



India's Environmental Policy Evolution Through International Climate Agreement

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Abstract:

Environmental protection gradually emerged an integral part of governance in all countries of the world in response to rising impact of the climate change and imbalance in the environment. The purpose of this study is to analyze how India has developed its current environmental policy framework by examining its growing connection between environmental and other policies through engagement with global climate agreements as well as recognition of both environmental rights and duties in the Constitution of India.

Examples of major instruments, such as the United Nations Framework Convention on Climate Change (UNFCCC) (1992), Kyoto Protocol (1997), and the Paris Agreement (2015), have had an important influence on climate governance within India and helped guide important national initiatives, including the National Environment Policy (NEP) (2006) and the National Action Plan on Climate Change (NAPCC). This type of development shows that India is committed to promoting sustainability and responsibility in managing its environment.

Environmental protection is also granted constitutional recognition under Articles 21 (Right to Life), 48A (Protection and Improvement of Environment), and 51A(g) (Fundamental duties to protect and improve the natural environment), but requires further refinement through appropriate judicial construction. Important judgments from the Supreme Court of India, such as *M. C. Mehta v. Union of India* and *Vellore Citizens Welfare Forum v. Union of India*, have introduced legal principles related to the environment into Indian jurisdictions, including those based on sustainable development and the polluter pays principle.

This Paper argues that international climate agreements have been an important force guiding India's environmental policy and the country's relationship with environmental institutions. The paper concludes by stating that ongoing coordination and cooperation between international obligations, constitutional obligations at the national level, and domestic policies are necessary to ensure India's ability to provide for its citizens through environmental protection and long-term environmental sustainability.

Keywords: *Environmental policy Evolution, United Nation Framework Convention on Climate Change (UNFCCC), Article 48A, Article 51A, Kyoto Protocol, Paris Agreement, Sustainable Development.*

I. INTRODUCTION.

The growing climate change, environmental degradation, biodiversity loss, and unsustainability exploitation of natural resources have made environmental protection one of the most important global issues. The high rate of industrialization, urbanization, technological development and population explosion have caused severe ecological imbalances to both developed and developing countries. Given that environmental issues are not limited to a single nation, there is need to engage in international collaboration that will lead to sustainable environmental governance. India being a fast-developing nation must grapple with the issue of reconciling between economic growth and environmental conservation. Although poverty reduction and living standards improvement requires development, long-term ecological security requires environmental sustainability. Understanding this equilibrium, India has been gradually reinforcing its policy structure on environmental protection by providing a constitution, law, judicial action, and involvement in international climate agreements. International environmental agreements like Stockholm Conference (1972)¹, Rio Earth Summit (1992)², United Nations Framework Convention on Climate Change (UNFCCC) (1992)³, Kyoto Protocol (1997)⁴ and Paris Agreement (2015)⁵ have played key roles in influencing the environmental governance of India. These agreements prompted India to implement policies that enhance sustainable development and climate protection. Article 21⁶, Article 48A⁷ and Article 51A(g)⁸ of the Constitution of India have also provided environmental protection constitutional recognition. Judicial interpretation also broadened the rights of the environment and applied the international environmental principles to the domestic law. India is committed to climate governance and sustainable development, as evidenced by national efforts like the National Environment Policy (2006)⁹, National Action Plan on Climate Change (NAPCC)¹⁰ and the India Nationally Determined Contributions (NDCs)¹¹. The development of environmental policies in India, therefore, illustrates how the global climate policies have been interacting with the national processes of law formulation that are geared towards environmental sustainability.

II. EVOLUTION OF INTERNATIONAL CLIMATE AGREEMENTS.

The evolution of environmental governance as a domestic issue to an international one has been experienced in the twentieth century as environmental issues like climate change, transboundary pollution, biodiversity loss and desertification started to impact on various countries at a time. The necessity to act collectively on the global scene was raised by scientific studies and environmental consciousness.

Modern international environmental cooperation started with the Stockholm Conference in 1972¹¹. It acknowledged that it was a global responsibility to take care of the environment and it also embraced the Stockholm Declaration¹² that offered principles that governed the environment. It was also during the conference that the United Nations Environment Programme (UNEP)¹³ was created which significantly helped in organizing the international environmental activities. In India, due to the impact of the Stockholm Conference, the environmental protection was constitutionally granted with the Forty-second Constitutional Amendment¹⁴ in which Articles 48A and 51A(g) were added.

