

Lex Terra

News Updates on Environmental Law

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“The environment is where we all meet; where all have a mutual interest; it is the one thing all of us share.”

—Lady Bird Johnson

“Lex Terra is an initiative by the members of Centre for Environmental Law, Advocacy and Research (CELAR) of National Law University. Through Lex Terra, we are making an effort to put forward the various facets related to Environment from different sources which is published every fortnight among the society so that a community of environmentally conscious people emerge out of the legal and non-legal fraternity. Each edition of Lex Terra highlights some noteworthy eco-news, both at global as well as national arena. This newsletter is extensively prepared by the members and researchers of CELAR, the members of NLUA.

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About CELAR

The primary mission of Centre for Environmental Law, Advocacy and Research (CELAR) of National Law University, Assam is to engage in advocacy and research on public interest environmental issues. For the purpose, it will organize workshops and seminars to educate and develop skills, convene conferences to promote exchange of ideas, conduct training programmes for capacity building in environmental law issues, undertake research on legal concerns and publish

periodically, newsletters and journals.

The objectives of the CELAR are as follows:

- To inspire and educate students by providing hand-on advocacy experience and direct exposure to the issues.
- Strengthen access to justice by undertaking high quality multi-disciplinary research on contemporary legal issues pertaining to environment.
- Advocate for reforms in environmental law through

scientifically sound legislative proposals.

- Organise training programmes for strengthening the legal capacity building on environmental laws do civil servants, law enforcement authorities, non-governmental organizations and media personnel.
- Publish periodically journals and newsletters on environmental law.

— Professor (Dr.) Yugal Kishore,
Centre Head, CELAR

Message from Team Lex Terra

Dear Readers,

It is with much joy and anticipation that we present to you the sixteenth issue of CELAR's fortnightly newsletter, *Lex Terra*.

We congratulate the team for its continuous and praiseworthy collective efforts.

The team of *Lex Terra* wishes to thank all of those who supported this initiative. We would like to express our gratitude to our respected Vice-Chancellor, Prof. (Dr.) Vijender Kumar for his continuous support and timely inputs. We would like to thank Prof. (Dr.) Yugal Kishore, the Centre Head of CELAR for his help and encouragement. We would like to thank Mr. Chiradeep Basak, Centre Co-ordinator of CELAR, who has been a source of inspiration from the outset, along-side his unrelenting contribution to all phases of the job, from planning, to setting clear goals and appraising the outcome. Lastly, we would also like to extend our gratitude to our faculty advisors, Ms. Shannu Narayan and Mr. Nayan Jyoti Pathak for their ideas and relentless support.

Based on our publication's impact factor as well as some requests and suggestions by academicians from other law schools, we now share our publication with all law schools, administrators along with a pool of eminent environmental activists, researchers and lawyers in India and overseas. We are also accepting short articles for publication. **So if you are willing to be part of this venture, kindly contribute.**

Our issues go online every 1st and 16th of each month.

Please keep pouring down your support and concern for mother nature.

Thank you!

Happy Reading!



ART OF LIVING'S WORLD CULTURAL FESTIVAL 2016: AN ECOLOGICAL DISASTER

*Pallavi Tiwari, 2nd Year
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A gigantic fiesta came up on the Yamuna floodplains in Delhi, over a few days, which was unheeded by the Union Government. Impermanent bridges developed by the army for the big festival and bulldozer running over the crops attracted the attention of National Green Tribunal which brought the Art of Living Foundation's World Cultural Festival, which began on 11th March, under controversy. The festival, which according to the organisers will welcome 35 lakh visitors, is reckoned to create a great impact on the fragile Yamuna ecosystem. This damage was ignored by the Delhi Development Authority, and the Delhi Pollution Control Committee was unaware about the construction detritus and waste which would be the leftovers of the congregation. The Water Resources Ministry which is obliged to protect the Yamuna had no say whereas the environment and forest department told NGT that the big event, which was actually an ecological disaster, was not at all harmful to the environment and needed no attention. All the agencies and the Art of Living were rightly accused by NGT but later it was permitted by the tribunal on the condition that the organisers would pay an initial fine of Rs. 5 crore and they should rectify the harm caused with by the construction of a biodiversity park at the

venue. The main question to be answered is that where is the "art" in living like this?

Where is the 'Art' in living like this?

Many of the farmers have been told to shift and their crops have been destroyed by mowing them down with bulldozers. The farmers even say that the land will take months to be available for cultivation. The organisers have also forced the army to build five bridges to ingress the festival site instead they needed just two. The event has attracted sharp condemnation from environmental activists and organisations because of the depreciation it might cause to the Yamuna Floodplains. Several tents, bridges are being built and debris and waste is accumulated. Vegetation is destroyed and entire floodplain is made unavailable for cultivation. The four-member committee of the NGT led by Shashi Shekhar has found these problems with the event. This is expected to pose long term damage to river Yamuna by blocking it. The floodplains would be destroyed to a great extent and the natural life in that ecosystem will perish or move out.

According to Sri Sri Ravi Shankar "everything is fine, but not the fine" and he is ready to go to the jail. The question which arises here is why Art of Living's birth anniversary is considered to be a

national event. Is this the purpose of Art of Living as it claims for a “Holistic Vision” wherein they aim to transform societies for good? The irony here is that the society instead of being transformed for good is harmed and the source of livelihood for the farmers on the Yamuna Floodplains is being devastated.

It is the consistent view of the Experts and is sufficiently evident from the documents placed on record that the flood plains have been drastically tampered with while destroying the natural flow of the river, reeds, grasses, natural vegetation on the river bed. It has further disturbed the aquatic life of the river and destroyed water bodies and wet lands on the flood plains, which were in existence, as noticed in the case of *Manoj Misra vs. Union of India and Ors.*. They had also constructed ramps, roads, compaction of earth, pontoon bridges and other semi-permanent or temporary structures etc. even without the permission of the concerned authorities including Ministry of Water Resources.

For the damage caused to the environment, ecology, biodiversity and aquatic life of the river, the Foundation should be held liable for its restoration in all respects. In that regard and in exercise of our powers under Sections 15 and 17 of the NGT Act, 2010 which talk about the Relief, compensation and restitution and Liability to pay compensation, respectively with an Environmental Compensation, initially of Rs. 5 crores.

This amount would be paid by the Foundation prior to the commencement of the event and would be adjusted towards the final compensation determined to be paid by the Foundation for restoration work. Source of water, collection and disposal of the Municipal Solid Waste and sewerage generated during the event and no further environmental degradation or adverse impact on public health source of water and source of power and its utilization thereof are the issues that would be treated as directions issued under Section 33A of the Water Act and Section 6 of the Environmental (Protection) Act, 1986 and would be binding upon the Foundation and all public authorities involved in the case.

Cultural activity could be recreational but the entire construction of ramps, roads, accumulation of debris, alteration of the natural topography and removal of natural vegetation from the flood plains, cannot be said to be recreational.

“The Yamuna floodplain is a highly sensitive ecological zone. To organise its culture festival, the AOL Foundation has illegally cleared the entire stretch of wetland and marshy area. It’s total devastation and we fail to understand how the person (Sri Sri Ravi Shankar), an apostle of non-violence and spiritualism can allow it”, said the petitioner, Manoj Kumar Misra who is also the convener of Yamuna Jiye Abhiyan, an NGO working for the restoration of river Yamuna.

NGT takes a stand and *Fait Accompli*

The biggest mistake of Yamuna Jiye Abhiyan, who raised a petition against these practices, was that

they were very late and since the extravaganza was about to start, the NGT said that already a substantial amount of damage has already been caused and it is very severe and simply stopping the festival may not be fruitful. Few questions need to be answered are:

It is appalling that Art of Living claims about its “accountability” and “sustainability model” for its projects and here both of them are being periled.

Why has the media woken up so late?

Why is the Environment Minister not being questioned?

Neglecting the aforementioned negative impact on the ecosystem, the NGT on Wednesday gave approval to the three-day World Cultural Festival and a fine of Rs. 5 crore was imposed on AOL and the formation of a biodiversity park in that area was recommended. Justice Swatantar Kumar has said that AOL has the time to pay and if not complied by the punishment, law would take its action. The High Court bench comprising of Justice Badar Durrez Ahmed and Justice Sanjeev Sachdeva commented that the fine imposed on Art of Living was insignificant. The bench had remarked on Wednesday, that such constructions on the Yamuna Floodplains are an “ecological disaster”.

The National Green Tribunal after giving the permission to continue with the event also gave the title of *‘fait accompli’* i.e. something that cannot be prevented from occurring at a later stage. According to NGT, the event had reached such a position from where it could not be taken aback. The only remedy was to impose a fine

and ask the organisers to restore the place to its previous condition. Such an argument has entitled several events to take place in the past which could have an adverse effect on environment. For several years, many industries have used this argument of NGT in their favour to seek approval and environmental clearances even though they are at the peak of violation of law. It endangers to cause irrevocable damage to the ecologically weak and sensitive Yamuna Floodplain. The river which holds a symbolic position in the Hindu mythology has been so brazenly disregarded by the organisers and they have brutally played with its health. There has already been a fine of Rs. 120 crore on the organisers and they have hardly abided by the rules.

As quoted from the judgment:

“For the reason of delay and laches on the part of the applicant in approaching the Tribunal and for the reason of *fait accompli* capable of restoration and restitution, we are unable to grant the prayer of prohibitory order and a mandatory direction for removal of construction and restoration of the area in question to the applicant at this stage.”

It was observed in the paragraph 158 of the judgment of *S.P. Muthuraman v. Union of India*, “The Precautionary Principle may lose its material relevancy where the projects have been completed and even irreversible damage to the environment and ecology has been caused. The situation may be different when invoking this principle in cases of partially completed projects; it would become necessary to take remedial steps for protection of environment without any further delay. At this stage, it may be possible to take steps while any further delay would render it abso-

lutely impracticable. Precautionary Principle is a proactive method of dealing with the likely environmental damage. The purpose always should be to avert major environmental problem before the most serious consequences and side effects would become obvious. It is a tool for making better health and environmental decisions. It aims to prevent at the outset rather than manage it after the fact. In some cases, this principle may have to be applied with greater rigors particularly when the faults or acts of omission, commission are attributable to the Project Proponent.” This precautionary principle has been given in under Section 20 of the National Green Tribunal Act, 2010 and section 4A of the Environment Protection Act, 1986.

