

## Deteriorating environment: A threat to human life

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### Abstract

“Earth is our mother and we are all her children”

Earth is one of the rarest gifts that the nature has given to the Human beings. Even after prolonged experiments the scientist could not establish, that human can survive in any other planet except earth. Therefore, humanity must live within the carrying capacity of the Earth. It is duty of the people who are living now, to use the resources of the earth sustainably and prudently so that they do not deny certain benefits to future generations.

Human rights are the basic rights inherited to all human beings, irrespective of his nationality, place of residence, sex, national, ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination.

Clean and healthy environment is a pre-requisite for the enjoyment of human life. All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Protecting human rights will help to protect the environment. Therefore, it becomes the duty of the state to provide healthy and clean environment to its citizens.

There are various national as well as international laws which consist the provisions for protecting and preserving the environment. Even then we are lacking to provide clean & healthy environment therefore it becomes the duty of every person to protect environment. In this paper our focus would be on what are the laws we have for protecting environment as well as the role of judiciary for protecting it.

**Keywords:** deteriorating environment, human life

### Introduction

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### Meaning of Environment

Environment includes water, air and land and the interrelationship which exists among and between water, air,

land and human beings, other living creatures, plants, micro-organisms and property<sup>[2]</sup>.

The environment is defined as that outer physical and biological system in which man and other organism live - is a whole, albeit a complicated one with many interacting components<sup>[3]</sup>.

### Legal Issues Regarding Environment

There are three main dimensions of the interrelationship between human rights and environmental protection:

- The environment as a pre-requisite for the enjoyment of human rights (implying that human rights obligations of States should include the duty to ensure the level of environmental protection necessary to allow the full exercise of protected rights);
- Certain human rights, especially access to information, participation in decision-making, and access to justice in environmental matters, as essential to good environmental decision-making (implying that human rights must be implemented in order to ensure environmental protection); and
- The right to a safe, healthy and ecologically-balanced environment as a human right in itself.

The Stockholm Declaration, and to a lesser extent the Rio Declaration, show how the link between human rights and dignity and the environment was very prominent in the early

<sup>1</sup> Atharva veda (bhumi sukta)

<sup>2</sup> Sec 2 (a) of Environment Protection Act, 1986

<sup>3</sup> The State of World Environment, United Nations Environment Programme: Annual Review, 1980 at 6.

stages of United Nations efforts to address environmental problems. That focus has to some extent faded away in the ensuing efforts by the international community to tackle specific environmental problems, with more focus being placed on developing policy and legal instruments, both at the international and national levels. Although the foundation of developing such mechanisms laid on the considerations made at the time of the Stockholm Conference, the human rights dimension is not made explicit in most of these instruments. However, there have been several calls from different UN bodies to address the issues of human rights and environment in conjunction. The Commission on Human Rights (now transformed into the Human Rights Council) by Resolution 2005/60 requested the High Commissioner and invited UNEP, UNDP and other relevant bodies and organizations, within their respective mandates and approved work programmes and budgets:

*“to continue to coordinate their efforts in activities relating to human rights and the environment in poverty eradication, post-conflict environmental assessment and rehabilitation, disaster prevention, post-disaster assessment and rehabilitation, to take into consideration in their work relevant findings and recommendations of others and to avoid duplicate”*

The UN reform process also calls for the integration of human rights in all of the organization’s work.

In a series of resolutions, the former United Nations Commission on Human Rights and the United Nations Human Rights Council has drawn attention to the relationship between a safe and healthy environment and the enjoyment of human rights. Most recently, the Human Rights Council in its resolution 7/23 of March 2008 and resolution 10/4 of March 2009 focused specifically on human rights and climate change, noting that climate change-related effects have a range of direct and indirect implications for the effective enjoyment of human rights. These resolutions have raised awareness of how fundamental the environment is as a prerequisite to the enjoyment of human rights<sup>[4]</sup>.

