

Role of State in Protecting The Environment

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Abstract

Environmental protection was not considered of much importance to be protected in ancient era or British era. Environmental protection was not directly connected to any law but it was matter of moral or ethical values. For example: birds, animals, rivers or trees were considered as deity. The logic behind that was environmental protection but it was not directly imposed to people by the means of law. These practices of protecting the environment were based on moral or religious values. Now-a-days the environmental protection has been a major part of legal studies and great matter of concern of human welfare as it is being supported by sanction. State or Government has taken so many steps to protect the environment. After the Stockholm Declaration, 1972, the revolution to protect the environment has been taken place so swiftly, that the Indian Legal System is enough sound to protect the environment by various ways. In compare to the ancient text, recent laws are much precise and accessible to the people. Various Hindu texts has taught us the importance of environment so that we can protect the environment. For example:

"माता भूमिः पुत्रोऽहं पृथिव्याः।" ----- (Atharvaveda 12.1.12)

"Earth is my mother and I am her child."

"छिति जल पावक गगन समीरा। पंच रचित अति अधम सरीरा" ----- (Ramcharithmanas)

The human body is composed of earth, water, fire, sky and air. So, if one is protecting the environment or these five elements then he is protecting himself and the entire human race.

These are few examples of ancient text in concern to the environmental protection. Similarly, after the Stockholm Declaration we got various legislations to protect certain part of our surroundings. Air Act, Water Act, EPA, BDA, Wildlife Protection Act, Forest Conservation Act are few major acts of environmental law. State or Government is enough vigilant in respect to the environmental protection and taking steps day-by-day and looking for more.

Keywords: environment, protection, degradation, state, legislations

Introduction:

Environmental protection has been a great matter of concern from the ancient era. There are so many eras behind the development of human civilization. The only reason for the survival of human being and other living creatures is merely the environment. With the origin of Homo Sapiens the environment also came into existence. For the survival humans always utilized the environment and environmental conditions. They utilized and consumed every

possible nature resource that they think fit for their survival. For instance: if they felt hunger, they ate fruits and greens, if they felt cold they used animal skin or sunlight. If they felt thirsty, they utilized water from rivers or waterfalls and so on. But with the development and population increase they forgot to maintain the balance with nature. The imbalance with the nature is the real cause of environmental degradation. This degradation was not too much in earlier days but in past few decades it has moved up drastically. New discoveries and

invention has lead the earth to a great disaster. Humans are using plastics, nuclear weapons, harmful chemicals etc. New generation has focused much more over the economic growth rather than the social and environmental growth. To curb such problem State has been well aware and trying to provide better living conditions. Notwithstanding with the existing laws, State continuously working on the safe and healthy environment. There are so many ways like Fundamental Rights, DPSP, Writs, Public Interest Litigations. Many times Honourable Courts have directed to State their duty to protect the environment and worth the meaning of a welfare state.

Environmental Protection in Ancient Era Ancient Hindu Texts

Vedas which has been derived from the Sanskrit word "vid", it means the knowledge. Vedas are also known as the "Voice of God", as it is considered that these are the result of the meditation of various sages. These sages communicated with God and blessed with the vedas. As all are aware there are four vedas viz; Rig, Yajur, Sama and Atharva. These all four are those important text which consists of every part of the life either rule of life, morality, ethics, medicines, astrology, environment etc. These vedas has taught many lessons to protect the environment. As a shloka says about nature-

मधुत्वाता ;तायते मधु क्षरन्ति सिन्धवः।

माध्वीर्नः सन्त्वोषधीः म---- Rigveda: 1/90/6

Environment provides bliss to people leading their life perfectly. Rivers bliss us with sacred water and provide us health, night, morning, vegetation. Sun bliss us with peaceful life. Our cows provide us milk.

तस्मत् यज्ञत सर्वहुतः संव्रतं पुसदज्यं पसुन्तनसाक्रे वायव्यनारायण ग्राम्यस्का ये ।।

.... (Rigveda:10/90/8)

The fire and Sun play the most significant role in the purification of environment. Animals and birds are part of nature and environment. The Vedic seers have mentioned about their characteristics and activities and have desired their welfare.

In vedic times and ancient times environment protection was one of the ethical elements. Natural resources were considered to be of very respectable

things as well there was the provision of punishment by the king for making harm to such valuables. Charak Samhita , a book on Medicines originated in 900 B.C., threw some light over the punishment over various punishments for cutting trees, killing animals and harming the environment.