As far as damage that has already been caused to the environment and ecology by the illegal and unauthorized action of the Project Proponents, the parties are required to pay compensation for its restoration and restitution in terms of Section 15 of Act of 2010.

As observed in *Manoj Misra vs. Union of India and Ors.*, pertaining to clean drainage system in rejuvenated Yamuna River Delhi known as “Mailyse Nirmal Yamuna” Revitalisation Plan 2017.

The tribunal said that as per documents placed on record, it is evident that the flood plains have been drastically tampered with and ramps, roads, compaction of earth, pontoon bridges and other semi-permanent or temporary structures were constructed without the

requisite permission of the concerned authorities including Ministry of Water Resources. The tribunal also constituted a committee of the representatives of Delhi Pollution Control Committee (DPCC), Ministry of Environment and Forests (MoEF) and Central Pollution Control Board (CPCB) and said it shall immediately inspect the site which shall issue directions with regard to the source of water, collection and disposal of the municipal solid waste and sewerage generated during the event and also issue directions to ensure that there is no further environmental degradation.

ENVIRONMENTAL PROTECTION ACT, 1986 AND ROLE OF DPCC

The same issue arose in *S.P. Muthuraman v. Union of India and Ors* where they had not only started construction but, in fact, had practically completed the project without even applying for any permission required by them in law and in any case before obtaining the Environmental Clearance under the provisions of the Environment Protection Act, 1986 (for short ‘Act of 1986’), Environment (Protection) Rules, 1986 (for short ‘Rules of 1986’) and Environmental Clearance Regulations of 2006 (for short ‘Notification of 2006’).

Delhi Pollution Control Committee (DPCC) has also failed to comply with its statutory obligation as they have contended that it was not obligatory upon them to grant or refuse the permission to the Foundation for this kind of construction and the manner in which they should dispose of the waste and the source of water supply for such a large gathering. But it was expected of the Board to guide the Foundation by appropriate law and issue direc-

tions under Section 25 r/w Section 33A of the Water (Prevention and Control of Pollution) Act 1974. Because of its failure to act diligently NGT has imposed a fine of Rs. 1 Lakh on DPCC.

The ambit and scope of the directions that can be issued under the Environment Protection Act 1986 can be of very wide magnitude including power to direct closure, prohibition or regulation of any industry, operation or process and stoppage or regulation of supply of electricity or water or any other services of such projects. The principle of sustainable development by necessary implication requires due compliance to the doctrine of balancing and precautionary principle. In the Environmental Protection Act 1986 precautionary principle has been mentioned under section 4A wherein it says, “where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.”

The ambit and scope of the directions that can be issued under the Act of 1986 can be of very wide magnitude including power to direct closure, prohibition or regulation of any industry, operation or process and stoppage or regulation of supply of electricity or water or any other services of such projects. The principle of sustainable development by necessary implication requires due compliance to the doctrine of balancing and precautionary principle. In appropriate cases, the Courts and Tribunals have to issue directions in light of the facts and circumstances of the case. The powers of the higher judiciary under Article 226 and 32 of the

Constitution are very wide and distinct. The Tribunal has limited powers but there is no legislative or other impediment in exercise of power for issuance of appropriate directions by the Tribunal in the interest of justice. Most of the environmental legislations couched the authorities with power to formulate program and planning as well as to issue directions for protecting the environment and preventing its degradation. These directions would be case centric and not general in nature. Reference can be made to judgment of the Supreme Court in the case of *M.C. Mehta and Another vs Union of India and others*, *Vineet Narain and Ors. vs Union of India (UOI) and Anr.*, and *University of Kerala vs Council, Principals, Colleges, Kerala and Ors.*,

In light of the above, even if the structures of the Project Proponents are to be protected and no harsh directions are passed in that half, still the Tribunal would be required to pass appropriate directions to prevent further damage to the environment on the one hand and control the already caused degradation and destruction of the environment and ecology by these projects on the other hand.

Furthermore, they cannot escape the liability of having flouted the law by raising substantial construction without obtaining prior Environmental Clearance as well as by flouting the directions issued by the authorities from time to time. The penalties can be imposed for such disobedience or non-compliance. What requires immediate attention is the direction that the Tribunal should pass for mitigating as well as preventing further harm.

.CONCLUSION

A mega cultural event organised by Sri Sri Ravi

Shankar's Art of Living Foundation on the banks of the river Yamuna appeared to be on shaky ground and was brought under the scrutiny of the green court. Over 1,000 acres on the river banks have been converted into a makeshift village for Art of Living's three-day World Cultural Festival that will feature yoga and meditation sessions, peace prayers and cultural performances. Environmentalists argue that the festival will do serious damage to the delicate ecosystem of the river Yamuna and cause irreversible damage to the flood plains. Hearing a petition against the festival, the green tribunal asked the Environment Ministry: "If somebody has to alter the flood plains, don't you think it requires your clearance? To protect the river is your prime responsibility, what steps did you take to prevent damage?" The tribunal also had tough questions for planning body Delhi Development Authority, which argued that "heavens won't fall" if the event is allowed, since "we are at the threshold of the ceremony." Sri Sri Ravi Shankar has claimed that there has been no damage to any tree and he himself has demanded for a Biodiversity Park. There are also questions about the number of people attending the event. Prime Minister Narendra Modi opened the festival on Friday and so far, his office has not said anything different. President Pranab Mukherjee had said that he would not be present in the festival.

Dr Rakesh Kumar, environmental scientist, and head of NEERI, issued the statement that the Yamuna Floodplain has not been damaged. But in a recent news the spiritual leader himself admitted that it would have cost him less if he had held the

festival at some other location instead he held it at Yamuna to attract more attention to the river floodplains and the pollution there. The Art of Living, in a statement said that a Delhi-based recycling start up named Pom Pom has joined as their recycling partner. But the question to be answered here is what about the farmers who have been displaced and Sri Sri Ravishankar should definitely according to his "Art of Living" concept look into the matter as the "Art of Living in a Healthy Environment" of the farmers and the aquatic life in floodplains has been snatched.

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Oirfanhasieb

ECO-TOURISM AND ITS LEGAL IMPLICATIONS

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Introduction

Tourism is one of the world's largest industries. The World Travel and Tourism Council (WTTC) estimates that tourism generates around 12% of the world total GNP. With studies predicting continued growth, tourism is becoming an increasingly important factor in the planning and management at UNESCO World Heritage sites.

While tourism can contribute to protection and restoration efforts, the right balance between economic gain and undesired impacts can be elusive. Managers know that a tourist attraction must be periodically renewed to remain competitive. In the case of World Heritage sites, they are also aware that they are under an international obligation to maintain or restore the site's original value. This responsibility poses difficult questions regarding the degree of change that should be permitted to accommodate tourism growth. Another problem is ensuring that a portion of the tourism revenue remains in the community as a means of fostering local protection, conservation and restoration efforts.

To meet these and other challenges, proper and effective legal framework is necessary so that eco-tourism can add to the economic and aesthetic value of a nation without hampering or

damaging the environment in any way.

This research paper addresses the needs identified and implied by such problems and provides a set of methodologies, solutions and recommendations intended to solve eco-tourism problems.

Concept of Eco-Tourism

Defining eco-tourism has proven to be a challenge, since this concept attempts to describe an activity, set forth a philosophy, and refer to a model of economic development. Eco-tourism is one of the most frequently cited categories of the "new" tourism. In 1989, the Audubon Society called it a "travel ethic". A Canadian definition, based on a public/private sector consensus, calls it "an enlightening nature travel experience that contributes to conservation of the ecosystem, while respecting the integrity of host communities".

The objectives of ecotourism are to provide a nature-based, environmental education experience for visitors and to manage this in a sustainable fashion. As forests become logged, as streams become polluted, and as other signs of human activity become ubiquitous, the requirements of a true ecotourism experience are increasingly difficult to fulfil. To compensate for the "invasion" of human disturbance, ecotourism has promoted the educational aspects of the experience. Examples include opportunities to work with scientists to col-

lect field data in a remote wilderness (e.g., Earth-watch) or travel with a naturalist to learn the secrets of a tropical rain forest (e.g., Smithsonian Institution travel trips). Environmental education serves to provide information about the natural history and culture of a site; it also promotes a conservation ethic that may infuse tourists with stronger pro-environmental attitudes.

Legal Implications

Tourism and the environment are two independent terms, but they can be easily associated with each other. The Tourism industry has attained a very important place in the economy, especially due to its rapid and spectacular growth over the last few decades, but ironically, with the rapid development of tourism all over the world, a lot of concerns have also come into the notice of the world. PATA and WTO in a full time conference at Bali in 1993 discussed the relationship between tourism and environment. India is one of the nations which have enacted such legislation and have set up a separate Ministry of Environment and Forest to monitor the land use from the environmental perspective. The whole mechanism from district to central level has helped in the enforcement of these laws. Moreover, legislation can be one of the efficient control mechanisms to maintain harmonious relationship between tourism and environment. Similarly Ministry of Tourism is responsible for the inbound tourism in India.

Thus there is an urgent need to determine a relation between environment and tourism with the ambit of national and international laws, and further there will be a discussion on the

implementation and adequacy of these laws. Global Environmental crisis has questioned the modernity, its values and scientific development of mankind. The very existence and survival of man and other forms of life have become a matter of deep concern. Today, it is a debate which is not restricted to a defined territory and has emerged as a global concern. Environmental laws are the standards that governments establish to manage natural resources and environmental quality. The broad categories of “natural resources” and “environmental quality” include such areas as air and water pollution, forests and wildlife, hazardous waste, agricultural practices, wetlands, and land-use planning.

