Environmental Law And Ethics Of India

Preface

“The earth has enough for every man's need but not for every man's greed.”

Mahatma Gandhi

Nature is crafted and created by one creator. In this universe the planet earth is the only place where life exists and it can be easily seen that how beautifully the creator has setup a balance between plant and animal, includes human beings. As far as the habitation is concerned earth is mainly divided in four major subsystems i.e. lithosphere (land), hydrosphere (water), biosphere (living things) and atmosphere (sky). These four parts are well connected to each other in terms of maintaining ecological systems and the living organism taking the maximum benefit throughout. But in last few decades it is observed that the human beings has imbalanced this ecological system in order to get their food, clothes and shelter or better says to fulfilment of their fundamental needs and essentials.

To maintain the balance of ecological system, now it is important to understand the responsibilities towards the conservation of environmental systems and their subsystems for every individual. Environmental ethics and its law is made to understand such responsibilities that has to be carried out by a person in contributing his/her role towards the nature so that it not only to understand the significance of the natural landscapes, resources and species but also carry forward this beautiful nature to our next generation without disturbing their balance.

‘Environment’ defined under Indian Law according to Section 2(a) of the Environmental Protection Act, 1986, ‘Environment’ includes water, air and land and the inter-relationship which exists among and between, water, air, land, and human beings, other living creatures, plants, microorganisms and property. Environmental law is a collective term describing the network of treaties, statutes, and regulations, common and customary laws addressing the effects of human activity on the natural environment.[1]

So in this essay various law, acts and rules as well as some ethics have been highlighted which has been considered according to the Indian environmental laws and ethics. However the government has been consistently improving such laws and rules in order to improve environmental conditions.

Introduction

It was a time when our earliest ancestors lived very close to the natural habitat and they knew how to use the sources like water, animal and plant for their purposes even better than us. But the hunters and gatherers exploited the environment to fulfil their requirements, by cutting down trees resulting into great changes in grass and shrubs with the use of fire. However, they could not cause excessive damage to environment due to their low population, nomadic way of life and primitive technology.[2]

Moreover, environmental ethics is a moral responsibility that has to be conducted not only by the environmentalist but also by the common people. When we say moral responsibility it normally implies knowledge, capacity, choice and value significance. That is to say, if a person is morally responsible to do something, then he (a) knows of this requirement, (b) is capable of performing it, (c) can freely choose whether or not to do it, and (d) the performance thereof affects the welfare and/or liberty of other beings. Because one's response to these requirements reflects upon his value as a moral person, a peculiarly distinctive trait of humanity, we say that this response has moral significance.[3]

Untill today it is better known to us that the massive and permanent damage to natural landscape, resources and ecosystems has done by us. These facts are only known to us or do we really know that how do we come over with these or do we have really any unique idea to prevent the balance of this ecological systems. In our dealings with the environment, we are in short, called upon to reflect, act, or perhaps to refrain from acting in a manner, which testifies to our worth as moral persons and as a moral culture – in a word respond ethically.

Accordingly, environmental ethics includes such questions as:

- Why care about nature for itself when only people matter?
- When species or landscapes or wilderness areas are destroyed, what, of value, is lost to mankind?
- Will future generations miss what we have 'taken from them'?
- Does land ownership make moral sense, or is it a morally absurd and repugnant concept in Western culture meant to deprive Indigenous peoples of their customary land?
- Do human beings have a need for nature that implies an obligation to preserve it?

