



Review of Literature



ENVIRONMENTAL IMPLICATIONS ON NATURE, LEGISLATION AND SUSTAINABILITY: A REVIEW

Kamna Singh , Arpita Tiwari and Ankita Tiwari
Govt. S. G. S. College Sidhi M. P.

ABSTRACT:

Conscious of the intrinsic value of biological diversity and of ecological, genetic, economic, scientific, educational and aesthetic value of biological diversity and its components conscious also of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere. (Preamble, 1992 convention on Biological Diversity) Using the law to conserve nature, however, involves finding solutions to some complex policy issues. Looking space for the species and habitats to conserve often counters with legitimate social interest, such as economic development. This means nature conservation laws can be controversial policy area. If public interest is to be safe guarded with the protection and conservation of nature-sustainability is the answer. While discussing Indian Laws and Policies to protect and conserve nature this paper has real focus on the international concept of sustainable development. Valuing nature conservation are other than utilitarian and anthropocentric. Nature conservation i.e. conserving the wildlife and biodiversity as the matter of duty vested in the public and statutory bodies of every nation. Duty to enhance nature conservation is a duty that is not tide to protected areas only. Nature conservation is highly valued if the Law of

Land involves degree of damage and the form of compensatory measures. Nature of the Study Non Empirical (Doctrinal) Methodology Descriptive and Analytical. Sources used are secondary

KEYWORD: *Conservation, Mitigation, Adaptation, Utilization & Climate Change.*

INTRODUCTION:

Man is both a creator and moulder of his environment which gives physical sustenance and affords him

the opportunity for 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 accelerations of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and man-made are essential to his well-being and to the enjoyment of basic human rights – even the right



to life itself. (Stockholm Declaration, 1972) Human race as a whole is completely and totally dependent on the gifts of nature, right from oxygen, water, food, clothing, shelter and what not. Not only the human race even the living organisms are wholly dependent upon the natural environment for their needs and existence. As a matter of fact nature has given us everything for our survival on the mother earth but there is no reciprocity. In the last few decades there have been warning signals like global warming signals like global warming, depleting water, earthquakes, tsunamis etc.

It is high time we may relieve the challenges of future exploitation by conserving and preserving the nature and by making sustainable use of it. Conservation is a worldwide issue and the severity of problem varies from country to country. Environmental law in India, like in the rest of the world, has been a steadily growing phenomena. In the recent part, some significant changes in the law and jurisprudence governing the state of environment of India has been witnessed. This paper is a panoramic view of nearly the dimensions of the natural environment, i.e. Social, economic, legal, aspects and scientific analysis significant in regard to protection and preservation of nature.

Environmental Implications on Nature at Local Level :

The increased threat of environmental catastrophe in the present century has been due to the greater utilization of the natural environment and to a considerable extent the changed nature of waste material and effluents. Water, Air and Land are such natural resources through which man derives his basic sustenance and our dependence upon them is absolute as they constitute the support system of our existence and survival. Human being put pressure on the natural resources when it increased consumption in areas where resources are already scarce leads to depletion of Natural Resources. Mankind activity leads to depletion of environmental resources at regional and National Level for instance water resources local resources, land degradation and various types of pollution like Air Pollution, Solid Waste and Littering, Sewages, Aesthetic Pollution etc.

Noise Pollution is also a form of Air Pollution. It is an undesired sound leading to various defects. Human Population Explosion has also exerted pressure on all available resources leading to increased noise¹. In addition to causing annoyance, stress, and even hearing loss for humans, it causes distress to wildlife, especially in sensitive areas². Pollution is the ultimate direct consequence of manmade activities which bring long term changes in the local economies and ecologies.

Environmental Impacts at the Global Level Acid Rain:

This is also known as acid deposition. This is the combination of dry deposition of acidic substances and precipitation. The acidic conversion is usually the result of fossil-fuel burning which releases, sulphur dioxide and nitrogen oxide into the atmosphere. Acidic aerosols in the atmosphere are deposited via rain, snow, fog (wet deposition) or dry particles primarily due to discharges of gaseous sulphur oxides and nitrogen oxides either from anthropogenic sources or natural sources. In the atmosphere, these gases with water to form acids.

Ozone Depletion: Ozone layer shields the earth from dangerous (cancer-causing) ultraviolet (UV) from the sun). Chlorine gas from CFC's speeds breakdown of ozone in the ozone layer. Ozone depletion is the loss of destruction of the stratospheric ozone layer. This is usually affected by the catalytic actions of compounds containing chlorine, fluorine and/or bromine (Ozone hole was first detected in 1985. This hole appears every Southern Hemisphere spring (August to October) before disappearing during the summer months (December to January).

