

## REFLECTION OF PUBLIC POLICY ON ENVIRONMENT

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### **Abstract**

In the recent past public policies of the governments emphasized improving its performances in the sphere of service delivery to achieve national development. But with the change in Technology, socialization and impact of globalization the field of public policy making has assumed greater importance, especially in the field of conservation and protection of environment. This article attempts to analyze the relation between impact of public policy and environment, the concept of common property resources and various legislations brought about by the government of India to maintain sustainability of natural resources. Further it examines the aspects of planning and environment and also the concept of evaluation of environmental policy.

**Key words:** Common property resources, Environmental policy, Globalization, Public Policy, Sustainability,

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## Public policy

Public policy can be seen as an effort from the side of government to address a public issue by formulating laws, regulations or rules pertaining to the problem at hand. It is said that Public Policy is whatever governments choose to do or not to do.<sup>1</sup> Policy process should have mechanisms which can extract right information about the subject matter concerned so that meaningful decisions can be arrived at. Good policy-making process is one that is committed to produce a high quality decision which is characterized by a high degree of legitimacy, power and accuracy.<sup>2</sup> Further policy made for one sector invariably has significant impact on other sectors, e.g. Environment policy in the form of strict pollution control norms may affect industry adversely resulting in the problem of increased cost of production. The process to formulate a new public policy may involve three stages: Agenda setting, Option formulation, and Implementation. Some of the criteria for good policy making are as follows<sup>3</sup>

- i) The problems and issues confronting a sector are subjected to expert analysis;
- ii) Information on overlaps and trade-offs with other sectors is systematically gathered and made available to policy-makers;
- iii) Opposing points of view within and between sectors, are properly articulated, analyzed and considered and those likely to benefited or harmed are identified and their reactions anticipated;
- iv) Decisions are made with due legal authority, after consultation of those likely to be affected, and with the involvement of knowledgeable persons in the sector(s) concerned;
- v) Those responsible for implementation are systematically involved in the process, but are not allowed to take control of it;
- vi) Policy-makers and /or their advisers have the honesty, independence, intellectual breadth and depth to properly consider and integrate multiple perspectives and help arrive at an optimal policy Choices with a reasonable time.

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1 Thomas R Dye Understanding Public policy. 1978. Engle wood Cliffs :Printice Hall, 3rd edition, p.4.

<sup>2</sup> Moore, Mark H., Creating Public Value – Strategic Management in Government, 1998. Harvard University Press, Cambridge.

<sup>3</sup> O.P. Agarwal And T.V. Somanathan . 2005 Public Policy Making In India: Issues and Remedies. Centre for Policy research 28p

## Policy Types

Political scientists and policy analysts have found it useful to distinguish public policy into various types of policies, such as regulatory, distributive, and redistributive policies. Each is associated with different patterns of policymaking.<sup>4</sup> Most environmental policies fall into one category or the other as mentioned above. Regulatory policies are concerned about achieving social goals which are brought about by expanding and reducing choices which are made available to individual citizens, corporations and other entities. This may be brought about by actions involving sanctions and incentives. Most environmental protection policies such as the Air Act 1981, Water Act 1974 etc are all regulatory in nature. One of the problems arising out of the politics of regulatory policies is that it creates rift between environmentalists and the market forces (industry). On the one side public health groups and environmentalists are concerned about reduction of pollution and thereby welfare of the general population. On the other side industrial forces look at reducing the burden of cost arising out of governmental regulations and thereby to increase their profit. It is the issues relating to environment that determine the nature of regulation which may be either rigid or flexible or. If the Environmental issue involved has larger public support based on public opinion, then the regulation imposed by the government should be strict .otherwise industry stands to gain<sup>5</sup>.

Conservation policy becomes distributive when efforts are made to protect environment with emphasis on natural resources. As such government has allocated public resources for clientele groups to achieve social goals by providing access to public lands for mining, grazing, forestry or recreation, protecting biological diversity and fostering the development of energy resources such as oil, coal, or nuclear power<sup>6</sup>. In this regard it should be noted that the United

<sup>4</sup> Anderson, James E. 2006. *Public Policymaking: An Introduction*, 6th ed Boston: Houghton Mifflin. Lowi, Theodore J. 1979. *The End of Liberalism*, 2nd ed. New York: W. W. Norton.

<sup>5</sup> Kraft, Michael E., and Sheldon Kamieniecki, eds. 2007. *Business and Environmental Policy: Corporate Interests in the American Political System*. Cambridge, MA: MIT Press.

