



India and Climate Changes: A Study of Legal Framework

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| KEYWORDS | ABSTRACT |
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| Law and Policy as to Climate, National Green Tribunal, NAPCC, Green house effects, Environment. | In the world, several countries are facing challenges due to climate change, out of them India's main environmental problem is Climate change along with several other problems. This problem is affecting the living style of people and the country's economy. The main cause of Climate variation is the accumulation of GHGs in the environment. Recent occurrences have unequivocally shown how vulnerable we are to climate variation. The consequence of climate change/variation will affect everything from cultivation to human health. After many years of the launch of NAPCC finally Indian Government on June 30, 2008, decided to bring into action the climate change plan to reduce/mitigate and adapt to change in climate. Further, there were many other responses to Climate variation to finance and advance clean energy activities as well as sponsoring research in the field, the Indian government established the NCEF in 2010 and the Paris Agreement in which India made three commitments. Ecosystems and social systems already under intense pressure from rapid industrialization, urbanization, and economic growth will be further strained by climate change. This paper will deal with what climate change is- how India is affected by Climate variation - How our Country is adapting to the collision of Climate change/variation- whether the Climate variation legislation is properly implemented or not- what the directions are given by NGT to the Indian government. |

Introduction

At present the most widespread challenge is Climate change, not only for human survival and for the protection of biodiversity but also for the proper functioning of laws. The truth is that it is not a new or recent happening, it is taking place for ages but its effect has become evident.¹

After China and the US, India is now the 3rd

pronounced dumper of GHGs universally. Our country is experiencing and dealing with various changes in its climate and the frequency of extreme events and there is much proof for quick climate change in India like Rise in Global Temperature, Sea Level Rise, Melting Ice Sheets, Decreased Snow Cover, Declining Arctic Sea Ice, Glacial Retreats, Warming Oceans, etc. India's population

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largely depends on cultivation and other climate-sensitive industries and recently some cities have been affected by Climate Variation in India like Delhi, Hyderabad, and Chennai. Also, Chennai faces a water crisis and relies on other substitute water sources such as private public pumps and private water tanks. One of the main ways it will affect the people of India is through its water resources.²

Indian Government has taken several initiatives to control and advance India's Climate Change like the "NAPCC" that mainly focuses on many missions. The various Indian legislations that dealt with climate change are: The Environmental Protection Act of 1986, The Energy Conservation Act of 2001, The National Green Tribunal Act of 2010, The Water Prevention and Control of Pollution Act of 1977, The Wildlife Protection Act of 2002, The Biological Diversity Act of 2002, etc.³

In India legal proceeding on climate change/variation is at beginning stage. The National Green Tribunal has received a lawsuit that specifically requests the court's involvement in tackling climate change. Although environmental organizations and activists have frequently asked the courts to address environmental issues ranging from pollution to deforestation, they had not specifically requested intervention in climate change before this case, even though it may have been implied in the judgment's larger context. The judiciary continues to play a crucial role in pressuring government to take action to protect the environment.⁴

Objectives

To discuss the objectives and explain how India is affected by climate change.

To research how the country is dealing with the issue.

To examine the notion of Climate Change and how its influence on India.

To research climate-related plans and policies.

To study the initiatives Indian government is taking toward the climate change issue.

Statement of Problems

Environmental concerns are no longer raised by climate change. It has become the biggest development problem in the world. Because of its economic and adverse effects, especially on the poor people, it is also a significant governance concern. Not just what we consume now or what we anticipate gaining immediately, but also hedging India's future, is the issue. What do we desire for the long term, and how much carbon space do we need to hedge for it? We must constantly watch and research this statistic since it is dynamic and varies over time because it is an ongoing game. Even if India performed well in the NDC, we are unable to respond with more promises until we see genuine commitments at the global level.

Research Questions

What is Climate change?

How India is affected by Climate change?

What measures can India take to tackle Climate change effects?

What is India doing to fight against or to defeat Climate change?

What is the impetus of the National Green Tribunal?

What strategy or framework Indian government is adopting to achieve its goal target by the setup of 2030?

What is India's commitment to imitate Climate change or variation?