Climate Change : Climate scientists now generally agree that the Earth's surface temperatures have risen steadily in recent years because of an increase in the so-called greenhouse gases in the atmosphere, which trap heat from the sun. One of the most significant of these gasses is carbon dioxide (CO₂), which is generated when fossil fuels, such as coal, oil and natural gas are burned (e.g. industry, electricity generation, and automobiles) and when there are changes in land use, such as deforestation. In the long run, accumulation of CO₂ and other greenhouse gases in the atmosphere can cause global climate change a process that may already be occurring.

The Loss of Biological Diversity: Biological Diversity means the variability among living organisms from

all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part. The effects on loss of biodiversity-

- It threatens our food supplies, opportunities for recreation and tourism, and sources of wood medicines and energy.
- It interferes with essential ecological functions such as species balance, soil formation, and greenhouse gas absorption.
- It reduces productivity of ecosystems.
- It destabilizes ecosystems and weakens their ability to deal with natural disasters such as floods, droughts, and hurricanes, and with human-caused, such as pollution and climate change. (The conservation of biological diversity is one of the goals of CBD 1992).

CONSERVATION AND MAJOR CHALLENGES TO CONSERVATION:

Conservation is to preserve existing species and habitats for the future. Instead of trying to preserve only the best, we may reach more imaginative about the sort of natural heritage we want, or need, to meet future circumstances. Various reasons behind species and habitat conservation are Scientific Study, aesthetic or cultural value, economic and social benefits, genetic material for Pharmaceutical products etc. The deep ecology perspective is informed by the idea of symbiosis. It calls for the closer identification of the human reef with nature that could provide a rationale for nurturing higher ecological consciousness. A non-anthropocentric environmental approach could contribute to a change in popular consciousness and give conservationists the means to argue in less egoistic and more emphatic terms³. Although greater importance is placed on the commercially permitted species but above all the good reasons to take a precautionary approach to conservation.

Economy and Environment : Economic growth bears a dichotomous relationship to environmental degradation. Growth may result in excessive environmental degradation through use of natural resources and generation of pollution aggravated by institutional failures. The classical economic concept has been at the core of modern civilization where man has continued to plunder the natural resources so as to increase the extent of this wealth. But the flaw of the theory is that the concept of development has been made a dependent function of materialistic livings.

The economists define income as the maximum you can consume without eventually impoverishing yourself. But the green economists argue that sustainability is fundamental to the concept of income. Green economists set up to formulate natural resource Accounts that can measure the impact of resource degradation⁵. Conventional national accounts under value nature's contribution to our welfare and so make for unsound economics. Tons of pollutants are dispersed into the environment and the consequence of this is what we today define as the „Climate Change?. Focusing on such defects, green economists set up to formulate natural resources accounts that can measure the impact of resource degradation. The Green Economists set out the design of cost-benefit analysis that can enable Policy makers to make better choices⁶. The Kyoto Protocol, 1997 which has been guided by Article 3 of the UNFCCC, which is aimed at stabilization of greenhouse gas concentrations in the atmosphere at a level. That would prevent anthropogenic interference with the climate systems within a time frame sufficient to allow ecosystems to ensure that food production is not threatened and it is a sustainable maxmer (Kyoto Protocol, Article 3&4) gives three concepts called as clean Development Mechanism (CMD), Emission Trading (ET) and Joint implementation (JI) on the basis of optimal targets (cost-benefit analyses), instrument choice (market based instruments versus command and control, taxes versus tradable emission permits and so on (UNFCCC Article 3 (1)).

GEF – Global Environment Facility: GEF is also created as a financial mechanism for eco-friendly projects in developing countries looking for speedy economic growth and reduction of poverty. But the issue was contribution of money by member nations. The GEF mobilises new and additional grants to meet the excess cost, that poorer nations incur to achieve „global environmental benefits? in four areas; climate change, biodiversity, international waters and the depleting ozone layer. The GEF Council – Comprising 32 Nations – Pledged US \$ 2.75 billion replenishment for the new 4 years cycle beginning in June 1998. This included US \$ 0.76 billion carried

over unallocated from US \$ 2 billion pledged in the early (1994-1998) cycle. France and Germany promised extra money if arrears were recovered, largely from the U. S. and Italy. In India, grants in the last cycle had amounted to \$ 141.4 million. At the start, India received a new grant of US \$ 350,000 for a Delhi – based project to develop a fuel-cell powered bus⁷. Being a U. N. Mechanism, the GEF also plays a role in International Environmental Conventions. The International bodies like the United Nations Environment Programme, Organization for economic cooperation and Development and the World Bank have come to accept the concepts like Nature is not free give it value (Cost-benefit analyses) in the form of “Natural Resource Accounting”.

