

South Asian Association for Regional Cooperation and Its Legal Imperatives on Environmental Issues

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Abstract

As a matter of fact, South Asian region inhabited by almost one fifth of the human race is faced with common problems of environmental degradation which affects people by undermining their livelihood and increasing their exposure to health risks. This article examines issues concerning environment such as climate change, food security, loss of biodiversity, health problem and water shortage etc. insecurities in the South Asian Association for Regional Cooperation (SAARC) countries. Although the SAARC has been aware of its role and importance but it has not been able to translate that willingness into concrete actions because of fragmentary attitudes and the division within the SAARC members, particularly India's recent efforts to isolate Pakistan within SAARC, has rendered the regional organization virtually ineffective in achieving any of its stated objectives, particularly on the climate front. Finally the paper argues in order to better support among its member states to mitigate and adapt to climate related security risks, SAARC region especially India and Pakistan would have to find a collective path to set aside long-standing mistrust and find the unanimous consensus to cooperate and revitalizing SAARC to make an effective institution to combat environmental problems and its grave security risks.

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Introduction

As a matter of fact *environmental problem has been one of the emerging issues across the world. However, South Asian countries are more affected and vulnerable to a range of environmental impacts, ranging from shrinking glaciers and water scarcity to floods and rising sea levels*³. The shifting monsoon patterns and heat waves place noticeable stress on SAARC region comprises of eight nations including Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and the Sri Lanka. It may pointed out that, the SAARC region spread from the arctic temperatures of the Himalayas to the arid areas of south-eastern Pakistan, Afghanistan and western India to the intense tropical humidity of Bangladesh, southern India, the Maldives, and Sri Lanka whose primary employment sector remains agriculture.⁴ Moreover, floods, droughts and earthquakes have not only become more regular, but also more severe and frequent occurrence of cyclone across the region. For example in India, the area is affected by natural calamities, particularly occurrences floods in Kerala, Chennai, Gurugram and Mumbai clearly shows the impact of climate change. In Bangladesh, sixty percent area is flood prone at the same time floods affected 20 million people in Pakistan. Other countries of South Asia are not an exception. For instance the South Asia is facing worst kind of air pollution in the world, and it is severe in India where in the first week of November, 2019 schools are forced to close and people are advised to remain in their houses.

It has been estimated that due to environmental degradation, the *Thar Desert* is extending at a rate of 100 ha per year which may cause damage to approximately 13,000 ha of cultivated lands and pastures in India and Pakistan. Recently the South Asia region has been facing grave scarcity of freshwater and it may leads to rapid migration of people and this region may face environmental refugee crisis. Therefore, environmental issue is real, serious, and inescapable, and its looming effects, certain and uncertain, may prove to be destabilizing on a massive scale which need not to be addressed in isolation but it has to be interrogated collective and shared responsibility. The awareness of legal measures has been one of the major agenda in SAARC region since 1987 for the protection and preservation of the environment under the purview of regional cooperation to negotiate some binding climate agreements.

Foundation of Saarc And Its Effectiveness in Inducing Regional Cooperation

The South Asian Association for Regional Cooperation (SAARC) owes its legal birth to the adoption of a Charter at a summit meeting of the Heads of States or Governments of the seven South Asian nations, held at Dhaka on 7-8th December 1985. This marked the beginning of the determined will and united efforts of the government of the countries. It originally comprised of the seven South Asian countries - Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Afghanistan became a member in 2005. SAARC countries share common history; strong cultural links and significant economic ties'. Effectively, the SAARC Charter is the constitution of SAARC and Member States are legally bound to follow the provisions thereof. According to Article I of the SAARC Charter, the Association has the following objectives: promote the welfare of the peoples of South Asia and improve the quality of their lives; accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realize their full potential; promote and strengthen collective self-reliance amongst the countries of South Asia. Furthermore, it contribute to mutual trust, understanding and the appreciation of one another's problems; promote active collaboration and mutual assistance in economic, social, cultural, environmental, technical and scientific fields; strengthen cooperation with other developing countries; strengthen cooperation amongst themselves in international forums on matters of common interests. Thus, in recent times, discussion over the stalling of future disasters on the environmental front rather than resolving stalemates over diplomatic issues has been the focus of the SAARC. With the rising urgency to respond to its effects, environmental issues concerning climate change has become a core issue for SAARC.