In the Constitution of India it is clearly stated that it is the duty of the state to ‘protect and improve the environment and to safeguard the forests and wildlife of the country’. As per the judgement in the *Shri Sachidanand Pandey v. State of West Bengal* case, the Courts may work under it as it imposes a duty on every citizen ‘to protect and improve the natural environment including forests, lakes, rivers, and wildlife’. References to the environment have also been made in the Directive Principles of State Policy as well as the Fundamental Rights. The Department of Environment was established in India in 1980 to ensure a healthy environment for the country; this later became the Ministry of Environment and Forests in 1985.

International law and regulation plays a very important role in environment. Like many other branches of international law, international environmental law is interdisciplinary, intersecting and

overlapping with numerous other areas of research, including economics, political science, ecology, human rights and navigation/admiralty.

The protection of natural resources and their legitimate uses cannot be regarded separately. It is obvious that the natural resources available for tourism are limited and shrinking. Thus a conservational and protection policy is the need of the hour, and Courts have to reconcile between the imperatives of preservation of the environment and the development of the economy, as per *Banwasi Seva Ashram v. State of Uttar Pradesh*.

Constitutional and Legislative Measures

The laws pertaining to eco-tourism are currently the environment and forest laws; there are no laws on tourism at the national or state levels.

1. **Wild Life (Protection) Act, 1972:** The Act permits tourism in protected areas along with scientific research and wildlife photography. However, the character and volume of tourism in protected areas has changed considerably since this law was framed. Hence, there is an urgent need to amend the Act or at least bring out guidelines that regulate tourism and tourist activity in and around the protected areas.
2. **2. Forest (Conservation) Act, 1980:** The law prohibits conversion of forest land for 'non-forest' activities (any activity that does not support protection and conservation of forests). However, ecotourism is being propagated on the notion that it supports conservation and hence is being allowed in forest areas. Although this Act has the poten-

tial to regulate eco-tourism, there is an urgent need to verify the claim that eco-tourism supports conservation in the context of implementation of this Act.

3. **Environment (Protection) Act, 1986:** Under this Act, there are two very important Notifications that are closely linked to the development of ecotourism – the Coastal Regulation Zone Notification, 1991, and Environmental Impact Notification, 2006.

a. Coastal Regulation Zone

Notification, 1991: This is an important piece of legislation guiding anthropogenic activities along the coast. However, twenty amendments have been made to the Notification over the years which have diluted and rendered many of the protective clauses meaningless.

b. Environmental Impact Assessment

Notification, 2006: The Notification has totally omitted Environmental Impact Assessments for tourism projects as against its predecessor, the Notification of 1991 that required Environmental Impact Assessments of tourism projects.

The Public Liability Insurance Act, 1991, the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997 are some other examples. In *M. C Mehta v. Union of India*, which enlightened the concept of CNG can be considered as the landmark to regulate the transport system which the most important mode of transmission, that to in the capital of the

country. The decision also created a role model for the tourist destination to regulate the transport sector and use environmental friendly and cleaner means of transport.

Taj Mahal Case

In Taj Mahal case, the Supreme Court issued directions that coal and coke based industries in Taj Trapezium (TTZ) which were damaging the Taj should either change over to natural gas or to be relocated outside TTZ. Again the Supreme Court directed to protect the plants planted around the Taj by the Forest Department and it has issued several directions in order to protect the Taj Mahal from deterioration on account of environmental pollution.

Kamal Nath Case

In the State of Himachal Pradesh, Span motel, owned by the family members of Shri Kamal Nath, Minister for Environment and Forests, Govt. of India diverted the Course of river Beas to beautify the motel and also encroached upon some forest land. The apex court ordered the management of the Span motel to hand over forest land to the Govt. of Himachal Pradesh and remove all sorts of encroachments. The Court delivered a landmark judgment and established principle of exemplary damages for the first time in India. The Supreme Court of India recognised Polluter Pays Principle and Public Trust Doctrine.

Market-Based Guidelines

Given the ambiguous and fragmented nature of international agreements, the last decade has seen a

proliferation of voluntary codes of conduct generated by non-governmental organizations (NGOs), tour operators, public land managers, and local community groups. A 1990 survey found 60 sets of guidelines developed by these various groups, each stressing a different priority. NGOs and tour operators tended to focus on habitat protection and human impact; public land managers on endangered species and protected areas; and local groups on culturally responsible tourism.

In 1995, the United Nations Environment Programme (UNEP) listed 32 major environmental codes, from sources as diverse as the International Chamber of Commerce, the World Travel & Tourism Council, the New Zealand and Australia governments, and the English Tourist Board.

These codes present two main implementation problems: measurement and funding. Their effectiveness remains impossible to assess, since none includes a quantitative framework for baseline measurement, target setting, final measurement, or monitoring.

Findings and Solutions

In the case of India, it is evidently clear that there is no dearth of legislations on environment protection in India. But the enforcement of these legislations has been far from satisfactory. Hence there is a need for effective, accountable and efficient enforcement of the constitutional mandate and the other environmental legislations.

The Ministry of Environment and Forest's new Notification in 2006, has removed tourism projects from the mandatory list requiring the conduct of EIA and clearance from the Central

Government. This is a retrograde step, as the negative impacts environmental, social, economic and political of tourism projects on local communities has been established conclusively.

A regulated mechanism for development and expansion of tourist spots must be prepared. For instance, if we take in the case study of Goa, there is a particularly relaxed atmosphere of the people and natural surroundings, that made it a paradise for backpackers during the 1960s, who were “more or less able to adapt to the local way of life, eating local food and living in simple accommodation”.

Formulation of policies that are geared to preserving and conserving the natural environment rather than opening them up for relentless exploitation by development activities including tourism is essential. Protected Areas (PAs) like national parks, wildlife sanctuaries and biosphere reserves are seeing increasing intensive tourism development under the guise of “eco-tourism”. While the Wild Life (Protection) Act 1972 does allow tourists into Protected Areas, it clearly disallows commercial establishments, despite this, a rash of tourism establishments are found cheek by jowl in the immediate periphery of every Protected Area of repute like Corbett, Ranthombore, Bandhavgarh, Kanha, Rajiv Gandhi – Nagarhole, Bandipura, Mudumalai, and Periyar. This must be prevented by proper implementation of laws.

The Government is responsible to establish and enforce standards, building codes and other regulations and to specify environmental, physical and social carrying capacities to limit development through proper legislations.

The roles and responsibilities of tourism developers and operators are fundamental to the achievement of success of ecotourism and must be regulated in a proper manner.

Conclusion

Government has started taking many strong positive steps in conservation of the environment. Specialist environmental courts have also established in some jurisdictions to ensure that judges have the expertise and resources necessary to consider environmental cases. For example, the Supreme Court of India has established specialized High Court benches known as “Green Benches” to deal specifically with environmental management issues. Often, these courts are combined with specialist administrative bodies, such as an environmental tribunal. The administrative body can hear the matter at first instance and, for some offences, apply administrative sanctions. The specialist environment courts and tribunals may reduce the number of cases brought before the Supreme Courts and High Courts, facilitate more consistent and expeditious environmental decision making and be less expensive. Sanctions may range from administrative penalties (e.g. change of licence conditions, suspension of licence, denial of funding, fines, closures), to civil penalties (e.g. injunctions, suspension of trading, negative advertising, compensation, cleanup, fines), to criminal penalties (e.g. closures, fines, probations or jail sentences). Fines can be structured to accumulate on a daily basis and might be defined within a range set out as a number of penal units. Criteria useful to determine the number of penal units to be posed in a fine may include: the economic benefit

derived from the crime, the extent of the damage, the cost of repairing the damage, the violator's history of prior violations, economic impact of the penalty on the violator, the violator's good-faith efforts to comply, and the violator's culpability or wilfulness.

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Oirfanhasieb

IMPACT OF WATER POLLUTION: RIGHT TO HEALTH PERSPECTIVE

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INTRODUCTION.

“Water is life in itself and is essential for earthly life; flowing through us all the time.”

Water played an important role not only in the origin of the civilizations, but also for the development of political and state organizations.

Occupying an important position in the variety of life processes, water is one of the most important natural resource. But use of polluted water is detrimental to human, animals and industrial uses; and is the one of the major cause of various water-borne diseases. Water being a major resource, eminent for an individual for proper living finds its place in Part III of the Indian Constitution, and Right to pollution free water is a constitutional right which is covered under Article 21 of the constitution.

Fresh water is available only to a small portion on earth. 3/4th part of the earth is covered by sea which hold 97.61% of total water available on the planet. 2.08% is bound in the ice cap. The remaining 0.31 constitutes the fresh water of the earth. Out of this about 40% is lodged in the deeper strata of the earth. Hence the world is left with only 0.124 % of the total earth's water which is present in rivers, streams, lakes and tube wells.

Almost 85% of the rain water go directly into the sea and never reaches the land. The small remainder fills up the lakes. For every 50,000 grams of ocean water only one gram of fresh water is available to mankind, again making water a scarce and a precious commodity.

A body of water gives life to myriads of living organisms. The community of living organism and water occupying an integral role functions as a dynamic integrated system technically, called ecosystem. Any change in water component of an ecosystem adversely affects the whole ecosystem resulting many organism's death or extinction. Fishes die in the rivers and estuaries due to various metallic pollutants like mercury, lead, zinc, cadmium and copper have been the concern of the the day.

Our water course is not safe today. Only 50% of our population living in class I cities enjoy sewage facility. Only half of the collected sewage receives some treatment and the rest is discharged into the water courses. Increase in the discharge of waste water from industrial, agricultural, thermal plants, mining activities, hospitals etc. posed a serious threat to water course. Water quality of major rivers is getting rapidly degraded due to massive discharge of diverse effluents. Degrading quality of water urges the nations all over the world to adopt an effective control of water pollution which is important for sustainable development and human

welfare.

On the economic front also the loss due to water pollution runs very high. One estimates show that 73 million workdays are lost every year due to water related diseases. The loss of production amounts to Rs. 600 Crores a year. The cost of water pollution is not only direct but also indirect such as loss of productive man hours, medical cost, reduced crop production, damage to flora and fauna and deteriorating quality of life.

According to United Nations Population Projection, India will be among 44 countries of the world which are likely to face severe water shortage problem by the year 2025. As per estimate, the country's fresh water requirement by that year will be almost as per with its exploitable water resources. After that, additional supply will be necessary.

