

ENVIRONMENTAL HEALTH AND HUMAN HEALTH

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THE REQUIREMENT of a healthy environment was envisaged, mainly when the world by use of advance technology is gaining progress in many fields at the cost of affecting the environmental health.

In this paper we shall try to take up the inter-relation between the environmental health and human health, the factors affecting them and finally the remedial measures as well as the future legislations both at the national and international levels.

Introduction

Environment is the basic need of every society. It is the nature nurture interaction which gives rise to a healthy society. It is amply clear that the basic needs of men are hunger, thirst and sex, but this would be meaningless if the environment is not conducive and is defective or insufficient in the fulfilment of basic needs.

According to one psychologist, "A healthy personality is developed in a healthy mind in a healthy environment and in a healthy society". According to this statement, environmental and human health are directly proportional to each other and any action on one would have equal and opposite reaction on another.

Health is changing rapidly with the change in environment, therefore, time is ripe to take stock of interaction of various factors on health in general and child health in particular. In this conference, we shall try to highlight on complex environmental problems in relation to the children and how law is to play a positive and constructive role in resolving conflicts in the inter-relation of health and environment. Since law and education being the two facilities complementary to each other and also to various

facets of human life, they must go together.

Few years ago, the problems of environmental degradation with respect to health were not as serious as are in the present day context. To cope up with this problem, intensive empirical researches and analysis have been performed to safeguard the environment as well as the human being.

Environmental health

Like man and machine same is true for nature, that any unnecessary disturbance in the form of external stimuli would affect the natural environmental health. Since, the wrongs against the environmental health are committed by men and men alone, therefore by imposing restrictions/fines or penalties on men, the environmental health can be safeguarded. Further, to check and control the wrong caused on environment, law comes into picture.¹ A law to maintain the purity of land, water and air and other elements of nature are present in every society from the time immemorial. But in the modern times due to urbanisation, industrialisation and over population, the environment gets polluted, which requires an effective legal weapon to check.

Historical development

During Stockholm Environment Conference, 1972 the first effort of its kind was made where the environment was placed on the agenda of international priorities. The world thought of as a single unit to preserve and protect the environment. Later on in June 21, 1992 at Rio De Janeiro of Brazil, there was culmination of intensive efforts to protect environment and foster international environmentalism.

At the Rio Conference, two major views were highlighted which are as follows :

- (i) According to developing nations most of the environmental hazards, pollution, disturbance to the environment is due to

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1. See, P.M. Bakshi and P.D. Mathew, *Ensuring a Safe Environment: Law against Pollution* (L. Ed. Sr. 25, I.S.I., New Delhi).

industrial (developed) nations. Therefore, as a prudent man, the amount of contribution should be as per the quantum of danger involved.

- (ii) Whereas the developed nations, more particularly United States, wanted that the contribution should be as per the area/geographical locations covered.

However, no consensus could be evolved in this conference because of lack of unanimity. But an agenda was prepared called 'Agenda-21' for the control, protection, development and maintenance of the environment as a whole. Although this is not a legal document, but still it has a strong world opinion.

Factors affecting environment

There are numerous factors which affect the environment, *i.e.* through air, water and land. However, some of the important factors have been highlighted, which are as under:

Increase of Chlorofluro Carbon : CFC is a poisonous gas which formed as an industrial waste as a chemical by product. As more and more Chlorofluro Carbon is produced, may be in the form of smoke, spikes, dangerous fumes, etc., which would badly affect the environment and spoil the umbrella, provided by the nature *i.e.*, the ozone layer which protects the human civilization *i.e.*, man and material from the ultra-violet radiations.

Uncontrolled pollution mechanism : As with the development of technology, the industrial set up is engaged in more increase in its profitability, better product without regard to the effect of industrial waste on the environment, as this waste gets mixed up with environment, affecting air, water and land as well.²

In water pollution, the industrial waste gets mixed up with toxic chemical substances thereby creating harmness in water as well as

invitation to some new diseases, the consequences of which would come in future.?

