

The Politics of Environmental Protection : An Analysis of the Indian Constitutional Provisions

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ABSTRACT

The paper discusses about the impact of environmental pollution on the lives of the people. It also analyses different provisions of the constitutions relating to the protection of environment in India. It tries to review National efforts undertaken by National Government and State Governments in the direction of protection of environment in the country. It highlights the gaps between theory and practice of the efforts of environmental protection in India. It suggests some measures for effective environmental protection.

Keywords : Environmental protection, Constitutional provisions, Stockholm Declaration of 1972, People's movements.

I. INTRODUCTION

Environment and Indian Constitution

International concern for protection of environment gained momentum with Stockholm Declaration of 1972. The Stockholm Declaration of 1972 is considered to be the Magna Carta of Environmental protection. The Constitution of India has also incorporated different provisions for the protection of environment. The Forty second Constitutional Amendment Act of 1976 made provisions for the protection and promotion of environment in India. It introduced in the Part-IV of the Indian Constitution i.e. Directive Principles of State Policy and Fundamental Duties. Art 5 (A) provides that it is the duty of the State to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. To ensure a healthy environment in the count, the Department of Environment was established in the

country which later became the Ministry of Environment and Forest in 1985. Even, the Environmental protection Act was passed in 1986. All this highlights the need for Environmental Protection in India. Respect for nature is a Part of Indian Psychology. Environment has become the concerns of all the academicians, intellectuals, scientists, policy makers and Government across the continents. Human development unfortunately is closely linked to Environment because the existence of men depends upon nature.

Environment and Peoples

The survival of mankind along with flora and fauna depends upon Environment. Protection of Environment should be a priority of global concern. But, now a day Environmental pollution and Environmental degradation possesses a challenge to the present and future generation. Consequently, there has been a thrust on the protection of environment all over the world.

Environment can be defined as the sum total of materials and forces surrounding the living organism. The word, environment, is derived from an ancient French word 'environ' which means to encircle or surrounds and 'ment' means the auctioning. Environment comprises the surroundings in which men lives, works and plays. It comprises the air we breathe, the water we drinks, the food we consumes and the shelter we live on.

People are both a creature and moulder of environment. Environment gives physical sustenance and the opportunity for intellectuals, moral, social and spiritual growth. Similarly, men have acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects are essential to his well being and to the enjoyment of basic human rights even the right to life itself.

Gaps between the Theory and Practice of Environmental Protection in India

The last quarter of the 20th century witnessed a perception that protection of environment could be promoted through human rights framework. Different approaches started relating to how to approach human rights and the environment. Three approaches in this connection are worth mentioning. The first approach is one where environmental protection is described as possible means of fulfilling human rights standards. The second approach states that "the Legal protection of human rights is an effective means to achieving the ends of conservation and environmental protection. The third approaches deny any formal connection between the human rights and environment at all. It seems, Environmental pollution is the result of the third approach. There is a vast gap between theory and practice of Environmental Pollution. In practice, we have Environmental Pollution in the place of Environmental protection.

Types of Environmental Pollution

Environmental pollution can be divided broadly into two types:

- (1) Natural
- (2) Man-made

Man-made pollution can be divided into the following types:

- Air pollution
- Water pollution
- Soil pollution
- Noise pollution
- Marine pollution
- Thermal pollution

Recently, many environmental problems have taken place due to human activities and unplanned management of development. Various human activities have induced many undesirable effects to the environment which threatens human health, economics and natural resources and harmful impact on economic system like pollution, Green house effects, global warming, soil erosions etc. All this has resulted in movements for the protection of Environment in India.

Environmental Protection Movements in India

- Chipko Movement
- Silent Valley Movement
- Narmada Bachao Andolan
- Apiko Movement
- Kalpa Vriksha
- World Wide for Nature (India)

Environmental Protection MovementS in Odisha

Different Environment groups and NGO's have been very active in Odisha for protection of environment. Some of them are:

- **Odisha Krushak Mahasangha** and others agitated in 1991-92 against introduction of intensive

shrimp farming in the water of Chilika and discontinuation of the proposal.

