

VALEDICTORY:SELECT EXTRACTS

Need For An Environmental Conscience Mr.Soli Sorabjee

The genesis of this catastrophic problem we are facing is the unthinking mindless indiscriminate use of technology and power encroaching endlessly on nations. As has been well said if mankind by technology has converted deserts into oasis, he has also left deserts on the place of oasis.

There is need to create environment consciousness environmental sensitivity and environmental conscience. How should we do this. We do this ourselves amongst ourselves. We don't need to be converted. We have to do it amongst people who are the victims of environmental pollution but who haven't sufficient realisation of the great damage done to themselves, the present generation and the future generation. In other words we have to spread environmental literacy. Now telling people in the villages and other places about the London Convention, Basel convention and the various Acts cannot do this. Many of our people can't read and many don't read the visual impact is much more. There is need for plays and songs, having environmental themes. Get people to realise that this is not a matter of mere discomfort. It is not a matter of mere inconvenience. It is not a matter of cough and cold, and removing the grime after coming back from work. This is some thing which affects the life and health, not only of the present generation, but also of the its future generation.

Attitudinal change is a pre-requisite for any successful implementation of environmental programmes.

An Example from Sri Lanka

There was a factory in Sri Lanka, which was violating all pollution norms. The workers of that factory refused to work. They said we would neither allow our own health or the health of the environment to be spoilt. Employers don't take kindly to these efforts to put an end to polluting industries. We have special stories on environment for the children. With the result when they go out and see polluting vehicles, they get agitated and do whatever they can. Now this must spread, this report must become a part of our ethos.

Penalties and Liabilities

Secondly coming to the question of penalties and liability, I think first there must be a realisation that pollution is a crime against humanity. Environmental damage is a crime against humanity and as far as we are concerned it is well settled that it really violates the right to life. Treat the polluters on that basis. Criminal sanctions must be heavy and deterrent.

In Australia and New Zealand, they have severe criminal penalties and in some cases to be recovered from the person in charge, may be the Director or the Managing Director. I suggest that you have the New Zealand legislation, which is very progressive in this connection in civil liability. I am all for no fault liability, absolute law principle. In many jurisdiction it has been bid not a very tearful farewell.

Sanctions other than Closure

In a judgement of Justice Jeevan Reddy and Justice Kripal they have accepted the absolute law principle and the polluter pays principle. Don't dilute, but apart from that the extreme measure of closure of industries which should be last recourse, before that why don't you have the other sanctions which have been tried in other cases. Polluting industries are deprived of their licenses, they are not given foreign exchange. In one state in Australia in order to generate social consciousness against such conduct, the names and photographs of the polluters are published. I am not suggesting that India should do that, but there is need to build up a social sanction against the polluters. That is extremely important if you want successful implementation.

Environmental Control Receiver

In another pollution curbing strategy a legislation in one of the states of Australia allows any person to approach the environmental courts. The court appoints a receiver. The receiver takes charge of the polluting factory, and stops the pollution or takes measures for preventing it and assesses the cost of pollution. This is a procedure which we could think of adopting because to my mind closure of factories should be an last recourse. This not out of any sympathy for the polluters but because of the serious social and economic consequences.

Environment Protection: A Case of Inter-Generational Equity **Mr. Justice J. S. Verma**

An old man in the heat of summer was planting a sapling on the roadside. A passer by thought there was some thing wrong with the old man, he asked them what are you doing. He said I am planting a sapling. He said how many years' will it take to fruit he said, yes, and he mentioned the number years. He said, do you hope to live that long, he said certainly not. He said then why are you taking this trouble. He said if my ancestors had not planted the trees, well I would not have had the shade, I would not have had the fruits. Therefore, I owe this as a duty to the future generations, my children, my grand children and my great grand children.

Need for an Attitude Change

We are not wanting in the provisions laws which are for performing this exercise, what is needed is more of an attitudinal change in our perception and a

sincere enforcement and implementation of the policy and the laws that we have. I propose to mention to you some of the incidents spread over a few decades which gives me the impression that luckily the attitudinal change is considerable in many spheres but it is shocking in many others, where one would expect a much better improvement.

What Enforcement Can Do

In the Code of Criminal Procedure enacted long back, here was section 133 for abatement of public nuisances. Long back there was the shocking case. Pali in Rajasthan is known for its famous fabric prints. What is in the city, which was the only source of water supply for the city, was being polluted. And that was an admitted fact. There was a chief judicial magistrate who even twenty years back, was so perceptive that he issued an injunction on a complaint filed by some public spirited gentlemen. The argument basically was whether he had the power? He didn't bother with the past and made the order because he thought that he could not permit the inhabitants of the city to die of drinking polluted water. Even twenty years back, there were some imaginative people who had that kind of perception.

We Will Pay For It

In 1960 or '61 I was practising at Satna District town, and happened to be a lawyer for Satna Cement Works which was owned by the Birlas. One day as I was sitting outside there was some kind of a dust and I was not very sure where it came from. Then I found the dust was coming from the Chimneys of Satna Cement Works. Since they were my clients I told them, I said, what is this kind of thing. My house is at a distant of about two miles from your factory and if the dust comes up to here what must be happening to the other people close by. Their attitude was it does not matter we will pay them for the crops.

Health Effects of Pollution

Now coming nearer to the present time, about a fortnight back I happened to meet Dr. Trehan, the famous heart surgeon. What he told me was very revealing. He said when he opened for surgery the chest of a person living in Delhi, the colour of his lungs is steel grey. This is the case even for a comparatively young man. But even now, if a man comes from some village and he is much older the colour of his lungs is, pink even if he is much older. There is so much of difference. And he seemed to be very worried about the environmental pollution here.

A Strategy to Avoid Vehicular Pollution

One of the things that middle-east countries do, in order to avoid vehicular pollution. They have an order, which states that on a fixed number of days, vehicles with odd numbers would not ply, and on other days even numbers vehicles would not ply. There is strict enforcement of the embargo. This automatically reduces the number of vehicles on the streets to half. I mean that may be a rough and ready method but certainly a very practical one. In Delhi probably the biggest need is to have an efficient public transport system. Public transport in which any one of any age can safely travel, will automatically reduce the number of vehicles on the street. After that if some one wants to move all by himself in a car well, he can be made to pay much more for it.

Inter-Generational Equity

The concept of inter-generational equity. There is a story of an Irish man who on being to do some thing for posterity queried why, what had the posterity done for him. Posterity may not have done any thing for us. But as was pointed out we are standing on the shoulders of our forefathers and we in turn have to help the future generations.