme for cleaning the rivers including Ganga and Yamuna. Prime Minister, Sh. Rajiv Gandhi constituted Central Ganga Authority for the purpose of pollution control of Ganga. The enactment of Environment (Protection) Act, 1986 was the immediate off-shoot, of this programme.

The Supreme Court (writ petition (Civil) No. 860 of 1991) has directed the University Grants Commission to prescribe a course on 'Man and Environment'. In the light of this directive, the UGC issued a circular to various universities to introduce the course on 'Environmental The main attention in the education on environment is as below:

- 1) Over-population and the ways to check its rapid growth.
- 2) Afforestation as a preventive to soil erosion and water pollution
- 3) Methods to prevent air pollution, insisting on smokeless cooking
- 4) Discipline in playing radio and television sets and a ban on use of loudspeaker.
- 5) Elementary knowledge of the scientific and philosophical basis of man and the environment
- 6) Rules regarding disposal of household waste; and
- 7) General principles of sanitation

4. ENVIRONMENT AND CONSTITUTION OF INDIA

The protect and improve the environment is a constitutional mandate. It is a commitment for a country wedded to the ideas of a welfare State. The Indian Constitution contains specific provisions for environment protection under the chapters of Directive Principles of State Policy and Fundamental Duties. The absence of a specific provision in the Constitution recognizing the fundamental right to clean and wholesome environment has been set off by judicial activism in the recent times.

Articles 48-A and 51-A. Clause (g):

Initially, the Constitution of India had no direct provision for environmental protection. Global consciousness for the protection of environment in the seventies, Stockholm Conference and increasing awareness of the environmental crisis prompted the Indian Government to enact 42nd Amendment to the Constitution in 1976. The Constitution was amended to introduce direct provisions for protection of environment. This 42nd Amendment added Article 48-A to the Directive Principles of State Policy.

Article 49-A:

The Article states:

“The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.” The said amendment imposed a responsibility on every citizen in the form of Fundamental Duty.

Article 51-A, Clause (g):

Article 51-A (g) which deals with Fundamental Duties of the citizens states: “It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. “Thus, protection and improvement of natural environment is the duty of the State (Article 48-A) and every citizen (Article 51- A (g)).

Article 253:

Article 253 states that ‘Parliament has power to make any law for the whole or any part of the country for implementing any treaty, agreement or convention with any other country. In simple words this Article suggests that in the wake of Stockholm Conference of 1972, Parliament has the power to legislate on all matters linked to the preservation of natural environment.

Parliament’s use of Article 253 to enact Air Act and Environment Act confirms this view. These Acts were enacted to implement the decisions reached at Stockholm Conference. Environment and Citizens:

The Constitution of India has made a double provision:

(i) A directive to the State for protection and improvement of environment.

(ii) Imposing on every citizen in the form of fundamental duty to help in the preservation of natural environment. This is the testimony of Government’s awareness of a problem of worldwide concern. Since protection of environment is now a fundamental duty of every citizen, it is natural that every individual should do it as personal obligation, merely by regulating the mode of his natural life. The citizen has simply to develop a habitual love for pollution.

The Constitutional provisions

1. Article 48(A)
2. Article 21
3. Article 253
4. Article 51(A)
5. Article 19(1)(g)
6. Article 51
7. Article 14.

5. KAMAL NATH CASE

In the State of Himachal Pradesh, Span motel, owned by the family members of Shri Kamal Nath, Minister for Environment and Forests, Govt. of India diverted the Course of river Beas to beautify the motel and encroached upon

some forest land. The apex court ordered the management of the Span motel to hand over forest land to the Govt. of Himachal Pradesh and remove all sorts of encroachments. The Court delivered a landmark judgment and established principle of exemplary damages for the first time in India. The Court said that polluter must pay to reverse the damage caused by his act and imposed a fine of Rs Ten Lakhs (Rs 10,00,000) on the Span motel as exemplary damages. The Supreme Court of India recognized Polluter Pays Principle and Public Trust Doctrine.

