LEGAL FRAME WORK TO CONTROL THE DISASTERS OF CLIMATE CHANGE IN INDIA

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Abstract

Climate Change is one of the major challenges faced by mankind. The increase in the global average air and ocean temperature, widespread melting of snow and ice and the rising global average sea level is evident. It poses a variety of challenges with wide-ranging effects. It is projected to have significant impacts on conditions affecting agriculture, including temperature, precipitation and glacial run-off. Agriculture is the mainstay of the Indian economy and provides food and livelihood security to a substantial section of our population. Agriculture will be adversely affected not only by an increase or decrease in the overall amounts of rainfall but also by shifts in the timing of the rainfall. Increased frequencies of drought, floods, storms and cyclones are likely to increase the variability of agricultural production. This paper examines the disaster brought to mankind by climate change and the legal framework to control the same. India has a very comprehensive framework of legal and institutional mechanisms in the region to respond to the tremendous challenges to the environment it is facing, owing to population growth, poverty and illiteracy augmented by urbanization and industrial development. India is one of the leading developing countries in so far as having incorporated into its Constitution the specific provisions for environmental protection. Article 48A of the Constitution of India provides that 'the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country'. Similarly, Article 51A (g) makes it obligatory for every citizen of India, 'to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.' Despite the fact that India's contributions to greenhouse gas emissions are very small; the Government of India has taken many measures to improve the situation in this regard. India has initiated several climate-friendly measures, particularly in the area of renewable energy. India had adopted the National Environment Policy 2006, and has also taken many other measures and policy initiatives.

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INTRODUCTION

A healthy ecology is the basis for a healthy economy[1].Climate change is one of the most critical global challenges of our times. Recent events have emphatically demonstrated our growing vulnerability to climate change. Climate change impacts will range from affecting agriculture, further endangering food security to sea-level rise and the accelerated erosion of coastal zones, increasing intensity of natural disasters, species extinction, and the spread of vector-borne diseases.[2] Rise in temperatures caused by increasing greenhouse gases is likely to affect crops differently from region to region. Erosion, submergence of shorelines, and salinity of the water-table due to the increased sea levels are the factors that mainly affect agriculture through inundation of low-lying areas. Increased frequencies of drought, floods, storms and cyclones are likely to increase the variability of agricultural production

As a large, emerging economy, India faces big challenges relating to energy and climate change. On the one side, the country has hundreds of millions of people without access to electricity and an economy demanding more energy to power growth. These pressures mean that energy use, and emissions, are likely to grow substantially over the next few decades.

Despite having no obligation, as a developing country, to tackle emissions, India is coordinating comprehensive policies across the economy covering both mitigation of greenhouse gas emissions and adaptation. India's approach has so far been one of policy rather than comprehensive climate change legislation.

For example, the National Action Plan on Climate Change from 2008 outlines eight national 'missions' that run up to 2017.[3]

INDIA AND CLIMATE CHANGE: THREATS AND VULNERABILITIES

With an economy closely tied to its natural-resource-base and climate-sensitive sectors such as agriculture, water, and forestry, India faces a major threat because of the projected changes in climate. Crucial sectors in India like agriculture, water resources, health, sanitation, and rural development are likely to be affected by climate change. India's large population primarily depends on climate-sensitive sectors like agriculture and forestry for livelihood. The majority of the vulnerable population of India is poorly equipped to cope effectively with the adversities of climate change due to low capabilities, weak institutional mechanisms, and lack of access to adequate resources.[4]

The latest report from the U.N. Intergovernmental Panel on Climate Change (IPCC) places an emphasis on the impacts of global warming and attempts to make a stronger case for

[1] Claudine Schneider**,** U.S. Representative, *The Green Lifestyle Handbook*, 1990
[2] Available at: <http://www.unep.org/themes/climatechange/about/index.asp>
[3] Available at: <http://www.climatechangenews.com/2013/02/19/in-focus-indias-climate-change-laws/>
[4] Available at: <http://www.pedz.uni-mannheim.de/daten/edz-ma/ep/08/EST19208.pdf >

governments to adopt policy on adaptation and cut greenhouse gas emissions.

