

Need of the hour: Pollution free Environment or Sophisticated Technology?

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ABSTRACT

Simpler the life we live, healthier & eco-friendly environment we create. Larger the progression of technological innovations & wider human exploration, greater the disturbance to the ecological balance is done. Since the necessity to have a clean environment is growing day by day so that we can not only live healthy lives today but also could leave an evergreen and vivacious Earth for future generations. Catastrophic changes were done to the environment during all the time periods however the major and most negative one is happening in today's era. Each one of us is doing our bit to increase awareness about the need to have a pollution free and healthy environment. The question that we have tried to answer in our research is "Whether the techniques that we are adopting to have a pollution free environment are adequate enough or we need to search for more serious and extensive steps to save our environment and also execute them effectively"?

In this paper we will examine different types of environmental laws, efforts made at national and international level to save the environment and how the environmental responsibility is and should be allocated among the various levels of government. We provide a positive review of the responsibilities of central, state, and local levels of government in the environmental realm, plus a normative assessment of this allocation of regulatory responsibility. To make the study richer a bird's eye view of case studies is also taken.

To conduct this research we will adopt the research methodology which is both doctrinal and non-doctrinal in nature. By these methods we can definitely discover and innovate the most viable and authentic conclusion as to how we can take further steps not only to provide and maintain a cleaner and healthier environment to preserve the same for generations to come. Secondly, how strict implement of the environmental laws can be done by the social welfare government. Thirdly, how we as responsible members of the society can play the game changing role towards this end. Last but not the least, how the media and various NGOs can create the awareness through simple but powerful methods.

Keywords: *Catastrophic, environment, eco-friendly*

1. INTRODUCTION

For the greenest of environmentalists, humans are of lesser importance than the abundant and diverse flora and fauna of the planet. Humans are defined as a recent addition to the livestock and are considered to have been a wholly disruptive influence on a world which was paradise before their arrival. The condition of the environment today is well known to all and sundry. Deforestation, global warming, climate change, toxic pollution, and many more harmful phenomena, have spread all over the world at a pace so fast that the people of the world have had no time to react to it effectively.

All over, the loss of greenery, fresh air to breathe and clean water to drink is striking at the very heart of the humanity. Humans however, have only themselves to blame. Rapid industrial development, expansion of civilizations by eradicating more and more natural life and the basic callousness towards natural resources, have led the world to the current situations. Various nations, which have finally realized the plight they are leading themselves to, have tried mitigating the damages.

This paper seeks to analyze environmental law and the various safeguards in India, compare it to the international scenario, and examine the balance between development and the environment.

We all humans focus on the urgent but not the fundamental and essential issues. We don't bother much about the important issues which could prevent long-term crises. Perhaps, this is key reason behind, why we lurch from disaster to disaster, be it is Mumbai building collapse or Uttarakhand flood disaster. The scene is no different at the International level, world's governments and international agencies are currently committed to an export-led, high consumption, industrial growth model of development as the key to universal prosperity. This commitment, however, neglects important historical and contemporary realities.

2. GLOBALISATION OF ENVIRONMENTAL LAWS

In the past two decades environmental regulation has undergone major transformations at National & International level from the era of the Stockholm Conference onwards, there has been a shift from nationally focused, inward-looking environmental & developmental policies which are outward-looking and which are influenced by International legal & policy developments.

A plethora of multilateral environmental agreements that are administered and enforced through a complex and often ad hoc system of courts, tribunals, arbitral, etc. are as follows:

2.1) Pre-Stockholm

Prior to the 1972 Stockholm Conference the majority of environmental conventions related to the conservation of wildlife. A pioneering convention in conservation terms was the 1968 African Convention on Conservation of

Nature and Natural Resources, Algiers, which despite its comprehensive and innovative approach to conservation made the mistake of many other conventions in not establishing an administrative structure to oversee its supervision. Also notable and considerably more successful is the 1971 Ramsar Convention on Wetlands of International Importance, especially as Waterfowl Habitat, which establishes a network of protected wetland areas in the territories of member states.

2.2) From Stockholm to Rio

The years 1972 to 1992 witnessed an astonishing increase in the number and variety of international environmental law instruments. Much of this activity is directly attributable to the Stockholm Conference. Not only did the famous Conference Declaration (Declaration of the United Nations Conference on the Human Environment 1972) lay down certain principles, the majority of which were *de legeferenda* (i.e., they stated what the law ought to be rather than what it was), but it also developed a 109-point Environmental Action Plan and a Resolution recommending institutional and financial implementation by the UN. The result of these recommendations was the establishment of the United Nations Environment Program (UNEP), established by UN General Assembly Resolution (UNGA 1972) and based eventually in Nairobi.