Impact of Climate Change And Saarc

It may pointed out that the environmental issues has risen to the top of the international agenda and has brought in its wake a renewed focus on climate change, food security, water shortage, loss of biodiversity, health problems, waste management. The peculiar problems faced by South Asia region are discussed below:

(I) Climate Change

Climate change has been described as one of the emerging challenges and the foremost problem of the 21st century and if it left unchecked, will increase the likelihood of severe, pervasive and irreversible impacts on people and ecosystems. South Asia which consists of eight states has been extremely vulnerable to climate change.⁵ It refers to significant changes in global temperature, precipitation, wind patterns and other measures of climate that occur over several decades or longer. The South Asian region is facing environmental problems on account of various factors including natural as well as anthropological activities. The recent report of the IPCC expressed its deep concern of containing degradation of environment and highlighted about climate change would bring about the following challenges to South Asia :

1. Climate change has become a core issue for SAARC due to rise of temperature. Climate change would likely to increase the ozone and in 2018 Ozone hole was 24.8 million km² as against 28.2 million km² in 2015. In the past four years—2015, 2016, 2017 and 2018 taken together are the four warmest years on record and average global temperature reached approximately 1 °C above pre-industrial levels⁶. Moreover, CO₂ concentration and mean sea level continued to increase in 2018.
2. Ocean acidification in South Asia would likely to increase in the past decade and the oceans absorbed around 25% of anthropogenic carbon dioxide emissions and the decrease in global ocean oxygen has continued. More than 90% of the energy trapped by greenhouse gases goes into the oceans.
3. Melting of glaciers and sea ice in the Himalayas would increase throughout 2018 and sea ice sheet has been losing ice mass nearly every year over the past two decades and this in turn would affect long term water resources and availability in South Asia⁷.
4. In 2018, weather and climate events accounted for most of nearly 62 million people affected by natural hazards. As the environment ministry has pointed out that, in 2018-19, around 2,400 Indians lost their lives due to extreme weather events such as floods and cyclones. The report also identified the floods in Kerala as one of the main indicators of extreme weather events due to climate change.

5. Due to climate change, population Displacement and Human Mobility: Out of the 17.7 million IDPs (Internally Displaced People), over 2 million people were displaced due to disasters linked to weather and climate events as on September 2018. According to the Emission Gap Report, the current efforts imply global warming of about 3°C by 2100, with warming continuing afterwards⁸.
6. The rising sea level would likely to increase and as per the World Meteorological Organization (WMO) recommended that the Global Mean Sea Level from January to July 2018 was around 2 to 3 mm higher than the same period in 2017 and the IPCC Special report 2018 said that there is no safe level of global warming and sea levels would continue to rise for centuries even if we cap warming at 1.5°C above pre-industrial levels prescribed in the lower limit of the Paris Agreement.⁹

(II) Climate Change and Food Security

Food security is defined as economic access to food along with food production and food availability. However, agriculture in the South Asian Region is caught in a low equilibrium trap with low productivity of staples, supply shortfalls, high prices, low returns to farmers and area diversification can be a threat to food security¹⁰ and remains a major cause for concern. Across South Asia, large proportion of the population depend on agriculture for their livelihoods. Most of the South Asia receives monsoons every year, but rainfall in the semi-arid and sub-humid regions of South Asia is highly variable and unpredictable and influences agricultural productivity accordingly. Over the centuries, farming practices in the South Asia has developed as a response to local climatic conditions. South Asia is seized with the problem of poverty and inflation and further aggravated by environmental degradation which affects i.e. food and agriculture¹¹. Furthermore, South Asian countries are likely to face many problems of food security in 21st century in the following ways:

1. The greatest challenge that South Asia faces is lifting some 500 million people out of poverty, but this already-formidable challenge is made all the more difficult because along with local environmental repercussions of intensive agriculture, global warming has also started to affect food production.¹²

2. The environmental challenges such as water shortages and storms resulting in soil erosion which threaten future social upheavals, climate change migrants and political conflicts in the region. Even the most painful reality of environmental degradation is that is the poorer countries that stand to suffer most, and it is the poorest in the poor countries that have the least capacity to withstand the effects of environmental issues.¹³
3. By 2050 south Asia will need to produce around 650 million tonnes of foodgrains.¹⁴ India alone can technically produce enough food for the entire population of south Asia, but at an enormous economic cost and by placing a heavy burden on the environment and water.
4. The shortage of food in South Asia region particularly India, Pakistan, Bangladesh and Nepal, will put tremendous pressure on environmental resources.¹⁵

