

Access to Justice through Free Legal Aid: A Socio-Legal Analysis of Environmental Law in India

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ABSTRACT

Access to justice through free legal aid and Environmental law in India is a topic that brings together the fields of law, human rights, and social justice. This article examines the role of legal aid in ensuring access to justice for environmental from a socio-legal perspective. It analyses constitutional mandates, statutory frameworks, and social realities affecting the delivery of legal aid, with particular reference to India. The article considers the common law for access to justice through the legal aid; the development of the Law Commission's recommendations on free legal aid and constitutionally guaranteed under Articles 21 and 39-A of the Indian Constitution. Free legal aid (ultimately led to increased legal awareness, empowerment of vulnerable communities, and greater participation of citizens in the justice delivery system in India); and from the Environmental perspective legal aid also led to the strengthening of the rule of law and global recognition of access to justice as an essential component of human rights. Proposals from various International bodies which now argue for similar reform. Further, there are numerous laws in India that deal with environmental protection, However, well implementation problems can be observed. The Constitutional mandate and other environmental regulations must be successfully and implemented. The judiciary plays a significant role and admirable contribution. Sustainable development Goals (SDGs) in the modern time must inevitably include green development as it provides the best means of addressing the dual issues of protecting the environment and boosting the economy. India has ratified several international environmental treaties and agreements, such as the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, and the Stockholm Convention on Persistent Organic Pollutants. These international commitments have led to the integration of environmental principles, such as the precautionary principle, polluter pays principle, and sustainable development, into India's constitutional provisions. This study explores the implementation challenges of environmental laws and policies in India. It reveals the difficulties and problems associated with breaking environmental laws and regulations in India. This study's primary goal is to find obstacles in implementation of environment law in India and overcome in order to put environmental laws and policies into effect.

Keywords: Climate Change Air Pollution, Challenges, Environmental Law, Deforestation, Sustainable Development, Air quality

1. INTRODUCTION

Access to justice is not merely the existence of courts and laws; it is the real and practical ability of individuals to seek and obtain remedies through formal and informal justice mechanisms. Access to justice in today's fast-growing concept and practice signifies the rule of law, administrative justice, and good government. So far as the Environmental law is concerned, it is an important part of any regulatory body. It includes a set of laws and regulations related to air & water quality and other aspects of the environment. Environmental law in India is guided by environmental legal principles and focuses on the management of specific natural resources such as forests, minerals or fisheries. Environmental law in India directly reflects what is envisioned in the constitution.

Internationally, developed framework for environmental protection came after the United Nations Conference on the Human Environment in Stockholm in 1972. This led to the creation of the National Environmental Policy and Planning Council. in 1972 at the faculty of science and technology. This was created to establish a regulatory body to review environmental issues and concerns. According to the 2024 Environmental Performance Index (EPI), India ranks 176th out of 180 countries in terms of efforts to address environmental challenges. Environment laws are very significant regarding this subject matter and also, and they can be considered as a part of basic human rights which is important for the development of human society. At the international level the Stockholm Conference, Rio Conference, and other declarations and conferences play a significant role to give principles and a set of guidelines for environmental policies. In India, the constitution and other legislations recognized environmental issues like Articles 48-A and 51-A of the constitution and Acts like, The Forest (Conservation) Act of 1980, The Environment Protection Act of 1986, and other Acts which give the set of guidelines and rules which have to be followed to protect the environment. However, there is various nationally and internationally framed rules and regulation but it is not implemented correctly by the authorities and governments which leads human society to this kind of problem. Access to justice is a universal concept and practice in the modern world. From socio-legal perspective, legal aid must be understand not only as a legal entitlement but also as a social institution influenced by power relations economics structures and cultural norms. Access to justice through legal aid services is very important in present society. It is a constitutional and legal obligation to provide access to justice through legal aid services that promote and protect citizens' rights. Environmental deterioration is one of the major difficulties in the world. The problem of environmental contamination is old as the development of homo sapiens. Human being is a more capacity to altered the existing environment efficiently, therefore, they have skill to convert the barren land in to fertile land. Before the industrial revolution a famous German environmentalist scholar announced that environmental deterioration is one of the major difficulties in the world.

The environment loss is the current issue before the creature. The environmental problem was existed at the time of human evaluation on the blue planet. The human being used available natural resource injudiciously for his comfort and luxurious life and consequently, shrinks the natural resources day to day. Man's cruel use of the resources and his intention to control over the nature, creates conflict on the globe.