Protecting the Environment: OLEUM GAS LEAK CASE , 1986

The Oleum Gas Leak Case of 1986 was a significant industrial disaster in India involving the release of oleum gas from a chemical plant in Delhi. The incident occurred on December 4, 1986, at a plant operated by Shriram Foods and Fertilizers. Oleum gas, a hazardous chemical, leaked from the plant and caused widespread panic and health issues among nearby residents.

The gas leak resulted in several deaths and numerous injuries, as well as long-term health effects for those exposed. The incident highlighted severe safety and regulatory shortcomings in industrial operations. It became a landmark case in environmental and industrial safety legislation in India, leading to stronger regulations and greater scrutiny of industrial safety practices.

The case took place soon after the Bhopal Gas Tragedy and was keenly watched as an instance of how the courts would deal with companies responsible for environmental disasters. Unfortunately, the complex court litigation around the Bhopal Gas Tragedy was an example of what not to do in such cases. Article 19(1)(g) to practice any profession, or to carry on any occupation, trade or business.

Khoday Distilleries Ltd vs State of Karnataka on 19 October 1994

Article 19(1)(g) read with Article 19(6) spells out a fundamental right of the citizens to practise any profession or to carry on any occupation, trade or business so long as it is not prohibited or is within the framework of the regulation, if any, if such prohibition or regulation has been imposed by the State by enacting a law in the interests of the public. It cannot be disputed that certain professions, occupations, trades or businesses which are not in the interests of the public may be completely prohibited while others may be permitted with reasonable restrictions on them. For the same purpose, viz., to sub serve the interests of public, the reasonable restrictions on the carrying on of any profession, occupation, trade, etc., may provide that such trade, business etc., may be carried on exclusively by the State or by a corporation owned or controlled by it. The right conferred upon the citizens under Article 19(1)(g) is thus subject to the complete or partial prohibition or to regulation, by the State. However, under the provisions of Article 19(6) the prohibition, partial or complete, or the regulation, must be in the interests of the public.

The right given by this article to freely carry on trade, commerce and intercourse throughout the territory of India is undisputedly subject to the same restrictions as is the right under Article 19(1)(g).

Apart from the restrictions placed on the right under Article 301, by the provisions of Articles 19(6), 47, 302 and 303, the provisions of Article 304 also place such restrictions on the said right. So do the provisions of Article 305, so far as they protect existing laws and laws creating State monopolies. The provisions of the aforesaid articles, so far as they are relevant for our purpose, read together, therefore, make the position clear that the right conferred by Article 19(1)(g) is not absolute. It is subject to restrictions imposed by the other provisions of the Constitution. Those provisions are contained in Articles 19(6), 47, 302, 303, 304 and 305.

ARTICLE 21

Article 21 of the constitution of India provides for the right to life and personal liberty. It states that “no person shall be deprived of his life or personal liberty except according to procedure established by law. “In *Rural Litigation and Entitlement Kendra v State of UP*, also known as the Dehradun quarrying case, the Supreme Court of India has held that pollution caused by quarries adversely affects the health and safety of people and hence, the same should be stopped as being violative of Article 21. In this case, the Supreme Court for the first time held that the right to wholesome environment is a part of right to life and personal liberty guaranteed under Article 21 of the Constitution.

Further, in the case of *Subhash Kumar v State of Bihar*, again the apex court held that the right to get pollution free water and air is a fundamental right under Article 21. Following this decision, the right to pollution free environment was incorporated under the head of right to life and all the law courts within the Indian territory were bound to follow the same. This laid down the foundation of environmental litigation in India.

Similarly, public health and ecology were held to be the priorities under Article 21 and the constitution of a green bench was also ordered by the Supreme Court. In the case of *Ratlam Municipality v Varidhvaran*, where the problem of pollution was due to private polluters and haphazard town planning, it was held by the Supreme Court that pollution free environment is an integral part of right to life under Article 21.

