

Right to Water: A Call of Environmental Justice



Law

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ABSTRACT

Environmental justice is related with the Environmental laws. In the Indian Constitution no direct laws related to water right. Right to water is not fundamental right but through judicial judgements it is the considered under the article of 21 that is right to life with dignity. It also extends to the relationship between natural resources and other living creatures. Use of Clean water is the basic right of the human being and this is also the duty of every individual towards the Environment.

Introduction:

Environmental justice is an equal protection and meaningful involvement of all people with the movement that grew from the recognition of a disproportionate number of environmental burdens in certain communities. It is based on the Principal that all people have a right to be protected from Environmental Pollution. People have right to live in the clean and clear environment. It works to ensure a healthy environment for all regardless of race, nationality, income, gender or age. Environmental movement is also the involvement in the respect to the development, implementation and enforcement of laws and policies with the aim of equitable distribution of environmental benefits. Of environmental

Environmental Justice include equitable distribution of environmental risks and benefits; fair and meaningful participation in environmental decision-making; recognition of community ways of life, local knowledge, and cultural difference; and the capability of communities and individuals to function and flourish in society

Environmental injustice may not have been heard before, but it is just a new word for an old problem. This pattern has been commonly seen in the every ages of the society and places and has been accepted to be like any other natural phenomenon. In the last few decades people gave the voice of Environmental justice and trying to locate the related issues.

Environmental injustices exist usually in the urban areas. This injustice cannot be eradicated all of a sudden because there are many areas in which environment are connected. Some core areas are which are directly related to human being are Water pollution, Air pollution, Food Pollution, Soil Pollution and many more. But it must be acknowledged that something has to be done regarding this in the future.

According to Britannica Encyclopaedia "Justice as the maintenance or administration of what is just especially by the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments but law implies imposition by a sovereign authority and the obligation of obedience on the part of all subject to that authority".

Law and Justice are interdependent, identical to each other and also depend upon the follower's attitude and the interpretation of the Law. But in reality they are not identical Law is static and Justice is varied from enforcement.

The right to Water is fundamental right of the person and for this fundamental right the Law and Justice play the important and crucial role. Justice has a wider scope which may be related to the Equality, Morality, Procedure or it can be Ethics.

The life of a person is directly connected with the social and cultural forces. Environment (biophysical), the physical and bio-

logical factors along with their chemical interactions affect an organism or a group of organisms. Ecology; the air, water, minerals, organisms, and all other external factors surrounding and affect a given organism at any time.

The background of the Environmental Justice introduced first time in the United States of America in the year 1980's. After that it spread all over the world like an Air. In India, Indian environmentalism has, for the most part, been about social justice. The Bhopal Gas Disaster of 1984 raised new issues, pertaining to industrial risk and safety due to the realization that a disproportionate number of polluting industries, power plants, and waste disposal areas were located near low-income or minority communities.

Environmental Justice Covers Human health and the environment Science, technology, and the environment Land use and urban planning Public policy, Sociology and anthropology of environmental health disparities Grassroots initiatives etc.

In the globe two thirds of Earth's surface is filled by water and rest of the earth surface is land. But the pressure on the earth is increasing day by day by the population. In a sense, our water resources like oceans, rivers and other inland waters are being polluted by human activities. This gave rise to water Pollution.

Right to water is a fundamental right. The water is required for personal and domestic use and should be sufficient, accessible and in the affordable condition. Clean and clear water is the foundation of any prosperous community.

Clean water is the primary rights of a human being but nowadays the quality of water is decreasing from minute to minute. The problem of dirty water is the biggest problem on the earth. It increases the health risk for both quality of life and public health in India. When the water is coming from the natural resource like rain and melting snow and moves into our rivers, it picks up toxic chemicals, dirt, trash and disease-carrying organisms along the way. Maximum the water resources are lacking basic protection making them vulnerable to pollution from factory farms, industrial plants, and activities like frocking. This can lead to drinking water contamination, habitat degradation and beach closures. Despite the many existing pressures on our water resources, we should control their water pollution.

Environmental Justice Issues and Indian Legislation

The issues related to environmental are the burdens on the justice. Those aspects cover many aspects of the society. These are water pollutants, factories fluids, wastages and many more. The important environmental issues are to give stress on inadequate access to healthy food, inadequate transportation, and Air and water pollution.

The Bhopal gas leak of 1984 which killed about 2500 people continues to have a negative impact on the lives of the people living

around the area. This is a well known example of environmental injustice in India.

