



FORMULATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS: CRUCIAL ROLE OF PSYCHOLOGY

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Abstract

In the recent past, the concern for battling climate change seems to have taken the center stage world over and rightfully so. A plenty of global conventions, treaties and conferences highlighting the significance of ensuring the health of our planet, bear evidence to the fact that the threat of climate change is real and needs to be dealt with collective effort. The largest democracy in the world, India, has been and continues to be an active participant in such endeavors. Even the Constitution of India provides provisions on the subject of environment protection. For instance, Article 51A(g) prescribes the fundamental duty of every citizen of India to protect and improve the natural environment and have compassion for all living creatures. In order to uphold this spirit of the Constitution along with meeting the international commitments, such environment related legislation as The Wildlife (Protection) Act, 1972 and The National Green Tribunal Act, 2010 etc. have been enacted in India from time to time. However, the implementation of such laws has not been very efficient, with lack of citizen engagement being a major reason. This paper makes an attempt to look at this issue through the lens of Psychology. The aim is to highlight the idea that the solution of dealing with climate change lies in adopting an interdisciplinary approach; and that it can produce effective measures if environmental laws are formulated and implemented in accordance with the principles of Psychology that govern behavior change (Psycho-legal perspective).

Keywords: *Climate Change, Environmental protection, Environmental legislation, Psycho-legal perspective, Behavior change.*

Introduction

Climate change is happening at an unprecedented pace and is a cause of serious concern for all forms of life on Earth. Sadly, human actions and greed come across as the biggest culprits for this looming threat. Nevertheless, mankind has not shied away from assuming responsibility for the same. Acknowledging the gravity of the matter, numerous attempts at both national and international levels to check and reverse the consequences of climate change, have been made from time to time. The United Nations Conference on Human Environment held in 1972 in Stockholm, the United Nations Conference on Environment and Development held in 1992 in

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Rio de Janeiro and the World Summit on Sustainable Development held in 2002 in Johannesburg etc. are just a few names in the long list of global conferences that have been instrumental in achieving a common understanding internationally regarding environmental issues (Jianping et al., 2014).

India has always contributed with enthusiasm to every global call for climate action. When the constitution of India was enacted on 26 January 1950, it did not have any provision directly concerning with the protection of environment. The credit for ushering a movement for the cause of environment in India can be traced to the United Nations Conference on Human Environment which was held at Stockholm in 1972. Consequently, provisions relating to protection of environment were introduced in the Constitution of India by the 42nd Amendment Act in 1976; thereby making it perhaps the first constitution in the world which strived to save the degrading environment (Senger, 2007).

As it is, the Indian way of life is replete with the incredible values of our ancient civilization which is characterized by the concepts of ‘Vasudhaiv Kutumbakam’ and ‘Dharti Mata’. Therefore, it is by virtue of our cultural ethos that we believe that ‘The entire World is one Family’ and ‘Earth is our Mother’. This renders us better equipped to lead a lifestyle which is sustainable and in harmony with nature.

Constitution of India and Environment

The Constitution of India looks after the concerns regarding environment mainly through the following three articles:

- **Article 48A (Protection and improvement of environment and safeguarding of forests and wild life):** It was incorporated by the Constitution (Forty-second amendment) Act, 1976 and states that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.
- **Article 51A(g):** It was also added by the Constitution (Forty-second amendment) Act, 1976. It places a fundamental duty on Indian citizens to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.
- **Article 21 (Protection of life and personal liberty):** It states that no person shall be deprived of his life or personal liberty except according to procedure established by law. It includes the ‘right to life’ which has unfolded in form of distinct facets over the course of various judgments. One such facet related to clean environment falls under the ambit of right to life which has been construed as “a life of dignity to be lived in a proper environment free from the dangers of diseases and infection³”. Another dimension highlights the right to sustainable development referring to which the Court has held that “balance has to be maintained between environment protection and developmental activities which can be achieved by strictly following the principle of sustainable development⁴”.

³ Ratlam Municipality v. Vardhi Chand, AIR 1980 SC 1622.