### **Provision under Constitution of India & the Role of Indian Judiciary for Protecting Environment**

There are specific provisions relating to certain aspects of the environment, more specially for the protection of the forests and wildlife in the country, were incorporated in Part IV-Directive Principles of the State Policy and List III - The Concurrent List - of the Seventh Schedule of the Constitution. As a result, the Constitution has now the following provisions specifically relating to environment protection and nature conservation.

#### **Part IV - Directive Principles of State Policy (Article 48A)**

Protection and improvement and safeguarding of forests and wild life: The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

#### **Part IV-A: Fundamental Duties (Article 51-A (g))**

It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes,

rivers and wild life, and to have compassion for living creatures.

### **Seventh Schedule (Article 246) List III Concurrent List**

Item no. 17A Forests

Item no. 17B Protection of Wild Animals and Birds<sup>[5]</sup>.

The second major development took place after the certain remarkable judicial pronouncements in recent years, more specially relating to Article 21 of the Constitution dealing with “the right to life”.

Some examples are:

In Francis Coralie Mullin vs. Union Territory<sup>[6]</sup> the Supreme Court held that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter.

In M. C. Mehta vs. UOI<sup>[7]</sup> the Supreme Court has held that life, public health and ecology have priority over unemployment and loss of revenue.

In Shanti Star Builders vs. Narayan Totame<sup>[8]</sup>, the Supreme Court held that right to life is guaranteed in a civilised society would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in.

In Subhash Kumar vs. State. of Bihar<sup>[9]</sup>, the Supreme Court held that right to life is a fundamental right under Art. 21 of the Constitution and it includes the right to enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws a citizen has recourse to Art.32 of the Constitution for removing the pollution of water or air which may be detrimental to life.

In M. C. Mehta vs. Union of India & Ors<sup>[10]</sup> (*the Oleum Gas Leak case*), the Supreme Court established a new concept of managerial liability - 'absolute and non-delegable' - for disasters arising from the storage of or use of hazardous materials from their factories. The enterprise must ensure that no harm results to anyone irrespective of the fact that it was negligent or not.

In Vellore Citizens Welfare Forum vs. Union of India<sup>[11]</sup>, the Supreme Court held that industries are vital for the country's development, but having regard to pollution caused by them, principle of “Sustainable Development” has to be adopted as the balancing concept. “Precautionary Principle” and “Polluter Pays Principle” has been accepted as a part of the law of the country.

Recently National Green Tribunal of India has also passed the ruling for not permitting to run diesel cars which is 10 year old not only this loitering any substance in the river the Ganga is punishable offence. Fine can be imposed whoever burning any noxious substance in open place which emitting carbon dioxide.

<sup>5</sup> Ashish Kothari and Anuprita Patel, *Environment and Human Right*, National Human Right Commission by Rajika Press Services Pvt. Ltd at p. 15

<sup>6</sup> 1981 2 SCR 516

<sup>7</sup> 1987 Supp. SCC 131

<sup>8</sup> 1990 1 SCC 520

<sup>9</sup> 1991 1 SCC 598

<sup>10</sup> 1987 SCR (I) 819

<sup>11</sup> AIR 1996 SC 2715

<sup>4</sup><http://unep.org/delc/HumanRightsandTheEnvironment/tabid/54409/Default.aspx> visited on October 25, 2015

### **Other Laws in India for Protecting the Environment Forest (Conservation) Act, 1980**

The Act was passed to prevent deforestation, which results in ecological imbalance and environmental deterioration. It prevents even the state governments and any other authority to dereserve a forest which is already reserved. It prohibits forestland to be used for non-forest purposes, except with the prior approval of the central government.

### **Water (Prevention and Control of Pollution) Act, 1974**

Water Pollution Act, 1974 has been enacted to provide for the prevention and control of water pollution and maintaining or restoring wholesomeness of water, for the establishment of Boards. To carrying out these purpose, for the prevention and control of water pollution, for conferring on and assigning to such boards powers and functions relating thereto and for matters connected therewith.

