

NATIONAL ENVIRONMENTAL POLICY IN INDIA 2006

The word *policy* is defined as a **course of action** which has been proposed or adopted by a **Government, organisation or an individual**. An environmental policy is the framing of a similar course of action for the **protection of environment, wildlife and natural resources**. In a developing country like India, an environmental policy is especially required because there is a consistent need for balancing between environment on one side and the needs of development on the other. A good environmental policy is a precursor for ensuring sustainable development.

We have already studied in the Chapter on *Environment and Sustainable Development* (Singh, 2015a) that industrial growth and economic development without incorporating the concerns of environmental protection leads to pollution and degradation of 'our common environment'.

We have also studied the impact of industrial pollution on human beings and the threat it causes to biodiversity in the Chapter on *Issues of Industrial Pollution: Global Warming and Threats to Biodiversity* (Singh, 2015b). A good environmental policy is therefore required to protect the environment as well as to ensure public health and well-being.

★ The concerns of environmental harmony and wildlife protection are found embodied in ancient scriptures in the Indian sub-continent. **Kautilya's Arthashastra** and **Ashoka's edicts** are known to include provisions for safeguarding nature and natural resources. The **Vedas** also echo the sentiments of environmental ethics and harmony as an important prerequisite for human survival and prosperity. Consequently, respect and love for nature is rooted in the Indian civilization.

Contemporary environmental policies began to be framed in India during the British Rule. **The Shore Nuisances (Bombay and Kolaba) Act, 1853** was one of the **first environment related acts passed during the British Rule**. While the aforementioned Act prevented the encroachment of land resource along the sea-shore, its underlying benefit for the British was to stop any activity that affected or was likely to affect them from navigating their ships and vessels in the port of Bombay. Many other environment related Acts were passed by the British. However, we will keep our focus in this Chapter on environmental policies formulated in post-independent India.

The Constitution of India came into effect on **26 January 1950**. The spirit of the Constitution is such that it safeguards the life, health and fundamental rights of every citizen of India. In doing so, the Constitution of India provides measures for protecting the environment which surrounds all of us. **Article 21**, Article

48(A) and Article 51A (g) in the Constitution of India are three specific Articles which are focused on environmental protection (Table 1).

While Article 48(A) and Article 51A (g) have direct implications for environmental protection, Article 21 is the Right to life and personal liberty. However, the Supreme Court of India has expanded Article 21 after interpreting that the Right to life and personal liberty also includes the Right to a clean and healthy environment.

One of the first cases where this interpretation of the Supreme Court came forward was the Rural Litigation and Entitlement Kendra & Ors. Vs State of UP & Ors. case which is also known as the Dehradun Quarrying Case. The Court maintained that, "Article 21 of the Constitution guaranteeing the right to life must be interpreted to include the right to live in a healthy environment with minimum disturbances of ecological balance and without avoidable hazard to (the people) and to their cattle, homes and agricultural lands and undue affection to air, water and environment" (May and Daly, 2014).

Table 1: Articles in the Constitution of India which provide for environmental protection.

Article	Description
Article 21	<i>Protection of life and personal liberty:</i> No person shall be deprived of his life or personal liberty except according to procedure established by law
Article 48A	<i>Protection and improvement of environment and safeguarding of forests and wildlife:</i> The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country
Article 51A (g)	<i>Fundamental Duties:</i> It shall be the duty of 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.

The nodal agency in India which is responsible for the protection of environment and wildlife is the Union Ministry of Environment, Forests and Climate Change (MoEFCC). The earlier name of this Ministry was the Ministry of Environment and Forests (MoEF). The MoEF was renamed as MoEFCC in 2014.

The responsibility of framing and implementing the national environmental policy of India rests with the MoEFCC. MoEFCC also works to ensure the effective implementation of the Environment (Protection) Act of 1986. The latter was a result of India's active participation and commitment made during the United Nations Conference on the Human Environment in 1972, which is also known as the Stockholm Conference.

