

ENVIRONMENTAL DEGRADATION AND INFRINGEMENT OF ANIMAL RIGHTS

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Abstracts:

Environmental Degradation is one of the largest threats to the world today. The effects of degradation have been seen in long term ecological imbalance till date. This has led to extinction of various species and in-turn infringements on their rights. This paper examines International Conventions and Indian Laws to assess their adequacy providing safety for the same.

Keywords: *Environment, Degradation, Ecology, Rights, Climate*

The environmental degradation has become one of the largest threats of the present era; which disintegrates the earth and deteriorates the environment. It occurs when earth's natural resources are depleted and environment is compromised in the form of extinction of species, pollution to air, water and soil and deforestation. This effect of degradation can be seen in ecological imbalance till date. While environmental degradation is mostly associated with anthropogenic activities and has its impact on wildlife by infringement on Animal Rights has been caused in two ways such as Natural and anthropologic activities. The former happens due to landslide, tsunamis, hurricanes, and wildfire which completely decimate animal community. The latter is caused due to environmental degradation, loss of bio – diversity, ecological imbalance, deforestation and land use change and population. Infringement is also caused by illegal hunting, poaching, domestication of wild animals and birds, using animals for entertainment and experiments and pollution.

Chapter III of the Constitution of India dealing with Fundamental Rights does not have any direct bearing on environmental degradation and animal rights. But the judicial pronouncement of the Supreme Court of India and various High Courts of States of Indian Union have significantly contributed in giving a fresher and finer view to environment protection in the form of fundamental rights. The Courts, while dealing with environmental cases, have referred and based their judgment on Right to Equality (Article 14), Right to Life (Article 21) and Right to Freedom of Trade and Commerce (Article 19(1) (g))(Shastri, 2002).

The environmentalists give lesser importance to humans are defined as a recent addition to the livestock and are considered to have been a wholly disruptive influence on a world which was a paradise before their arrival(Malcolm, 1994). In this context, this paper attempts to describe the violation of rights of animals due to environmental degradation and infringement and to provide an overview of legal provision for protection of animals.



Environmental Degradation

The human transformation from hunter – gatherer to agriculturalist and pastoralist, led to change the environment to suit their living conditions (Bharucha, 2005). The environmental problems such as deforestation, extinction of species, acid rain, air, water and soil pollution, ozone layer depletion, over population and climate change (Chauhan, 2008) which affects life of all organisms. Natural forces like earth quake, wildfire, avalanche, storm and tsunami which not only affect the environment but also affects nearby flora and fauna.

Fossil – fuel power plants, refiners, and paper and pulp mills are major source of Sulphur Dioxide emission, which mix with Nitrogen Oxides emitted by automobiles and other vehicles causes Acid Rain. Acid deposition affects lake, forests, agricultural production, buildings, human health etc. (Visgilio & Whitelaw, 2007). The five basic ecological variables such as energy, matter, space, time and diversity are sometimes combined as natural resources. (Chauhan, 2008). The depletion in natural resources has become major focus for governments and UN which is considered to be a sustainable development issue (Baofu, 2013). Ozone layer depletion did not receive any international attention till 1974. It was first discovered above the Antarctica Circle by the British team in October 1984 and it was confirmed by NASA. For every 1% depletion of ozone layer, between 1 – 2 % more of harmful UV rays reach the earth's atmosphere (Jurgielewicz, 1996), become a global issue leading to implementation of Montreal Protocol (1987) on curtailing the production and phasing out the use of CFCs on the global scale which became the unique basis for the protecting of ozone layer was signed by more than hundred and fifty countries including India (Gupta, 2000). Human population was approximately 0.6 million in 1700 was increased to 6.1 million by the end of twentieth century. (Misra, 2009). The current massive degradation of habitat and extinction of species is taking

place because of human ingenuity (Sinha & Choudhary, 2008). Each individual requires space, energy and resources to survive. which results in environmental losses. If the human population is maintained at sustainable level, it would balance the environmental loss (Sinha, 2006).

Animal Rights

According to critics the word use is abuse and it has been suggested animal use to be made more animal friendly (Aaltola, 2012). Since the dawn of history, humankind has depended upon animals for survival. Considerable portion of the society have begun to exploit animals and activities such as circus and hunting, which use animals for entertainment and sport. While, people deny that animals should have rights beyond protection from abuse, activists believe that animals should have same rights as of humans (Hile, 2004). In 2002, Germany - the first EU member, included animals in the constitution and has the right to be respected and protected with dignity by the State. Switzerland a non EU member included in their constitution in 1992 which acknowledges animals as beings rather than things (The Guardian, 2002). However, animals that are the predecessors of humans, who use, own or exploit animals, face a number of challenges and infringements when it comes to their rights.