To curb the menacing problem of water pollution, Indian parliament has passed the Water Act 1974 with the sole object of controlling water pollution as well as to maintain the wholesomeness of water. Moreover, the Environment Act 1986 not only aims to protect, but also to improve the environment. In December 1977, the Water Cess Act was passed to provide for the levy and collection of a cess on water consumed by the industries and local Authorities with a view to augment the resources of the Central and State Board for the prevention and control of water pollution constituted under the Water Act 1974.

Though India has special legislations on water pollution, but the competing demands of indus-

tries, need for accelerated economic development, the pressure of pollution growth, urbanization lack of proper planning and above all lack of political will have combined together to make the enforcement of water pollution control laws a difficult task.

This study is designed to provide a coherent assessment of the causes, effects, legislative safeguards and judicial concern about water pollution. This study is intended to improve the existing law and the extent of its compliance in a local level. It will help in generating awareness relating to the problem of water pollution among the masses.

II. EFFECT OF WATER POLLUTION.

Water is a gift of nature to mankind. It is prime need for the survival of all organisms, industrial development and agricultural purposes. Water is useful only when it is not polluted. The higher the standard of living, greater is the danger of pollution. The more we advance the more wastes we produce. In the age of industrialization, as we live today, industrial wastes are the most important pollutants of water.

The use of water can be classified in two broad categories namely (a) consumptive and (b) non-consumptive. The first category comprises such as domestic water supply, irrigation, industrial requirements and power generation with fossil and nuclear fuels. The second category encompasses hydro-power generation, navigation pisciculture, recreation, wild life preservation and river conservation.

I. Effect of water pollution on Human Health :

- Polluted or contaminated water is found to be injurious to public health, domestic, commercial, industrial, agricultural or other uses and also to

the health of animal and aquatic life. Use of polluted water is the cause of all the water-borne diseases. Certain bacterial protozoan and helminthes diseases are transmitted by drinking water or by contact with potable or bathing water. Such diseases are typhoid fever, Amoebic dysentery, Ascariasis (roundworm infection) Trichuriasis, (whipworm infection) schistosomiasis, Dracontiasis. The effect of metals on human being especially lead, mercury, cadmium, pesticides, nitrates nitrites and carcinogenic substances are quite serious.

Diarrhea is a major cause of child mortality. Due to poor environmental conditions and water pollution diarrhea/dysentery is a major health problem. A relationship exists between water supply conditions, water quality, and storage of water with the concurrence of diarrhea/dysentery.

Metals:- The symptoms of lead poisoning include loss of appetite, weakness and miscarriage as well as lesions of neuromuscular system, circulatory system, the brain and the gastrointestinal tract. Since lead is absorbed from air, water and food, it is obvious that many city dwellers are exposed to gasoline. It is expected that lead poisoning will show a corresponding increase in the future.

Mercury:- Individual vary in both their sensitivity and exposure to methyl mercury. For example population whose diet consists mainly of fish will have a high exposure to mercury. Symptoms of mercury poisoning include deafness, loss of coordination, insanity, and death. In addition, evidence indicates that methyl mercury may cause genetic damage.

Cadmium:- Cadmium is toxic to all human system and has been implicated in hypertension and in respiratory and kidney disorder. It also appears to have genetic effects on experimental animals including malformation in upper jaws of new ones of rats whose mother has been exposed to cadmium in their food during pregnancy. Cadmium, mercury and leads are known to concentrate in food chains and the exposure can come from air-borne as well as water-borne sources. The use and inputs of these materials in to the environment should be carefully controlled and curtailed.

Pesticides:-pesticides are known to be present in the body of fat human being. In some cases pre-treated water is known to contain various pesticides. Since the chlorinated hydrocarbon have been in wide spread use for the past 25 years, possible long term sub-lethal effects, principally carcinogenic and mutagenic in nature, have yet to become evident. It is known that pesticides such as DDT and diedrin are capable of producing malignant and benign tumor in various organs in animals that were used for experiments.

Nitrates and Nitrites:- Increased nitrate levels in water supplies can be fatal to infants. At these levels the disease "methemoglobinemia" is introduced by intestinal bacteria that have the ability to convert nitrate to nitrite. The nitrate is then absorbed into blood stream, where it binds with hemoglobin. This binding action effectively prevents the hemoglobin from accepting the oxygen that is necessary for respiration.

2. Effect of water pollution on Aqua-systems:-

A body of water harbors a fascinating world of myriad of living organisms, along with water, which is

their medium, functions as a dynamic integrated system technically called aquatic ecosystem. An aquatic ecosystem may be of any size as large as an ocean or as small as a fish pond. An aquatic ecosystem is a highly integrated series of interactions between the non-living resources and the living organisms. The major effluents causing aquatic pollution are the traded wastes from factories involve in production of paper-pulp, textile, sugar, distillery, tannery shellac, hydrogenated vegetable oil and soap, petrochemicals, rubber, paints varnishes, plastics, heavy chemical, oils and surfactants. Beside these, there are massive discharge from thermal power stations, fertilizer plants and coal washeries.

Fish Kill:- Pollution of natural water may be disastrous to fish or other organism naturally inhabiting the stream. With mild pollution fish may acquire a flavor that render their flesh unfit for fish use, whereas the more severe contamination the fish are sickened or killed. When pollution develops slowly fish may deliberately leave the polluted areas, but if the pollution occurs by a sudden discharge, fish are killed outright. Polluted waters are also a hazard to land animal that drink from the stream.

(b) Red-Tide:- Red-Tide or Red-sea is a descriptive effect of the red brown colour of dense population of marine protozoa which can occur under exceptionally favourable conditions of water temperature, salinity and / or nutrient salts. Large number of ducks is sometimes killed by a type of botulism that develops in nursery areas at certain times of the year. For example during 1970 140,000 died of botulism in California.

(c) Black Tide:- Pollution of aquatic and marine by oil can occur almost anywhere at any time. A dramatic incident was that of the tanker Torkey Canyon when she struck a reef off the southern tip of British Isles in March 1967. The oil spills of 18000 tons of crude oil and its effects were realized for the first time. The nature conservancy in London reported that 7000 oil oiled birds have been captured and treated but a few hundred only survived. In addition to the catastrophe to marine life and fisheries, the direct monetary cost of cleanup was about 8 million dollars, according to British government. The blow-out of a well in Santa Barbara channel in January 1979 resulted in a leakage estimated at 500 barrels per day, which amounted to approximately 235000 gallons over a ten-day period. Damage to sea life including marine birds was extensive and the incident had a shocking impact on the aesthetic qualities of the nearby coastal area.

3. Effect of Water Pollution on Economy:- The cost of water pollution imposes a terrible and increasingly intolerable burden to human society. The cost of water pollution is measured in three ways:

- (1) The loss of resources through unnecessary wasteful exploitation.
- (2) The cost of water pollution, abatement and control. The clean-up of sewage and solid waste is now the most expensive phenomena.
- (3) The cost in human health, 73 million workdays are lost every year due to water related diseases. The loss in production amounts to Rs 600 crores a year. Annual economic loss is about 4.5% of Gross Domestic Products. Moreover, the strategies framed for sustainable industrial development suggested by World

Commission on Environment and Development stated that the regulations and standard should prevent air and water pollution and provide for safety of the workers.

III. LEGISLATIVE RESPONSES.

A look at the history of environmental legislation shows the scope and extent of legislative concern to environmental issues. Water pollution was one of the first environmental problems to receive governmental attention. The Shore Nuisance (Bombay and Kolaba Act.) 1853, one of the earliest laws concerning water pollution, authorizes the Collector of land revenue in Bombay to order the removal of any nuisance below the high water mark in Bombay Harbour.

Orissa was the first State to have a water pollution law at the state level. Orissa passed "The River Pollution Prevention Act" 1953, followed by other States, like, The Maharashtra Prevention of Water Pollution Act, 1969 etc. But many of these states were limited in scope and were ineffective because of both lack enforcement and lack of jurisdiction over pollution carried downstream from other states. However, The River Boards Act, 1956 had provided for establishment of River Boards and conferred on them the function *inter alia*, to advise the government in regard to prevention of pollution of water of interstate rivers. The Indian Penal Code was the first general legislation that prohibits fouling of water, mischief and public nuisance and penalizes for the same. In addition the code penalized negligent acts with poisonous substances that endangered life or cause injury. Several other national laws like The Indian Easement Act, 1882, Indian Port

Act, 1908, The Forest Act, 1927, The Indian Fisheries Act 1987, also contain provisions to deal with pollution.

Indian Easement Act 1982 protected riparian owners against unreasonable pollution by upstream users. The Indian Fisheries Act 1987 penalizes the killing of fish by poisoning water and by using explosives. Section 21 of Indian Port Act 1908 contains provision regulating discharge of oil into port water. Section 32 of the Forest Act 1927 and Section 122 of The Fisheries Act 1948 also contains provision regarding pollution. Various State Municipality Acts such as Municipalities Act 1916, Calcutta Municipal Act, 1951, The Delhi Municipal Corporation Act 1957 etc. also provides bye-laws and provisions relating to pollution. Thus apart from forest laws, these laws regulated two other aspects of Indian environment: water pollution and wild life. These laws however, had a narrow purpose and limited territorial reach.

The post independent India witnessed planned development and massive industrialization which was devoid of eco-friendly considerations. National programmes in sanitation, public health, nutrition, water supply and housing were given high priority. But the issue of environment and development did not receive any significant recognition in the planning process. Of late, the country realized the perilous state of environment and the planners started taking note of equity growth and sustainability. The fourth five year plan made the following observation:

'Planning for harmonious developmentis possible only on the basis of comprehensive appraisal of environmental issues...it is necessary, therefore, to introduce the environ-

mental aspects in to our planning and development'

By 1960s, protection and improvement of environment became a formal issue. An expert committee in 1962 was set up by the Government of India in order to draft a Bill for prevention and control of water pollution. The recommendations made by the committee were considered and approved by the Central Council of Local Self Government. A Draft Bill was prepared in 1965 and was circulated to the State Government with a request to pass resolution under Article 225 (1) of the Constitution, authorizing the Parliament to enact this law. The Bill was then introduced in the Rajya Sabha in 1969 which was referred to the joint select committee which in turn submitted its report in 1972.

