ANALYSIS AND EXPLORATION OF SUSTAINABLE ENVIRONMENTAL JOURNEY IN INDIA[1]

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Abstract: The present-day consensus reflects three foundational aspirations. First, that human beings should be able to enjoy a decent quality of life, second, that humanity should become capable of respecting the finiteness of the biosphere, and third, that neither the aspiration for good life, nor the recognition of biophysical limits should preclude the search for greater justice in the world. In a planetary system of finite resources, human activities motivated by an attitude of rampant consumerism and unsustainable patterns of production and consumption have never been so inhuman and callous towards environment as in the modern era of scientific and technological innovations. Man's greed attacks nature, environment and ecology and wounded nature backlashes on the human future. Environment has clearly emerged as one of the big issues, perhaps the biggest contemporary issue we face. During the past few decades numerous incredible and devastating events have focused the domestic and global attention to the impending danger of environmental devastation, the depletion of resources, and a massive extinction of species. Issues such as climate change, trends in global warming. Ozone depletion, acid rain, deforestation, desertification, toxic wastes and loss of biological diversity have resulted in increasing global awareness of the problem facing the planet earth.
[Gyanendra Tripathi & Dr. Ashish Kumar Singhal. **ANALYSIS AND EXPLORATION OF SUSTAINABLE ENVIRONMENTAL JOURNEY IN INDIA.** *Rep Opinion* 2025;17(7):1-6]. ISSN 1553-9873 (print); ISSN 2375-7205 (online). http://www.sciencepub.net/report. 01. doi:10.7537/marsroj170725.01

Key Words: Contemporary; Consumerism; Unsustainable; Environmental Devastation; Extinction of species

Introduction:

The present-day consensus reflects three foundational aspirations. First, that human beings should be able to enjoy a decent quality of life, second, that humanity should become capable of respecting the finiteness of the biosphere, and third, that neither the aspiration for good life, nor the recognition of biophysical limits should preclude the search for greater justice in the world. In a planetary system of finite resources, human activities motivated by an attitude of rampant consumerism and unsustainable
patterns of production and consumption have never been so inhuman and callous towards environment as in the modern era of scientific and technological innovations. Man's greed attacks nature, environment and ecology and wounded nature backlashes on the human future[2]. Environment has clearly emerged as one of the big issues, perhaps the biggest contemporary issue we face. During the past few decades numerous incredible and devastating events have focused the domestic and global attention to the impending danger of environmental devastation, the depletion of resources, and a massive extinction of species. Issues such as climate change, trends in global warming. ozone depletion, acid rain, deforestation, desertification, toxic wastes and loss of biological diversity have resulted in increasing global awareness of the problem facing the planet earth. One of the distinguishing features of holism is the view that humans are not necessarily seated at the top of the ethical hierarchy. Holistic arguments that draw attention to the interdependence of ecosystems have forced philosophers to reappraise the human-nature relationship and to think seriously about the duties one owes to the natural world. However, an ideology also needs a coherent political dimension, including a strategy for political change and a policy programme. Ecocentrics have been criticized for being more concerned with getting the philosophy right, for example, elevating the anthropocentric debate into a litmus test for greenness, rather than develop political

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programme for change. [3] Consequently, as environmental politics has become more mainstream, so environmental activism has become increasingly reconciled to reformist strategies, within the legislative process and the boundaries of civil societies. Should one assess this development? Not surprisingly, since the1980s, sustainable development has become the dominant polity discourse, not just for governments, international organisations, businesses, but also for environmental movement itself. Even the 1992, Rio Declaration of the UN Conference on Environment and refers to the 'further development of international law in sustainable development'. The UN Environment Program adopted more nuanced approach, where 1997 Nairobi Declaration refers to 'international environmental law aiming at sustainable development.

Introduction

Almost every national government in the United Nations now has a minister and a department tasked with policy on the environment, and many regional and local governments have also developed this capacity. Since 1992 the volume and quality of environmental legislation (international, national and local) has expanded hugely, and international agreements (such as the Kyoto Protocol) have not only raised the profile of environmental change but also begun to drive global policy change. Public awareness of environmental and social issues in development are in many cases now well developed. Citizens in almost all countries not only know the issues, but also tend to feel that the quality of the environment is important both to their own well-being and to the common good. The 'greening' of business has grown to be a central issue in corporate social responsibility for many global companies.

