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Environment Degradation: A Threat To Human Rights



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Abstract

In recent years the relationship between human rights and environmental issues has become an issue of vigorous debate. Environment degradation is a state of crises arising out of the environmental pollution caused to the environment to a great extent by the human activities and to some extent by the acts of God. While the environmental degradation caused by the acts of God is within the natural system, such degradation caused by human activity is more hazardous and dangerous not only to the mankind but also to the very existence of the planet earth. Environmental deterioration could eventually endanger life of present and future generations. Environment degradation and human rights were first placed on the International agenda in 1972, at an UN Conference on Human Environment. As environment deterioration eventually endanger life of present and future generations. Therefore right to life has been expressly recognized as a constitutional right and includes right to live with human dignity and all that goes with it. The court refused to restrict the right to life to mere animal existence. In plenty of cases Indian Judiciary has observed and held various people, organization to stop such entrepreneur and their activities which causes harm to environment at the cost and name of development. Despite the evident relationship between environmental degradation and human suffering, human rights violations and environmental degradation have been treated by most organizations and governments as unrelated issues. This paper appears in the background of a worldwide realization that the protection of the environment has rapidly risen in importance to become one of the foremost concerns of the human race and tried to provide some suggestions at the grass root level, how a layman can contribute to lessen environment degradation and protect his right of pollution free and enriched environment for him and his children.

Keywords : Environment, Human Activities, Environment Degradation, Constitution of India, Human Rights, Tools and Techniques to Overcome the Problems, Environment Ethics, Source Reduction, Environment Education.

Introduction

Every part of the world is scared...every shinning pine needle, every sandy shore, every mist in the dark woods, every claring and humming insect is holy in memory and experience of any people. The sap which courses through the trees carries the memories of red man... We are part of the earth and it is part of us. The perfumed flowers are our sisters: the horse, the great eagle, these are our brother. The rocky crusts, the juices in the meadows, the body heat of the pony, and man-all belong to the same family.¹

Human activities motivated by an attitude of rampant consumerism and sustainable patterns of production have never been as inhumane and callous towards environment as in the modern era of scientific and technological innovations. Man's greed attacks nature, environment and ecology and wounded nature backlashes on the human future.² This paper appears in the background of a worldwide realization that the protection of the environment has rapidly risen in importance to become one of the foremost concerns of the human race. All over the world, people are experiencing the effects of ecosystem decline, from water shortages to fish kills to landslides on deforested slopes. The victims of environmental degradation tend to belong to more vulnerable sectors of society—racial and ethnic minorities and the poor—who regularly carry a disproportionate burden of such abuse. Unfortunately in

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in the progress and development we have undergone rapid industrialization, urbanization, over exploitation of resources, depletion of sources of energy, water and air pollution, killing of birds and animals for economic reasons, changed agricultural practices, extremely neglected and filthy civic amenities and modern luxury are some of the factors which are mainly responsible for environmental degradation.³

Environment degradation is a state of crises arising out of the environmental pollution caused to the environment to a great extent by the human activities and to some extent by the acts of God. While the environmental degradation caused by the acts of God is within the natural system, such degradation caused by human activity is more hazardous and dangerous not only to the mankind but also to the very existence of the planet earth.⁴ Environmental deterioration could eventually endanger life of present and future generations.

Environment: A Human Right

People more and more have started to see that a clean and healthy environment is essential to the realization of fundamental human rights, such as the right to life, personal integrity, family life health and development. And where it started with mere linking acknowledged human rights to cases of environmental disruption, like the Bhopal gas disasters, it has become more acknowledged over the years that human rights and the environment are so inherently interlinked that (a clean and healthy) environment is a Human Right. But many basic human rights are being placed at risk, as the right to health affected by contamination of resources, or the right to property and culture compromised by commercial intrusion into indigenous lands. Environmental degradation and human rights was first placed on the international agenda in 1972, at UN Conference on the human environment. Principle 3 of the Stockholm Declaration on the Human Right and environment, establishes a foundation for linking human rights and environment protection, declaring that "man has a fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being and he bears a solemn responsibility to protect and improve the environment for present and future generations." And second principle states that "the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations."⁵ Therefore, the stress of the Stockholm Declaration was to defend and improve the environment for present and future generations as an imperative for mankind. The concept of 'Sustainable Development' doctrine had come to be known in the Stockholm Declaration defined by the then Prime Minister Mr. G.H. Brundtland. The report was popularly known as Brundtland report.