¹ Stockholm Declaration on the Human Environment 1972

² Rio Declaration on Environment and Development 1992.

³ United Nations Framework Convention on Climate Change 1992.

⁴ Kyoto Protocol to the UNFCCC 1997.

⁵ Paris Agreement 2015.

⁶ Constitution of India, Art. 21.

⁷ Constitution of India, Art. 48A.

⁸ Constitution of India, Art. 51 A (g).

⁹ Ministry of Environment and Forests, National Environment Policy 2006.

¹⁰ Government of India, National Action Plan on Climate Change 2008. ¹¹ India's Nationally Determined Contribution 2015.

¹¹ United Nations Conference on the Human Environment, *Stockholm Declaration on the Human Environment* (1972).

¹² UN General Assembly, *Report of the United Nations Conference on the Human Environment* UN Doc A/CONF.48/14/Rev.1 (1973).

¹³ UN General Assembly Resolution 2997 (XXVII) (15 December 1972) establishing the United Nations Environment Programme.

¹⁴ The Constitution (Forty-Second Amendment) Act 1976 inserting arts 48A and 51A(g).

In 1992, the Rio Earth Summit¹⁵ further enhanced worldwide efforts to work together on environmental concerns by advancing the notion of sustainable development. It also came up with significant documents like Rio Declaration and Agenda 21¹⁷ which urged the nations to combine environmental protection and development planning. Another principle launched during the summit was the Common but Differentiated Responsibilities (CBDR)¹⁸ which is the principle that the developed countries have a higher responsibility in the solution of the environmental problems as they have historically contributed to the emission problem.

The United Nations Framework Convention on Climate Change (UNFCCC)¹⁶ set up an international system to deal with climate change by engaging in international cooperation. It stressed on stabilization of greenhouse gas emission and urged financial and technological assistance to developing nations. The Convention also established the Conference of Parties (COP)¹⁷ system of verification of the implementation of climate commitments.

Kyoto Protocol of 1997¹⁸ legally bound the developed nations to cut emissions and also came up with such mechanisms as Emissions Trading, Joint Implementation and Clean Development Mechanism (CDM). The benefits of CDM projects in India were in terms of investment in renewable energy, energy efficiency and sustainable infrastructure.

The Paris Agreement of 2015 became one of the landmark steps in international climate regulation because it obliged all the nations to engage in climate action by making Nationally Determined Contributions (NDCs)¹⁹. India promised to cut down on the emission intensity, to expand renewable energy capacity, and to expand forest cover. The agreement enhanced the shift of India to low-carbon development and climate resilience.

India has been a strong advocate of the principle of Common but Differentiated Responsibilities in global climate negotiations with a strong focus on equity, climate justice, and sustainable development.

III. CONSTITUTIONAL FRAMEWORK OF ENVIRONMENTAL PROTECTION IN INDIA.

In the beginning, the protection of the environment was not explicitly mentioned in the Constitution of India. Initial environmental laws were based on colonial laws like the Indian Forest Act, 1927 and the Indian Penal Code on public nuisance. Nonetheless, with the growth of environmental awareness and its involvement in global environmental forums, India had the incentive to strengthen its constitutional document.

The right to life and personal liberty is provided in Article 21 of the Constitution. This has been extended to the right of a clean and healthy environment through judicial interpretation. In *Subhash Kumar v. State of Bihar*, the Supreme Court has acknowledged the right to clean water and air as the right to life. Likewise, in *M.C.Mehta v. Union of India*, the Court established the *doctrine* of absolute liability of hazardous industries, and enhanced environmental protection by being able to intervene in a judicial manner. Article 48A, which was added by the Forty-second Constitutional Amendment Act, 1976, guides the State to preserve and conserve the environment and to protect forests and wildlife. It is not directly enforceable, but it serves as valuable advice to environmental legislation and policymaking as it is a part of the Directive Principles of the State Policy.

