

International Perspective of Environment Protection and Conservation of Natural Resources: Legal Framework and its Implementation

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Abstract

Environment is an integral part of human life, without which life on this earth for the human species as well as other living beings would not be possible. It is our fundamental duty to safeguard the environment and protect the natural resources for the conservation of hundreds of upcoming generations. In the present context, the issue of environmental protection has become an international issue rather than a national issue. Internationally, efforts have been made from time to time in this regard and various standards have been formulated to protect the environment so that it can be preserved. By keeping in mind the standards set at the international level and implementing the principles enunciated through various declarations, strong arrangements can be made for the protection of the environment. In this context, the cooperation of developed nations is expected in solving environmental issues by concentrating a little more on developing and underdeveloped nations.

Keywords: Environment Protection, Stolkhome Declaration, UDHR, Cocoyoc Declaration, Brundtland Commission, Nairobi Conference, Vienna Convention, Rio Earth Summit.

1. Introduction:

Certainly, man occupies a unique place among the living creatures created by God because man has the power of thinking, the power of execution of work and the skill of living which is unique in itself which is not possessed by other living creatures present on this earth. If a comparative analysis is done, then from the origin of man till the present scenario, the changes or developments that man has made in his way of living are amazing, but there should be no hesitation in saying that this development is not solely the handiwork of man because he has always been dependent on inanimate objects for his development.¹ The main components of these inanimate objects are water, air, land, energy and sky, and these same components have been named Panchtatva in the mythological texts and religious scriptures of India. It is a universal rule that it should be the primary duty of a human being to preserve all the elements, whether living or non-living, on which human life depends. We have collectively named all

¹ M.C. Mehta v Union of India (1989)2 SCC 540

these elements as 'Environment' because the environment includes all those elements which are around humans and on which humans are completely dependent for living their lives.

Preserving the environment is the responsibility of all living creatures on Earth. It is a well-known fact that natural resources are available in nature and exist for some reason. Creating these natural resources is beyond anyone's control, but they can be preserved in the state they currently exist in. If these resources are not conserved, breathing in the environment will become difficult in the future. If we take stock of the factors that lead to environmental destruction, hundreds of reasons will emerge because all the elements that make up the environment have been and are being exploited at different times and in different ways. Instead of living in harmony with nature, humans started playing with nature itself and today man has to suffer the consequences of this destruction, both directly and indirectly. Natural disaster is a living example of this which cannot be denied on the basis of any reasoning.

We have destroyed the environment to such an extent and are continuing to do so that today we have reached a situation where instead of discussing the factors of environmental destruction; we are forced to focus more on prevention of environmental pollution. The interesting thing is that, except humans, all living creatures on Earth, no matter how small or large, are fully fulfilling their duties to protect and develop the environment. But if we analyse about the last few decades, then man has neglected this duty dramatically and due to this neglect he has started using this environment in such a way that destruction is visible more than consumption. To control this neglectful attitude, various efforts have been made over the years, not only on behalf of a particular nation but across the world. To protect this environment, many conferences, conventions, treaties and related efforts are seen at the international level. Through these international efforts, all the countries of the world have been forced many times to make laws according to their climate and through that law, not only the responsibility of the nation is determined but all the citizens are also made aware of their duty so that this environment can be protected.

Stolkhome Declaration 1972:

Whenever international efforts are discussed regarding environmental protection, the Stockholm Conference² is the first point of focus because this conference has had a devastating effect on the environment. This was one of the first steps taken at the international level regarding the conservation and protection of the environment. The principles of the Stockholm Conference are known as the 'first document' in the context of environmental safeguards. This conference has served to tighten the reins on many nations of the world because it has imposed a legal obligation on almost all the countries of the world that if proper efforts are not made by any nation in relation to the environment, then the consequences will not be in the favour of themselves. This declaration is mainly divided into two parts. The first part contains provisions related to the Seven Proclamations while the second part contains Twenty Six principles. If the main points of this declaration are analysed, they can be summarized as follow:

² United Nations Conference on the Human Environment, held in Stockholm from June 5 to June 16, 1972

- It is a fundamental right of every human being to live in a high-quality environment. Because it is not only about the freedom to live in a good environment but also it is about the aim of living a dignified and healthy life.
- The way nature has blessed humans with natural resources, their consumption and conservation should not be limited to ourselves but should also be preserved for future generations.
- The Earth has an amazing ability to continuously renew its resources. In this context, humans have to not only maintain the Earth's capacity to renew the resource but also develop it further.
- In the context of wildlife protection, it is the basic duty of humans to take appropriate steps to protect it. All aspects of wildlife, from its maintenance to its protection, should be incorporated into economic development planning.
- The state has to concentrate on every aspect of pollution and work in such a way that all hazardous elements that destroy the harmony between human life and the environment have to be treated appropriately.
- It is the responsibility of the state to create such an environment on this earth in which humans can properly concentrate not only on their social development but also on economic development, which will lay the foundation for a healthy life.
- The state has to update its environmental policy for its region and surrounding areas in such a way that it does not have any adverse effect not only on the present development but also on the future development.
- The State has to manage its activities in a manner that is well coordinated to protect and improve the environment while benefiting its citizens.
- Keeping in view the all-round development of our citizens and the nation as well as the entire world, we have to use science and technology in such a way that we can easily understand and control the environmental threats.
- Keeping in mind the current scenario, not only the youth but also adults and all citizens have to be made aware to such an extent that they can make their best efforts to save it.
- All states have to not only make laws for their nation but also cooperate at the international level in such a way that compensation can be given to the parties affected by pollution and activities like environmental damage occurring in their jurisdiction can be controlled.