The ferment created by United Nations conference on Human Environment 1972 at Stockholm led to the massive codification and enactment of environmental pollution control laws.

India participated in that conference and the then Prime Minister Mrs. Indira Gandhi took considerable interest in environmental protection. She created a department of environment under her own stewardship. In 1976 through a constitutional Amendment Acts, 48 (A) and 51 A (g) were added which gave directives to states to protect environment through legislation and cast social responsibility on the citizen to protect and improved environment. This was India's first attempt to deal comprehensively with an environmental issue of vital importance.

Accordingly the Parliament passed the Bill submitted in 1972 with the concurrence of 12 states

and union territories as, the Water (Prevention and control of pollution) Act, 1974, to attach seriousness and urgency to the problem of water pollution. The concern of the Government has been summarized in the statements of object and reason of the Act.

But unfortunately the Act cannot achieve its goal as no court shall take cognizance of any offence under this Act on a complaint made by a Board or any Officer authorized in this behalf. The power to prosecute under this Act belongs exclusively to the Government. Citizens had no direct statutory remedy against a polluter who discharged an effluent beyond the permissible limit. To get rid of this defect the parliament enacted the "Environment (Protection) Act 1986. Under Section 19 of this Act, a citizen may prosecute an offender by a complaint to Magistrates. Prior to complaining, however, he or she must give the Government 60 days notice of his or her intention to make a complain. This notice is intended to alert the Government of the offence so that appropriate remedial action may be taken.

In spite of this lofty objective, the working of the Act depicts and disappointing picture. The indifferent, lethargic and callous attitude of the Boards in taking cognizance of pollution and the negligence and oblivious nature of civic bodies have been the root cause of not achieving the desirable goals. The observation of the Supreme Court in Ganga Pollution (Municipality) case is germane:

'Although Parliament and the state legislature have enacted many laws imposing duties on the Central, State Boards and the municipalities for prevention and control of pollution of

water, many of these provision have just remain on paper without any adequate action being taken pursuant there to. On account of failure of authorities to obey the statutory duties for several years the water in Ganga... has become so much polluted that it can no longer be used by the people for drinking or bathing.'

IV. JUDICIAL RESPONSES.

Many NGOs and Public spirited persons brought to the notice of the courts the menace of water. The Environment departments or the Central Board on or State Boards are functioning simply as environment pollution licensing authorities or notice issuing authorities. No one can hope that the Central Government or its officers or authorities would ever prosecute any head of the department of the Government under Section 17 of the Environment Act, 1986. Thus the burden to protect, inspect, and make complaints against the pollution of the atmosphere comes to the public spirited persons who have provided teeth to get the enforcement of the Environment Act, 1986 or the Water Act, 1974. Thus the role of PIL in the area of water pollution is very significant. It is the contribution of PIL that cases like *Ganga water pollution case* and *Kanpur Municipality case* were brought to the notice of the court. In this respect the Supreme Court observed:

"The Government as well as parliament both have taken a number of steps to control the water pol-

lution but nothing substantial has been achieved... No law or authority can succeed in removing the pollution unless the people cooperate."

V. CONCLUSION :

Water is prime natural resource and vital for the survival of human race. Pollution of water has deleterious effect human health. The protection, development and efficient management of water resources are the need of the hour. All the nations of the world, irrespective of the degree of development are subject to the problem of water pollution. Industrially developed countries are runners in this race. Though the problem has received global attention, yet the concern of the different nations in domestic level is insignificant. Massive codification of laws does not yield the desired result. The competing demands of industries, the need of accelerated economic development, population growth, poverty, illiteracy, lack of public awareness, and above all lack of political will have combined together to make the enforcement of environmental laws a very difficult task.

India is very rich in water resources having a network of rivers and vast alluvial basins to hold ground water. There are 14 big rivers in India with a large number of medium and minor rivers. 70% of available water in India is polluted. The population is projected to go up to 1530 million by 2025. Hence, the demand for water will also increase proportionately.

Urbanization and industrialisation has given rise to a number of environmental problems, such as water supply, waste water generation and its collection, treatment and disposal. In most of the cases waste water is let out untreated and in turn contaminates

the ground water or is discharged into the natural drainage system causing pollution in downstream areas.

It is said that poverty is the greatest polluter. There is a close relationship between income, house hold environment and health. The house hold environment i.e. garbage and solid waste, drainage of waste water, indoor air and noise pollution from various pests, food contamination, vehicular pollution, influence greatly the life and living conditions of the people.

The relationship between income and household environment is a determining factor of health problems like diarrheas/dysentery, respiratory diseases, malaria, jaundice, cold cough etc. Higher the income level lower will be the health disease and environmental problems and vice versa. Heavy population pressure greater will be the environment related problem.

The use of criminal sanctions for environmental violations has proved ineffective. Environmental laws contemplate deterrent value in the imposition of punishment on violations. Imperfection in definitions of environmental fences and the complexities involved in the prosecution of such offenders have forced the pollution Control Boards to go for provocative action rather than prosecution. But ineffective enforcement has reduced the threat of punishment. Increase in the dose of punishment will not bring the desired effect.

VI. SUGGESTIONS:

The industrial effluents containing pesticides should be treated before its release into the rivers. The treatment involves coagulation, sedimentation and filtration. Several other methods

capable of removing various pesticides from effluents are available.

Although the Act lays down that the Chairman of the Board should be a full time officer, in several States the post is filled by a senior officer either part time or ex-officio. It seems necessary to have a full-time Chairman of senior status who is able to liaison with ministries, secretaries and industries at the top level management.

The lack of funds has prevented some Boards from recruiting adequate technical staff. Staffs deputed from other departments to the Boards perceive that the time spent with the Boards is not useful for the advancement of their careers.

The power of State Government to restrict the application of the Act to certain areas is to be done away. Alternatively, so long as this provision exists the state Government should also consult environmental action group in addition to the Board.

The Environment Protection Rules 1986 contains elaborate provision relating to EIA. No similar provision exists under the water Act. It is submitted that a mandatory EIA model is to be evolved.

Necessary legislations should be devised to ensure the accountability of polluters as against the victims. Such economic loss will compel the industries to adhere to law. Public Liability Insurance Act 1991 should be amended to provide immediate relief to the persons affected by water pollution.

The Environmental action groups and public spirited citizens are to be inducted in the Boards.

The water should be rounded a view of all incidental issues of ecology and environment such as land forest, soil, water, bio-diversity, flora and fauna. An inte-

grated approach to natural resource law is *sine-qua-non*. Surface water and ground water policy should be uniformly framed.

In the wake of downsizing of water table and shrinkage of water resources, there is an urgent need to draft a new water policy. There should be a water laboratory in each district so that villagers can ascertain the extent of water pollution.

Working of Jal Nigam and Municipal Corporation to be improved. They do nothing about the existing water pollution but to provide regular water supply to the public. A district level water pollution complaint cell is highly warranted.

A permanent inter-Government council, suggested by Sarkaria Commission should be established to deal with matters other than socio-economic planning and development.

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ENVIRONMENT LAWS AND THEIR IMPLEMENTATION IN INDIA

Akanksha Arya

Abstract

In this era of globalization and industrialisation every country wants to become a developed country. This race for economic development has increased to such an extent that the environment is being ignored. Although the world has adopted a sustainable growth concept to save the environment, it is proving to be a big failure because no country wants to risk its economic development, even at the cost of its environment. Most Asian countries are developing countries, and it is mainly these countries which are caught in a tussle between environment and economic development. Almost every country has environmental laws and has signed international treaties, but just the enactment of laws does not ensure a clean environment; proper implementation is needed here, but it is that which is lacking. When it comes to implementation, the problem is found at both the local and national levels. This paper tries to find the obstacles which are hindering the proper implementation of laws, and tries to put forward a model to show how these obstacles can be overcome. The role of Multi National Companies (here after referred to as MNCs) in the process of law making and implementation- which is generally ignored- is also discussed, and a focus on the role of environmental laws in helping to secure a relationship between humans and nature, if they were to be properly implemented, as well as the role of public participation in the implementation of laws is also addressed in this paper.

Keywords: Sustainable development,

Environmental Laws, Weak Implementation of Laws, Multi National Companies, public participation.

Introduction

The concept of Sustainable development emphasizes on sustainable economic growth with sustainability in environment. In other words, sustainable development is an increase in economic growth without ignoring the environment, so that the future generations' needs can also be met. To achieve sustainable development many countries have passed many environmental laws. However, as time passes, the environment is continuously degrading, even though the number of environmental laws is increasing, as they are proving to be ineffective. Most Asian countries are developing countries so they are under pressure to alleviate poverty, and they struggling to grapple with the problem of trade-off between development and environment.¹ It is a well accepted concept that the making of law is easy but implementation of the same is not, because of which all countries are facing problems like pollution, deforestation, global warming, etc.

The objective of this paper is to find the obstacles in the implementation of international laws and treaties at national level, and the implementation of national laws at both the national and local level. How to overcome these obstacles and

the role of individuals (public participation) and government institutions in overcoming these problems is discussed. This work tries to give a model for the effective implementation of laws. This paper focuses on the Asian countries' perspective, and especially emphasizes on developing countries. This paper is limited to the legal perspective only.

Method: This work is done using secondary source of information. It primarily studied journal, books, to get cognizance of the various problem, and find out the main obstacles.

Obstacles in the Implementation of the Laws and Solution to Overcome these Obstacles

There is a huge gap between environmental goals, policies and laws, and their implementation. Many obstacles come in the way of implementation. Some of the obstacles found are given below:

There is a lack of coordination between International organizations and different countries, their central government, their state governments and their local governments, and between macro-policies and the realities at the grass root level, nor is there any perfect demarcation of power between the different agencies of the government, and this creates confusion and conflict, and as they do not take responsibility by saying that it is the work of another agency, it also leads to forestalling or delaying of implementation of laws.²

Moreover, most laws and policies passed by the government are short sighted. To overcome this obstacle, the government before implementing laws and policies at the macro level need to understand the reality at the grass root level. Loopholes in laws and policies, which allow people to evade from

their responsibilities, should be addressed. The lack of coordination and clear demarcation between the centre and the local government can be managed through centralized management and decentralized implementation.