India also plays an important role in several significant international initiatives concerned with the environment. It is a party to the key multilateral agreements, and recognizes the interdependencies among, and transboundary character of, several environmental problems. The Indian Constitution is amongst the few in the world that contains specific provisions on environmental protection. The directive principles of state policy and the fundamental duties chapters expressly enunciate the national commitment to protect and improve the environment.[4]

Sustainable development of environment through statutory provisions and judicial pronouncement

Judicial interpretation has strengthened the constitutional mandate. Though part III of the Constitution does not contain any provision to provide right to pollution free environment fundamental right, but in view of the liberal interpretation given to article 21 coupled with articles 48-A and 51-A(g), the Supreme Court interpreted the right to life and personal liberty to include the right to a wholesome environment Hygienic environment is an integral part of the right to a healthy life. It would be impossible to live with human dignity without a humane and healthy environment. The courts laid stress on the duties of the state and citizens combined in articles 47, 48-A and 51-A(g) of the Constitution of India. It is recognized that maintaining a healthy environment is not the state's responsibility alone, but also that of every citizen. It has been stressed that a spirit of partnership should be realized throughout the spectrum of environmental management in the country. While the state must galvanize its efforts, there should also be recognition by each individual natural or institutional, of its responsibility towards maintaining and enhancing the quality of the environment.

India employs a range of regulatory instruments to preserve and protect its natural resources. Administrative agencies created under environmental statutes are required to implement legislative mandates. The present legislative framework is broadly contained in the umbrella, Environmens Protection Act, 1986, the Water (Prevention and Control of pollution) Act, 1974; the Water Cess Act, 1977; and the Air (Prevention and Control of Pollution) Act, 1981. The law in respect of management of forests and biodiversity is contained in the Indian Forest Act, 1927; the Forest (Conservation) Act 1980, the Wild Life (Protection) Act, 1972; and the Biodiversity Act, 2002. There are several other enactments, which complement the provisions of these basic enactments[5]. Recently promulgated National Environment Policy, 2006 and The National Green Tribunal Act, 2010 with its regulation 2023 is also intended to be a statement of India's commitment in making a positive

[3] . Norton Bryan, Toward Unity Among Environmentalis (1991)

[4] Constitution of India: Art. 48-A: The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country, and Art.51-A (g): It shall be the duty of every citizen of India to protect and Improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.

[5] For example, Environmental (Protection) Rales, 1985, Laws relating to Hazardous Wartes, Eco-Labeling and Environment Impact Assessments Notifications, to name a few.

contribution to international efforts. Environment has been defined in holistic terms as, "comprising all entities, natural or man made, external to oneself, and their interrelationships, which provide value, now or perhaps in the future, to humankind. Environmental concerns relate to their degradation through actions of humans[6]. This policy has evolved from the recognition that only such development is sustainable, which respects ecological constraints, and the imperatives of justice and are to be realized through various strategic interventions ty different public authorities at central, state, and local government levels. They would also be the basis of diverse partnerships.

The development of environmental jurisprudence in Indis is largely

the story of judiciary responding to complaints of its citizens against environmental degradation and administrative sloth."[7] In order to reap the benefits of substantive environmental rights, courts have opened a path of processual justice, without enslaving themselves to procedural compulsions. The judiciary has assumed a pro-active role of public educator, policy maker, super-administrator and more generally, amicus environment and on appropriate occasions sought inspiration from international laws and principles to reinforce, strengthen and widen the environmental discourse in India. The international concept of sustainable development is one such international principle on which judiciary especially the Supreme Court has recently relied upon to sustain the growth of environmental jurisprudence. Many principles are found out to emanate from the concept of sustainable development, for example, the Supreme Court has found out that intergenerational equity, use and conservation of natural resources, environmental protection, polluter pays principle, precautionary principle, obligation to assist and co-operate, eradication of poverty and financial assistance to the developing countries are some of the principles that have emerged out from the sustainable development concept. The Indian judiciary for strengthening and supplementing the existing environmental legal regime has duly called in to rely upon the aforesaid principles of sustainable development[8]. Some of the significant cases that contributed towards the development of environmental jurisprudence and highlighting judicial activism vis-a-vis environment protection are discussed as under:

Greening the law of public nuisance, the Supreme Court in Municipal Council, Ratlam v. Vardichand identified the responsibilities of local bodies towards the protection of the law of public nuisance in the Code of Criminal Procedure as a potent instrument for enforcement of their duties. V.R. Krishna lyer J. in this case observed[9]

Decency and dignity are non-negotiable facets of human rights and are a first charge on local self-governing bodies. (Similarly) providing drainage systems-not pompous and attractive, but in working condition and sufficient to meet the needs of the people can not be evaded if the municipality is to justify its existence.

