

CHAPTER-VII

CONCLUSION AND SUGGESTIONS

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CHAPTER SEVEN
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7.1. Quality of Life and Quality of Environment: Interdependent

Life is a glorious gift from God. It is the perfection of nature, a masterpiece of creation. It is majestic and sublime. Human being is the epitome of the infinite prowess of the divine designer. Great achievements and accomplishments in life are possible if one is permitted to lead an acceptably healthy life. Life is action, the use of one's powers and powers one can use if he has real faith in life.

The term 'life' as embodied in Article 21 of the Indian Constitution does not mean mere animal existence but much more that conveys meaning to life. Mere vegetative existence is not life. But a dignified and decent life is what the true meaning of life is. And all that leads to a healthy, decent and dignified life is included in the term 'life'. Life takes within its fold some finer graces of human civilization which makes life worth living. Health is a blessing which money cannot buy. And good health can be possible only in a healthy and wholesome environment.

The harm caused to environment is mostly irreversible and catastrophic, since once life is lost, it cannot be restored. Prior to urbanization and industrialization, the development was slow. Then at that time there used to be lesser harm to the environment. There was no environment pollution. And therefore the balance between the ecology and development was maintained. And the most important thing was the people then needed no intentional attention towards the protection of the environment, either or the State. Similarly in the 60's population was under control. Thus less demand was placed on the natural resources, especially the soil.

However, after 1960, the things changed so as to meet the day-to-day basic necessities and facilities and amenities required by man, the environment, and natural habitat were put to test. And to satisfy the ever growing demands and in an attempt to increase the supply, there was no additional land or/and other natural resources at the disposal of human being. For these, land, space, flora and fauna all were exploited irrationally to the optimum level at the whims and fancies, thereby resulting in the degradation of environment. At stake was the quality of life. Use of fertilizers' affected the soil quality. Deforestation has endangered the wild species and the climate change. Erection of the concrete jungles has disturbed the environment. Vehicular pollution has added fuel to the destruction of the quality of life. All this has led to the violation of the degradation of the quality of environment. The change in the quality of environment has resulted in the loss of quality of environment. This is a great loss to the human kind. This brings us at crossroads and one is brought back to square one with the basic conflict: environment versus development.

Generation after generation, man became more and more concerned with the standard of living by discarding standard of life. Today environment and development both are needed. And the conflict between the environment and development can be effectively resolved, if man is able to strike the golden mean between the two, which could be termed as sustainable development. Sustainable development has been discussed at length in the foregoing chapters. Quality of life and Quality of environment are a matter of grave concern since the two are interdependent. But one has to realize today that the quality of life can be maintained only when the quality of environment is maintained. The two form a vicious circle, which need not be

broken. If it is broken, the mankind of tomorrow will have to face devastating consequences.

7.2. Role of People's Movement: Need of the Hour

Every person has to be alert. Because today we need conscious efforts to protect, preserve and maintain the quality of life. No doubt right to healthy and wholesome environment is a fundamental right. But one has to remember that this right is slightly different from the other fundamental rights. However, when I say so, I do not mean technically i.e. to say technically it is like any other fundamental right. We have seen that it is today a part and parcel of Article 21 of the Constitution and that is beyond doubt. But the distinguishing feature of this right is that unlike other fundamental rights, the people to whom this right has been guaranteed have a vital role to play. And we have seen the role played by the people in maintaining this right. The public participation is must. The various people's movement which has ultimately led to protection of the right to healthy and wholesome environment has already been discussed. The researcher in the study has concluded that there have been public movements in environment protection; the future calls for many more such movements. Because pressure groups have their own place in a democratic set up.

And when one talks about pressure groups, one just can't forget the media. In today's age of Information technology, electronic media has a very important role to play. After doing the present study, the researcher urges the print and electronic media to play an effective role to strengthen the right to healthy and wholesome environment. Media is power. The media is a medium of communication. It can

create awareness about the protection of environment amongst the general public. It can hold talk shows on the issues pertaining to environment. It can provide a common forum to all the environmentalists who can come forward with efficacious solutions for preserving the right to wholesome environment. In the past too the media has done a good job. The news report "Rape of the Rock" carried by the National Daily, 'The Indian Express' has been taken note of seriously by the Supreme Court of India and the action was taken against the defaulters.

The media coverage will create more and more awareness about the protection of the right to healthy and wholesome environment and this will help in bringing a substantial change in the, at times, indifferent attitude of the public at large towards environment. This will also definitely create a feeling of responsibility of protecting and preserving the environment. This will also help in the removal of the feeling 'it's not my duty' attitude. The present need is to bring about an attitudinal change in the public at large about environment and its related issues.