Use of extra hazards substances : Here the liability of the manufacturer is absolute, therefore, the Parliament enacted public liability Insurance Act, 1991 which casts a duty on the manufacturer to have at least two insurance policies so that the injured should get compensation directly from the insurer.

Human health

Human health can not be seen or visualised merely in vaccum. It is the environment or the nature in which the human being functions. Therefore, the effect of environment do cause similar reaction to the human health. As legal scholars, we shall see in the international as well as the national set up, the various provisions under which the human health gets affected and the role of human right organisations to preseve and protect the human-being from the detorating environmental culture.

International set up

The United Nations Charter explains the aim of United Nations, which among others mentions as given below :-

"... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and ..."

And for these ends, to practice tolerance and live together in peace with one another as good neighbours and to unite our strength to maintain international peace and security.

Further, the purpose of United Nations among other factors are, to achieve international cooperation in solving international problems of economic, social, cultural or humanitarian character and in promoting and encouraging respect for human right and for fundamental freedoms.³

It shall be the duty of the General Assembly⁴ to initiate studies and make recommendations for the purpose of promoting international

2. See, Water Pollution Act, 1974 and Air Pollution Act, 1981.

3. See, article 1 (3) of the Charter of United Nations.

4. See, *id.*, article 13.

cooperation in the political field and encouraging the progressing development of International law and its codification. Therefore, through international cooperation in other fields also like economic, social, cultural, educational and health fields realisation of human rights and human health can be achieved. Because it is through proper means of survival man can think of progressive development in all fields without spoiling health and achieving the best out of available modalities.

For better human health and with a view to creating conditions of stability and well being which are necessary for peaceful and friendly relations among nations based on principle of equal right and self-determination of people, the United Nations shall promote higher standard of living, full employment and conditions of economic and social progress and development.⁵ It shall also promote to arrive at a solution of international economic social, health and related problems as well as International cultural and educational cooperation.

The United Nations has also created various specialised agencies, established by inter-governmental agreement and having wide international responsibilities as defined in their basic Instruments in economic, social, cultural, educational, health and related fields.

The United Nations General Assembly on 22 December, 1989 at its 85th meeting passed a resolution 44/228, entitled "United Nations Conference On Environment And Development" listed many issues and one amongst them was protection of human health, conditions and improvement of the quality of life.⁶

5. See, chapter, "International economic and social cooperation," article 55 of Charter of U.N.

6. See, P.S. Sangal, "Some recent developments in the field of environment, prospects for the future", 13 *D.L. Rev.*44-5

7. See, art. 25 of Constitution of India.

8. See, art. 23 of Constitution.

9. Also see art. 24 of Constitution.

10. See, art 39 (f) of Constitution.

11. However, Indian courts are free to interpret right to environment, conducive to survival, under the concept of right to life and personal liberty, where the courts have said that life does not mean a mere animalistic existence.

The U.N. General Assembly decided that the aforesaid Conference should have the following objective among others.

1. To promote and further development of International Environmental Law, taking into account the declaration of United Nations Conference On Human Environment, with a view to examine the needs and concern of developing nations, the feasibility of elaborating general rights and the obligations of States in the field of environment, by taking into account the relevant existing international legal instruments.
2. To promote the development of human resources, particularly in developing nations, for the protection and enhancement of the environment.

National set up

Under part III of the Constitution certain rights have been conferred, for the protection, safety and development of human health and human personality. It is truly agreed that every person has a right freely to profess, practise and propagate religion of their choice subject to public order, health and morality.⁷

Further, traffic in human-beings and *begars* and other forms of forced labour spoiling our human health are prohibited and shall be punishable in accordance with law.⁸

Looking at the child health in particular, no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment.⁹

Under Part IV of the Constitution, the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.¹⁰

Constitutional provisions relating to environment

Coming to environmental health, there are no specific provision under part III of the Constitution dealing with fundamental rights¹¹

strictly to cover the concept of environment. However, our Constitution in part IV mentions that the "State shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country."¹²

Further, it shall be the duty of every citizen of India to protect and improve the natural environment including forest, lakes, rivers, and wild life and to have compassion for living creatures.¹³

Indian Parliament enacted, The Public Liability Insurance Act, 1991 which provides a machinery to deal all hazardous chemical industries to insure themselves compulsorily to able to give relief to affected persons immediately.¹⁴ Presently this covers the human health, but it must also cover the damage caused to the environmental health. This Act came as a government response against Bhopal Gas type tragedy.

