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## Environmental Legislations: Its Importance and Controversies Therein

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*The environment is depleting, it requires aid. Today the world faces several issues such as climate change, global warming, melting of glaciers, loss of habitat, and several others. All of these problems did not arise spontaneously. It is a result of all the activities humans are involved in for their development disregarding the environment, it is a result of all the activities that are done to satisfy the greed of humans, it is the result of all those activities in which humans have become so selfish that they stopped paying heed and started overlooking the condition of the environment that surrounds us, an environment that provides us with our necessities, environment because of which human survival has been possible. In the spirit of nature, everything is connected. Saving and protecting our environment is equal to saving and protecting our mother earth, saving and protecting the environment is equal to saving more years for our future generation. The environment needs protection now more than ever. In this research paper, we will discuss environmental challenges, all the prominent legislations and measures adopted in order to protect our environment and the reason behind the situation on the ground level not improving even after several legislations and measures, and finally what course of action can be followed to ameliorate the situation.*

**Keywords:** *environment, legislations, law, global warming, climate change.*

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## **INTRODUCTION**

'Environment' means anything that surrounds us. It encompasses natural, chemical, and physical forces. The biotic components comprise the living things, while the abiotic components comprise the non-living things. Living things exist in their surroundings, they are continually interacting and adapting to the dynamic situations in their surroundings. Distinct interactions pertain among animals, plants, water, soil, and other non-living and living things in the environment. In this research paper, we will majorly discuss the natural environment, where weather, climate change, and several other factors have an impact on the living conditions of living creatures in a given environment. However, there are different types of environments too, because everything is a component of something else's environment. Environmental legislations are a collection of laws and regulations governing water and air quality, endangered wildlife, wilderness, and many other aspects of the environment. As one might wonder, environmental legislations are very broad mostly because the natural environment consists of a wide range of factors. As a consequence, Environmental laws must consider everything, from the air we breathe to the natural resources that we depend on to the flora and fauna we share our environment with. Let's refer to an example in order to comprehend environmental legislation. Let's imagine in order to supply electricity to the neighborhood an energy business is aiming to build a coal-burning power station. Where should this power station be located? Exactly what sort of pollutants could be released as a result of coal combustion, and what controls will be necessary to limit harmful emissions? What impact will a power plant erected on the outskirts of town have on minor organisms that live in the region downwind of the facility in order to protect the human population from air pollution? In the framework of environmental law, all of these concerns must be considered.

## **ENVIRONMENTAL CHALLENGES: AN OVERVIEW**

The aggregate of everything that surrounds us can be attributed to the term Environment. Our survival would not be possible without the environment. It's the most crucial aspect of everything.

## **What are the crucial problems that the environment faces at present?**

Humans have been mistreating and contaminating the ecosystem that nourishes them for years. However, the broad environmental concern can be so overwhelming that people are unclear about what to do or how to get started. The list of environmental issues goes on and on, but global warming and climate change, water pollution and ocean acidification, and biodiversity loss are the three major ones that affect the bulk of them<sup>1</sup>. These concerns require immediate attention and decisive action on our part to safeguard the survival of our only habitable planet. Furthermore, concentrating emphasis on these major concerns will have a knock-on effect on a variety of smaller environmental challenges such as ineffective recycling systems and food waste. Let's get a better understanding of what exactly global warming and climate change are and how is it impacting all the biotic and abiotic things. Our planet has been around for 4.5 billion years and has gone through several transitions from tropical to ice eras. Experts are concerned, however, that global warming would wipe out these natural climate shifts. What is global warming, exactly? In layman's words, the earth is heating up quicker; since records began more than 130 years ago, the average surface temperature has climbed by about 1°C. The greatest rise has occurred in the recent four decades, with temperatures above normal every year since 1975. Climate scientists are now warning that even a 1.5°C increase in global average temperature might have significant consequences for our planet. What is causing this? Why is it happening? An increase in the Greenhouse Effect is thought to be the cause of global warming. The greenhouse effect occurs when certain gases in the atmosphere, such as water vapor, methane, and carbon dioxide, prevent heat from leaving, keeping the earth's surface warm. The number of greenhouse gases in the atmosphere is increasing, leading the world to get even hotter. Human activities like driving automobiles, burning fossil fuels like coal and gas, and deforestation are all contributing to this. Moving towards climate change, let's understand this in a very simplified manner. The earth has a temperature that is ideal for keeping all living creatures alive and well.