Article 51A(g) is a core responsibility of citizens by ensuring that they conserve and enhance the natural environment which comprises of forests, lakes, rivers, and wildlife. This provision highlights the shared responsibility between the State and citizens in ensuring environmental protection.

The international environmental principles that have been integrated into the Indian environmental jurisprudence by the courts include the sustainable development, precautionary principle and the polluter pays principle. Article 253²⁰ of the Constitution gives the Parliament the authority to make legislation on the enforcement of international environmental agreements, and thus, integrates international commitments into the domestic law.

¹⁵ United Nations Conference on Environment and Development (UNCED), *Rio Declaration on Environment and Development* (1992). ¹⁷ United Nations Conference on Environment and Development, *Agenda 21* (1992). ¹⁸ Rio Declaration on Environment and Development 1992, Principle 7.

¹⁶ United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994).

¹⁷ UNFCCC art 7.

¹⁸ Kyoto Protocol to the United Nations Framework Convention on Climate Change (adopted 11 December 1997, entered into force 16 February (2005).

¹⁹ Paris Agreement art 4.

²⁰ Constitution of India art 253

IV. LEGISLATIVE FRAMEWORK OF ENVIRONMENTAL PROTECTION IN INDIA.

India has come up with a detailed Act of protecting the environment based on the constitutional provisions and international climate treaties. The Indian environmental legislation is an indication of the sustainability of the nation to sustainable development, pollution management, protection of biodiversity, and climate management. A number of significant laws are introduced to provide control over environmental protection and to guarantee the realization of international environmental commitments.

This law is the Water (Prevention and Control of Pollution) Act, 1974²¹, which was one of the first significant environmental laws to be passed in India in the wake of the international environmental awareness the Stockholm Conference of 1972 had brought.

This Act aims to avert and manage water contamination and sustain or reclaim the wholesomeness of water *sources*. It resulted in the creation of Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) that oversee water quality, issue licensing to industrial activities, and impose pollution control regulations. The Act is one of the earliest institutional reactions towards environmental protection in India.

The Air (Prevention and Control of Pollution) Act, 1981²² came into force in order to take care of the rising issues of air pollution due to industrialization and urbanization. The act offers a framework on how emissions of industries and vehicles should be controlled and give the Pollution Control Boards the authority to check the air quality and administer emission regulations. The Act also enhanced the capacity of institutions to monitor the environment, and it was a testimony to the increasing concern of India to control atmospheric pollution in accordance with the international environmental trends.

Environment (Protection) Act, 1986²³ is said to be an umbrella legislation of environmental protection in India. It was passed in reaction to the Bhopal Gas Tragedy (1984)²⁷ and gives broad powers to the Central Government to undertake essential actions to guarantee and enhance the quality of the environment. The Act empowers the government to control industrial processes, control the use of hazardous material, set environmental standards and coordinate the actions of various environmental agencies. It has also facilitated the implementation of essential regulatory instruments like Environmental Impact Assessment (EIA) procedures; where developmental projects can be evaluated concerning its environmental impacts before it is granted.

The other significant law is the Biological Diversity Act, 2002, which came into being in order to meet the requirements of the Convention on Biological Diversity (CBD), 1992. The objectives of the Act are to protect biological diversity, enhance sustainable utilization of biological resources and equitable and fair distribution of benefits of using such resources. It also resulted in the formation of National Biodiversity Authority, State Biodiversity Boards, and Biodiversity Management Committees on the local level, to control the access to biological resources and safeguard of traditional knowledge related to biodiversity.

The creation of the National Green Tribunal (NGT)²⁴ by the National Green Tribunal Act, 2010 was a major move towards enhancing environmental justice in India. The NGT offers an expert

platform where environmental issues surrounding the conservation of forests, pollution issues, protection of biodiversity, and climate-related matters can be effectively and quickly resolved. It is significant in guaranteeing the enforcement of the environmental laws and relief and compensation in cases of environmental damage.

Beside the statutory provisions, there are policy efforts that have been very significant in the development of the environmental governance system of India. The National Environment Policy (2006) gives a detailed guideline on how the environmental issue can be incorporated in the development plan as well as the need to encourage sustainable management of resources. It focuses on environmental resource conservation, environmental governance efficiency, and participation of the people in decision-making on environmental aspects.

