

Preliminary study on Environmental laws and sustainable development in India

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Abstract

Environmental law is a collective term encompassing aspects of the law that provide protection to the environment. This paper studies the relation between environmental protection laws and the sustainable development of the India. To accomplish this objective, this paper focusses the environmental challenges in our country, and disapprovingly inspects some environmental laws to decide their realism and productivity in dealing with environmental difficulties. The paper contends that due to the privatization of the various field in India, and its resultant use by those in power to promote private gains, the country has not shown serious concerns for the environment. This lack of concern is reflected in the weak environmental laws and the lack of their enforcement. The paper concludes that the laws have failed to protect our environment, and the resultant environmental degradation has impeded the sustainable development of the region. Good governance is suggested as the most likely solution. I accomplish that tough environmental policy inclosing and directive are critical in this situation if novel deliberate cities in India are to have any probable in talking the challenges of quick expansion and sustainable development. This paper sets out to examine the latter view, and examines its implications on sustainable development.

Keywords: Environmental law, Sustainable Development, Urbanisation, Pollution, Society, Governance.

Introduction

Encounters fronting mankind on the environmental facade have become really worldwide and demanding. The developed nations, having adored more than their segment of development, have accomplished a attired customary of living. This has given to the world pollution and eco-degradation as a result of prosperity and fundamental hunger. It has now become clear that such patterns of development, life styles and quality of life are unsustainable. On the contrary, the developing countries are still struggling for minimum levels of sustenance. These countries need abundant material growth to fulfil the basic needs of their people and they cannot afford to repeat the mistakes of the industrial countries. As far as probable, these nations must gross the sustainable pathway of development from the very starting. Hence the conception of Sustainable Development was given the significance due to emergent distresses. Sustainable development in this environment therefore, demands for collaboration of all nations both technologically advanced and emerging. That collaboration must be founded on the basis of the right to development and the necessity for a reasonable dispersal of load. Environmental degradation is a major cause of productivity losses and poor human health in India [1]. Thus, environmental degradation issues are of topical concern to communities in our country. A significant feature of environmental degradation in India is that it is largely the outcome of pollution and unsustainable exploitation of natural resources. Significantly, there are numerous Indian and world environmental laws which seek to conserve, guide, control and manage the exploitation of natural resources, along with the control and prohibition of environmental pollution. To this end, the unsustainable exploitation of the environment in India is blamed on the inability or failure of the environmental laws to correct acts by the Government and people as well as attitudes and beliefs, which impact negatively on the environment. Industrial operators (other than in the petroleum subsector) are apparently not guided by any environmental protection legislation where such legislations exists, conformance with them is not

systematically monitored and effectively enforced it is not surprising that neither industrial establishments nor government agencies responsible for overseeing the industrial sector and environmental matters have a mechanism for monitoring and evaluating impacts of industrial pollution with a view to controlling and managing them. Equally, the isolation of the environmental laws from the development programs and policies of the state, faults in the implementation strategies or techniques, inadequate penalties for violation, the non-evolvement of the citizenry in the formulation and execution of the laws, and the lack of a clear focus, are also seen as factors which have become obstacles to the proper execution of the laws. In all however, the lack of enforcement of the laws stand out as the most fundamental cause of the inability of the legislations to protect our environment.

Environmental Challenges of India:

India's environmental glitches are due to the adverse effects of the process of development that is low economic condition and underdevelopment. Unwell strategic development plans cause harm to the environment, linked with plans for quick economic progress and improvement. The second cluster is associated with the influence on water, forests, wildlife health, land, soils, as a result of low economic condition. The greatest challenge is the rapid growth of population. Population, poverty and environment are inter-related. The connection between low economic condition and ecological degradation is a foremost matter as massive mainstream of societies depends on the natural resources of nation for their elementary requirements. Nearby 45 per cent are under poverty mark. The ecological dilapidation has unfavourably exaggerated the poor who depend upon natural resources. Henceforth, both poverty and environmental degradation are two facets of same challenge and it is widely recognised that population growth is a function of poverty. The mountainous terrains of the Himalayas and North East States are rapidly losing their forests and trees, which in turn enhances the removal of top soils and results in landslides and floods. India has a rich flora. The Botanical Study of India has described nearly 49250 classes of plants afterward plotting about

70 per cent of India's topographical part. But due to deforestation about 1340 plant classes are measured as vanishing. The central reasons for damage of vegetation and wildlife are pollution, excess exploitation, territory destruction & poisonous substances in water, floods, hurricanes etc.

We are fronting following numerous environmental challenges.

1. Increasing Population [2]: A population of above thousands of millions is increasing at 2.21 per cent each year. It places significant compression on its natural assets and decreases the improvements of growth. Hence, the extreme encounter before us is to bounds the population growth. Although population regulator does inevitably lead to development, yet the progress leads to a reduction in population growing rates.