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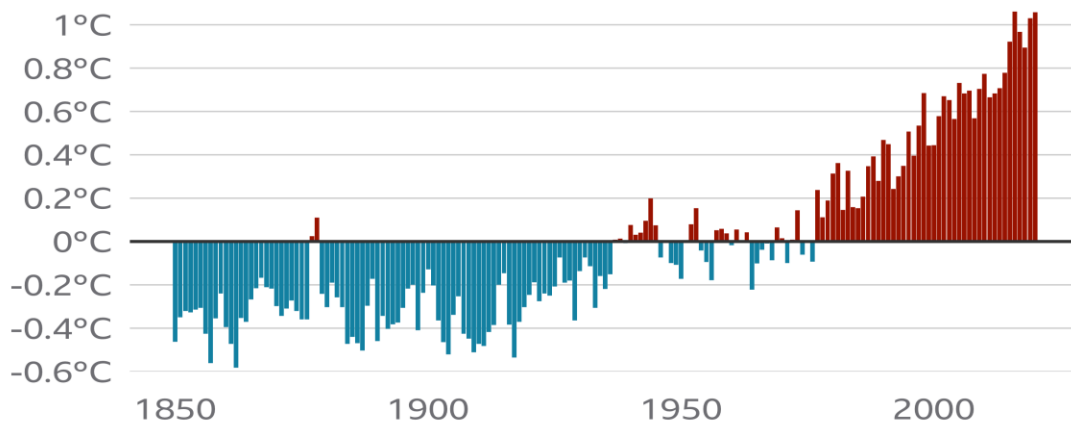
<sup>1</sup> D.K. Sinha, 'Importance of Environment Legislation' (*Your Article Library*, 21 Nov. 2014) <<https://www.yourarticlelibrary.com/essay/importance-of-environmental-legislation/42508>> accessed 10 January 2022

A balance is required to maintain this temperature. The sun's heat warms the planet, and then the sun's heat cools the earth by bouncing back to space. The climate changes when this balance is disrupted. Volcanic eruptions, variations in the sun's energy, and changes in the earth's orbit have all contributed to natural climate change on Earth. Greenhouse gases also contribute to climate change. They cover the earth like a blanket. When humans began to construct in the 1700s, they started burning coal and oils, cutting down trees, using chemicals to produce things, and dumping a lot of trash in landfills. All these things release a lot of greenhouse gases and therefore it resulted in making the blanket over the earth much, much thicker. Global warming and climate change are both connected. Global warming is a substantial cause of climate change. The world is currently around 1.2 degrees Celsius warmer than it was in the nineteenth century, while CO<sub>2</sub> levels in the atmosphere have increased by 50%.

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## The world is getting warmer

Annual mean land and ocean temperature above or below average, 1850 to 2020



Note: Average calculated from 1951 to 1980 data

Source: University of California Berkeley



The earth has already begun seeing the negative changes. At present the glaciers are melting, sea levels are rising, and cyclones and storms are increasing in number and getting more frequent and severe. The example of glaciers melting down covers both aspects. Global

<sup>2</sup> 'What is climate change? A really simple guide' (BBC News, 13 October 2021)

<<https://www.bbc.com/news/science-environment-24021772>> accessed 8 January 2022

warming causing glacier meltdown will have a severe impact on climate change. Two of the important glaciers are the Greenland ice sheet and the Thwaites glacier, and these two glaciers have seen a massive meltdown in the last few years. One of the research says that the speed at which glaciers melt has doubled in 20 years and the other mentions that 1.2 trillion tons of ice each year is being lost by the earth. Glacier melt also facilitates sea level rise which leads to an upsurge in the number of cyclones<sup>3</sup>. The importance of saving the environment and knowing the urgency of doing this right now is dealt with in this chapter. There are rules determined and legislations adopted to prevent further worsening of the situation which we will discuss in the next chapter.

## **ENVIRONMENTAL LEGISLATIONS**

International Environmental Law is one of the most intriguing and dynamic areas of Public International Law. Only in the 1970s and 1980s did states realize that the environment needed to be protected, that oceans should not be contaminated, and that species were dwindling. International environmental law is a fascinating area for international legal studies since it is always evolving and increasing. When nations make decisions and collaborate across international borders for environmental concerns, disputes inevitably arise due to trade implications, safety concerns, challenges with enforcement procedures for obligation under environmental agreements or treaty rules, or problems with the cleanliness of shared environmental resources. Biodiversity, population, ozone depletion, climate change, global warming, movement of hazardous and toxic substances, protection of Antarctic regions, dumping, trans-bordering water and air pollution, deforestation, desertification, and nuclear damage are just a few of the environmental sub-issues covered by this vast area of international law. Further, let's discuss some of the important treaties and agreements that were adopted by several nations to combat several environmental issues. All the major treaties started coming up in the 1970s and 1980s, starting from the Montreal treaty protocol. It is an international treaty, on September 16, 1987, a treaty was signed in Montreal to regulate the manufacture and use of chemicals that contribute to the ozone layer's depletion. The treaty,