Therefore, equilibrium condition must be between the environment and technological skills. The interaction between the man and his environment has dissimilar from time to time and place to place at a given period of time. This is the most important issues for India and its environmental policy. The problems of environmental pollution and their protection in India was dated back at the time of Ancient India.

1.1. Objectives of study

1. **To analysis the legal framework** that governs free legal aid for protection of environment in India, including relevant laws and judicial Judgments, legal assistance for environmental protection in India.
2. **To identify the legal challenges for** implementing environmental laws, in promoting environmental awareness across the India.
3. **To evaluate the social impact** to assess the effectiveness of programmes implemented by these institutions with regard to sustainable development goals (SDGs).
4. **Promoting Social Equity:** Analyzing how environmental laws affect local communities, including access to resources, and promoting public participation in environmental decision-making.
5. **Analyzing Judicial Impact:** Examining the role of the judiciary, through public interest litigation (PIL) and landmark judgments, in expanding environmental jurisprudence and enforcing rights.
6. **Balancing Development and Conservation:** Investigating the socio-economic challenges of balancing economic growth with ecological sustainability.

1.2. Significance of study of Environmental Law

1. The study contributes to the ongoing discourse surrounding the environment laws, focusing on the fundamental right, balancing rapid economic development with ecological sustainability, acting as the backbone of environmental governance to protect air, water, and biodiversity.
2. By examining the existing legal framework, the study offers insights into the gaps and ambiguities in Indian law regarding access to justice through legal aid. This can serve as a foundation for advocating for much-needed reforms to ensure awareness of legal aid.
3. It promotes environmental consciousness, ethical responsibility, and essential for long term environmental protection in a democracy. Environmental law studies in India are significant because they connect law with life itself- ensuring sustainable development, with protection human rights.
4. This study focuses on evaluating the role and effectiveness of access to justice through free legal aid and emphasizes the broader environment laws, especially within the context of an evolving legal and social landscape. By comparing Indian practices with international standards, the study encourages awareness of free legal aid.
5. The research provides valuable insights for marginalized and affected communities' legal mechanism like PILs NGTs proceedings, and free legal aid help victims of environmental harm seek remedies. This makes the subject vital from a socio-legal and human rights perspectives.

2. REVIEW OF LITERATURE

A number of articles, journals, books and published works are available for studies and reference. Several Indian and foreign scholars have underlined the significance of legal aid in environmental protection, previous studies consistently highlight the positive correlation between free legal aid regarding environment protection.

Bhatt, S. (2004). Environment Protection and Sustainable Development, relates to an important and emerging field of research in sustainable development for humankind and protection of the environment. The subjects of ecology and international law are being combined along with federalism for management of global resources. It describes the global environment movement, the environment movement in India, the Centre-State relations on environment management, the administrative working of the Ministry of Environment and Forests, the working of Environment Protection Act 1986 in India, combining law and science in environment management, the World Charter for Nature 1982, the present state of environment in India, and recent works for sustainable development in India.

Rao, S. (2006), Environmental Pollution Control Engineering deals with air, water and land pollution and their origin, effects on man and on the environment and awareness of the magnitude of their effects. The book clearly deals with all aspects of environmental pollution and the various methods of controlling it. It stresses the fundamental aspects of these topics and their application with illustrative examples. Information pertaining to Indian conditions is given wherever possible to help the reader gain an insight into pollution problems in India.

Ahluwalia, S.K. (2005), Environment Problems in India' makes a thorough investigation into various concepts, approaches, methods, techniques, rules regulations and laws dealing with environmental problems. Delving deep into social dimensions of these problems and relationships between society and nature, he arrives at certain conclusions for alleviation and for mitigation of these problems.

Indian Journal of Environmental Law and Environmental Policy and Law regularly publish case studies where NGOs have played a catalytic role in enforcing environmental norms.

Anand S.V., Global Environmental Issues, This paper presents the first broad based research on the impact of climate change on historic buildings, buried archaeology, parks and gardens Research coincided with the publication of the climate change scenarios and other studies assessing regional climate change and the impact on nature conservation and gardens.

Jain, R. B. & Sharma (1989), Implementation Machinery for Environmental Protection in India, The Indian Journal of Public Administration, the paper discusses the pressing issues of climate change in the urban environment, focusing on sustainable development opportunities applicable to India, particularly Kerala.

3. RESEARCH METHODOLOGY

The methodology adopted for this study is based on secondary data analysis, utilizing existing legal texts, academic research, case laws, and reports to explore the access to justice through free legal aid a socio-legal analysis of environmental law in India. This approach has provide a comprehensive understanding of the topic through the analysis of previously published data, and social dimensions. Secondary data enables a robust and cost-effective approach while ensuring a thorough review of available resources.

