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A DETAILED STUDY OF GOVERNMENT POLICIES REGARDING CLIMATE CHANGE AND ENVIRONMENTAL CRISIS IN INDIA

AUTHOR: ARUSHI RANJAN

INTRODUCTION

The issue of environmental pollution dates back to the emergence of Homo Sapiens on Earth and was first recognized by Plato 2500 years ago, indicating its longstanding origin. Nevertheless, in contemporary times, the challenges related to managing and protecting the environment have become more complex and urgent, reflecting the evolution of this problem. Industrialisation, urbanisation, population explosion, poverty, over exploitation of resources, depletion of traditional resources of energy and raw materials and the research for new sources of energy and raw materials, are some of the factors which have contributed to environmental deterioration in India.

The impacts of climate change on the well-being and existence of billions of individuals are already evident worldwide. The alteration of natural systems due to global warming leads to modifications in rainfall patterns and distribution, melting of glaciers, and alterations in the behavior and ecology of species and ecosystems. Such changes have resulted in rising sea levels, droughts, floods, and heat waves, and changes in the distribution and behaviour of vectors and pathogens causing direct and indirect impact on human health. While physical trauma is a component of the health consequences of climate change, the majority of its impact arises from non-traumatic conditions such as respiratory, cardiovascular, and kidney diseases, vector-borne illnesses, as well as mental and psychosocial problems.[1]

INDIA's STAND ON CLIMATE CHANGE

Climate change already has a major effect in India. Most of our rivers are polluted, deforestation goes on increasing day by day, noise pollution is at an alarming stage, land erosion has become a common feature. These effects are likely to become more severe and undermine India's progress towards achieving the sustainable development goals. The sustainable development agenda has also set a goal for the global community to "take urgent action to combat climate change and its impacts."

The Indian Constitution puts duty on the ―state[2]‖ as well as ―citizens[3]‖ to protect and improve the environment. The right to live in a healthy environment is considered as a fundamental right under Article 21 of the Constitution.

STATUTORY PROVISIONS RELATING TO ENVIRONMENT PROTECTION

In addition to the specific legislations relating to environment protection, broadly the statutory provisions regarding environmental protection can be discussed under-

General Provisions:

1. Law of crimes

[1] *Sukumaran, Naveen, Impact of Climate Change: Why Health Matters (May 29, 2022). On Human Rights in Health Care, Directorate of Public Relations and Publications, CUSAT, 2022, pp. 44-67*

[2] *Article 48-A of the Constitution of India*

[3] *Article 51-A(g)*

Sections 268 to 294-A of Chapter XIV of the Indian Penal Code, 1860 address offenses that impact public health, safety, decency, convenience, and morals. These provisions enable control over any action or inaction that harms an individual by contaminating the environment.

In ***K. Ramakrishnan V. State of Kerala,***[4] the Kerala High Court held that smoking in public areas amounts to public nuisance and cases can be filed under section 290 of the Indian Penal Code. The court also held that it is violative of the right to life provided under article 21 of the Constitution.

In ***Murli S. Deora V. Union of India,***[5]also, the Supreme Court held that smoking in public places violates the fundamental right of the passive smokers under Article 21 of the Indian Constitution.

Section 268 of the IPC defines public nuisance and section 290 provides for punishment for public nuisance. Section 269 to 271 makes a negligent act likely to spread infection of disease dangerous to life, punishable. The punishment for this is both a fine and/or imprisonment upto 6 months. Section 277 can be used to control water pollution as it provides that fouling of water of public spring, well or reservoir rendering it less fit for purposes shall be punishable with imprisonment upto 3 months and/or a fine.

The provisions of Criminal Procedure Code, 1973 can also be invoked to prevent the pollution of almost all kinds. Chapter X, consisting of Parts B and C, includes Sections 133 through 144, which offer swift and efficient solutions for preventing and managing public disturbances caused by air, water, and noise pollution. By invoking Section 133 of Cr. P.C., measures can be taken to eradicate public nuisances that result from the release of effluents and air discharge that creates difficulties for the masses.

In ***Krishan Gopal V. State of M.P.,***[6] a complaint was filed against the noise and air pollution caused from the glucose factory situated a few feet away from the house of the complainant. It was further complained that ash from the boiler of the factory was causing a great deal of atmospheric pollution resulting in harmful effects on the residents of the locality. The factory had been installed under the license granted by appropriate authorities.

It was argued before the High Court that inconvenience caused to the inmates of a house cannot and should not be considered as a public nuisance as it was essentially private in nature for which it was not permissible to invoke section 133 of Cr. P.C.

