



ENVIRONMENT AND ITS CAUSES: INDIAN PERSPECTIVE AND JUDICIAL OUTLOOK

Law

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ABSTRACT

The problem of environment pollution we face today is a complex consequence of force connected with various interrelating factor .There are clearly a number of divergent and conflicting view of what could be the basic factors under lying the environment crises .No single cause can be considered as the root cause of environment impairment .Keeping in mind various perspective, Indian Judiciary has laid down various principle to protect the environment.

KEYWORDS

INTRODUCTION

The Natural resources of the earth, including the air, water, lands, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Man is causing all round damage to atmosphere ,water ,land to the various elements of environment and to the ecosystem itself .There is so much man –made pollution and environment degradation that the nightmare a head is enough jattery to shake us all. Taking a synoptic view of the general scenario a few trends are underway our atmosphere on global as well as regional scale is heavily polluted .The release of green houses gases and some more than 65,000 compound into the atmosphere is effecting the compound of the atmosphere and the quality of air .

The protective ozone shield in the heavily populated latitude of the northern hemisphere is thinning twice fast as scientists thought a few year ago .The build up of green house gases. Will lead to significant change in the weather patterns in the near future leading to global warming .The destruction of ozone layer and the further warming of the earth surface threaten catastrophic cancerous and tropical disease, disruption of oceans food chain ,raising of sea level submersion of many island ,melting of small land –based glaciers ,flooding in many low lying coastal area and harvest lose etc.

WHAT IS ENVIRONMENT?

Literally, the expression “environment” connotes surroundings. The environment contains air, water, food and sunlight etc. Environment affects all the living creatures including the plants and trees. A number of necessities of life are fulfilled rather derived from the environment. Thus, according to Section 2(a) of the Indian Environment (Protection) Act, 1986, the term “Environment” includes water, air and land and human beings, other living creatures, plants, micro-organism and property.

However, under Section 1(2) of the Environment Protection Act, 1990 of the United Kingdom, the term “environment” consists of all, or any of the following medium, namely, air, water and land and the medium of air includes the air within the buildings and the air within other natural or man-made structures above or below ground.

According to the Encyclopedia Britannica, the term “Environment” means the entire range of external influence acting on an organism, both the physical and biological and other organism, i.e., forces of nature surrounding an individual.

MAIN CAUSES OF ENVIRONMENT POLLUTION

The problem of environment pollution we face today is a complex consequence of force connected with various interrelating factor .There are clearly a number of divergent and conflicting view of what could be the basic factors under lying the environment crises .No single cause can be considered as the root cause of environment impairment .However the following cause of environment impairment .However the following cause could be pointed out as the generally underlying factor thought each of these too could be operating simultaneously and their balance may very from place to place and through time. They are

- A)Population Growth
- B)Increased general affluence and economic growth and
- C)Nature of Morden technology

Population Growth

An intimate relationship is found between human number (population) and environment .The impact of any human group on environment can be conceptually resolved into three factor population ,affluence material aspects of per capita

consumption of good and resource and technology of production .using appropriate indices these factor can be incorporated into an environment import equation as under.

Of the factors responsible for environment crisis the increasing population growth is directly related with more resource consumption .In order to meet the increasing demand and expectation of the increasing population enormous pressure is put on the earth's finite resource .The consequent result is depletion and despoliation of resource and generation of more and more waster which has to be disposed of into the environment.

Increased General Affluence and Economic Growth

It is true that poor cause damage to environment But the chunk of destruction by the poor is too small as compared to the damage caused by the rich ,poor destroy environment only to meet their basic need of survival under compulsions when other resource are either not available to them or the available ones are beyond their economic or paying capacity .Per capital consumption of resource by the poor is fairly small in comparison to that of rich .For instance per capacitor consumption of milk meat wood ,paper metal ,coal etc. Is 5 time higher in the developed countries as compared to the developed countries as compared to the developed world. The rich waste 150 to 500 litres of water direly .An average American flushed away more water down his toilets everyday than a poor family in the developed countries uses in three month .

c) Nature of Modern Technology

The nature of productive technology in recent years is closely related to the environment crisis commoner maintain that sweeping transformation of productive technology since world war 2 and Productive technology with intense impacts on environment have displayed less destructive ones 'This factor has been largely responsible for the generation of synthetic and non –biodegradable substance such as plastic ,chemical nitrogen fertilizer ,Synthetic ,detergent ,synthetic ,fibres ,big ,cars ,petrochemical and other environmentally injurious Industries and industries and disposable culture .Thus, environment crises is the inevitable result of a country ecological pattern of productive growth .Ecologically benign technology did and do exist but they are not utilization for they are considered inconsistent with the short –term interests of private profit maximisation .