Sustainable Development

"The development that meets the needs of the present without compromising the ability of the future generations to meet their own needs."

As a result of the 1972 Stockholm Conference the United Nations Environment Programme (UNEP) was set up commonly known as "Earth Summit" held at Rio de Janeiro (Brazil) in 1992. Under the influence of this declaration, the National Council for Environmental Policy and Planning within the Department of Science and Technology was set up in 1972. The council later evolved in full fledged Ministry of Environment and forests in 1985. In 1976, constitutional sanctions were given to environmental concerns through 42nd Amendment, which incorporated them into Directive Principle of State Policy and Fundamental Rights and Duties. Since 1970s an extensive network of environment legislation has also been developed in the country. Therefore, the right to life has been used in a diversified manner in India. In India, this has been expressly recognized as a constitutional right. Under Article 48 of the Constitution, the state shall Endeavour to protect and improve the environment and safeguard the forest and wildlife of the country but at the same time it has a duty to do economic justice to the people. Under Article 47 a duty is also casted on the state to raise the level of nutrition and the standard of living including improvement of public health. For this one has to necessarily depend upon the natural resources. Therefore a balance has to be struck between the economic justice and environment protection. The state has responsibility to protect the environment for future generations also.⁶ Several entries have been made in the Schedules of the Constitution to protect the environment. India has obligations under numerous international treaties and agreements that relate to environment issues. As a contracting party, India has adopt various commitments in its domestic laws such as Polluter Pays principle, Precautionary principle, principle of Good Neighbourland to promote international environmental co-operation and Inter-Generational Equity. Various Acts has been passed by Legislature to protect the environment. Some of them are:-

1. Water (Prevention and Control of Pollution) Act of 1974 amended in 1988.
2. Air (Prevention and Control of Pollution) Act of 1981, amended in 1987.
3. Environment (Protection) Act of 1986.
4. Public Liability Insurance Act of 1991.
5. National Environment Tribunal Act of 1995.
6. National Environmental Appellate Authority Act of 1997.

Right to pollution free environment has been included by the Indian Judiciary by expanding the scope of Fundamental Rights under Article 21 of the Constitution. If anything endangers or impairs the quality of life in derogation of laws, a citizen has a right to have recourse to Article 32 of the Constitution for removing the pollution of water or air which may determine the quality of life. Environmental public

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Interest Litigation has emerged because of the court's interpretation of Article 21 of the Constitution. In course of time there has been a wave of environmental litigation. "Public Interest Litigation means a legal action initiated in a court of law for the enforcement of public interest or general interest by which their legal rights or liabilities are affected."

In *Maneka Gandhi Case*,⁷ the Supreme Court expanded Article 21 in a very creative manner to improve the quality of life and to imply there from a bundle of rights for the people. As the Supreme Court has observed in *Francis Coralie Case*⁸, that right to life includes right to live with human dignity and all that goes with it. The court refused to restrict the right to life to mere animal existence.

The interpretation of the right to life took a major turn when the Supreme Court faced with adjudging the conflict between environment protection and industrialization in the *Doon Valley Case*. The *Doon Valley*⁹ Case became a forerunner to cases involving issues to environment protection and the citizen's right to clean and hygienic environment. The case opened the floodgates for writs for enforcement of newly recognized fundamental right to environment protection. The Supreme Court after much investigation, ordered the stopping of mining work and held that "this would undoubtedly cause hardship to them, but it is a price that has to be paid for protecting and safeguarding the right of people to live in healthy environment with minimal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affection of air, water and environment."

In *T. Damodhar Rao vs. Special Offer Municipal Corporation, Hyderabad*¹⁰, Andhra High Court examined the land use change from open space to a site for building quarters for government servants and LIC employees. It is the first case where an Indian Court held that the conversion of open space, the lungs of a populated urban residential area, would affect the right to life under Article 21 of the Constitution. In *Bangalore Medical Trust vs. BS Mudappa*¹¹ the Supreme Court took the same view and prevented the use of open space for setting up a private medical complex in the Bangalore city.