Responsiveness Towards Nature : Typically, ecosystems have some natural capacities to assimilate pollution. However, these vary considerably with the nature of the pollutant and the ecosystem. In general it is cheaper to reduce the emissions of pollution, than to mitigate it after generation, or to treat the receiving medium or receptor. The impacts of pollution may differentially impacts the poor, or women, or children, or developing regions, who may also have relatively low contributions to its generation, and accordingly the cost and benefits of abatement may have important implications for equity. E.g. Several organic waste streams may have adverse impacts on human health if ingested, but may have value as plant fertilizers.

The global economies are now making efforts to find such a solution. The Earth Summit (1992), Kyoto protocol (came into force in 2005), Copenhagen summit (2009), Cancun summit (2010), Durban summit (2011) and Rio+20 Earth Summit (2012) are some of the instances in recent times when world leaders came together to come up with a global sustainable solution for the challenges being posed by the altering climate pattern. But it has been very difficult for the countries to come on board on the issue. Abiding by the laws of nature and binding oneself to the commitment of environmental protection entails a tradeoff. The trade off is between cleaner and safer environment and reduction in economic growth rate. The irony is that every country gives paramount importance to economic growth and mass production. So, none of the countries actually want to initiate. Every other country wants to “Free Ride”, i.e. get benefits without paying the price. Again this problem can be better understood with the help of Game Theory’s problem of “prisoners Dilemma”.

Concept of Sustainability : The Brundtlan Report of October, 1987, which is considered to be the foundation of modern day work on Environment and sustainable development defines Sustainable Development. Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts.

- The concept of needs in particular the essential needs of the world’s poor, to which over-riding priority should be given; and.
- The idea of limitations imposed by the State of technology and social organization on the environment’s ability to meet present and future needs.

The concept of sustainable development highlights the relationship between the two i.e. man and his nature. Man can only succeed and prosper if he lives in harmony with his environment. Sustainable development literature value nature for its intrinsic value rather than its utility for human beings¹⁰. Nature was emphasized as a life support system and as a source of services for the utilitarian life support human kind required to be conserved and preserved not only for present but also for future generations.

Indian Legal Regime : The Legal regime of environmental protection and conservation is not new. However it is expanding with advancing science and the changing needs of the environment. There are several legislations aiming at protecting and conserving the environment apart from the environment protection Act, 1986. Following are certain laws and policies which have this primary focus on the protection of nature and conservation of species with their habitats in India.

Provisions of Water Pollution Act, 1974: At the World Summit on Sustainable Development (WSSD), water was described as one of the key five areas for particular focus, the other four being, Energy, Health, Agriculture and Bio-diversity. The Water (Prevention and Control of Pollution) Act, 1974 (hereinafter Water Act) was enacted for the purpose of prevention and control of pollution, and for maintaining or restoring the wholesomeness of water. The Water Act was enacted at a time when the country had already prepared itself to be a part of industrialization and urbanization. The need was keenly felt for the treatment of domestic and industrial effluents before they were discharged into rivers and streams.

Air (Prevention and Control of Pollution) Act, 1981: The Air Act contains several interesting features. First, the Act grants discretionary powers to each State Government to designate particular areas as air pollution control areas¹¹. Within a declared air pollution control area, neither the Board nor the State Government may exempt a polluter from the purview of the Act. It is mandatory for every industrial operator within an air pollution control area to obtain a permit (consent order) from the State Board.

Environment Act : The Environmental Protection Act is a general and comprehensive legislation designed to provide a framework for the Central Government's co-ordination of the activities of various Central and State authorities established under the previous laws such as Water and Air Acts. It is also an „enabling law?, which articulates the essential legislative policy on environment protection and delegates wide powers to the executive to enable bureaucrats to frame necessary rules and regulations. Since the time it entered the statute book, the Act has served to back a vast body of subordinate environmental legislation in India¹².

