

RIGHT TO ENVIRONMENT: THE LEGAL SIDE OF THE ASPECT

Omprakash*

ABSTRACT

The reason of opting the below content for research is that there shall be legal authority on the part of an individual to cover his own environment as the protection of the environment is dire necessity of the day. The reason is to cover that the immense damage has been done to the ecology. The primary causes for the ecological damage can be regarded as resources development. The resources development has been happened in a number of spheres- scientific, economical, specialized and other being inventions. But the utmost part of the development has happened on cost of the bio-diversity. The development which caused the damage to the ecology shall be controlled. For the ecological wrong, there shall be strict political and legal medium. In this background, the study regarded that the actuality of environmental right as resources right is relatively necessary to control evil ecological development; besides it political commitment for the protection of the bio-diversity. So in the title the word 'right' has been used. This study is accordingly appertained the law in international perspective, public perspective and in the perspective of India. The entire study reveals that the significance of the eco-system for actuality of resources beings with other species on the Earth. In order to continuance of the living on the earth ever, the protection of the eco-system or Bio-diversity is dire necessity not only within the nation but around the world. Due to the rapid industrialization for economical growth, developing countries are espousing a multitudinous dangerous conditioning that are venturing the being conditions of environment. At this juncture, the world needs a controlling medium in political and legal sphere with the cooperation of World Community, The United Nations Organization, the Regional and Non-governmental Associations, National and Original Governments.

Keywords: Environment, Human, Globalization, Perspective, Geographical, Economic, Community.

Introduction

The environmental issues is a abecedarian change in resources comprehensions of life on earth, caused or told by resources exertion, creating ill- goods, similar problems generally regarded as original, indigenous or public and may have international or global issues which need political action. The generalities of Globalization have brought the world in close propinquity and transfigure the whole world into a global village. Though earth is geographically terminated, man with his scientific and specialized might couldn't define natural environment and is common to entire universe. The principles of international law are intended to regulate the conduct of state towards securing the environment, peace and freedom of international communities. The function of international law is to promote creative peaceful and harmonious world order. The environment and its protection are common to world communities. The sufferance isn't confined to pollution began country but spreads to bordering countries. The biosphere is same to everyone. Also the actuality of man in the biosphere is global one. The intelligence and need is a kinetic term and it changes according to time. The trees, water, land and creatures gained important position in the ancient time. For example, for causing injury to shops different corrections were specified. Govind raja has made a difference between the word injury to shade- giving plans, flower- bearing shops and fruit- bearing shops and it also prescribes the micro and the mid and the loftiest corrections independently. Kautilya has taken it to the next level and fixed the discipline on the base of significance of the part of the tree. Some of the important trees were indeed shifted to the goddess position. Manu has put a liability on humanity to cover the forest. Environment plays a vital part in resources life and also in the improvement and development in the society. With the improvement in technology and industrialization and the chastity of the eco-system has been hovered to a shocking

* Associate Professor in Geography, M.S.J. Government PG College, Bharatpur, Rajasthan, India.

extent. The need to cover and ameliorate the environment is so important and compelling for the survival of the entire humanity and other forms of life on this earth that right towards environment has surfaced as a resource right.

The Environment

An environment is made of the five different factors of nature which include Land, Water, Rainfall, Air and Luster. These all factors jointly work for the survival of the living creatures. This could make it dangerous if we disturb the composition of all these factors. To have a proper survival platform we need to take care of them properly so that we can get pollution-free air for smooth breathing, unpolluted water for drinking, nutritious food for eating, as well as a pollution-free environment for all living creatures as well as non-living. These all factors are necessary for the sound and healthy development of the resources properly in the country. In the absence of these factors or called Panchtatva cannot be developed in itself with fullest utilisation. Pollution-free environment is the fundamental need of every human being of the world. However, the things are happening in the reverse manner and people who want a pollution-free environment are contributing to the pollution and it is now becoming common for everyone. We all know that a healthy environment is the basic need of every human being but we are actually destroying our own environment and we all are the part of it. The basic reason behind all this is that we are developing our nations at the cost of the health of us. The present economical development of our nations has now become very essential for our life even at the cost of the quality of our life. We started feeling that Air conditioners are good for our health then forests and their natural air. To develop the factories for manufacturing air conditioners, we started cutting down the forest from where we can get better air. In ancient times the people were so caring about nature that they used to worship the natural resources including rivers, trees and others. This all helped to protect the environment with the greatest care. In the Vedic period, environment was treated as the most important part of life and the highest significant for life. However, intelligence and requirements change with time. These natural resources like water, land and creatures were more important in the Vedic period.