Wilson, James Q. 1980. "The Politics of Regulation." In *The Politics of Regulation*, edited by James Q. Wilson. New York: Basic Books.

<sup>6</sup> Clarke, Jeanne Nienaber, and Daniel McCool. 1996. *Staking Out the Terrain: Power and Performance Among Natural Resource Agencies*, 2nd ed. Albany: State University of New York Press

Duffy, Robert J. 1997. *Nuclear Politics in America: A History and Theory of Government Regulation*. Lawrence: University Press of Kansas

McConnell, Grant. 1966. *Private Power and American Democracy*. New York: Knopf.

States Congress has often been criticized for following distributive policies in the politically important constituencies. Such policies often are criticized for fostering inequitable and inefficient uses of public resources and often environmentally destructive practices.<sup>7</sup>

### Role of legislature

The Indian parliament or the Congress in the United States is the supreme policy making authorities. They derive such powers directly from their respective constitutions making them legitimate policy making agencies. It is observed that the congress is at the heart of public policy making.<sup>8</sup> The British parliament is a classic example for parliamentary supremacy that neither devolution nor delegation of legislative authority infringes its supremacy of (the British) parliament.<sup>9</sup> Though theoretically the legislature is empowered to make laws and policies, in reality it is the executive which exercises the policy making function on behalf of the legislature with the help of a strong and robust bureaucratic machinery. The role of judiciary also assumes importance in this regard as the policy making process may become a subject matter of judicial interpretation of judges over policy making.<sup>10</sup> Besides this the role of civil society in terms of building consensus about policy issues, providing inputs for agenda setting and their implementation mechanism are important. The legislature has to make a balance between long term policies which shape the nation at the same time accommodate the aspirations and wishes of various sections which might have diverse interests. When it comes to managing the environment the government is guided by the principle of growth related strategies which helps the country to progress at a high speed while keeping sustainability and balanced growth in mind

<sup>7</sup> Lowry William .R 2006. "A Return to Traditional Priorities in Natural Resource Policies." In Environmental Policy, 6th ed., edited by Norman J. Vig and Michael E. Kraft. Washington, DC: CQ Press  
Lubell, Mark, and Brian Segee. 2010. "Conflict and Cooperation in Natural Resource Management." In Environmental Policy, 7th ed., edited by Norman J. Vig and Michael E. Kraft. Washington, DC: CQ Press.  
Myers, Norman, and Jennifer Kent. 2001. Perverse Subsidies: How Misused Tax Dollars Harm the Environment and the Economy. Washington, DC: Island Press.

<sup>8</sup> Randall B Ripley, Congress: Process and policy New York: Norton 3<sup>rd</sup> edition 1983, p 3.

<sup>9</sup> E.C.S.Wade and Phillips, Constitutional Law (London:longman,1960,p 49.

<sup>10</sup> Justice Bhagwati observed "The law must now taken to be well settled that even in an administrative proceedings, which involves civil consequences, the doctrine of natural justice must be held to be applicable". See Maneka Gandhi v Union of India, 1978; S.C. 597.

for the future. Accordingly the approach of the government towards common property resources should focus on sustainable development.

### Common Property Resources

Common property is something which is used jointly by individuals or group of people in the form of community. Common property resources are those resources, which are accessible to the whole community in which no individual has exclusive property rights<sup>11</sup>. In the Indian context the resources that come under Common property resources are Community Forest, village pastures, grazing land, canals, tanks, wells, waste lands, rivers, river beds etc<sup>12</sup>. Common property resources are considered as important resources especially in rural areas due to their contribution to rural livelihood<sup>13</sup>. Common property resources help livelihood in rural population comprising of marginal farmers, landless agricultural laborers and poor manual laborers by supplying products like food, fodder, timber, fire wood, medicinal plants, manure etc. Further they play an important role in providing raw material for the agro based cottage and small scale industries.

Common property resources are those natural resources which are scarce in nature, which are either renewable or non-renewable. The access to those resources may be restricted by the state through its rules and regulations as they are important to the community. The real problem of managing common property resources arises mainly when there is increased stress on its usage, which is mainly caused by increase in the population of community members who have access to the usage of such resources. Here a distinction has to be made between common property resources and open access resources that the later confers unlimited and unrestricted entry and usage to its users but the former does not.<sup>14</sup> The Common property resources in the developing countries are facing problems in the form of degradation and destruction due to

<sup>11</sup> Jodha, N S (1986) Common Property Resources and Rural Poor in Dry regions of India, Economic and political weekly, 27(21):247-264.

