

ENVIRONMENTAL CONCERNS AND REMEDIES IN INDIA

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(Abstract)

In India, environment conservation is worsened by the high population density and growth rates. population size and growth tend to expand and accelerate these human impacts on the natural resources and environment .environmental pollution not only leads to deteriorating environmental conditions but also have adverse effects on the sustainable development and health of the people. The existing environmental laws seem to be ineffective due to lack of enforcement, the lack of resources, people participation, environment education and technical challenges. To manage these issues India has to adopt some sustainable actions that need to address the numerous issues facing the country including environmental degradation in order to sustain its prospects for continued economic growth.

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(Full Paper)

Nature is the common heritage of mankind. The conservation, protection and improvement of human environment are major issues all over the world. Human environment consists of both physical environment and biological environment. Industrialisation, urbanisation, explosion of population, over-exploitation of resources, disruption of natural ecological balances, destruction of a multitude of animal and plant species for economic reasons are the factors which have contributed to environmental deterioration¹. Stockholm Declaration of 1972 was perhaps the first major attempt to conserve and protect the human environment at the international level. It was the first time the world community got together to deliberate on an important issue of environment protection and sustainable development. As a consequence of this Declaration, the States were required to adopt legislative measures to protect and improve the environment. After the Stockholm Conference, in 1976, constitutional sanction was given to environmental concerns through the 42nd Amendment.² Indian Parliament inserted two Articles, i.e., 48A and 51A into the Directive Principles of State Policy and Fundamental Rights and Duties. Article 48A of the Constitution rightly directs that the State shall endeavour to protect and improve the environment and safeguard forests and wildlife of the country. Under the influence of Stockholm declaration, the National Council for Environmental Policy and Planning within the Department of Science and Technology was set up in 1972. This Council later evolved into a full-fledged Ministry of Environment and Forests (MoEF) in 1985 which today is the apex administrative body in the country for regulating and ensuring environmental protection. The Government of India has established an environmental legal and institutional system to meet the challenges within the overall framework of India's development agenda and international principles and norms. In the constitution of India it is clearly stated that it is the duty of the state to 'protect and improve the environment and to safeguard the forests and wildlife of the country. It imposes a duty on every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife. The constitutional provisions are backed by a number of laws acts, rules and notifications.

¹ Sachidanand Pandey vs. State of West Bengal', AIR 1987 SC 1109.

² Inserted by the Constitution (Forty-second Amendment) Act, 1976.

Environment Protection-From Indian Constitution Perspective:

The State's responsibility with regard to environmental protection has been laid down under Article 48-A of our constitution, which reads as follows: "The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country". Environmental protection is a fundamental duty of every citizen of this country under Article 51-A (g) of our constitution which reads as follows: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures." Article 21 of the Constitution is a fundamental right which reads as follows: "No person shall be deprived of his life or personal liberty except according to procedure established by law." Article 48-A of the constitution comes under directive principles of State policy and Article 51 A (g) of the constitution comes under fundamental duties. The state's responsibility with regard to raising the level of nutrition and the standard of living and to improve public health has been laid down under Article 47 of the constitution which reads as follows: "The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health." The 42nd amendment to the constitution was brought about in the year 1974 makes it the responsibility of the state government to protect and improve the environment and to safeguard the forests and wildlife of the country. The latter, under fundamental duties, makes it the fundamental duty of every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. The forty-second amendment to the Indian constitution in 1976 introduced principles of environmental protection in an explicit manner into the constitution through Articles 48A and 51A (g). Article 48A, part of the directive principles of state policy, obligated the state to protect and improve the environment. On the other hand, Article 51A (g) obligated citizens to undertake the same responsibilities. As far as legislative power was concerned, the amendment also moved the subjects of "forests" and "protection of wild animals and birds" from the state list to the concurrent list. The Stockholm conference is honoured by references in the air Act and the environment act – a result of effective applications of Article 253 of the Constitution, which gives the parliament (India's central legislature) the power to make laws implementing India's

international obligations, as well as any decision made at an international conference, association or other body.