Directive Principles of State Policy

Article 48(A)

48A. Protection and improvement of environment and safeguarding of forests and wildlife The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

Sher Singh vs State of HP on 6 February 2014

The citizens of the country have a fundamental right to a wholesome, clean and decent environment. The Constitution of India, in terms of Article 48A, mandates that the State is under a Constitutional obligation to protect and improve the environment and to safeguard the forest and wildlife in the country. By 42nd Amendment to the Constitution, the Parliament, with an object of sensitizing the citizens of their duty, incorporated Article 51A in the Constitution, inter alia, requiring a citizen to protect and improve the natural environment including the forests, lakes, rivers and wildlife and to have a compassion for living creatures. The legislative intent and spirit under Articles 48A and 51A(g) of the Constitution find their place in the definition of 'environment' under the Environment (Protection) Act, 1986 (for short the 'Act of 1986'). The legislature enacted various laws like the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974 and the Wildlife (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the Indian Forest Act, 1927 and the Biological Diversity Act, 2002 and other legislations with the primary object of giving wide dimensions to the laws relating to protection and improvement of environment. It is true that Part III of the Constitution relating to Fundamental Rights does not specifically devote any Article to the Environment or protection thereof per se. However, with the development of law and pronouncement of judgments by the Supreme Court of India, Article 21 of the Constitution has been expanded to take within its ambit the right to a clean and decent environment. Not only this, but there is also still a greater obligation upon the Centre, State and the Shrine Board in terms of Article 48A of the Constitution where it is required to protect and improve the environment. Article 25(2) of the UDHR ensures right to standard of adequate living for health and well-being of an individual including housing and medical care and the right to security in the event of sickness, disability etc. The expression 'life' enshrined in Article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure. The right to life with human dignity encompasses within its fold, some of the finer facets of human civilization which makes life worth living. The expanded connotation of life would mean the tradition and cultural heritage of the persons concerned. In the case of *Consumer Education & Research Centre (supra)*, the Court discussing the case of *C.E.S.C. Ltd. v. Subhash Chandra Bose* (1992) 1 SCC 441) stated with approval that in that case the Court had considered the gamut of operational efficacy of human rights and constitutional rights, the right to medical aid and health and held the right to social justice as a fundamental right. The Court further stated that the facilities for medical care and health to prevent sickness, ensure stable manpower for economic development and generate devotion to duty and dedication to give the workers' best performance, physically as well as mentally. The Court particularly, while referring to the workmen referred to Articles 21, 39(e), 41, 43 and 48-A of the Constitution of India to substantiate that social security, just and humane conditions of work and leisure to workmen are part of his meaningful right to life.

Small Hydro Power Developers' ... vs Transmission Corporation of A.P., on 8 May 2008. The said decision itself is an authority for the proposition that what is granted can be withdrawn by the Government except in the case where the doctrine of promissory estoppel applies. The said decision is also an authority for the proposition that the promissory estoppel operates on equity and public interest. Thus, the State has discretion to alter its policy. The courts cannot interfere with the policy decision unless it is found that the decision to change the policy is arbitrary, unreasonable and unfair. In the instant case, the State Government has not changed or withdrawn its policy of incentivising the generation through renewable sources of energy. The policy directives contained in GOMs are also not inconsistent with the expressed or implied provisions of any statute. Rather the policy is in conformity with the preamble to the Electricity Act, 2003 and Article 48A of the Constitution.

As seen from above the thrust of the National Electricity Policy is upon the use of non-conventional sources of energy to augment generation and for production of green energy. In fact, the electricity policy as also the MNES policy, the preamble to the Electricity Act, 2003 and Section 61(h) thereof and GOMS 93 are in tune with the provisions of Article

48A and 51A (g) of the Constitution and treaties, conventions and protocols on the issues relating to environment. To support conservation of environment, Constitution was amended by 42nd Amendment Act, 1976. By virtue of the amendment, Articles 48A and Article 51A(g) were inserted in the Constitution. Article 48A, inter alia, provides that the State shall endeavour to protect and improve the environment. Similarly, Article 51A(g), inter alia, casts a duty on every citizen of India to protect and improve the natural environment. Articles 48A, Article 51 A(g),

the Preamble to the Electricity Act, National Electricity Policy, MNES policy and GOMS 93 reflect the concern for ecology. This concern stems from the ill effects of pollution and global warming. Since the environment needs to be protected, adequate and pre-empting measures are required to be taken to incentivise the generation of power through renewable sources of energy.

