



Growing attention on environmental law; Special emphasis on the plight of the third world countries

Kashish Khanna

Department of Law, IILM University, Gurugram, Haryana, India

Abstract

In the 21st century, an economy-centric era, though late, but the realization that environmental sustenance is inevitable for economic sustenance has come fourth aggressively. This delay has its own drawbacks. The warmest decade on record, 2011–2020, saw an alarming increase in the rate of climate change. According to a recent World Meteorological Organization (WMO) assessment, persistently growing concentrations of greenhouse gases have accelerated the melting of ice and the rise in sea level, while also driving record highs in land and ocean temperatures. According to the study "the Global Climate 2011-2020: A Decade of Acceleration," far more aggressive climate action is required in order to try to keep the rise in global temperature to no more than 1.5°C over the pre-industrial period ^[1]. Furthermore, the report on International Methane Emissions by UNEP gives decision makers a framework for tracking and monitoring methane emissions. Also, as per WMO, the globe is very far from fulfilling its climate targets ^[2]. Thus, protection of environment by the enforcement of environmental laws has become extremely essential. In India, environmental laws are granted under the Environment Protection Act and globally many Treaties like, MARPOL, BBNJ, Rio Declaration, NAFTA, POP etc. Are these treaties credible enough? Now, to combat the situation and prevent it from worsening the nation states are expected to invest time and money in the protection of the environment ^[3]. The world's largest economies can be assumed to have the resources and financing to achieve this. But what about the third world countries suffering from poverty? What are the poverty statistics of these countries? Can they be expected to this task without any aid? Should they be provided aid to achieve it? Is there a rising need of a global funding mechanism to cure the issue? Can the better off countries be convinced to help the third world countries in a scenario where another world war is anticipated soon? All these questions shall be answered by the end of the research paper. The research methodology shall be doctrinal and any limitation in scope may be subject to geographical and time constraints.

Keywords: Economy-centric, environment, sustenance, laws, treaties, global funding mechanism etc

Introduction

There are various treaties made for the protection of the environment globally. An environment convention is a legally binding agreement signed by states to cooperate in taking steps to counter or lessen a global environmental. Some of these are

- **Convention on Ramsar:** In 1971, the Iranian city of Ramsar adopted it. It became operative in 1975.
- **Stockholm Agreement:** The agreement, which deals with persistent organic pollutants (POPs), was approved in Geneva, Switzerland, in 2001. It became operative in 2004.
- **The Kyoto Protocol:** It is a global agreement to cut emissions of greenhouse gases. In 1997, it was ratified. It became operative in 2005.
- **UNCCD:** The Convention to Combat Desertification is a UN document. It was adopted in 1994. It became operative in 1996 ^[4].

Importance of Environment Preservation

- **To Avoid Exploitation:** The recent data indicates that there are presently 7.9 billion people on the planet, and by 2057, that number is expected to rise to 10 billion. Resource consumption is increasing in tandem with the growth of the human population. Natural resources that are vital to maintaining our way of life and providing comfort are things like water, air, sunshine, arable land,

metal ores, and fossil fuels. Considering how heavily we rely on fossil fuels for our energy needs, a worldwide shortage of these resources might provide unanticipated difficulties, especially given that they took millions of years to develop. Furthermore, freshwater resources make up just 3% of all the water bodies on Earth, of which only 1% are used for daily needs like irrigation, power production, and household use. Future generations may face a catastrophe as a result of the existing patterns of resource utilization.

- **To keep balance in our Ecosystem:** Maintaining the natural balance of an ecosystem is the main goal. To keep this balance, we must give back to the environment in proportion to the resources we receive from it. This equilibrium can be upset by a number of things, such as the influx of new species, abrupt extinctions, natural catastrophes, or forces brought about by humans. Approximately one-third of the drinking water supply in many of the world's most famous cities comes from our woods. Furthermore, many species, including 68% of mammal species, 75% of bird species, and 80% of amphibian species, share this habitat with these forests.
- **To Avoid Natural Disasters Caused by Humans:** In addition to the yearly man-made mishaps, increased human activity has a substantial impact on some natural disasters. One prominent example is the 1986 Chernobyl accident, which occurred in northern

Ukraine when it was still a part of the Soviet Union. The land became unusable owing to radioactive pollution as a result of the emission of radioactive poisons in that area. There are questions concerning the feasibility for other creatures if humans cannot live there.