Animal Entertainment

The animal entertainment is historically deep rooted. Over a span of 700 years of the Roman circus, hundreds of thousands of elephants, lions, leopards, tigers, rhinos and many other species had been slaughtered, to entertain volatile citizen (Curnutt, 2001). The category of entertainment animals includes non-human animals trained to perform acts, fights and even to kill, animals in exhibition in circuses, movies, racing and many other forms of fighting. Use of animals for entertainment raises animal protection issues because taking animals out of their natural community and environment is always



harmful. Even more harmful is when they are prompted to perform actions which are not part of their natural lifestyle (Waldau, 2011). Animals show the evidence that they are natural performers, but the business of animal entertainment is synonymous of abuse (Bekoff, 2010). The forms of entertainment often cause animals great sufferings and over a century animal entertainments have become multi-billion dollars global industries (Grant, 2006).

Animal Experiments

Animal experiment is not an experiment in EU sense if it does not imply that the animals suffer. In technical sense experiment is an experiment even if animals do not suffer (Nordgren, 2010). When an animal becomes a subject of experiment, their interests are compromised or obligated (Orlans, 1993). The extremes in animal experiments are unrestricted support or radical rejection. These two positions, in all likelihood, are taken by only minority of the population. Majority of the population believes in animal experimentation principle so as to preserve human life (Fox & Mickley, 1986) and to do away with animal lives. More than 100 million animals – including mice, rats, frogs, dogs, cats etc., are killed in laboratories for biology lessons, medical trainings, curiosity – driven experimentation and chemical, food and cosmetic testing every year. In a welcome move the Govt. of India banned animal-tested cosmetics from being imported to India via a notification in The Gazette of India (PETA India, 2014). In 2013, 1.04 million animals were used for experiment in United States. In 2013, 4.12 million experiments on animals and 2.94 million without anesthesia in United Kingdom. In 2011, 3.33 million animals used in experiments and 128,873 animals were subjected to severe pain near, at, or above pain tolerance (Collins). In India, the National Centre for Laboratory Animal Sciences (NCALS) supplies approximately 50,000 animals to laboratories every year to 175 institutions including pharma companies and educational institutions (PETA India).

Hunting and Poaching:

Hunting and Poaching are activities associated with illegal killings of animals either for sport or entertainment or for other purposes. The use of animals in agriculture has a long history, hunting animals for their hides, meat and fur goes back to the very beginning of human race. It is 10 years before Hunting has become purely a sport or for entertainment and for the thrill of the hunt (Hile, 2004). It is a violent form of entertainment which rips animal families apart and leaves countless animals orphaned or badly injured (PETA). Poaching on the other hand affects local communities, wildlife population and environment. It is a crime fueled with black market transaction on animal parts (One Green Planet). Considered valuable Traditional Chinese Medicine recommends formulae containing tiger bones, antelope, and buffalo or rhino horn etc. Bear gall bladders is used in making Chinese herbal remedies which cures hepatic and biliary disorders (Feng, et al., 2009). Elephants are poached for ivory and tigers are poached for their skins. In 2012, 668 rhinos were poached in South Africa and the number increased to 946 in 2013. The existence of wild animals is severely affected by poaching and hunting which resulted in a deep reduction in their numbers. At the beginning of twentieth century the African elephants and Asian elephants are in few millions and a lakh approximately and presently it is around 405 lakhs to 7 lakhs and 35,000 to 45,000 respectively (Do Something). Illegal hunting and poaching increased the risk of the life of animals and made some of them as endangered species. The notification of endangered species makes them legally protected ones.

Illegal Trade:

Wildlife trade is a sale or exchange of flora and fauna by people for the pet or for horticultural trade or trades in diverse range in wildlife. In all, Southeast Asia contains 64,800 known species of which 2 percent are endangered species and it also accounts for



25 percent of the global value of illegal wildlife trade (Caballero-Anthony & Cook, 2013). It results in severe environmental and human impacts including extinction of species, a reduction in biodiversity and the spread of diseases (Liddick, 2011). The trade in wildlife and plants estimated to be worth billions of dollars involved. Simultaneously, when there is depletion in a targeted species, they also develop new smuggling methods and routes to avoid detection (Oldfield, 2003). In United Kingdom over one million plants, live and dead animals and their parts and medicines were produced from endangered species. The United States is also a major consumer of illegally trafficked animals and China is the largest market in the world for tiger bones, rhino horn, ivory and sea horse. The illicit wildlife trade in India amounts to \$ 1 billion (Liddick, 2011). The current regime to control wildlife trade is built upon Convention on International Trade in Endangered Species of Wild Fauna and Flora with an objective that the international cooperation is essential for the protection of certain species against over exploitation through international trade. It was signed in 1973 to control the trade of wild species listed in three Appendices. Appendix I – Species brink of Extinction, Appendix II – Danger of Extinction if trade is not prevented and Appendix III – subject to regulation by one country (Adams, 2004) (Shastri, 2002).