To sum up all the factors discussed above have a great impact on man –resource –environment –equilibrium present rate of population growth cannot continue because they are already placing increasingly great demand in the planets finite resource.

American with just 6% of the world population consumes 30% of world energy. In contrast India with 16 percent of the global population consumes just 2 percent of the world's Energy. The consumption by united states amount to from one-fifth to one-third of the total minerals consumption of the world. The world is being polluted as the rich emit 80 percent of the poisonous gases into the environment from the factories case etc. consume more resource than required and generated more waste.

The sum up it is to be noted that it is not the poor who cause environment to suffer most but the rich and their of Hence. As Dr Anil Agrawal rightly puts it:

“The main cause of environment destruction in the world is the demand for natural resource generated by the consumption of the rich (whether they are rich nation or rich individual and group within nation or rich individual and group within nation and because of their gargantuan appetite it is their waste which mainly contribute to the global pollution load

SOURCE AND EFFECTS OF POLLUTION

Environment degradation or pollution is a complex phenomenon with interlocking economic, scientific, political and legal aspect our lack of knowledge of the functioning of the biosphere and the multiplicity of pollution varying in their composition, behaviour the manner of their entry into environmental makes identification of source and effect of pollution a difficult, complex and subtle task. The source of pollution are many, sometime common and over-looping. The effect also range from local to global. For the sake of convenience and brevity. We can discuss different source and effect it is desirable to understand the meanings of Environment pollution. There are mainly 5 types of environmental pollution viz. air pollution, water pollution, noise pollution, thermal pollution and soil pollution.

Sources and Causes

Industrial activities:

The industries all over the world that brought prosperity and affluence, made inroads in the biosphere and disturbed the ecological balances. The pall of smoke, the swirling gases, industrial effluents and the fall-out of scientific experiments became constant health hazards, polluting and contaminating both air and water. The inadequate disposal of industrial wastes resulting into formation of chemical waste are the main cause of soil and water pollution.

Dumping solid waste:

Household and commercial waste pollutes the environment when not disposed of properly.

Vehicles

The smoke emitted by vehicles using petrol and diesel and the cooking coal also pollutes the environment and causes air pollution. Further, the sounds produced by these vehicles produces causes noise-pollution.

Rapid urbanization and industrialization

The urbanization and the rapid growth of industrialization are causing through environmental pollution the greatest harm to the plant life, which in turn causing harm to the animal kingdom and the human lives. Interfering with water resource particularly construction of dams and project are today most controversial issues as there exists no adequate jurisprudence for fixing principle of liability and redress for dam disasters.

Combustion of fossil fuels:

The combustion of fossil fuels pollutes the air, the soil and the water with noxious gases such as CO₂ and CO.

Agricultural waste:

Fertilizers and pesticides used in agriculture are key causes of environmental pollution.

Effects

1. The polluting gases have an interesting effect on climate. Essentially, these gases form a veil around the planet which holds heat in, increasing the overall temperature of the planet. The rise in planetary temperature, or global warming, is not immediately noticeable, but a rise of a few degrees Centigrade causes

catastrophic changes in weather.

2. There is **radioactive waste** which causes various cancers to bloom in major cities and small towns all around while destroying ecosystems entirely.
3. Global temperature has risen significantly over the years. The protective atmosphere is further being polluted by methane gas released from melting icecaps. This is causing rampant weather issues around the planet.

NEED FOR ENVIRONMENTAL LAW: AN INDIAN PERSPECTIVE

Man is both creator and moulder of his environment, which gives him physical sustenance and affords him the opportunity of intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet, a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale.

The Tiwari Committee was set up in February 1980 to suggest administrative and legislative measures that ought to be taken for the protection of the environment. This committee submitted its report in September 1980 and made far-reaching recommendations. According to this report, the following five areas needed immediate attention for protection of the environment:

1. Land and water management.
2. Natural living resources.
3. Environmental pollution and environment impact assessment.
4. Human settlements.
5. Environmental education and awareness.