*Indian Council for Enviro Legal Action vs. Union of India*¹², this case tells the story of a village in Rajasthan. Its living environment became highly polluted by the sludge that was left out even after the closure of the rogue industries licensed to produce 'H' acid. The Supreme Court has given Direction for the attachment of factories, plant, machinery and other immovable assets for the recovery of the amount required for remedial measures from the concerned industries besides ordering for their closure. And also directed the Central Government to determine and recover the cost of remedial measures from the respondents. The Polluter Pays Principle (PPP) has been held to be a sound principle by the Supreme Court in this case.

In *M C Mehta vs. Union of India*¹³, also known as *Taj Trapezium case*, the Supreme Court

took the laudable initiative to protect Taj Mahal from pollution. The courts emphasized the importance of Taj as one of the wonders of the world and order to switch over to natural gas as an alternative fuel for reducing pollution.

In *M C Mehta vs. Union of India*¹⁴ a Delhi stone crushing case, the Supreme Court ordered the closure of stone quarries in and around Delhi within three months to prevent air pollution and Haryana government was asked to allot alternative sites in a new crushing zone.

In *Murali Deora vs. Union of India*¹⁵, is a notable decision of the Supreme Court where smoking in public places was found to be infringing on the right to life of the passive smokers, there is no reason to compel non-smokers to be helpless victims of air pollution and thus forbidden in public places. Pollution caused by smoking has been considered as violative of the right to life enshrined in Article 21.

*MC Mehta vs. Union of India*¹⁶, in this case Supreme Court ruled that an enterprise which has engaged in a hazardous industry and poses a potential threat to the health and safety of persons working in the industrial unit and residing in the surrounding areas, owes an absolute obligation to the community to ensure that no harm results to anyone on account of such hazardous nature of the activity. In case of loss on account of such activity, the enterprise is even liable to indemnify and compensate the sufferer.

Conclusion and Suggestion

Most environmental problems are the result of the unethical actions of individuals or organizations. One of the worst industrial catastrophes ever was caused by the unethical behavior of a Union Carbide employee. Despite the evident relationship between environmental degradation and human suffering, human rights violations and environmental degradation have been treated by most organizations and governments as unrelated issues. Just as human rights advocates have tended to place only civil and political rights into their agendas, environmentalists have tended to focus primarily on natural resource preservation without addressing human impacts of environmental abuse. As a result, victims of environmental degradation are unprotected by the laws and mechanisms established to address human rights abuses.¹⁷

There are some tools and techniques to overcome problems related to conservation and protection of environment as follows:-¹⁸

1. Protecting the plants and animals around.
2. Making the community aware of the value of and the services provided by bio-diversity.
3. Planting trees and making the community a partner in expansion of green cover.
4. Using vital resources such as water and energy economically, and hence reducing the ecological footprint.
5. Reducing the use of plastics, synthetic fibers and foams which degrade environment.
6. Preventing wastage of paper.

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7. Using public transport and car pools. It will reduce air and noise pollution both.
8. Keeping rivers, ponds, streams and our surrounding clean and preventing pollution.
9. Harvesting and conserving the rain water and recycling kitchen and bathroom water for watering of plants. Make sure that your home is leak-free. Many homes have leaking pipes that go unnoticed. Remember to use only the amount you actually need.
10. Maximizing the use of natural light, switching off appliances when not in use.
11. Adapting the policy of 'reduce, recycle and reuse' of resources with minimum waste generation and low carbon production.

Source Reduction

Source reduction is about reversing one's lifestyle and building an economy that is environmentally sound, rather than one based on the throw-and-burn ethic. Source reduction is about designing, manufacturing and using products with the goal of lessening their quantity and toxicity in the waste stream. If waste isn't created, it presents no disposal problems. In the long run, source reduction provides the most ethical and cost-effective way of reducing our impact on the environment . . .

Environmental Education

It provides countless contributions to ethical treatment of the environment. For example it can enlighten the public on many of the environmental issues we face today. At the same time, environmental education promotes stewardship of natural resources. Most of all environmental education enhances the public's understanding of the need for a healthy plant, animal life and biodiversity. It also educates the public about how their actions affect natural ecosystems; and how positive steps taken to minimize impacts on these ecosystems will translate

into improvements in our overall environment. Teaching about the environment is as important as teaching people to read or write. For many people, after learning about the impact that the human race has caused, they want to know how to correct the problems or reduce the impact on the environment.

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