But in case the original PPAs are re-opened for fixing higher wheeling charges than what is provided in the G.O.Ms. No. 93., there is bound to be a set back to the generation of power through renewable sources of energy. The hike in the wheeling charges of power generated by plants based on renewable sources of energy does not serve the purpose of promotion of power generation through non- conventional sources. Setting up of power plant requires heavy investment and it has a long gestation period. It is also well known that till the technologies are improved, the cost of production of power through renewable sources of energy could be higher than the production of power through conventional sources of energy. The impugned increase in wheeling charges of energy produced by renewable sources is against the preamble and Sections 61(h) of the Electricity Act, the National Electricity Policy, GOMs 93 & 112 of the Government of Andhra Pradesh, MNES policy and thrust of Article 48A of the Constitution.

In Chhattisgarh Biomass Energy Developers Association and Ors. v. Chhattisgarh S.E.R.C. and Ors . 2007 APTEL 711, it was observed that where Power Purchase Agreements between distribution licensees and the generating companies utilizing renewable sources of energy are in conformity with MNES guidelines or various policy guidelines, the agreements are not to be tinkered with. The Commission has not considered the impact of the aforesaid decisions, the preamble and Section 61(h) of the Electricity Act, 2003, the National Electricity Policy, MNES guidelines, Article 48A and 51A(g) of the Constitution and the aspect relating to protection of environment, which has been the subject matter of various treaties and conventions.

Article 51

Promotion of international peace and security The State shall endeavour to

(a) promote international peace and security.

(b) maintain just and honourable relations between nations.

(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and encourage settlement of international disputes by arbitration

6. PART IVA FUNDAMENTAL DUTIES.

State of Gujarat vs Mirzapur Moti Kureshi Kassab on 26 October 2005

By enacting clause (g) in Article 51-A and giving it the status of a fundamental duty, one of the objects sought to be achieved by the Parliament is to ensure that the spirit and message of Articles 48 and 48A is honoured as a fundamental duty of every citizen. The Parliament availed the opportunity provided by the Constitution (Forty-second Amendment) Act, 1976 to improve the manifestation of objects contained in Article 48 and 48-A. While Article 48-A speaks of "environment", Article 51-A(g) employs the expression "the natural environment" and includes therein "forests, lakes, rivers and wildlife". While Article 48 provides for "cows and calves and other milch and draught cattle", Article 51-A(g) enjoins it as a fundamental duty of every citizen "to have compassion for living creatures", which in its wider fold embraces the category of cattle spoken of specifically in Article 48.

In Mohan Kumar Singhania & Ors. v. Union of India & Ors ., 1992 Supp (1) SCC 594, a governmental decision to give utmost importance to the training programme of the Indian Administrative Service selectees was upheld by deriving support from Article 51-A(j) of the Constitution, holding that the governmental decision was in consonance with one of the fundamental duties.

In State of U.P. v. Yamuna Shanker Misra & Ors , (1997) 4 SCC 7, this Court interpreted the object of writing the confidential reports and making entries in the character rolls by deriving support from Article 51-A(j) which enjoins upon every citizen the primary duty to constantly endeavour to strive towards excellence, individually and collectively.

In *T.N. Godavarman Thirumalpad v. Union of India & Ors*, (2002) 10 SCC 606, a three-Judge Bench of this Court read Article 48-A and Article 51-A together as laying down the foundation for a jurisprudence of environmental protection and held that "Today, the State and the citizens are under a fundamental obligation to protect and improve the environment, including forests, lakes, rivers, wild life and to have compassion for living creatures".