Delegated Legislation Under Epa Environment (Protection) Rules, 1986: The rule-making powers under the EPA are quite exhaustive and have varied dimensions¹³. The Central Government can make rules in respect of all or any of the matters referred in section 3 of the EPA. The first set of rules passed under the EPA was the Environment (Protection) Rules, 1986. These rules lay down the general procedure to be followed under the EPA, including standards for emission or discharge of environmental pollutants from industries; operations or processes¹⁴, issuance of directions along with procedural safeguards¹⁵, the guiding considerations for prohibiting and restricting location of industries and handling of hazardous substances in different areas.

Environment Audit : The submission of environmental audit report by persons carrying on industry, operation or process has been made compulsory and the same has been incorporated in the Environment (Protection) Rules through an amendment notification in the year 1992¹⁶. With a plethora of industrial ventures at the take-off stage of development, environment auditing recognizes self-regulation amongst the industry as a means to tailor environmental safe guards into industrial activities¹⁷.

Management of Hazardous Substances : Modern industrialized societies are experiencing the onslaught of hazardous substances and India is no exception. These hazardous substances are generated, used and discarded with high toxicity content which poses a great threat to human society, causing acute or chronic health problems. All this has raised concern to evolve mechanisms for the proper disposal management of such substances¹⁸.

Coastal Zone Management : India has got a rich and diverse coast line which covers more than 7500 Kms. out of which the mainland accounts for 5400 kilometers. These coastal zones have significantly rendered help in the development of natural coastal habitats and contributed to a great extent to the protection of environment. Natural eco-system, and the fragile natural resources characterized by diversity of habitats make the coastal areas of our country ecologically sensitive. But with the passage of time this rich coastal eco-system is today threatened by human activities which are mainly commercial in nature, making it very difficult to maintain its natural state¹⁹.

Eco-Labeling Scheme : The scheme is voluntary and operates at the national level. It provides accreditation and labeling of household and consumer products which meet the prescribed criteria for ECO mark and bears the Standard ISI Mark of the Bureau of Indian Standards to ensure compliance with the Indian Standards for quality, safety and performance of the product.

Environmental Impact Assessment: Environmental Impact Assessment (EIA) is one of the proven management tools for incorporating environmental concerns in the developmental process and improved decision-making. The growing awareness over the years about environmental protection and sustainable development has further given rise to a strong emphasis on sound environmental management practices through a preparation of Environmental Management Plans (EMPs) to minimize the impacts from developmental activities²⁰.

Public Liability (Insurance) Act, 1991 : There have been various legislative attempts to fashion the doctrine of strict liability in the laws relating to the handling of hazardous substances. Public Liability Insurance Act, 1991 (PLIA), is one such law that has been enacted „to provide immediate relief to persons affected by accidents occurring while handling hazardous substances. The Act provides for immediate relief through public

liability insurance to the victims of such accidents. This act provides maximum quantum of relief that can be granted in each case²³.

Biological Diversity Act, 2002: The Biological Diversity Act, 2002 (BDA) was enacted to provide for conservation of biological diversity, sustainable use of its components and fair equitable sharing of the benefits arising out of the use of biological resources, its knowledge and for matters connected therewith or incidental thereto.

Wildlife Law – 1972 :The Wildlife (Protection) Act, 1972 (WLPA) was passed by the Parliament for the purpose of protecting, propagating and developing wildlife and its environment²⁷. Animals are classified as mammals, amphibians, reptiles, fishes, birds, crustacean and insects, coelenterates, and mollusc in the Schedule to the WPA. Animals that are captured, kept, or bred in captivity are called captive animals²⁸. Regulation extend to the selling or transferring of wild animals or dealing in with them and various animal articles and trophies. Hunting of wild animals, keeping or breeding of wild animals in captivity and possession of animals articles or trophy against the rules are punishable offences under law²⁹. The WLPA provides for setting up of National parks and Sanctuaries where wildlife can receive protection.

National Water Policy, 1987

Important aspect of the policy is its stress on the maintenance of water quality. Improvement in the existing strategies and the invention of new techniques, resting on a strong science and technology base, are envisaged to eliminate the pollution of surface and groundwater resources.

National Forest Policy, 1988: The first ever statement on forest policy by the Govt. of India was issued in the year 1894 which broadly classified the forests of India into four categories such as: forests, the preservation of which was afforded a supply of valuable timber for commercial purposes, minor forests and pastures.

Policy Statement for Abatement of Pollution, 1992: The “Policy Statement for Abatement of Pollution, 1992” provides a comprehensive approach for the intergeneration of environmental and economic aspects in development planning.