This declaration has been compared to the UDHR³ in many places, considering it a moral conduct for all citizens, because a clean environment has become a basic fundamental right in today's times.⁴ The Stockholm Declaration on the Environment sparked a revolution in many countries. Since India was also a part of this conference, the storm of this revolution was already certain to reach India. After this declaration, various types of laws were made in India also for environmental protection and promotion. The main examples of these laws are the Environment (Protection) Act 1986, the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act 1981. The laws made by India in relation to the environment were followed by many countries of the world. Following this pattern, we can see that soon after the law was made in India, the Parliament of South Africa also made almost similar laws. After the Stockholm Conference, apart from enacting various laws, the Indian

³ Universal Declaration of Human Rights 1948.

⁴ J.G. Stark, Introduction to International Law, Tenth Edition, p. 406

government also implemented a special policy regarding the environment. However, the impact of this conference and the government's policies was seen only after the Bhopal gas leak tragedy.

Following the Stockholm Conference, a massive and remarkable amendment was made. This amendment is known as the 42nd Amendment to the Constitution, which was made in 1976. This constitutional amendment added new provisions not only to the Directive Principles of State Policy but also to the Fundamental Rights of Citizens regarding the environment. It has been determined that the protection of the environment is paramount and the government has to take appropriate steps from time to time for its safeguarding. There is no doubt that the right to a clean and healthy environment is a fundamental right⁵, but it is also a universal truth that every right is accompanied by a duty and this duty is to maintain the environment and natural resources. This duty has become paramount not only for the state but also for the citizens.

Cocoyoc Declaration:

Cocoyoc Declaration also holds an important place in the efforts made at international level with regard to safeguarding of environment. Environmental pollution cannot be seen as the result of any single factor. There may be hundreds of reasons behind this because different methods are adopted to consume different components of the environment. Human development is also one of these factors because, under the guise of development, some activities have to be carried out which directly or indirectly harm the environment. Keeping these circumstances in mind, the concept of 'sustainable development' emerged. 'Sustainable development' was first used in the 'United Nation's Environment Program'.⁶ The main objective of sustainable development is to strike a balance between environmental protection and the pace of development. Various efforts have been made to bring harmony between these two aspects and the Cocoyoc Declaration also holds an important place in these efforts.

Brundtland Commission Report 1983:

Almost 10 years after the Stockholm Declaration, it was observed that there were many points in the declaration that remained un-discussed. Economic development and maintaining a balance between environmental resources is a huge challenge in itself. If we talk about the various objectives of sustainable development, then eradicating poverty and hunger is not its primary objective, but apart from this, focus has also been given on good health of an individual, good education and gender equality away from discrimination. To fulfil all these basic needs, it is very important to work under a visionary policy because it is directly related to the expectations of human life. In this context, the Brundtland report⁷ assumes special significance because it prioritizes justice for future generations. In this, it was concentrated on the fact that certainly the development and enrichment of the present generation is our fundamental task and developing it is our main aim, but all this work and all this development cannot be done with the condition that some compromise has to be made with the future generations. This concept is known as 'intergenerational justice'. Some of its main points of Brundtland report can be summarized as follows:

⁵ Article 21, the Constitution of India.

⁶ The Cocoyoc Declaration, 23 October, 1974.

⁷ Report published by World Commission on Environment and Development, 1987

- There is a need to re-focus on various aspects of environment and development in such a way that some concepts can be developed which are focused on overall development.
- Fulfilling basic needs should be paramount because this is where the first step towards development begins.
- Along with fulfilling the current needs, it is necessary to pay attention to the needs of the coming generation by emanating from technology and social concerns.
- The future implications of intergenerational justice should be aligned with today's perspective to ensure appropriate management of sustainable development.
- The focus should be on promoting new international policies that are in harmony with internationally set standards and are in the welfare of all.