Climate Change

Climate change one of the paramount issues of present era, with potential devastation to biodiversity as well as disruption to human societies (Brodie, Post, & Doak, 2013). A change in temperature makes it warmer or cooler than normal which in turn permits species to increase or decrease in their population (Hardy, 2003). Climate change damages wildlife and causes certain species to lose ground, migrate or decline. Animals are living in a fragile ecosystem and slight changes can have far – reaching effects. Nevertheless, climate change marches hand in hand with loss of habitat to human

settlements and numerous ecological blunders of mankind causing stress on wildlife (Godrej, 2001). The atmospheric concentration of Green House Gases especially Carbon Dioxide increases the risk of climate change. Nearly eight billion tons of Carbon Dioxide is added every year (McNall, 2011), in the atmosphere.

Deforestation:

It is believed that 10,000 years ago 85 percent of the earth was covered with forest (Tripathi, Srivastava, & Pandey, 1993). It becomes a cause of degradation and infringement on animal rights when forest resources are depleted and exploited. In the tropics and sub-tropics, maximum reduction happens in Asia and Pacific because of population explosion. Deforestation is caused by forest fires, timber extraction, overgrazing of cattle, shifting cultivation, tourism, natural causes and land degradation (Joshi & Joshi, 2009). Apart from the causes, disappearance of vegetation in India is also caused through encroachment of forest land for agriculture and other purposes (Chandra, 2004). In India, deforestation affects two interest groups namely commercial and subsistence group. Commercial interest group has used forest to generate capital and on another hand subsistence interest group view forest as their basic support of their life and destruction of forest means the end of those benefits (Montagnin & Jordan, 2005). The rapid rate of environmental changes has led to loss of plants and animals, on a scale never before experienced in human history (Bee, 1993). It has been estimated that without the effects of deforestation, ten to fifteen species of the world are lost in a year. It is also estimated that nearly 40,000 species are lost each year due to deforestation and if it continues at same speed within fifty years the majority of plants and animal species will be eliminated (Horsman & Flowers, 2007). According to World Bank report as of 2012, in India, 687 sq.km thousands covers forest area and only 5.2 percentage of total land area is terrestrial protected area. As of 2014, in India, there are 712 threatened species



which includes mammals, birds, fishes and higher plants(The World Bank, 2015).

Loss of Biodiversity:

Human beings are dependent on biological resource for food, shelter, cloth, health, enjoyment of life and well-being therefore depleting natural resource is of great concern. Unfortunately there has been an unprecedented loss of biodiversity worldwide and it is mainly attributed to human population explosion(Kala & Silori, 2013). The loss of degradation of natural resources associated with loss of biodiversity is now widely recognized as one of the global environmental concern (Newton, 2007). The habitat loss is one of the main losses of biodiversity. This is due to clearing of forests, diversion of forest land to non-forest use, mining activities, construction of dams and transportation facilities in forest, overgrazing of domestic cattle population etc. The loss of marine biodiversity is caused by man-made factors (pollution due to industrial effluents and oil spills).The loss of aquatic biodiversity is due to over fishing, toxicity and industrial pollution.The habitat losses have vastly reduced and have fragmented population of several hundred species(Belsare, 2007).The Convention on Biological Diversity (CBD), the Forest Principles and Chapter 11 of Agenda 21, the United Nation Forum on Forests (UNFF) and many other international conventions and declarations are indicators for sustainable forest management(Newton, 2007). In spite of,many positive and encouraging developments that have arisen over the years, the approaches and responses have failed to stem the loss of biodiversity (Wood, Edwards, & Mang, 2000).High rates of forest loss and degradation are still occurring in many areas and are considered as major contributor to biodiversity loss which has been referred to global extinction crisis (Newton, 2007).