So, why is environmental ethics important? It is important because the explosive growth of scientific knowledge, followed shortly by a parallel growth in technical ingenuity, has created an explosive growth in moral problems – some unprecedented in human history. While ethics is a very ancient human preoccupation, environmental ethics is very new.[3] The life style of hunter and gathers has shifted to economy based agriculture and industry and the shifting role of man in the environment placed heavy demand on air, water and natural resources. As much as the human being wants to get a balance or control over environment, the link between him and the nature got weakened. It therefore became necessary to regulate human behaviour and social transactions with new laws, designed to suit the changing conditions and values. In order to manage and face the myriad challenges of ever changing environment, the environmental laws emerged. But these laws are of no if not implemented or accepted by the society properly. Though government of India introduced plethora of legislations in the field of environmental law which directly or indirectly deals in environmental issues.[2]

Challenges and Strategies

1. Environmental Ethics and Old Traditions

One of the age old traditions of India teaches us to live in peace and harmony with nature and conserve it as we all are creatures of one creator and we don't have right to harm any one of the living being for our purposes. This is taught to us since the beginning of our civilization but as we progressed and attained the perfection in our lifestyle we started thinking that we are the

master of the nature and everything in this world is made for us and we can't only utilize this at any cost but also we decide how other utilize the resources gifted by the almighty and such kind of immoral behaviour is against our ethics and moral values. Since vedic times the aims of our life was to live this life in harmony with nature. The great sages, saints and teachers of India lived in forest, meditated and expressed themselves in the form of Vedas, Upanishads, Smritis and Dharma. Hence we can easily understand that all kinds of divine thoughts, processes, an ideal daily routine as well as how to live life that all have been given by our saints and great thinkers come up when they were in touch with the nature. Due to this olden times literature and knowledge, it given us a worshipful attitude towards plants, tree, earth as our mother, sky (akash), air (vayu), water (jal) and animals. It also becomes our duty and a part of ethics that how can we protect them. The Hindu religion shows the respect for nature, environment harmony and conservation. It is structured in such a way that shows reverence of divinity in nature. In the Hindu religion we are ought to follow the following principles:

- To respect nature and protect it.
- To be non-violent towards animal, tree and other living organism, means it states "ahinsa parmo dharma" or non-violence is the dharma of highest order.
- In Hinduism hinsa is considered as sin and therefore it is forbidden to eat animal's meat.

As far as the Hindu religion is concerned purity of thoughts and cleanliness can be easily observed. Right of existence is available for both human as well as non-human including trees. Hindu religion is moreover ingrained with the facts on the basis of the principle of sanctity of life. It is nearly impossible to say that how old this religion is or from where it has been originated but we can possibly derive inference that it would have developed slowly and slowly in due course of time as man progressed. Man since the time immemorial knew the importance of nature, the things which helped him in progressing and he knew if we want to progress further we would require these things, so he related them to God and then slowly it became a practice.[2] Therefore different kinds of names have been given to different factors constituting environment, like;

- Sun is known as Lord Surya
- Lord of winds is known as Vayu Devta
- Lord of fire is known as Agni Devta
- Mother Earth is known as Prithvi Mata and
- Goodness of forest is known as Vanya Devi etc.

So it is considered as sin if trees are cut down because it is regarded as one of kind of god or goddesses. Rig Veda , Manusmriti , Charak Samhitaha emphasize on purity of water and healing and medicinal values of water. Because of those injunctions of system of maryada developed in Indian Society to keep clean and wholesome.[2] Today in the mad rush for industrialization and the industrial development we have forgotten our old age traditions of living in harmony with nature. Some of the hardcore ethics that should automatically comes into our mind towards the importance of environment if we realise anything harsh about nature.

2. Environmental Ethics and Constitution of India

India has age old tradition of tolerance, non-violence, equity and compassion for animate

objects. In olden times they were part of daily life and synthesized with religion .Religious teachings social and political norms and economic policies treated as a part of nature not as molder or superior. All the living beings are creatures of one superior power –GOD.[2]

The above philosophy of peaceful coexistence with nature got mentioned in the Constitution in one way or the other in following articles:

1. Articl48-A: State shall endeavour to protect and improve environment and to safeguard forest and wildlife of the country.
2. Article51-a (g): It is the duty of every citizen of India to protect and improve natural environment including forest, lake, rivers and wildlife and to have compassion for living creatures.