- **Gandhamardan Yuba Parishad** led a movement in Bargarh district of Western Odisha to make Govt. of Odisha agree to close down Bauxite Project in the famous Gandhamardan hill.
- The **Odisha Environmental Society** launched the movement to declare Similipal forest as biosphere reserve and it was declared 15th biosphere reserve of India.
- **Southern Odisha Sphere** headed a movement to conserve Mahendra Giri in Eastern Ghats.
- **Odisha Environmental Consciousness Society** is actively engaged in sphere heading and popularizing environmental education in Odisha which started functioning from Jyoti Vihar which is its present headquarter.

II. Environmental Protection Policies in India and the Constitution

(1) Definition of Policy

A policy is a broad guideline for planners and administrators. It lays down the general objectives. It is through a policy that we can identify the problem, fix priority to form alternative approaches, and solutions, make a choice among alternatives, provide organization, personnel and resources to ensure effective implementation and lay down a mechanism for continuous monitoring of the policy.

(2) Policy and Laws in Ancient India

In ancient India, protection of environment was the essence of Vedic culture. In Hindu theology, forests, trees and wildlife protection held a place of special reverence. Cutting green trees was prohibited and punishment was prescribed for such acts. Manu advised not to contaminate water by urine, stool or un-pious objects. *Arthashastra* provided various punishments for cutting trees.

(3) Policy and Laws in Medieval India

The Moghul did not give much importance to the conservation of Environment in India. However, Akbar took some steps to prevent unnecessary killing of birds and beasts.

(4) Policy and Laws before Independence

The British regime saw the beginning of organized forest management. Forestry, wildlife and water pollution attracted their attention. They enacted the Forest Act of 1865 and the Forest Act of 1927. In short, the British Policy was not directed at the conservation of nature but at the appropriation and exploitation of natural resources with the primary objective of earning revenue. No Laws for effective protection of environment was made.

(5) Policy and Laws after Independence

India got independence on 15th August 1947 and the Constitution of India became operative on January 26, 1950. The post independence era, until 1970, did not see much legislative activity in the field of environmental protection. The Factories Act of 1948 and the River Boards Act of 1956 were made to prevent water pollution. The Prevention of Cruelty to Animals Act was framed in 1960. Some States took initiative in the field of environmental protection. As for example

- Orissa River Pollution Prevention Act, 1953.
- Maharashtra Prevention of Water Pollution Act, 1969

Thus, there were scattered provisions for checking pollution of air, water, etc. But, after the Stockholm declaration of 1972, numerous provisions for the protection of environment were made in the Indian Constitution.

- Preamble and Environmental Protection
- Fundamental Rights and Environmental Protection.
- Directive Principles of State Policy and Environment Protection.

Even, the principle of federalism gives the power to make laws for Environmental protection in the three Lists i.e. the Union List, State List and Concurrent List. A new Environment Protection Bill was passed on 8th May 1986. The EPA, in essence, is an enabling relative seeking to provide for the protection and empowerment of environment. It gives power to the Central Government to take all such measures for the purpose of protecting and improving the quality of the environment.

However, the NEP (National Environment Policy) was drafted in 2004 and came into operation in 2006. The NEP is a more general and comprehensive policy covering a more general policy for environmental problems in India.

III. CONCLUSION

The environmental consciousness in India has witnessed a significant progress over the recent years. Environmentalism has become more popular. There are many rules, regulations, enactments to environmental protection in India. But, Environmental protection has been dominated by socio-economic constraints and the priority of development. India is the first country which has provided for the protection and improvement for the environment in its constitution. It has also taken several steps in planning and policies to overcome the environmental problem.

IV. SUGGESTION

The following are some of the suggestions for the protection of environment in India:

- The Judiciary must play a more active and constructive role to protect the environment.
- Effective implementation of Environmental Laws should be ensured, by new methods like environment impact assessment, environmental audit etc.

- Government should undertake initiatives for raising public awareness relating to environmental protection.
- Promoting Programmes to sensitize decision maker, including public officials, legislatures and members of the Judiciary about the need for environmental protection.
- Public Interest Litigation for protection of natural environment should be permitted in view of the wider social interest affected by environmental pollution.

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