However, environmental pollution was not a popular term in that time but 'environment poisoning' was the term used for such pollution. The concept behind that was interesting. It is considered that the nature is composed of five elements viz; Earth, Sky, Water, Air and Fire and similarly the human body is also comprising these five elements. A famous verse from Ramchathmanas Says:-

"छिति जल पावक गगन समीरा । पंच रचित अति अधम सरीरा"

---(Ramchathmanas 1.4.11)

This verse explains that human body is composed of these five elements i.e., Earth, Sky, Water, Air and Fire.

It is also considered that these five elements are co-related to human body parts. Earth relates to nose, ears relates to sky, tongue with the water, Skin to the air and eyes related to fire. Hindu philosophy says that this bond is so strong that it can not be separated. The whole construction of nature and human existences belongs to this natural bond.

"Do not cut down the trees, as they are helpful to remove pollution."

"Do not disturb the sky and do not pollute the atmosphere." There are lots of references from Hindu ancient texts that tells us the story of environmental protection. The King being the 'State' had the responsibilities to protect his state from environmental degradation and also had the right to punish them for such contravention.

Buddhism

"We are the generation with the awareness of a great danger. We are the ones with the responsibility and the ability to take steps of concrete action, before it is too late."

----- (Dalai Lama)

Unlike Hinduism, Buddhism also seeks for the 'Karma' and 'Ahimsa'. Buddhism says we should

not do any type of violence with any living being either it is an animal, bird or greenery. There are some quotes that indicates for the nature love in Buddhism.

"As a bee – without harming the blossom, its color, its fragrance – takes its nectar and flies away: so should the sage go through a village."

"Drop by drop is the water pot filled. Likewise, the wise man, gathering it little by little, fills himself with good."

Islam and Environment

The Islamic view on environmental conservation presents a favourable image of Islam and how it accepts any issue that people encounter on Earth. The Islamic approach to protecting the environment and natural resources is based on both sustainable development and the prohibition of overexploitation. The Holy Quran also says about the environmental protection and Sunnat and Hadis (Hadith) also inspires about the environmental conservation.

According to Holy Quran:

"It is He who has appointed you viceroys in the earth ... that He may try you in what He has given you." (Surah 6:165)

"O children of Adam! ... eat and drink: but waste not by excess, for Allah loves not the wasters." (Surah 7:31)

The Prophet (S.A.W.) has done so many good deeds and practice which indicates about the nature love. As Muttafaqu 'Alayh tells- *"The Prophet (S.A.W.) would perform ablution with one mudd (half a kilogram of water) and would perform a ritual bath with one sa' (two kilograms of water), up to five mudd (two and a half kilograms of water)."*

This is the example of conserving the resource and also indicates about the sustainable development.

Environmental Protection in India: Legal Regime

Environment protection in India is a major concern in legal field. There are so many legislations passed by the Indian Government, but the big problem the nation is facing is its implementation. People here are not taking the situations seriously. They often wasting pure water, throwing garbage in unusual

manner, using more and more technology, using unsafe vehicles, making noise pollution in the name of enjoyment or religion etc.

There are lots of measure available in India to conserve the nature. These measures can be discussed as follows.

Legislations

Prior to the major environmental laws in India, during the British regime there were so many legislations to protect some environmental issues. But these acts, if we notice are not human friendly. Here human friendly means, these acts were not in the complete welfare of the people but in the welfare of the Trade or businesses run by the Britishers. There are few examples below of some acts during the British era.

- The Shore Nuisance (Bombay and Kolaba) Act, 1853
- The Orient Gas Company Act, 1857
- The North India Canal and Drainage Act, 1873
- The Indian Fisheries Act, 1897
- The Indian Ports Act, 1908
- The Indian Steam Vessels Act, 1917
- The Poison Act, 1919
- The Indian Forest Act, 1927

If we look at these Acts, it can be noticed that there are gas company, shore, ports, vessels, canals, forests etc. These all subject-matter are indicating towards the trade related issues not to the whole environment at a large. But things changed with the ticking of clock and many revolutions took place regarding the environment globally.

The Wildlife Protection Act, 1972

In order to preserve the safety of the environment and the ecological system, this Act provides for the preservation of the wild animals, birds, and plant species found in the nation. The Act imposes prohibitions on a variety of animal species' hunting, among other things. The Act was last modified in 2006. The Rajya Sabha received an amendment bill in 2013 that was sent to a Standing Committee; however, it was withdrawn in 2015.

Indian wildlife law's legislative history

The Wild Birds Protection Act, 1887, was the first of its kind, and it was enacted by the British Indian Government in 1887. The intention of the law was to make it illegal to own or sell certain wild birds that were either shot or caught during a nesting season.