The attitudinal change necessitates the change in the way of life. And religion and the religious beliefs can play an important role. The various religious teachings and the lessons of environment taught by them have been discussed earlier in detail.

The role of the judiciary in the protection of environment comes in the end. And it is important to note that the researcher's study has led to state that the emergence of environmental jurisprudence in India is the result of the efforts taken by a few public spirited people. And that is the reason why the researcher is compelled to emphasize more upon public participation when it comes to the right to healthy and wholesome environment. The researcher firmly

believes that if a group of individuals could initiate a new wave in the sphere of environmental protection, what will happen when this densely populated country unitedly works towards the preservation of the right to healthy and wholesome environment. Here, the researcher wants to mention specifically, that, though population explosion is one of the reasons for disturbance in the ecology, yet, the same could be used in the positive direction.

7.3. International Instruments and National Legislations

7.3.1 International Instruments: Need more coordination

The international community tried to take steps of protection of environment, sensing and realizing a threat to human existence in the future. They acted in accordance with today's mantra; 'Think global, act local'. Various international conventions were held, which are already discussed, to find solution to this serious issue. Various nations are signatory to these conventions

While the United Nations Environment Programme (UNEP) lies at the Center of Environmental regime, International environmental governance falls within the mandate of multiple organizations in the United Nations (UN) system. Hampered by a difficult mandate, a modest budget and limited political support, UNEP competes with more than dozen other UN bodies. The UNEP has to work in coordination of various other bodies' like. the Commission on Sustainable Development, the UN development Programme (UNDP), World Meteorological Organisation (WMO), etc. Adding to this fragmentation are the independent Secretariats to numerous Conventions like Climate Change Convention, all contending for limited governmental, time attention and resources.

The existing international environmental system has failed to deal adequately with the priorities of developed and developing countries. The proliferation of multilateral environmental Agreements has placed an increasing burden of collective obligations and responsibilities on member states. The toll on developing countries has been especially heavy as little assistance in the form of finances, technology, or policy, guidance has been forthcoming. The inadequacy and dispersion of existing financial mechanisms –scattered across the global environment facility, United Nations Development Program, World Bank, the separate funds– reinforces the perception of a lack of seriousness in the north about the plight of the South. Furthermore, fundamental principles of good governance such as participation, transparency and accountability are still at issue in many of the institutions with environmental responsibilities. These procedural shortcomings undermine the legitimacy of the system as a whole.

Collective action in response to global environmental challenge continues to fall short of public needs and expectation as a result of deep –seated weakness of the existing institutional architecture. The question, is therefore as not whether to revitalize the global environmental regime but how? The integrated and interdependent nature of the current set of environmental challenges contrast sharply with the nature of the institution we rely upon for solutions. These institutions tend to be fragmented and poorly coordinated with limited mandates and impenetrable decision making process.

National institutions also have roles to play, both at domestic and global levels of governance. National Governments remain the primary actors charged with regulatory and enforcement powers to solve environmental problems Functions such as standard, setting,

policy formulation; compliance, monitoring, and valuation are amongst their responsibilities. When the problems are of global character, national governments are again key actors. Implementation of multilateral agreements ultimately is the responsibility of the National Governments. They also engage in information sharing and exchange in the process of arriving at agreement on the global problems to be addressed, the policies necessary for their resolution, the actions to be undertaken domestically.

7.3.2 National Legislations: Paper Tigers

The pathetic saga is that despite of so many laws in existence, the environmental pollution goes on and the quality of environment is still deteriorating. " The pathology of legal impotence in overcoming pollution is not so much that we have not enough laws but that most laws with police powers bark but do not bite." There are various legislations pertaining to environment protection. They have failed in its obligations. They have power to impose fine or sanctions, but the researcher thinks it to be inadequate. The Pollution Control Boards should be armed with more power like; they should have the power to order immediate closure of the industrial units in case of violation of the environment protection legislations. These violations should be handled very strictly and no negligent attitude be tolerated. But experience has shown that they are mere paper tigers because where the will to kill pollution is lacking , implementation is the obvious casualty and legal restraints themselves become covert catalysts of corruption Of course, for this we definitely need persons of high morale, integrity and commitment to the greater cause of environment protection. The present passive attitude of the authorities should not be tolerated.

7.4. Constitutional Provisions: Adequate

Four years after Stockholm, in response to the Conventions, India has enacted several legislations in India. Prior to the 42nd Amendment of the Indian Constitution; the Constitution was environmentally blind to environment. However, today, one dare not say that. Today the researcher could see ample provisions in the Constitution as well as special enactments have been made deriving power from the Constitution.