However, the problem is not only at one section; another reason is that most of the environmental laws are driven by Industrialist who are backed by political parties, compromised by political interests as well as by corruption and mismanagement.³ In many countries, Industrialists provide funds to political parties and in return get special favours from the government, such as, lenient laws. To overcome this problem, public participation should increase; they should allow access to information and greater accountability should be ensured. There should also be a regulated checking done on the implementation of laws.

MNCs & Environmental Law

With the increase in industrialization, the primary polluters has shifted from individuals to corporations.⁴

Generally the MNC's potential in achieving the environmental goals is ignored by many countries, despite the fact that it could be more effective than a treaty, policy or any law. It is mostly the developing countries which are affected by MNCs, because it is these MNCs that play a key role in their development, and are therefore important for their economy. Even if these MNCs are not following environmental policies, the states are reluctant to force them to do as such as they are a major source of economic growth. Consequently, the Industrial policies are not given much consideration. Since,

MNCs are not confined to a single state, and they have business running throughout the global community, no state has complete jurisdiction to regulate these MNCs.

To overcome this obstacle a country's law/policies should adopt a holistic approach, which includes MNCs also. By making it mandatory for MNC's to adopt an environmental friendly approach, and by motivating them to follow the polluters pay principle effectively, it will create a beneficial global effect on the environment. States should adopt a holistic approach that not only regulates the behaviour of MNCs, but also engages them in order to achieve a long-term sustainable development and environmental protection.

Judiciary and Environmental Laws

Environmental laws are not given much importance; they are ignored at all level. Therefore, even within the Judiciary, there is a lack of competent environmental lawyers and judges and competent law/policy makers. To emphasize these laws, environmental provisions should be made in the Constitution itself, because the constitution is the supreme document for every country. Then the governments and courts will also emphasize more on the implementation of environmental laws. These provisions can be incorporated in the form of fundamental rights and duties, etc. A strong cadre of environmental specialist is needed to formulate national laws and policies and their enforcement. To ensure this we should have competent lawyers, judges and special environmental tribunals and courts. An effective Judiciary is very important indeed, because even if environmental law is passed, the interpretation is in the Judiciary's hand.

Cooperation Among Countries And Environmental Law

Global level environmental problems can be solved by mutual cooperation and coordination between developed and developing countries, but conflict always seem to arise between developed and developing countries when it comes to the adoption and implementation of environmental laws. On one hand, developing countries are of the perspective that the developed countries have already exploited nature too much and that it is now the developing countries chance, while on the other hand, the developed countries argue for equal and fair treatment for the adoption and implementation to be done in both type of countries equally.

For effective implementation of laws, huge financial and technical resources are required and most Asian countries are developing countries so they face financial and technical problem and constraint of resources to implement laws effectively. Developing and developed countries are already having conflicts, so in this situation the developing countries do not get much assistance from developed countries. Environmental problem at the global level can be solved by co-operation between countries. Help from developed countries to developing countries may prove effective towards sustainable development. Countries should support each other to achieve sustainable development at the global level; they can make regional forums to solve the environmental problems, the conflicts among them and their trans-boundary problems.

Non- Binding Nature Of International Treaties

International organizations make many laws but nothing comes in effect properly because these international laws are not binding in nature; there is always scope for countries to decide on their discretion whether or not to adopt and implement a law. Many treaties have been signed, and many summits have taken place, like the Rio Summit, the Kyoto protocol, the Durban meet, the Copenhagen summit, the United Nations Framework Convention on Climate Change, etc., but none have proven to be very effective. To ensure that the treaties are followed by the countries, they should be made binding in nature and international laws should make countries more committed towards achieving sustainable environment.

Public Participation And Environmental Laws

Many people are not aware of environmental laws, and even if they are, they are not willing to participate. People think that nothing will change with their participation and initiative, however, this mentality is what is needed to be changed, because change always starts from the individual. People need to get environmental education, and they need to know their environmental rights and laws so that they can participate and bring about the required change.

Conclusion

It does not matter how many laws a country forms until and unless they are effectively implemented. It is not enough to just sign treaties and formulate environmental laws to promote sustainable growth. Certain steps are needed to implement those laws

effectively. The main problems countries are facing are, political pressure, development pressure, lack of will, conflict with other countries and an incompetent Judiciary. To overcome these obstacles, it is very crucial to achieve environmentally sustainable development. These obstacles can be overcome by ensuring high accountability, competent and effective Judiciary, public participation, cooperation between countries and engaging the MNCs towards global sustainable development. A holistic approach is needed for implementing environmental laws, to ensure sustainable development which involves all section of the society.

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EVER KNEW THAT YOU HAD A ‘FREEDOM TO ROAM’?

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“We need the tonic of wildness...At the same time that we are earnest to explore and learn all things, we require that all things be mysterious and unexplorable, that land and sea be indefinitely wild, unsurveyed and unfathomed by us because unfathomable. We can never have enough of nature.”

Walden by Henry David Thoreau

It may be safe to assume that almost everyone, if not all, loves to travel and yearns to experience a personal connection with Mother Nature. However, due to restrictions imposed by the laws of the land this might not be possible in its entirety, wherein certain checks and balances are brought about, which in one way or the other may curtail the actual enjoyment of this right.

However, it is heartening to note that there are jurisdictions, around the world, which provide for some sort of a succour and help satiate the wanderlust in many a people. This work tries to delve into that aspect of law which actually provides for such a right. Yes, you read it right! Certain jurisdictions do recognise this ‘Freedom to Roam’, if it may be put so in such a majestic term.

The Freedom to Roam- Explained

To keep it simple, it merely means that the general public has a right to access certain land, whether it is public or privately owned, for recreation and exercise. This, it must be understood, brings about some sort of a dilution in the usual understanding of the rights and concepts that are attached to property and ownership. It however does not en-

visage a complete dilution and provides for much needed safeguards as well so as to ensure that parity prevails.

A number of countries, around the world, provide for such a right. To delve into the rationale and the ways in which such a right has been incorporated, is at this juncture, apt.

On a careful study as regards the inherent connection that man feels with nature and the special relationship that exists between the two, it is noted that a few European countries stand out. The freedom to roam was once a common norm in Europe and has been preserved in its unadulterated form in the Nordic countries. No one for sure knows as to when it transformed itself into a recognised right. Quite a lot of explanations are provided for by historians to explain as to why this right has been preserved for ages. Having not followed the archaic feudalistic approach or the concept of serfdom has been greatly attached to this right being preserved.

The fact that quite a large amount of land was covered with forests too helped this practise get a strong hold.

Norway

In Norway, one has the right of access to, and can pass through, uncultivated land in the countryside. Known as *allemannsrett*, this was codified in 1957 when the Outdoor Recreation Act came into force. Coming up with a clear divide as to the area where the right to roam can be exercised - *utmark* and where it cannot be – *innmark*, Norwegian law tries to ensure that the former is thoroughly defined so that all those which does not come under it ambit falls into the latter.

Sweden

Allemansrätten, meaning *everyman's right*, is something that has been a part of Swedish culture and also been included in the Swedish Constitution in 1994. The law lays down that every person has access to nature in accordance with *allemansrätten*. This unique right, The Right of Public Access, having wide connotations, actually allows one to roam freely; even if it is private land, though subject to certain safeguards and responsibilities. However, they in no way take away such a right that has been in vogue for a long time. One is expected to take care of nature and also the wildlife, if any, and also expected to be considerate towards the land owners and other people who too would have come to enjoy nature. One phrase “Don't disturb – Don't destroy”, can actually sum up as to what this right is all about.

By exercising this right a person can have access, walk, cycle, ride, ski or camp on any land and to put up a ‘No Trespassing’ board is often treated with disdain. There are exceptions though wherein private gardens, the immediate vicinity of a dwelling house, cultivated land, nature reserve restrictions and protected area restrictions, are off limits. Swe-

den ensures that such a right is capable of being exercised, by appointing County Administrative Boards, which overlook the same.

Finland

The Right to Roam and related rights are known as *jokamiehenoikeus*. People are given the right to walk, ski or cycle freely in the countryside provided that no harm is being caused to the natural environment or the land owner. They are also given a right to set up a temporary camp as well as stay, provided it is done at a reasonable distance from private homes. One cannot cut trees or collect wood, if it is done on a private property, without the owner's permission. The government can restrict this right only in the case of strict nature reserves.

Austria

The right, called *Wegefreiheit*, is guaranteed by the Federal Law, since 1975. While you have walking, running, hiking, and resting rights which are automatically allowed to the public in most forest areas, specific rights like horse riding, bike riding, and camping are not. The latter set can be exercised only after an explicit permission from the owner.

Estonia

Here too, one has a right to access natural and cultural landscapes on foot, by bicycle, skis, boat or on horseback. Private property, however, can be accessed only between sunrise and sunrise. If it is fenced, then an explicit permission is needed from the owner. However, the law mandates that the owners are not to block access to public lands or bodies of water. The law provides for a right to gather berries and flowers but prohibits damage and pollution causing activities.

Czech Republic

Taking a cue from the roots of Austrian-Hungarian Law, the Czech Republic too has provided for a right to access. The Nature and Countryside Preservation Act, provides for a legal right to roam through countryside, "*veřejná přístupnost krajiny*". It however does provide for exceptions to this right and lays down a list which is off limits, for eg. - settled and building grounds, courtyards, gardens etc.

Switzerland

The right is guaranteed by the Swiss Civil Code which mandates that pasture lands as well as forest lands are accessible for all. However, it also lays down a rider that this right exists as long as there is no excessive usage. Some of the Cantons in Switzerland however do have detailed laws about the same; however the basic things do remain the same.

Critical Analysis

While such a right would be welcomed, by both hands, by nature enthusiasts, the fact remains that it does pose quite a lot of questions as well. While the concept of borders and boundaries did not fall in place in earlier times, it surely did have some sort of an impact with the passage of time and created concrete boundaries, limiting man's right to move and enjoy. The right to enjoy nature and the right to public access does in some way translate and transport one back to those days when such divisions were not present.

