

## **ENVIRONMENT JURISPRUDENCE**

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### **ABSTRACT**

Environment protection is the background of Human Rights. Our health is impacted by the toxins in the form of our daily consuming things like food and water and homes we live in. The protection and improvement of the environment is necessary to protect the Human Rights. In India some of the laws relating to environment protection are considered to safeguard the heritage of mankind. In modern times, there is increasing demand for a decent and civilized life. So that inherent dignity of each human being is protected. Human Rights are fundamental rights without which we cannot live as Human Being. Traditionally, these rights are known as Natural Rights.

### **1. Introduction**

Man is nature's best promise and worst enemy. Einstein had once observed, "The environment is everything that is not me." All human beings are depend on the environment so a safe, pure, beneficial and sustainable environment is utmost important for the full enjoyment of human rights also. Without a healthy environment, human will not be able to fulfill their aspirations .Presently, the protection of environment becomes a global issue. It is not confined to any area or nation. Environment problem differs with the stage of development, economic structure, technologies in use and environment policies of any country. Through this paper, Author seeks to enquire if environment protection is a human right? Those who by their acts endangering the environment are really violating the human rights.

### **2. History of Environment Protection**

Human being has always been concerned about the environment; The Greeks were the first to develop environment philosophy which was later on followed by some other civilizations also such as India and china. Earlier in India there were no laws to protect the environment from pollution but it does not mean that ancient India was not concerned for environment protection. It

can be traced back to the period between 321 and 300 B.C. At that time, people of society thought that protection of Human being has always been concerned about the environment. The Greeks were the first to develop environment philosophy which was later on followed by some other civilization also such as India and china. Earlier in India there were no laws to protect the environment from pollution nature was their 'Dharma'. The purpose of social life has been 'to live in harmony with nature'. Indian saints lived in forests. Vedas, Smritis, Shrutis, Upanishades, Yajurveda, Samaveda, Yajna, Smritis, and etc. all contained their preaching about clean environment. It was the sacred duty of everyone to protect the plants, trees, earth, sky, water, air and every form of life. In those days worshipped trees, rivers, fire and sea. They also educated their children about the necessity of keeping the environment clean for every species of life. Manusmriti also mentions about the ideal use of the resources of the nature. Like some trees are considered to be sacred and not to be cut and meant for worship. It is mentioned in Padma Purana and karma Purana that trees like Tulsi, peepal, Bel, Ber, Neem etc. all are like God. It is a way to conserve the vegetation. Different animals and birds are associated with different Gods and Goddesses for example the birds 'Garuda' is considered to be the vehicle of Lord Vishnu and worshipped by Vaishnavas, Lion is considered to be the vehicle of goddess of Durga and worshipped by the Shaktis. Other example is bishnoi cult of Rajasthan who are known for protecting trees even at the cost of their lives.

Not only Hinduism but Christians, Muslims and considered every creature every creature to be incarnation of God. Guru Granth sahib ji also emphasizes that the human beings are composed of five elements of nature i.e. earth, air, fire, water and sky. Guru Nank Dev Ji said,

'Air is vital force, water the progenitor, the vast earth the mother of a, day and night are nurses fondling all creation in their lap.' (Jap ji sahib)

However, it was in the British era and post-independence that the real meaning of the environment jurisprudence was put forth.

### **3. Environmental Jurisprudence**

Environment pollution is a term that refers to all the ways by which people pollute their surroundings. People creating air pollution with gases and smoke, poisoning the water with chemicals and other substances, damage the soil with fertilizers and pesticides. Today, Everyone wants to reduce pollution but complicated too. Because much of pollution is caused by those things which is benefited to the people. During the last forty years one of the basic problems emerging urgent international attention has been the concern for preservation and betterment of global environment. The idea has gained ground that one generation has no moral or legal right

to exploit the natural wealth of a nation for or effectively reduce the pollution people would have to stop using many things even those which may be benefit to them.

Any law is a craving of human mind. Law is the foundation on which the edifice of civilized society stands. Its purpose is to maintain harmony and order in society. It has to be understood in its philosophical concept and has to be experiment. Because the law has two faces; one is to regulate the social life and second is to ensure the obedience by the people .when any laws are enacted they are meant to be enforced adequately otherwise they will become just a paper tiger or that tiger which is without sharp teeth. However, in our country various legislations have been made to control the environment pollution but these legal weapons has not attained much gain. It appears that either we don't know how to use these legal weapons or there is a lack of administration, judicial and political will to implement and enforce such laws. Moreover there is need for new human rights for a safe and clean environment.

There have been made many attempts for highlighting the need to have co-ordination between development and protection of environment. The first attempt was the Stockholm Declaration 1972 at global level. This Declaration brought the environment issues from local to world sphere. It is also a Magna Carta on human environment. All the nations throughout the world started giving priorities to environmental laws by making new laws into their respective countries. After 1972, the Environment Protection became a fertile source of law.

After the said Declaration, in India parliament has enacted various laws to control and prevent the pollution. The main Acts for environment protection in India are as follow:

- 1.The Prevention of Air and Water pollution, 1974.
2. The Forest Conservation Act, 1980.
3. The Air Prevention and control of pollution, 1981.
4. The Atomic Energy Act, 1982.
5. The Environment Protection Act, 1986.
6. The Environment Conservation Act, 1989
7. Handling and Management of Hazardous Waste RULES IN 1989.
8. The public Liability Insurance Act (Rules and Amendments), 1992.
9. The National Environment Tribunal, 1995.

