Environmental Law and Human Rights
(Indian Perspective)

Rajeev Kumar
Senior Lecturer (Political Science), R.S.S. (P.G.) College, Pilkhuwa, INDIA

I. ABSTRACT & INTRODUCTION

Environmental issues have drawn the attention of common people as environmental degradation and pollution have assumed global dimension and are even threatening the very existence and survival of mankind. It may be both natural and man made.

II. DEFINITION OF ENVIRONMENT

According to section 2(A) of Environment Protection Act, 1986 Environment includes:
(a) Water, Air and Land
(b) The interrelationship which exists among and between-
(i) Water, Air, Land
(ii) Human being, other living creatures, plants, micro-organism and property.

Man, moving on the path of development has turned from changer to transformer and now to destroyer of the environment. He is progressing continuously and meticulously. Simultaneously natural environment is disintegrating. Socio-economic development of man depends on the environment and this development influences the environment. Mankind therefore made a bold move and held the UN Conference on Human Environments in Stockholm (Sweden) in 1972 that brought man closure to nature. The preamble of it states, 'the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment.'

The declaration makes a historic analysis of the problem of global environment and human rights. It says, 'Man is both creature and molder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. 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.'

Laws made by national, provincial and local government add to the rights and responsibilities that are part of the constitution and the common law. These laws also called legislations must comply with the constitution but they can amend change the common hand.

Environmental laws made by the government set out the rights and responsibilities of people relating to three overarching areas, namely land use management, pollution carnal and waste management control and natural resources. Environmental laws therefore regulate various activities, including who can build, what can be build and when they can built, who can fish or mine, cut trees and shoot animals, as well as when and where this can happen.

The right to work, the right to adequate standard of living, including food, clothing and housing, the right to healthcare are the prominent human rights those are classified by various declarations on human rights.

The protection and promotion of the basic human rights is the duty of state. Also to protect the environment is essential because with the growth of commercialization and man's greed, over exploitation of environment has become a common feature. This can be checked only through proper legislation. So the need is to make such environmental laws those concerned to protect global and national environments so that man lives in harmony with nature and attains his goals of a creative and happy life.

The conservation and protection of environment in general as well as of its specific variables like air, water, forests, sea, wildlife, etc. is controlled through several international and national laws.

Initially, the subject of protection of human rights and environment was dealt with in a fragmentary manner under international law through various international conventions, treaties and laws. A few important of these are:-

- International Plant Protection Convention, 1951.
• The International Convention for the Prevention of the Pollution of the Sea by Oil, 1954.
• The Nuclear Weapons Test Ban Treaty 1963.
• Treaty on the Non-Proliferation of Nuclear Weapons, 1968.
• Treaty on Oil Pollution in Seas, 1969.
• The Convention on Wetlands of International Importance, 1971.
• The Convention of the Protection of the World Cultural and Natural Heritage, 1972.

The year 1972 was a landmark in the field of environment, when United Nations Conference on the Human Environment was held at Stockholm (Sweden) from 5th to 16th June, in which "Declaration on the Human Environment" was adopted. This may be considered as the beginning of environment movement in the world. UNO has also adopted a programme known as UNEP (United Nation Environmental Programme) and also 'Earthwatch' and 'Global Environmental Monitoring, system' and declared 5th June as 'World Environment Day'. Another international machinery known as 'Habitat' was established in Nairobi (Kenya) and in 1982, the tenth anniversary of Stockholm conference was celebrated in Nairobi, followed by the 'Nairobi Declaration'. In fact, a number of conventions, treaties and instruments have been concluded or adopted dealing with the problem of the control of environmental pollution in one way or other, which shows that all over the world, environment and its protection has become as issue of concern and that all international bodies have shows their concern over it.

III. PROVISION OF ENVIRONMENTAL LAW IN INDIA

Apart from international laws, every country has enacted laws regarding environment protection, pollution control etc. In India, there are several acts for environment protection that says protection of environment is the duty of government. Also the purpose of state is welfare of citizens and establishment of such a society that ensures people a human dignity a human living and finally an equal and humane socio-economic relationship. The intermeshing of human rights can be seen from the fact that ecology and environment are today considered control focus of a person's entitlement.3

In India a separate ministry namely The Department of Environment was established in 1980 to ensure a healthy environment for the country. The main acts for environment protection in India are as follows :-

2. The Prevention of Air and Water Pollution, 1974, 1981
(The Central Pollution Control Board) (CPCB) was constituted under this act.
3. The Air Prevention and Control of Pollution, 1981.

5. The Environmental Protection Act, 1986.
(It came into force soon after the Bhopal Gas Tragedy)

IV. Rights and Duties under the Indian Constitution

Rights and duties of man are inter-connected. Human Rights can not be attained unless man fulfils his duties. The UN Declaration of Human Environment in 1972 has clearly brought on the balance between rights and duties. The general principles enunciated under the Declaration call for respect for nature, maintenance of genetic viability, protection and conservation of unique areas of the eco-system, etc. Indeed an ecological interpretation of the provisions of the Constitution of India has become inoperative. Many provisions relating to human rights are contained in Part III of Indian Constitution. These provisions consists of Art. 12 to 35. Some of the important articles on human rights are :- Art 14 provides for equality before law, Art. 15 prohibits discrimination based on religion, race, caste, sex or place of birth, Art. 16 provides for equality in public employment, Art 19 protects the right of freedom of speech. Art 21 provides protection of life and personal liberty. Art 25 to 28 ensure the right of freedom of religion. Art. 29 & 30 provide for cultural and educational rights. Thus, the Indian constitution ensures the protection of life and liberty of individuals and groups.4

Let us examines the other provisions in the Indian Constitution for the protection of environment. The Art 47 provides that this is the duty of the state, to raise the level of nutrition and the standard of living and to improve public health, the state shall endeavor to bring about prohibition of the consumption except for medicinal purposes intoxicating drinks and of drugs which are injurious to health. Art. 48A provides that the state shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.5
Art. 51A, included in the Constitution by the 42nd amendment Act, 1976 has the provisions as fundamental duties, says that 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 and to develop the scientific temper, humanism and the other spirit of inquiry and reform, and to safeguard public property and to abjure violence.5

Thus rights and duties are two sides of a coin. Whereas rights provide for freedoms, duties provide for obligations of human behaviour without which rights can not be realized. A wider interpretation of duties listed in the Indian Constitution makes for a better life for all citizens. Preservation of our rich composite culture, protection of natural environment, developing a scientific tamper and strike towards individual and collective excellence are all noble concepts to pursue for the citizens of India. In the age of environment, an ecosystem interpretation of rights and duties help us to achieve scientifically all the goals of human rights and excellence in life.

Environmental law in the context of human rights presents a new vision and a new scenario for mankind. A new hope is born of creativity, harmony and human brotherhood.

An environmental perspective of human rights reveals that global progress is assured for the twenty first century based on eco-management of national and global society. Our Constitution provides for a balance between human rights and duties based on harmony with nature and harmony among people.

REFERENCES