One of the significant policies implemented by the Government of India to tackle the issues of climate change is the National Action Plan on Climate Change (NAPCC). It has eight national missions which include solar energy, energy efficiency, sustainable agriculture, water conservation, Himalayan ecosystem protection, sustainable habitat development, Green India Mission, and

²¹ Water (Prevention and Control of Pollution) Act 1974.

²² Air (Prevention and Control of Pollution) Act 1981.

²³ Environment (Protection) Act 1986. ²⁷ Biological Diversity Act 2002.

²⁴ Biological Diversity Act 2002.

strategic knowledge on climate change. These missions represent the desire of India to reach climate resilience and sustainable development.

The Nationally Determined Contributions (NDCs) of the Paris Agreement, 2015, in India, added to the existing legislation and policy framework by pledging the nation to cut the emission intensity of its GDP, expand the capacity of non-fossil fuel-based energy sources, and enhance its forest cover in sequestration of carbon. These pledges reflect that India is actively involved in global climate governance and striving to harmonize its domestic environmental policies with international climate goals.

Therefore, legislative provisions in India on environmental protection are characterized by a mixture of constitutional provisions, statutory provisions, institutional provisions and international undertakings with the objective of ensuring sustainable environmental management and management of climate change issues.

V. IMPACT OF INTERNATIONAL CLIMATE AGREEMENTS ON INDIA'S ENVIRONMENTAL POLICY

The international climate agreements have had a decisive influence on the development of the framework of the environmental policy in India. These commitments motivated India to embrace constitutional protections, pass environmental laws, build institutional frameworks, and launch policy programs to realize sustainable development and climate-resilience. The involvement of India in the international negotiations on the environment shows its readiness to reconcile between environmental and economic progress.

The start of the organized environmental governance in India was the Stockholm Conference of 1972. The conference pointed out that the protection of the environment is tightly connected with the development of human society and their health. After this conference, India came up with Article 48A concerning the need of the State to preserve and enhance the environment and Article 51A(g) creating a responsibility on citizens to conserve natural resources through the Forty-second Constitutional Amendment Act, 1976. The conference also had an impact in the enactment of the Water (Prevention and Control of Pollution) Act, 1974 that formed the basis of the pollution control system in India. The Stockholm Conference therefore provided the foundation of incorporating environmental issues in the constitutional and legislative framework of India.

The Rio Earth Summit in 1992 greatly enhanced the environmental policy orientation of India by propagating the notion of sustainable development as a principal guideline of environmental governance. Rio Declaration stressed on the role of the masses, the environmental impact assessment and incorporation of environmental protection into the development planning. It also introduced Common but Differentiated Responsibilities (CBDR) principle that identified that developing countries need some flexibility in the implementation of climate commitments because of their developmental priorities. India was also a firm believer in this principle and had included sustainable development into national environmental policies and in its national planning.

The opening of the United Nations Framework Convention on Climate Change (UNFCCC), 1992²⁵ also impacted the environmental policy of India in that it promoted the establishment of institutional systems to deal with climate change. In the UNFCCC framework, India underlined the significance of equity and climate justice on the international negotiations but at the same time enhanced domestic climate governance. The Convention prompted India to pursue relevant projects like the National Action Plan on Climate Change (NAPCC) and develop renewable energy projects. It also encouraged collaboration between the developed and developing nations by giving them financial aid, transfer of technology and capacity building support.

The Kyoto Protocol, 1997 played a significant role in the development of the environmental policy in India by introducing market-based instruments like the Clean Development Mechanism (CDM). These mechanisms enabled developed countries to invest in emission reduction projects in developing countries like India. Consequently, India enjoyed a number of CDM projects that were connected with the production of renewable energy, significant improvement of energy efficiency, afforestation programs, and waste management systems. These initiatives enhanced the environmental infrastructure in India and promoted the use of cleaner technologies without affecting the objectives of economic development.

Paris Agreement, 2015 is one of the most significant global climate agreements that have affected the current environmental policy framework in India. The Paris Agreement was a binding agreement on climate action that involved all nations as opposed to the old agreements that were binding only to the developed nations under the guise of making Nationally Determined Contributions

²⁵ Convention on Biological Diversity 1992.