⁴ M.C. Mehta v. Union of India, AIR 1987 SC 965.



Environmental Laws in India

This section presents a broad outline of some of the major laws pertaining to environment which are enforceable in India at present.

- **National Green Tribunal Act, 2010:** Among developing nations, India is one of the forerunners in establishing a green court in the form of the National Green Tribunal (NGT). This innovative judicial mechanism acts as a special ‘fast-track quasi-judicial’ body for delivering prompt justice exclusively in cases involving environment. The NGT is working towards halting the uninterrupted march toward industrialisation in the post liberalization era of Indian economy. Though it is unlikely that NGT will be the ultimate solution for all environmental issues, it will undoubtedly prove to be a pioneer in providing novel forms of environmental dispute resolution (Patra & Krishna, 2015).
- **Environment (Protection) Act, 1986:** The objectives of this Act are twofold. First being the initiation of proper actions for the protection and improvement of human environment as per the United Nations Conference on the Human Environment held at Stockholm in June, 1972; and second being to ensure the inhibition of hazards to human beings, other living creatures, plants and property. This Act defines the terms frequently used in the discourse about environmental concerns. For instance, the term ‘environment’ has been defined to include “water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property”.
- **Forest (Conservation) Act, 1980:** As the name suggests, the overall objective of this Act is to conserve forests. It is aimed at thwarting the ecological imbalance and deterioration of environment resulting from deforestation. It makes the prior approval from the central government mandatory for putting forestland to non-forest use.
- **Wild Life (Protection) Act, 1972:** The aim of this Act is to put a check on the declining population of wild animals and birds. It places prohibition on the poaching of specific wild animals and birds, with exceptions to be used for educational or scientific research purposes. In addition to this, it also covers the matters regarding designation of particular areas as national parks or sanctuaries.

Inefficient Implementation: Lack of Citizen Engagement

Despite the presence of numerous legislations concerning environment, the question of their effective implementation still stares the lawmakers in the eye. Lack of enforcement of Indian laws has always been a challenge, and this is equally true of environmental regulations. Courts have already noted that laws are not being implemented adequately. For instance, Justice Kuldeep Singh underscored the adoption of notion of sustainable development as a balancing idea⁵(Ahmad, 2001). There is seldom a dearth of interest and commitment from governments and policymakers to this effect. The mystery as to why then the intended outcomes are far from

⁵ Vellore Citizens 's Welfare Forum v. Union of India and Others, AIR 1996 SC 2715.



being achieved, might find an answer in the deficiency of citizen engagement, which has been referred to as civic engagement by Adler and Goggin (2005) and defined as, “how an active citizen participates in the life of a community in order to improve conditions for others or to help shape the community’s future”.

Therefore, a promising solution might be found by a change of perspective from ‘Top-Down Approach’ to a ‘Bottom-Up Approach’. In other words, keeping the individual at the center of the lawmaking process might hold the key to unlock the full potential of these laws. It is crucial that the public truly partake in environmental decision-making. There have been several examples of the significant role played by citizens in leading movements for protection of environment in India. Moreover, engagement in the formulation and execution of environmental laws needs to start at the level of the individual itself (Ahmad, 2001).

Psycho-Legal Perspective

Considering the proportion of the challenge that humanity is facing in the form of climate change, only an interdisciplinary approach seems to have the potential of averting the catastrophic future. Tremendous social changes within a short span of time are needed for dealing with climate change, and in this context, research from the field of Psychology carries immense scope for enhancing the measures aimed at climate change mitigation. Nevertheless, in order to harness this potential, two aspects- how the behaviors we study affect the environment and how various disciplines can work together in this direction- call for an amplified focus (Nielsen et al., 2021). Therefore, merely making a legal framework for the conservation of environment is never going to be enough. The requirement is to bring together principles and concepts from various disciplines of knowledge and then, strive to find novel solutions to the issue at hand. There is an urgent necessity to establish a novel perspective with sound theoretical and practical basis to make sure that conservation efforts are not jeopardized by challenges of enforcement and compliance (Keane et al., 2008).

