

PHURO INNOVATIONS

ECOLOGICAL PEACE

NEW Climate Change LAW



Understanding
Attempt at it
Together





NEW CLIMATE CHANGE LAW

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COP28 was the twenty-eight meeting of the Paris Agreement, with the main goal to keep the global temperature limit of 1.5°C within reach. The key highlight this year was the decision on the world's first 'global stocktake'. The Global Stocktake is designed to raise ambition by helping parties to see what they have achieved so far in implementing their NDCs (Nationally Determined Contributions), NDCs which reports the actions that each individual nation is taking to reduce these greenhouse emissions.

India is a “dualist” state, which means that international agreements (such as the Paris Agreement and the UNFCCC) must be translated into domestic law to become enforceable within the country. As such, there is no time-bound requirement for India to enact domestic legislation to give effect to the provisions of international agreements on climate change either. This implies until India enacts a framework for climate change legislation, India’s NDC is not a legally binding obligation owed by the government to the citizens.

Article 253 of the Indian Constitution vests in the Parliament the power to make laws to implement international treaties. Further, Article 73 extends the executive power of the Union of India to matters on which the Parliament has the power to make laws.

Climate Change is a very wide subject and hence requires further understanding and discussion based on this paper. An attempt has been made to connect the dots below to create meaning which is calling for change.

Having said that, India does have a National Action Plan on climate change, but based on our analysis these are not law, and hence they are not enforceable by courts. Courts use their general authority under environmental laws to direct compliance with policies.

The research created under Phuro Innovations before proposing the "citizenry movement” to the founder of Universal Jurists Association was essentially an issue of regulating climate pollutants, for example ‘Climate-exacerbated disaster risk management’ and ‘protecting natural resources’ in respect of The Hindu Kush & Pamir Himalayas, Mangroves and Western Ghats as critical fragile national resources.

Strengthening national security which supports the idea that ‘securitization’ of issues like climate change is an important approach, e.g. Indus Water treaty is one such approach due to which we have survived for so long even though we have had political hostility in the region.

‘Ease of doing business’ must also be a current political priority because the energy transition can't happen without favourable policy, legislation which we call treaties for certain business sectors or technologies, particularly renewable energy & green hydrogen.

The outcome of discussion, post exchanging ideas and trading minds is that finally we need for a framework of climate legislation. Some might say that it is “better to learn from mistakes in implementing existing laws and amend them” rather than developing a new framework.

The contrary view is that “existing laws do not give protection against climate change; it is a phenomenon that needs some kind of coordinated action which is difficult to achieve purely through amendment.

The citizen’s interest is not centered in climate action right now. This needs to be changed through legislation. When researched the following further one will arrive at that “a separate climate law is a way to use the courts more meaningfully”.

What is the current framework?

Missions without legislation are:

- National Solar Mission
- National Mission for Enhanced Energy Efficiency
- National Mission for a Green India
- National Mission for Sustaining the Himalayan Ecosystem to help protect India’s water supply.
- ERP's
- Green Hydrogen Policy Mission

We have chosen to release this white paper, start this campaign at Indian Law Institute because this was founded with the objective of promoting and conducting legal research. To cultivate the science of law, to promote advanced studies and research in law to meet the social, economic, and other needs of the Indian people, to promote systematization of law, etc. As an autonomous body The Indian Law Institute has the requisite independence and academic freedom to carry out its objectives.

ILI should start an independent movement on New Climate Change Law and offering students short and effective courses to ensure India’s needs are met in the coming future.

DATA & FACTS

India is now the third-largest emitter of greenhouse gases in the world after China and the United States. India's annual emissions of carbon oxide are projected to further increase almost 2.5 times between 2008 to 2035.

As per the United Nations Development Programme, India generates about 3.4 million tonnes of plastic waste annually. To address the issue of plastic waste, the Ministry of Environment, Forests and Climate Change (MoEFCC) enacted the Plastic Waste Management (Amendment) Rules 2022. This was an amendment.

Further, the Rules bring certain designated entities within the ambit of mandatory Extended Producer Responsibility (EPR). If EPR objectives are not met, environmental compensation is to be levied on the erring entity.

Thirdly, new registration rules mandate that all regulated individuals must register on the Central Pollution Control Board's (CPCB) online platform. The government has an objective of having better plastic waste management in 100 cities by 2024.

The balance requires further development, regulatory enforcement, and fostering environmental responsibility in every citizen.

FOREST CONSERVATION (AMENDMENT) BILL, 2023

The Forest Conservation (Amendment) Bill, 2023 (the "Bill") was recently introduced before parliament to amend the Forest (Conservation) Act, 1980 (the "Act"). The Act had been enacted to prevent large-scale deforestation and required central government approval for diversion of "forest land" for non-forest uses.