To provide for such a wide right, is by itself, a big challenge. The bottom line however is that man is concerned only about his rights and the other side of the same coin, duties, tend to fade in comparison. Unless man, by himself, feels the urge from

within, he might not be in the best position to be guaranteed such a right, let alone enjoy such a right. This is a right and an obligation; and the fact is that it needs to be handled responsibly. Quite a lot of people have voiced concern, and are in all probability right too, as to how this right of public access need be regulated lest it be misused and spell doom for nature.

Apart from the laws that are there which specify the extent and limitations of this right and clearly lay down in black and white as to duties that are expected to be followed by the people who exercise the right, it is high time that the people themselves be aware of the harmful effects that they might indulge themselves in and to the maximum extent possible lessen it.

An ever growing concern and an ever ready open mind to ensure that this right be put to use in its purest and safest form, it is felt, would go a long way.

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ENVIRONMENTAL ISSUES IN INDIA AND VARIOUS LAWS REGARDING THEM

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INTRODUCTION

“Environment” means the sum total of all the living and non-living things that surround an organism. With the earth’s ever expanding human population and industrial as well as economic growth, many environmental issues have arisen like global warming, climate change, air pollution, destruction of flora and fauna, degradation of forest land etc.

India has 18% of the world’s total population as well as covers 2.4% of the earth’s surface. India’s population by the end of 2011 reached 1.21 billion.

India at present faces many environmental issues and challenges which poses a threat to the environment as well as development which are becoming serious day by day. Man is by nature selfish and wants to fulfil his desires and means at all costs. Human activities give birth to majority of environmental issues as it aims at earning profit without concern about its impact on the environment. 65% of India’s land is degraded in some way or the other. Also its 7516 km of coastline also have come under attack. Raw sewage is pumped endlessly into the ocean with industrial waste having toxic chemicals degrading coral reefs and effecting marine life. This state of the environment is also due to uncontrolled human activities.

MAJOR ENVIRONMENTAL ISSUES IN INDIA AND LAWS REGARDING THEM

Major environmental issues in India are depletion and degradation of resources (Air, Water, Land, Soil, Forest etc.), mass deforestation, loss of biodiversity, decrease in level of groundwater tables, scarcity of pure water, improper treatment of toxic waste from industries etc. India at present is facing environmental degradation at an alarming rate.

GROWTH IN POPULATION:

India is the second most populated country in the world after China. Due to this population pressure, the industries boomed causing massive production leading to emission of toxic wastes and improper disposal of chemicals that often end up in lakes, rivers, forests etc. Tremendous pressure is put on the natural resources and agricultural land to support the overpopulation causing low yielding capacity of the land. With the increase of population, the demands are high. Industries in order to fulfil the demands exploit resources to a larger extent. Due to rapid industrialisation more and more natural resources are being extracted and used which are non-renewable in nature. Population growth is also a major cause of air, water, land as well as noise pollution. It is also causing loss of biodiversity as well as habitat destruction.

WATER POLLUTION:

Water scarcity coupled with supply of impure water is a major environmental issue in India. Also there is lack of fresh water resources. Excessive extraction of groundwater by the big industries has caused the groundwater table to drop. Agriculture suffers due to scarcity of water. The waste emitted from industries are untreated and is a major cause for pollution of rivers, lakes as the waste is dumped directly in the water. Millions of people in India are dependent on these rivers and lakes for their livelihood as this water is used for drinking, bathing and for irrigation. These toxic wastes include harmful pesticides as well as fertilizers which affects the marine life to a large extent. The Government has established various sewage treatment plants but they fail to operate in a systematic way. Only 209 cities in India have proper sewage treatment facilities.

The standard and quality of drinking water is set by the Indian Council of Medical Research. A comprehensive legislation by the name Water (Prevention and Control of Pollution) Act 1974 deals with environmental issues related to water. It provides for the prevention and control of water pollution and restoring the wholesomeness of water. It also prohibits the discharge of harmful pollutants into water bodies beyond a certain standard as prescribed and also lays down penalties for non-compliance. Under this Act, the Central Pollution Control Board (CPCB) and State Pollution Control Board (SPCB) were established which lays down standards for control and prevention of water pollution. The new industries are required to obtain prior approval of

such Boards before discharging any toxic waste, sewage into water bodies.

The Water (Prevention and Control of Pollution) Act 1977 aims to provide for levy and collection of cess on water consumed by industries and local authorities.

In *Ganga Water Pollution* case, the owners of some tanneries near Kanpur were discharging their effluents from their factories into the Ganga river without setting up of primary treatment plants. The consent of the Boards shall also be required for continuing an existing discharge of sewage or trade effluent into water bodies or land.

AIR POLLUTION:

India has one of the worst qualities of air in the world. The rate of air pollution in India is highest in the world with many people dying as a result of diseases born out of air pollution. The major contributors to the air pollution are the transport system, industries burning of fuel wood and biomass which releases harmful gases in the air contributing towards global warming and ozone layer depletion. 75% of household in India still use wood as fuel. Road dusts due to vehicles contribute up to 33% of air pollution in India. According to Roger Mustress, an American scientist, air pollution causes mental tension which leads to increase in crimes in the society.

The Air (Prevention and Control of Pollution) Act 1981 was passed to regulate air pollution. It provides for ambient air quality standards, means for the prevention, control and abatement of air pollution, regulates the substances that give rise to air pollution. It provides that no person shall without the previous consent of the State Board establish

or operate any industrial plant in an air-pollution control area. The main function of the Boards under the Air Act is to improve the quality of air. It is expressly provided that persons carrying on industry shall not allow emission of air pollutant in excess of standards laid down by the Board.

To empower the Central and State Pollution Boards to meet grave emergencies, the Air (Prevention and Control of Pollution) Amendment Act 1987 was enacted. The Boards were authorized to take immediate measures to tackle emergencies and recover the expenses incurred from the offenders.

In the *Taj Mahal* case, the Supreme Court issued directions that coke and coal based industries and factories in Taj Trapezium (TTZ) which were damaging Taj should either relocate themselves outside or change over to natural gas. The sulphur dioxide emitted by the Mathura Refinery and other industries when combined with oxygen with the aid of moisture formed sulphuric acid called "acid rain" which had a corroding effect on the gleaming white marble of the Taj. The Supreme Court also directed the Divisional Forest Officer, Agra that plants planted around Taj by the Forest Department shall be properly given water and see that the plants do not wither away.

Also in *Almitra H. Patel v. Union of India*, the Supreme Court observed that the air in Delhi is so much polluted that it is difficult to breathe and directed the authorities responsible for pollution control and environment protection to provide clean and healthy environment to the residents of Delhi.

LAND POLLUTION AS WELL AS DEFORESTATION:

60% of cultivated land suffers from salinity, soil erosion and water logging. Forest area covers 18.34% of India's geographic area. This forest cover is declining because of harvesting of fuel wood, deforestation due to urbanisation, expansion of agricultural land, expansion of river projects. Forest areas in India have been shrinking and nearly 5.3 million hectares of forest have been destroyed since independence. Vast area of land which was once green stands today as waste land. Scarcity of land is also rising due to overpopulation.

The Forest (Conservation) Act 1980 was enacted to conserve and protect forests and was passed with a view to check the deforestation of forests. This Act restricts the state's power to use forestland for non-forest purposes. Prior approval of the Central Government is necessary for such purpose. The conservation of forests not only includes preservation and protection of existing forests but also re-forestation.

SOLID WASTE POLLUTION:

Garbage and trash can be found across every street in almost every city of India. Huge piles of trash and waste are assembled roadside. Rivers, canals act as dumping areas. Medical wastes from hospitals are also not dumped properly. Dumping areas are overflowing with wastes and due to poor management they have become a major breeding site for mosquitoes, cockroaches, flies which give birth to many harmful diseases.

It is the duty of the Municipality of each town to collect garbage including medical wastes and dump it properly or recycle it. But these Municipalities fail

to discharge their duties properly due to lack of efficient management and monitoring system. Majority of waste remain uncollected by these Municipalities. It highlights the failure of the Government. Municipality Solid Waste Rules (MSW Rules) prevents unplanned open dumping of waste outside city limits. The rules provide that the Municipalities should not mix “wet” food wastes with “dry” wastes like glass, paper, plastic etc. Medical wastes should not be mixed with municipality wastes. Citizens should keep their city cleans and should dump the waste in the garbage bin provided, deliver waste during house to house collection of wastes or deliver it into municipality trucks stopping at the streets. Dry waste should not be mixed with wet waste.

The Solid Waste Policy in India was framed in September 2000. It specifies the duties and responsibilities for hygienic waste management in cities of India. It acts as a guide to comply with MSW Rules.

GLOBAL WARMING: CHANGE IN WEATHER

India is also not immune from the impact of global warming and climate change. India is among the countries that will suffer serious consequences as a result of global warming. Since the beginning of Industrial revolution, the rate of global warming is increasing the earth's average temperature. Increase in temperature and climatic changes are resulting in more and more recession of Himalayan glaciers. The Gangotri glacier is declining at a rate of 30 metres a year. Also they are expected to cause rise in sea-level, which is a serious threat to India considering it has a 7,517 kilometres long coastline. The impact of seasonal changes will affect

the farmers mostly due to unexpected rains which will ultimately affect the Indian economy.

As a developing country, India has various reasons to be concerned about the impact of climate change on its economy. A large part of its population depends on sensitive sectors for livelihoods which makes it highly vulnerable to climate change. The issue of climate change can't be taken up without linking it to poverty, health, etc.

After the Stockholm Conference on Environment and Development in 1972, there was a significant change in the concept of environmental protection in India. India has enacted several legislations to protect and conserve the environment. Various national laws aiming at global warming have been enacted like the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act 1981 as well as creation on institutions such as Central and State Pollution Control Boards for implementing the provisions of the Acts which aim at reducing pollution thereby combating global warming. One of the most important legislation in this regard is the Environment Protection Act 1986 which empowers the Central Government to take necessary measures to protect and improve the quality of the environment by setting standards for emission and discharges (including global warming).

