Chapter- I:
Introduction and Research Methodology

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1.1 Statement of the Research Problem

Prof. E.P. Odum has defined the term Environment as follows:

“Environment is the balancing state of biotic and abiotic elements interacting with each other, including both physical and chemical conditions surrounding those elements and changes thereto.”

Likewise, the term Environmental Law has been defined as;

“the a complex and interlocking body of treaties, conventions, statutes, regulations, and common law that, very broadly, operate to regulate the interaction of humanity and the rest of the biophysical or natural environment, towards the purpose of reducing the impacts of human activity, both on the natural environment and on humanity itself.”

Accordingly, Environmental Law encompasses within its scope the components of ecology on earth, the scope for the preservation and conservation of these components through a numbers of permissible regulations and legal framework.

Further, if we trace the sources of Environmental Law and its genesis, then the legislative enactments and judicial interpretations given in the various cases emerges as the most prominent sources, which has curved the jurisprudence of Environmental Legal Regime. Like any other branch of law, modern environmental jurisprudence too owes its genesis to both legislative enactments as well as judge made laws.


This doctrinal study primarily revolves around the concept of Environmental Impact Assessment (herein after referred as EIA) related to the process of environmental clearances and its procedural aspects as part of the Environmental Legal Regime in India.

During the literature review, we found that there are several instances of gross procedural violations of the guidelines and procedural requirements of EIA. There are also substantial numbers of cases of such violations of EIA regulatory norms in India. In such instances, the roles played by the various stakeholders come under close scrutiny. It was also found that there were several cases where the environmental clearances through EIA were often sought on the basis of either alleged false reports or manipulative EIA studies and data. Consequently, such incidents clearly violate the basic objectives of existing EIA laws. This prevailing gap between what the law is and what the law ought to be provided the further scope of research and analysis which is covered under this research work.

1.2 The Need and the Objectives of the Study

Bearing aforesaid issues in mind the proposed research work aims at the following aspects:

- To do critical analysis of the existing legal regime of Environmental Impact Assessment in India,
- To undertake an analysis of the procedural lapses related to EIA Laws in India,
- To analyse the various judicial cases related to the violations of EIA laws in India.
- To examine critically the role of the various stakeholders of EIA.
To undertake a comparative study to EIA laws of other nations.

Lastly, to propose corrective steps to make the exercise of EIA more effective and purposeful.

1.3 The Research Design

The research proposal is based on the preliminary study done in the area of EIA of the Environmental Legal Domain in India. The next stage of the proposed work involved a detailed literature review to analyze the existing scope of the proposed research area and to understand the fundamental issues related to the proposed research topic.

It was followed by systematic and critical analysis of the materials from both primary and secondary sources. In primary sources the study has included the analysis of legal regime of EIA, including all the relevant laws, rules, byelaws, regulations, notifications, as well as various judgments, within India and a few foreign judgments as well.

Whereas, secondary sources have included the study of all legal and non–legal relevant texts, research articles, reports, on-line resources, etc. A synopsis was also prepared to use as a guiding tool for achieving the objective of this proposed study. This was followed by developing the chapterisation scheme for the proposed study. The next stage has encompassed the analytical research and study of the legal regime of EIA. Then a comparative analysis of the procedural aspects of EIA law of other countries was undertaken.

The subsequent step was focused on searching the relevant aspects to satisfy the hypothesis of this proposed research. Further, the case studies were identified for citing the critical areas of EIA from India. The concluding and the most important
stage of this study are the generalisation of the hypothesis and presentation of suggestions and conclusions.

Thus, broadly the essential components of the proposed research design are as follows:

- A detailed literature review
- Analysis of sources - primary and secondary
- Final chapterisation
- Data analysis and case study
- Testing of the proposed hypothesis
- Generalisation of hypothesis

1.4 The Scope of the study

The proposed research work is a Doctrinal and Non-Empirical Research. Hence, this research work is purely based on the resources from libraries, archives and online databases and various e-learning resources.

As Phillip Kenny\(^5\) has stated that in case of a Doctrinal or Pure legal research there need not to be any specific methodology involved unlike the social science or scientific researches. The proposed research is a combination of the following three of the legal research methodologies, wherever relevant namely;

- Descriptive Methodology

Analytical Methodology

Comparative Methodology

1.5 The Sources of Data

This proposed research work being a Doctrinal and Non-Empirical research did not require any field data or sample collection. The data collection was restricted to only the primary and secondary sources. All the relevant sources were broadly classified into two basic categories namely Primary and Secondary sources.

A. Primary sources: It includes the study and analysis of legal regime of EIA, the relevant laws, rules, notifications, byelaws, orders etc. All these were studied from the critical and analytical point of view. The proposed research was also focused on the judicial scope of the EIA based on the various landmark judgments delivered by the law courts.

B. Secondary Sources: The proposed research work includes the detailed analysis of the various secondary sources related to the concept of EIA. This included various texts from legal and non-legal section, relevant articles, research papers, reports related to various aspects of EIA, important learning resources, study of relevant cases, etc.
1.6 Hypothesis

The hypothesis is considered as the most fundamental aspect of any research work. The entire proposed research revolves around the hypothesis. In this research work the hypothesis includes the following core issues of EIA:

- That there are bottlenecks and hence the EIA Laws are unable to achieve their aims and objectives in India.
- That there are procedural lapses with respect to the compliance of EIA in India.
- That the judicial interpretations have helped in shaping the EIA jurisprudence in India.
- That the roles played by the various stakeholder of EIA are crucial to determine the effectiveness of EIA laws.

1.7 Significance and the Utility of the Research

The basic objective of this research is to contribute to the existing knowledge system of the relevant area of EIA Laws in India by highlighting the bottlenecks existing in its procedural sphere. The objective of this research is to raise the critical issues of the EIA’s legal regime from the implementation point of view. It also designed to raise the critical issues through the proposed hypothesis and further analyze their cause effect dimension. The aim was to draw attention towards the ground realities of the implementation of EIA Laws in India.

The EIA had been evolved as an important tool to achieve Sustainable Development for the betterment of mankind. However, certain lacking and shortcomings in the
implementation of EIA Laws has failed it in achieving the said objectives. Therefore, the proposed research work intended to analytically and descriptively highlight such critical areas of EIA Laws, which need to be revisit for the better implementation and effective policy formulation. This study aimed at strengthening the implementation of EIA Laws and to make it a participatory and meaningful exercise, rather being a formality only on paper.

1.8 Limitation of the Study

The scope of this study can be well defined by considering the following limitations:

- The proposed research work has mostly confined within the legal regime of EIA in India.
- It is purely an analytical work in nature.
- This research being a Doctrinal and Non-Empirical type of research has not required collection of any field data or sampling, etc. However, for analytical study and critical appreciation of EIA, references have been made from the data available from various secondary sources, like reports, case studies, articles, research papers, etc.