Presenting this line of thought, the current paper is an attempt to amalgamate ideas from the fields of Law and Psychology, with an aim of envisioning solutions for better enforcement of environmental laws using the principles of Psychology. The endeavor is to put forward a psycho-legal perspective to deal with the environmental problems, specifically, lack of citizen engagement resulting in ineffectiveness of environmental legislation, in an efficient manner. An overview of certain such domains of Psychology is as follows:

- **Individual behavior:** ‘Individual’ forms the fundamental unit of any kind of action. Therefore, knowledge of what drives the behavior (values, attitudes, identities, beliefs, motives etc.) of the individual emerges as a prerequisite for developing an effective legal mandate for conservation of environment. This domain of Psychology has a whole heap to offer in the form of such concepts as environmental identity, pro-environmental values, ecological worldviews, pro-environmental behavior and environmental action etc. which can steer the formulation of laws in the right direction with enhanced precision.
- **Societal behavior:** A knowledge of the nuances of the social fabric opens a window to the factors that act as drivers of civic engagement. It lays down the foundation for evolving public behavior modification theories. Social Psychology holds a treasure of

concepts that explore the human behavior in terms of interpersonal and group interactions. For instance, the topics of social influence like conformity, compliance and obedience can prove quite useful in discerning what drives conservation behavior in social situations and what does not.

- Models of Behavioral change:** Citizens are the agents of change. Combining the understanding of the psychological underpinnings of their individual and societal behavior related to environment, is must for any attempt at environmental behavior modification to succeed. Therefore, in our pursuit of environmental conservation through citizen engagement, learning about the determinants of individual and social pro-environmental behavior can pave a way for constructive legal mandate on environment eliciting better public engagement. Application of various models of behavior change including the Health Belief Model, the Theory of Reasoned Action and the Transtheoretical Model can bring the desired effectiveness to environmental legislation. For instance, the Behavior Change Wheel Model proposed by Michie et al. in 2011, offers a behavior transformation framework called COM-B system. It comprises of three factors which form the core of the Behavior Change Wheel (BCW): capability, opportunity and motivation. This core is encircled by nine different intervention functions that are designed to address the weaknesses in the core. The intervention circle is further surrounded by the policy circle which consists of seven types of policy that may make these interventions possible.