2. Poverty: The poverty and environmental dilapidation have a connection between them. The massive majority of our individuals are straight dependent on the nature properties of the nation for their elementary needs of foodstuff, energy shelter and food. About 42% of our people are quiet under the poverty mark. Environment dilapidation has unfavourably affected the poor who depend upon the resources of their direct backgrounds. Thus, the challenge of poverty and the challenge environment dilapidation are two truths of the same challenge.

3. Agricultural Evolution: The people must be familiar with the approaches to sustain and rise agricultural evolution with destruction of environment. Extraordinary gaining variations have triggered soil salinity and harm to physical arrangement of soil.

4. Necessity to Underground Water: It is vital of justifying the usage of groundwater. Aspects like communal wastes, industrial wastes and chemical manures and insecticides have contaminated our external water and affected class of the groundwater. It is vital to reinstate the water superiority of our rivers and other water body like lakes is an significant challenge. It so finding our appropriate approaches for consecration of water, delivery of harmless drinking

water and protect water bodies fresh which are problematic tasks is important.

5. Industrialization and Forests: With growing demand of water, strategy to use the vast river through great irrigation plans were completed. Undoubtedly, these would immerse forests; relocate native individuals, harm vegetation and wildlife. Forests in our country have been decrease for numerous eras due to compressions of farming and other uses. Massive parts that were once green, view today as deserts. These zones are to be carried back under vegetative shield. The tribal societies residing forests greetings the trees and birds and animal that provides them nourishment. People must identify the part of these people in reinstating and preserving forests.

6. Degradation of Soil : Soil degradation is a practice in which the significance of the biophysical environment is exaggerated by a mixture of manmade processes acting upon the Soil. It is observed as any variation or trouble to the soil supposed to be harmful or unwanted. Natural threats are excepted as a source; however human actions can ultimately affect phenomena.

7. Decline of Genetic Diversity: At present-day most wild genetic shares have been vanishing from nature. Wilding comprising the Asiatic Lion are fronting difficulty of decline of genetic diversity. The threatened areas grid like sanctuaries, national parks, biosphere assets are separating populations.

8. Immoral Implications of Urbanization: Approximately 29 per cent people in our country live in urban zones. Urbanization and development has given chance to a number of environmental problems that need crucial attention. Above 32 per cent of urban people in India live in slums. Hence, managing with fast urbanization is a major problems.

9. Water and Air pollution: Maximum number of our industrial plants are exhausting out-of-date and technologies and temporary facilities lacking of any facility of handling their trashes. A large number of municipalities and industrialised zones that have been

recognised as the poorest in terms of air and water pollution.

Environmental laws and sustainable development in India:

Environmental law may be a collective term encompassing aspects of the law that provide protection to the environment. A related but distinct set of regulatory regimes, now strongly influenced by environmental legal principles, specialise in the management of specific natural resources, like forests, minerals, or fisheries. Other areas, like environmental impact assessment, might not fit neatly into either category, but are nonetheless important components of environmental law.

The need for cover and conservation of environment and sustainable use of natural resources is reflected within the constitutional framework of India and also within the international commitments of India. The Constitution under Part IVA casts a requirement on every citizen of India to guard and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Further, the Constitution of India under Part IV stipulates that the State shall endeavour to guard and improve the environment and to safeguard the forests and wildlife of the country.

Numerous environment security legislations be present even before Freedom of India. However, truth thrust for fixing force a well-developed framework came only after the UN Conference on the Human Environment (Stockholm, 1972). After the Stockholm Conference, the National Council for Environmental Policy and Planning was found out in 1972 within the Department of Science and Technology to determine a regulatory body to look after the environment-related issues. This Assembly advanced changed into a full-grown Ministry of Environment and Forests.

The National Green Tribunal Act, 2010 has been enacted with the objectives to supply for establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environment

protection and conservation of forests and other natural resources including enforcement of any right concerning environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. The Act established the agreement of the President of India on June 2, 2010, and was imposed by the Central Government with Notification no. S.O. 2569(E) dated October 18, 2010.

The Air (Prevention and Control of Pollution) Act, 1981 is an act to supply for the prevention, control and abatement of pollution and for the establishment of Boards at the Central and State levels with a view to completing the aforesaid purposes. To counter the issues related to pollution, ambient air quality standards were established under the Air Act. The Air Act seeks to combat pollution by prohibiting the utilization of polluting fuels and substances, also as by regulating appliances that produce to pollution. The Air Act empowers the government, after consultation with the SPCBs, to declare any area or areas within the State as pollution control area or areas. Under the Act, establishing or operating any plant within the pollution control area requires consent from SPCBs. SPCBs also are expected to check the air in pollution control areas, inspect pollution control equipment, and manufacturing processes.