2.3) Conservation of nature and natural resources

This period saw the conclusion of a number of nature conservation treaties both at a global and regional level. At the global level, particularly noteworthy are the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, the 1973 Washington Convention on International Trade in Endangered Species (CITES) and the 1979 Bonn Convention on the Conservation of Migratory Species of Wild Animals. At a regional level the large number of treaties includes the 1974 Nordic Convention on the Protection of the Environment, the 1976 Convention on Conservation of Nature in the South Pacific (Apia Convention, in Burhenne 1974a) and the 1979 Berne Convention on the Conservation of European Wildlife and Natural Habitats (European Treaty Series).

2.4) Protection of the ozone layer

The 1985 Vienna Convention for the Protection of the Ozone Layer imposes general obligations on each party “in accordance with the means at their disposal and their capabilities”.

The Vienna Convention was supplemented by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, itself adjusted and amended by the London Meeting of 1990 and most recently by the Copenhagen Meeting of November 1992. Article 2 of the Protocol requires parties to impose controls on ozone-depleting chemicals, namely CFCs, halons, other fully halogenated CFCs, carbon tetrachloride and 1, 1, 1-tri-chloroethane (methyl chloroform).

2.5) The United Nations Framework Convention on Climate Change (UNFCCC)

The UNFCCC, signed at Rio de Janeiro in June 1992 by some 155 states, is loosely modelled on the 1985 Vienna Convention. As its name suggests, it provides a framework within which more detailed obligations will be negotiated by the means of detailed protocols. The basic objective of the Convention is to achieve stabilization of greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous anthropogenic interference with the climate system, a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure food production is not threatened and to enable economic development to proceed in a sustainable manner.

3. EVOLUTION OF INDIAN LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION

3.1 Pre-independence period

The ancient Indian religious literature, for example, Vedas, Upanishads, Smiritis and Dharmas preached a worshipful attitude towards earth, sky, air, water, plants, trees, and animals and enshrined a respect for nature and environmental harmony and conservation. The Indian Penal Code 1860, enacted during the British rule, contains one chapter (Chapter XIV) on offences affecting public health, safety, convenience, decency and morals. Section 268 covers public nuisance. Sections 269 and 272 deal with adulteration of food or drink for sale and adulteration of drugs respectively.

3.2) Stockholm Conference to the Bhopal Disaster, 1972-1984

The UN Conference on Human Environment held at Stockholm in 1972 exerted major influence on environmental legislations in India. The Government of India took a number of steps to implement the decisions taken at the Conference by means of amendments to the Constitution, new legislations relating to environmental protection and creation of institutions for implementing the legislations. The Bhopal gas tragedy claiming more than 3000 lives triggered the passage of environmental legislations and formulation of rules relating to the use of hazardous substances.

3.3 Constitutional Amendments

The 42nd Constitution Amendment Act, 1976, inserted specific provisions for environmental protection in the form of Directive Principles of State Policy and Fundamental Duties. Article 48A

(Directive Principles) enunciates 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) (Fundamental Duties): ‘To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures’.

3.4 Environmental Regulations in India

Year	Environmental Regulations
1972	The Wild Life (Protection) Act,
1974	Water (Prevention & Control of Pollution Act) Amendments, 1988
1980	Forest (Conservation) Act,
1981	The Air (Prevention & Control of Pollution) Act, Amendments, 1987
1986	The Environment (Protection) Act, Amendments (1989, 1990, 1993, 1996, 1997, 1998, 1999, 2000, 2001)
1989	The Hazardous Wastes (Management and Handling) Rules, Amendments, 2000, Draft Amendments 2002
1989	Manufacture, Storage and Import of Hazardous Chemical Rules, Amendments, 1994, 2000
1991	The Public Liability Insurance Act/Rules, 1992
1999	Notification for making 100% Utilization of Fly-ash made mandatory
2000	Ozone Depleting Substance (R&C) Rules
1999	Regulation on recycling of Waste Oil and Non-ferrous scrape
2000	Noise Pollution (Regulations and Control)

3.4 Judicial Activism

The interpretation of Article 21 of the Constitution to include the right to clean air and water by the Supreme Court and the High Courts, the remedy available to any citizen to go to the court under the banner of public interest litigation for the enforcement of the right to clean air and water, and the growing public awareness evident in the formation of NGOs and welfare organizations for the promotion of environmental quality, radically altered the situation in the nineties. We present a summary of selected Supreme Court judgments below.