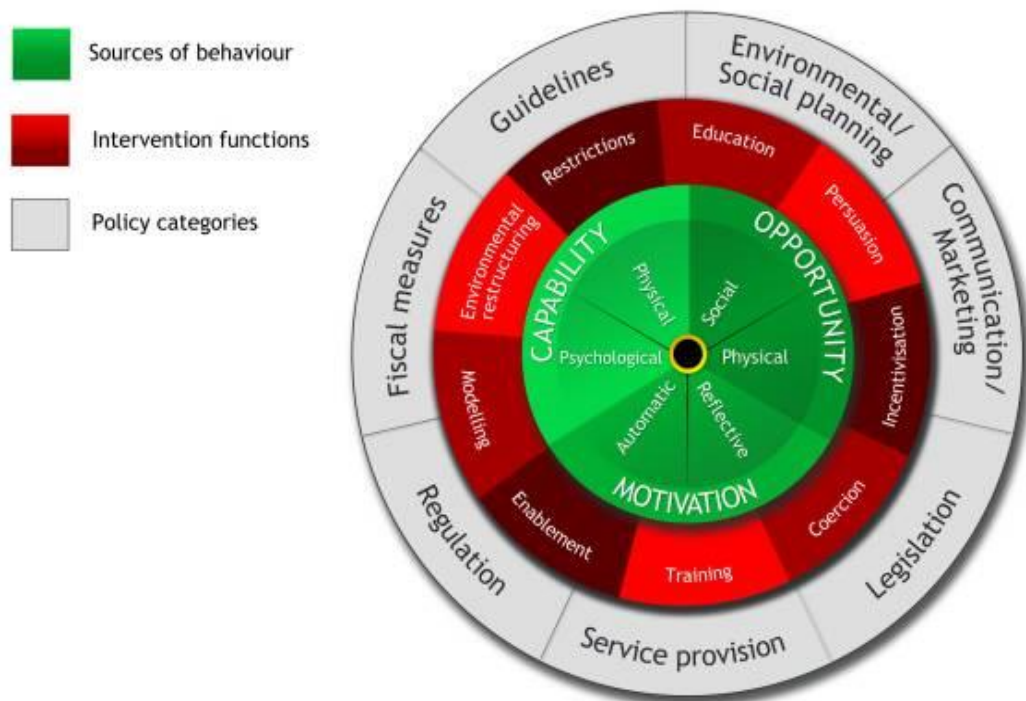


Figure 1. The Behavior Change Wheel (Michie et al., 2011)



- **Mental health concerns:** The past few decades have witnessed a surge in interest towards the psychological impacts of climate change. Research has established this fact beyond doubt that psychological well-being of individuals is at risk due to the environment related hazards. Climate distress, eco-anxiety and environmental worry are some of the terms that are gaining attention from the arena of mental health research. Moreover, the perils brought on by the climate crisis are likely to put certain sections of populations, such as those already facing mental health conditions, at a greater risk. In order to effectively adapt to the social and psychological consequences of climate catastrophe, it is imperative to incorporate climate change issues into mental health policies, and emphasize cross-sectoral and community-based endeavors (World Health Organization, 2022). Bringing home the discourse that environmental issues and psychological well-being are interconnected, may help in gathering willing efforts from citizens to save the environment.
- **Environmental Communication:** For any effort towards engaging citizens to bear fruit, one overarching factor called effective communication, needs to be addressed adequately. Significance of this factor comes into play at both the stages of the journey of environmental legislation which can be described as follows:
 - i. **Formulation Stage:** Psychological concepts, if taken into consideration at the very stage of creation of a particular law pertaining to environment, can work wonders by steering the provisions to appeal to what drives the environmental behavior. A free flow of communication among the various stakeholders of environment-citizens, organizations, governments etc.-can facilitate the creation of policies that address the core issues. In addition to this, psychological research at the grass root level could unravel the real motives that guide behavior of people towards or against the environment. Let's try to figure this idea out through an example. It has been seen that mostly, the provisions or directives target a singular action and expect the concerned detrimental behavior to cease. This understanding, however, is incomplete without considering a crucial yet often overlooked characteristic, which is the multilateral nature of a single behavioral action. The interlinkages among changes involving behavior, culture, technology, economy and policy make it necessary to take into account the others as well, in order to properly evaluate any one of these. Policies that move energy supply towards renewable sources from fossil fuels, for instance, may require shifts in how and when energy is consumed (Nielsen et al., 2021). Therefore, while designing a message aimed at changing a particular behavior, adequate consideration ought to be given to its other interdependent aspects. As a result, it might be more effective to frame messages targeting the resulting 'behavior change clusters' instead of a single behavior.
 - ii. **Implementation Stage:** Once a policy or law has been effectually crafted, the next task at hand becomes its implementation. For effective execution and outreach, effective communication is required. Communication at this stage involves conveying the intended message to the stakeholders in a clear and striking manner. Environmental education and awareness can play a significant



role here. Appropriate channelization of different means of communication also makes a difference. Targeting different age groups through the media that is consumed by them the most could also add value to the process. Additionally, it should also carry a mechanism for feedback for its further refinement. Citizens' acts of communication such as information seeking and sharing, directly result in environmental participation (Jiang, 2019).

Conclusion

Psychological insights into the factors that can aid in garnering greater involvement from individuals can prove quite useful in attaining the goal of better implementation of environmental laws. By creating and enforcing environmental laws based on psychological insights, we can come up with effective ways to shift people's behavior towards sustainability. Therefore, the intersection of Psychology and Law holds immense potential to serve the purpose of triggering citizen environmental engagement, thereby resulting in effective legal framework surrounding environment. Rigorous research in this area, thus, ought to be taken up as a pressing priority.

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