The Water Prevention and Control of Pollution Act, 1974 has been enacted to supply for the prevention and control of pollution and to take care of or restore wholesomeness of water in the country. It further provides for the establishment of Boards for the prevention and control of pollution with a view to hold out the aforesaid purposes. The Water Act excludes the release of contaminants into water bodies further than a given limits, and places down fines for nonfulfillment. At the Centre, the Water Act has found out the CPCB which lays down standards for the prevention and control of pollution. At the State level, SPCBs function under the direction of the CPCB and therefore the government.

The Environment Protection Act, 1986 delivers for the safeguard and enhancement of environment. The Environment Protection Act creates the agenda for learning, preparation and applying long-term necessities of environmental protection and placing down a system of immediate and satisfactory response to situations threatening the environment. It is an umbrella legislation designed to supply a framework for the coordination of central and state authorities established under the Water Act, 1974 and therefore the Air Act. The term "environment" is known during a very wide term under s 2(a) of the Environment Act. It includes water, air and land also because the interrelationship which exists between water, air and land, and citizenry, other living creatures, plants, micro-organisms and property. Under the Environment Act, the Central Government is empowered to require measures necessary to guard and improve the standard of environment by setting standards for emissions and discharges of pollution within the atmosphere by a person carrying on an industry or activity; regulating the situation of industries; management of hazardous wastes, and protection of public health and welfare. Every time, the Central Government disputes statements under the Environment Act for the protection of environmentally delicate regions or disputes strategies for problems beneath the Environment Act.

Hazardous waste means any waste which, by reason of any of its physical, chemical, reactive, toxic, flammable, explosive or corrosive characteristics, causes danger or is probably going to cause danger to health or environment, whether alone or when in touch with other wastes or substances. There are several legislations that directly or indirectly deal with hazardous waste management. The relevant legislations are the Factories Act, 1948, the general public insurance Act, 1991, the National Environment Tribunal Act, 1995 and rules and notifications under the Environmental Act. Hazardous Wastes Rules, 2008, brought out a guide for manufacture, storage and import of hazardous chemicals and for management of hazardous wastes. Biomedical Waste Rules, 1998, were formulated along parallel lines, for proper disposal, segregation,

transport, etc, of infectious wastes. Municipal Solid Waste Rules, 2000, aim at enabling municipalities to dispose municipal solid waste in a scientific manner. In view of the short-comings and overlapping of some categories causing inconvenience in implementation of the Biomedical Waste Rules, 1998 also because the Municipal Solid Wastes Rules, 2000, the Ministry of Environment, Forest and Climate Change has formulated the draft Bio-Medical Waste Rules, 2015 and the draft Solid Waste Management Rules, 2015 and sought comments on the draft Rules. E - Waste Rules, 2011 have been notified on May 1, 2011 and came into effect from May 1, 2012, with primary objective to reduce the use of hazardous substances in electrical and electronic equipment by specifying threshold for use of hazardous material and to channelize the e-waste generated in the country for environmentally sound recycling. The Rules apply to each producer, consumer or bulk consumer, collection centre, dismantler and recycler of e-waste involved within the manufacture, sale, purchase and processing of electrical and electronic equipment or components as detailed in the Rules.

The Wild Life (Protection) Act, 1972 [3] as enacted with the target of effectively protecting the wild lifetime of this country and to regulate poaching, smuggling and illegal trade wildlife and its derivatives. The Act was amended in January 2003 and punishment and penalty for offences under the Act are made more stringent. The Ministry has proposed further amendments within the law by introducing more rigid measures to strengthen the Act. The objective is to supply protection to the listed endangered flora and fauna and ecologically important protected areas. The Forest Conservation Act, 1980 was enacted to assist conserve the country's forests. It firmly confines and controls the registration of forests or practise of forest terrestrial for non-forest drives lacking the previous endorsement of Central Government. To this end the Act places down the pre provisions for the alteration of forest terrestrial for non-forest commitments. The Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006, identifies the rights of forest residence Scheduled Tribes and other traditional forest inhabitants over the forest zones occupied by them and provides a outline for according

an comparable . The Indian Forest Act, 1927 consolidates the law concerning forests, the transit of forest-produce and therefore the duty liveable on timber and other forest-produce. The Public insurance Act, 1991 was enacted with the objectives to supply for damages to victims of an accident which occurs as a results of handling any hazardous substance.