Rejecting the above contention, the High Court observed that it was not the intention of law that the community as a whole or large number of complainants should come forward to register their complaint under section 133 of the Cr. P.C. This provision does not require any number of complaints. It further pointed out that granting a permission for the installation of a boiler in a residential locality and running of the factory was itself blatantly violative of law. Thus, the court ordered that the factory from which the nuisance was caused had to be closed.

2. Civil Procedure Code

Section 91 of the Code of Civil Procedure provides the right of action in case of public nuisance. In case of public nuisance or other wrongful act affecting or likely to affect the public, a suit for declaration or injunction or for such other relief as may be suited in the circumstances of the case may be instituted-
(a) by the advocate general: or

(b) with the leave of the court

[4] *A.I.R. 1999 Ker. 385*
[5] *(2001) 8 SCC 765*
[6] *(1986) Cr. L.J. 396*

This section does not limit or affect any other right of suit which may exist independently of its provisions. Thus, the persons causing air or noise pollution or causing public nuisance are liable for prosecution.

SPECIFIC PROVISIONS

After the Stockholm Conference of 1972, the Indian Parliament has enacted a number of laws directly relating to pollution of the environment, like- *1. The Water (Prevention and Control of Pollution) Act,1974*

This Act is meant to tackle one facet of environmental pollution. The primary goal of the Water Act is to ensure access to uncontaminated drinking water for all individuals. Its other main objectives are to provide for the prevention and control of water pollution and to establish Central and State boards for the prevention and control of water pollution.

2. *The Air (Prevention and Control of Pollution) Act, 1981*

The Act was enacted by the parliament under article 253 of the Constitution to implement the decisions taken at the United Nations Conference on the Human Environment held at Stockholm. It was decided to take appropriate steps for the preservation of natural resources of the earth, which among other things include preservation of quality of air and control of air pollution,

3. *The Forest (Conservation) Act,1980*

This Act has been passed with a view to check deforestation which has been taking place in the country on a large scale and which has caused ecological imbalance and thus led to environmental degradation. It aims at putting restrictions on the dereservation of forests or use of forest-land for non-forest purposes.

4. *The Wildlife (Protection) Act,1972*

The Wildlife Protection Act of 1972 is the result of a long-running process that began in 1887 with the protection of a few wild birds and expanded to include wild animals in 1912 and specific plants in 1919, eventually covering almost all wildlife resources that require protection and management. Wildlife is a component of 'forests,' and it was a state topic until Parliament approved this legislation in 1972. It is now a Concurrent List.

The Act has been enacted for the following reasons-

(i) To provide for protection of wild animals, birds and plants and for matters connected therewith;

(ii) To ensure the ecological and environmental security of the country

The Act adopts a two-pronged conservation strategy-

(i) Specified endangered species are protected regardless of location;

(ii) All species are protected in specified areas.

5. *The Environment (Protection) Act,1986 etc.*

It is an act to provide for the protection and improvement of the environment and for matters connected to it.

The objectives of this Act are-

(i) The aim of enacting a comprehensive environmental protection law is to address any gaps in the coverage of significant environmental threats, given that existing legislation primarily targets specific kinds of pollution or hazardous materials.

(ii) To co-ordinate activities of the various regulatory agencies under the existing laws and creation of an authority for environmental protection.

(iii) To provide for deterrent punishment to those who endanger human environment, safety, and health.

(iv) To ensure sustainable development.

GOVERNMENT POLICIES

On June 30, 2008, the Indian Government unveiled the National Action Plan on Climate Change (NAPCC), which encompasses eight National Missions focused on climate change. Its objective is to establish a national approach that fosters India's ability to adjust to climate change and bolster the environmental sustainability of its development trajectory. The plan emphasizes that sustaining a strong growth rate is crucial for improving the quality of life of India's large populace and decreasing their susceptibility to climate change effects. The 8 missions are[7]-

1. National Solar Mission

The NSM was designed in January 2010[8] to establish India as a global leader in solar energy, by creating favorable policies for rapid diffusion of solar technology across the country. Initially targeting 20 GW solar power installation by 2022, this goal was increased to 100 GW in early 2015. Several programs and schemes under the Mission have facilitated the growth of grid-connected solar power installed capacity from 25 MW in 2010-11 to around 36.32 GW as of October 31, 2020.

2. National Mission for Enhanced Energy Efficiency

The National Mission for Enhanced Energy Efficiency (NMEEE) aims to bolster the energy efficiency market by developing a supportive regulatory and policy framework, and promoting inventive and sustainable business models in the energy efficiency sector.

3. National Mission on Sustainable Habitat

The National Mission on Sustainable Habitat was approved by the Prime Minister's Council for Climate Change in June 2010[9] to achieve-

(i) Development of sustainable habitat standards that enable robust developmental strategies concurrently tackling climate change-related concerns.

(ii) preparation of comprehensive city development plans that address adaptation and mitigation concerns.