Climate Change

Climate change/variation is typically characterised as long-term changes in intercontinental and native climates. This demonstrates shifts in global or regional climate patterns overtime spanning timescales ranging from decades to millions of years, especially one that became apparent in the middle to late twentieth century and was primarily attributed to increased levels of carbon dioxide in the atmosphere acquired by the combustion of all non-renewable energy sources.⁵

Climate Change and India

In 2019, out of all most effected nations by climate change, India got placed at seventh position. Further, in 2019 as per Global Climate Risk Index 2023 India ranked 10th position that is most impacted. Alternate countries that scored lower on the ranking than India were Japan and Afghanistan, while Niger, Bolivia, and South Sudan scored higher than India but still made the list of the top ten worst-affected countries.⁶

Due to greenhouse gas (GHG) emissions, between 1901 and 2018, the average temperature in India climbed by 0.7 degrees Celsius and it is expected to rise by 4.4 degrees Celsius by 2100. Agriculture output and freshwater supplies are at risk due to earlier seasonal snowmelt, diminishing glaciers, and unpredictable monsoon patterns. Migration, wars, and the spread of diseases are impacted by rapid urbanization, rising temperature, change in

precipitation, serve rainfall events, changing coastlines, dwindling water tables, and devastated biodiversity hotspots.

India is experiencing drought to varying degrees throughout 44% of the country and the poor, marginalized, indigenous, women, and future generations are most severely impacted. It is appalling that the government is doing so little to afford protection to its population from the consequences of climate change/variations. Back in 2008, a national adaption strategy and state action plans were created. As resources are limited, the vast majority of the strategies are included in the district development and catastrophe risk reduction plans.⁷

The excesses of the industrialized world have contributed to the climate change catastrophe in India, but there is also a local factor. An inefficient agricultural strategy that promotes high yield, poor nutrition, excessive water-guzzling crop like rice and wheat in dry and semi-arid countries and exacerbates any climate change-caused monsoon fluctuations are the main causes, accounting for around 68% of all GHG emissions. About 80% of its groundwater is used for rice and wheat, while about 90% of it is used for irrigation.⁸

By storing carbon, forests and urban green spaces can reduce climate change, improve the resilience of coastal infrastructure, lessen vulnerability to extreme heat by lowering ambient temperatures and support local wildlife and biodiversity. In India, 70% of domiciliary rely on agriculture/cultivation for their income, yet they struggle with decreased yields due to frequent drought and decreasing rainfall. In addition, the

proliferation of concrete surfaces like asphalt and cement has made the of water scarcity by impeding water penetration into the soil and diminishing groundwater resources in the face of rising temperatures. The urban poor in major Indian cities who resides in asbestos-roofed huts where temperature can surpass 40 degrees Celsius are becoming more and more concerned about the threat that rising heat poses to their lives and productivity and if global warming hits 3 degree Celsius, India's GDP might drop by 10% to 90% by 2100 owing to dwindle in agricultural/cultivation output, increasing sea levels, and various causes.⁹

India should prioritize reducing emissions by putting major industries on a low-carbon growth path, supported by strong climate institutes and legislation.

Major Climate Change Plans

National Electricity Plan 2012: To answer the demands of a swiftly growing economy, the Plan's fourth chapter, which addresses dynamism and steps for GHG reduction, proposes to maintain Carbon Dioxide intensity decreasing while considerably improving rural access and boosting power generation.

Post-Copenhagen domestic actions 2010: On May 10, 2010, India had released its GHGs Emissions Inventory for 2007 in an effort to foster transparency and enable well-informed decision-making. The first (developing) country to make available such updated data is India.

A clean energy levy of Rs. 50 (US\$1) per tonne of coal, approved by India, would be assessed on both domestically and internationally produced coal.

The funds will be invested in a National Clean Energy Fund, which will be used to finance studies, novel renewable energy projects, and programs to clean up the environment.

Tariff Policy 2006: Under the Electricity Act of 2003 and the National Tariff Policy of 2006, state and state energy regulators are required to source certain quantities of electricity from the grid from renewable sources.¹⁰

Programmes Launched by India on Climate Change

India has implemented a variety of initiatives aimed at mitigating climate change/variation by lowering or eliminating GHGs emissions.