Environmental Pollution:

The actual livable space covering the earth is a thin layer of air, water

and soil called the Bio-sphere interact with each other to maintain a mutual balance called Ecological balance(Mathur, 1998). The human interference in the bio-sphere caused changes in chemical, physical and biological conditions in the environment affecting ecological imbalance has led to environmental pollution. The pollutions that affect environment are air, water, and soil, and noise, thermal, radioactive and maritime pollution. Air is the first and foremost susceptible component of our environmental pollution. It is a mixture of gases and the gaseous components of unpolluted air which has been polluted for thousands of years because of which even at remote location the air may be best described as a dilute polluted air (Agarwal, 2009). Water one of the most important source of human life has been exploited by man than any other resource for sustenance of his life. Pollution of water has emerged as one of the most significant environmental problems of the recent time. The gross pollution of water has its origin in urbanization, industrialization, defecation and increase in human population (Goel, 1997). Soil pollution, a global problem, is the accumulation of substances, native or introduced in soil at a level harmful for the growth of organisms, including microorganisms, plants, animals and humans. Hazardous substance find their way into the soil from domestic, industrial, municipal, mining and agricultural wastes like fertilizers and pesticides (Osman, 2014). Noise pollution, created by humans is no less hazardous than the toxic chemicals. It has added fuel to fire and has added greater consequences on human mind, animals and other living creatures. As soon as a being is born it comes in contact with noise pollution. This pollution is adversely affecting all walks of life, accelerating the environmental degradation(Mahandiyan, 2006). Radioactive pollution is the pollution caused due to blast of atoms. The radiation which is emitted from radioactive substance is a part of man's environment. Natural radiation arises from three sources: cosmic rays, environmental and internal radiation. Apart from natural radiation, man-made or artificial radiation such as x-rays, radioactive fallouts, atomic



explosion etc., causes pollution(Mathur, 1998). River receives huge amount of sewage, garbage, agricultural discharge, huge amounts of plastics etc., which ultimately ends upon sea causing marine pollution. Discharge of oil and petroleum products and dumping of radionuclide's waste into sea also causes marine pollution. In marine water major contributor of pollutants are oil and petroleum products, particularly when afloat on sea. Nearly 285 million gallons of oil are spilled (Joshi & Joshi, 2009). This environmental pollution poses a serious health issue for man as well as animals. Animals have been observed to suffer from eye and respiratory problem (Shafi, 2005). In 2012, it is estimated that 9 million people died from air, water and land pollution. World Health Organization reported that 7 million people die from air pollution alone, 24 percent of global disease and 13 percent of preventable deaths every year is caused due to air pollution (The World Bank, 2015).

Environmental Law:

The Constitution of India is amongst few in the world that contains specific provisions on environment. The Directive Principles of State Policy (DPSP) and Fundamental Duties explicitly enunciate the national commitment to protect the environment. Article 48A in DPSP declares, 'the state shall endeavor to protect and improve the environment and to safeguard the forest and wildlife of the country'. Article 51A (g) in Fundamental Duties imposes similar responsibility on every citizen, 'to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for the living creature'. These provisions in the constitution highlight the importance of environmental protection (Divan & Rosencranz, 2001).The term environment does not have any direct bearings in the constitution but the judicial interpretations have given significantly new dimensions for its protection under the ambit of Fundamental Rights. Article 21 of the Constitution of India which provides Right to

Life and Personal Liberty has been interpreted by Supreme Court and included healthy environment as a Fundamental Right. Various High Courts too, have considered that environmental degradation is a violation of fundamental right (Divan & Rosencranz, 2001).The material resource of community like forests, mountains, etc., is nature's bounty. They maintain ecological balance and they need to be protected for healthy environment (*Hinch Lal Tiwari v. Kamla Devi*).Any activity which pollutes the environment and makes it unhealthy, hazardous of flora and fauna is violative of Article 21 of the Constitution. It also guarantees Right to Equality under Article 14 to all persons without any discrimination. This indicates that any action of the State relating to environment must not infringe upon the right to equality(Shastri, 2002). The courts on various occasions have struck down official sanction in environmental matters (*Ajay Hasia v. Khalid Mujib Sehravardi*), which does not jeopardize the wildlife and natural wealth of the nation. It has been found that tanneries, acid factories, dye factories etc. are contributing to environmental pollution. It all relates to fundamental right to freedom of trade and commerce under Article 19 (1) (g) (Shastri, 2002). Some of the trades are carried on in a manner which endangers vegetation cover, animals, aquatic life and human health. But, time and again, it has made clear that this right has reasonable restriction (*Abhilash Textiles v. Rajkot Municipal Corp.*). In *Indian Handicrafts Emporium v.Union of India*, court held that, "animals play a vital role in maintaining ecological balance". A trade dangerous to ecology could be either regulated or totally prohibited. The right to trade should be balanced with demands of social interest (Leelakrishnan, 2005). A survey of the cases related to environment pollution and ecological imbalance reveals that most of the cases are filed under Article 32 and Article 226 of the constitution to the Supreme Court and High Courts of Indian Union respectively for the protection of fundamental right(Shastri, 2002).If anything endangers or impairs the quality of life, a citizen has a right to move to Supreme Court