(NDCs). India pledged to cut the level of emission intensity of its GDP, augment the non-fossil fuel-powered electricity generation, and to augment the forest area to establish more carbon sinks. These promises hastened the shift of India to renewable energy sources like solar and wind power and enhanced the national level in the strategies to adapt to climate changes.

The Paris Agreement also made India to make efforts to foster sustainable infrastructural development, enhance energy-saving, and fortify climate-resilient agricultural systems. Programs like the International Solar Alliance, initiated by India with the leadership of the country, indicate the active participation of the country in international climate governance. These initiatives point out to the fact that India is dedicated to realizing environmental sustainability as it continues to develop.

Besides impacting legislation and policies, international climate arrangements have also helped to define the climate diplomacy approach in India. India has been a proponent of policies of equity, climate justice and differentiated responsibilities in international negotiations. Meanwhile, India is involved in international climate negotiations actively, through domestic environmental reforms that are consistent with global climate goals.

Moreover, these treaties prompted India to enhance institutional coordination of environmental agencies and to include climate as part of national planning. Government policies that encourage the growth of renewable energy sources, sustainable urbanization, conservation of forests, and biodiversity are indicative of the increasing role of global obligations in the Indian environmental governance system.

Therefore, international climate accords have been significant in changing the environmental policy in India which was a pollution-control based system to a holistic climate governance system which is founded on sustainable development, transition to renewable energy and international environmental co-operation.

VI. COMPARATIVE ANALYSIS OF INDIA'S ENVIRONMENTAL POLICY WITH OTHER COUNTRIES.

Comparison of the Environmental Policy in India with other Countries.

Green economics has turned into a worldwide issue, and numerous nations have devised powerful legal and institutional frameworks to deal with global warming and environmental deterioration. Comparative analysis of the Indian environmental policy and the jurisdictions like the European Union and the United States assists in comprehending the strong points and weaknesses of the Indian environmental governance system and also points to areas that can be improved.

India vs the European Union.

The European Union (EU) boasts of one of the best environmental regulatory frameworks globally. Sustainable development, precautionary principle, polluter pays principle, and preventive action are some of the environmental protection principles adopted by the EU and are enshrined in the Treaty on the Functioning of the European Union (TFEU). These values affect the environmental laws in all member states and promote the standardization of climate policies.

In contrast to India, where the environment protection is mostly under constitutional provisions such as Article 21, Article 48A, and Article 51A(g) and national laws, the EU has a supranational mode of regulation whereby environmental directives are binding on the member states. The European Climate Law (2021)²⁶ is legally binding to reach climate neutrality by the year 2050, which is more enforceable in climate-related obligations than the policy-based obligations of India on the same under the Nationally Determined Contributions (NDCs). There is also an advanced carbon market system that is used in the EU which is referred to as the European Union Emissions Trading System (EU ETS)²⁷ which controls the emission of greenhouse gases using market-based interventions. India is now more dependent on renewable energy promotion and a regulatory control as opposed to full-scale emissions trading systems. Nonetheless, India has made some strides towards developing a carbon market using the emerging climate finance systems.

²⁶ Regulation (EU) 2021/1119 (European Climate Law).

²⁷ Directive 2003/87/EC (EU Emissions Trading System).

Irrespective of these variations, both the EU and India focus on the growth of renewable energy, biodiversity protection and sustainable development. The fact that India is one of the few developing countries to join efforts in promoting climate cooperation at the international level like the EU leadership role in developed countries underlines the leadership of India among the developing countries.

COMPARISON BETWEEN INDIA AND THE UNITED STATES

The United States has established a robust environmental regulatory system mainly using statutory laws and not the constitution. The US constitution does not explicitly guarantee environmental right as opposed to India, which recognizes environmental protection as a right to life under Article 21. Rather, the issue of environmental protection is covered by the key federal laws like Clean Air Act (1970)²⁸, Clean Water Act (1972)²⁹ and the National Environmental Policy Act (NEPA), 1969³⁰.