- **To Diminish the Effects of Climate Change:** The consequences of global warming include, but are not limited to, temperature changes, glacier melting, rising sea levels, acid rain, the greenhouse effect, and acidification of the ocean. The primary causes of the slow increase in the earth's temperature are due to both human negligence and population growth. Until these issues start to affect other aspects of the ecosystem, they might not seem frightening. Acid rain and other consequences such as climatic shifts have been brought about by the increased concentration of carbon in the atmosphere. The acid that is produced when atmospheric carbon and precipitation combine is a major cause of death in some of the most polluted countries. The pH of ocean water is raised when this acid mixes with it. Beyond their ideal pH range, certain creatures cannot survive, which has a domino effect on the entire food chain and eventually results in the degradation of ecosystems. However, only us collectively will have the ability to protect our planet from impending natural calamities by promoting a thorough understanding of the value of environmental preservation.
- **To Raise Consciousness:** The last, but no less important, reason to start environmental conservation is to raise awareness among our people. Our extended period of careless behaviour is to blame for the wide range of environmental problems we currently face, which is driving us towards an unfathomably devastating outcome. Understanding the significance of the environment is the first step in starting any project pertaining to its protection and preservation. This is so because our behaviour throughout time has a cumulative effect on the results. Moreover, we can quickly lessen the effects that follow by taking on the responsibilities of a responsible populace and actively raising awareness by taking part in various environmental conservation efforts.
- To sum up, protecting the environment is not only our duty but also a requirement for the health of the earth and future generations. We can protect our environment's fragile balance by minimising pollution, encouraging awareness, protecting natural habitats, and implementing sustainable activities. Little or large, every person's activities add to the overall endeavour to protect the diversity, resources, and beauty of our world. We must acknowledge the close relationship between the health of the Earth and our own, and we may create the conditions for a peaceful living with it by practicing conscious conservation ^[5].

The Plight of the Third World Countries

International law is ingrained in hierarchical structural power, despite the fact that it is purportedly a reflection of desire and a promise of fairness to Third World

governments. This is well demonstrated by the formal structures of international institutions. Voting at the World Bank is based on a state's shares, or the amount the it contributes to the organization. Consequently, states with larger contributions receive more votes. Wealthier states are given a bigger voting share in the formal institutions of international law, even though the law treats all states equally. This implies that they may frequently make decisions without even taking the opinions of poorer governments into consideration. A comparable structure is seen at the UN Security Council, where veto power is limited to the five permanent members. With the exception of China and Russia, who have gained importance due to their political and/or economic challenges to Western hegemony, the veto is primarily held by Western governments. It will be difficult for many of the smaller Third World countries to oppose Western powers in a way that would be noticeable and significant enough to be taken seriously. For example, Venezuela employed international law to demonstrate its resistance to Western hegemony by rejecting the Copenhagen Accord, but its actions fell short of what was needed to even be acknowledged by major nations. Western hegemony's intervention in these Third World countries has harmed the stability of international law and the global order, which is evidence of their historical imperialist inclinations. Controversial, humanitarian intervention is perceived as a covert means by which the West occupies Third World countries while claiming to be acting in the interests of the people. This challenge was demonstrated in Nicaragua, when the United States entered the state's war and assisted the contras in organizing a powerful resistance. In addition, support for a group that Pakistan was persecuting came from India's assistance, which helped Bangladesh achieve independence. In the aftermath of the Iraq War, nations have most recently invoked the justification put forward by President Bush to defend their acts as humanitarian interventions. The war between the Kurds and the UK is one example of how the UK demonstrates this.

Third World governments do not seem to have the same level of sovereignty as wealthier ones, based on the ease with which intervention may happen and the perception that it is justified. The idea of inviolability should prevent unnecessary border violations, but if humanitarian aid is being used as a cover for invasion, this points to a global governance structure that benefits the wealthier nations. The absence of institutional institutions of international law that provide accountability mechanisms for major powers serves as evidence of the illegitimacy of the global governance system ^[6].