(III) Climate Change and Loss of Biodiversity

The South Asia houses approximately 15.5 and 12 percent of the world's flora and fauna respectively, however, the loss of biological diversity reduces the ecosystem's ability to adapt to change and is an issue of profound concern for its own sake¹⁶. It may pointed out that the biodiversity constitutes the variety of all life which include the variability among living organisms including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part. It is now generally accepted that global biodiversity will be significantly affected by environmental degradation:

1. Biodiversity also underpins the functioning of ecosystems which provide a wide range of services to human societies. Hence, its continued loss therefore, has major implications for current and future human well-being. This is one of the major concern to all nations of South Asia
2. Habitat destruction, such as habitat conversion, degradation and fragmentation, are linked to biodiversity decline in South Asia. Deforestation and the associated fragmentation of natural habitats are expected to accelerate biodiversity decline in the coming years¹⁷.
3. Further, over the period 2002-2009, nearly 2,500 species of flora and fauna in Asia and Pacific were recorded in the Red List of the IUCN as "critically endangered", "endangered" or "vulnerable" (UNEP, 2000).

4. As pointed out in the Fourth Assessment Report of the IPCC (Intergovernmental Panel on Climate Change) in 2007, South Asia is likely to be one of the regions that will be a major casualty of all the negative impacts of climate change¹⁸.
5. Increasing sea level means a greater risk of storm surge, inundation and wave damage to the coastline. Drylands and mountain regions are also likely to be vulnerable and ecosystem degradation is largest in these regions.¹⁹

(IV) Climate Change and Water Security

In South Asia, home to nearly 1.6 billion people and constitutes more than 21 percent of the world population, however it has access to just over eight percent of global water resources. It may pointed out that the per capita water availability decreasing by nearly 80 percent since the 1950s and large number of people who are facing daily water shortage. According recent 'United Nations World Water Development Report' released on the occasion of 'World Water Day on March 22' explicitly warns that, by 2030, only 60 percent of the world's demand for water will be met by existing resources at the current rate of use.²⁰ That will leave 40 percent of the population without accesses to the water it needs and signs of this impending crisis are already there for all of us to see:

1. Today nearly 1.1 billion in South Asia region unable to get safe drinking water. For example, in Nepal's capital i.e. Kathmandu, many local residents have grown accustomed to waiting in queue to get drinking water from the city's ancient, stone waterspouts²¹. On the other hand in Karachi, Pakistan, electricity and water shortages have led to protests and citywide unrest.
2. The problem of water in South Asia – a problem of scarcity along with abundance. Transboundary Rivers such as the Ganges, Indus, and Brahmaputra have defined the geography, history, and culture of South Asia for centuries and are critical to economic growth, food and energy security, and sustainable development within the region. But over the last few decades, these rivers have come under considerable pressure from industrial development, urbanization, population growth, and environmental pollution.

3. Moreover, the water scarce situation has been compounded by poor domestic management of water resources and increasing variability in rainfall and climate patterns that have made South Asia highly susceptible to floods, droughts, and natural disasters.
4. Drinking water is the single biggest crisis being faced by India, Pakistan, Nepal and Bangladesh. In India, Nepal and Pakistan most cities are not based on river banks and the rapid pace of urbanization has led to the drying up of traditional water sources like tanks and lakes.²²
5. In 2050, when the population of the South Asian countries will be 2.35 billion, per capita water availability will be about 1,500 cubic metres (cum) and evidently it affects most of the south Asian countries from water stressed to scarce status, which in turn will affect economic, social and political stability.

(V) Climate Change and Health Security

The degradation of the environment affects people by undermining their livelihood and by increasing their exposure to health risks²³. South Asia is already reeling from health problems caused by the assault on its air. Pollution levels related to air, water and land have risen to alarming heights in many parts of the region and the resultant health hazards include water-borne diseases²⁴, respiratory diseases, asthma and an increased risk of health:

1. The degradation of environment is the major cause of health problems and half of the urban populations in south Asian countries are suffering from one or more of water-borne diseases.²⁵
2. The health hazards, associated with air pollution are further compounded by the burning of coal and biomass fuel related to wood, charcoal, dung and crop waste for cooking and heating.²⁶.
3. Moreover, air pollution associated with urbanization and industrialization in developing countries seriously impinges on the health of children and adults. For most children breathing in the air may be as harmful as smoking a pack of cigarettes a day. In Delhi the incident of bronchial asthma in the 5-16 age groups is 10-12 per cent and air pollution is one of the causes.

