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"A Study on the Necessity of Environmental Protection in India"

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Abstract

Several Articles and Schedules of the Constitution clearly state our nation's commitment to environmental conservation and resource management. In the past three decades, a number of laws devoted solely to resource conservation and management and pollution control have been passed, and special statutory authorities have been established to ensure their successful implementation. Despite the abundance of environmental laws, many of these rules remained on paper without receiving the required amount of attention from statutory authorities for obvious reasons. The study examines the necessity of environmental protection in India, focusing on the country's unique environmental challenges, the potential consequences of inaction, and the benefits of proactive measures. India, with its rapidly growing population and expanding economy, faces a range of environmental issues that require urgent attention. This study aims to shed light on the critical role of environmental protection in sustaining India's long-term development and ensuring a healthy and prosperous future for its citizens.

Keyword: - Constitution, Conservation, Implementation, Statutory, Population, Protection.

Introduction

Man is both a product and a molder of his environment, which provides for his bodily needs and allows him the chance to advance intellectually, morally, socially, and spiritually. Through the rapid advancement of science and technology, man has reached a point in the long and

arduous evolution of the human species on our planet when he has the ability to modify his surroundings in untold numbers and on an unparalleled scale. Man's well-being and the enjoyment of fundamental human rights, including the right to life itself, depend on both the natural and man-made components of his environment. Every aspect of the world is sacrosanct, according to Justice Chinappa Reddy.

In the memory and experience of any people, every shining pine needle, sandy beach, faint mist in the deep woods, and every brave and buzzing bug is holy. The memories of the red man are carried by the sap that flows through the trees. The earth is a part of us, and we are a part of it. The horses and the large eagle are our brothers; the scented flowers are our sisters. The body heatof the pony, the juices in the meadows, the stony crusts, and people all belong to the same. Since the beginning of time, man has continuously exploited the environment to satisfy all of his needs and desires, from the most basic demands of food, drink, shelter, and clothing to his compulsion for a lavish lifestyle. Recent population growth has put an unbearable strain on the environment, as has modern man's insatiable desire for comfort and luxury. Added to this is the increasing pollution caused by rubbish being dumped carelessly without even pausing for cleanup or restocking? A number of pollution-related catastrophes, including acid rain, nuclear spillover, the greenhouse effect and glacial melting, the loss of forest cover, and the unrestricted passage of dangerous ultraviolet rays into the atmosphere, have been caused as a result. According to a research by the World Wildlife Fund that will soon be made public, humanity won't be able to survive on the planet after the year 2050. It issues a warning that the rate at which humans are destroying the earth is outpacing its ability to sustain life. According to the analysis, if natural resources are continued to be mined at the current rate, man would need to find at least two planets in order to survive.

Review of Literature

Mahesh Mathur (1999) covered a variety of pollution types, environmental management techniques, and environmental protection under various laws, common law remedies, unique Constitutional provisions, and other laws. He also presented special environmental legislation for India.

In their 2000 article, Dr. P.S. Jaswal and Nishtha Jaswa discussed environmental protection and sustainable development, as well as India's religious and cultural heritage, remedies for

environmental pollution, various constitutional and legislative provisions, judicial attitude, the concept and international perspectives of sustainable development, and appendices with detailed international provisions and national enactments.

The broad spectrum of topics on environmental quality was covered by Justice V.R. Krishna Ayer. The book is a treasure of legal knowledge on the hotly debated topic of "Environmental contamination." It is split into two sections. Articles and a case study are in Part I, while the laws enacted by the Indian government to safeguard the environment are in Part II.

Objectives of the Study

- To research the environmental protection provisions in the Constitution.
- To evaluate the High Court's and Supreme Court's perspectives on environmental concerns.

Hypothesis of the Study

- By interpreting numerous constitutional and legislative laws in the interest of the environment and preserving the citizens' right to a clean and healthy environment, the judiciary has played an equally active part in environmental protection.
- Laws against environmental contamination are ineffective due to a variety of flaws in the environmental protection (Act of 1986).
- A thorough legal framework is necessary for ongoing improvements in preserving ecological equilibrium.

Data Collection and Research Methodology

Several legal sources, including commentary and case laws, have been cited in order to determine the environmental jurisprudence. Additionally, revisions have been made to the national environmental moments, international conventions, treaties, declarations, and the judiciary's role in the creation of legislation. The researcher has also done study to show how rights, the environment, and development are all interconnected. The secondary data are the foundation of this investigation. The information was gathered from a variety of authoritative text books, book reviews, reports, digests, periodicals, magazines, newspapers, weekly publications, websites, and other legal and non-legal sources. Additionally, some informationwas obtained from the debates in the Constitutional Assembly as well as the rulings of the Supreme Court and different High

Courts in India. The nature of the current study is descriptive.