10. National Environment Management Act, 1998.
11. The Biomedical Waste Management and Handling Rules, 1998.
12. The Environment (siting for Industrial Projects) Rules, 1999
13. The Municipal solid Waste (Management and Handling) Rules, 2000.
14. The Ozone Depleting Substance (Regulation and Control) Rules, 2000.
15. The Biological Diversity Act, 2002.

Pollution has been considered inside the nation as well as by way of Transboundary pollution. Hence, various efforts have been done to amalgamate various laws relating to environment into one comprehensive law. In India, environment jurisprudence has been dominated by giving socio economic priority to development. The enacted legislations do not deal effectively with the environment injury. However, the Supreme Court lay down the principle of “the polluter pays” and the “precautionary principle” to tackle with the problem of environment .Moreover, the Environment Protection Act, 1986 is a welcome steps in this direction. It is that part of legal provisions which protect and improve the environment. It is based on the decision taken at united Nation Conference decision taken at United Nation Conference on the human environment held at Stockholm in June 1972 in which India participated.

#### **4. Human Rights Jurisprudence**

The foundation of human right is as old as the history of human being itself. In13th century it became the main concern. When the first law of Magna Carta 1215 came into existence. After Second World War, the human right have got international consideration .The necessity of human rights was also an important realizations for the struggle for Indian independence from colonial rule. Human rights is based on mankind increasing demand for a decent civilized life in which the inherent dignity of each human rights are those fundamental to our nature without them we cannot live as human being.

The Universal Declaration of Human Rights, 1948 was the first legal document which protect the universal human rights .With this at, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights all these three instruments are called the International Bill of Human Rights treaties and other instruments have been adopted to expand the area of international human rights laws.

It has always been pleaded that the right to an adequate environment can be conceived as Human Rights .Those that by their acts endanger the environment clearly committing an act of

aggression against Human Rights .It includes aggression against the right to life also. Hence, Human Rights are necessary to promote the personality development, material comfort and healthy environment to safeguard conditions of life. Without all these things nobody can strive towards their goal .That is why there is a natural link between environment ,Human Rights and development .It is also a reminder that Human Rights are based on increasing demand of mankind for a decent ,civilized and healthy life in which each human being will receive respect and protection. They not only include physical existence and biological needs but also such conditions of life which allow human beings to develop and to satisfy their spiritual needs .A human being cannot live as a human without human rights .They are fundamental to human rights

Today, the concept of Human Rights Jurisprudence have extended from one of individual's civil and political right to economic social and cultural rights. .Over the world, this issue have acquired a considerable importance .Human rights are a set of rights which every human is entitled to. Every human being is inherited with these rights no matter what caste, creed, gender and the economic status they belong to. Human rights are very important for making sure that all human get treated equally. The United Nations Environment Assembly is the world's highest level decision making body on the environment. It addresses the critical environmental challenges facing the world today. The 2030 Agenda for sustainable Development is the heart for rehabilitating our environment.

### **5. Integrated Approach to Environment and Human Rights**

As it is said that where there is right there I duty .It means if a human have right to use environment for their purpose it's there duty to work for environment .Every man has the fundamental right to freedom ,equality and adequate conditions of life in an environment of a quality that life in an environment of a quality that permits a life of dignity .It is equally important for a man to improve and protect the environment for present and future generations .A human rights focus to secure higher standards of environmental qualities based on the obligation of states to take measures to control pollution which is affecting the health and personal life of everyone.

In the late 1960s, the UN General Assembly had first recognized the relationship between human rights and environmental laws. The preamble stated that Man is both creature and molder of his moral, social and spiritual growth.

At International level, the importance of the environment to the fulfillment of human rights is widely accepted. Melting of glaciers ,changing weather ,hole in ozone layer and pollution all are affecting the environment and of course daily life of millions of people is affecting the poor class

and vulnerable are suffering most and ultimately it will reach to all of us we are entitled to the healthy and productive life in harmony with nature.

Human rights are a set of rights which every human is entitled to. Every human being is inherited with these rights no matter what caste, creed, gender and the economic status they belong to. Human rights are very important for making sure that all human get treated equally.

The purpose of environment law is to safeguard both the environment and human health. The environment law ensures that behaviors which is not harmful to the health of the environment, people and animals. The Indian Constitution contain provision on environment protection .Directive principles of State Policy and Fundamental Duties both these chapters deal with the provisions to protect and improve the environment .Through the 42<sup>nd</sup> Amendment Act,1976,it was the duty of the state to protect the environment.

## **6. Conventions and treaties**

India is a developing country and also a member of ILO. It has obligation under numerous international treaties and agreements that relate to environment issues.

The important International Conventions relating to environment are as follow:

- Stockholm Declaration, 1972.
- Convention on International Trade in Endangered Species if wild flora and fauna (CITES), 1973.
- Vienna Convention for the protection ozone Layer, 1985.
- Montreal Protocol on substances that Deplete Ozone layer, 1987.
- EARTH Summit, 1992.
- Convention on Biological Diversity, 1992.
- U.N. Convention on Desertification, 1994.
- Johannesburg Declaration, 2002.
- Stockholm Convention, 2004.
- Montreal UN S UMMIT, 2005.
- Kyoto Protocol, 1997.

- Paris Agreement on Climate Change, 2016.

## **7. Conclusion**

Thus it may be said that the relationship between Environment and Human Rights becomes obvious in several contexts. In other words all human rights are interdependent on environment. As such it can be very strongly argued that the right to an adequate environment is a human right because human species cannot exist in this planet without an adequate environment.

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