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Buck, S. J. (1989). Multi-jurisdiction resources: Testing a typology for program structuring. In Berkes, F. (ed.), Common Property Resources: Ecology and Community-Based Sustainable Development. Belhaven Press, London, pp.127-147.

causes such as overpopulation, globalization, industrialization, and urbanization. Some of the reasons for degradation and decline of common property resources in India are as follows<sup>15</sup>

- 1) Encroachment due to population growth
- 2) Legal privatization (institutional changes in the form of land reforms policy in the early 1960s)
- 3) Poor management
- 4) Industrialization and infrastructure development
- 5) Commercialization of the Common property resources based activities

The degradation and decline of Common property resources in India had a negative impact on the livelihood of the rural population. This has led to some problems like forced migration, soil erosion, irregular monsoon etc. In order to curb the deterioration and decline of the Common property resources involving forest the government of India changed its policy from state property regime to community based forest management in the late 1980s, which culminated in the declaration of National Forest Policy in 1988. In which paramount importance has been given for maintenance of Common property resources through Joint Forest Management Committees (JFM) to protect the interest of various stakeholders, ownership rights remaining with the government. The basic objective of the National Forest Policy, 1988 are:

- Maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represent the remarkable biological diversity and genetic resources of the country.
- Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.
- Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.

<sup>15</sup> Falendra .K .Sudan, 2009. Encyclopedia of environment and development : Serial publication. .p 413

- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programs, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuel-wood, fodder, minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilization of forest produce and maximizing substitution of wood.
- Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimize pressure on existing forests.

Since National Forest Policy of 1988, realization by the government the importance of stake holders from rural areas paved the way for the concept of Joint Forest Management in India. It has yielded fruitful results in the form of reliable and better partnership between the people and the state government in terms of managing and protecting the forest resources in a harmless manner besides maintaining the bio- diversity of the nation. It shows the importance of involvement of local population in maintaining the sustainability of resources.<sup>16</sup> Further studies in Common Property Resources management have indicated the importance of informal institutions in managing of collective ownership of forest resources.<sup>17</sup>

From 1990 onwards the government of India had invested considerable faith in its Joint Forest Management projects. The phase of liberalization which exerted a great deal of pressure on the existing forest resources also was able to highlight some of the problems of Joint Forest management Projects. There was also raising concerns of rights of forest dwellers being neglected by forest officials who used excessive force and acted arbitrarily.<sup>18</sup> In order to mitigate these problems the government of India came up with THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006. Before it

<sup>16</sup> Agarwal, a 2001, Common property Institutions and Sustainable governance of Resources, World Development, 10(29):1649-1674

<sup>17</sup> Wade R (1987), The management of common Property resources :Collective Action as a alternative to privatization or state regulation, Cambridge Journal of Economics, (11):95-106  
Ostrom, E (1990) Governing of Commons: The evolution of institutions for collective action, Cambridge University Cambridge

<sup>18</sup> Gopalakrishnan, Shankar (June-July,2005). "Missing the Woods for the Trees". *Combat Law* 4 (4)

became an Act the bill was opposed by some of the environmentalist on the contention that for the better management of forest and wild life biodiversity the forest dwellers must be kept away from forests which was contrary to Rio Declaration and Recommendations of the United Nations Forum on Forest .Besides the bill was opposed on the ground that it would cause reduction in the forest cover of the nation drastically.

### **Salient features of the Act**

- Forest Rights Act for the first time recognizes and secured Community Rights or rights over common property resources of the communities in addition to their individual rights
- Rights in and over disputed land
- Rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests into revenue villages
- Right to protect, regenerate or conserve or manage any community forest resource which the communities have been traditionally protecting and conserving for sustainable use.
- Right to intellectual property and traditional knowledge related to biodiversity and cultural diversity
- Rights of displaced communities.
- Rights over developmental activities.<sup>19</sup>

Though the Act has been criticized on the ground that it is a ploy to distribute land which would lead to destruction of forest if it is successful in giving forest dwellers title rights, use rights and forest management rights.