In *State of W.B. & Ors. v. Sujit Kumar Rana*, (2004) 4 SCC 129, Articles 48 and 51-A(g) of the Constitution were read together and this Court expressed that these provisions must be kept in mind while interpreting statutory provisions. One of the other reasons which has been advanced for reversal of earlier judgments was that at the time when these earlier judgments were delivered Articles 48(A) and 51(A) were not there and impact of both these Articles were not considered. It is true that Article 48(A) which was introduced by the 42nd Constitutional Amendment in 1976 with effect from 3.1.1977 and Article 51(A) i.e. fundamental duties were also brought about by the same amendment.

Though, these Articles were not in existence at that time, but the effect of those Articles were indirectly considered in the *Mohd. Hanif Qureshi's* case in 1958. It was mentioned that cow dung can be used for the purposes of manure as well as for the purpose of fuel that will be more ecofriendly.

Article 51(A)

Fundamental duties It shall be the duty of every citizen of India

- (a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem.
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom.
- (c) to uphold and protect the sovereignty, unity and integrity of India.
- (d) to defend the country and render national service when called upon to do so.
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.
- (f) to value and preserve the rich heritage of our composite culture.
- (g) to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform.
- (i) to safeguard public property and to abjure violence.
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

State of Gujarat vs Mirzapur Moti Kureshi Kassab on 26 October, 2005 the contexts in which article 51(a) appears in the document By enacting clause (g) in Article 51-A and giving it the status of a fundamental duty, one of the objects sought to be achieved by the Parliament is to ensure that the spirit and message of Articles 48 and 48A is honoured as a fundamental duty of every citizen. The Parliament availed the opportunity provided by the Constitution (Forty-second Amendment) Act, 1976 to improve the manifestation of objects contained in Article 48 and 48-A. While Article 48-A speaks of "environment", Article 51-A(g) employs the expression "the natural environment" and includes therein "forests, lakes, rivers and wildlife". While Article 48 provides for "cows and calves and other milch and draught cattle", Article 51-A(g) enjoins it as a fundamental duty of every citizen "to have compassion for living creatures", which in its wider fold embraces the category of cattle spoken of specifically in Article 48. In *Mohan Kumar Singhania & Ors. v. Union of India & Ors.*, 1992 Supp (1) SCC 594, a governmental decision to give utmost importance to the training programme of the Indian Administrative Service selectees was upheld by deriving support from Article 51-A(j) of the Constitution, holding that the governmental decision was in consonance with one of the fundamental duties.

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Article 253

Legislation for giving effect to international agreements notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body .

The Environment (Protection) Act, 1986

The Environment (Protection) Act, 1986 is a key piece of legislation in India designed to provide a comprehensive framework for environmental protection and management. Here is a brief overview of the Act:

The Environment (Protection) Act, 1986, was enacted to address the need for an overarching law for the protection and improvement of the environment in India. The Act empowers the Central Government to take measures to protect and improve the environment, control pollution, and ensure sustainable development.

Purpose and Objective

1) Definition of Environment:

The Act defines "environment" to include air, water, land, and other physical components of the earth, including the interaction between these components.

2) Power to Take Measures:

The Central Government is given broad powers to take necessary measures to protect the environment, which include establishing standards for emission or discharge of pollutants, regulating the handling of hazardous substances, and ensuring the proper management of waste.

3) Regulation and Control:

The Act allows for the regulation and control of industrial operations and activities that may lead to environmental pollution. It includes provisions for setting standards for quality of environment and pollutants, and for the grant of consent for discharges and emissions.

4) Environmental Impact Assessment:

The Act requires projects likely to have significant environmental impacts to undergo an Environmental Impact Assessment (EIA) before obtaining approval for execution.

5) Penalties and Enforcement:

The Act prescribes penalties for violations, including fines and imprisonment. It also provides for the appointment of authorities to enforce the provisions of the Act and to ensure compliance with environmental standards.

