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Abstract

Global warming brings about climatic changes causes, changes in the livelihood of plants and animals, disturbance in agriculture and food production, melting of snow caps and increase in sea levels. Due to the greenhouse effect every year the temperature is rising. The factor responsible for this warming may be natural and man-made. Pollution causes the levels of greenhouse gases to rise up. This paper tends to study the constitutional mandates to overcome the problem of global warming in India and the other laws thereof. The study uses secondary data received from the books, magazines and websites to find the conclusion. Its pertinent to mention that though our Constitution is strictly mentioning the provisions to combat global warming through various laws and rules in our Country still there is lack of social awareness and implementation of the legal mechanism to deal with this problem.

Keywords: Global Warming, Constitution of India, Environment, Pollution

Introduction

Global warming brings about climatic changes causes, changes in the livelihood of plants and animals, disturbance in agriculture and food production, melting of snow caps and increase in sea levels. Due to the greenhouse effect every year the temperature is rising. The factor responsible for this warming may be natural and man-made. Pollution causes the levels of greenhouse gases to rise up. This phenomenon is known as global warming. The increased volume of carbon dioxide and other greenhouse gases released by the burning of fossil fuels, land clearing, agriculture and other human activities are believed to be the primary sources of global warming that has occurred over the past 50 years. The earth has warmed by about one degree Fahrenheit in the last century and the warming has accelerated in the last two decades. Global Warming leads to extreme Weather changes and has reportedly contributed to more frequent incidences of weather changes such as hurricanes, droughts, tropical storms and floods. To reduce the effect of global warming, we can help to reduce the demand for fossil fuels, which in turn reduces global warming by using energy more wisely and we need to take other effective steps of international level to reduce the effect of global warming. The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change. In order to tackle this problem, removal of carbon – dioxide from power plant smokestacks, switching from fossil fuel combustion to biomass combustion, reforestation etc. Government of India as well as our Parliament is

increasingly supportive of stringent environmental legislations and Regulations. Article 48-A of the Constitution comes under Directive Principles of State Policy and Article 51 A (g) of the Constitution comes under Fundamental Duties.

The Greenhouse Effect:

Joseph Fourier first discovered the Greenhouse effect in 1824 and Svante Arrhenius was the first to investigate it in 1896. The Greenhouse Effect refers to the gradual warming of the Earth's atmosphere. The earth with its blanket of atmosphere constitutes a 'Greenhouse' according to some climatologists. Greenhouse Gases (GHGs) trap the heat radiated off the surface of the earth, in the earth's atmosphere and thus result in increasing the temperature of earth. Greenhouse Gases have always been present in the atmosphere but their concentrations have increased in the last century.

Causes of Global Warming

The Intergovernmental Panel on Climate Change in its 4th Assessment Report has stated that most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations. A major portion of the Greenhouse Gases comes from the combustion of fossil fuels in automobiles (transportation), power factories, manufacturing industries and during industrial processes. Agricultural sector, burning of agriculture residues and waste disposal are smaller contributors of such emissions. It has been widely agreed upon by a majority of climatologists that human activities are responsible for most of the warming since they

enhance the Earth's natural greenhouse effect. Natural factors like solar activity and volcanic emissions have made an almost insignificant contributions Global warming over the past century.

Effects of Global Warming

The average facade temperature of the globe has increased more than 1 degree Fahrenheit since 1900 and the speed of warming has been almost three folds the century long average since 1970. Global Environmental Change caused by Global Warming is expected to have and has already resulted in an adverse impact on the ecosystem. The percentage of Carbon Dioxide, which is considered the primary contributor to the 'Greenhouse Effect' has risen by over 25% since the Industrial Revolution. At the current rate of increase, it is estimated that the Greenhouse Effect will hike up global temperatures by about 4 degrees.

A rise in global temperatures is expected to cause several changes and damaging effects the foremost among them being Rise in Sea levels. Continued Global warming over centuries may melt large amounts of ice from a vast sheet that covers most of West Antarctica. Coastal areas would experience rise in sea levels, flooding, erosion threatening submergence of some coastal cities and small uninhabited islands.

Global Warming leads to extreme Weather changes and has reportedly contributed to more frequent incidences of weather changes such as hurricanes, droughts, tropical storms and floods especially in countries in Asia and Africa. Further, the impact on agriculture will be devastating in some regions, with land facing desertification, thereby affecting the food security of countries. In general, the poor will be affected more and earlier because they are concentrated in the riskier zones (coasts, riverine deltas, tropics) and lack adequate resources to adapt to changing climate. Also, most of the poorer countries are dependent on agriculture, which will be severely affected by such extreme weather events (like floods and droughts.) Continued Global Warming will lead to a change in ecosystems and shifts in plant and animal habitats.