Legal Imperatives Concerning Environment

Environment has been regarded as a ‘common property’ that everyone can use in any way he sees. There has been no legal accountability for indirect damage to the environment. Take for instance a person owning a piece of forest property on a hill could cut down all the timber with impunity, even if the result was soil erosion that damaged fields at the bottom of the hill. This attitude shows underlies the theory of laissez-faire which promotes let them do what they will has been prevalent in almost all the countries in the South region.²⁷ Moreover, the years passed especially with the advent of the industrial revolution, it became obvious that such an attitude towards the environment was having an adverse impact on everyone. The expansion of legal imperatives is seen as a major revolution and has also expanded a form of regional cooperation that negotiates some binding climate agreement by SAARC nations in the following way:

1. Although, the initial summits of the SAARC concentrated on man-made problems, but its subsequent discussions on environmental degradation recognize that environmental disasters can be man-made as well as natural, and require immediate monitoring and active management on part of the leaders of the nations involved.²⁸
2. The emergence of New Environmental Policy Instruments has coincided with the shift from environmental management to environmental governance and ‘are now the preferred instrument of new environmental policies’ in many South Asian nations. The initiative has taken by regulation based instruments which includes such as taxes, levies on carbon emissions, air and water pollution, waste water, cost recovery and user charges, emission tradable permits and placing a cap on the maximum level of pollution, voluntary and negotiated agreements between state authorities and companies, and eco-labels on labeling products based on accepted environmental standards.²⁹
3. In the initial years of SAARC, the legal imperative approach was oriented towards lifting people out of situations of deprivations and not towards correcting the structural inconsistencies that they inherited. Take for instance, the 1992 Summit to be the ‘SAARC Year of the Environment’ and 1988 summit launched a regional plan called ‘SAARC 2000-- A Basic Needs Perspective’ to meet specific targets by the end of the twentieth

century in areas such as food, shelter, education and environmental protection³⁰. It clearly expressed that the management of the environment and environmental issues was part of SAARC's lofty aims ever since the beginning, although there was no urgency to govern or regulate the material conditions under which environment could become a debilitating influence on the life of the people.

4. In the thirteenth SAARC summit which took place in Dhaka, Bangladesh in 2005, the SAARC statesmen thus decided to consider the modalities for having a Regional Environment Treaty in furthering environmental cooperation among the SAARC Member States. It expressed deep concern at the continuing degradation of environment and reaffirmed the importance of concerted action in the protection and preservation of environment.
5. At the same time the decision to endorse SAARC coastal zonal Management Centre taken and an elaboration of a Comprehensive Framework on Early Warning and Disaster Management was undertaken. Government underscored the urgency to put in place a permanent regional response mechanism dedicated to disaster preparedness, emergency relief and rehabilitation to ensure immediate response.
6. The silver jubilee celebration of SAARC was held in Thimpu, Bhutan in 2010, focused on climate change. The main issue of this summit based on the theme of 'Towards a Green and Happy South Asia' and its outcome is resulted the signing of 'SAARC Convention on Cooperation on Environment' to tackle the problem of climate change. The SAARC nations also pledged to plant 10 million trees over the next 5 years. Moreover, an important development of this summit was the proposed setting up of climate innovation centre in South Asia by India to develop sustainable energy technologies. It emphasized the importance of reducing dependence on high-carbon technologies for economic growth and hoped promotion of climate resilience will promote both development and poverty eradication in a sustainable manner.

Conclusion

To sum up, the paper argues that the South Asia is one of the most ecologically vulnerable regions of the world and continues to face daunting

challenges related to adverse effects on environment. Despite of significant number of declarations to combat environmental degradation concerning climate change and its security risks, many policies are still not operational, and others are yet to be ratified. It is often pointed out that though several institutions have been established, but not able to produce desired results in accordance with declarations, conventions and action plans produced at SAARC. Such is evident from the ongoing degradation without stop or reversal of the environment. Furthermore, it is worthwhile to mention here that like other regions of the world, South Asia presents challenges to Regional Environmental Governance as opposed to Global Environmental Governance because of the differing approach each country adopts on environmental matters which they basically consider from unique local/national rather than broader geographical perspective. Finally the paper argues that, though the SAARC has been aware of its role and importance but it has not been able to translate that willingness into concrete actions. Moreover, the division within the SAARC members, particularly India's recent efforts to isolate Pakistan within SAARC, has rendered the regional organization virtually ineffective in achieving any of its stated objectives, particularly on the climate front. Therefore in order to better support its member states to mitigate and adapt to climate related security risks, SAARC region especially India and Pakistan would have to find a collective path to set aside long-standing mistrust and find the unanimous consensus to cooperate and revitalizing SAARC to make an effective institution to combat environmental problems and its grave security risks.

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(Footnotes)

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