

ENVIRONMENTAL POLICY IN INDIA

I. Introduction

Indian concern for the environment is as old as our origin of civilization. Ancestors did understand the meaning of environment as “the environment is sum total of water, air and land, inter-relationships among themselves and also with the human beings, other living organisms and property.”

This definition appears in the Environment (Protection) Act, 1986. The Arthashastra by Kautilya described environmental policy, written as early as 321 and 300 BC, contained provisions meant to regulate a number of aspects related to the environment. In recent years, particularly since the early 1970s, the world has become increasingly sensitized to environmental issues.

These issues cut across many disciplines and occur at different spatial scales. The unprecedented population growth and advanced technology have led to man's impact on the environment becoming appreciable so that there is mounting pressure on both environment and resources. Today there is a considerable concern as to whether the earth's life support system itself is being jeopardized (Sarkar, 1994).

II. The international efforts

The Club of Rome stressed limits to growth and highlighted issues such as sustainability and ecological balance. The worldwide concern for environmental

degradation found expressed in 1972 at the U.N. Conference on Human Environment (WCED, 1987). Osborn's 'Limits to Growth' brought out in 1972 reported resource shortages, crowding, pollution, famines etc. In 1979, a U.N. Symposium identified unsustainable consumption patterns and lifestyles as basic issues of environmental degradation, particularly in the richer countries.

It was truly observed by our late Prime Minister Smt. Indira Gandhi, at Stockholm Conference in 1972, said that the environment could not be developed in the condition of poverty, the major cause and effect of global environmental problems. Hence the new development paradigm is growth with equity, stability and sustainability. However, it was the Brudtland Commission's report titled "OUR COMMON FUTURE" (1987) - a landmark development thinking-which brought environmental issues to the fore. The Commission came to a conclusion that the relationship between economic growth and environmental conservation should be one of the complementarity and interdependence.

The idea of growth at all costs was replaced by the idea of sustainable development. 'Sustainable Development' became a keyword, and its importance was reemphasized at the 'Earth Summit' held in Rio in 1992. The prime concern in all countries at present is to make environmental dimensions an integral part of their developmental plans (Kayastha, 1992). However, guidelines and principles proclaimed at the Rio Conference are not legally binding but carry a strong moral force to ensure their binding (Bal,2005).

III. Beginning of policy making in India

One of the schools of thought has gained grounds which considers the environment as an integral part of the development and argues that economic objectives should be blended with environmental imperatives. Hence, the major concern is with optimal resource use and efficient environmental management, which would be conducive to mitigating the costs of development (Ramana and Bhardwaj, 1980).

The environmental problems that countries face vary considerably; among the factors that affect them are the stages of development, the structure of the economies and environmental policies (WDR, 1992). Two international conferences-one at Stockholm in 1972 and another at Rio de Janeiro in 1992 on Environment and Development, have influenced environmental policies in India. Many countries have followed the 'polluter pays principle, the precautionary principle and the concept of intergenerational equity as guidelines for framing environmental policies.

17 ARSS Vol.3 No.2 July - December 2014 Environmental policy varies from country to country. By and large, policies are influenced by research, culture and tradition and political institution of the country concerned, as shown in fig.1. Fig.1 Environmental policy

IV. Constitutional amendments

The Constitution of India provides a number of Directive Principles of State Policy. Until 1976 environmental protection did not appear anywhere in the Constitution. However, in the 42nd amendment of the Constitution in 1976, certain environmental provisions were introduced. Article 48A was added to the Directive Principles of State Policy and stated, "The state shall endeavour to protect and

improve the natural environment and safeguard the forests and wildlife in the country.”

Article 51 A (g) of Fundamental Duties states that “It shall be the duty of every citizen in India to protect and improve the natural environment including forests, lakes rivers and wildlife and to have a compassion for living creatures”. With this, ‘Forests’ and ‘Wildlife’ were dropped from the State list in order to incorporate them in the Concurrent (Centre) list.

The National Council for Environmental Planning and Policy was set up in 1972, which was later evolved into the Ministry of Environment and Forest in 1985. Indian Five-year Plans have focused on rapid economic growth, employment generation, poverty alleviation and balanced regional development. The importance of sustainable development is also being stressed as an objective of public policy. Broadly environmental policies in India fall into four periods:

(A) Pre-independence period (1853 to 1947):

i. Shore Nuisance (Bombay and Colaba) Act, 1853 ii. The Elephant’s Preservation Act, 1879 iii. The Fisheries Act, 1897 iv. The Factories Act, 1897 v. The Bengal Smoke Nuisance Act, 1905 vi. The Bombay Smoke Nuisance Act, 1912 vii. Wild Birds and Animals Protection Act, 1912

(B) Independence to the Stockholm Conference (1947 – 1972):