Temperatures in the Arctic are reported to be rising far faster than the global average because of global warming, blamed mainly on emissions from fossil fuels. Experts have pointed to risks that climate change could melt permafrost stores of billions of

tons of methane, a more potent greenhouse gas than carbon dioxide.

A wide variety of measures and strategies have been suggested to countries to mitigate Global warming. United Nations and other specialized bodies expressed international concern about the safety of the planet and declared that environmental degradation is a matter of global concern. The International Panel on Climate Change (IPCC) defines mitigation as: An anthropogenic intervention to reduce the sources or enhance the sinks of greenhouse gases. The first major effort at mitigation was the Kyoto Protocol.

The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change. It was adopted in Kyoto, Japan, on 11 December 1997 and entered into force on 16 February 2005. 192 Parties of the Convention have ratified its Protocol to date. The major feature of the Kyoto Protocol is that it sets binding targets for industrialized countries and the European community for reducing greenhouse gas (GHG) emissions. Though countries must meet their targets primarily through national measures, the Kyoto Protocol offers them an additional means of meeting their targets by way of three market-based mechanisms.

These mechanisms help stimulate green investment and help Parties meet their emission targets in a cost-effective way. Under the Protocol, developing countries are not included in any numerical limitation of the Kyoto Protocol, because they were not main contributors to the greenhouse gas emissions in the pre-treaty industrialization period. However, even without responsibility under the Kyoto target, developing countries are also committed to share the common responsibility of all countries to reduce emissions. A lot of criticism has been leveled against the Protocol. The Kyoto protocol is the most prominent international agreement on climate change but it is highly controversial. It is argued that it does not go far enough in restricting emissions of greenhouse gases.

The controversy over the Kyoto protocol stems from its status as the only legally binding agreement on climate change, requiring industrialized nations but not developing nations such as China and India to cut their emissions though they have ratified the Protocol. Developing countries only started

industrialization a few decades ago and many of their people still live in abject poverty today. It is totally unjustified to ask them to undertake emission reduction targets beyond their due obligations and capabilities in disregard of historical responsibilities, per capita emissions and different levels of development. The developing nations argue that emissions from the developing world were primarily survival emissions and international transfer emissions.

Constitutional Mandates and Environmental Protection

In the Indian context, the Government of India as well as our Parliament is increasingly supportive of stringent environmental legislations and Regulations. Various legislations have been enacted by Indian Parliament in about the last 30 years to tackle the problem of environmental protection. The Supreme Court has pronounced a number of judgments and orders and issued various directions with the objective of securing the protection and preservation of environment and enforcement of human rights of citizens.

Article 21 of Constitution of India states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

In Indian Council for Enviro-Legal Action vs. Union of India, the Supreme Court has implemented the right to wholesome environment as part of the Right to Life enshrined in Article 21. Thus, Right to Life envisaged in the Article means something more than survival of animal existence. It includes right of healthy living. The Andhra Pradesh High Court in MP Rambabu vs Divisional Forest Officer, has rightly observed- In terms of Article 21 of the Constitution, a person has a right to a decent life, good environment and maintenance of ecology. Therefore, when we talk of environment degradation, we talk of violation of rights under Article 21. The State's responsibility with regard to environmental protection has been laid down under Article 48-A of our Constitution, which reads as follows: “The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country” Environmental protection is a fundamental duty of every citizen of this country under Article 51-A(g) of our Constitution which reads as follows: “It shall be the duty of every citizen of India to protect and improve the natural

environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.” Article 48-A of the Constitution comes under Directive Principles of State Policy and Article 51 A (g) of the Constitution comes under Fundamental Duties. The environment and human life are interlinked hence the realization of many human rights is necessarily related to and in some ways dependent upon one's physical environment as per the Inter-American Commission on Human Rights). In a growing number of cases, therefore, human rights tribunals are acknowledging that damage to the environment can impair and undermine all human rights.

Global warming threatens all of humanity with the very human rights which were designed to prevent - destruction of life, health property, culture, means of subsistence, residence and movement. To illustrate the above point, we take the example of low-lying countries such as Bangladesh and the Maldives, where a one-meter rise in sea level threatens to displace millions. Countries such as Grenada that were previously believed to be outside hurricane zones now experience devastating storms costing several years of Gross domestic product. Shrinking sea ice exposes Inuit villages in the Arctic to violent winter storms. The resulting erosion, exacerbated by melting permafrost, causes Inuit homes to literally tumble into the sea. It is becoming apparent that climate change will have implications for the enjoyment of human rights.