Nairobi Conference:

After the Stockholm Declaration was made, there was discussion about holding a conference to take stock of these years, in which it was decided that on the tenth anniversary, a convention should be held on the subject of what was lost and what was gained and what we should do next. On this basis, a special type of conference was organised in Nairobi from 10 to 18 May 1982, which we know as the Nairobi Conference.⁸ The most important announcement made at this conference was that the Stockholm Declaration, which was made 10 years ago, has the same impact today as it did then and will continue to have in the years to come. Some of the important points of the Nairobi Conference can be described as follows:

- In the present context, poverty and wasteful consumption are both problems that are the root cause of other problems and both of them are catalysts for environmental destruction.
- Environmental degradation can be reduced by setting international standards and developing appropriate principles.
- Issues like international peace and security are directly and indirectly linked to the environment because nuclear war is not only a threat to the environment but it is also not possible to estimate the extent of depletion of natural resources.
- Some environmental problems are not limited to a single nation, but pose a threat to other countries and almost all people around the world. In such a situation, it is essential that all nations unite and find solutions to these problems.
- The aim is to accelerate the pace of development by focusing on the formulation and implementation of environmental laws in a manner that utilizes scientific research and technology to support environmental management.
- Developing countries are struggling not only for nation-building but also to solve environmental problems. In such a situation, it becomes the moral duty of developed nations to cooperate with developing countries and promote environmental conservation.
- Identifying all factors that have an adverse impact on the environment and managing them effectively to plan mitigation measures to prevent environmental damage.

⁸ Nairobi Conference on Human Environment, 1982

- The age-old traditional systems should be modernized in such a way that efforts should be made to ensure sound environmental management and proper development so that natural resources can be saved.

Vienna Convention for Protection of Ozone Layer 1985:

The ozone layer is known as the Earth's protective shield. It is an umbrella that absorbs harmful radiation and ultraviolet rays and prevents them from reaching the earth. This layer located in the stratosphere protects the biosphere along with plants, microorganisms, animals and humans and keeps the environment habitable. Due to atmospheric pollution, the ozone layer has been adversely affected and has been severely damaged, causing a hole in it. To protect and preserve this layer, a convention was organized in the year 1985.⁹ This convention was organized by the UNEP.¹⁰ The main objective of this convention was to make efforts to save this layer with the cooperation of all the nations at the international level so that it can be saved from further damage in the future. The main elements of this convention can be summarized as follows:

- A significant remark is that maximum numbers of countries at the international level come together on one platform and takes initiative for the protection of the ozone layer and this initiative should be followed by all the nations.
- The Convention also provides for the obligation of the Parties to take appropriate measures to protect the ozone layer by eliminating emissions from human activities that have adverse effects on human health and the environment.
- Parties to the Convention also pledged to cooperate through systematic research and exchange of information to adequately assess human health and the environment.
- All nations will be committed to consider this issue as an international issue and to enact legislation and administrative measures to address this problem by controlling human activities and their boundaries.
- It is the duty of all parties to the Convention to cooperate in its effective implementation.

Rio Earth Summit 1992:

It would not be an exaggeration to call the Rio Earth Summit the culmination of the Stockholm Declaration. This summit was organized by the General Assembly of the United Nations in June 1992. The main issues discussed in this conference were financial management to save the world from pollution, forest management, technology transfer, biodiversity and sustainable development. The main objective of this conference was to end the uncertainty regarding environmental destruction, financial management and greenhouse gases that was going to happen before the conference was held. If the opinions of environmental experts are to be believed, this summit proved to be a milestone in the environmental context, which deeply understood issues ranging from climate change to environmental diplomacy and worked to manage them systematically. The main achievements of the Rio Earth Summit can be summarized as follows:

⁹ Vienna Convention for Protection of Ozone Layer 1985

¹⁰ United Nations Environment Programme.

- The Rio Declaration was conceived as an Earth Charter whose main principles are to make every effort for sustainable development, reduce pollution across borders, discuss the right to development, eradicate poverty, give special priority to developing and least developed states, conserve and protect the Earth's ecology, advance scientific and technological knowledge, solve environmental problems and create environmental law.
- The main achievements of this summit include the development of national and international legislation to address environmental problems, prevention of environmental degradation, implementation of the principle of precaution, and proper implementation of the polluter pays principle.
- The main contribution of the Rio Summit was the unanimous adoption of Agenda 21 by 182 states around the world. Although it is well known that Agenda 21 is not legally binding on all states, it includes the political commitment of all these states.
- The main issues of Agenda 21 include ensuring the quality of life on Earth, efficient use of Earth's natural resources, conservation of global commons, efficient management of chemicals and waste, and economic development.

Apart from all these international efforts, efforts have been made from time to time for the protection and promotion of the environment. It is the result of these efforts that today we have not been able to conserve the environment to the level it should have been, but we have definitely succeeded in slowing down the speed at which this environment was being exploited. Protecting the environment and conserving natural resources has become a key objective for today's generation, as this generation must maintain a liveable environment for future generations based on intergenerational justice. Generally, there should be a natural balance between biotic and abiotic components. By concentrating on that balance, we not only have to save the environment but also we have to create such an environment where no aspect of pollution is left untouched. Along with setting international standards, we also need to implement such programmes at the national level which will have a positive impact on the environment and natural resources and we can protect and enhance them.