In the above case the Supreme Court also rejected the plea of the municipality of insufficiency of funds. The court pointed out that "financial constraints cannot validly exonerate the municipality from performing its statutory liability even the Human Rights under part III of the Constitution have to be respected by the State regardless of budgetary provision.[10]

In Rural Litigation and Entitlement Kendra Dehradun State of UP[11] the apex court delicately poised the balance between environment and development. Favouring ecological integrity against industrial demands on forest resources, the court considered the hardship caused to the lessees but thought that 'it is a prize that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance to ecological balance[12]. Workers were to be rehabilitated by employing them in the reclamation, afforestation and soil conservation programmes in the area.

Treating the environmental problem within a right-duty discourse, the cort in Duwadhar Rao v.5.0 Municipal Corporation, Hyderabad observed that the protection of environment is not only the duty of the

[6] 35. National Environment Policy, 2006

[7] Shyam Divans and Armin Rosencranz, Environmental Law and Policy in India (2001), for example, how the court expanded Godavaraman case (AIR 1996 SC 1040) from a matter of ceasing illegal operations in one forest into a reformation of the entire country's forest policy.

[8] P. Leelakrishnan, Environmental Law in Jadia 248 (2005)

[9] AIR 1980 SC 1622

[10] AIR 1980 SC 1622; also available in, Govind Singh. Shanti Swaroop, AIR 1979 SC 143, PC Cherian State of Kerla, 1981 Ker LT 113, Ram Baj Singh (De) Babulal, All 1982 ALL 285, State of MP. Kedia Leashir & Liquor Lid, (2003) 7 SCC 359 40. 14 at 1629.

[11] AIR 1985 SC 652

[12] Id at 656

citizens but also the obligation of the state. The court further held

Environmental law has succeeded in unshackling man's right to life and personal liberty from the clutches of common law theory of individual ownership. There can be no reason that the practice of violent extinguishment of life alone would be regarded as violative of Article 21 of the Constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and spoilation should also be regarded as amounting to violation of Article 21 of the Constitution.

In the development of jurisprudence of environmental discourse in India, the couts have evolved new doctrines to cope with the menacing problem of environmental pollution and degradation. The journey from Stockholm Conference to the Johannesburg Summit led to the recognition that all human beings are entitled to a healthy and productive life is harmony with nature.------

NGT decisions / orders are in consonance with section 20 of the NGT Act. 2010

The National Green Tribunal (NGT) was constituted to provide for elective and expeditious disposal of the cases involving multidisciplinary issues relating to environmental protection and to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

N. Chellamuthu v. The District Collector[13]

The National Green Tribunal has shown serious concern for providing wrong information in the Environment Impact Assessment (EIA) reports, the NGT set aside the environmental clearance granted to the municipal solid waste processing plant Municipal Corporation of Chennai for providing false information in the Environment Impact Assessment (EIA) Report.

Hussain Saleh Mahmad Usman Bhai Kara v. Gajarat State Level ELA Authority and Others[14]

The NGT suspended environmental clearance to Scania Steel and Power Ltd. for expansion of its sponge iron plant in Chhattisgarh in the absence of public hearing. In this case, the Tribunal directed the Ministry of Environment and Forests (MoEF) to develop proper mechanism to check the authenticity of environmental data .It further directed to blacklist those Environment impact Assessment Consultant who provided the wrong data.

Ranjana Jetley v. Union of India[15]

The original application were filed in NGT against the proposed widening of sectoral roads involving cutting number of trees in front of National Media Centre (NMC). The contention of the applicants is that there will be significant air and noise pollution problems due to movement of traffic in the area due to cutting trees which were acting as a buffer and reducing noise and dust pollution. The tribunal observed that the concept of sustainable development is to be considered in terms of the pressing requirement of expanding infrastructure pertaining to transport sector.

Ndtv Dated 28.02.2023 v. Union of India & Ors[16]

This case has been taken up suo-motu in the light of captioned media report of death of two persons and injuries to other two in an explosion in Ven Petrochem & Pharma India Pvt. Ltd. (Project Proponent -PP), Valsad, Gujarat on 28.02.2023. The court was informed that the total amount paid by the project proponent (Ven Petrochem & Pharma India) to the victims was Rs 10 lakhs to heirs of each of the deceased. This amount the court said was neither adequate as per provisions of the Workmen Compensation Act nor as per scale of minimum compensation awarded by the NGT in many of the cases. Thus, the NGT directed the project proponent to pay a further amount of Rs 10 lakhs to heirs of each of the deceased and Rs 10 lakhs be paid to each of the injured. In addition the authorities have been asked to ensure compliance of safety protocols in the light of a report of the joint committee constituted for the purpose.