The United Nations Charter of 1945 marked the beginning of modern international human rights law, whereas the Stockholm Declaration of 1972 is generally seen as the starting point of a rights-based approach to environmental protection. This declaration formulated several principles, including that Man have the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.

On 16 May, 1994, an international group of experts on Human Rights and Environmental Protection met at Geneva and drafted the first ever Declaration on the principles of Human Rights and the Environment. This Declaration was the first international instrument comprehensively addressing

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the linkage between Human Rights and the environment. It is divided into 5 parts and contains 27 articles. It demonstrates that accepted environmental and human rights principles embody the right of everyone to a secure, healthy and ecologically sound environment and describes the environmental dimension of established human rights, such as the rights to life, health and culture. The Draft Declaration also describes duties that correspond to the rights--duties that apply to individuals, governments, international organizations and transnational corporations.

Various international instruments recognize economic, social and cultural rights as integral parts of the human rights framework. The first comprehensive international instrument encompassing both sets of rights i.e., civil and political rights and the economic, social and cultural rights is the Universal Declaration of Human Rights (UDHR). The International Covenant on Economic, Social and Cultural Rights (ICESCR) remains the principal instrument on economic, social and cultural rights. (1966) The right to health (Article 12) within the Covenant expressly calls on States parties to take steps for "the improvement of all aspects of environmental and industrial hygiene and the prevention, treatment and control of epidemic, endemic, occupational, and other diseases.

Chapter 6 of Agenda 21, adopted at the 1992 Rio Conference on Environment and Development, is entirely devoted to "protecting and promoting human health condition", while the Rio Declaration itself (Principle 1) proclaims that human beings are entitled to a healthy and productive life in harmony with nature and provides that states should effectively cooperate to discourage or prevent the relocation and transfer to other states of any activities and substances that, inter alia, are found to be harmful to human health (Principle 14).

The UN Climate Change Conference was held at Bali, Indonesia. The Conference culminated in the adoption of the Bali Road Map, with a view to finalizing a binding agreement in 2009 in Copenhagen. The roadmap consists of a number of forward-looking decisions which are essential to reaching a secure climate future. The roadmap recognizes that deep cuts in global emissions are required there is an urgent need to reduce greenhouse gases from deforestation. It calls for greater

investment in helping developing countries adapt to climate change and obtain the clean technologies, such as renewable energy, that they need to maintain economic development while keeping their own emissions down.

The 2009 United Nations Climate Change Conference, commonly known as the Copenhagen Summit, was held Copenhagen, Denmark, in December 2009. A framework for climate change mitigation beyond 2012(The Kyoto Protocol expires in 2012) was to be agreed at the Conference, according to the Bali Roadmap. The Conference ended with an agreement by countries to cap the global temperature rise by committing to significant emission reductions, and to raise finance to kickstart action in the developing world to deal with climate change. The final accord, however failed to achieve anything substantial. It does not contain any tough binding new targets or even weak ones.

The United Nations Human Rights Council in its resolution 7/23 Human rights and climate change (28 March 2008), expressed concern that climate change poses an immediate and far-reaching threat to people and communities around the world.

After examining the meaning, causes and the adverse impact of Global Warming along with the various mitigation measures adopted to combat the phenomenon, it cannot be denied that Global Warming and Climate Change is one of the gravest challenges to humanity. Measures have been taken at the international level by adopting treaties and Conventions like the Kyoto Protocol, Rio Declaration, international instruments like the UNDHR to fight climate change. At the national level, environmental protection and the right to a healthy environment is enshrined in various Articles and is also one of the Fundamental Duties. Besides the Government has enacted various legislations such as Environment Protection Act, 1986, Water Act 1974 and several other laws to reduce and control the disastrous effects of climate change and focus on environmental protection.

Conclusion

It is concluded that reducing emissions of greenhouse gases, mainly carbon dioxide, is the primary way to prevent catastrophic changes in the earth's climate. This can be done by reducing the burning of fossil fuels used for producing electricity, running motor vehicles, aircraft, ships, and in industrial production.

Moreover, preventing deforestation will also help. Use of renewable sources of energy like solar, nuclear, wind, hydel power should be encouraged and increased. Combating Global Warming also means changes in high consumption life-styles. These efforts need to be made soon, because carbon dioxide remains in the atmosphere for 100 years, some say much longer which means that already accumulated carbon dioxide will continue to warm the earth for some time even if all emissions were to stop today. Finally, fighting Global Warming needs to be a global effort because it is a global problem.

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