

Introduction to Law on Electricity
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Lecture 37
Role of Civil Society;
Comments on Draft Renewable Energy Act, 2015

Greetings to all the learners. We have discussed the salient features of the Electricity Act. And then we have also discussed that how the Electricity Act addresses the issues of renewable energy. In today's session, we will be discussing about the role of civil society in promoting renewable energy. And then, we will also critically look at the proposal to enact a specific law to deal with renewable energy sector.

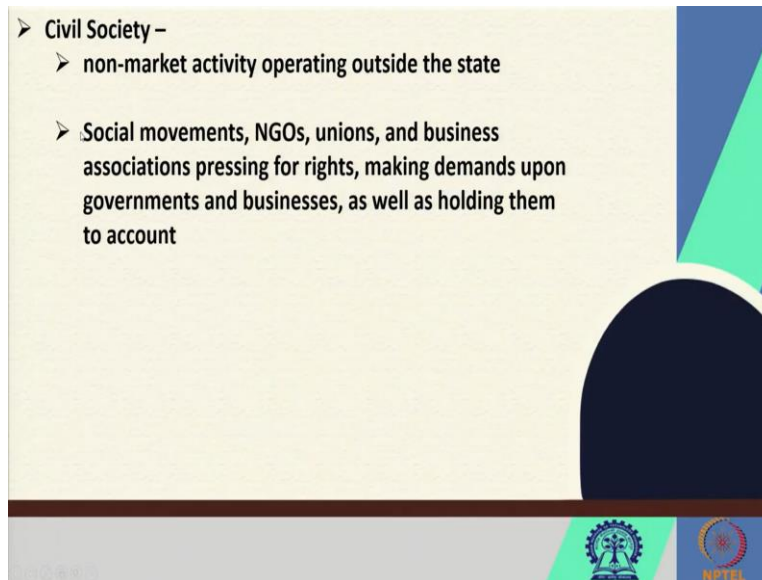
The idea behind discussing this proposed law is just to highlight that whether we need a separate law to popularize for effective growth of renewable sector. So, this would just help us in understanding the kind of debate which is going on in the area of renewable energy. Otherwise, as a law student, we are aware of the very fact that the draft law has no legal value except discussing and debating for the academic purpose. And for our discussion, we will be looking at the draft Act only for that purpose.

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CONCEPTS COVERED

- Role of Civil Society
- Comments on Draft Renewable Energy Act

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Now, in today's session, we will be looking at how the civil society is playing the role and why we are expecting the civil society to play a role in the promotion of renewable energy. And then, we will look at the draft National Renewable Energy Act, and then we will just try to find out that what are the possible pros and cons in the draft Act.

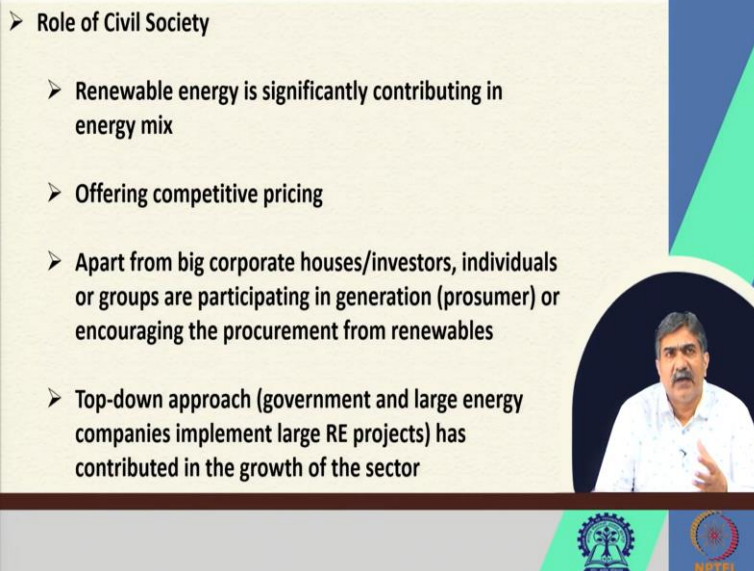
Now, when you look at the overall growth of renewable energy sector, as we have discussed in the earlier session, that it has a huge potential, and necessary actions are being taken; necessary programs are being made to make it an important source to meet the energy requirement. But in this process, we will also have to understand and acknowledge the kind of resistance which the promoter of the sector, which the proponent of the sector, facing from the well-established players of the conventional energy sources.