In *Rural Litigations and Entitlement Kendra v. State of Uttar Pradesh*, the Supreme Court directed the closure of mining operations though blasting in the Doon Valley. It held that closure would cause hardship to the affected

parties, but it was a price that had to be paid for protecting and safeguarding the rights of the people to live in healthy environment with minimal disturbance of ecological balance. It further directed the affected areas to be reclaimed and afforestation and soil conservation programs to be taken up so as to provide employment opportunities to the affected workers.

In *M.C. Mehta v. Union of India* case, the Court directed the stopping of the working of tanneries which were discharging effluents in River Ganga and which did not set up primary effluent treatment plants. It held that the financial incapacity of the tanners to set up primary effluent treatment plants was wholly irrelevant.

Some other important decisions of the Supreme Court in 1996 resulted in orders for closure of 69 foundries in Howrah for their failure to install pollution control devices; shifting of 513 industries out of Delhi for having damaged the health of Delhi's citizens; closure of 39000 illegal industrial units operating in residential areas in Delhi; closure of aquaculture farms within 500 meters of the coast along India's 6000 km, coastline by March 31, 1997 and payment of six years compensation to the employees in lieu of loss of employment; and shifting of 550 tanneries located in east Calcutta by September 30, 1977 and setting up of environmental pollution fund, with each unit paying Rs.10000 as fine, to be used for restoring the pollutant – riddled Hooghly. It is clear from the above directions, that the Court has played a very active role in the enforcement of legislations and rules relating to environmental protection

4. SUGGESTIONS AND IMPLEMENTATIONS

- i. Primarily the family and then schools, universities and even the society have an important role to play in creating a safe environment. If a family teaches the child about hygiene and sanitation from his/her early childhood, it will become a guiding principle for the child.
- ii. In addition to other subjects, a specific environment subject should be taught in schools. It will definitely help the society's future a great deal because today's children and juveniles are the future-builders. Therefore, the sooner we inculcate the hygiene culture among the children, the better the results"
- iii. Several species of animals and plants have already become extinct or they are on the verge of extinction. This problem cannot be solved only through legal and administrative measures. People have to realize that they have some responsibility towards their environment.
- iv. Illegal cutting of trees from forests, large-scale deforestation and killing of wild animals is done for small profits. People should not do such acts for their personal gains and it is not always possible for the government to punish them.

- v. An important part of managing environment is education. Consumers, citizens, builders and officers must be equally aware of the responsibility that they have. For this, a process of constantly educating people about the importance of protecting the environment is needed. We protect the environment by taking hundreds of positive steps. This must be as much a social message as cultural and environmental.
- vi. Media have a significant role. In societies with a high illiteracy level, audio and visual media have a more effective role in conveying the message. Visual media can produce clips about the environment so citizens learn about their responsibilities.” protecting the surroundings is everyone’s ethical duty and everyone should respect it.
- vii. As forests play a very important role in maintaining the balance of the environment, forest protection and afforestation are given extra weightage at the Central and State levels.
- viii. Creation of reserve forests, regulation of forest harvest and raising of new forests are some of the steps that need to be adopted. In case, some forest has to be cut for developmental projects, a clause is introduced in the approval of the project. This is called compensatory forestry, which means that new forest has to be planted in an area equal to the forest area cut for the project.
- ix. The non-governmental or voluntary agencies are spread all over the country, even in small villages, and as such, they have no problem in reaching people. Being based among the masses, they have no language problem; they can communicate with people in their own language and dialect. Also, since they know the local customs, traditions, folk arts, etc., they can use these media to reach people.

5. CONCLUSION

As this brief review should have demonstrated, over the last two decades there has been a major change in the attitude of the world community to environmental conservation and management. Part of that change has been a substantial increase in the numbers and the scope of international instruments addressing environmental concerns. The sheer number of instruments has been matched by new principles and institutions. The polluter pays principle, the precautionary principle (Churchill and Freestone 1991; Freestone and Hey 1996) and concern for the rights of future generations (Kiss, in Freestone and Hey 1996) are all reflected in the international conventions reviewed above. The role of the UN Environment Program and the treaty secretariats established to service and monitor the burgeoning number of treaty regimes lead commentators to suggest that international environmental law. UNCED played an important role in this, it has established a major agenda—much of which remains unfinished. Detailed protocols are still needed to add substance to the framework of the Climate Change Convention and, arguably, also to the

Convention on Biological Diversity. The environmental dimensions of world trade as well as deforestation and desertification are also issues to be addressed for the future at a global level while progress continues to enhance our awareness of impacts of human activities on world eco-systems. The challenge for this emerging international environmental law is not simply to respond with an increase in the numbers of environmental instruments, but also to enhance their impact and effectiveness

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