Environmental Concerns

The rapid economic growth experienced by India is resulting in adverse and harmful environmental conditions that are affecting the people of India as well the wider global population. While the rapid industrialization and urbanization in India's metropolitan cities, migration of rural youth towards the urban areas are damaging the capacity of municipal services and causing serious environmental problems.. Deforestation, soil erosion, water pollution and land degradation continue to worsen and are hindering economic development in rural India. High population density is the mother of so many problems of environment. India is growing rapidly in terms of population size. The increase in number of large cities with a million plus population is adding to the environmental problems faced by the country. Poverty also contributes to environmental degradation through over exploitation of natural resources like air and water. The deterioration of natural resources and unsafe living conditions affects the environment and health of the poor people. Economic policies also affect poverty and environment. The growing population has forced poor villagers to deforestation to meet their livelihood needs. Industrial growth places pressure on policy makers to prevent and control pollution. International agreements on ways to control pollution and close ties between environmentalists have provided an exchange of information that shapes policy agenda.³

Conservation of environment is possible only when public participate in the process. Bring the environmental issues and concerns to the masses helped them to understand the issues involved, educate them properly about the significance of clean environment. The success of India's environmental programs depends greatly on the awareness and consciousness of the people. A national environmental awareness campaign has been launched to sensitize people to the environmental problem through audio-visual programs, seminars, training programs etc. NGOs involving local people to play an active role in preventing, poaching, deforestation and environmental pollution. An Environmental Information System (ENVIS) network has been set up to disseminate information on environmental issues.

³ R.K Sapru, Environmental Policy and Politics in India, in Udai Desai (ed.), *Ecological Policy and Politics in Developing Countries*, New York: State University of New York Press, 1998, pp.157-159.

Various ministries of the government and other agencies involved in environment conservation should iron out their differences and more comprehensive, effective and enforceable program should be made with sincere political commitment. The National Environment Policy outlines a significant number of new and continuing initiatives for enhancing environmental conservation. This requires the coordinated actions of diverse actor, for the major part organized and stimulated by one or more public agencies. While coordination and review mechanism are necessary in respect of the individual action plans under each of the strategic themes at relevant operational levels, a formal, periodic high level review of implementation of different elements of the National Environment Policy is essential. This would enhance accountability of the different public agencies responsible for implementation. It would also reveal practical issues in implementation, including absence of political will at concerned level or official indifference⁴ effective implementation requires sustained political and administration commitment and support for the policy. The political environment inevitably affects implementation process in varying ways.

One major cause of weak implementation is that organizational structure of Government is incompatible with the functional requirement of national development. In India institutions engaged in environment policy planning and implementation are generally weak and low performance. The institutional structures in their current form are inadequate for responding to the emerging environmental challenges, including river cleaning, management of waste, hazardous substances and plastic management, dealing with chemical contamination, monitoring compliance with environmental clearances, etc. There is no suitable authority to comprehensively and efficiently implement the Environment Protection Act 1986. Several recent reports have called for an institutional redesign. The Report of the Steering Committee on the Environment and Forest Sector for the 11th Five Year Plan (2007) recommended the setting up of a National Environment Clearance Authority. The report also found it critical to urgently upgrade and strengthen the Pollution Regulatory Authority. Similarly, the 192nd report (2008) of the Departmental Parliamentary Standing Committee on Science and Technology and

4. Ministry of Environment & Forest, National Environment Policy 2006, Government of India, New Delhi, p. 51.

Environment and Forest on the functioning of Central Pollution Control Board on various counts.⁵

CAG in its reports find that inadequate monitoring hampered the overall effectiveness of implementation of projects/schemes. In a project on “Bio-remediation of Raila Devi lake in Thane district, Maharashtra” a monitoring Committee constituted for the project not only once against four prescribed meeting leading to non-preparation of action plan, delays in completion of project and non-reviewed of final technical reports by the monitoring Committee.⁶ Lack of monitoring poses a serious threat to implementation. Environment policy is not implemented in full scale because of lack of trained staff and financial resources. The CPCB and the State Board are heavily reliant on the funds directly provided by the Ministry of Environment and Forests. The SPCBs especially receive only marginal funding from the Central Government and mostly through specific projects to be executed at a State level. According to the CPCB⁷, the SPCBs are dependent on the reimbursement of cess/tax collected under the water (Prevention and control of pollution) Act and other consent and authorization fees imposed on industries. The Departments of Environment at the State level also face a similar problem, being unable to enforce laws due to adequate financial support. For a country with about 7500 kms. of coastline, the Coastal Regulation Zone (CRZ) Notification 1991 set out a range of activities for its own implementation such as preparation of maps, coastal zone, management plans and zone demarcation. Such a significant statute was not backed up with finding support, thereby all the above activities necessary for its effective implementation did not quite enthusiastic to the State Governments. Government should Offer incentives to industries or individual firms that would like to try proven innovative technologies in reducing GHGs and other pollutants but, especially when these initiatives require major investment to install these technologies. Scientific and technical NGOs are assisting in bridging the gap between science, policy makers and citizenry. Their research and education work is providing a vital addition to the decision and policy making process. The availability of reliable information on the environmental impact of development

5. Ministry of Environment & Forest, Towards Effective Environmental Governance: Proposal for a National Environmental Protection Authority, Discussion Paper for comments, Government of India, September 17, 2009, New Delhi, p. 2.