These countries constantly face issues like poverty, unemployment and religious wars etc. then it is food for thought that if can they be expected to focus on the environment or not.

Environment Conservation and the Expenditure Required for Promoting a Better Environment

The action taken by people, groups, and governments to preserve the environment is known as environmental protection. Thus, it is critical to preserve the natural environment and its resources, as well as to make necessary repairs and reversals of harmful tendencies. We all depend on Earth for food, air, water, and other essentials. It is home to a diverse array of living things. Human existence will be

safe and healthy if animals and other natural resources are preserved.

Preservation of ecosystems, species diversity, DNA, and environmental services like nitrogen cycling are all part of conservation.

Over the next 20 years, it is estimated that between \$300 billion and \$50 trillion will be needed to reverse global climate change ^[7]. The budget is more than the combined GDP of a few nations. The lowest GDP in the world is of 0.07 billion hailing from an island named Tuvalu.

Environmental Laws in India

Indian Forest Act

The Act limits the ability of the federal government and other agencies to make decisions without first obtaining approval from the state government. The Forest Conservation Act grants the Central government total authority to carry out the act's goals. Penalties under the Act are imposed for breaking the FCA's rules. An advisory body established under the Forest Conservation Act will provide assistance to the Central government in the area of forest conservation. Previous Indian Forest Acts put into effect by the British served as a major basis for the Indian Forest Act of 1927. The Indian Forest Act of 1878 is the most well-known of them. The goals of the 1878 and 1927 acts were to combine and conserve areas with substantial wildlife or forest cover, to control the flow and transit of forest products, and to establish tariffs on wood and other forest products. It also outlines the steps that must be taken in order to designate a region as a village forest, protected forest, or reserved forest. It explains what constitutes a forest crime, what behaviors are forbidden within a Reserved Forest, and the consequences of breaking any of the Act's rules ^[8].

Environment Conservation Act: The Environment (Protection) Act, 1986 gives the national government the authority to prevent or restrict the establishment and/or operation of any industrial facility on environmental grounds, control and decrease pollution from all sources, and safeguard and enhance the quality of the environment. The Environment (Protection) Act was passed in 1986 with the intention of safeguarding and enhancing the natural world. It gives the Central Government the authority to create agencies tasked with stopping pollution in the environment in all its manifestations and addressing regionally specific environmental issues. The Act was most last changed in 1991. Procedures for establishing emission or discharge limits for environmental contaminants are outlined in the Environment (Protection) Rules ^[9].

National Green Tribunal Act: In accordance with the National Green Tribunal Act of 2010, cases pertaining to environmental protection, the preservation of forests and other natural resources, the enforcement of any environmental legal rights, the provision of relief and compensation for harm done to people or property, and matters incidental or connected thereto shall be handled effectively and expeditiously. It is a specialised organisation with the knowledge and experience needed to resolve environmental conflicts spanning several disciplines. The Tribunal will use natural justice principles instead of following the process outlined in the Code of Civil Procedure, 1908. Due to the Tribunal's specific authority over environmental concerns, environmental justice will be

served quickly, and the volume of litigation in higher courts will be lessened. The Tribunal is required to consider and attempt to resolve petitions or appeals in their whole within six months of the submission of the same. In order to make itself more accessible, the NGT is first planned to be installed at five locations for sittings and will adhere to circuit process. The primary location of the Tribunal's meetings is New Delhi; the other four locations are Bhopal, Pune, Kolkata, and Chennai ^[10].

Biological Diversity Act: The following are its main clauses, which are intended to accomplish the aforementioned goals: forbidding the export of Indian genetic material outside without the Indian government's express consent; prohibiting anybody from obtaining a patent or other intellectual property right (IPR) over biodiversity or related knowledge without the Indian government's consent; limits on the acquisition and use of biodiversity by Indian nationals, with local communities being excluded; strategies for distributing the advantages of using biodiversity, such as technological transfer, financial rewards, cooperative R&D, shared ownership of intellectual property rights, Environmental Impact Assessments (EIAs), biodiversity integration into department/sectorial strategies, activities, and policies clauses allowing local communities to set prices and have a voice in how their resources and expertise are used; preservation of indigenous or traditional knowledge by suitable legislation or other actions, including registering it; control over the application of genetically engineered organisms; creation of funds for biodiversity at the federal, state, and local levels to promote benefit-sharing and conservation; establishing a National Biodiversity Authority (NBA), State Biodiversity Boards (SBB) at the state level, and Local Village Biodiversity Management Committees (BMC) at the local level ^[11].