3.1. Research method

The research has adopted a **mixed-methods approach empirical** utilizing both **content analysis** and **survey** as the primary research methods. Content analysis has help to explore and evaluate the existing legal, academic, and institutional data related to free legal aid within the framework of Indian laws. This study is also includes analysis of various National and International statutes in the form of Acts, Bills Bills, Treatise and Conventions and also the commentaries available. The internet was also used to shape to an idea of this research. Judicial precedents and judicial activism in the form of judgments related to the broad theme of this study have framed significantly. The research is based on the case laws, legislative provisions, commission reports, Precedents, numerous other committee reports and various legal documents.

3.2. Data Sources

The study has relied on various secondary data sources to gather comprehensive information about Environmental law. Primary sources include Indian legal documents such as the Indian Penal Code (IPC), Constitutional provisions related to free legal aid, and case laws, such as the landmark M.C. Mehta v. Union of India (Oleum Gas Leak, 1986): Developed the principle of **absolute liability** for industries engaged in hazardous activities and in a another case Vellore Citizens Welfare Forum v. Union of India (1996): Recognized the **Precautionary Principle** and **Polluter Pays Principle** as essential features of sustainable development. India integrates environmental protection with human rights, asserting that a clean, healthy environment is essential for the right to life. In India NHRC issues advisory to the centre states & High Courts to prevent minimise and mitigate impacts of Environmental Pollution and degradation on human rights. Accordingly, in May 2022, the NHRC issued a comprehensive advisory to governments to strengthen environmental laws, enhance Pollution Control Boards (PCBs), establish Special Environmental Courts, and hold polluters accountable.

3.3. Data Collection

The collection of secondary data for this study has primarily involved obtaining information from online legal databases such as Manupatra, and JSTOR, where relevant case laws, judgments, and research articles accessed. Legal and academic resources have been thoroughly searched, several perspectives were incorporated with the help of various articles published in National and International Journals, print and electronic media including those articles published on various websites and all were proper citations including reports of the National Human Rights Commission (NHRC).

4. Historical and Legal Framework of free legal aid in India

The concept of **free legal aid** in India has evolved over time, shaped by historical, legal, and social changes. Even going back in time, the legal aid philosophy systematically began with Vedic age in ancient Indian society. For Indians, Vedas are the ultimate source of all knowledge. The origin of the concept of legal aid can be traced to the historic Magna Carta of 1215. The 40th paragraph of the Magna

Carta provides, "To no one will we sell, to no one will we deny or delay right or justice". The international concern for human rights found expression, after First World War in Covenant of the League of Nations and further in the Universal Declaration of Human Rights (UDHR).

As India attained independence, the Indian Constitution enshrined the principle of free legal aid in Article 39A of the Constitution of India, provides free legal aid and in this regard, directs to the State to enact suitable legislation for the same so that justice is not denied to any citizen because of economic or any other disabilities. Constitution guarantees certain fundamental rights, including the Right to Life and Personal Liberty under Article 21. The legal recognition of conjugal rights for prisoners in India gained momentum with landmark case like In the case of *Hussainara Khatoun v. State of Bihar* (1979) where the Supreme Court emphasized the importance of access to justice through legal aid and established the right to a speedy trial and free legal aid as fundamental rights under Article 21.

4. STATEMENT OF THE PROBLEM

Environmental degradation disproportionately affects vulnerable and marginalized communities, including rural populations, tribal groups, urban poor, women, and economically weaker sections. The socio-legal dimensions including poverty, illiteracy, geographical isolation, social hierarchy, gender inequality, and lack of environmental awareness further widen this gap. The study seeks to examine whether free legal aid mechanisms effectively facilitate environmental justice, identify structural and socio-economic barriers in accessing environmental remedies, and analyze how legal aid institutions can be strengthened to ensure inclusive and equitable environmental governance.

4.1. Environment Protection within the Constitutional Framework in India The Constitution being the fundamental law of the land enshrines our national commitment towards protection and conservation of our natural environment. Several provisions contained in this body of laws, explicitly or implicitly, provides for the measures relating to the maintenance of a healthy environment for the people of India and for the redressal of issues resulting in any imbalance in the ecology and degradation of the environment. Some of the provisions which constitute the large body of legislative measures in the Indian Constitution are the Fundamental rights and duties, the Directive Principles of State Policy, the Seventh Schedule (Article 246), the Forty-second Amendment Act, Constitutional Remedies (Article 32, 226) etc

Fundamental Rights

The Preamble of the United Nations Declaration on Human Environment, adopted in Stockholm in June 1972 states: "Man is both creature and moulder of his environment, which gives him physical substance and affords him the opportunity for intellectual, moral, social and spiritual growth". Principle 1 of the Stockholm Declaration finds reflection in Article 14, 19 and 21 of the Constitution of India dealing with the Right to Equality, Freedom of Expression and Right to Life and Personal Liberty, respectively. Fundamental Rights are contained in the Part III of the Constitution of India which is judicially enforceable. The Judiciary of India has contributed significantly since 1980s in broadening the contents and contours of these basic rights. Supreme Court, the highest court of the country, has elevated the 'right to healthy environment' to the status of fundamental human right under Article 21 of the Constitution.