The growth of hazardous industry has also invited risk not only to the work-men employed but also innocent members of public in the vicinity as well as the clean environment. Generally, the majority of the people affected are from the weaker section of the society. Therefore, it was felt essential to provide for mandatory public liability insurance for installation, handling hazardous substances for providing minimum relief to the victims.

If the objective of providing immediate relief is to be achieved, mandatory public liability insurance should be based on a limited scale of no fault liability.¹⁵

Under section 3 of the Act, the claimant shall not be required to plead and establish that death, injury or damage in respect of which claim has been made was due to any wrongful act, neglect or default of any persons. Thus it lays down no fault liability principle.¹⁶

After looking at the broader objectives of the Act it is clear that so far as the liability for keeping hazardous substance is concerned, there should be no difference between private owned and government owned corporations dealing with such activities. Therefore, the Government, or its owned or controlled corporation or local authorities should be made amenable to this law and the government should not have the power to exempt them from the operation of this law. It does not make any difference to the victim whether he receives injury from a private agency or a government owned.¹⁷

Correlation between environmental health and human health.

To see the correlation, we must look into the Environmental Protection Act, 1986 which defines environment as including:

1. Water, air and land; and

2. The interrelationship which exist among and between water, air, land and human beings, other living creatures, plants micro-organisms and property.

Since the Act covers within itself human being and other living creature, therefore, it is the human health and environmental health and their-relationship, gives rise to a healthy environment. Because neither the water, air and land would be useful unless and until it is being utilised by the man kind, but should be for betterment, away from pollution¹⁸ and hazardous substances.

Further, for the protection of environment

12. See, art 48 A (incorporated by 42nd amendment, 1976) of the Constitution.

13. Also see, article 51A (g) of the Constitution of India.

14. For details see the legal provisions of Public Liability Insurance Act, 1991.

15. The maximum relief under this Act is Rs. 15 thousand per person for fatal accidents in addition to re-imburement for medical expenses, if any, incurred on the victim upto maximum of Rs. 12,500.

16. However, the Act also defines hazardous substances This means any substance or preparation which defined as hazardous under the E.P.A. 1986. Further, it also means any substance or preparation which by reason of its chemical or physico-chemical properties of handling is liable to cause harm to human-being, other living creatures, plant, property or micro-organism and the environment.

17. Unlike the M.R.T.P. Act, 1969, the Consumer Protection Act, 1986 applies equally to all manufacturers, whether government or private.

18. Pollution, under E.P.A. 1986 is defined as the presence of any environmental pollutant may in the form of solid, liquid or gaseous substances present in such concentration as may be, or tend to be, injurious to the environment.

and for the batterment of human civilisation a scheme has been formulated to give a variety of power to the Central Government.

1. Power to take measures for protecting and improving the quality of environment and preventing pollution.
2. Constituting authorities to which the central government powers may be delegated.
3. Making rules relating to standards of air, water or soil for restricting the handling of hazardous substances and also the location of industries and industrial processes.

Besides, there are two specific prohibitions in the Act itself:

- (A). No person carrying any industry, operation or process is to discharge any pollutant in excess of the prescribed standards.
- (B). No person is to handle any hazardous substance except in accordance with the prescribed procedure and prescribed safeguards.

Violation of these provisions is punishable with imprisonment upto 5 years or fine upto 1 lakh rupee or both with enacted penalties for continued contravention.