Environmental protection has found a special mention in the Indian Constitution. In fact, the environment protection has been given a Constitutional status in the Indian Polity. The fundamental rights and Directive Principles of State Policy underline India's Commitment to protect and improve the environment. In terms of Directive Principle of State Policy, by the 42nd Amendment of 1976, two new Articles have been inserted: Article 48 A and Article 51 A (g). The former, under the Directive Principles of State Policy, makes it the responsibility of the State Government to protect and improve the environment and to safeguard the forest and wildlife of the country. The latter, under fundamental duties, makes it the fundamental duty of every citizen to protect and improve the natural environment including forest, lakes, rivers, and wild life and to have compassion for living creatures.

Similarly Part III of the Constitution of India incorporates fundamental right as which have been made judicially enforceable. The Supreme Court of India has contributed significantly especially since 1980s' onwards in broadening the contents and contours of some of these basic rights. In this connection, it is worth while to refer to the decision of the Apex Court in Dehradun Quarry's case,

in which Supreme Court moving under Article 32 ordered the closure of some of the quarries on the ground that these were upsetting the ecological balance and held that environmental degradation violates the fundamental right to life under Article 21.

Therefore, it can be said that, the Constitution the Constitution has made double provisions, which include directing the State for the protection and improvement of environment and expecting citizens to help in the preservation of natural environment. These provisions are indicative of government's awareness of a contemporary problem and of the need for providing a Constitutional base for further action at the national, state and local levels.

7.5 Role of Judiciary: Satisfactory

The present study has led to the conclusion that the attitude of the judiciary in the protection of the right to healthy and wholesome environment has been very cooperative and encouraging. The judiciary has recognized the right to healthy and wholesome environment as an integral part of Right to life guaranteed under Article 21 of the Indian Constitution. Public Interest Litigation has played a vital role in shaping environmental jurisprudence.

Public Interest litigation has revolutionized the traditional adversary litigation. It has widened the concept of locus standi. The Supreme Court has held:

Article 32 is designed for enforcement of fundamental rights of a citizen by the apex Court. It provides for an extraordinary procedure to safeguard the Fundamental rights of a citizen. Right to live is a fundamental right under Article 21 of the Constitution and it

includes the right of pollution free water and air for all enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws citizen as a right to recourse to Article 32 of the Constitution for removing the pollution of water or air which may be detrimental to the quality of life. A petition under Article 32 for the prevention of pollution is maintainable on the instance of affected persons or even by a group of social workers or journalists. But recourse to proceeding under Article 32 of the Constitution should be taken by a person genuinely interested in the protection of society on behalf of the Community. PIL cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32 are entertained, it would amount to abuse of the process of the Court preventing speedy remedy to other genuine petitioners from the Apex Court. Personal interest cannot be enforced through the process of Supreme Court under Article 32 of the Constitution in the garb of PIL. PIL contemplates illegal proceedings for vindication or enforcement of fundamental right of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law.

In **Municipal Council Ratlam v Vardhichand**²¹³ the Supreme Court for the first time issued directions to the municipal council to abate pollution. The court categorically fixed the responsibility on the municipal council to abate nuisance as it was one of its obligatory functions. The court observed

A responsible municipal council constituted for the precise purpose of preserving public health and providing better facilities, cannot run away from its principal duty by pleading financial inability.

²¹³ AIR 1980 SC 1622

The court pointed out that it was grievous failure of local authorities to provide the basic amenity of public conveniences that compelled miserable slum dwellers to ease in the streets and create nuisance.

The approach of the Supreme Court is definitely appreciable. But one thing has to be remembered that this right has emerged as a result of judicial activism. And today, everyone knows that judicial activism is looked with a raised eyebrow. And also another important issue is when we have specific organs to perform specific duties, why should the need at all arise for the judiciary to intervene. No doubt, in the interest of justice, the judiciary will always come forward, and it should come forward but then what will the other organs do? The judiciary has several other important functions to do. Issuance of orders to clean the garbage definitely cannot be seen as the role of the Apex Court. The precious time of the judiciary could have been saved, had the respective organ of the State performed its duty.

7.6 Human Rights Perspective

The introduction of a human right to the environment has been the subject of intense legal, philosophical and ethical discussion since the 1970s. It was included in the first Principle of Stockholm Declaration. Today right to healthy and wholesome environment is recognized as basic Human rights. Various countries have included this right in their Constitution or their national legislations.