"This is the most extensive piece of science done on climate adaptation up until now," Aromar Revi, one of the lead authors of the report, told a news conference. "The key issue as far as India is concerned is vulnerability and exposure."[5]

The report says that a warming trend is 'unequivocal' and that temperatures were likely to rise by between 0.3 and 4.8 degrees Celsius (0.5 to 8.6 Fahrenheit) by the late 21st century. The low end of the range would only be achieved if governments sharply cut carbon emissions.[6]

Freak weather patterns will not only affect agricultural output and food security, but will also lead to water shortages and trigger outbreaks of water and mosquito-borne diseases such as diarrhea and malaria in many developing nations.[7]

The IPCC lead authors said India, like many other developing nations, is likely to suffer losses across all major sectors of the economy including energy, water, transport, agriculture, insurance and tourism. India ranked the most vulnerable out of 51 countries in terms of beach tourism, while Cyprus is the least vulnerable in one study which was examined by the IPCC scientist's.[8]

THE LEGAL RESPONSE: CLIMATE CHANGE TREATIES AND INDIA'S NATIONAL ACTION PLAN

India and International climate change law

India's national policy on climate has essentially drawn its reference from its international position in climate negotiation and therefore, it would be worthwhile to have a look at India's stance at global climate negotiations.

India has been one of the important countries to have acknowledged importance of having development strategies integrated with objectives of environmental and social protection. Mrs. Indira Gandhi was one the only Head of the State to have participated in the famous Stockholm Conference (1972), which for the first time brought environment on the global political agenda. Subsequently, Rio Conference on Earth and Development (UNCED, 1992) reiterated this global intention by listing impressive outcomes in the UN Convention on Biological Diversity (UNCBD), UN Convention against Desertification (UNCCD), and UN

[5] Available at: <http://news.trust.org/item/20140331143243-tmzfq/?source=spotlight>
[6] Available at: <http://www.hindu.com/2016/12/11/stories/2010121156641500.html>
[7] Mehra M. India's Role in Confronting Climate Change: From Vulnerability to Opportunity. In: Michel D, Pandya A, Editors. Indian Climate Policy: Choices and Challenges. Washington: Henry L. Stimson Centre; 2009. p. 61
[8] IPCC WG I contribution to the Fourth Assessment Report, 2007

Framework Convention on Climate Change (UNFCCC), and Agenda 219. India played a significant role in shaping global environmental policies.

Prime Minister of India declared in 2008 that India's per capita emission will never surpass those of the developed countries. However, gradually India could understand that the position has led to its isolation in the international community, and a shift was necessitated to maintain its leadership role globally and among developing countries. Preceding the Copenhagen COP Meeting (2009), India declared in the Major Economies Forum Meeting at La, Aquila that India will reduce its emission intensity (emission per unit of the GDP). In Copenhagen COP, following China's declaration, India declared that it would reduce its emission intensity by 20-25% (on a 2005 baseline) by 2020.[10] Since then India has steadfastly guarded its position and India's domestic policies have also targeted 20-25% reduction in emission intensity, and have been essentially based on India's international pledge. The nature of the current paper does not allow us to go deeper to explore whether this target is ambitious enough, however, it will suffice to say that many countries have understood that having ambitious climate policies is in their national interest, and have gone beyond their international pledges and adopted more ambitious national and sub national policies.[11]

National Laws

Nationally also India enacted a slew of legislations for protection of environment, biodiversity, water and ambient air etc. Under the constitutional scheme the legal status of Article 51(A)-(g) and 48-A is enabling in nature and not legally binding per se, however, such provisions have often been interpreted by the Indian courts as legally binding. Moreover, these provisions have been used by the courts to justify and develop a legally binding fundamental right to environment as part of right to life under Article 21.[12]

In *MC Mehta* v. *Union of India*[13]

It was held by Supreme Court of India that "In order for the human conduct to be in accordance with the prescription of law it is necessary that there should be appropriate awareness about what the law requires. This should be possible only when steps are taken in the adequate measures to make people aware of the indispensable necessity of their conduct being oriented in accordance with the requirements of law.