### **Environmental policy and Economic Planning**

As far as integration of environmental policy and that of economic planning in India was concerned nothing substantial was done until 1968<sup>20</sup>. As India was looking for rapid economic development especially after independence it concentrated its efforts on building industries in the initial stages of planning. But 1970s saw an increased awareness within the government

<sup>19</sup> [www.fra.org.in](http://www.fra.org.in)

<sup>20</sup> Kaur, Dilbar (1992) Environmental protection in India : constitutional Conspectus, In Paras Diwan and peeyushi Diwan(eds) Environment administration, Law and Judicial Attitudes , New Delhi; deep and Deep Publications.



machinery towards environmental protection. The Fourth Five Year Plan 1964-1969 emphasized the importance of environmental issues which could be discerned with these words:

“It was an obligation for each generation to maintain the productive capacity of land, air, water and wild life in a manner which leaves its successors some choice in the creation of a healthy environment. The physical environment is a dynamic, complex and inter-connected system in which any action in one part affects the others. There is also interdependence of human beings and nature, and harmonious development recognizes this unity of nature and man. Such planning is possible only on the basis of a comprehensive appraisal of environmental issues, particularly, economic and ecological. There are instances in which timely, specialized advance on environmental aspects could have helped in project design and in averting subsequent adverse affects on the environment, leading to loss of invested resources. It is necessary, therefore, to introduce the environmental aspect into our planning and development. Along with effective conservation and rational use of natural resources, protection and improvement of human environment is vital for national well-being”.

Subsequent five year plans in India have ventured to sustainable forest in India. The Tenth Five Year plan had four major plan schemes under the forestry sector viz. Integrated Forest Protection Scheme (IFPS), Strengthening of Forestry Divisions, and National Aforestation and Eco-Development Board (NAEB), National Aforestation Programme (NAP) and Eco-Task Forces. The Eleventh Five year plan in addition to aforestation contained schemes for Bio-diversity conservation, capacity building in forest sector and Gram van yojana. The government of India adopted National Environment Policy in 2006 with an avowed object of being sustainable development. According to the National Environment Policy sustainability can be achieved through envisaging social justice along with due considerations to ecological constraints in its pursuit. The government of India has passed the National Green Tribunal Act, 2010 which contemplates National Green Tribunals to be constituted under it to facilitate speedy disposal of issues relating to protection of natural resources of the country and environment protection. The Working Group on Forests and Sustainable Management of Natural Resources

under Twelfth Five Year Plan (2012-2017) Government of India Planning Commission has recommended the following thrust areas and strategies for the 12th plan<sup>21</sup>

1. Quantitative and qualitative improvement in Forest Cover and Carbon sequestration:
2. Protection of Forests, River Basins and Bio-diversity for Ecological Security of the nation and Ecosystem Services to the people
3. Shelter/Green-belt Development for Disaster Risk Management and Climate Change Adaptation
4. Greening of under-utilized and Problematic land to combat desertification
5. Participatory Management
6. Agro/ Farm-forestry to bridge the gap between domestic demand and supply
7. Rehabilitation of Grazing and pasture land including formulation of National Grazing Policy
8. Sustainable Non-Timber Forest Product (NTFP) Management and strengthening Livelihood of forest depended communities.
9. Urban and Recreational Forestry in urban and semi-urban areas
10. Productivity of Lands and Management of Invasive Species
11. Habitat Improvement and management of man-animal conflicts in Forests
12. Training and Capacity Building of Multiple Stakeholders
13. Strengthening Science and Technology for Forestry and Climate Change Research, Extension and Networking
14. Strengthening National Information Repository and collaborative Institutional Net-Work for Forestry and Biodiversity
15. Cross-sectoral synergy and convergence of integrated execution of schemes
16. International Cooperation and Commitment for Sustainable Natural Resource Management to achieve Millennium Development Goal.
17. Development of Integrated Investment Framework and innovative augmentation of finances to the Sector.
18. Streamline and leverage implementation of FRA, PESA and Biodiversity Acts through Amendments of Forestry Working Plan Code

<sup>21</sup> The Working Group on Forests and Sustainable Management of Natural Resources Twelfth Five Year Plan (2012-2017) Government of India Planning Commission, page 4.

19. Revamp and strengthen the institutional mechanism for effective delivery
20. Scientific and transparent GPS based evaluation and monitoring in GIS format and social auditing.

### International Scenario

At the international level through various conventions and summits blue prints for environment protection and management of common property resources have been drawn. The EU Biodiversity Strategy has a significant forestry component. The Biodiversity Action Plan for the Conservation of Natural Resources aims at establishing protected areas in Forests and to develop indicators and assessment methods for forest biodiversity<sup>22</sup>. The International Union for conservation of nature (IUCN) World Conservation Congress is, the world's largest and most important conservation event aims to improve how we manage our natural environment for human, social and economic development. Besides it believes that Effective conservation action cannot be achieved by conservationists alone<sup>23</sup>. *WWF believes* that forests outside formally protected areas are necessary for the maintenance of biodiversity and ecosystems services, both on individual sites and within the wider landscape. Well-managed commercial or community forests can for example provide vital buffers for and links between protected areas. In many countries demand for land is so great that total protection can be applied only to a small fraction of forests. In the maintenance of biodiversity will require well-managed multi-purpose forests<sup>24</sup>. The concept of community forest management as an alternative for state machinery to preserve natural resources has gained significance internationally its application in underdeveloped countries can bring better results as it deals with livelihood issues of the poor. Community forestry management occurs within a dramatic tenure shift in forest ownership, particularly in the developing countries. A large block of forests is being devolved by local communities worldwide, both to recognize ownership rights of indigenous peoples and traditional communities and to devolve management responsibilities as part of an extensive

<sup>22</sup> Convention on Biodiversity: Implementation in the European Union. Page 17.