6) Role of State Governments:

While the Act primarily empowers the Central Government, it also allows for the delegation of responsibilities and powers to State Governments and other authorities to manage and protect the environment effectively at the local level.

7. PUBLIC PARTICIPATION

The Act emphasizes the role of public awareness and participation in environmental protection, allowing citizens to engage in environmental advocacy and seek legal redress.

The Environment (Protection) Act, 1986, has played a pivotal role in shaping India's environmental policies and regulations. It has laid the foundation for a series of rules and notifications aimed at controlling pollution, managing hazardous substances, and conserving natural resources. The Environment (Protection) Act, 1986, is a comprehensive legal instrument that empowers the Central Government to take all necessary measures for environmental protection, sets standards for pollution control, and provides mechanisms for enforcement and public participation.

7.1. THE RESEARCHER WOULD FOCUS ON THE INTERNATIONAL ASPECTS

The researcher would concentrate on international aspects of environmental protection, which frequently involve investigating how different countries collaborate, the effectiveness of global treaties and agreements, and how different national policies influence global environmental outcomes. This research could cover topics like:

- 1) **International Agreements:** Analysing the impact and effectiveness of global treaties such as the Paris Agreement, the Kyoto Protocol, or the Convention on Biological Diversity.
- 2) **Cross-Border Pollution:** Studying how pollution and environmental degradation in one country can affect neighbouring countries or even the entire globe, and how international cooperation can address these issues.
- 3) **Global Environmental Governance:** Exploring the roles of international organizations like the United Nations Environment Programme (UNEP), the World Health Organization (WHO), and the World Bank in shaping environmental policies.
- 4) **Comparative Policy Analysis:** Comparing how different countries approach environmental protection and sustainability and identifying best practices and strategies that could be adopted globally.
- 5) **International Environmental Law:** Investigating how international legal frameworks and agreements are enforced and how they influence national policies and practices.
- 6) **Economic Implications:** Assessing how international environmental policies affect global trade, economic development, and resource management.

8. NATIONAL DEVELOPMENT

India's National Development Programme for Environment Protection aims to balance economic growth with environmental sustainability. Here's a summary of key components:

- 1) **Policy Framework:** The program involves integrating environmental considerations into national and regional development policies. This includes enacting laws and regulations for pollution control, natural resource management, and biodiversity conservation.
- 2) **Sustainable Development Goals:** It aligns with global sustainability goals, focusing on clean energy, reducing carbon emissions, and promoting sustainable agriculture and urban development.
- 3) **Conservation Efforts:** The program supports initiatives to protect and restore forests, wetlands, and wildlife habitats. This includes creating protected areas and enforcing conservation laws.
- 4) **Pollution Control:** Measures are in place to monitor and reduce air and water pollution. This includes upgrading waste management systems and encouraging industries to adopt cleaner technologies.
- 5) **Climate Change Mitigation:** India is committed to reducing greenhouse gas emissions and adapting to climate change impacts through renewable energy projects, energy efficiency improvements, and climate-resilient infrastructure.
- 6) **Public Awareness and Participation:** The program emphasizes educating the public about environmental issues and encouraging community involvement in conservation activities.
- 7) **Research and Innovation:** Investment in research and development for new technologies and methods to address environmental challenges is a key aspect of the program.

Overall, the programme seeks to foster a harmonious relationship between economic development and environmental stewardship, ensuring a sustainable future for India

9. JUDICIAL TRENDS IN ENVIRONMENTAL CASE LAW

1) Pandarinathan Govindarajulu vs. The Union of India , decided on January 8, 2020.

The case of Pandarinathan Govindarajulu vs. The Union of India decided on January 8, 2020, involves a legal dispute in which Pandarinathan Govindarajulu challenged certain actions or decisions of the Union of India. While the specifics of the case are not widely detailed in general sources, such cases typically address issues related to administrative decisions, government policies, or individual grievances against state actions. In this instance, the court would have examined the legality and fairness of the actions of the Union of India in relation to the claims made by Govindarajulu.