The Central Government has the power to take all such measures as it deems necessary or expedient for protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.¹⁹

Environmental - human health protection

*Role of China:*²⁰ China has planned to spend 17 billion between 1991-1995, which is

19. See, sec. 3(1) of E.P.A. 1986.

20. See, N.C. Sen, *M.P. Chronicle*, (16 Dec. 1993).

21. Legislations from China are in the field of water, air pollution, protection and prevention of sea, forests, grassland, wild life and mineral resources and recently laws on desert prevention and control were enacted.

22. According to Hu Baolin, Director of Policy and Regulation Deptt. of China's Natural Environmental Protection Agency argues that "Economic expansion can be compatible with environment protection and a good environment will promote good human health and economic growth."

about 0.85 per cent of the country's G.N.P. China has enacted four environment laws²¹, 20 state regulations and laid down more than 200 national standards. But, it is really a matter of pity that, there are many instances of violation of laws and regulations "for the sake of quick economic going".²²

Recently, China held the 2nd Conference on Prevention of Industrial Pollution and three principles were laid down:

1. Control of the whole process of industrial production.
2. density control to be combined with quality control.
3. decentralized control to be combined with centralized control

In China, the government of Britain under China - Britain cooperation programmes has launched a pilot project at Qingdair city by curing the dump sites into residential areas, parks and gardens using bio-engineering methods under the following heads:-

- (A). Treatments of Urban Solid Waste using bio-engineering methods
- (B). Engaged in monitoring the discharge of treated waste into river and sea.

Role of India

For better protection and control of environmental hazardous, the Government of India has enacted Water Pollution Act, 1974 and Air Pollution Control Act, 1981. Merely the formation of Act would not be sufficient but at least a necessary condition to safeguard the ("water, air, land") environment for the human being and more so for the children of young generation who are in the stages of development. A bad water, air and land will not only pollute the man physiologically but also psychologically. Because, on human health, environment is the first and foremost factor which has a direct bearing on human personality. This is possible by preparing a machinery consisting of environmentalists, doctors, psychologists, social workers, judges and academicians, through our socio-economic

geographical and cultural means with legal safeguards, so that an environment free from pollution must survive for the coming generation.

Cases of environmental protection and application of pollution laws

From 1990's onward the Union Government has placed environment on its top priority and strict instructions have been given to the state government to follow the above mentioned laws and the law violators must be punished and their licenses be cancelled.

The Government of Maharashtra,²³ declared closure of Nippon Dexer Unit at Kalmeshwar (Nagpur) and that of Sterlite Industries at Ratnagiri due to the pollution caused by the factory, was beyond the prescribed limits and it got diluted with the water of local wells. Therefore, the state government recommended that the factory will not reopen unless it is in compliance with the recommendations of Maharashtra Pollution Control Board (MPCB)

In the State of M.P., about 15 industries²⁴ have been issued notice by M.P. Pollution Control Board during the previous year for violating various laws of pollution. These units have been accused of conducting their operations and process of production in such a manner, which would amount to violation of Water Pollution Control Act, 1974 and Air Pollution Control Act 1981²⁵.

In October 1993 the M.P. Pollution Control Board took a harsh action and ordered to close these units immediately.

Similarly the Board, ordered to close down another unit with immediate effect under section 31(K) of the Air Pollution Act, 1981.²⁶

Yet, it is a matter of pity that despite the Board's order these units continued to run and refused to entertain the board notices. Not only this, the state government granted the permission to the autonomous bodies to prosecute 9 industrial units in the court of law.²⁷ All these units have violated the environment protection law and were continuing production despite notices under section 33 and 44 of the Water Pollution Act, and sections 22A, 37 and 39 of Air Pollution Act, 1991. Till date over 130 cases pending for decision out of 92 relate to Water Act while the rest relate to Air Pollution Act, 1981.

How does bio-diversity affect environment and human health

Bio-diversity is a matter of utmost importance. Disturbance of the bio mass would affect the health as well as the environment. During the Rio conference, bio diversity conservation was declared and enforced all over the world on 29 Dec. 1993, as per the proposal made by the Indian Environment Minister during the conference.

