

Environmental Threats to Human: An Inter-Relationship between Environmental Protection and Human Rights in India

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Abstract

It's needless to say that the foundation of the environmental rights and its obligations is conjoined with human rights in order to abide by the sustainable development goals. United Nations and its institutions proclaim rules and policies which evaluates human interactions with its surroundings. But unknown of the future that himself not using environment's sustainably losing its eminence but which is his constitutional right under the mandate of Article 21. The coherence behind various multilateral environmental agreements (MEAs) is to increase efficiencies, and conserve the human and financial resources of implementing countries. One of them is Convention on Biological Diversity to conserve biodiversity and as a rejoinder, plenteous life to human years. The rule of law and its enforcement passes through diverse tests such as arbitrariness, subjectivity, execution and governance. Consequently, this further appals the situation and the efforts which have been embedded in the United Nation's greening system.

In this paper, researcher seeks to identify the practical and tangible paradigms of the model practices with the aim of clarity and vigilance about the conjunction between humans and environment and vice-versa. Another cause of the research is the human obligations which are yet not implemented by the states and their actors even them being instruments of the international agreements striving for SDGs (Sustainable Development Goals).By coordinating activities, pooling resources and sharing information transversely environmental conventions countries can amplify the results and effect of their efforts to meet environmental obligations in the most competent ways possible.

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Introduction

A clean air, drinking water, energy, food, natural beauty and a liveable climate are the precious which is being provided without any prejudice to each one of us and for the foundation of human life by our mother Earth. But are we aiming to destabilize the very foundation by our thoughtless actions leading to depletion of the Earth's natural resources or compelling many species to extinction? If only we have to rationalize it selfishly, then too we are putting our ultimate abode under tremendous pressure to perish forever. Then where would the 'greedy we' live?

Let's recall the 2030 Agenda for Sustainable Development! It says that we can build stable societies and brilliant economies for our country only by adhering to the plan of action set in SDGs. Goal 15 of the Agenda calls for an urgent foothold at preventing biodiversity loss, thereby ensuring increased awareness and significance of biodiversity among humans before 2030. Biodiversity is the focal point to wide economic activities such as crop and livestock agriculture, forestry, and fisheries. Globally, nearly half of the human population is directly dependent on natural resources for its livelihood, and many of the most vulnerable people depend directly on biodiversity to fulfil their daily subsistence needs.

Now, biodiversity encompasses distinct areas under threat viz., ecosystems vulnerable to climate change, genetic diversity, traditional knowledge, access to and sharing benefits from genetic resources, agriculture, aquaculture and forestry, extinction, pollution, habitat loss, invasive alien species etc. The importance of ecosystem services and biodiversity for the full enjoyment of human rights and outlines the application of human rights obligations to biodiversity-related actions.

In *Vellore Citizens Welfare Forum v. Union of India*,² for development, commerce and trade are imperative but cannot be at the cost of ecology. Having pollution caused by the industries as a major concern chars the image of the globally recognized principles of Sustainable Development, Precautionary Principle and Polluters' Pay principle together.

What have come to the analysis are the evictions of dwellers, forced resettlement, access of peculiar resources, protected areas and how to generate income amongst all these after effects of conservation. The initiation had been a challenge since inception though earlier with respect to rights and now its preservation regarding the local and indigenous people. If we closely study international law, the above mentioned factors undoubtedly poke violations on the face. The rarity lies in the means which should be gained by the victims for their

²AIR 1996 SC 2715.

reparation. During this research it has been found that the conservational activities should be conducted in such a manner that it should not harm them or violate human rights of the inhabitants through the aid of agencies and their standard practice mandate.

Statement of Problem

Whether biodiversity have been brought into mainstream of decision making when it comes to sustainable development goals?

Objective of the Study

Cultural degradation can succumb human rights and this cultural degradation is a smaller version of Biodiversity loss. There are linkages among all these losses. The aim of the study is to support full enjoyment of a wide range of human rights, including the rights to life, health, food, water and culture. In order to examine the socio – legal perspective of this problem to protect human rights, States have a general obligation to protect ecosystems and biodiversity so as to curb its negative impact in future.