The Wild Birds and Animals Protection Act, a second piece of legislation, was passed in 1912. The Wild Birds and Animals Protection (Amendment) Act 1935, which was approved, changed this.

The preservation of animals was not a top concern during the British Raj. The concern over protecting wildlife and preventing the extinction of certain species didn't become a pressing problem until 1960.

The Wildlife Protection Act Need

Wildlife is a component of "forests," and up until the Parliament established this law in 1972, this was a state matter. The current list is concurrent. Following are some justifications for a federal law protecting animals and the environment:

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1. The diverse flora and wildlife of India are a treasure trove. The population of several animals was rapidly declining. For instance, Edward Pritchard Gee, a naturalist, stated that India was home to close to 40,000 tigers at the start of the 20th century. However, a census taken in 1972 revealed that this number had fallen to only 1827.
2. An abrupt decline in flora and fauna can lead to ecological imbalance, which has an impact on a variety of climatic and ecological factors.
3. The Wild Birds and Animals Protection Act of 1935 was the most recent law enacted during the British era in this regard. This needed to be improved since the penalties given to wildlife poachers and merchants were out of proportion to the substantial gains they made.
4. Prior to the passage of this Act, India had just five national parks.

This is one of the needed Act because wildlife was in danger and there not too much emphasis over there.

The Water and Air Act with the powers of CPCB

The Ministry of Environment, Forests, and Climate Change is responsible for the Central Pollution Control Board (CPCB) of India (Mo.E.F.C.C.). The Water (Prevention and Control of Pollution) Act of 1974 allowed for its establishment. The 1981 Air (Prevention and Control of Pollution) Act also gives the CPCB authority and responsibilities. Under the guidelines of the Environment (Protection) Act of 1986, it performs the functions of a field formation and offers technical assistance to the Ministry of Environment and Forests. By offering advice and technical support, it coordinates the work of the State Pollution Control Boards and arbitrates conflicts between them. As the technical arm of MoEFCC, it is the leading organisation in the nation for pollution control.

The Ministry of Environment, Forests, and Climate Change is the legal home of the Central Pollution Control Board (CPCB) of India. (Read the article linked here to learn the distinction between a statutory body and a quasi-judicial body.)

Founded in 1974 under the Water (Prevention and Control of Pollution Act), it was later given duties and authority under the Air (Prevention and Control of Pollution) Act, which was passed in 1981.

The Water Pollution

- The polluting of water bodies is referred to as water pollution. Water sources such as rivers, lakes, seas, groundwater, and aquifers become contaminated with industrial and agricultural effluents, which causes water pollution.

The Air Pollution

- Any physical, chemical, or biological alteration in the air is referred to as pollution. The major impact of air pollution on plants, animals, and people is caused by noxious gases, dust, and smoke. To learn more about air pollutants, go here.

By offering advice and technical support, it directs the State Pollution Control Boards' actions and mediates conflicts between them.

The CPCB has too much importance and has various functions and powers to perform to conserve the environment at a large. Some of them can be as follows:

1. Providing guidance to the federal and state governments on issues pertaining to the reduction and management of air and water pollution.
2. Creating several initiatives to prevent and regulate air and water pollution planning and organizing training sessions for those working on projects to reduce, avoid, and manage air and water pollution.
3. Gathering, putting together, and disseminating technical and statistical studies on air and water pollution. These studies are used to create pollution control and reduction strategies.
4. Creating manuals, rules, and recommendations for the handling and disposal of sewage, industrial effluents, stack gas cleaning equipment, and ducts and stacks.

The Environmental Protection Act 1986

This Act is also known as the 'Umbrella Act' due to it covers all the major environmental issues under it. The Environment Protection Act of 1986 was passed by the Indian Parliament. It was passed in May 1986 and went into effect on November 19 of the same year. There are 4 chapters and 26 parts. This Act is the result of the 'Bhopal gas Tragedy'. The Act was approved by the Indian government in accordance with Article 253 of the Indian Constitution, which gives the union government the authority to establish legislation to implement foreign accords that the nation has signed. The Act's goal is to put the outcomes of the UN Conference on the Human Environment into practice. They deal with safeguarding and enhancing the human environment as well as mitigating risks to people, other living things, plants, and property. The Act, which covers all significant industrial and infrastructural operations and forbids and controls certain activities in coastal regions and eco-sensitive areas, has established a foundation for India's environmental regulation regime. The Act also outlines how different federal and state agencies established by other environmental laws, such as the Water Act and the Air Act, would coordinate their efforts.