[9] S. Sivkumar, "Environmental Protection: International and National Perspectives", *CULR*, 2004, p. 291

[10] Subramanian, A., N. Birdsall and A. Mattoo, 2009, India and climate change: Some international dimensions. *Economic and Political Weekly* XLIV:43–50.

[11] Available at: <http://aprnet.org/wp-content/uploads/2014/08/India%E2%80%99s-National-Response-to-Climate-Change-and-Peoples-Participation.pdf >

[12] Role Of The Judiciary In Environmental Protection, Dubey Amit & Tiwari B.K; Department of Law, Barkatullah University, Bhopal (INDIA)

[13] AIR 1992 SC 362

Policy Imitative:

1) **National Action Plan on Climate Change 2008-** The Plan outlines eight "national missions" running until 2017. These include solar, energy efficiency, sustainable habitat, Green India (REDD & LULUCF), water, Himalaya ecosystems, agriculture and strategic knowledge of climate change.[14]

2) **National Electricity Plan 2012-** The Plan's 4th chapter deals with initiatives and measures for GHG mitigation, and aims to keep CO2 intensity declining while massively expanding rural access and increasing power generation to meet the demands of a rapidly growing economy.

3) **Post Copenhagen Actions 2010**- On 10 May 2010, India released its Greenhouse Gas (GHG) Emissions Inventory for 2007, with the aim of enabling informed decision-making and to ensure transparency. India has become the first "non-Annex I" (i.e. developing) country to publish such updated numbers.

   India has announced a levy, a clean energy cess, on coal, at the rate of Rs. 50 (US$1) per tonne, which will apply to both domestically produced and imported coal. This money will go into a National Clean Energy Fund that will be used for funding research, innovative projects in clean energy technologies and environmental remedial programme.15

4) **Tariff Policy 2006-** Under the Electricity Act 2003 and the National Tariff Policy 2006, the central and the state electricity regulatory commissions must purchase a certain percentage of grid-based power from renewable sources.

CONCLUSION

Overall, the analysis of India's policy culture with respect to climate change at different levels of governance illuminates a complex interplay between levels and between drivers at each level. It is our hope that this analysis provides a more nuanced understanding of why India's approach looks the way it does, since the basis of effective policy cooperation at any level needs to be mutual understanding of the many needs and norms that influence decision makers.

Climate change is the defining issue of our times. It is perhaps, the greatest challenge to sustainable development. It should be addressed by all countries with a shared perspective, free from narrow and myopic considerations. The developed countries need to look beyond their narrow self-interests and work jointly with the developing countries to evolve

[14] India: National Action Plan on Climate Change (NAPCC), Available at: <http://chimalaya.org/2012/01/21/indianational-action-plan-on-climate-change-napcc>
[15] Available at: <http://www.wwfindia.org/news_facts/infocus/index.cfm>

cooperative and collaborative strategies on the issue of climate change, which is of immense relevance for the future of mankind. However, the efforts so far in the direction of meeting the challenges of climate change have been sporadic and incoherent. We urgently need a new economic paradigm, which is global, inclusive, cooperative, environmentally sensitive and above all scientific. According to Jeffrey Sachs, a perceptive commentator, "The world's current ecological, demographic and economic trajectory is unsustainable, meaning that if we continue with "business as usual" we will hit social and ecological crises with calamitous results". Sustainable development based on addressing the needs of the poor and optimal harnessing of scarce resources of water, air, energy, land, and biodiversity will have to be sustained through more cooperative endeavours. Then alone, we could make some headway in saving our lone planet from the brink of climate disaster.