The extinction²⁸ of the bio-mass would lead to non-availability of medicine extracted from plants for dreadful diseases like AIDS, Cancer, etc. It means that safety and preservation of our bio-sphere reserves is for the survival of the environment and ultimately for the man kind.

The Government of India is paying special attention towards identification of the areas as bio sphere reserves.²⁹ Further, the efforts are being made to conserve forest in largest interest of the society and also to conserve "bio diversity" through national park and sanctuaries."

The Union Govt. has also directed the State to ban those organisations, who are directly or

23. See, *M.P. Chronicle*, p.4, col. 3, 16th Dec. 1993.

24. See, Kalpesh Yagnik, *The Free Press* p. 3 col. 4, 1 Jan. 1994.

25. Under 33(K), the Board has served notices to Sivni Distilleries, Sivni Aggarwal Breweries, Barwahi; Chatisgarh Distilleries, Bhilai; Kakkar Distilleries, Naregaon; Murena Ratlam Alcohol Plant, Ratlam; Alcohol Plant, Ratlam; Associated Distilleries, Barwah; Vindhychal Distilleries, Pilookhed; C.K. Gilletti, Mandideep. Bindal Agrochem, mandideep; and Oswal Proteins, Mandideep.

26. M/s S.N. Sunderson of Maiher was ordered to close down their unit.

27. Five units under various sections of the water Act, 1973 and Four under Air Pollution Act, 1981.

28. See, *The Free Press*, p.3 col.1, Jan. 1 1994. According to scientist, about one fourth, i.e., 60,000 species of world will extinct or on the verge of extinction by the middle of next century.

29. In M.P. there are abundant reserves of medicines such as Amarkantak, Panchwati, Baster, Ranger Valley and in the Mountain of Beladila.

indirectly affecting the bio-sphere reserves.³⁰

Epilogue

Looking at the role of environment of men and material, it can be said that the environment laws lack efficacy and effectiveness despite a large number of legislations in the national as well as international scenario and the constitutional directives, setting of pollution control boards all over the country.

In India, the success in curbing environmental degradation has been negligible although there exist about 200 legislations in India which directly or indirectly relate to environment protection.

A significant development in the past decade has been, the increasing number of public interest litigations initiated by the people belonging to all walks of life and the role played by the Supreme Court and some of the High Courts in the protection of the environment and human health.

Our study reveals that despite the courts declaration of closing down of various industrial set-up violating the environmental law; they are still continuing because of a close nexus between the industry and the authorities, thereby blocking the implementation of environmental laws. Further, there is a lack of public about environmental issues.

Suggestions for rearranging the present laws

In the international set up, no doubt the progress is low but it is definitely taking a right direction for the health and care of the man kind.

But in national setup we have seen the following:

1. Our courts have taken themselves to expand the ambit of article 21 of the Constitution by interpreting that right to life, including the right to human being in a healthy environment. Yet, there is a need to recognise that both human health and environmental health are a part of fundamental right. It is a right of every citizen to have a healthy environment, so that a healthy personality can be developed.
2. The role of doctors, chemists and socio-legal scientists is very crucial in this inter-disciplinary area. It requires a comprehensive effort which could bring about the causes of environmental degradation; upto that extent they are harmful to human civilisation and accordingly a legal tool in the form of enactment be prepared, with a speedy administrative act so that environment must be kept safe for the generation to come.
3. It has been seen that our Centre and State Pollution Boards are not very effective. Therefore, *A National and Capital Environmental Protection Authority* must be set up having the authority to check and monitor pollution, like that of one in United States.
4. Matters pertaining, to environment ought to form part of our education in schools and colleges.
5. Last but not the least article 51A (Fundamental Duties) must be made enforceable; at least for the survival of civilization.

30. The State of M.P. has imposed ban on commercial exploitation of forest. (a report)