Research Questions

1. Whether blazing out houses and murdering the indigenous people in the name of conservation is violation of international human rights?
2. Which actors bear human rights obligations and responsibilities in the context of conservation initiatives?
3. Why do human rights-related conflicts arise in the context of conservation initiatives? How can they be avoided? When they do arise, how can they be effectively and equitably resolved?
4. What are the grievance mechanism available to peoples and communities in cases of violations of their human rights?

Hypothesis

1. To find a common ground for the tussle between the protection of human rights of the forest dwellers and the conservational initiatives taken forward by the states and their actors for the development of that state.
2. To recognize the suggestive developments in the present scenario, tools and practices so as to brace and achieve the conservational targets and in securing such targets will aid in acquiring the long forgotten legitimate human rights.

Dependency of Humans on Biodiversity

To large numbers of humanity, especially communities that have been termed ‘ecosystem people’, natural resources are the base of survival and livelihoods. Essentially, we humans

embark on our surrounding which are our human rights against the ecosystems. But these human rights become meaningful when we take care of the health of the ecosystems for their services which ultimately also depend upon biodiversity. Else if the conditions deteriorate, as we observe the planet currently, the dependence has grown and so is the unsustainability of its usage which is injuring the gift of humans to take pleasure in the rights to the fullest and their inability to respond to upcoming and prevailing environmental threats. Natural resources such as air, water, and land are fundamental to all life forms: they are, much more than money and economic infrastructure, the base of our survival. Communities, once proudly self-reliant, have been pushed literally or figuratively into begging for existence, their forests and water and lands taken away for 'economic progress.

Environmental Threats

Widespread disrespect to mother Earth and now to her dwellers have led to two major threats to the tribal and local communities is established:

Firstly, economic boost by the government is making situation worse than any better. As we encounter various glitches viz., rapid urbanization, aggravating unfairness in ethnicity and gender, cultural and lingual damage, decoding the development jargon in form of elite capture etc are the universal pressures on the environment and individual brawl. Basically motivated by unsustainable practices of resource extraction, production and consumption by the state- subjected economy and the preoccupied markets and this in turn undermines social and cultural cohesion and sophisticated customary systems of caring for territories and resources.

And secondly, we hardly spot any recognition of the indigenous people and their communities resulting into mass discrimination and suffer marginalised resources or reforms of any kind whether legislative or legal. Rights, mainstreaming the need of self-determination and self-governance during the multistage decision making processes and barring them from any framework or corporate programmes under the dogma of conservation, welfare and alleged development.

Biodiversity Vis-À-Vis Human Rights

Literally, the interdependence between biodiversity conservation and human rights is much more than their interrelationship which is an aftermath of such dependability passing through diverse factors of socio-legal, socio-economic, cultural and politico-legal frames:

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1. Inter-generational Inequity: not raising voice for those resources that will be consumed by our future generations in times to come would propel them to thrive on mere human wastes.
2. Intra-generational Equity: ownership and power go hand in hand and so is applicable on the access to natural resources available to us. Prejudicing with the devastation of ecological resources among any other pecking order between races or communities, classes or castes, countries or sexes, inside one generation. E.g. Distorted ownership patterns.
3. Inter-species Inequity: the way we are dealing with the earth, prospectively it is imminent that we will be left with none of the diverse species that the mother Earth has imbibed right now. Gradually, millions of species are being wiped out due to continuous degradable use of biodiversity leading them to extinction.

Given this close interdependence of humans and their environment, it is not surprising that the culture of societies is so greatly influenced by their environment. They seek inspiration, knowledge, spirituality and aesthetics within their natural surroundings.

Seeking the human rights outlook, it states that helps to clarify that the loss of biodiversity also undermines the full enjoyment of human rights; heightens the urgent need to protect biodiversity; helps to promote policy coherence and examines the human rights obligations relating to the conservation and sustainable use of biological diversity. It is said that the awareness of human rights is largely limited to the educated sections of society, while ideally it is necessary to create awareness about human rights at all levels. There has been a growing realization that human rights cannot be taught only from formal documents.