And therefore, it is needed to have a perspective to not only communicate to the government highlighting the need of renewable but also evaluating the efforts of the government in advancing the cause of renewable. Because as the well-being and the lifestyle of individuals are improving, demand of energy is also increasing, and that demand has to be met.

But at the same time, the meeting of the demand cannot be left only on conventional energy sources. For the very reason that conventional energy sources based on fossil fuel comes with a heavy cost to mankind. And that is why civil society has a defined role to play in bringing the balancing and in ensuring that there is a proper deliberation and debate going on for the growth of the renewable energy.

So, civil society, the way we understand, it is basically organization which is there for nonprofit purpose, and it is not part of the state. And that is why, it is also known as non-state actors. When we say that, it engages into non-market activity, obviously, what it means is that it does not have any commercial interest. So, social movements, non-governmental organizations, unions, and business associations, they generally come together for asserting the rights of the members or people at large, and accordingly, they create a system of holding the government and the business accountable.

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➤ **Role of Civil Society**

- Renewable energy is significantly contributing in energy mix
- Offering competitive pricing
- Apart from big corporate houses/investors, individuals or groups are participating in generation (prosumer) or encouraging the procurement from renewables
- Top-down approach (government and large energy companies implement large RE projects) has contributed in the growth of the sector

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So, civil society, for that matter, has a very significant role to play in ensuring the proper meticulous planning of the government and, at the same time, not to allow undue advantage, not to allow vested interest to prevail at the behest of interested parties. Now, when you talk about the role of civil society in promoting renewables, there is no denial that renewable appears to be playing a very promising role in energy mix.

As I said, that demand of energy is growing, and it cannot be made only with imported fuel; it cannot be made only through thermal power station. And therefore, there is a very well pressed need to give a wider space in energy mix to renewable. And that is something which can be channelized only when civil society advocates for the need of clean energy and creates a sort of pressure, creates a sort of an environment where clean energy becomes main focus, core debate on the issue of energy security.

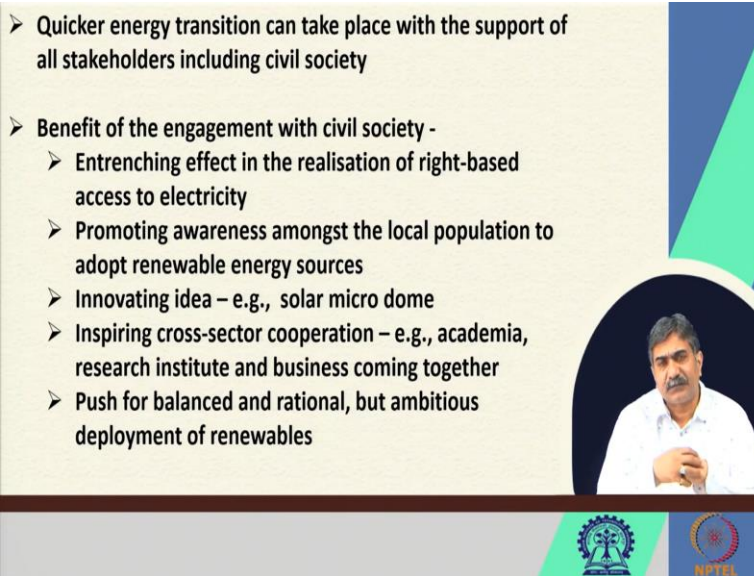
And because renewable offers a good solution to meet the energy requirement, it is also needed that the electricity through renewables is available on affordable pricing. And for the same, civil society can very well play a role to make it competitive so that the consumer gets reasonable pricing for renewables. Now, apart from that, renewable has also introduced a newer approach in the generation segment.