3. Environmental Issues and Law in Action

Although in India there are number of legislations for conservation of environmental issues but the laws are just for the ornamental purposes and there are no uses of these laws. In spite of having water act, air act, the noise pollution act, the forest prevention act and the environment act and the list are goes on and on. India employs a range of regulatory instruments to preserve and protect its natural resources. The legislature was quick enough to enact laws regulating most aspects of industrial and developmental activities, but was very cautious to sanction enforcement budgets or require effective implementation across the country; government agencies wield vast power to discipline violators. The judiciary, a spectator to environmental despoliation for more than two decades has assumed proactive role in 1990s of

- Public Educator: Court directed to broadcasts and telecast ecology programs on electronic media and includes environmental studies in school and college curriculum
- Policy Maker: Court gave directions prohibiting non traditional aquaculture along the coast Court's directions for introduction of unleaded petrol vehicles
- Administrator: Judicial Supervision over implementation of nation's forest laws.[2]

4. Legislations with Respect to Indian Environment

To ensure the healthy environment for the country, the department of environment was established in India in 1980. Following are the acts passed for Indian environment in order to maintain, save and protect the environment.

1. 1974

water (prevention and control of pollution) prohibits discharge of pollutants into water bodies beyond a given standard.

2. 1980

forest conservation act (to check the deforestation)

3. 1981

air (Prevention and Control of Pollution)

4. 1984

The Indian Forest Act and Amendment, was enacted to ‘consolidate the law related to forest, the transit of forest produce, and the duty leviable on timber and other forest produce’.

5. 1985

The Environment (Protection) Act authorizes the central government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and /or operation of any industrial facility on environmental grounds.

6. 1987

The Factories Act and Amendment, was the first to express concern for the working environment of the workers.

In spite of having the above acts, the government of India have been framed some rules as well:

1. 1989

Hazardous Wastes (Management and Handling)

2. 1998

Biomedical Wastes (Management and Handling)

3. 1999

Recycled Plastics (Manufacture and Usage) and Environment (Silting for Industrial Projects)

4. 2000

Municipal Solid Wastes (Management and Handling) municipal authority responsible for the collection, segregation, storage, transportation, processing, and disposal of municipal solid wastes.

5. 2002

The Noise Pollution (Regulation and Control) (Amendment) to reduce noise pollution, permit use of loud speakers or public address systems during night hours (between 10:00 p.m. to 12:00 midnight) on or during any cultural or religious festive occasion.

Further, Article 21 of the Constitution is a fundamental right which states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” According to the Indian legal system and the judiciary, it is a fundamental right for every citizen of India to live his/her life in clean, pure and safe environment. Everyone deserve a good life as

well as a right standard of living adequate for health and well being of himself

and of his family members. Thus the right to life should be protected by law. The man has the fundamental right to freedom, equality and adequate conditions of life in a clean and pure environment which ensures the well-being of each individual. [1]

Conclusions

At the end of my essay about the environmental law and ethics, I would like to summarize that the law and ethics have been made to protect any system where the human beings looses the control and crosses the barriers beyond a certain limitations. Although, we the Indians come across a rich and an old age tradition as well as the culture of living in peace and harmony with nature, we actually becomes indifferent towards nature because of our individuals success, profit and benefits. Laws were made for the conservation of environment which were not so active in 80’s but after out government become more vigilant towards the issues so it’s started incorporating new laws, rules and regulations and to save the environment. In the current scenario there are more than 200 legislations in India which are directly or indirectly related to environment but unfortunately the environment kept on degrading.

The aforesaid study leads us to the following suggestions:

1. For acts and rules creates more difficulties in enforcements. So there is a need to have a comprehensive and an integrated law on environmental protection for meaningful protection.
2. Even after having efficient enforcement, it would not work unless a positive attitude of everyone in the society added.
3. We should also educate the people at different levels like collage, schools, society and offices and also run some awareness programs time to time to shows how the government are really excited about the regular changes about the environmental issues.

References

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