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<sup>3</sup> *Ibid*

which was initially signed by 46 countries, currently has approximately 200 signatories. The protocol's principal goal was to protect the earth's ozone layer by banning the production and import of ozone-depleting substances and lowering their concentration in the atmosphere. It creates enforceable pledges to phase out all-important ozone-depleting compounds, including chlorofluorocarbons (CFCs), halons, and less harmful transitional chemicals like hydrochlorofluorocarbons, for both industrialized and developing countries (HCFCs). The Montreal Protocol prohibits the use of 96 ozone-depleting compounds in tens of thousands of applications spanning 240 industries. The Montreal Protocol was also given responsibility in 2016 for establishing enforceable progressive phase-down obligations for the 18 primary hydrofluorocarbons (HFCs). The countries who sign to this have to make efforts to implement all the rules and aims of the protocol.

A few years after this in 1992, Another subsidizing step was the establishment of the United Nations Framework Convention on Climate Change (UNFCCC), to maintain greenhouse gas levels in the atmosphere at a level that prevents harmful human intervention in the climate system while allowing ecosystems to adjust naturally, allowing for long-term development. The Kyoto Protocol is an addendum to the UNFCCC of 1992. It binds signatories to cut greenhouse gas emissions that are thought to be contributing to climate change. The Kyoto Protocol requires developed nations to disclose their HFC emissions to the UNFCCC. Also, the COP, or Conference of Parties, is the UNFCCC's top decision-making body. At the COP, all states that have signed the convention are represented. Convention's implementation is reviewed by them, they also look into the adoption of legal instruments to enhance the role of convention and take required decisions, including administrative and institutional arrangements. This leads us to Paris Agreement another international treaty for climate change. It was accepted by 196 Parties at the United Nations Conference on Climate Change (COP 21) in Paris on December 12, 2015, and went into effect on November 4, 2016. Its goal is to keep global warming far below 2 degrees Celsius, preferably 1.5 degrees Celsius, compared to pre-industrial levels. To attain this long-term temperature goal, countries want to reach global peaking of greenhouse gas emissions as soon as possible, resulting in a climate-neutral world by mid-century.

Since there are so many conceivable sub-topics in international environmental law, having a table listing categories and corresponding accords is useful<sup>4</sup>.

S. No.	Subtopics of International Environmental Law	Conventions and Treaties
1.	Ozone layer depletion and atmosphere's protection	<ul style="list-style-type: none"> <li>• <i>Geneva Convention (1979)</i></li> <li>• <i>Vienna Convention (1985)</i></li> <li>• <i>Montreal Protocol (1978)</i> <ul style="list-style-type: none"> <li>• <i>UNFCCC (1992)</i></li> <li>• <i>Kyoto Protocol (1997)</i></li> </ul> </li> </ul>
2.	Hazardous Waste	<ul style="list-style-type: none"> <li>• <i>Basel Convention (1989) and its amendment in (1995)</i></li> </ul>
3.	Nuclear Waste	<ul style="list-style-type: none"> <li>• <i>Nuclear Safety Convention (1994)</i></li> <li>• <i>Paris Convention (1960)</i></li> </ul>
4.	Pollution	<i>Stockholm Convention on Persistent Organic Pollutants (2001)</i> <ul style="list-style-type: none"> <li>• <i>MARPOL (1978)</i></li> </ul>
5.	Marine and Ocean sources	<ul style="list-style-type: none"> <li>• <i>"OSPAR" Convention (1992)</i></li> <li>• <i>UNECE Water Convention (1992) and Amendment (2003)</i></li> </ul>
6.	Environment and Trade	<ul style="list-style-type: none"> <li>• <i>North American Agreement on Environmental Cooperation (1993)</i></li> <li>• <i>Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)</i></li> </ul>

<sup>4</sup> Heidi Frostestad Kuehl, 'Update: A Basic Guide to International Environmental Legal' (*Globalex*, May 2017) <[https://www.nyulawglobal.org/globalex/International\\_Environmental\\_Legal\\_Research1.html](https://www.nyulawglobal.org/globalex/International_Environmental_Legal_Research1.html)> accessed 10 January 2022