### **Air Pollution Act**

Air(prevention & control of pollution) Act to provide for the prevention, control and abatement of air pollution, & for the establishment of boards with a view to carrying our aforesaid purposes, & for conferring on & assigning to such boards powers & functions relating thereto & for matters connected therewith.

### **Noise Pollution Act**

Noise Pollution means unwanted sound in the atmosphere. It is unwanted because it lacks the agreeable musical quality. Noise is therefore, sound but it is pollution when the effects of sound become undesirable.

### **Environment Protection Act 1986**

The Environment Protection Act, 1986 to provide for the protection and improvement of environment which includes water, air, land human being other living creatures, plant and property.

### **The Wild Life (Protection) Amendment act, 2002**

An Act to provide for the protection of wild animals, birds and plants and for matters connected therewith or ancillary or incidental thereto with a view to ensuring the ecological and environmental security of the country.

### **The Biological Diversity Act, 2002**

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

### **The Right of Information Act 2005**

An Act to provide the right to information to all citizens (useful in accessing information regarding environmental matters, including projects/processes that affect the environment).

### **Scheduled Tribes Act (Recognition of Forest Rights) Bill 2005**

A bill to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes who have been residing in such forests for generations but whose rights

could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

### **Public Liability Insurance Act, 1991**

The public liability insurance Act 1991, was enacted for the purpose of providing immediate relief to the persons affected by accidents occurring while handling any hazardous substance and for other incidental and connected matters.

### **National Green Tribunal Act, 2010**

The national green tribunal act, 2010 intend to prove for the establishment of national green tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to person and property and for matters connected therewith or incidental thereto.

### **International Laws and Treaties Related To Environment**

Some of the international laws and treaties pertaining to the environment are:-

- **Comprehensive Test Ban Treaty:** A proposed treaty to prohibit all testing of nuclear weapons in all environments: underground, underwater, in the atmosphere and in space.
- **The Kyoto Protocol:** An international agreement setting binding limits on emissions of greenhouse gases from industrialized countries. This agreement was adopted in Kyoto Japan in December 1997 and supplements the United Nations Framework Convention on Climate Change adopted in 1992.
- **Montreal Protocol:** International agreement signed by more than 150 countries to limit the production of substances harmful to the stratospheric ozone layer, such as CFCs.
- **Non-Proliferation Treaty:** A multilateral treaty signed in 1968 which aims to control the spread of nuclear weapons; extended indefinitely in May 1995. The treaty has been signed by over 175 nations.
- **United Nations Framework Convention on Climate Change:** An international agreement for dealing with climate change, adopted at the United Nations Conference on Environment and Development (the "Earth Summit") in Rio in 1992 <sup>[12]</sup>.

International Covenant on Economic, Social and Culture Rights as well as International Covenant on Civil and Political Rights of 1966, though the environment as such is scarcely mentioned in the documents. It should be added that individuals as well as groups, not only have the right to an adequate environment, but also the duty to protect and improve the environment. They have this responsibility not only towards other individuals or the community in which certainly collides in many cases with the enjoyment of their other rights, be they common citizens or those who, as scientists technicians, decision makers or in any other way, are more closely linked to scientific or technological development, environmental protection, health protection, or

<sup>12</sup> <http://www.nrdc.org/reference/laws.asp> visited on October 25, 2015

other cognate fields.

Modern states use the natural resources of the earth will not be able to support everyone unless there is less waste and extravagance.

We should, therefore have, a new approach to future, that is to secure a widespread and deeply held committed for sustainable living. We have to integrate conservation and development. Conservation and development to enable the people everywhere to enjoy long, healthy and fulfilling lives.

The concept of “sustainable development” was first highlighted at the “United Nations conference” on the human environment held at Stockholm in June 1972. Since, than various countries Germany and India etc. have enacted legislative measures for damages caused by hazardous substances etc. various International conferences have been held on the subject of environmental planning.