International Efforts for Environment Protection

Previous to 1972, there was no major international trouble to attack and face global environmental challenges, although there were several international legislative instruments dealing with environmental issues, many of which are still in operation. The major international trouble for the protection of the global environment began in 1972, when the international community convened the first major 'United Nations Conference on Human Environment' at Stockholm. This conference marked the capstone of the efforts that anteceded the Stockholm Conference to place the issue of the protection of the environment on the sanctioned docket of international policy and law as it represented the first major international trouble to attack the problem of the protection of the environment and its enhancement by international cooperation and conventions. The docket of the Conference was expanded to include the issues which honored the relationship between development and environment. They were conceptualized as two sides of the same coin and it was realized that environmental protection, as an essential element of social and economical development. The conference espoused, among other things, three important non-binding instruments which were a declaration containing seven fundamental truths and twenty-six principles; a resolution on institutional and fiscal arrangements and an action plan containing 109 recommendations. Just as the Universal Declaration was basically a fiat, expressed in the form of an ethical law, intended to govern and impact unborn actions and programmes, both at the public and international situations, so was the Stockholm Declaration. It is submitted that, like the precepts embodied in the Universal Declaration of Human Rights, the principles embodied in the Stockholm Declaration have formerly come an integral part of customary rules of international law. The Declaration was divided into two corridors, a Preamble publicizing certain fundamental truths about man and his relation to the environment, and an operative part enunciating 26 principles to govern international and public action in the environmental field. The most important and significant donation of the Stockholm Conference was its efforts not only to bring into focus the resource rights approach to the problem of environmental protection, but also to fete a relation between development and environment from which the conception of Sustainable Development has gradually surfaced to become a part of the customary rules of international law. This was apparent from the several recitals of the preamble to the declaration and several principles embodied therein.

Environmental Law and Policy- National Perspective

The government of India has taken methodical and sustained efforts to attack major environmental problems of this country. One of the efforts is to formulate a comprehensive Policy frame to enable the government to have a holistic view of all environmental issues and to formulate an Environment Plan for the

country. There have been several policy statements relating to conservation of water forest, marine resources and for abatement of pollution piecemeal from the environment element of the policy document relating to sectors like Housing, Land Use, Education, diligence and Technology. Some similar Policy Statements are Artificial Policy Statement (1980); Technology Policy Statement (1983); National Education Policy (1986); National Land Use Police Outline (1986); National Water Policy (1987); National Land Use Policy (1988); National Housing Policy (1988); Policy Statement for Abatement of Pollution (February, 1992); The National Conservation Strategy and the Policy Statement on Environment and Development (June, 1992); Ocean Policy Statement and Wildlife Conservation Strategy (2002); The National Environment Policy (2006) etc. Across the political diapason of the nation there might be the recognition of the various important natural resources which play in furnishing livelihoods, and securing life- support ecological services. In this perspective a need for a comprehensive policy statement has been apparent for some time in order to inoculate a common approach to the various sectoral and cross-sectoral, including financial, approaches to environmental operation. As our development challenges have evolved, and our understanding of the centrality of environmental enterprises in development has stoned, there's also a need to review the earlier objects, policy instruments, and strategies. The expression of below policy statements has fulfilled a long- standing demand of contriving a clear and precise public policy on environmental protection and operation. Many of the policy directives are yet to be put into action completely to test its mileage. Still, from academic point of view it's desirable to study the policy statements to understand the policy of the government for environmental protection, abatement of pollution and resource conservation. India also plays an important part in several significant international enterprise concerned with the environment. It's a party to the crucial multinational agreements, and recognises the interdependencies among, and trans- boundary character of, several environmental problems. The national environment policy is not a policy only but also a commitment to the world that there will be a positive contribution to the international efforts made for the environment protection. The national environment policy have been developed but not recognised positively and marked as below the level and intended to major environment efforts in all development conditioning. It compactly describes the crucial environmental challenges presently and in future country will face, the main purpose of the environment policy, other nominal principles and unpinned policy action including the strategic factors for intervention, broad suggestions of the legislative and institutional development demanded to negotiate the strategic themes, and mechanisms for perpetration and review. It has been prepared through a process of expansive discussion with experts, as well as different stakeholders, and this process is also proved. The National Environment policy is developed to be the part of the non observing programmes set up in the policy for the environment protection, and for the purpose of the review and implementation of the entire National Environment policy through the different departments of the state as well as central or union territories. The major purpose of the National Environment policy is that we need to secure environmental resources so that life and welfare of living creatures can be secured, and the main basis for the conservation is to give a kind of surety that those who mainly dependent on the resources gain better livelihoods from the fact of conservation, than from declination of the resource. The policy also seeks to stimulate hookups of different stakeholders, i.e. public agencies, original communities, academic and scientific institutions, the investment community, and internal development mates, in employing their separate resources and strengths for environmental operation.