Source: Vedas and Shastras

India is not a recent adopter of the idea of environmental preservation and protection. Our norms, traditions, and laws have always included both the theory and the practice. The five elements of nature have been emphasized throughout history and have been cherished and adored. Vedic literature is packed with passages for maintaining and protecting the environment, as well as for preventing pollution and the environment.

Scriptures such as the Vedas, Puranas, Upanishads, and others discuss how dependent man is on environment and the significance of preserving ecological equilibrium. The Mahabharata forewarns us that while just a few can pollute and defile, the entire society may contract many ailments. [4] In the Arthasastra, Kautilya makes numerous recommendations for the preservationof the environment. The regulations outlined by Kautilya with regard to forests include the state's protection of forests, fines for cutting down trees and plants in parks and destroying forests, fines and punishment for endangering animals, the establishment of forests, animal reserves, and the payment of hunting licence fees. In his Fifth Pillar decree, Ashoka forbade the slaughter of some animals and birds, the clearing of forests, and the killing of other animals on particular days. Jainism places a strong emphasis on preserving natural resources as much as possible for the welfare of humanity. The Guru Granth Sahib also underlines how the five elements of nature make up human beings.

Results and Discussions

By interpreting the numerous constitutional and legislative laws in the interest of the environment and preserving the citizens' right to a clean and healthy environment, the judiciary has played an equally active part in environmental protection. The executive magistrate is given the authority to end public disturbance under Section 133 of the Criminal Procedure Code (CrPC) if it is brought to his attention by a complaint or police report. The clause wasn't initially used much for environmental protection, but Ratlam v. Vardhichand, a case involving theMunicipal Council, added fresh environmental content to the law of public nuisance. In this instance, the Ratlam residents complained to the district magistrate about the offensive smell coming from open drains. The district court then ordered the council to establish a time-bound plan to cover the drains within

six months. The council filed several appeals. The top court ruled that municipal governments cannot shirk their responsibility to provide residents with necessities. The Ratlam case demonstrates how effective the law of public nuisance is at stopping or controlling environmental ills.

The court's attempts to achieve a balance between growth and the environment are evident in the rulings from the past two decades. Uncontrolled limestone mining was held to have contributedto an ecological imbalance in the Doon Valley in the case of Rural Litigation Kendra v. State of U.P. The court intervened and commanded that mining operations cease. In the case Indian Council for Enviro-legal Action v. Union of India, where pollution and waste from an industrial plant harmed the village of Bichhri and nearby villages, the court ruled that polluting industries could be required to pay for remedial measures. In Sachidanand Pandey v. State of West Bengal and Goa Foundation v. Konkan Railway Corporation, the court supported the construction of hotels in zoological gardens and ecologically sensitive areas, respectively.

A public interest lawsuit called Kinkri Devi v. State was brought about by claims that the unscientific and unrestrained quarrying of limestone had harmed the Shivalik Hills and posed a threat to the local ecology, environment, and residents. The Himachal Pradesh High Court cited the Doon Valley case in arguing that failure to properly harness natural resources in order to strike a fair balance between development and the environment constitutes a breach of Articles 14, 21, 48-A, and 51A(g) of the Constitution. The Court correctly noted that while natural resources must be used for social progress, they must be used with extreme caution in order to prevent catastrophic environmental and ecological damage. The natural resources belong to humanity forever and are not meant to run out in a single generation. There may not eventually be any true economic growth and prosperity if the industrial growth sought after by irresponsible mining results in loss of life, loss of property, loss of amenities, and creation of ecological imbalance. The State Government was given a temporary order by the court to form a committee to look into the matter of how mining leases should be granted and whether it is necessary to do so while keeping environmental protection in mind. It is argued that the Court's concern for "sustainable development" is manifestly present in this case as well. The principle of the Rio Declaration, which directs States to generally apply the precautionary approach in accordance with their capacities and that efforts must be made to foresee, prevent, and address the causes of pollution, served as the