In the month of June 2008, the Indian government released its 1st national action plan to combat climate change, identifying eight core "national tasks", which would serve as the country's main economic strategic direction in India's current five-year plan, and include certain conditions. in this policy.

Since 2014, the current government and administration have taken some initiatives to increase sustainable energy generation and have begun to modify India's posture in international climate talks. In the year 2008 on June 30, the Indian government make public the National Action Plan on Climate Change (NAPCC), which sets out 8 national mandates on climate change. including solar energy, agriculture, energy efficiency, Green India, water, sustainable habitat, Himalayan ecosystems and strategic awareness of climate variation.

These are some examples:

1) National Solar Mission:

The intention of the mission is to make India a world leader in solar energy by creating the political conditions for rapid deployment of solar technology across the country. By the year 2022, 100 GW of grid-connected solar power plants are to be built as part of the aim. This is consistent to be built as part of the aim/intension, which calls for the country to cut its GDP's emissions intensity by 33-55% from 2005 levels and to generate about 49% of its total installed electrical capacity from non-fossil fuels sources by the year 2030.¹¹

2) National Mission for Enhanced Energy Efficiency:

The NMEEE aspires to develop the energy efficiency market by constituting an enabling regulatory and legislative framework and by promoting innovation and sustainable business models in energy efficiency. This mission has been in effect since 2011.

3) National Mission Water

It has been established by the Indian government as the National Water Mission. NWM's main purpose is "conservation of water, minimising, and ensuring more equitable distribution both among and within states" through integrated water resource development and management.¹²

4) National Mission on Sustainable Habitat

The NAPCC was established to create a sustainable habitat through increases in building energy adaptability, solid waste management, and mode shifts towards public transportation. Through few projects, the mission will advance energy efficiency as a crucial element of urban planning and urban redevelopment.

E.g., The Energy Conversion building code, modal

shift to public transport, etc.

5) National Mission for Sustaining the Himalayan Ecosystem:

The Himalayan Mission will be initiated to develop management methods for sustaining and preserve the Himalayan glacier. The Himalayas being the source of vital perpetual rivers, the mission would seek to discover what degree the glaciers are receding, and how the situation could be solved.

This will necessitate the collaboration of climatologists and other experts. It is necessary to share knowledge with South Asian countries as well as countries that share it.

6) National Mission for Sustainable Agriculture:

It would come up with plans to strengthen the climate variation resistance of Indian agriculture. In particular, thermally unyielding crops and alternative cropping patterns would be found and developed. These crops would be able to tolerate weather extremes, protracted dry spells, flooding, and fluctuating moisture availability.

7) National Mission for a Green India: A national initiative named Green India will be started to improve wetland functions, including carbon sinks. The continuation of Diversity of life and the conservation of ecological balance are both essential functions of forests. One of the best carbon sinks is provided by forests.

8) National Mission on Strategic Knowledge for Climate Change:

The mission was established to pinpoint the problems with and solutions to change in climate in order to involve the entire world in experimentation, technology creation, and cooperation through mechanisms like open-source platforms.

It would grantee the endow of concentrated, high-quality exploration into various facets of climate variation.¹³

In *Gaurav Kumar Bansal versus Union of India & Others*¹⁴, candidates are advocating to implement NAP on climate change/variation, and state governments to complete and implement their national action plans, not to oppose it.

The green tribunal's final judgment further complicated matters by stating that, in the future, individual cases involving violations of the NAPCC, its impact, or its repercussions may be submitted before it without explicitly addressing its authority over the NAPCC's implementation. The tribunal also ordered states that hadn't yet created their state action plans in compliance with the NAPCC to do so immediately after drafting them and submitting them for approval to the Ministry of Environment, Climate Change and Forest.

National Green Tribunal (NGT)

The central government established the NGT through the National Green Courts Act on 18 October in the year of 2010. Section 19 of the National Green Courts Act 2010 empowers the courts to administer their own proceedings. Further, the courts are unfettered by procedures under the Civil Procedure Act 1908 or the Indian Evidence Act 1872 and are shepherd by the principles of natural justice.¹⁵

What are powers of NGT?