What is that approach? Every consumer is now becoming a generator. And it is significant to note that when individuals are becoming producers of electricity along with multinational corporations, along with big investors, then there is a need to create an ecosystem where handholding between the parties is fulfilling the ultimate goal of providing affordable, reasonable tariff for renewables.

And since society can play a significant role, where multinational corporations, big investors would not be allowed to create undue pressure on the individuals. And that is why it is desirable, and it is needed to have a significant role of the one who are placed at the bottom of pyramid. Now, when you look at the Electricity Act 2003, you would find that it has a top down model. Central government establishing the regulatory commission or state government establishing the regulatory commission coming up with a regulation. And central government or the state government, they are major player in the power market.

Now, individual becoming the player in the power market, not only as a consumer but also as a producer, requires a bottom-top approach, or at least it presents a case of experimenting a bottom-top approach. And that is something which can be ensured only through the participation of civil society.

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- Quicker energy transition can take place with the support of all stakeholders including civil society
- Benefit of the engagement with civil society -
 - Entrenching effect in the realisation of right-based access to electricity
 - Promoting awareness amongst the local population to adopt renewable energy sources
 - Innovating idea – e.g., solar micro dome
 - Inspiring cross-sector cooperation – e.g., academia, research institute and business coming together
 - Push for balanced and rational, but ambitious deployment of renewables

Now, as we know that the world is facing extraordinary crisis in terms of adverse impact on climate, climate change is posing imminent threat on human race. And one solution to counter this threat is to promote renewable to replace fossil fuel with a clean source of energy. But then, at the same time, we have to acknowledge that enough investment has already gone in fossil fuel, and there is a vested interest playing there. So, how to counter that? How to ensure that this transition happens without compromising the critical timeframe? And in that, civil society can play a significant role in ensuring a quicker transition to meet the energy requirement.

Civil society can provide necessary institutional debate to strengthen the right-based argument on access to electricity. Civil society can initiate, can make the government to accept this as one of the new rights to be honored by the state, to be honored by multinational corporations. Civil society can very well work on the awareness amongst the local population to adopt renewables. Because we know very well that the conventional source has got a wider acceptance. There is a general belief that if one is looking for a reliable source of energy, quality source of energy, then the only way to look at is conventional sources, fossil fuel, and thermal power plant.

Now, in order to address that apprehension, I would say, civil society can very well play a role of advocacy and awareness. Civil society can also ignite the innovative mind, and it can trigger, it can help in triggering the innovation. Considering the requirement of electricity on the one hand and the limitations of the traditional setup. Solar micro dome is one such example where light

can be provided in remote areas where there is a no grid-connected electricity is available, or even if grid-connected electricity is available; it is not available throughout the day.

Such a solar dome can very well make the light available for considerable duration, which can help in improving the benchmarking on education, on health, and on communication. So, this kind of innovation is possible when you have a civil society engaging with the local population, engaging with the tribal, engaging with the people living in remote areas and passing on the information to the innovators, to business houses, to entrepreneurs that please come up with some equipment which can solve the problem at least in some way.

Civil society can also provide a platform for cross-sector cooperation. Academies are coming together, research institutes are coming together, and business houses are coming together to understand the requirement and to provide a sustainable solution. Civil society can also push for a very balanced and rational deployment of renewables. Which area is immediate to be supplied with renewable sources? Civil society can identify, flag it, and ensure that it is being done.

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- The state commissions should ensure transparency while exercising their powers and discharging their functions (Sec 86(3))
 - Enabled public to appear before the commission to put forth its views.
 - Public hearings have provided a platform to Civil Society to participate in the country's clean energy development process
- Regulatory Process –
 - Prior publication of the regulations

Electricity Act impliedly refers to the participation of civil society. And I am referring to the provisions of Electricity Act only for this limited purpose that engagement of civil society or engagement with civil society is not completely a foreign subject matter. It is not entirely unrelated subject matter. Section 86 of the Act, which talks about the function of the commission, it says that commission shall invite suggestions and objections from the people.