The Court has adopted an expanded view of 'life' under Article 21 and enriched it to include environmental rights by reading it along with Articles 47, 48-A and 51A(g) and declaring: Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance which is free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental, ecological, air, water, pollution, etc.

4.2. Legal Challenges and Practical Issues of Environmental Law in India

The implementation of Environmental Law in India faces legal challenges and practical issues, Environmental law in India boasts a robust, proactive, and constitutional framework, notably through the National Green Tribunal (NGT)-yet faces critical issues, including weak enforcement, poor inter-agency coordination, and a significant conflict between rapid economic development and ecological preservation..

4.3 Legal and Practical Challenges in Indian Environmental Law

1. **Enforcement and Compliance problem:** Despite comprehensive laws, enforcement, lack of manpower and technical expertise within Pollution Control Boards.
2. **Institutional Overlapping and Coordination:** Poor coordination between central and state agencies creates fragmented policy implementation, making it difficult to hold specific entities accountability.
3. **Judicial Backlog and Delays:** Lengthy, time-consuming legal proceedings in courts often undermine the effectiveness of environmental justice, allowing damage to continue during litigation.
4. **Development vs. Conservation Conflict:** A major challenge is balancing economic growth with environmental protection, leading to the dilution of regulations to facilitate industrial projects.
5. **Ineffective EIA Process:** The Environmental Impact Assessment (EIA) process is frequently criticized for lacking transparency, public participation, and scientific rigor.
6. **Lack of public legal education and awareness-** one major obstacle is the poor and illiterate population's lack of legal education and awareness. Many people are unaware of their basic rights and legal aid services available to them.

Pollution and Waste Management: Significant, persistent issues in managing air quality and industrial hazardous waste.

Contaminated Sites: A major gap has been the lack of a legal framework to identify and remediate contaminated lands, only recently addressed by proposed rules, noted

Implementation of Doctrines: While the judiciary promotes principles like the "Polluter Pays" and "Precautionary Principle," their on-ground application remains inconsistent.

7. Implementation of Policy Reforms: Even if policies on environment laws are drafted, implementation remains a significant challenge.

In many cases, study explores the implementation challenges of environmental laws and policies in India. It reveals the difficulties and problems associated with breaking environmental laws and regulations in India. This study's primary goal is to list the several obstacles India must overcome in order to put environmental laws and policies into effect.

4.4. Awareness of legal aid & Environmental laws in India: still a challenge

One of the cause of a weak institutional system is a lack of awareness of the presence of such legal help. The accused individual is frequently unaware of their entitlement to legal representation. Another key problem is the perception that such a free legal service is of poor quality. The legal service authorities do not have enough attorneys, and even if some are appointed, they cannot afford to provide effective assistance. Lawyers do not participate in pro bono work for a variety of reasons. Financial resources are scarce, earlier legal education did not include social education. As a result, they do not comprehend or embrace their role, and members of the profession do not often interact with people of the community who require legal aid. Illiteracy is another significant barrier to legal help. It is now widely accepted that over 70% of individuals living in rural regions are not able to understand their legal rights, it leads to exploitation deprivation of the poor's rights and advantages. Department of Justice of the Ministry of Law and Justice has formulated a Pan-India Scheme, called "Designing Innovative Solutions for Holistic Access to Justice"(DISHA) which aims to address the issues faced by people on account of their disadvantaged positions within the socio-legal scenario and to equip them with a thorough understanding of their rights as well as the means to enforce

these rights effectively. DISHA endeavours to enhance legal aid for the marginalised sections of the society through a digital interface called 'Tele-Law' which would provide legal advice and consultation for over 2.5 lakh Gram Panchayats. Another initiative that has been undertaken is to empanel advocates for providing services in a pro bono manner and developing web and mobile applications for maintaining a database of such panels. Access to legal aid in India is primarily governed by the Legal Services Authorities Act, 1987, and various provisions under this Act, along with constitutional provisions and other related laws, help ensure that individuals have the right to legal aid.