The NGT has jurisdiction to hear all civil matters relating to the environment.

The NGT is competent to rule on all cases involving major issues of the environment and its protection.¹⁶

Under Section 15 of the NGT Act 2010, people who have suffered from pollution and other environmental damages as a result of the laws stated in Annex 1 are entitled to remedies and compensation orders for the repair of damaged property and for the restoration of such an environment in any location. As a result, the NGT has a very broad range of possible influence.¹⁷

In accordance with the precautionary, polluter-pays, and sustainable development principles, the GT must issue orders, judgements, and awards. In *M.P. Patil v. Union of India*¹⁸, the Tribunal observed:

The three fundamental pillars that govern the environmental field are sustainable development, polluter pay, and preventive actions. Indian environmental law statutorily mandates these three concepts. The requirements of a developing society may be met by development, but it must be managed to protect and conserve the natural resources, which are the true assets of the society.

How Climate Change Will Impact Our Country

2021 is India's fifth hottest year since 1901. The past decade has also been India's hottest on record as weather patterns have changed and extreme weather events have occurred across the globe, the South Africa experiencing its worst rainfall in 60 years. The east and horn of Africa are bracing for the worst drought in decades and hurricanes have become more intense in the United States and temperatures are breaking all records in the polar regions and India is no different.¹⁹

The consequences of climate change are felt across the Indian region and some extreme events are expected in India. Scientists say snowfall over the

Himalayas may get reduced but intense cold waves will send chills through northern India. Heat waves and stresses related to heat and humidity will become more intense and frequent, while snow cover and glacier quality will continue to decline. According to the report by the cross-jurisdictional Panel on change in Climate, the impact of extreme weather events in India is likely to: Retreating Himalayan glaciers, Sea level rise, Severe tropical cyclones, Alternating monsoons, Heat stress, Glacial Lake outburst floods, Landslides, Droughts, Rise in sea surface temperature by 1-2 degree Celsius, Decrease in crop production²⁰

Climate change could also enlarge the risk of social civil unrest and armed quarrel, especially in poor countries, as water and food supplies are increasingly at risk, according to the United Nations. Governments must go beyond planning to come up with comprehensive measures to attenuate the effects of climate change.²¹

India's Commitment to Mitigate the Climate Change

- The current Prime Minister Narendra Modi announced the "Panchamrita" initiative at the 26th Conference of the Parties (CoP26).
- India must achieve net zero by 2070.
- India's non-fossil energy capacity will reach 500 gigatons (GW) by the year 2030.
- India must meet 50% of its energy needs from renewable sources by the year 2030.
- By 2030, India plans to reduce its total carbon emissions by one billion tons.
- Bring down the carbon intensity of the Indian economy by less than 45% by 2030.

- India refused to sign the global agreement on reducing methane emissions reached at COP26.
- India opposes a global emissions reduction target, squabble that developed countries should hold up a greater share of the costs because they contribute appreciably more to global warming in the long run.

OECD countries must achieve net zero emissions by 2030, China must achieve it by 2040, India and the rest of the world must achieve it by 2050 due to the huge difference in global emissions. However, China has set a goal of net zero emissions by 2060 and the OECD has set a goal by 2050.²²

The Indian Constitution and the Environment

The nation's commitment to preserving and advancing the environment is expressed in the fundamental obligations and the national policy's guiding principles. Three constitutional provisions have a direct impact on environmental issues.