And if we have a good organization working for cleaner energy, certainly such organization would be presenting the views; which one may very confidently be presumed as a view on behalf of the society.

And that is how we know that even in the Electricity Act when regulatory commissions are being entrusted with the power to formulate regulation, it is needed that there shall be a prior publication of the same. Prior publication presents an opportunity to the civil society to make necessary intervention. Even in recent times, we have seen that when the government has proposed the amendment in the Electricity Act, some of the organizations connected with power industry, they have written to the government to revisit the approach on the proposed amendment.

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- International:
- International Renewable Energy Agency
 - Established 'Coalition for Action' in 2014 - to promote the wider and faster uptake of renewable energy technologies
 - mission is to convene a global dialogue amongst non-governmental and governmental stakeholders to develop actions to increasing the share of renewables in the global energy mix
 - 115 leading renewable energy players including private sector companies, industry associations, civil society, research institutes and intergovernmental organisations

Just to highlight that how the civil society is playing a phenomenal role in improving the presence of renewable, for the purpose of communicating to you, I have identified four organizations. Two organizations working at the international level; two organizations working at the Indian level. But then, nowhere I am indicating that only these organizations are working, or I am not drawing any hierarchy in terms of the performance of the organization. This is just to indicate, just to make the session comprehensive, the references of this organization is being drawn.

At the international level, you would find International Renewable Energy Agency which has established coalition for action in 2014. The purpose is to promote renewable energy across the jurisdiction. You can very well visualize that the technological intervention to promote renewable is different from conventional energy sources. And because of this difference, it is needed to have some kind of hand holding between the countries which have the technological know-how and the countries which are still or entirely relied upon fossil fuel-based energy sources.

Because the issue of climate change, the issue of environmental degradation is a global issue. It cannot be seen only in the context of a jurisdiction. And that is why this kind of cooperation, coordination is desirable. This agency plays a significant role in initiating that dialogue between non-governmental and governmental stakeholders. So, it is basically a group where you have a private sector enterprise, where you have industry associations, civil society, research institutes and inter-governmental organization.

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➤ **World Council for Renewable Energy**

- an independent global network of NGOs acting in the field of Renewable Energy, environmental protection and development aid,
- to exchange and disseminate renewable energy information on a global scale
- analyse the international barriers to Renewable Energy and prepare proposals to overcome these
- document experience of initiatives for Renewable Energy and communicate best-practice examples world-wide

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Another society which I have taken for reference is the World Council for Renewable Energy, which is an independent global network of NGOs, which acts in the area of renewable energy. Knowing very well that if the cause of environmental protection is to be taken up in its sincerity, then there shall be a complete transition to renewables for meeting the energy requirement. And

that is why this world council works on exchanging and disseminating renewable information on a global scale.

It also works in identifying that what are the bottlenecks and shortcomings, why renewables are not being promoted by the government; is there any vested role which is playing or which is driving that, and accordingly, it makes the intervention. And at the same time, it also engages into discussion which ensures the unveiling of best practices by considering the examples across the jurisdictions. So very prominent role, it plays.

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➤ **India:**



- **The Energy and Resources Institute (TERI)**
 - an independent, multi-dimensional organization
 - Promotes efficient use of resources
 - Enhancing access to clean energy for all
 - Helping a global transition to renewable energy pathways
- **Shakti Sustainable Energy Foundation**
 - to facilitate India's transition to a cleaner energy future by aiding the design and implementation of policies that promote clean power, energy efficiency
 - to catalyze transformative solutions to meet India's energy needs in clean and sustainable ways

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And then you find that in India, you have TERI, The Energy and Resources Institute, which is an independent multi-dimensional organization which works on the efficient use of resources and has this motto of providing clean energy to all. And it also helps in understanding that how the energy transition is taking place at the global level and how the research institute can play a significant role in making it a realizable goal in India. And then the Shakti Sustainable Energy Foundation, which again facilitates the transition to clean energy in India by aiding the design and also helping in the implementation of the policy with the government mix. And also, it helps in suggesting a path breaking solution to fulfill the obligations related to the implementation of clean energy. So, Shakti Foundation, and TERI, they are playing a valuable role in ensuring significant presence of renewable in the energy mix.