During this period, legislations existed to control the felling of trees, destruction of forests, unplanned town growth etc. Following Acts were in place: a. The Factories Act, 1948 The Factories Act, 1948 provides that the liquid effluents, gases and fumes generated during a manufacturing process should be treated before their final disposal to minimize the adverse effects. During this period, stress on

economic development was greater and environmental considerations took a back seat in policy making. b. The Mines and Minerals (Regulation and Development) Act, 1957

(C) Post Stockholm Conference to Bhopal disaster (1972-1984):

However, the Stockholm Conference on Environment and Development had largely influenced on environmental policy making leading to an amendment of the Constitution, followed by important legislation such as the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and creation of institutions such as Central and State Pollution Control Boards for implementing the provisions of the Acts.

Following legislation was enacted during this period.

i. The Wildlife (Protection) Act, 1972

This Act was enacted under the provisions of Article 252 to prevent the decline of wild animals and birds. The Act prohibits the poaching of certain animals except for the purpose of education or scientific research. Under this Act, a state government may declare any area to be a sanctuary or a national park if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological ENVIRONMENTAL POLICY Debajit N.Sarkar ARSS Vol.3 No.2 July - December 2014 18 significance for protecting, propagating or developing wildlife or its environment.

ii. Water (Prevention and Control of Pollution) Act, 1974

This Act paved the way for the creation of the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) in order to promote the cleanliness of streams and wells in different areas of the states.

iii. Air (Prevention and Control of Pollution) Act, 1981

This Act defines an air pollutant as ‘any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment’. The CPCB and the SPCBs created under the Water Act 1974 are entrusted with the implementation of the provisions of the Act.

iv. The Forest (Conservation) Act, 1980

This Act prevents deforestation, which results in ecological imbalance and environmental deterioration. The Act prohibits even the state governments and any other authority to de-reserve a forest which is already reserved. It prohibits forestland from being used for non-forest purposes, except with the prior approval of the central government.

(D) Bhopal Tragedy to 2006 (1984-2006):

The Bhopal gas tragedy in 1984 had a deep impact on the minds of policy makers to deliver comprehensive environmental legislation in 1986. (i) Environment (Protection) Act, 1986 (EPA)

The Environment (Protection) Act, 1986 extends to the whole of India, and it came into force on November 19, 1986. After the enactment of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, it was decided that there should be general legislation for environmental

protection as well as for coordinating the activities of various regulatory agencies. The need was also felt to create authority with adequate power for environment protection, regulation of discharge, handling of hazardous substances, speedy response to accidents threatening the environment and deterrent punishment to those who endanger the human environment, safety and health.

(ii) The Motor Vehicles Act, 1988.

(iii) The National Environment Appellate Authority Act, 1997.

(iv) National Environment Tribunal Act, 1995. The new economic policy initiated in 1991 led to Constitutional amendments in 1994 to facilitate the decentralization of powers and resources to local bodies. This period also witnessed:

a. The Policy Statement for Abatement of Pollution and the National Conservation Strategy and Policy Statement on Environment and Development was brought out by the Ministry of Environment and Forests (MoEF) in 1992.

b. The Environmental Action Programme (EAP) was formulated in 1993 with the objective of improving environmental services and integrating environmental considerations into development programmes.

V. A GLIMPSE OF NATIONAL ENVIRONMENTAL POLICY (NEP) Background of ‘The National Environment Policy, 2006’:

a. The first initiative in strategy formulation for environmental protection in a comprehensive manner.

b. It takes into account factors responsible for land degradation and suggests remedial measures required in this direction. Factors include fiscal, tariffs and sectoral policies for their unintentional impacts on land degradation.

c. The remedial measures offered to tackle the problem comprise traditional land-use practices in combination with science-based techniques like pilot-scale demonstrations, large scale dissemination, adoption of multi-stakeholder partnerships, promotion of agro-forestry, organic farming, environmentally sustainable cropping patterns and adoption of efficient irrigation techniques.

d. Mandatory EIA and environment management plan, details of the public hearing and a project report to the impact assessment agency for clearance, further review by a committee of experts in certain cases and public hearing. The current national policy can be put into two categories from the standpoint of

A) Overall environmental management, which includes: i. National Forest Policy, 1988, ii. National Conservation Strategy and Policy Statement on Environment and Development, 1992, and iii. Policy Statement on Abatement of Pollution, 1992.

B) Sector-based policies include

i) National Agriculture Policy, 2000

ii) National Population Policy, 2000, and

iii) National Water Policy, 2002, has equally contributed to managing the environment. The common focus of all these policies is on the need for sustainable development in their specific contexts. The National Environment Policy seeks to extend the coverage and fill in gaps that still exist in light of present knowledge and accumulated experience (NEP, 2006).