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Draft National Forest Policy, 2016 –A Panacea for Indian Forests

- Vaibhav Sharma[1]

"Forests are the lungs of the land, purifying the air and giving fresh strength to the people."

- Franklin D. Roosevelt[2]

- **INTRODUCTION**

The forests play a pivotal role in the maintenance of the ecosystem and the sustenance of the various forms of lives in it. They are cardinal for the proper water cycle, climate control and prevention of the soil erosion. Their benefits in the form of serving as an abode for wildlife and source of raw materials for the industries call for their conservation efforts. The Government of India released the Draft National Forest Policy on 16 June, 2016 in order to provide for the robust framework for the forest conservation. The said policy prepared by the Indian Institute of Forest Management will replace the existing policy framework which dates back to the year 1988. While the fact that a brief time period of 15 days has been given for the suggestions which may be questioned by the environmental experts, the efficacy and timely adoption of the new policy must be welcomed.

- **REINFORCING THE RIGHTS OF TRIBALS**

The importance of the new Draft National Forest Policy also increases because it seeks to make critical changes in the present system of forest maintenance. Currently, the Forest Rights Act, 2006 governs the management of the forests in India. The policy promised to setup an analogous procedure for forest conservation as it proposes the new Community based Forest Management Mission. Under the Forest Rights Act, 2006 the control of the forests was handed

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[2] He was the President of the United States of America from 1933 to 1945.

to the tribals and other dwellers who were traditionally dependent on the forests for their survival. It restricted the role of the forest department who was unable to conserve the forests in an effective manner. It was also the result of the political campaign for the protection of the rights of tribal communities. The 2016 policy could be termed as an attempt to bring the equilibrium between the forest officials, conservation groups and tribal communities. It bestows the power to protect forestland to the indigenous people, while attempting to increase the supply of raw materials for the industries. It endorses contracts between industry and tribal people for the expansion of agro-based farm forestry. It seeks to reduce the input costs and provide operational support to the locals. It has come in the backdrop of the Ministry of Environment, Forests and Climate Change deliberating upon the scope of allowing the private sector investments in forest development. The government is already exploring the possibility of Public-Private-Partnership (PPP) model for attracting the investments.

- **MAIN FEATURES OF THE DRAFT POLICY**

The Draft Policy seeks to establish special committees at Gram Sabha level for the protection of forests. The model plan will be prepared by the Gram Sabhas which will be evaluated by the forest departments. It grants more power to the forest dwellers and the traditional craftsmen who are dependent upon the forests for their means of livelihood. Another prominent characteristic of the policy is the introduction of the component of 'climate change' in the preparation of the ecosystem management plans. It aims to study the effects of the climate change on the forests and make corresponding changes to their management techniques. It uses the term 'Urban Forest Cover' to refer to the community parks, gardens and other green spaces in cities to be put under the management. It is crucial from the point of view of the increased pollution levels in our cities. The policy also introduces the National Forest Ecosystems Management Information System which endeavours to provide the latest information to various stakeholders for the development of forests through a pan-India network.

- **RESTRAINTS DIVERSION OF FOREST LAND FOR DEVELOPMENTAL PROJECTS**

The policy warns the government against the diversion of forest land for the establishment of mining, quarrying, construction of dams, power plants and roads. It calls for the maximum restraint in the use of forest land for infrastructural development. It strives to cause least possible damage and reduce the pollution levels. The strict enforcement of penal provisions in the Environment Protection Act, 1986 and other legislations must be done. The safeguards in the form of Environment Impact Assessment and Damage Compensation must be followed without any violations. It recommends a plethora of radical measures in order to reinforce our existing forests conservation measures. It excludes the ambitious two-third forest cover target for the hilly areas. However, it continues with the one-third forest cover goal for the entire nation. It is seen as a futuristic policy as it endeavours to achieve the target of doubling the green cover outside the forests areas by the end of next decade. It seeks to establish the National Board of Forestry and the State Boards of Forestry for comprehensive forest conservation. It is worthwhile to mention that India has about 24.16% of her geographical area under the forests and tree cover. (Source: India State of Forest Report, 2015 which was released in December, 2015).

- **CONCLUSION**

On the whole, the Draft National Forest Policy could be hailed as a panacea for the ailing forest sector of India. The Indian Forests are suffering due to illegal deforestation, encroachments and indiscriminate damage in account of developmental projects. The power given to the tribals and local forest dwellers in the form of Community Management Committees is a progressive step towards a flourishing forestry. The need of the hour is that the benign intentions of the policy framework is reciprocated by the Union and the state governments with zero tolerance for violations and stringent penal provisions ensure absolute compliance to the framework. If

the policy is able to achieve the desired results, only then the Indian forests could become a source of sustenance for the traditional dwellers and more importantly, a benefactor of nation's natural biodiversity.