Wildlife Conservation Strategy, 2002 : Wildlife Conservation Strategy, 2002, calls for protecting the interests of the poor and tribal living around the protected areas which need to be handled with sensitivity and with the maximum participation of the affected people. In 1984, the government adopted a National Wildlife Action Plan (NWAP). The Government has already implemented certain administrative measures for the conservation and development of wildlife in India such as, Biosphere Reserve Project Tiger and Project Elephant. The concept of biosphere reserves has emerged from the UNSECO sponsored Man and Biosphere (MAB) programme and is an important measure for conservation and development of tropical forest systems. Project Tiger was launched in 1973 with the help of the World Wide Fund for Nature (WWF) and the International Union for Conservation of Nature and Natural Resources (IUCN).

National Environment Policy, 2006 :The National Environmental Policy (NEP), 2006, seeks to extend the coverage provided by the aforesaid policies, and fill in the gaps that still exist, in the light of available knowledge and accumulated experience. It is based upon the following three foundational aspirations.

1. Human beings should be able to enjoy a decent quality of life;
2. Humanity should become capable of respecting the finiteness of the biosphere; and
3. Neither aspiration for good life, nor recognition of biophysical limits should preclude search for greater justice in the world.

Awareness of environmental problems when it brings people into closer contact with nature and the environment. This confrontation may heighten awareness of the value of nature and lead to environmentally conscious behaviour and activities to preserve the environment. Various Steps and Schemes Initiated by the Government of India towards Environmental Protection and Conservation As Follows:

Swachh Bharat Abhiyan (English: Clean India Mission) : abbreviated as SBA or SBM for is a national campaign by the Government of India, covering 4,041 statutory cities and towns, to clean the streets, roads and

infrastructure of the country. The campaign was officially launched on 2 October 2014 at Rajghat, New Delhi, where Prime Minister Narendra Modi himself cleaned the road. It was performed in remembrance of Mahatma Gandhi's words. It is India's biggest ever cleanliness drive and 3 million government employees and school and college students of India participated in this event. "The government has collected Rs. 329.6 crore in a month's time from the 0.5 per cent Swachh Bharat Cess which is imposed on all taxable services, the Parliament was informed on Tuesday." The provisions figures of Swachh Bharat cess collected till December 16, 2015, is about Rs. 329.6 crore," MoS Finance Jayant Sinha said in a written reply to the Rajya Sabha. The government had imposed the cess with effect from November 15 to fund Swachh Bharat programme. Between November 15 and March 31, 2016, the revenue estimated to be collected is about Rs. 3,750 crore, Mr. Sinha said. The Minister added that the proceeds collected through the cess would be allocated to the state governments to fund Swachh Bharat initiatives. The amount estimated to be collected from Swachh Bharat cess on all taxable services which are not exempt or in negative list in a full financial year is about Rs. 10,000 crore. Revenue for the next financial year has not been estimated so far, he said. With the Swachh Bharat cess, the Service Tax rate has gone up to 14.5 percent from 14 percent".

CONCLUSION AND RECOMMENDATION:

The proper environmental management requires that society and man's demands should be so regulated the natural environment is able to sustain the need for the development. It asks no more than that we should live today with tomorrow in mind, that we do not snatch momentary prosperity for ourselves at the expense of the very survival of our children.

To promote a more pro-environmental approach to life, people must deepen their understanding and awareness of the relationship between people and the environment. Learning opportunities that impart information and knowledge of the environment must be provided foundation at the formative stage of life. Engaging in environmental activity requires a sense of direct involvement, that is, a sense of responsibility as a member of the global community or an awareness of participating in environment preservation. Unless local communities themselves are involved in the selection and use of these technologies, they are unlikely to benefit from their implementation and these technologies interventions will be unsustainable in the long term.

Role of the International Law: The role of international law is of great significance in the matters of compliance and enforcement of international environment instruments, which are most crucial for the protection of environment. Their unregulated consumption of natural resources is depriving people in the developing world from these resources. Hence, there is an urgent need to regulate the consumption or exploitation of the natural resource in a sustainable manner. For this purpose, the state, governments and NGO's have a crucial role to play in the enforcement of environmental conventions. It is of utmost necessity that the nations of the world must follow the course of common policy and co-ordinate action by framing strategies for survival at least in following vital areas, viz., the climate change, the ozone depletion, and the protection of biodiversity. Nations must formulate a strategy for planet Earth based on collective responsibility to meet the challenge posed by environmental degradation.

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