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- National Renewable Energy Act, 2015 – Draft released by MNRE in 2015
 - Suggested comprehensive overhaul of the legislative, regulatory and financial framework governing the renewable energy sector in India
 - Aims to increase the quantity of energy generated through renewable energy sources
 - To provide level playing field with conventional energy sources
 - provides the Central Government with sweeping powers to take the necessary steps for the development and deployment of renewable energy

Now, let us look at the draft Act of 2015; as I said, the purpose is just to highlight that how and why a separate law was being thought of to deal with issues related to renewables. MNRE has come up with this draft way back in 2015. Obviously, as I said, it does not have any legal sanctity except for academic debate, except for academic purpose, except for understanding the thought process that if tomorrow, the government decides to come up with a law, then this could be a reference point. So, MNRE suggested for a comprehensive legislative framework to deal with the issues of renewable energy, where the idea was that renewable would contribute significantly in energy mix of the country.

And at the same time, through the law ministry suggested for same level playing field with conventional energy sources because they are already in the market. They are the one who have better presence and also better acceptance. And that is why the legislative framework would provide the necessary platform in guaranteeing the competition and guaranteeing the space on the basis of equality. And for the same, the draft of 2015 confers sipping power on the central government. So, as a law student, we will have to closely analyze that if the government decides to make a law to deal with renewable, how the presence of electricity in the concurrent list would determine the balancing of power between the center and the states.

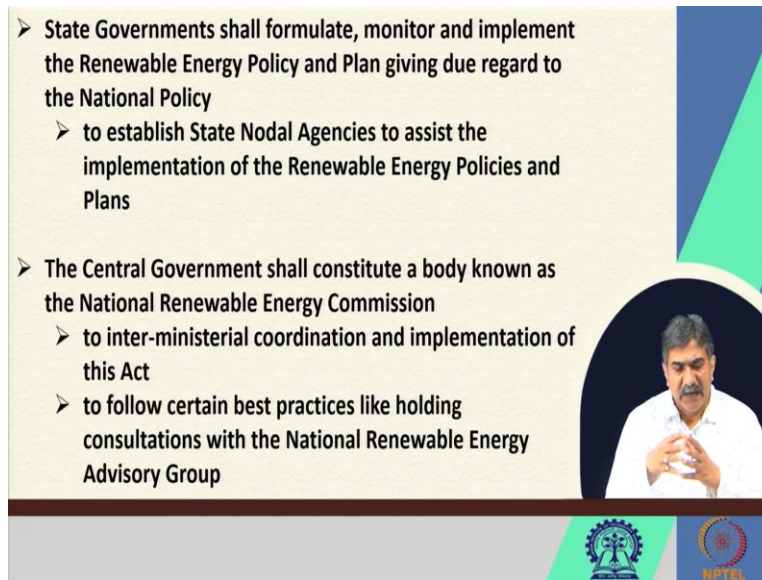
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- CG is mandated -
 - To formulate, monitor and revise - the National Renewable Energy Plan,
 - To execute of nationwide programs for the deployment of renewable energy
 - To carry out of research and development to provide technical support to renewable energy technologies
 - To monitor the utilisation of funds
 - To coordinate development of standards and norms for resource assessment technology and products
- Proposes an oversight of the state level policies by the Central Government

Under the draft Act, it is the central government which was given the mandate to formulate, monitor and revise the plan. It was central government which was given the responsibility to execute the deployment of renewable energy. And also to carry out research and development program. This is very significant because in renewable if you look at both the components off-grid and on-grid, you would find that a lot of technological innovations are taking place, and it is needed to be there. For example, now, with renewables becoming more popular, if considerable innovation is there in storage, it will be a game changer.