Conclusion

The idea of sustainable development put forth in Our Common Future was primarily designed to provide a normative-conceptual bridge for joining environmental concerns with developmental possibilities .The policy implications that flow from this framework are depend

upon the assumptions made about limits - ecological, social, cultural technological, economic and, not least, political. The concept of sustainable development is presented against a background of assumptions as to

[13] Original Application No. 20/2011 (Principal Bench, New Delhi)

[14] Transfer Appeal No. 19/2011 (Principal Bench, New Delhi).

[15] Original Application No 120, 127, 155 and 156 of 2013 (order dated 1st April 2014), (Principal Bench, New Delhi),also in M.P. Patil v.Union of India and others appeal no. 12/2012

[16] Original Application No. 150/2023(Principal Bench, New Delhi).

moral duties and obligations. The commission proclaims that the issues raised in the report are ‘of far reach importance to the quality of life on earth - indeed to life itself 'they have tried to show how human survival and well-being depends on success in elevating sustainable development to a global ethic.This global ethic is constructed on the assumption of duties as obligations in a specific historic context of growing ecological awareness, ecological threats and widening north-south disparities agendas. It is in this broader context that the binding between the of development' and the 'proviso of sustainability' must be understas a comprood as a comprehensive ethical position.This is a critical moment in earth's history, a time when human must choose its future. Our dear planet earth is perhaps the only human habitat in the vast universe and we owe it to posterity preserve the divine heritage of our biosphere without pollute degradation and destruction. We must join together to bring forth sustainable global society founded on respect for nature, universal hrights, economic justice and a culture of peace. To elevate sustainable development to a global ethic, we must work against the background of assumptions as to moral duties and obligations. Towards this end it is imperative, that we declare our responsibility to one another, ta the great community of life, and to future generations. In order to build a sustainable global community, the nations of the world must renew their commitment to the United Nations and fulfill their obligations under existing international agreements, which depend upon the behaviour of the governments and will of the people. The challergs is to save and restore the earth. Effective global revironmental policies need to be evolved through coordination and cooperation of international community.

The process of globalization has produced such a high degree of interconnectedness, interaction and development of global communities of common discourse, that the emergence of global ethical thinking is an inevitable concomitant to such developments. The ethic must be global in scope, that is, to be a common universal ethic which includes a commitment to global responsibility. To be truly motivational by bring both emotionally and intellectually engaging, the ethic that is needed one, which confines concerns for human well-being with concerns for the environment. The former relates to the moral ground rales for social co-existence not harming one another, not deceiving, coercing, stealing,etc.- with principles of distributive justice, which enable everyone to have access to sufficient resources to realize their basic rights. We must affirm the following interdependence principles for a sustainable way of life at a common standard by which the conduct of all individuals, organizations, businesses, govertments, and Transnational Institutions is to be guided and assessed.

Suggestions:

1. Respect earth and life in all its diversity

Recognize that all beings are interdependent and every form of life has value regardless of its worth to human beings.

Alfirm faith in the inherent dignity of all human being and in the intellectual, artistic, ethical, and spiritual potential of humanity.

2. Care for Community of life with understanding, compassion and love. Accept that with the right to own, manage, and use natural resource comes with the duty to prevent environmental harm and to protect the right of people.

Affirms that with increased freedom knowledge and power comes increased responsibility to promote the common good.

3. Build democratic societies that are just, participatory, sustainable, and peaceful

a. Ensure that communities at all levels guarantee human rights and fundamental freedoms and provide everyone an opportunity to realize his or her full potential.

b. Promote social and economic justice, enabling all to achieve a secure and meaningful livelihood that is ecologically responsible.

4. Secure earth's bounty and beauty for present and future generations

a. Recognize that the freedom of action of each generation is qualified by the needs of future generations.

b. Transmit to future generations values, traditions, and institutions that support the long-term flourishing of Earth's human and ecological communities.

Common destiny beckons us to seek a new beginning. It requires a new sense of global interdependence and universal responsibility. We must imaginatively develop and apply the vision of a sustainable way of life locally, nationally, regionally, and globally.

Acknowledgement:

Authors are thankful towards academic knowledge and research oriented data collected from Ministry of Environment and Forest(MOEF),Indian Law Institute, New Delhi, Delhi University, Law Library and Jawaharlal Nehru University, New Delhi.

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6/2/2025