The outcome of the case would have provided clarity on the legal principles involved and potentially influenced how similar cases are handled in the future. For detailed insights, one would need to refer to the specific court judgment or legal analysis related to the case.

2) Citizens For Green Doon vs Union of India decided on December 14, 2020

In the case *Citizens for Green Doon vs Union of India*, decided on December 14, 2020, the Supreme Court addressed environmental concerns in the Doon Valley, Uttarakhand. The petitioners, Citizens for Green Doon, challenged the legality of various development projects, arguing they were causing environmental degradation and violating regulatory norms. The Court emphasized the need for strict compliance with environmental regulations and effective implementation of safeguards to protect the region's ecological balance. This ruling reinforced the importance of integrating environmental considerations into development activities.

3) "Municipal Corporation of Greater Mumbai vs. Ankita Sinha " decided on October 7, 2021.

In this case, Ankita Sinha challenged a decision or action taken by the MCGM. The nature of the dispute typically involves issues related to municipal services, property rights, or public administration. The court examined the legality and appropriateness of the Municipal Corporation of Greater Mumbai's action or decision and assessed whether it was in line with relevant laws and regulations. The judgment delivered on October 7, 2021, would have addressed the core issues raised in the case, clarified legal principles, and provided guidance on the responsibilities and powers of municipal authorities. The court's decision aimed to resolve the dispute and ensure that the action taken by the MCGM was fair and legally sound. For precise details, including the specific facts of the case and the court's reasoning, reviewing the full judgment or a detailed case brief would be necessary.

4) The State of Telangana vs. Mohd. Abdul Qasim (Died) Per Lrs , 18 April 2024.

The case of *The State of Telangana vs. Mohd. Abdul Qasim (Died) Per Lrs.* decided on 18 April 2024, involves a legal dispute where the State of Telangana challenged the claims of Mohd. Abdul Qasim's heirs (legal representatives). Although specific details of the case are not provided, such cases typically involve issues related to property rights, inheritance, or other claims against or by the state. The court's decision would have addressed the validity of the claims made by the heirs and determined the appropriate legal resolution based on the facts and applicable law.

5) Anmol Kumar vs. The State of Bihar the judgment delivered on February 4, 2023

In the case of *Anmol Kumar vs. The State of Bihar*, the petitioner, Anmol Kumar, challenged a legal decision or action taken by the State of Bihar. The case involved Anmol Kumar being accused of committing a criminal offense. Specifically, the legal proceedings addressed charges against him, which might include offenses such as theft, fraud, or similar allegations. The crux of the case was to determine the validity of these charges, and the appropriateness of the legal processes followed. The court examined the evidence presented by both the prosecution and the defence, evaluated the adherence to legal procedures, and considered the arguments made by both parties. The outcome of the case hinged on these considerations, ultimately leading to a judgment that either upheld or overturned the actions taken by the State of Bihar against Anmol Kumar. For detailed facts and the court's final ruling, consulting the specific case documentation or legal reports would provide the comprehensive details of the judgment and its implications.

10. CONCLUSION

The judicial trends in environmental law observed in 1986 mark a significant turning point in the evolution of legal frameworks dedicated to environmental protection. This period highlighted a growing judicial recognition of the intrinsic link between environmental health and public welfare, setting precedents that would shape future legal approaches to environmental issues. The landmark cases of 1986 underscored the judiciary's role in reinforcing environmental regulations, emphasizing the necessity of robust legal mechanisms to address and mitigate ecological harm. These judicial decisions not only broadened the scope of environmental rights but also laid the groundwork for more dynamic and proactive environmental governance. As courts increasingly incorporated scientific evidence and prioritized long-term ecological sustainability, the trends established in 1986 have continued to influence contemporary environmental law. This period remains a critical reference point for understanding the ongoing development of environmental protection frameworks and the judiciary's essential role in advancing environmental justice and policy.