So, constant involvement in improving the equipment and in bringing a new equipment to unleash the maximum benefit from renewable is need of the hour. Central government will also have a responsibility to utilize the funds, to monitor the utilization of funds because there is a need to support hand holding. And at the same time, it is also said that because there will be many players involved in manufacturing of the equipment, innovation of the equipment and at the same time, supply of electricity, that how the standards are to be maintained. And the draft Act also suggested that central government shall be doing a job of overseeing body over the state level plan.

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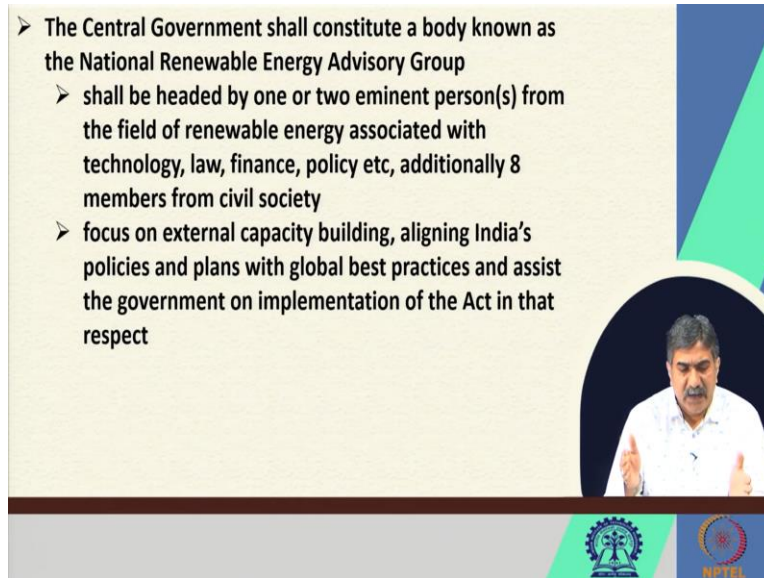


- **State Governments shall formulate, monitor and implement the Renewable Energy Policy and Plan giving due regard to the National Policy**
 - to establish State Nodal Agencies to assist the implementation of the Renewable Energy Policies and Plans
- **The Central Government shall constitute a body known as the National Renewable Energy Commission**
 - to inter-ministerial coordination and implementation of this Act
 - to follow certain best practices like holding consultations with the National Renewable Energy Advisory Group

State governments were also interested with the task to make the policy and plan at the provincial level. But then, it was suggested that they would be giving due regard to the national policy while framing the state level policy. And it was suggested that they should come up with a nodal agency at the state level, which shall have a responsibility to implement these policies.

On the line of the Commission, which is suggested in the Electricity Act 2003, 2015 draft Act suggested that let the central government establish this commission known as National Renewable Energy Commission, which will have a responsibility to coordinate amongst different ministries, and also to come up with the best practices to be followed for the promotion of renewable.

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- The Central Government shall constitute a body known as the National Renewable Energy Advisory Group
 - shall be headed by one or two eminent person(s) from the field of renewable energy associated with technology, law, finance, policy etc, additionally 8 members from civil society
 - focus on external capacity building, aligning India's policies and plans with global best practices and assist the government on implementation of the Act in that respect

Apart from the commission, it was also suggested that let there be advisory group which shall be headed by the domain experts. And additionally, there will be a member from also civil society. And the purpose of this advisory group is to focus on capacity building and also identifying that what all is happening at the global level and what India can adopt for advancing the cause of cleaner energy.