It must be borne in mind that simultaneous to the Amendment Bill, the central government has also introduced its Carbon Credit Trading Scheme, 2023. The grooming of private forests therefore may not lead to creation of permanent carbon pools as such "forests" are likely to be used for carbon credits. It lacks a central statute or a specific regulatory framework.

SEBI REGULATIONS

In India, the top 1,000 public listed companies by market capitalization are required to make their ESG disclosures under the Business Responsibility and Sustainability Reporting (BRSR) framework, prescribed under the SEBI Regulations, 2015. The framework has multiple essential and leadership (voluntary) reporting parameters. SEBI has recently July 2023 introduced the BRSR Core, which is an assurance framework and covers ESG disclosures for value chain. ESG disclosures for the value chain shall be applicable to the top 250 listed entities, on a comply-or-explain basis from FY 2024–25, for which the limited assurance shall be applicable on a comply-or-explain basis from FY 2025–26.

Due to the existing qualitative and non-standard ESG disclosure regime, SEBI has also decided to implement an “assurance mechanism” in a phased manner. The listed entities can consider appointing an ERP and has brought ERPs under its regulatory oversight as well.

GREEN HYDROGEN POLICY MISSION

India has set ambitious targets of energy independence by 2047 and net-zero emissions by 2070 and the government has announced various initiatives for the transition to clean energy.

In 2022, the Ministry of Power announced the Green Hydrogen Policy 2022, for ease of production of green hydrogen which provides additional incentives such as the waiver of inter-state electricity transmission charges, priority electrical connectivity, land allocation in renewable energy parks, and the establishment of dedicated manufacturing zones for green hydrogen. It allows renewable energy consumed in green hydrogen production to count towards the renewable purchase obligations of obligated entities.

This flagship programme aims to build capacity for producing at least 5-10 million metric tonnes of green Hydrogen by 2030, Key highlights of the mission include formulating schemes for financial incentives by the Ministry of New and Renewable Energy, ensuring renewable power delivery by the Ministry of Power, facilitating green hydrogen consumption in refineries and city gas distribution by the Ministry of Petroleum and Natural Gas, and developing an online portal for hydrogen-related legislations and standards.

The National Green Hydrogen Mission outlines the vision for fossil-based industries to transition to net-zero emissions in hard to abate sectors like steel, transport, shipping, and through the development of green hydrogen hubs.

This is possibly the best way, we have summarised the information via this white paper.

RECOMMENDATIONS

The general recommendation is to have a national committee on Climate Change. The National Committee shall be prepared in such a form and at such time as may be prescribed an annual report giving a true and full account of its activities during the previous year and forward it to the Central Government on the following framework.

- a) the Environment (Protection) Act, 1986
- b) the Air (Prevention and Control of Pollution) Act, 1981; (c) the Motor Vehicles Act, 1988
- c) the Indian Forests Act, 1927
- d) the Forest (Conservation) Act, 1980



UNVEIL DELHI

SAVE OUR CHILDREN

Tune In To Our Webinar

7 PM | 07 March 2024

LETS BREATHE FRESH AIR

Save Our Children - Climate Change Emergency - Air Pollution Minutes

“Save Our Children”

Webinar | 07 March 2024

Phuro Innovations hosted the webinar “Unveil Delhi – Save Our Children” on 7th March 2024 to give voice to children, children of New Delhi who cannot speak for themselves and are unknowingly breathing toxic /hazardous air every year. The webinar was hosted to minute the request raised to add "eradicating Delhi Air Pollution" as a political agenda for General Election. The discussion between Ms. Rachna Sharma, the President and Founder – Phuro Innovations; and Dr. Naveen Gupta, MBBS, MD - Paediatrics, DNB – Neonatology brought into focus the impact of high AQI levels on children and to be mothers of Delhi and called for a collective and immediate action to bring AQI levels in healthy range.



Rachna Sharma

President & Founder - Phuro Innovations

Ms. Sharma began on a note that what we see in Delhi is one of the manifestations of climate change which is a man-made as well as a natural problem. Man made problems resulting from the factors such as transportation, household consumption, stubble burning, open waste burning, firecrackers and burning of effigies etc., while seasonal winds and the cycle of harvest are natural. She opines that when we have problems of this serious magnitude, then we need a solution that is sustainable and long term. Short term planning would not be sustainable, and this needs complete change.

Being a mother herself, what moved her was when she herself had to be nebulized and she vomited with dizziness and disorientation post exposure to hazardous air during one of the winter days. She also noted that her children were on nebulizers and medicines for more than three months on and off. That's when she was moved that if an adult cannot tolerate this kind of air, how can children, especially the ones not born and newborns can, who cannot even express what is happening to them. Post discussing to a lot of mothers, she realized that they were not even aware that it was this dangerous for them. Hence, she took a resolve to educate them to save their children. We are talking about increasing the life span of a human being, how can that happen if we are bringing in children where they can't breathe.