On the basis of the study and analysis of the laws the committee suggested many recommendations and some of the important ones are as follows:

1. Comprehensive review and reform of some Central and State Acts [such as the Insecticides Act, 1968; the Water (Prevention and Control of Pollution) Act, 1974; the Forest Acts, 1927].
2. To legislate on new areas of environment hitherto not covered by the existing laws, for example, concerning toxic substances.
3. Introduction of “environmental protection” in the Concurrent List of the Seventh Schedule.

The first UN (International) Conference on Human Environment held in June 1972 (from 5 to 16 June 1972) in Stockholm declared, “to defend and improve the human environment for present and future generations has become an imperative goal for mankind”. Therefore, it called upon the governments and people of the people to exert common efforts for the preservation and improvement of the human environment. Twenty-six principles were resolved in the conference which are known as the Magna Carta of on Human Environment.

The Indian Supreme Court has also pointed out, time and again, the UN Conference on Human Environment created an awareness for environment protection. It has also been observed that the concept of “sustainable development” was also introduced for the first time by the Stockholm Conference of 1972. Now, this concept has been accepted as a part of the customary international law.

JUDICIAL OUTLOOK AND ENVIRONMENTAL PROTECTION

In order that the human conduct may be in accordance with the prescription of law it is necessary that there should be appropriate awareness about what the law requires and there is an element of acceptance that the requirement of law is grounded upon a philosophy which should be followed. This would be possible only when steps are taken in an adequate measure to make people aware of the indispensable necessity of their conduct being oriented in accordance with the requirement of law. In a democratic polity dissemination of information is the foundation of the system. Keeping the citizens informed is an obligation of the Government.

In the instant case the Apex Court passed directions to the Central Government as follows:-

- i. Environmental pollution- Mass awareness through slide show, Radio and T.V.
- ii. Education- Environment to be made compulsory subjects in school and colleges.
- iii. In democratic polity it is the obligation of the Central Government

for ensuring mass communication. at

In the case of *Indian Council for Enviro- Legal Action v. Union of India*, it was held that even if it is assumed that Supreme Court cannot award damages against the private companies responsible for causing pollution in proceedings under Art. 32, that does not mean that the Supreme Court cannot direct the Central Government to determine and recover the cost of remedial measures from the private companies. Read with the wide definition of “environment” in S. 2(a), Ss. 3 and 5 of the Environment (Protection) Act clothe the Central Government with all such powers as are “necessary or expedient for the purpose of protecting and improving the quality of the environment.” The Central Government is empowered to take all measures and issue all such directions as are called for the above purpose.

In the case of *Municipal Council, Ratnam v. Vardhichand*, it was held that where there existed a public nuisance in a locality due to public drains, heaps of dirt, pits and public exertion by humans for want of lavatories and consequential breeding of mosquitoes, the Court could require the Municipality under Section 133 if Cr.P.C. and in view of Section 123 of the Municipalities Act to abate the nuisance by taking affirmative action on a time bound basis. When such order was given the Municipality could not take the plea that notwithstanding the public nuisance financial inability validly exonerated it from statutory liability.

In the case of *Sachidanand Pandey v. State of West Bengal*, it was held that whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Article 48-A of the Constitution and Article 51-A(g)... When the Court is called upon to give the effect to the Directive Principle and Fundamental Duty, the Court is not to shrug its shoulders and say that priorities are a matter of policy and so it is the matter for policy making authority. The least that the Court may do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the Court may go further, but how much further will depend upon the circumstances of the case. The Court may always give necessary directions. However, Court will not attempt to nicely balance relevant considerations. When the question involves the nice balancing of relevant considerations, the Court may feel justified in resigning itself to acceptance of the decision of the concerned authority.

CONCLUSION

The right to pollution free environment is regarded as a fundamental right under Article 21 of the Constitution of India, 1950. The judicial activism in matters relating to environment exhibits the anxiety of the Courts in India and the society in finding out adequate and effective remedies for environment problems. It is true that in recent past we have caused considerable damage to environment all around on account of industrialisation, urbanisation and population explosion at global level. The environmental Engineers/ scientists have issued the note of caution repeatedly regarding degradation of environmental standards which have reached at dangerous level mainly due to human activities.

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