Indian Legislations and Judicial Outlook

The judiciary is the architect of implementation of law. The Indian Constitution has drawn some rights related to Water. In the Indian Constitution, 1950 there are Article 21, 48 and 51(g) that are interpreted by judiciary. Directly no article defines the right to water as a fundamental right.

In the Indian legislation the water (Prevention and control of pollution) Act, 1974 is existing. In this Act objectives are to prevention and control of water pollution and the maintaining or restoring of water. It also contains and provides the machinery to take appropriate action to achieve the objective of this Act. But the drawback of this Act is its silence regarding the planning and management of the underground water and streams, not deal with prohibition of indiscriminate tapping of underground water, storage of rain water no strict punishment related to water pollution etc.

Narmada Bachao Andolan Vs. Union of India [(2000) 9 SCC 571] **Attakayya Tongal Vs. Union of India,1990, Subhash Kumar VS. State of Bihar (AIR 1991 SC 420)** **Francis Coralie Mullin Vs. the Administrator, Union Territory of Delhi (1981(2) SCR 516** .This was the first landmark decision of the Supreme Court in which SC clearly stated that right to Life is related to dignity of life .So the bare necessities of life must be available in the proper manner. In this regard the right to water is the basic need of the surviving human life with maintenance of their dignity. Article 21 includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has a right to have recourse to Article 32 of the constitution for removing the pollution of water or air which may be detrimental to the Quality of life”.

Kerala High Court, Article 21, observing that: “...the administrative agency cannot be permitted to function in such a manner as to make inroads into the fundamental right under Art 21. The right to sweet water and the right to free air are attributes of the right to life, for these are the basic elements which sustain life itself.”

According to the Andhra Pradesh High court in **P.R. Subhash Chandran Vs. Government of A.P. (2001 (5) ALD 771 (DB)** “under the constitution, the role of the State to provide every citizen with adequate clean drinking water and to protect water from getting polluted is not only a fundamental directive principle in the governance of the state but is also a penumbral right under Article 21 of the constitution of India”.

Thus it is clear very that courts have been concerned with the social and human requirements. These requirements are not only related with the serving of the human life but also with the dignity of the life

Conclusion

The Government also doing lot of efforts to making water clean. In this progressive path there are a number of schemes and implementing machinery to provide for providing safe and accessible drinking water in India, The Rajiv Gandhi National Drinking Water Mission at the institutional level .The Accelerated Rural Water Supply Programme Guidelines.

But apart from Govt and judiciary support what can we do, to prevent environmental injustice and to bring about true environmental justice? Awareness is the first thing to be displayed in the environmental injustice, Involvement in the current problem, campaigning through the Media, The expansion of the

NGO's, Alertness of the Local Authority at the grassroots level. There must be some goals to overcome the current problem.

- Support civil society and grassroots groups in the struggle against water privatization and depletion, Promote citizen involvement in the utilization and management of water.
- Advocate for new laws, Challenge corporate and governmental violations, and Create new models for implementing the human right to water.
- Promoting water efficiency strategies to help decrease the amount of water wasted, vibrant aquatic ecosystems.
- Adopting sensible standards for efficient appliances, buildings, and irrigation, supporting cost-effective investments, improving pricing structures.

Presently water is becoming an economic good rather than a social asset. Required Water in an adequate and proper condition is a human right must and it be recognized at all levels. Water must remain as a public good but not considered as economic good.

In the **Satyabrata Sinha Vs Rambabu** case “Environmental Justice is achieved only when water, especially for drinking and domestic purpose need must be made available freely as a common good and not as a commodity”.

All the treaties and conventions which were obliged by the parties must be followed properly. State level legislations must be drafted by looking into the possibilities from the grass root levels. In order maintain underground water levels and to prevent pollution of water from industrial, effluents and aquaculture and also for proper planning and improvement of the water on the earth, the following suggestions are given as directed by Justices.

References:

1. “Guidelines for Drinking-water Quality, 4th Edition” (PDF). World Health Organization. 2011.
2. “Indian Water and Wastewater Treatment Market Opportunities for US Companies” (PDF). Virtus Global Partners. 2008.
3. “Buddha Nullah the toxic vein of Malwa”. Indian Express..
4. Ganga conservation efforts inspire thousands
5. Environmental Justice in India: S.Ravi Raja
6. Bishwanath Goldara , Nandini Banerjee, Impact of informal regulation of pollution on water quality in rivers in Indian Journal of Environmental Management
7. “ Environmental Justice in India: S.Ravi Rajan