Several International Instruments on human rights have included the right to healthy and wholesome environment. like the Universal Declaration of Human Rights, The International Covenant on

Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, The 1994 Draft Declaration of Principles on Human Rights and the Environment. Right to information has been the focus of the 1994 Draft Declaration.

All persons have a right to information relating to environment. The Declaration 1994 has stated categorically that this includes information, howsoever compiled, on actions and courses of conduct that may affect the environment and information necessary to enable effective public participation in environmental decision making and the obligation imposed is the information must be issued without any undue financial burden to the applicant.

The Declaration on the Right to Development recognizes that the right to development is an essential human right. Human rights violations lead to environmental degradation. It is important to note that human rights, an ecologically sound environment, sustainable development are interdependent and indivisible.

7.7. Suggestions

Law definitely can be an instrument to curb the environment pollution. But along with that the study has led to the following recommendations:

- Public participation is very necessary to make any law effective hence the people should take an active part in protecting the environment. There is a need to create public awareness about legal procedure It is the awareness of people that plays a decisive role behind the success of any legislation or National Policy. But generally people are not well acquainted with the legal procedures as to enable them to seek relief under

environmental legislations, hence there is need to educate people about such legal procedures. This can easily be done by State Pollution Control Boards in exercise of their functions respectively under Section 17 of Water (Prevention and Control of Pollution), Act (WPA) and Section 17 of Air (Prevention and Control of Pollution) Act (APA) by organizing legal camps, and educating people living in areas around the hazardous industries.

- Need to create any specific liability of State Boards under Environmental legislations. It is due to the activities of hazardous activities not been carried out with the provisions of the Environmental Legislations for a considerable period that ultimately cause disastrous situation of natural environment as happened in the cases of Vellore and Bicchhari . Such situations clearly relate to monitoring system, which needs to be carried out by the State Boards in exercise of their functions as mentioned under environmental legislation. Under WPA with special reference to Chapter IV and V and under APA with special reference to Chapter III and IV dealing with the power and functions of State Boards respectively to prevent and control water and Air Pollution. In these circumstances, the question arises if somewhere any negligence lies on the part of the Boards, why should they not be held responsible for their conduct along with the industries which are held mainly responsible for causing disastrous situation due to their irresponsible activities. In this circumstances, there is a need to create some specific liability of the State Boards also to meet such situations .For this purpose Section 62 of WPA and Section , .47 of APA (which deal with the power of the State Government to supersede State Boards, if in their opinion Boards have persistently made default in the performance of

the functions under the Act or if the State Governments find necessary to superseded the Board in public interest) should accordingly be amended..

- Section.5 of the Environment (Protection Act),1986 be amended to include the power of immediate closure of the erring industries on the first instance within a period of 15 days after giving notice be conferred on the authorities. This is necessary to ensure a deterrent check on the Pollutants. No doubt today the 'Polluter Pays' principle is enforceable. But that does not mean that just by paying compensation anybody can go on polluting the precious environment. Penalty four to five times the size of the unit should be imposed after assessing the value of damage.
- Sentencing powers must be made stringent. Rigorous imprisonment of 14 years must be awarded for the violation the environmental rules. The intention of providing such stringent punishment is to create a fear in the minds of the people. This would emphasize the importance of the protection of environment.
- Unmindful use of environment causing pollution must be avoided.
- Vehicle pool should be preferred. This will lead to reduction in the number of plying of vehicles on road. And will result in decreasing Vehicular traffic and emissions as well as noise pollution, thereby enhancing the quality of environment. Also CNG driven vehicles should be preferred over petrol and diesel. The M.C.Mehta case in which the apex Court has directed to convert older models into CNG is laudable. Gradually a

substitute to petrol and diesel is desirable, economically as well as environmentally.

- The researcher proposes a programme entitled 'SAARC Nations Environmental Protection Plan' is drawn for the SAARC nations on the line of European Community Action Plan. The need for the same is because there are common problems of a particular region are common and they can be tackled collectively. The Action plan can include an Environment Enforcement Agency namely 'SAARC Environment Enforcement Agency' There are various international instruments pertaining to environment. And the individual nations too have their own environment protection laws. However, the saddest part is that the laws at times prove ineffective because of the lack of proper implementation of it. Hence it is very necessary to ensure proper implementation of the legislation. On the lines of European Community specific actions can be outlined
- To improve the implementation of legislation, the following specific actions may be outlined:
- Support for the implementation network and its extension to the candidate countries;
- reporting on the implementation of environmental law;
- a "name, shame and fame" strategy on the implementation of environmental law;
- the improvement of environmental standards of inspection;
- initiatives to combat environmental crimes;

- establishing a SARRC Environmental Court which shall have jurisdiction to tall the SARRC countries;
- Pursuing action in the SARRC Environmental Court to ensure implementation.