Illegal Sand Mining- Its effect on Ecology and Environment

Noyonika Mukerji[1]

'Isn't humanity committing suicide with this indiscriminate and tyrannical use of nature?'- Pope Francis

INTRODUCTION

Mining is an important economic activity which has the potential of contributing to the development of areas endowed with the resources. Materials recovered by mining include bauxite, coal, diamonds, iron, precious metals, lead, limestone, nickel, phosphate, rock salt, tin, uranium etc. Mining in a wider sense can also include extraction of petroleum, natural gas, and even water. Mining activities form an integral part in the economic development of any country endowed with mineral resources..

In India, the mining industry is a major contributor to the GDP, accounting for a share of 2.2-2.5% of the GDP and providing employment generation for 1.1 million people of the country. Minerals like iron ore, manganese, bauxite, granite etc are exported by India. However, illegal mining is a bane which has plagued our country since years. Illegal mining is defined as 'any reconnaissance or prospecting or mining operation undertaken by any person or company in any area without holding a reconnaissance permit or a prospecting license or a mining lease[2]' as required under the Mines and Minerals (Development and Regulation) Act, 1957.

In the recent years, mining scams have made headlines largely due to the sheer amount of capital involved and the level of environment degradation caused by illegal mining operation all over the country, ranging from Jharkhand to Kerela and Uttarakhand to Tamil Nadu. According to the Justice M B Shah Commission of Inquiry which was set up in November 2010 to investigate illegal mining of Iron Ore and Manganese, the mining scam in Odisha led to a loss of around Rs 50,000 crore while in Karnataka, the loss was around one lakh crore. Revenue loss to the exchequer is seemingly the only tangible cost of illegally mined sand, but the impact that it has on environment and ecology is far greater and far graver. In this article, the devastating effects of illegal sand mining in India and the true extent of the destruction caused, shall be unveiled.

SAND MINING

Sand Mining is a coastal activity referring to the process of the actual removal of sand from the foreshore including rivers, streams and lakes. Sand is mined from beaches and inland dunes and dredged from ocean beds and river beds. In India, the main sources of sand are: 1. Rivers

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[2] Rule 2 (iia), Mineral Concession Rules, 1960

(riverbed and flood plain), 2. Lakes and reservoirs 3. Agricultural fields 4. Coastal / Marine sand 5. Palaeo-channels

In the recent years, there has been a manifold increase in sand mining. With infrastructure investment taking a giant leap forward, the demand for construction equipment has greatly increased and is expected to rise further. However, desert sand, which seems to stretch across the globe forever, does not serve this purpose due to its consistency and chemical properties. By contrast, sand extracted from the bottom of oceans, beaches, rivers and gravel beds consists of minerals and metals such as titanium, thorium, silicon which are used to manufacture microchips, silicon chips and solar panels, build houses or aircrafts, and to produce cosmetics, abrasives, glass, plastics, and even toothpaste.[3]

Illegal sand mining has been carried in almost all parts of the country and is an open secret. The nexus between the mining companies, bureaucracy and the law enforcement agencies prevents any strict action against defaulters. According to reports, mining companies have tacit links to various politicians who are either shareholders in such companies or receive a certain royalty from the profits made[4]. The presence of a violent and formidable sand mafia prevents many people from raising their voices. The few who tried met a gruesome end, such as DK Ravi, an Indian Administrative Service officer from Karnataka, who was found hanging in his home under mysterious circumstances, Paleram Chauhan, an activist who had spoken out against illegal sand mining on community land in the village and had filed complaints with the local authorities, was shot dead by assailants in broad daylight in his home at Raipur-Khadar. The men who are alleged to be his killers lead the mining mafia in the village. They were arrested but later released on bail. Six months later, one of Paleram's sons, who was a witness in the case, was found dead near railway tracks also under mysterious circumstances[5]. The list also includes IPS Officer Narendra Kumar, who was also crushed to death by sand mafia in same district while he was conducting a raid on illegal sand mining, Sandeep Kothari, a MP based journalist, used to write against illegal sand mining activities was found burnt to death in Nagpur, Maharashtra and countless others.