under Article 32 (*Subhash Kumar v. State of Bihar*). Any disturbance of the basic environment elements like air, water and soil, which are necessary for life, would be hazardous to life. Thus courts can levy fine and damages under Article 32 (*M C Mehta v. Kamal Nath*). Apart from constitutional provisions the Parliament of India has passed many other legislation such as: The Environmental (Protection) Act, 1986, The Air(Prevention and Control of Pollution) Act, 1981, The Water (Prevention and Control of Pollution) Act, 1974, The Forest (Conservation) Act, 1980, Wildlife (Protection) Act, 1972, The Prevention of Cruelty to Animals Act, 1960, The Biological Diversity Act, 2002, etc. The International forum has taken resolutions on environment protection. 'The first ever declaration which is also known as 'Magna Carta of Environment', the Stockholm Declaration formulated 26 Principle to defend the environment for present and future generations with a fundamental goal of peace and social and economic development'. The Rio Declaration also known as Earth Summit was declared with the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people (Nanda, 2015). Agenda 21 was one the instrument held at Rio. The Agenda 21 has various provisions for the management of toxic-chemical hazardous waste, solid and sewage waste and radioactive wastes. It also deals with the protection of oceans, seas, coastal areas, etc. and management of land resources, deforestation, sustainable development etc. The Bonn Convention recognized that wild animals are an irreplaceable part of the earth's natural system and it's an obligation of the mankind to take forward this legacy to future generations. There are many other conventions and declaration adopted by United Nations namely Convention on Biological Diversity (CBD), 1992, Vienna Convention on Ozone layer, 1985, Kyoto Protocol, 1997(Shastri, 2002), The Universal Declaration on Animal Rights (2011) REDD and REDD+ are the latest one and there is a

proposal to implement to Universal Declaration on Animal Welfare by United Nations.

Discussion:

A little meaningful effort, more care and friendly attitude towards up-keeping of ecological balance by each individual in the society could to sufficient to eliminate intricate environmental problem (Shafi, 2005). The Constitution of India with wide judicial interpretations has included Right to Life for animals as well. The Supreme Court recognized five fundamental principle including right to live with dignity for animals. It contended that all forms of life including animal life, come under Article 21 of the constitution. Right guaranteed under The Prevention of Cruelty to Animals Act are statutory rights and it has to be elevated to fundamental right as done by other countries for animal honor and dignity (*Animal Welfare Board of India v. Nagaraja*). The Parliament of India should take initiative to include animals under the realm of Fundamental Rights. The golden triangle of fundamental rights which are Article 14 – Right to Equality were animals are also allowed to live with equal prominence as that of human beings, Article 19 (1) (g) – Right to Freedom of Trade and Commerce doesn't mean that environment should be compromised and there should be trade on animals for the greed of money, Article 21 – Right to Life where humans live with dignity, should also include animals and rights to be guaranteed as that of citizen of India.

The Precautionary Principle which says that in case of any possible threat to the environment, the foremost requirement is to take precautionary measure so as to prevent the environment being attacked and degraded. The Polluter Pays Principle (PPP) was first time used by Organizations for Economic Cooperation and Development which says that polluter has to bear the expenses for the damage caused by him to the environment and its victims (Nanda, 2015). The Supreme Court of India took bold



decision and evolved the rule to Absolute Liability in *M C Mehta v. Union of India* (Oleum Gas Leak case) as part of Indian Law overthrowing the rule of Strict Liability laid down in *Ryland v. Fletcher* and declared that new rule was not subject to any exception (Bangia, 2014). To evade from the consequences of PPP, the plans, projects and other developmental policies should be examined by Environmental Impact Assessment (EIA) before they are executed. EIA examines the consequences and predicts the future changes in the environment by foreseeing and avoiding potential dangers (Leelakrishnan, 2005).

Conclusion:

The significant cause about environmental degradation and animal rights shows nexus between the two. It also shows how infringement is caused upon such animal rights. There is a need for Sustainable Development which was adopted in Rio Declaration with a goal of economic and social development in terms of sustainability of the country so that the present generation doesn't compromise the ability of future to meet their needs (Shastri, 2002). Therefore the concept of intergenerational equity which says that humans hold the nature and culture environment of the earth in a common both with other manners of the present generation and with other generation of past and future (Weiss, 1992) should be used so that our future generations enjoy the environment what we are enjoying today.

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