- **Establishment of Green Courts**

Like the SARRC Environmental Court at the national level Special Green Courts be established in India. In the past few years there has been an increase in the number of cases pertaining to environmental pollution and ecological destruction. The environmental problems are of scientific, technical and judicial nature. And it is very difficult to be tackled by persons possessing mere legal knowledge and expertise. The researcher also suggests establishment of Green Courts this need has been projected in 1986 itself by Justice Bhagwati But till date we do not find the establishment of the same. The judges with special knowledge relating to environmental issues should be preferred. Also besides the regular judges a special panel should be permanently recruited at the Green Courts.

A 15 member body besides the regular judges be constituted.

- The following persons should be the members of the panel
- Chemical Analyst
- Soil, Forest Conservators, Geologist
- Surveyors and Damage Assessment Experts
- Water Resource managers (Hydrologists)

- Anthropologist
- Scientist
- Experts in the medical field
- NGOs working in the protection of environment and related field.
- Technical Experts
- Metrological Experts and Environment Academicians

This Panel is recommended by the researcher to ensure quick disposal of the environment related cases. As all the required assistance shall be available at hand to the Court when environment related matters comes before the Court. This team can give the environment impact assessment an immediately, if not already done. Secondly, they can use their expertise to handle the problem and maintain a healthy and wholesome environment.

• **Simplistic Procedure in Environment related matters:**

The environment related issues be handled in a very simplistic way. The mechanism to be adopted should be an alternate dispute Redressal mechanism. It must be simple, cheaper, should ensure fast and speedy justice and must involve less documentation.

• **Monitoring Committee:**

A monitoring committee should be constituted. The function of this Committee shall be to monitor the implementation of the decisions delivered by the Courts.

- Redressal Fund: A Redressal Forum Fund should be generated. And all the required expenses are carried out from this fund.

- The lethargic attitude of the executive in environmental programmes can be removed by making the programmes time-bound.
- For the purpose of proper implementation of all the environmental schemes, it may be first of all properly monitored and secondly handed over to specialized agencies to ensure efficacious implementation of environment protection schemes.
- The special units empowered with powers to punish on failure of implementation of the policies on time are created which the Minister of Environment shall head. There should be less bureaucratic hurdles.
- More schemes encouraging environmental awareness need to be introduced.
- The NGOs working for the environment protection be extended full cooperation.
- The Executive in collaboration with the leading law schools in the country chalk programmes to ensure sustainable development.
- The Executive should ensure that the enforcement officers are the people with high integrity and social commitment.
- The Executive should play an active role in dealing the environmental issues. Today environment is one of the subjects compulsorily to be studied at school level. Special schemes should be introduced in schools to encourage the children to keep their environment clean. And to develop an environmental culture. Children are the future of our country and also valuable

asset of the country. And another important thing is that the mind of the children being very impressionistic, the right things if imbibed at the right time in their minds, it can have the desirable effort. And once the children of the country are properly groomed in environmental matters, they can prove to be an important instrument in maintaining Sustainable Development.

- **Necessity of Commitment:**

At present, various institutions and agencies ostensibly have many of the identified capacities. But the reality often falls short of the promise. And some are flagrantly absent. For example, a host of international organizations, scientific research centers, national governments, and environmental Convention secretariats are carrying out data collection, scientific assessment, financing, and technology transfer with little coordination across jurisdictions. Compliance-monitoring and-reporting are unsystematic, scattered, and largely informal. The participation of non-state actors requires further structural elaboration and institutionalization along with procedures for rule-making. A forum for issue linkage, bargaining, and trade-offs as well as a dispute-settlement mechanism is lacking. A more robust policy space for the environment is necessary to sustain efforts at environmental advocacy within the broader system of global governance and to ensure that environmental concerns are integrated into sustainable development policies.

The inclusion of the above said suggestions shall enable the policy makers and legislators make the necessary changes effective. The researcher concludes the present study with a dream that could be accomplished by practicing values as preached by Gandhian prudence. Pray for:

**Let there be peace in all directions
Let there be peace in Antariksha(Ether)
Let there be peace in Region of Earth
Let there be peace in Water
Let there be peace in Medicinal Herbs
Let there be peace in Vegetation
Let there be peace in God
Let there be peace in Places
Let there be peace in Creations (Brahmand)
Let there be peace – uninterrupted peace, only peace and
everlasting peace and profound peace.**