Other Acts and Initiatives

There are lots of acts and provisions alongside these acts such as- Biological Diversity Act, Solid Wastage Management (SWM) Rules etc. Also there are lots of initiatives are being in force to waste management. "Sawacch Bharat Abhiyan" is one of the prominent initiative which inspires citizens to manage the waste of their households.

This mission has various aims and objectives some of them are as follows:

- Construction of public toilets.
- To diminish the open defecation.
- Making aware for the use of latrines.
- Proper sanitation in home and around.
- Living areas to be kept clean and hygienic.
- Management of solid and liquid wastes.
- To use the dustbins in proper way; Green for Wet wastes and Blue for Dry wastes.
- Making arrangements for separate toilets in school for boys and girls.

Indian Constitution and Environmental Protection

The protection of environment under Indian constitution has many faces. It has been done in several ways. As it has been enshrined under it by the means of Fundamental Rights, Directive Principles of State Policy, Fundamental Duties or by the PIL etc. It has so many provisions like Article 14, 19(1)(g), Article 21 as Fundamental Rights. Article 48-A under Part IV as DPSP. Article 51-A(g) as the Citizen's Duty to protect the environment. There are so many examples and landmark judgements regarding environmental protection. But it has been a big question to the State, that is he justifying the real need of the time.

State or Government: The Environment Protector

State is like the King and it has the duty to serve for its citizens. Similarly, the State or government has also the duty in the matter of environment. However, there are so many legislations but alongside these, environment is been protected by the constitution and duty is conferred upon the State to protect it.

Article 48-A of the Indian Constitution was added by the 42nd Amendment of the Constitution in 1976 by the recommendation of the 'Swarna Singh Committee'. This Article says:

“The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”

This provision is not limited to just endeavors but the State have to actually take right steps to conserve the nature. The Honourable Judiciary has many times directed State to focus over their duties conferred under Article 48-A of the Indian Constitution.

In a case the Supreme Court remarked that whenever there is a problem of ecology was brought before the Court, the was bound to bear in mind Article 48-A and 51 A(g) of the Indian Constitution. In another case the Supreme Court held that in view of the Articles 48A and 51A(g) it is evident that the protection of environment is not only the duty of the citizens but also the “obligation” of the State and all other State organs including Courts.

The responsibility of State was also pointed in another case of *Kinkri Devi v. State*, pointing towards the State the Court said that the State has the constitutional duty to protect and also to improve the environment and to protect all other natural resources of the environment.

Initiatives by Government

Every time, in the matter of environment, law has not worked. But the initiatives or few creativities has inspired the citizens at a large to come forward and cooperate to make a healthy environment. There are lots of initiatives started by Government of India, inspiring its citizen to environmental protection.

One of the popular is “*Swachchh Bharat Abhiyaan*”, was initiated in 2014. This was a cleanliness campaign in which it was pledged to keep the cleanliness. Its motto was “One step towards cleanliness”.

The Green Skill Development Programme (GSDP) of the Ministry of Environment, Forest and Climate Change (MoEF&CC) is an initiative for skill development in the environment and forest sector to enable India's youth to get gainful employment and/or self-employment.

The programme endeavours to develop green skilled workers having technical knowledge and commitment to sustainable development. It will

help in the attainment of the Nationally Determined Contributions (NDCs), Sustainable Development Goals (SDGs), National Biodiversity Targets (NBTs), as well as Waste Management Rules (2016).

In spite of these there are so many initiatives and programs launched by the Government of India. Green India Mission, Project Tiger, Nagar Van Udhyan Scheme, Namami Gange etc. It is hoped that our government will take more and more steps like these to make our environment clean and healthy.

Conclusion

If the clean environment is a fundamental right, then to protect the nature is our duty. Not only the government but also the citizens of any state shall be responsible for the degradation of its surroundings. If we analyze the role of state to protect or conservation of the environment, before that we should analyze to our citizens. The state is working hard to curb such ecological problems, but there is a need of cooperation by the citizens too. There are lots of things to be followed to keep the earth clean and healthy.

1. Keep cleanliness around you.
2. Always use dustbins to dispose the trash.
3. Always use right dustbin (Green-Wet waste and Blue-Dry Waste)
4. Use less water
5. Use less motor vehicle
6. Switch off the electricity switches when not in use
7. Use less plastic
8. Follow RRR (3R): Reduce, Recycle, Reuse.
9. Keep water resources safe and clean. Don't make rubbish in the name of religion

These above-mentioned points are not new but it is necessary to be discussed. The state or any law is waste and useless if we are not going to support and cooperated with yourself and environment.

In this study it is noticed that state is working enough for the environmental protection but state has to take strict actions to a strong implementation.

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