<sup>23</sup> [www.iucnworldconservationcongress.org/](http://www.iucnworldconservationcongress.org/)

<sup>24</sup> [www.awsassets.panda.org/downloads/po3aforestmanagementoutsidepas\\_m149.pdf](http://www.awsassets.panda.org/downloads/po3aforestmanagementoutsidepas_m149.pdf)

process of decentralization<sup>25</sup>. This kind of model can be looked at by governments around the world when it comes to preservation of forest as it rests the initiative with the local people

### Evaluation of Environmental policy

The question is all about how to determine the success or failure environmental policies theoretically, policy evaluation is straight forward inherently will have goals and objectives. A proper measure of those goals and objective will be developed and data will be collected, codified and analyzed. Relying on the data so collected those policies which are favorable will be retained and rest will be discarded. But in reality evaluation of environment policy is much more complicated. It can involve a political process. There will be different groups out of which some may gain and some may lose as a result of such policy. Each group may take effort to look into those aspects which may adversely affect them. This exercise may attain political dimension also. But these problems will not undermine the real concern for environmental policy and program evaluation<sup>26</sup>. Policy evaluation generally looks into the worth of public policies. It involves the assessment of cost and benefits. This can be in the form of benefits with signs of progress e.g. reduction in hazardous waste, safe drinking water, increase in forest cover, reduction in air pollution etc. some experts may disagree with the appropriateness of some environmental indicators the necessary data may not be available or available data may be insufficient. There may be questions as to how to interpret the data<sup>27</sup>. But indicators of evaluation would provide some parameters so that path towards progress is cleared of the bottlenecks in the pursuit of sustainable Development.

<sup>25</sup> Augusta Molnar, Sara J. Scherr, and Arvind Khare. 2004 . WHO CONSERVES THE WORLD'S FORESTS? COMMUNITY-DRIVEN STRATEGIES TO PROTECT FORESTS AND RESPECT RIGHTS, , ii.

<sup>26</sup> Knaap, Gerrit J., and Tschangho John Kim, eds. 1998. Environmental Program Evaluation: A Primer. Champaign: University of Illinois Press.

<sup>27</sup> Ringquist 1995. "Evaluating Environmental Policy Outcomes." In Environmental Politics and Policy, 2nd ed., edited by James P. Lester. Durham, NC: Duke University Press.

## Conclusion

The government of India in view of its international obligation and its domestic requirements to protect its natural resources has come up with various legislations, focusing on its implementation through state machinery. The government of India assumes the role of the trustee in terms of protecting common property resources which can be seen through its various policy decisions. It has a tentative approach when it comes to involving the local people and the community concerned at various stages of Common Property Resource Management. It is submitted that the major thrust seems to be in terms of involving local people in the initial stages of policy formulation where consensus building is a requirement. It is laudable that the government is taking some positive steps for example Scheme for Sustainable Livelihoods through Non-timber Forest Products (NTFP) Management which would certainly benefit tribal's and forest dwellers who depend entirely on forest produce for their employment and livelihood. But involvements of women, who are the major gatherers of forest produce, are to be prioritized in forest management and regeneration operations. It is further submitted that protected areas are the best way to conserve environment are based on the proposition that the only way to maintain forest cover is the establishment of defined areas that are owned and regulated by central government for the purpose of preservation; and resource users are unable to create and enforce appropriate resource management rules the substantial investment in top-down enforcement is essential to achieve adequate environmental protection<sup>28</sup>. However different studies have shown that the above mentioned points are myths as there is no concrete data to support them. From the point of view of government policies towards preservation of Common Property Resources it is advisable that the local people must be involved at all levels and provided with support for their livelihood in terms of financial help and mechanism to improve their skill levels.

<sup>28</sup> Indian Law Review, 2005. CONSERVING THE WORLD'S FORESTS: ARE PROTECTED AREAS THE ONLY WAY? Tanya Hayes and Elinor Ostrom, Vol1. 38:595