The recent one being the, united nations conferences have been held on the subject of environment and development popularity known as the earth summit held at Rio De Jenerio in brazil in June 1992 which aimed at focusing the attention of the world on problems of our environment and look for ways in which these can be avoided in Future, India too has been an active participant at these conferences. The Natural resources of earth nonrenewable and limited show that each generation should use the resources in such manner, the future generation could also enjoy them.

### Conclusion

Human rights and environment pollution is a valuable concept. Human beings can ensure their fundamental right to live and adequate conditions of life in an environment that permits a life of dignity and well-being. As we increasingly recognize the serious impact of a degraded environment on human health and well-being, we are better placed to adjust our policies and cultural practices to reflect our enhanced understanding. As a result, we should be able to protect human rights and human dignity within its broader social, cultural and economic context by drawing from and contributing to those who are actively engaged in the environmental and public health arena. We should encourage the concept of development of a “sustainable development model” for the preservation of the natural resources of earth, non-renewable and limited resources that each generation should use the resources in such manner, the future generation could also enjoy them. This should also facilitate those who are working in the environmental and conservation fields to develop a better working relationship with those in the human rights arena. There is an urgent need to formulate laws keeping in mind the fact that those who pollute or destroy the natural environment are not just committing a crime against nature, but are violating human rights as well.

### Suggestion for Mitigating Environmental Pollution

There are lots of environmental problems caused by human actions on the environment. If we are to respond to these problems we have to recognize that each of us individually responsible for the quality of the environment we live in. Thought we have various laws for protecting environment but it would be worthless until and unless, we ourselves try to improve environment, there are different ways for conserving and protecting environment. Such as:-

- With the help of solar energy, natural processes developed

over billions of years can indefinitely renew the topsoil, water, air, forests, grasslands and wildlife on which all forms of life depend, but only as long as we do not use these potentially renewable resources faster than they are replenished. Some of our wastes can be diluted, decomposed and recycled by natural processes indefinitely as long as these processes are not overloaded. Natural processes also provide services of flood prevention, erosion control at no costs at all. We must therefore learn to value these resources and use them sustainably. Concepts that help individuals contribute towards a better quality of our environment and human life.

- Try to plant trees wherever you can and more importantly take care of them. They reduce air pollution.
- Reduce the use of wood and paper products wherever possible. Manufacturing paper leads to pollution and loss of forests which releases oxygen and takes up carbon dioxide.
- Try to recycle paper products and use recycled paper wherever possible.
- Do not buy furniture, doors, window frames made from tropical hardwoods such as teak and mahogany. These are forest based.
- Reduce the use of fossil fuels by either walking up a short distance using a pooling a car, sharing a bike or using public transport. This reduces air pollution.
- Don't use aerosol spray products and commercial room air fresheners. They damage the ozone layer.
- Do not pour pesticides, paints, solvents, oil or other products containing harmful chemicals down the drain or on the ground.
- Buy consumer goods that last, keep them as long as possible and have them repaired as far as possible instead of disposing them off. Such products end up in landfills that could pollute ground water.
- Buy consumer goods ages in refillable glass containers instead of cans or throwaway bottles.
- Use sponges and washable cloth napkins, dish towels and handkerchiefs instead of paper ones.
- Recycle all newspaper, glass, aluminum and other items accepted for recycling in your area. You might have to take a little trouble to locate such dealers.
- Do not litter the roads and surroundings just because the sweeper from the Municipal Corporation will clean it up. Take care to put trash into dustbins or bring it back home with you where it can be appropriately disposed.
- You could join any of the several NGOs that exist in our country or become volunteers. Organize small local community meetings to discuss positive approaches of pollution prevention.
- Learn about the biodiversity of your own area. Understand the natural and cultural assets. This would help you to develop a sense of pride in your city/town/village and will also help you understand the problems facing their survival.
- Last but not the least its duty of every human being use the natural recourses in such a way that will not deteriorate the environment for future generation.

I would like to end this paper with a thought given by Elwyn Brooks White, in his book, “*Essay of E.B. White*”

“I would feel more optimistic about a bright future for man if he spent less time proving that he can outwit Nature and more time tasting her sweetness and respecting her seniority”

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