The Biological Diversity Act 2002 was born out of India's plan to realise the objectives enshrined within the United Nations Convention on Biological Diversity 1992 which recognises the sovereign rights of states to practice their individual Biotic Assets. The Act aims at the conservation of biological resources and associated knowledge also as facilitating access to them during a sustainable manner. The National Biodiversity Authority in Chennai has been established for the needs of implementing the objects of the Act. The Ministry of Environment and Forests had delivered the Coastal Regulation Zone Notification with Notification no. S O. 19(E), dated January 06, 2011 with an impartial to make sure living safety to the casting societies and other local societies living inside the coastal regions, to preserve and defend coastal sections and to market progress throughout a sustainable way reinforced scientific principles, taking under consideration the possibilities of natural dangers within the coastal areas and water level rise due to global warming.

Sustainable Development:

The belief of sustainable development has advanced on the basic hypothesis of co-existence of two seemingly contradictory ideas i.e. development and environment. But from the applied point of opinion, environmental, financial and communal parts of sustainability are attached. The source of sustainable development highlights on two simple requirements, firstly, necessity for socio-economic development and secondly, necessity of restriction enforced on the environment's competence to manage with the current and forthcoming desires. Sustainable development is progress that encounters the desires of the present without negotiating the capability of forthcoming generations to encounter their, own prerequisite. Sustainable development wants meeting the elementary

requirements of all and spreading to all chance to gratify their ambitions for a superior life.

The principle of sustainable development pursues to accomplish the basic objectives:

1. To sustain manufacture of things and facilities for progress and productivity;
2. Dialogue and organisation of natural assets comprising conservation of bio-diversity and preservation of biological honesty;
3. Conservation and enrichment of the class of life implementing the principle of impartial sharing of prosperity and material resources.
- 4.

These objective may separately be called as financial, ecological and communal objectives of the principle of sustainable development. From the environmental point of opinion, the objective of the principle of sustainable development focuses overweight three disputes, that is, (i) to preserve indispensable environmental processes, (ii) to reserve genetic variety; and (iii) to protected sustainable consumption of classes and bionetworks. Economic growth is one major concern for all the countries around the globe. For this, availability of natural resources is essential. The scarcity of these resources has not only hindered economic growth, but has caused various other problems. Economic growth cannot continue unhindered when the environment is overexploited beyond its carrying capacity. The maximum use by the economic system that the environment bears is defined as the carrying capacity of the environment. Sustainable development is the development that meets the needs of the present without jeopardizing the needs of future generations. In other words, each generation should consent air, water and soil assets as clean and uncontaminated. Even though it is a problematic proposal, it can be accomplished through appropriate environmental supervision. The objective of sustainable development is to indorse growth, advance global feeding, and preserve a vigorous native environment and thus paying towards resolving dangerous global environmental administration difficulty. The principle of sustainable development emphasizes on two basic needs, firstly, need for socio-economic development and secondly,

need of limitation imposed on the environment's capability to cope with the present and future requirements.

Sustainability means the ability to maintain a certain state. In ecological context, sustainability is the ability of an ecosystem to maintain ecological process, their functions, biodiversity and productivity for a long time. Since environment and development are antithetical aspects, development must be within environmental sustainability. That means we have to convey progress without in excess of exploitation of natural assets. Environmental sustainability, economic sustainability and socio-political sustainability are the 'three columns' of sustainability. Basically, sustainability is cultivating the superiority of human life while living inside the resonant capability of supportive eco-systems. The earth and its resources are meant not only for the present generation, but also for the generations to come. So, development should be within the carrying capacity of the environment.

Conclusion

Environment and development are two sides of the same coin and any one of these cannot be sacrificed for the other. On the contrary, both are equally important for a better future. The constitutional guarantee of Public Interest Litigation and Intergenerational rights would remove hurdles hindering the right of action by providing citizens easy access to courts. That provision would strengthen the roles of individuals and non-governmental organizations (NGOs) in the promotion of sustainable development. Thus, individuals and NGOs would be able to protect the rights of vulnerable groups to sustainable development. The today necessity is to balance development and its cost to environment, thus making sustainable development a global concern. Our country and its corresponding states legislation on the environment have become a major instrument in the quest for sustainable development. Basically, the laws pursue to correct actions and approaches which damage the environment, and at the same time monitor and control natural resource

exploitation. This paper viewed and analysed the impact of these environmental legislations on the promotion of sustainable development in India. This paper notes that India's environmental protection laws (at Central and State levels) are largely unsuccessful. The lack of enforcement of the legislation, which results from to the privatization and the consequential neglect of the environment. The provisions of the laws create gaps, which weaken enforcement. It is clear that environment laws have failed to protect the environment. To overcome these challenges, the judicial discourse on sustainable development as developed by the NGT can potentially enrich Indian environmental law. In the interest of National development objectives, our government make a transparency, accountability, frugality in the management of national resources, sincerity, discipline and commitment.

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