In *Essar Oil Ltd. v. Halar Utakarsh Samiti and Ors.*, the judiciary has made a reference to the impact of global warming on the sea level and has stressed the need of protecting the areas that are ecologically sensitive and important such as national parks/marine parks, sanctuaries, corals/coral reef, areas close to breeding and spawning grounds of fish and

other marine life, areas of outstanding natural beauty, areas which are likely to be inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the Central Government or other concerned State/ Union Territory level from time to time.

Apart from the various laws and provisions made by the government to check the levels of air, water, land pollution there is still need of effective execution of these laws to deal with global warming.

CONCLUSION

India is a dense country which faces unique challenges that needs unique responses. In the Constitution of India it is clearly stated that it is the duty of the State to 'protect and improve the environment and to safeguard the forests and wildlife of the country' (provided in the Directive Principles of State Policy and Fundamental Rights). Also it imposes duty on every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife enshrined in Article 51 A (g).

The Government of India has established an extensive legal framework with over 200 laws relating to environmental protection and rules including major principles from International Treaties to which India is a party. Still lack of funds, inadequacy of skills, poor understanding of the law, lack of coordination, weak enforcement of laws are barriers for effective implementation of these laws by the pollution control boards. Also, it is very important to keep the laws and regulations flexible so that they may be modified based on the lessons to be learned from the natural sciences.

It is not enough to enact the legislations. There is no means for any law unless it is effective and im-

plemented. Public awareness is a crucial condition for the protection of environment. Awareness of environmental laws in society plays a vital role in control of pollution in community and industrial levels. The awareness of the environmental issues and laws is minimal in the community. It is education which can make the society aware about the environmental problems. Voluntary interaction is necessary for successful implementation and smooth running of laws. What we need is social awareness from below, not laws from the above.

As directed by the Supreme Court of India, Environmental Studies shall be made a compulsory subject at school and college levels in graded system so that there should be general growth of awareness regarding environment. There is also an urgent need to make separate environmental courts, with professional judges to deal with environmental cases, so that the judiciary can perform its part more efficiently.

We want to keep our homes clean but do not hesitate to throw garbage outside. So, it is not only the laws alone which can save the environment from destruction and degradation, it is our duty to collectively participate and save our environment. With communal participation only these problems can be tackled.

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RISING CONCERNS: AN INTRODUCTION TO 'SOUTH-SOUTH' CONFLICT & THE SEA LEVEL RISE

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An Introduction to the South-South Conflict

Disparity in philosophies and ideologies between the two divided world, The North and The South have always given rise to varied conflicts. But of lately, amidst these entire world is witnessing a rising conflicts amongst the Southern nations as well. Countries like India and Sri Lanka have developed arguments in various geo-political matters having huge environmental concerns. Similarly India, China and Bangladesh too have had various matters relating to the environment. This shift in the parties to the conflict has been observed by the world recently, giving in rise to the new concept of 'South-South conflict'.

Issues primarily relating to the environment remains at the forefront. One such major concern is the construction of dams in one of the world's largest river, 'Brahmaputra' or 'Yarlung Tsangpo', as known in China. China in order to reap the benefits of hydroelectric power generation from the river has built dams for the same. This has caused ripples of tensions in the plains of the North-eastern part of India, primarily Assam and also in Bangladesh. These constructions raise huge concerns as it is likely to create an acute shortage of water supply in these two nations. The state of Assam being one of the largest producers of rice in

India is going to be severely affected. The river considered as the lifeline of the state, will have unquantifiable implications, if the concerned authorities do not take any immediate action. Moreover these dams also raise concern in India over China's ability to release water in times of conflict which could pose serious risk of flooding. The Chinese government in response to it has rejected the plea by saying that these dams are 'Run-of-the-river' dams, and that harmful to the India and Bangladesh. But the experts tend to say that, even if the dams are built in the most environmentally least affecting manner, it is still "a matter of utmost concern" to lower riparian countries and the results are already visible.

A Divided World: Environmental Colonialism

Aforesaid countries have been highly criticised by the Western world for heating up the earth, which as per their claim have destabilized the entire ecosystem. It has been shown through various reports that countries like India and China have played a pivotal role in exceeding up the global minimal standards for emission, resulting in the release of gases harmful for the destruction of the atmosphere. But this very naïve perception has been thoroughly from a very

Pro-Western ideological mindset, and has political motivated and mathematical jugglery rationale associated with them. Sadly they have been successful in penetrating into the reports published in almost all the nations, thus creating a ripple of thoughts specifically targeting these developing economies. This has been regarded as “Environmental Colonialism”. Global warming has been an offshoot of the activities that man has continuously been committing since the beginning of the Mankind itself. However, the impact factor highly differs and the rise in this so called “Industrial phenomena” can solely be proclaimed as the reason for the current battle that the world is fighting with this environmental menace. The reports published by the developed nations in an attempt to understand and study the growth of this issue have been highly critical on the developing countries approach to tackle the problem. But the reports from the latter nations completely shows the other side of the picture as the implications leading to this issue has been the equal or at times the sole reason of the Western world itself.

Global warming is the reason for the various natural calamities like drying up of rain over large areas, rise in the global temperature, melting of ice caps leading to countries loss of coastlines to many coastline and island countries for instance Maldives. One such repercussion is the rise in the mean sea level due to which all the island nations including the low lying areas of various countries are at a state of disappearing completely. Reports give contradicting conclusions, for instance on one side it states that the emerging nations are the sole

reasons for the rise in the global temperature and this rise is the resulting in increasing sea levels accompanied with the melting of ice caps. The other reason is put forward by the developing nations or the Southern countries, who blame the Western or the Northern countries to be responsible for the rise in the global warming. Amidst all these, the least developing or small economies end up becoming the worst sufferers.

“[T]he manner in which the global warming debate is being carried out is only sharpening and deepening the North-south divides. Given this new found interest in the so-called Our Common Future and future generations, it is time for the Third World to ask the West, “Whose future generations are we seeking to protect, the Western World’s or the Third World’s.”

Vanutu, a small Pacific island nation recently was hit by a devastating storm, and is still recovering from the occurrence. Majority of the island nations are the direct victims of the aftermath of this hazard. Regional conglomerates like the Small Island Developing States (SIDS), recently acted on behalf of these nations making an urgent appeal to the UN Security Council for helping them to combat climate change. These nations lack the skills and man power resulting in the plea for financial and technical assistance to help them avoid getting washed away with every rising tide and torrential storm. The direct consequence of the sea level rise is the flooding along with the germination of innumerable issues like contamination of water and destruction of natural resources. Reports from the UN stated that, Vanutu is at the greatest risk of experiencing natural disasters due to climate

change including cyclones, or extreme drought and flood.

States like Maldives have created a 'Sovereign Wealth Fund' in order to invest in new lands outside its mainland territory. The government has been highly vigilant about the impacts that may occur, and hence is thinking about investing in other countries like Sri Lanka and India due to its cultural similarities. There are serious legal and constitutional issues associated that needs to be considered before relocating an entire population. The last tsunami in 2004 created waves barely a metre high and the results were disastrous which led to the displacement of more than 12,000 people. The government's effort in order to cope up with the situation has been not very successful for most opting for long term solution. The economy has suffered tremendously, especially the tourism sector which is the de-facto lifeline for the economy of a country.

With the rise in global temperature every year, the low lying areas around the world are facing huge problems. Some primary affected area includes the low lying areas of Bangladesh where a total of 20 million people were displaced due to floods. The economy of Bangladesh has not been able to address the situation, as it too gets caught amongst the innumerable other national problems. The situation is such that with every foot of sea level rise, the areas prone to severe flooding increases by 69%. Already statistically, the sea level rise is deemed to be around 110 mm, and it is highly alarming. If predictions published by majority of the world reports are to be believed, the rise in the sea level is expected to be 80mm (3.2 inches) in the

next 20 years.

Aggressive steps to cut emissions would reduce the amount of sea level rise by somewhere between 6 and 20 inches in the year 2100 compared to the current trajectory. Irrespective of all the efforts, the sea level will rise and sadly it will continue.

"We cannot stop it, but only slow the pace."

It is a lot easier to stabilize global temperature by cutting carbon emissions, then it is to stabilize sea level rise. The CO₂ which is already loaded into the atmosphere will likely to have effects.

On the ocean for centuries to come. The only option available to us is that we can only slow down the rate of sea level rise, which will allow us to buy some more time for adaption of different measures, provided it is followed with aggressive mitigation.

Implications of unchecked emissions are highly dangerous. It will warm up the planet by around 4'c over pre industrial levels by 2100, which will indeed cause the sea level to rise by 2-5 feet. Only by the means of pro activeness, we can hope to cut emissions and keep it below 2'c.

"It's possible, but not total victory"

Irrespective of all the efforts the sea levels will still continue to rise leading to cities like Shanghai, Mumbai, Karachi fall prey in it.

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Conclusion

Lack of 'Third World research' has actually been the root cause of this divide. The Southern countries have never been able to bring in an effect at the world stage and as a result, the conflict further deteriorated. This underestimated ideology of not being proactive at happenings like this tends to further create a huge lacuna in the process of creating an uprising in the

Southern nation's environmental think tanks. It is high time that the Third world nations take a definitive step along with a bold action in commencing their own independent research on this issue. The mere dependence on the West to provide information and data on the current happenings will not act at all in favour of the growing concerns that are rising with every passing day.

Considering the fact that the information released by the Western institutions are themselves questionable at times, thus creating a more widely dispersed array of opinions on these environmental menaces. Further lack of 'Far-Sightedness' along with the growing innumerable related and more severe issues domestically within nations have resulted in the lack of leadership amongst the Third World. It is high time the world leaders ensure that their interest in these issues continue to create an impact all over the world. The ecological costs that the West will end up paying is unquantifiable, and the rise of this very consciousness has resulted in their negotiation in real terms with the Southern world. With the world coming together at various international forums and the

more active participations of the Third world leaders along with the continuous lobbying by the non-governmental bodies have definitely been able to pull in a chord or two amidst the real world leaders. Perhaps with a more precise international definitive framework to deter these issues would finally allow us work together for a more sustainable world, which is a challenge on its own, considering the notion of the ever escaping time from the hands of the human race.

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