7.	Sustainable Development	<p><i>Agenda 21: Programme of Action for Sustainable Development (1992)</i></p> <p><i>Convention on Wetlands of International Importance especially as Waterfowl Habitat ("Ramsar") (1971)</i></p> <ul style="list-style-type: none"> <li>• <i>Rio Declaration on Environment and Development (1992)</i> <ul style="list-style-type: none"> <li>• <i>Antarctic Treat (1959)</i></li> <li>• <i>Protocol on Environment Protection (1991)</i></li> </ul> </li> </ul>
8.	Protection of Wildlife and Species	<ul style="list-style-type: none"> <li>• <i>UN Convention to Combat Desertification in Countries Experiencing Serious Drought (1994)</i> <ul style="list-style-type: none"> <li>• <i>Convention on Biological Diversity (1992)</i></li> <li>• <i>Cartagena Protocol on Biosafety (2000)</i></li> </ul> </li> </ul>

Above mentioned all treaties were at their time of effect very essential in aiding in solving the issue at hand and at present too have the same potential to aid and help the environmental situations improve. All these treaties have exactly mentioned what should be done in order to solve the environmental issue. However, how to execute it is not sternly included in any. All the reasons stated in the second chapter show us the importance of adopting environmental legislation. The significance of environmental legislation lies in the fact that environmental conservation cannot be realized without sufficient regulations and laws. Environmental education and environmental awareness are two strategies for ensuring that humans do not harm the environment and instead conserve it for future generations. Environmental legislation tries to safeguard the environment by forbidding, restricting, and regulating potentially harmful activities. Environmental, legal, and policy frameworks have grown in importance as incentives for acts that are advantageous to the environment, i.e., to prevent negative externalities while promoting positive ones. However, irrespective of all these efforts and signing of all the treaties the environmental condition is getting no better rather it's depleting and this is evident from several changes and challenges that the environment that surrounds us is dealing with right now. In the next chapter, we will understand what the reason behind the slacking condition of the environment is even after several prominent



environmental legislations which are signed into and entered to force by hundreds of signatories and countries.

## **CONTROVERSIES AND ISSUES INVOLVING ENVIRONMENTAL LEGISLATIONS AND HOW CAN WE COMBAT IT**

All of these conventions and treaties mentioned in the table in the last chapter are the prominent ones pertaining to their respective areas. A treaty becomes prominent based on the number of countries signing or accepting it. The two major players or in a way we can say dominant parties to any of the prominent treaty are the USA and European Union (EU). To understand the main problem and persistence and incline in the environmental issues let's start from the base. Globally countries are divided into majorly three types; developed countries, developing countries, and least developed countries. What is the problem? "The ones who are least responsible for climate change are the ones who suffer the most." And this is ultimately unfair. So, when we look among the three categorizations of countries, it is the developed countries that are most responsible for the major environmental issues, this can be proved by the simple understanding that those countries are developed because they have already exploited the environment and as a result, they are developed. While we talk about developing countries, these countries are developing because they are still striving for getting developed and this can happen only by exploitation of the environment. Does this mean we should say or order these developing countries to stop striving to become developed? Not really. Because it would be unfair as the developed countries, we can say in a way have used or exploited the environment more than its share in it. Now does this mean we should add to the already depleted environment condition and let people exploit it further? The answer here too is a no.

Why is the quality of the environment in developing countries poor? The simple answer is that we are comparing them to the developed countries that already have the necessary finance, resources, and technology to make efforts toward and protect their environment. But because the other countries are in the process of developing, they tend to use a lot of energy. In addition, population management in developing countries is not sufficient and this can be a

contributing factor. Other major factors like the cost of improvement being high, low levels of income, market failures, and political factors impeding effective governance add to the incapability of the developing countries to successfully reduce their exploitation of the environment. In the present scenario, we can say that developing countries will be among the biggest contributors to climate change as their populations and energy needs expand. At the same time, climate change is anticipated to wreak havoc on many of the same countries, with rising sea levels and more frequent and devastating storms posing a danger to agriculture, infrastructure, and other sectors. Some environmentalists say that “Try counting your money while holding your breath if you truly believe the environment is less important than the economy.” While this is a very effective and deep statement to make, the reality is that it is the economy that all countries and governments care about, also some can argue if the economic position is better, we can put more effort to help and improve our environment, but the irony here is that by thinking or believing in this way, what they actually result doing is exploiting the environment for the protection of the environment itself. Now also an argument comes, because the developed countries are responsible for the environmental damage initially, can they be held liable to compensate?