Environmental Problems and Judicial Approach

In the dying decade of twentieth century, protection of the environment is high concern to ever/ nation. When assaults on environment pose trouble to life and beget adverse socio- economical impacts, courts cannot sit with unrestricted eyes. In the rule of law societies, courts begin to examine the problems with lesser knowledge and a commitment to remedying the environmental dis temperatures. Times are noway static; the situation changes with the changing requirements of society, environmental protection, environmental pollution, environmental mindfulness and environmental action were unknown to us barring many exceptions. It's an established verity beyond mistrustfulness that without environment veritably survival of humanity is at stake and it has come a matter of life and death. Decline in environmental quality has been substantiated by adding pollution, loss of vegetable cover, and natural diversity, inordinate attention of dangerous chemicals in the ambient atmosphere and in food chains; growing threat of environmental accidents and pitfalls to life support systems has drawn the attention of entire world community and thus they resolved to cover and enhance the environmental quality. In such a situation how the bar can remain a silent onlooker when the subject has acquired high significance and has come a matter of caution and judicial notice. The court of law with the brand of Justice battling for people's rights against the anti-people order is a indigenous manifestation and popular consumption and

indeed is an overdue perpetration of Independence. Courts are duty bound to inspire confidence in people as a whole for which it exists. Justice Lodha has correctly refocused out Judiciary exists for the people and not vice-versa, and thus it must conduct effective, prompt, and ready justice in matters involving peoples civil rights, (similar as sanitation installations, proper light, air and environment) and public interest action. Courts cannot betray the confidence and trust by shirking their liabilities but come forward incontinently and give relief wherever and whenever needed. It's a philosophy verity that further than executive and council measures judicial activism supported by Public Interest Action (PIL) or Social Interest Litigation (SIL) has served the cause of antipollution, environmental protection and the conservation of ecological balance. Till now, laws of the weal of the millions had no life, and only decorated the enactment book. But if by the process of republic of remedies, courts are pressed by the people to activate resources rights, interdict commercial in humanity, extinguish exploitative injustice and superintendent arbitrariness and judicial ordinance smash, added by the mobilized force of social action groups, also the social justice personality of bar will come a public reality. The court will also bark and suck but the victims will be heretofore respectable adversaries of the people, including the loose welders of executive powers, the corrupting agencies of economical power, the violator of all measures meant for public safety, environmental chastity and distributive justice.

Conclusion

Through the times, the government of India has passed innumerable laws to help them in their task of environmental protection. Sorely, all the regulations and acts haven't done enough to cover the environment. The rapacity of numerous in the governing bodies has led to abuse of the laws and ruthless exploitation of the land, leading to ecological destruction and social shafts. Utmost leaders of assiduity warrant a social heart. They've exploited our country's resources and defiled our earth, water and air. Public apathy has not helped moreover. The people, as citizens of this country haven't made their voices heard. The opening up of the frugality and globalization has put a lesser pressure on the resources, further vitiating the fragile eco-system of India. A recent trend which is heartening to note is the part of the Indian Judiciary in environmental protection. It has espoused public interest action (PIL) for the cause of environmental protection. This has proved an effective tool. It's clear from the discussion in the thesis that the protection and preservation of the environment are inescapably related to development, which is sustainable and falls under Composition 21 of the Indian Constitution. By virtue of India being a signatory to numerous international instruments which came the part of the law of land. Thus, the judicial part through judicial activism and public interest action is an indigenous norm which is discharged by the bar veritably well.

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