(iii) Enabling cities to take up energy efficient, long term and cost saving transport planning with the help of comprehensive mobility plans.

(iv) Development of capacities for conducting activities pertaining to the Mission.

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[7] *Ministry of Science and Technology, Department of Science & Technology, https://dst.gov.in/climate-changeprogramme.*
[8] *Press Information Bureau Government of India , Ministry of New and Renewable Energy https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1685046*
[9] *Central Public Health & Environmental Engineering Organisation (CPHEEO), Ministry of Housing and Urban Affairs, Government of India. http://cpheeo.gov.in/cms/national-mission-on-sustainable-habitat.php*

4. National Water Mission

A National Water Mission has the potential to revolutionize water resource management in India by promoting sustainable practices that conserve water, reduce wastage, and ensure fair distribution both within and across states. The Mission will be guided by the principles of the National Water Policy and develop a comprehensive framework to optimize water use through regulatory mechanisms that offer differentiated entitlements and pricing. It will prioritize the recycling of wastewater to meet the growing water demands of urban areas and leverage innovative technologies like low-temperature desalination to address the water needs of coastal cities that lack access to other water sources. Through these efforts, the National Water Mission aims to increase water use efficiency by 20%, paving the way for a more sustainable and watersecure future for all.

5. National Mission for Sustaining the Himalayan Ecosystem

The objective of this mission is to safeguard the Himalayan region[10] and its biodiversity and halt the melting of its glaciers.

Concerning issues addressed by the mission are-

(i) Himalayan Glaciers and the associated hydrological consequences

(ii) Biodiversity conservation and protection

(iii) Wildlife conservation and protection

(iv) Traditional knowledge societies and their livelihood

(v) Planning for sustaining the Himalayan Ecosystem

6. National Mission for a Green India

The objective of the Mission is to address climate change through a blend of adaptation and mitigation measures. This approach is designed to facilitate:

(i) Enhancing carbon sinks in sustainably managed forests and other ecosystems

(ii) Adaptation of vulnerable species/ecosystems to the changing climate

(iii) Adaptation of forest-dependent communities

7. National Mission for Sustainable Agriculture

The aim of the initiative is to enhance the productivity, sustainability, profitability, and resilience of agriculture. This will be accomplished by encouraging integrated and composite farming systems tailored to each location; promoting soil and moisture conservation measures; implementing comprehensive soil health management practices; adopting efficient water management techniques, and incorporating rain-fed technologies into mainstream agricultural practices.

8. National Mission on Strategic Knowledge for Climate Change

The National Mission on Strategic Knowledge for Climate Change (NMSKCC) endeavors to create a robust and active knowledge system that will assist and guide national efforts to achieve the goal of environmentally sustainable development.

[10] *Government of India, Department of Science & technology, Ministry of Science & technology, New Delhi (June, 2010)*

NEED TO ESTABLISH ENVIRONMENTAL COURTS

Keeping in view the fact that cases involving issues of environmental pollution, ecological destruction and conflict over natural resources are increasingly coming up for adjudication and these cases involve assessment and evolution of scientific and technical data, the Supreme Court has suggested the setting up of Environmental Courts on the regional basis with one professional judge and two experts drawn from Ecological Science Research Group keeping in view the nature of the case and expertise required for its judgement. There would of course be a right to appeal to the Supreme Court from the decision of the environmental court. [11]

The Supreme Court has asked the High Court to constitute a Special Bench ―Green Bench‖ to monitor and deal with cases on environmental matters.[12] Green Benches are already functioning in some of the High Courts such as Calcutta, Madhya Pradesh, Madras, Allahabad and Punjab and Haryana High Courts. However, in matters of environmental pollution, considerable difficulty is experienced by the Supreme Court or the High Courts in adjudicating upon the correctness of technological and scientific opinions presented to the courts or regarding the efficiency of the technology proposed to be adopted by the industry or in regard to the need for alternative technology or modifications as may be suggested by the Pollution Control Board.

CONCLUSION

From the mid-twentieth century onward, India has experienced an increase in average temperatures, a decline in monsoon rainfall, a rise in extreme weather conditions such as floods and droughts, and an elevation in sea levels and the severity of cyclones. These shifts in the regional climate have been compellingly linked to human activities. The trend of humaninduced climate change is projected to persist throughout the twenty-first century. To increase the precision of future climate projections, particularly in the context of regional forecasts, it is crucial to devise strategic approaches for enhancing knowledge of Earth system processes, while also continuing to improve observation systems and climate models.

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[11] *M.C. Mehta V. Union of India, A.I.R. 1987 S.C. 965 at 982*

[12] *Vellore Citizen"s Welfare Forum V. Union of India (1996) 5 SCC 647 at 669*