6 http://saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/union_audit/recent_reports/union_compliance/2010_2011/Scientific_Departments/Report_no_17/chap3.pdf assessed on 3 August 2016.

7 <http://www.cpcb.nic.in/faq2.php> assessed on 31 Jun. 2016.

and economic policies is a critical requirement for robust environment decision making. A number of NGOs are working to present information to influence Government decision making. The participation of these major groups is also being institutionalized through formal representation in decision making and management bodies. This group influences policy making in specific areas significantly by campaigning and raising awareness among citizens. UNEP helps developing countries to reduce vulnerabilities and build resilience to the impacts of climate change. UNEP builds and strengthens national institutional capacities for vulnerability assessment and adaptation planning, and supports national efforts to integrate climate change adaptation measures into development planning and ecosystem management practices.

In the mid-90s, following a writ petition, the Supreme Court took cognizance of the growing mismanagement of hazardous waste and constituted a High Powered Committee chaired by Prof. M.G.K. Menon to look into the problems and present the findings periodically for immediate and appropriate action. The comprehensive review was necessitated primarily due to the myriad issues for consideration and shed light on several flaws in the administration of the hazardous waste legislation. The various areas that the recommendation covered include the need for immediate closure of industries operating without authorization or without having fulfilled the conditions under which the consent to operate was established; the development of clear mechanisms for improved implementation; the need for environmental projection authorities to adhere to the purposes of their creation and the creation of structures and agencies that would supplement or supervise in order to ensure implementation remains effective.⁸ The Committee concluded with a significant recommendation of setting up a monitoring Committee akin to the role of a ‘project manager’ to ensure that the tasks that required to be carried out time bound out and more importantly supervised.

Based on the report of MGK Menon Committee, the Supreme Court passed a detailed order on the issue of implementation of hazardous waste management in October 2003. As recommended, the Honourable Court also constituted the Supreme Court Monitoring Committee (SCMC). The SCMC, while supervising the execution of the order passed directives from time to time to SPSBS on pressing issues – control of flaring by petrochemical plants in Manali industrial area (North Chennai), on closure of units in Cuddalore SIPCOT industrial area (Cuddalore, Tamil Nadu) or remediation/restoration orders pertaining to the mercury pollution caused by a

8. http://envfor.nic.in/cpcb/hpcereport/chapter_7.htm assessed on 14 March 2016.

thermometer manufacturing plant⁹ (Kodaikanal, Tamil Nadu), to name a few in the State of Tamil Nadu alone. Further, the SCMC, in consonance with the order, directed the SPCBs to convene Local Area Environment Committees (LAECs) to assist in implementation at the level of the region (town, industrial State, industrial clusters or individual industries). These LAECs included members of the local communities, experts and NGO representatives and were meant to be ‘eyes’ and ‘ears’ of the SCMC in reporting mismanagement and violations.

The tapping of natural resources must be done with requisite attention and care so that ecology and environment may not be injured. A long-term planning must be undertaken by the Central Government in consultation with the State Governments to protect and improve the environment and to keep up the national wealth. Protection of the environment and keeping ecological balance unaffected is a task which not only the government but also every individual, association and corporate units must undertake. It is a social obligation and fundamental duty enshrined in Article 51 A (g) of the Constitution of India. Though environmental issues are global in nature, each country is in control of its own environment with jurisdiction over its territory and, hence, should be controlling, monitoring, and enacting regulations in safeguarding its environment. Because of growing global environmental stress there is a sustained pressure on national policy makers to change or modify their policy positions. Looking at the gravity of environmental problem, the World Commission on Environment and Development (WCED) observed: “The traditional form of national sovereignty are increasingly challenged by the realities of ecological and economic interdependence. Nowhere is this truer than in the shared ecosystem and in the global commons –those parts of the planet that fall outside national jurisdiction.”¹⁰ This is true for India too. The Copenhagen Accord makes it clear that it is up to individual countries to devise and enforce the regulations necessary to achieve their national commitments to combat global warming by reducing greenhouse gas emissions. Because of the country specific role of controlling and monitoring the environment, it is difficult to enforce environmental standards on countries from a global perspective. Regulation is not the only mechanism which reduces the environment degradation but education and economic condition also have an impact on environment.

9. http://www.sipcotcuddalore.com/scmc_visit_tamilnadu_092004.html assessed on 20 March 2016.

¹⁰ World Commission on Environment and Development, *Our Common Future*, Oxford: Oxford University Press, 1987, p.261.