

# Strengthening Indian Environmental Laws

New lessons and approaches

G.N. Sinha

## ABOUT THE BOOK

Professional foresters are normally not well grounded in legal concepts and jurisprudential aspects of law making on the environment, while lawyers don't ordinarily possess a sound understanding of the environmental issues and various ecosystem services emanating from the environment.

**Strengthening Indian Environmental Laws – New Lessons and Approaches** is a book which combines the insights of a professional forester and a UK trained lawyer. This book argues for restructuring the Indian environmental law regime by drawing suitable lessons from the UK's and the European Union's environmental law regimes. This book is premised on the fact that similarities are greater within a given programme across national boundaries than among different programmes within a country.

This well researched book on strengthening Indian environmental laws is interwoven with fabrics drawn from sociology, political science and contemporary public policy. This is a thought provoking book which deals with evolving a sound legal and policy framework for improving environmental governance and sustainable development in India.

The author has very cogently prepared the fabric of the future environmental policy and law for this country.

The research methodologies used by the author comprise comparative law method, lesson learning, and policy transfer normally used in political science and socio-legal approach, which is fast emerging in the areas of both law and sociology.

The book concludes that India should take measures to improve enforcement of various environmental laws, including adopting a revised policy on pollution prevention, developing an integrated approach to pollution abatement, developing a policy on prosecution and enforcement, restructuring the various environmental laws to meet treaty obligations, introducing incentive based instruments for pollution abatement, and adopting a cooperative approach to enforcement of the environmental laws. For the United Kingdom, the author recommends emulation of the novel environmental jurisprudence developed by the Indian Supreme Court and the High Courts. The author also argues for the establishment of environmental courts in both countries.

The book is divided into six chapters.

**Chapter-1:** Introduces the subject and discusses the rationale for comparing India and the UK in the area of environmental policy and law. This chapter also defines the scope of the book and research methodologies, and succinctly brings out the context which preceded this book.

**Chapter-2:** Is an appraisal of the environmental policies in both the countries and the influences of the European Community laws on the law making of the UK in the area of environment.

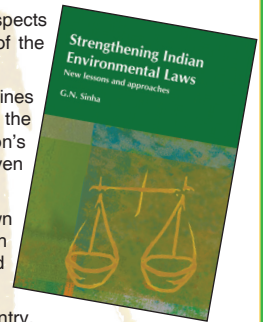
**Chapter-3:** Undertakes a comparison of the environmental legislation of India and the UK.

**Chapter-4:** Is about the approach to the enforcement of environmental laws, and a critique of the command and control strategy of environmental enforcement.

**Chapter-5:** Deals with the interplay of the environment and the judiciary, and traces the progressive evolution of environmental jurisprudence developed in India by the higher judiciary.

**Chapter-6:** Summarizes the conclusions. This chapter is unique in that the author has critically examined the substantive legal principles applicable to environmental problems, scope of policy transfer and lesson learning between India and the UK, and the role of lawmakers and courts in environmental protection. The author has also evaluated judicial activism in the Indian context, and has examined whether the judiciary in India is an appropriate institution for formulating environmental principles and directing the executive to comply with environmental enforcement.

The book is a must read for those who are interested not only in environmental policy and law, but also those with an interest in environmental governance and sustainable development in India.



## Strengthening Indian Environmental Laws, New lessons and approaches

G.N. Sinha

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## Views and Reviews

*This research book argues for a restructuring of the Indian environmental law regime by drawing suitable lessons from the U.K. and the European Union. The book examines the rationale of the Indian judiciary formulating environmental law principles in writ petitions, and his thesis on this count offers many valuable insights. His detailed analysis of the role of lawmakers and courts in environmental protection is a comprehensive commentary on evolving judicial and public policies. Likewise, his analysis of the strengths and weaknesses of court-based mechanism in environmental litigation is elaborate and thought-provoking.*

**R.K. Pachauri,**

**Director-General, The Energy and Resources Institute (TERI), New Delhi, India and Chairman, IPCC**

*G.N. Sinha's book started its life as a research project in the School of Law at the University of Birmingham, UK. The use of comparative study is now widely recognized as providing a basis for different legal and political systems to learn from one another. This is especially so in areas of law and policy – such as environmental issues and human rights – which have a global basis and impact. In this ground-breaking study, Mr Sinha examines environmental law and policy in India and the UK, and develops a range of insights and practical proposals for reform.*

**Andrew Le Sueur,**

**Barrister, Middle Temple and Former Barber Professor of Jurisprudence, The University of Birmingham, UK**

*His (the author's) analysis of laws and legal institutions in India and the United Kingdom is very elaborate and comprehensive, and greatly helps in comprehending our environmental issues. In several areas, he has given practical suggestions for the improvement of the legal regime, based on his personal experience as a civil servant. Especially, he has given useful insights into the forest management laws, having been a member of the Indian Forest Service for a long time. His emphasis on the constitution of an Environment Court for the purpose of effective implementation of environmental laws is quite convincing. ...he has woven together a vast canvas, on which we can envision a global depiction of environmental issues, through the obvious traces of Indian and British issues.*

**M.P. Singh,**

**Vice Chancellor, The West Bengal National University of Juridical Sciences, Kolkata, India**

### ABOUT THE AUTHOR

**G.N. Sinha**, completed his M.Sc. in Chemistry from Gorakhpur University, in the year 1977, from the year 1977-84 he was a research fellow in Chemistry at the University of Gorakhpur and the Banaras Hindu University, he completed his LL.B. from Garhwal University in the year 1997. The University of Birmingham, UK, awarded him with the degree of Master of Laws (LL.M.) by research, in December 2003.



The author is a member of Indian Forest Service of 1983 batch. He has served in various capacities in the department of Environment & Forests, Government of Arunachal Pradesh. He also served the Government of Arunachal Pradesh as Secretary in the departments of Planning, Tourism, Programme Implementation, Economics & Statistics, and as Special Secretary in the departments of Home, Political and Cabinet Affairs from year 1998-2001 and in 2003. As Secretary (Planning) he initiated the formulation of a large number of policies for holistic development of the State. He taught law to IFS probationers at the Indira Gandhi National Forest Academy, Dehradun from 1993 to 1997.

Presently he holds the charges of Managing Director, Arunachal Pradesh Forest Corporation Limited; Director, State Forest Research Institute; and CEO, Arunachal Pradesh Biodiversity Board; all with headquarters at Itanagar.

He is member of many professional bodies of the country, has written articles and reports on diverse subjects, and is a resource person to many institutions on development planning, environmental policy and laws. He has also studied at the Universities of Edinburgh and Wolverhampton. His major interest is evolving a sound policy and legal framework for sustainable development.

He is widely traveled in many countries of Europe and the South-East Asia. He works in the lap of nature in the remote state of Arunachal Pradesh, but his concerns and works are truly global. The author may be contacted at gnsinhauk@yahoo.co.uk.

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