1.2 National Environment Policy, 2006

The *National Conservation Strategy and Policy Statement on Environment and Development, 1992* was one of the first attempts of the Government of India to develop a policy framework for environmental protection. The *National Forest Policy, 1988* and the *Policy Statement for Abatement of Pollution, 1992* are some other policy frameworks that advocate effective environmental management at the national level.

However, a need was felt to bring together the guiding principles of all these documents and develop a comprehensive national environmental policy. Consequently, the National Environment Policy was put together after widespread consultation and was approved by the Union Cabinet on 18th May, 2006. The **National Environment Policy, 2006 (NEP, 2006)** does not displace earlier policies but builds upon them.

NEP, 2006 is a response to India's national commitment to a clean environment, mandated in the Constitution of India in Articles 48A and 51A (g) and strengthened by the judicial interpretation of Article 21. For the purpose of better understanding, NEP, 2006 defines the term *Environment* to comprise all entities, natural or manmade, external to oneself, and their

interrelationships, which provide value, now or perhaps in the future, to humankind.

The NEP, 2006 is framed on three foundational aspirations. These are, i) that human beings should be able to enjoy a decent quality of life; ii) that humanity should become capable of respecting the finiteness of the biosphere; and iii) that neither the aspiration for the good life, nor the recognition of biophysical limits should preclude the search for greater justice in the world (MoEF, 2006). The objective kept in mind while framing the NEP, 2006 have been outlined in the box below.

Objectives of the National Environment Policy, 2006

Following are the objectives that were kept in mind while framing the National Environment Policy, 2006 by MoEF, Government of India.

1. Conservation of Critical Environmental Resources

To protect and conserve critical ecological systems and resources, and invaluable natural and man-made heritage, which are essential for life-support, livelihoods, economic growth, and a broad conception of human well-being.

2. Intra-generational Equity: Livelihood Security for the Poor

To ensure equitable access to environmental resources and quality for all sections of society, and in particular, to ensure that poor communities, which are most dependent on environmental resources for their livelihoods, are assured secure access to these resources.

3. Inter-generational Equity

To ensure judicious use of environmental resources to meet the needs and aspirations of the present and future generations.

4. Integration of Environmental Concerns in Economic and Social Development

To integrate environmental concerns into policies, plans, programmes and projects for economic and social development.

5. Efficiency In Environmental Resource Use

To ensure efficient use of environmental resources in the sense of reduction in their use per unit of economic output, to minimize adverse environmental impacts.

6. Environmental Governance

To apply the principles of good governance (transparency, rationality, accountability, reduction in time and costs, participation, and regulatory independence) to the management and regulation of use of environmental resources.

7. Enhancement of Resources for Environmental Conservation

To ensure higher resource flows, comprising finance, technology, management skills, traditional knowledge and social capital for environmental conservation through mutually beneficial multistakeholder partnerships between local communities, public agencies, the academic and research community, investors, and multilateral and bilateral development partners.

The underlying objective of NEP, 2006 is to ensure that people dependent on natural resources obtain better livelihoods. Thus India's national environmental policy dwells on the understanding that conservation of environmental resources is necessary to secure livelihoods and well-being of its citizens.

1.3 Principles of NEP, 2006

The National Environmental Policy, 2006 establishes the following fourteen principles as guiding principles for the protection of environment and conservation of nature and natural resources. Some of these principles are self-explanatory. Others may require a short description for the readers to understand, which has been provided below.

1. Human Beings are at the Centre of Sustainable Development Concerns

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

2. The Right to Development

Both the present and future generations have a right to development which must be respected while making provisions for environmental protection. However, it must be remembered that no development can take place without a healthy environment.

3. Environmental Protection is an Integral part of the Development Process

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

4. The Precautionary Approach

Sometimes we are uncertain about the full impacts of a developmental activity on the environment and scientific evidence that a certain developmental activity will cause environmental degradation is lacking. However, that does not mean that we will go ahead with the said developmental activity.