The environmental protection agency (EPA) in the United States is at the heart of imposing environmental regulations and checking the standards of pollution control. Comparatively, environmental regulation activities in India are undertaken through various institutions, which include the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs) and the National Green Tribunal (NGT).

The other notable disparity between India and the United States is in their attitude towards climate change commitments. Whereas India highly promotes the concept of Common but Differentiated Responsibilities (CBDR) and promotes the issue of climate justice in global negotiations, the United States is one nation that pursues a national interest-based climate policy agenda. In 2017, the United States temporarily pulled out of the Paris Agreement, and then reentered in 2021, but India has been a proponent of global climate cooperation since it signed the Paris Agreement and has enacted policies that reflect its Paris Agreement obligations.

Nevertheless, both nations have undertaken significant measures in regard to renewable energy development and adaptation to climate. India has achieved much in terms of increasing solar energy capacity and the United States has invested a lot in the research and development of clean technology and climate research.

Indian lessons of International Environmental Governance.

Comparative analysis reveals that India has established a powerful constitutional and judicial system of protecting the environment, which is unlike any other country. Simultaneously, it is possible to enhance the enforcement schemes, enhance institutional coordination, and increase market-based climate solutions like emissions trading systems.

The legally binding climate targets and integrated regional environmental governance model of the European Union can be applied by India. In the same way, the United States Environmental Protection Agency regulatory enforcement processes have valuable lessons in enhancing the compliance monitoring in India.

In spite of these disparities, the Indian environmental policy framework can be characterized by a balanced approach to the environment, which considers both environmental protection and developmental concerns. Its focus on climate justice, renewable energy growth, and global collaboration indicates its increased leadership in global climate governance.

VII. JUDICIAL CONTRIBUTION TO ENVIRONMENTAL POLICY EVOLUTION.

Judicial activism and interpretation of constitutional provisions have been significant factors in enhancing environmental governance in India in the judiciary.

Public Interest Litigation allowed citizens and environmental organizations to have access to courts with a view of protecting environmental rights. The *M. C. Mehta v. Union of India*, *Vellore Citizens Welfare Forum v. Union of India*³¹ and *Indian Council*

²⁸ Clean Air Act 1970 (US).

²⁹ Clean Water Act 1972 (US).

³⁰ National Environmental Policy Act 1969 (US).

³¹ *Vellore Citizens Welfare Forum v Union of India* (1996) 5 SCC 647.

for *Enviro-Legal Action v. Union of India*³² cases brought into the limelight key environmental principles like sustainable development, precautionary principle and polluter pays principle.

In *T.N. Godavarman Thirumulpad v. Union of India*³³, the Supreme Court extended forest conservation and enhanced environmental regulation of the whole country.

These rulings helped the judiciary to enforce the environmental laws and integrate the international environmental principles in the domestic legal frameworks.

VIII. CHALLENGES AND SUGGESTIONS.

India has a number of issues with regards to delivering international climate commitments despite its high level of progress being made.

The issue of striking a balance between economic growth and environmental safety is a significant one. There are financial and technological limitations to climate adaptation strategies implementation. There should also be enhanced institutional coordination of environmental agencies.

These problems can be mitigated by strengthening renewable energy infrastructure, better environmental awareness, institutional capacity and encouraging international cooperation. Nationally Determined Contributions and climate policies should be effectively implemented to ensure sustainable environmental governance.

IX. CONCLUSION.

The environmental policy of India has been changing in a constant engagement between the international climate policies and the local constitutional, legislative and judicial policies. The Stockholm Conference, Rio Earth Summit, UNFCCC, Kyoto Protocol and Paris Agreement are some of the agreements that had a great impact on the environmental governance in India.

Environmental protection mechanisms were enhanced by the provisions of the Constitution under Articles 21, 48A and 51A(g) with the support of environmental legislation and judicial activism. Despite the threats, India is showing increased involvement in environmental governance in the world by their commitment to sustainable development and cooperation in climate. The further incorporation of international commitment as a part of national policies will guarantee the sustainability of the environment and ecological security in the long term.

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³² Indian Council for Enviro-Legal Action v Union of India (1996) 3 SCC 212.

³³ T.N. Godavarman Thirumulpad v. Union of India (1997) 2 SCC 267.