4.5 Recommendation:

The Constitution, judicial principles established by the Indian courts, and the National Environment Policy, 2006 (NEP) provide the primary basis for Indian environmental policy-making. Article 21 of the Constitution, guaranteeing the fundamental right to life, has been expanded to include the right to a clean and pollution-free environment. Additionally, Constitutional directive principles require the government to protect and improve the environment.

Like the Stockholm Conference, the Rio Conference produced a declaration and a political action programme, namely the Rio Declaration on Environment and Development ('Rio Declaration') and Agenda 21. The Rio Declaration emulated its predecessor in formulating a catalogue of 27 'principles' which also included innovative concepts such as common but differentiated responsibilities. Agenda 21 is a non-binding, comprehensive action plan for Sustainable Development, it is also known as the global Goals. India is critical in determining the success of SDGs, globally.

The UN Sustainable Development summit in 2015, India contributes to achieving these objectives. It is therefore, this study is very important as it pertains to one specific goal (No. 16) "**Peace, Justice, and Strong Institutions**" among the 17 Goals, with the aim of achieving these targets by the year 2030. India has also taken steps to promote global environmental cooperation. The United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement are two of the international agreements and protocols that the country has ratified. India's willingness to solve global environmental concerns and support sustainable development is seen in these agreements.

The National Human Rights Commission (NHRC) of India plays a significant, expanding role in environmental law by bridging the gap between ecological protection and fundamental human rights, specifically the right to life, health, and a clean environment under Article 21 of the Constitution of India. While environmental regulatory bodies (like CPCB) focus on compliance, the NHRC intervenes when environmental degradation infringes upon human dignity and safety and other independent bodies could play a role in evaluating the impact of free legal aid and how to access to justice for environmental law.

5. FINDINGS OF THE STUDY

1. The socio-legal analysis reveals that free legal aid plays a crucial role in enhancing access to environmental justice, particularly for marginalized and economically weaker sections. However, practical and structural challenges limit its full effectiveness.
2. The study finds that environmental degradation-such as pollution, deforestation, industrial waste, and water contamination, primarily impacts vulnerable communities. These groups often lack financial resources to approach courts independently, making free legal aid essential.
3. Legal awareness regarding environmental rights under Article 21 (Right to Life) Legal aid services have contributed to enforcing environmental safeguards and strengthening accountability of industries and public authorities.
4. The socio-legal study concludes that free legal aid is a powerful mechanism for promoting environmental justice and constitutional rights. However, its impact is limited by lack of awareness, institutional weaknesses, procedural delays, and insufficient specialization. Strengthening environmental legal aid frameworks can significantly improve access to justice and sustainable development outcomes.

6. CONCLUSION

The conclusion of the study is India's commitment to protecting its environment and natural resources is demonstrated by the creation of environmental laws and regulations in the country. Even while there has been progress, there is still a long way to go before we can achieve sustainable growth and successfully solve environmental problems. India may strive for a greener and more sustainable future by reflecting on the past, cooperating with other nations, and implementing novel ideas. India's journey towards developing environmental laws and regulations has been filled with both high points and low points. The nation has established several environmental laws and regulations throughout the years to maintain its environment and natural resources. The Water (Prevention and Control of Pollution) Act, the Air (Prevention and Control of Pollution) Act, and the Wildlife Protection Act were all passed after the Water (Prevention and Control of Pollution) Act in 1972. This legislation laid the groundwork for environmental preservation by concentrating on particular issues like wildlife conservation, water pollution, and air pollution management. But the Bhopal gas tragedy in 1984 gave the Indian authorities cause for concern. This catastrophe highlighted the need for more thorough environmental regulations, which led to the Environmental Protection Act's passage in 1986. To monitor and control pollution levels, this legislation established the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCB). In the years that followed, the Indian judiciary rendered a series of significant judgments that played a crucial role in shaping environmental laws and regulations. The Indian Supreme Court has underlined the need of sustainable development and the preservation of natural resources in a number of its judgments. Despite these successes, India still has several challenges in putting its environmental laws and policies into practice and enforcing them. Effective environmental governance is nevertheless hampered by weak enforcement measures, a lack of public knowledge, and the need for better agency collaboration. The nation also faces particular challenges as a result of its substantial population, rising urbanization, and industrial growth. In order to address these challenges, India must concentrate on bolstering its institutional structures, raising public engagement levels, and encouraging sustainable practices. Effective implementation and enforcement of environmental laws and regulations at all levels is crucial. To handle new environmental issues, it is also vital to continuously monitor, assess, and revise current legislation.

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