Within the context of climate change politics, the moral argument for reparations by rich countries is superfluous. Developed countries see the issue as a Pandora's Box of endless liability that they refuse to open. Another way of thinking is that loss and damage compensation would not be a major worry if wealthy countries were serious about cutting carbon emissions. At the very least, this reflects the pessimism that surrounds the global mitigation effort. Let alone the least developed countries, when it comes to concerns involving developed and emerging countries. These are the ones that face the most severe impact because neither they have sufficient for themselves nor for protection of the environment. So now the question comes, didn't all the major environmental bodies like UNFCCC ever consider this? Or didn't bodies framing the treaties and conventions take into account developing and least developed countries? The truth is that they did acknowledge the problem. Every other piece of environmental legislation calls for rich countries to help to develop and developing countries. And the fact that developed countries from time to time

have financially aided the countries in need to improve their environmental condition. But the ground reality is that many of these countries have seen a negligible or no improvement in their conditions. To mention, the instance of the Paris Agreement when Barak Obama signed it with one of the aims being helping countries in bringing technology transformations and backing them financially towards the improvement of the environment, Donald Trump quitted the Paris Agreement. However, Now President Biden has rejoined it. In the case of India, the country is the world's second-largest coal producer and third-largest carbon emitter, it produces coal to meet the increasing energy requirements due to the increasing population being a factor, besides developing further and in such condition, it is noteworthy that India has committed to achieving net-zero carbon emissions by 2070. India doesn't have sufficient renewable resources or technologies required for preventing further depletion of the environment. India needs technological advancement in this regard. Besides India, the Caribbean chaos, the mountain menace of Uganda, and the Pacific Islands falling sea walls are some important cases that require attention. So where did all this lead us to, what can be done? Besides speaking globally, the first thing that can make difference is understanding the basic fact that planning done for the protection of climate, wilderness, water is nothing, but the planning is done for the protection of us humans. Also, Planning is not enough what is required is its proper and religious implementation.

**Three constructive principles can be followed by individuals:**

**Doing no harm** - that is, the environment or natural resources will not be polluted or degraded as a result of development initiatives.

**Mitigation of the risks related to the environment** - The measures of mitigation should be adequately invested in, and implementation should take place at the ground level.

**Environmental Opportunities' capitalization** - Opportunities like green growth, sustainable energy resources (renewable), eco-tourism, and finance that are climate-friendly should be capitalized.

All environmental regulation is highly precise in order to enhance the environment's state. What's needed now is for it to be properly implemented and for those who can't afford it to receive assistance. Only then will the goals of these laws be realized.

## CONCLUSION

The way in which the environment is treated by humans has far-reaching implications for our planet's future. Everything from the health of humans to their well-being gets impacted. Our mother earth is experiencing the worst situation she has ever been in at present. And the situation has a strong potential to worsen. Everything ranging from global warming to climate change, melting of glaciers to rising sea levels, deforestation to land degradation, loss of habitat to loss of forest cover, increase in cyclones to deteriorating air quality have far-reaching implications. Efforts are taken by many to help the environment but implementation and the capacity to implement remains a big pitfall. The developed nations are required to take more responsibility and help the poorer countries to retrieve their state and preserve the environment. The developing and least developed countries are in need of financial support, technological enhancement, to aid their environment. These countries should also ensure proper implementation of the treaties they sign into and no turning back. They should put efforts into making plans by which the environmental condition of their country could improve. The advancement of three main areas of education, healthcare, and trade can have a drastic change in the functioning of a country towards meeting its environmental targets. Developed countries can help them out in these. Environmental conservation requires two critical steps: awareness and adaptation. Each of us can and should do our part to reduce the effects of these environmental concerns and ensure that future generations inherit a healthy planet. The Earth is something that we all share. People must be empowered, informed, and taught that these resources are theirs to protect before the environment can be protected. Each government should set a timeline for completing the plan's implementation. It is us to whom the environment belongs, and it is the environment to whom we belong. The environment will respond in kind to how we treat it. This fundamental fact should be remembered. Every individual may contribute to environmental protection. It can be anything as simple as not

using energy while required or proper management of the water used by us or using public transport instead of individual vehicles that emit harmful gases or even planting more trees. When the small acts done by millions of people are multiplied it has the potential to transform and improve the current situation. All these efforts start getting implemented on the ground level it can be taken as moving forward in the right path that leads to protection of the environment which is needed now more than ever.