court's guiding. It also led to the development of the rule that, whenever an activity is contested, the burden of proof rests with the developer or manufacturer to demonstrate the activity's environmental safety. 'Clean air jurisprudence' and stone crushing Stone crushers contribute to industrial air pollution, which has an impact on citizens' rights to clean air and a pollution-free environment. The Supreme Court incorporated the right to a healthy environment as a component of the Right to Life inherent in Article 21 in Indian Council for Enviro-Legal Action v. Union of India. Therefore, the concept of the right to life as it is described in the article encompasses more than only animal survival. It includes the right to live healthfully. In MP Rambabu v. Divisional Forest Officer, the Andhra Pradesh High Court made the accurate observation that "A person has a right to a decent living, good environment, and maintenance of ecology." As a result, when we discuss environmental degradation, we also discuss violations of Article rights. Our Constitution's Article 48-A, which states that "The State shall endeavour to maintain and improve the environment and to safeguard the woods and wildlife of the country," lays out the State's obligations with regard to environmental protection. According to Article 51-A(g) of our Constitution, which states: "It shall be the duty of every citizen of India to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures," environmental protection is a fundamental responsibility of every citizen of this nation. Directive Principles of State Policy are covered by Article 48-A of the Constitution, and Fundamental Duties are covered by Article 51- A (g). According to the Inter-American Commission on Human Rights, as the environment and human life are intertwined, "the fulfilment of many human rights is unavoidably related to and insome ways dependent upon one's physical surroundings." As a result, human rights tribunals are increasingly admitting that "environmental harm can degrade and weaken all human rights." The Kerala High Court's decision in the Silent Valley case (1980), where the Court declined to challenge the State government's position about the environmental impact of a hydropower project, serves as an illustration of "judicial restraint." According to the verdict, Kerala's legislature unanimously backed the project, and it would be wrong for the judiciary to intervene. However, this caused a stir, and the project's sustainability was subsequently reconsidered. The legal battles over the Tehri Dam (1992) and the Dahanu Thermal Power Plant (1991), both of which had made it to the Supreme Court, reveal a somewhat strict level of "judicial review." Even though the final verdicts favored the project proponents, the Court did look at the government's thoroughness in determining how the planned

projects would affect the environment. Though some have stated that the courts lack the technical knowledge required to evaluate the pertinent reports and data, I must admit that judges are well-suited to judge whether the relevant agencies have taken the necessary steps to research and ascertain the potential environmental impacts. The Calcutta Taj Hotel Case (1987) is an illustration of the Supreme Court applying a strict standard of judicial review. In this case, the Court thoroughly investigated the government's approval of the construction of a medium-rise hotel in spite of concerns that it would obstruct migratory birds' flight paths. In the years that followed, there seems to have been a growing consensus in academic and media circles that the higher judiciary's overall attitude to environmental lawsuits can be characterized as "active" in nature. The ruling in the Dehradun Valley case serves as a notable illustration of this activism in assessing the environmental impact of commercial operations justified in the name of development (1985). To investigate the negative impacts of the illegal and indiscriminate mining activities taking place in the Uttarakhand region, the court in that case itself formed a committee. In order to evaluate if the demand might be met by mining in other locations, the respondent government was also requested to demonstrate the national relevance of the lime-stone obtained from certain quarries. In Tarun Bharat Sangh, Alwar v. Union of India, the court took a strong stance against the proprietors of mines that were being run inside reserve forest areas. A similar strategy was used in that case. The court in both of the aforementioned cases created impartial expert panels to determine how the commercial operations affected the environment.

Conclusion

When it comes to pollution regulation, I must once again emphasize that the Bhopal Gas Leak tragedy's aftermath was arguably the most significant catalyst for the development of environmental law in India. Upendra Baxi, a renowned professor, has noted that the Bhopal Gas Leak involved two disasters: first, the significant loss of life; and second, the lack of a clear legal framework to provide redress to those impacted. The notion of "absolute liability"[23], which constituted a distinct divergence from the reliance on conventional tort law ideas such as "public nuisance" and "strict liability," was developed by the Supreme Court in this context. [24] It was decided that, regardless of any negligence on their part, the occupants of premises where dangerous activities were conducted would be accountable to third parties for harm suffered as a result of such activities. The "polluter-pays principle," which had gained prominence in international talks, was

quickly acknowledged when the "absolute liability" theory was established.

As a result, the legislature, executive branch, and judicial branch have all worked together to advance environmental law in India. The actions of the government and courts have been greatly influenced by the activities of environmental activists and organizations in bringing environmental issues and region-specific challenges to the fore. Environmental deterioration can be stopped and the objective of sustainable development can be achieved thanks to the active roles played by the legislature in creating laws and the court in interpreting them.

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