- i) According to Article 21 of the Constitution states that "no individual shall be underprivileged of his life or personal liberty unless in the manner prescribed by law." In *Subhash Kumar v. State of Bihar*²³, and *Virendra Gaur v. State of Haryana & Others*.²⁴, the Supreme Court recognised numerous rights outlined in Article 21, including the privilege to live in a safe environment. Since the Supreme Court established the precedent, almost all State High courts now acknowledge that Article 21 has a component pertaining to the environment.²⁵

- ii) According to Article 48A, it is the government's responsibility to protect and encourage citizens to protect the environment, rural forests and animals²⁶.
- iii) According to Article 51A, citizens have a responsibility to maintain the environment in which woods, lakes, rivers, and wildlife thrive.²⁷

Paris Agreement

The Paris Agreement under the UN Framework Convention on Climate Change, also known as COP21, an international treaty that applies to the French city of Paris, was approved in December 2015. The objective is to bring down greenhouse gas emissions responsible for global warming. The Paris Agreement aims to establish and supersede the Kyoto Protocol, a previous international agreement's principal goal was to reduce greenhouse gas emissions. It entered into force on November, 2016 and has been signed by 195 countries and endorse by 190 countries as of January, 2021. The UN has urged countries to set forth plans outlining how they plan to reduce GHGs emissions. Greenhouse before the Paris summit.

The official name of these programs is the Intended Nationally Determined Contributions (INDC). As of December 10, 2015, India was one of 185 countries that had submitted plans to limit or bringdown GHGs emissions by 2025 or 2030.

About 24% of the world's population lives without access to electricity, according to India's INDC, a report that recognizes the difficulty of reducing poverty and bring down greenhouse gas emissions. However, the state plans to "reduce emissions

intensity of GDP by 33% to 35% by 2030" from 2005 levels.²⁸

NDC

- i. It refers to the contributions that each nation must make to accomplish the larger global objective.
- ii. The UNFCCC must receive contributions reports every five years.
- iii. The donations are not enforceable in a court of law.
- iv. The objective is to guarantee that all nations have access to technological know-how and financial resources to address climate concerns.

The Goal of Paris Agreement

1. Make an effort to keep the increase in the global average temperature this century to 1.5°C and well below 2°C above pre-industrial levels.
2. Create tools to aid and assist nations that are extremely susceptible to the negative effects of climate variation. A prime example would be the threat posed by rising sea levels to nations like the Maldives.
3. Confirms that by giving them financial and technological help, industrialized countries have a responsibility to assist underdeveloped countries.²⁹

Conclusion

We must acknowledge that the issue of climate change requires global cooperation. Even if one nation goes above and above to reduce its emissions to a minimum, this will be of little benefit if the other nations do not do the same. No matter how hard or how hard they sacrifice, they

will always suffer the consequences of climate change. As a nation used to natural climate variation, there is a constant propensity to believe that nothing is new and that everything has been seen before. The climatic change of today, however, is distinct. It is now widely recognized that humans have disrupted fundamental natural cycles, such as water and energy cycles, which have kept our world in balance for centuries. The current level of carbon dioxide is the highest in 6.5 million years. According to projections, if excretion continue to build at the current momentum, global temperatures will upsurge by 40 degrees Celsius by the end of the century. It can have a significant influence on everything from human health to livelihood security to economic development in addition to posing a threat to wildlife and marine life. In other words, it could be a fight for our survival.

The Constitution recognizes the fundamental rights of individuals, in particular those related to the environment and the fight against pollution. On the other hand, ideas such as assessing the carbon footprint of illegal structures to assess damage have been rejected due to the lack of scientific evidence specific to climate change. The third-largest CO₂ emitter - and set to become the most populous - will have laws determining where future generations stand on certain climate rights over the next decade.

Creating jobs at a time when automation and artificial intelligence are becoming more powerful and capable is another major concern. India shouldn't see climate change adaptation as a single technology transfer as a result. We should instead

consider issues related to jobs, energy, and pollution collectively. This is the best course of action.

Suggestions

Both the government and every person in the nation may take the following actions:

- i. Disseminate Information - The government and other relevant authorities should take the appropriate actions to disseminate information on how to protect the environment.
- ii. Change public transport to reduce the use of private cars. Indeed, they are one of the largest contributors to harmful gas emissions.
- iii. Conserve the environment Make good use of the natural resources so that future generations might benefit from them as well.
- iv. Improve your energy efficiency Switch to energy-efficient bulbs, turn off lights when not in use, and unplug electronics when not in use.
- v. To protect the environment, it is strongly advised to reduce, reuse, and recycle.

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