NEP, 2006 provides measures to ensure that lack of scientific evidence will not be used as a reason for not taking suitable measures for environmental protection.

5. Economic Efficiency

An important guiding principle of NEP, 2006 is that economic efficiency will lead to greater environmental benefits. For ensuring this, NEP suggests that economic valuation of environmental resources and ecosystem service be carried out in a comprehensive manner.

5a) Polluter Pays

Sometimes the actions of one individual or company may have an impact on another individual or company even when they may not have any direct economic relationship with each other.

For example, if a factory emitting air pollution is set up around a residential area, the pollution will have an adverse impact on the residents even when the residents are not deriving any economic benefit from the factory.

Such an impact is termed as an externality in environmental economics and if the factory owner does not compensate the residents then the entire production system is said to be inefficient. NEP, 2006 advocates that in all such cases the polluter must bear the cost of such externalities.

5b) Cost Minimization

When the economic valuation of the impact on environment of a development activity cannot be calculated, the economic costs of realizing the benefits of such a development activity must be minimized.

6. Entities with 'Incomparable' Values

Economic valuations and cost-benefit analyses for utilizing or exploiting some natural resources (like a healthy tiger population; unique landscapes such as the Valley of Flowers, Uttarakhand etc.) or built heritage (like the Taj Mahal etc.) simply cannot be done since these are 'incomparable resources'. Damage, degradation or loss of these resources cannot be accepted and will not be allowed at any cost.

Thus, the NEP agrees to the non-acceptance of any kind of economic calculations in such cases and advocates priority in resource allocation for the protection and conservation of such entities.

7. Equity

All human beings must be given equitable access to nature and natural resources such as clean air, water etc.

8. Legal Liability

Any person or company causing harm to the environment must be liable in the court of law and must be penalized as already discussed in the 'polluter pays' principle.

8 a) Fault Based Liability

In addition to the above, a person or company may be penalized for not following the set environmental standards. For example, if a company burning large amounts of coal needs to have a chimney height of 30 meters, and its actual chimney height is only 10 meters then it can be held liable and penalized.

8 b) Strict Liability

If the actions or inaction of a person or a company cause damage to another person or company, then the first person or company must compensate the second person or company even if the first person or company has not broken any law or duty.

For example, in the Bhopal Gas Tragedy of 1984, strict liability applies on the Union Carbide company from where the gas leaked and killed thousands of people.

9. Public Trust Doctrine

This is an important doctrine in the NEP, 2006 according to which the State is not an absolute owner but only a trustee of the natural resource wealth of the country.

10. Decentralization

Local environmental problems need local solutions. However, local solutions can only be achieved when the State transfers the powers from a Central authority to a state authority and from a state authority to local authorities. The NEP, 2006 advocates such a decentralization and the transfer of powers for ensuring sustainable solutions to environmental problems.

11. Integration

The inclusion of environmental consideration in sectoral policymaking across all sectors and the strengthening of linkages between various agencies at the Central, State and Local levels is required for ensuring sustainable development. The NEP, 2006 recognizes this and advocates for such an integration in environment related policy making.

12. Environmental Standard Setting

The setting of environmental standards goes a long way in protecting the environment. An environmental standard may be an upper concentration value of a certain pollutant beyond which a certain type of factory cannot pollute in a unit time. The NEP, 2006 advocates the setting of environmental standards taking into consideration factors such as risks to human health, risk to environmental health, technical feasibility, cost of compliance to the set standards etc.

13. Preventive Action

NEP, 2006 clearly advocates that preventing environmental damage is far times better than degrading the environment and paying up later on to restore the degraded environment.

14. Environmental Offsetting

The NEP, 2006 provides provisions for exceptional cases where threatened or endangered species or natural systems required for supporting life cannot be protected for some reason. In this case, the policy advocates that cost-effective offsetting measures must be undertaken to restore and/ or reclaim the damages so that the lost environmental services are returned to the public.