She also underpinned that as parents, and as elders, it is our duty to show some leadership and initiative and talk to the government and sensitize them about this problem which is impacting our children. Referring to Bhopal Gas Tragedy, she reminded everyone of its impact such as chronic illnesses, children born with disabilities and underdeveloped minds having neurological and lung issues. She also made an attempt to remind people of the horrific effects of Chernobyl tragedy in 1984 and referred to the irresponsible acts of government and

industrialists to not to listen to experts and the people who were time and again warning them with reports for the need of maintenance. Highlighting the causes and repercussions of the two cases, she pin-pointed the need of immediate actions to bring down AQI in Delhi.

Referring to the COVID times, she mentioned that COVID virus impacted everyone irrespective of wealth, religion, caste, or creed. The endeavour to manoeuvre through COVID united everyone. She requested Delhiites to learn from COVID times and called for everyone to unite again because during COVID, people just did not rely on the government or any external agency but we as people the courage to come together for a collective action whether it be funeral services or creating factories to meet the demands for masks or PPP kits. Ms. Sharma then requested Delhiites to request the political parties to solve their problem in exchange of their vote.

Ms. Sharma further pointed out 2024 General Elections as a golden opportunity as during this time the government has time and the willingness to engage with the citizens directly, and they come to visit their constituencies, our doorsteps seeking votes. We must request for safety from air pollution.

She further underlined that we cannot take 2030 or 2035 as the goal to end the menace of Delhi Air Pollution, since this is about becoming the voice of those who cannot speak for themselves, whether those are newborn kids, or the unborns, or the children going to school. It is our responsibility as parents, and as leaders in different walks of life, to become the voice of change. We must not underestimate ourselves as voters and should ask the election candidates coming to our doors for fresh air, and we need to be very careful when we choose government this time, whether that is central government, or the Delhi government.

Pointing towards the lack of data on the impact of high AQI levels, she said that it is because our country lacks institutions and research centres.

She ended by sharing that Phuro Innovations has created a Model City New Delhi plan and shown that via a flow chart, as to how the Delhi AQI can be brought down while adopting the bigger plan. Most of these documents have been shared with Prime Minister, Finance Minister, and Lieutenant Governor of Delhi.



Dr. Naveen Gupta

MBBS, MD - Pediatrics, DNB – Neonatology

Dr. Gupta started by responding to the query of the impact of particulate matter on lungs especially in children. He mentioned that the AQI levels in winter months wavering between 500-600 acts as a trigger for the kids who are already at the risk of asthma or the ones who already have asthma. It becomes difficult for them to breathe, and normal medications do not usually work for infections in children. He also underscored the fact that as per various international organisations such as UNICEF, WHO and Indian agencies; high AQI starts impacting the children in

the womb itself. The pollutants inhaled by the mother are transmitted to the child through placenta and it can lead to problems in delivery, increased risk of miscarriages and prematurity; coupled with lesser birth weight and growth restriction.

He cited four reasons for such vulnerability in babies. Firstly, since their immune system is weak, hence they are at a higher risk. Secondly, he mentioned that is that babies breathe at a very fast rate as compared to an adult because of which they inhale more air as compared to adults and hence more pollutants. Thirdly, since the height of babies is shorter than adults, many of the particulate matters tend to gravitate and are found in more density near the ground surface. This results in the increased inhalation of pollutants by babies. And fourthly, babies breathe by mouth which increases the risk of pollutants moving to other organs apart from lungs.

He further pointed out that air pollutants increase the risk of myocardial infection, which means that 4-5% of risk of heart attack is attributed only to air pollutants. Similarly, the air pollutants are also dangerous for brain and can result in dementia or parkinsonism, etc. In regard to kids, they are likely to have reduced brain growth due to air pollutants. He also mentioned since there is no formal research or study, we are unaware of the irreversible damage it can have to children's lungs, brain, and hearts.

When asked by Mrs. Sharma about the impact of high AQI levels on people without adequate resources to afford air purifiers or healthcare apparatuses, Dr. Gupta mentioned that the lesser fortunate ones including the kids going to schools and colleges knowingly or unknowingly are receiving more harm than people working inside offices or at homes. He further mentioned that for an AQI in the level of 500-600, the data is not available for its impact on life expectancy but as per existing data of the western world, an AQI of 100 to 150 is very bad and it decreases the life expectancy by ten years. He mentioned that that most of the governments panic world over with AQI going beyond 100, as this can lead to civil unrest or internal conflict due to frustration. He highlighted the need for an immediate action since the AQI ranges between 500 to 600 every four months in a year especially required for the people and children who do not have access to adequate healthcare facilities as our public infrastructure is not so well equipped to take care of such a larger load. As per him during such months sometimes there is no availability of the beds and hence it should be the top priority of the government to improve the quality of air as a preventive measure rather than talking about cure. The goal should be to prevent it by whatever means which is possible.



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