In order to successfully safeguard the nation's wild life and to curb poaching, smuggling, and the illicit trade in wildlife and its derivatives, the Indian government passed the Wild Life (Protection) Act in 1972. Information on legislation, rules, notices, guidelines, and wildlife protection acts is available to users. Other than these legislations, The Ministry of Environment and Forests (MoEF) created the National River Conservation Plan (NRCP) with the goal of reducing river pollution and raising water quality. Users may get knowledge on sewage treatment plants, authorities that monitor water quality, agencies that execute policies, and particular action plans for different rivers. The Ministry of Environment and Forests is responsible for issuing the National Environment Policy, 2006. Extensive engagements with specialists from many fields, Central Ministries, Parliamentarians, State Governments, Industry Associations, Academic and Research Institutions, Civil Society, NGOs, and the general public resulted in the National Environment Policy, 2006. Furthermore, Under the Ministry of Environment and Forests, the Government of India, the Botanical Survey of India (BSI) is the premier scientific organisation responsible for conducting taxonomic and floristic studies on the nation's wild plant resources. It was founded on February 13th, 1890, with the primary goals of investigating the nation's plant resources and identifying species of plants with beneficial economic properties. Also, The Public Liability Insurance Act of 1991's primary goal is to compensate accident victims who handle dangerous materials in the course of their work. All owners who are

involved in the handling or manufacture of any hazardous substances are subject to the Act. Users may learn about the Act and its revisions from the Ministry of Environment and Forests. Enforcement issues are common for all the above legislations which is clearly shown by the pollution levels in various Indian cities.

Conclusion

The understanding that economy and environment are equally important should be adopted globally. The third world countries aren't self-sufficient to even manage their basic needs thus they should be aided by the west. A global funding mechanism is the need of the hour. This issue is not pertinent to just the country with high pollution levels, people should realize that although they live in different countries they share the same land of the earth, they are united by the existence of this planet. Therefore, unity is the best solution to the above discussed problem.

References

1. WMO, <https://library.wmo.int/records/item/68585-the-global-climate-2011-2020>, Last Visited at 5th January 2023.
2. UN Climate Change Reports, <https://www.un.org/en/climatechange/reports>, Last Visited at, 5th January 2023.
3. Environmental Law, <https://guides.ll.georgetown.edu/InternationalEnvironmentalLaw/treaties>, Last Visited at 5th January, 2023.
4. Environmental Conventions, Drishti IAS, <https://www.drishtiiias.com/to-the-points/paper3/environmental-conventions-biodiversity>, Last Visited on 20th January 2024.
5. Major Importance of Environmental Conservation, Aonic, <https://www.aonic.com/my/blogs-application/5-major-importance-of-environmental-conservation/> Last Visited on 20th January 2024.
6. Plight of the Third World Countries, UCLP Media, <https://uclpimedia.com/online/the-plight-of-the-third-world-in-international-law>, Last Visited at 25th January 2024.
7. Cost to end Climate Change, Global Giving, <https://www.globalgiving.org/learn/cost-to-end-climate-change/#:~:text=Learn%20more%20about%20the%20cost,over%20the%20next%20two%20decades>, Last Visited at 26th January 2024.
8. Legislations on Environment, Vikaspedia, [https://vikaspedia.in/energy/policy-support/environment-1/forests/general-environmental-acts#:~:text=The%20Environment%20\(Protection\)%20Act%2C%201986%20authoriz](https://vikaspedia.in/energy/policy-support/environment-1/forests/general-environmental-acts#:~:text=The%20Environment%20(Protection)%20Act%2C%201986%20authoriz), Last Visited at 27th January 2024.
9. Supra Note 8.
10. Supra Note 8.
11. Supra Note 8.