Declaration of the Human Rights (1948) inter alia states that 'education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedom. It shall promote understanding, tolerance and friendship among all nations, social or religious groups and shall further the activities of the United Nations for the maintenance of peace.'

Conversely, human rights violations of other kinds can lead to environmental destruction, for instance, displacement by social strife/war can cause environmental damage in areas of relocation; or breakdown in sustainable common property management.

As a common standpoint under the Stockholm Declaration, 1972, expressed that there is a dire need of contribution from amongst the peoples of different states to come hand in hand for the preservation and enhancement of the human environment. Universal endeavours are

required at the end of states' governments for the posterity of their people as humans are both sculpture and creator of their environment.

In *M. C. Mehta v. Union of India*,³ the Supreme Court has held that life, public health and ecology have priority over unemployment and loss of revenue.

Keeping the above in mind, a bill was passed in 2005, for providing the framework of the scheduled Tribes. The objective of this act is to confer and recognise the forest rights and the occupation in forest land. The failure of recognition is due to the following grounds:

1. The cultivable lands are usurped by the state governments without any proper investigation or an adequate compromise in the prevailing rights under the Indian Forest Act, thus leaving behind hostility.
2. The basis on which the lands are classified i.e. land records are in miserable condition. For instance, in Orissa, most of the lands are owned by the state without any assessment and hence the forest dwellers are detached of their justifiable rights granted under the Constitution of India. Steeped in customary and oral traditions, the Adivasis are unable to produce the kind of documentary evidence required to prove their pre-1980 occupation of land.
3. Dislocating the dwellers through development projects devoid of any promise and fair rehabilitation by the state. The sole alternative left out for them is to migrate themselves on a better forest lands of the citizens. Large numbers of adivasis in Orissa have frequently been evicted from their lands without even minimal compensation due to lacking land.

An interesting precedence on this has been set by a 1993 judgment of the Philippine Supreme Court, in the case *Minors Oposa v. Secretary of the Dept. of Environment and Natural Resources*,⁴ the Court allowed a class action by Filipino children, acting as representatives for themselves and for future generations, arguing for a halt in timber cutting in national forests. The Court held that the petitioners were qualified to sue on behalf of current and future generations, and accepted their statistical evidence about how much forest cover is required to maintain a healthy environment for all generations. This is a critical issue for resolution and action in India.

Conclusion

³1987 Supp. SCC 131.

⁴33 ILM 173 (1994).

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Public trust doctrine established very well by the supreme Court in the case of in *M. C. Mehta v. Kamal Nath*,⁵ held that sea, water, air, land; are res nullius, that it is the obligation of the state to protect it for the usage of all equally and that state has perpetrated a great breach of trust against its citizens.

There is an element in the rights of the indigenous people emanating itself from that of custom, international instruments and other sources of international law seeping its way in municipal laws too. In international law party to the treaties set standards to the non-parties in order to lead by example inclusive of international organizations and NGOs. Here also penetrates the responsibility of the corporate houses to respect human rights by not being encroachers and consequently scarring the legitimacy of the forest dwellers and their rights to access of the resources. Some conservationists took the hard position that sites like Sariska needed to be freed of human presence (meaning eviction of resident villages), while some human rights activists argued that rights to forest lands were non-negotiable. From early 2000 to end-2003, this process focused on the twin priorities of ecological security (including the conservation of ecosystems, species, and essential ecological functions on which all life depends), and livelihood security. The stakeholders contributing in the conservational initiatives and practices should adhere to the guidelines of Aichi Biodiversity Targets. The funnelling of the implementation of the plan of actions, funding of the programmes conducive towards such conservation, should stand for endorsing human rights standards at par with conservation schemes.

The execution of the commitments under the code of biodiversity Act, 2002 could aid in furtherance the hope on which we have lingering since so many years. The drive for the large scale participation both at the local and state level for the integration of deep ecological sensitivities and human values, rights and responsibilities is called for time and again.

⁵(1997) 1 SCC 388.