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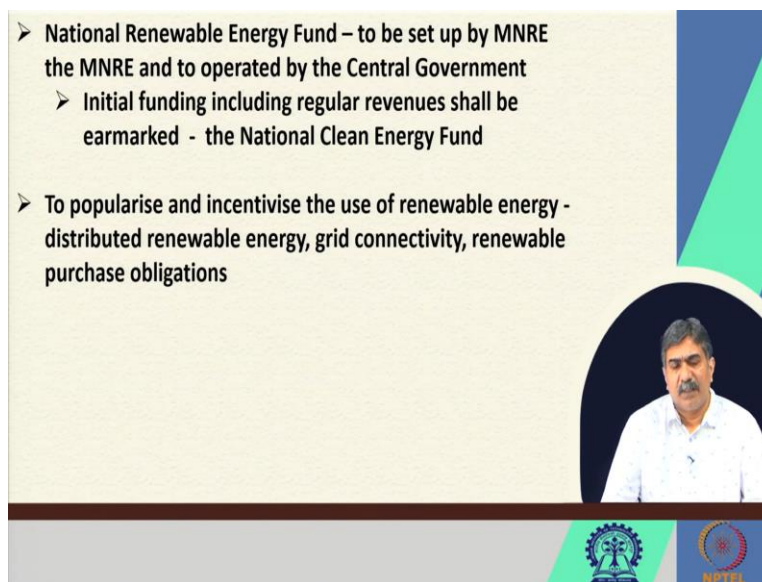
- Renewable Energy Corporation of India – a corporate to be designated by the CG
 - as a procurement entity and to support the development of renewable energy investment zones across the country
- the National Renewable Energy Policy – to prepare by MNRE in consultation with the State Governments
- Accreditation programme, certification protocols, certification of quality standards and labs – responsibility of MNRE

Renewable Energy Corporation of India is also being discussed that a corporate like structure is to be established by the central government, which will have a responsibility of procuring

renewable energy from the producer and to also support the development of renewable energy investment jobs. There is a similar institution already existing known as SECI (Solar Energy Corporation of India Limited), and then central government has a kind of defining role in promoting it. That is how the structure if you look at it, appears to. Ministry of New and Renewable Energy has been suggested to formulate the policy in the consultation of a state government, something similar to the Electricity Act. And MNRE also has been suggested to come up with the idea of, come up with the program, to accredit the institutions which shall be imparting training, which shall be into manufacturing of equipment.

Therefore, there has to be a kind of certification protocol, certification of quality standards, and then the labs where these equipment will be tested. And as I said, that when you look at the generation of electricity through renewables, you would find that there are a wide range of sources certainly involves a varied kind of technological equipment.

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- National Renewable Energy Fund – to be set up by MNRE the MNRE and to operated by the Central Government
 - Initial funding including regular revenues shall be earmarked - the National Clean Energy Fund
- To popularise and incentivise the use of renewable energy - distributed renewable energy, grid connectivity, renewable purchase obligations

The Act also talks about setting up of the fund, which is again to be done by the Ministry of New and Renewable Energy, and it is to be operated by the central government. And this is all about assisting the players and also ensuring that a certain percentage is demarcated from that regular revenue as a Clean Energy Fund. Because this will help in fulfilling the international commitment to mitigate climate change and the factors which are causing adverse impact on the climate change. That if funding is specifically demarcated, then it would be used only for that.

And then it has also been suggested that to popularize and to incentivize use of renewable energy, what is to be done is that distributed renewable energy. Something similar to distributed generation what we have discussed while discussing renewable energy, is also to be promoted. Grid connectivity has to be promoted, and then renewable purchase obligations should also become a part of it in order to encourage demand side promotion of the renewable energy.

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➤ **References:**

- Clean Energy Regulation and Civil Society in India: Need and challenges to effective participation, Prayas (Energy Group), Pune, India October 2010
- International Renewable Energy Agency – Coalition for Action, <https://coalition.irena.org>
- World Council for Renewable Energy, <https://www.wcre.org>
- The Energy and Resources Institute, <https://www.teriin.org/mission-and-goals>
- Shakti Sustainable Energy Foundation, <https://shaktifoundation.in>
- Alimpan Banerjee, India's Renewable Energy Act 2015: The Missing Piece in India's Renewable Energy Puzzle, Renewable Energy Law and Policy Review , Vol. 7, No. 2 (2016), pp. 145-156

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These are the references for today's session, where I have just indicated the websites of these organizations and also some of the papers from where the lesson is being drawn. Thank you very much.