ENVIRONMENTAL DEGRADATION CAUSED BY ILLEGAL SAND MINING

Illegal sand mining is a pan Indian activity. The impact of sand mining on the environment in the major states where this takes place is given below-

A. Tamil Nadu

Sand mining, especially illegal sand mining in Tamil Nadu state is done on river beds, basins and beaches, It has been on an increase, since the beginning of the 1990s following a boom in the construction industry. Palar River Basin, Vaigai River Basin and Thamirabarani River

[3] http://intpolicydigest.org/2015/04/19/illegal-sand-mining-is-a-thing-and-it-s-a-problem/, last visited on 17th June, 2016, 13:46 p.m
[4] http://blogs.wsj.com/indiarealtime/2013/08/06/why-india-has-a-sand-mafia/, last visited on 14th June, 2016, 00:39 a.m
[5] http://www.frontline.in/the-nation/rivers-no-more/article7447581.ece, last visited on 18th June 2016, 17:52 p.m

Basin are the major victims[6]. Illegal quarrying is happening in these areas in broad daylight. The mining of aggregates in rivers has led to *severe damage including pollution and changes in levels of pH. Removing sediment from rivers has caused the said rivers to cut its channel through the bed of the valley floor and has changed the riverbed itself*. The removal of more than 12 million tonnes of sand a year from the Vembanad Lake catchment has led to the *lowering of the riverbed by 7 to 15 centimetres a year*. It has also resulted in a loss of *aquifer storage, increased flood frequency and intensity by reducing flood regulation capacity.* However, lowering the water table is most threatening to water supply as it has *exacerbated drought occurrence and severity as tributaries of major rivers dry up when sand mining reaches certain thresholds. Illegal sand mining has also caused erosion.* Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated *beach erosion*[7]

B. Kerela

Sand mining is rampant in Kerala on the beds of all its 43 rivers and their branches and tributaries. The major rivers of Kerala, Bharatapuzha and Periyar, which could be called as the life lines of Kerala are subjected to uncontrolled mining taking the *water level to an unprecedented low.* The case is same with all other rivers and their tributaries. The fall in the water level is causing *depletion of ground water in the surrounding land areas resulting in drying up of even drinking water sources* besides having serious adverse impacts on the agriculture of the State which has been experiencing drought situation in recent years[8]. Some areas of the river have turned *into mud filled pits* and are infamously referred to as 'killing fields' and 'death-traps' as there have been incidents wherein innocent civilians have drowned in them.[9]

C. National Capital Region

In NCR, the illegal sand mining mostly occurs along the Yamuna riverbed in the cities of Delhi, Noida, Haryana and the Aravalli ranges. This indiscriminate sand mining in the river beds of Yamuna, Ghaggar, Tangri, Markanda, Krishnavati has *threatened the biodiversity, destroyed riverine vegetation, caused erosion, polluted water sources* etc. Over the years, *extensive damage has been caused to the ecosystem of these rivers, has weakened the river beds, led to destruction of natural habitats of organisms living on them, affected fish breeding and migration, spelled disaster for the conservation of many bird species, increased salinity of water in the rivers etc*.[10] The demand for sand continues to increase day by day as building and construction of new infrastructures and expansion of existing ones is continuous thereby placing immense pressure on the supply of the sand resource and hence mining activities are

[6] 'Illegal sand mining rampant in Palar basin'- The Hindu. October 10, 2013
[7] M. Palanisamy vs. The State of Tamil Nadu, 2012 (4) CTC 1
[8] Lok Sabha Debates, Need To Check The Unprecedented Level Of Environmental Degradation, on 2 August, 2015
[9] http://www.thehindu.com/news/cities/Kochi/sand-mining-turning-keralas-rivers-into-deathtraps/article5930593.ece last visited on 18th June 2016 at 04:10 a.m
[10] ENVIRONMENTAL IMPACT OF SOIL AND SAND MINING: A REVIEW, M. Naveen Saviour, International Journal of Science, Environment and Technology, Vol. 1, No 3, 2014, Pg 125 - 126

going on legally and illegally without any restrictions. Lack of proper planning and sand management has caused *disturbance of marine ecosystem and also upset the ability of natural marine processes to replenish the sand.*[11]

Illegal mining in the Aravallis is mainly done to extricate the silica sand which is available below the groundwater level. Thus, the mining is carried out below the water table by dewatering the mine. The pumping of groundwater is *affecting the groundwater regime of the surrounding areas*[12]. Due to the dewatering of mines, there has been a *severe decline in groundwater levels and reduction in discharge of groundwater into the surrounding wells*. All the groundwater which was discharged has neither been recycled or nor drained into nearby streams and lakes or abandoned pits but released into drains, *severely contaminating and polluting them and rendering it unusable*. Also, the *drainage pattern of the area had been drastically modified due to haphazard mining and dumping of the waste material. This, in turn, has had adverse effects on the natural path of groundwater flow in the area*, resulting in a *decline in water levels*[13].

Thus, the impact of sand mining in these three states has had a devastating impact on the ecological and riparian life. Illegal mining has also spelled doom for other states such as Madhya Pradesh, where mining along the Tawa river, a tributary of river Narmada, resulted in the *river changing its course and breaking its banks leading to mass flooding* in several villages along its banks including Pahanbarri in Hoshangabad district, displacing over 300 families[14]. The same is happening in the states of Uttarakhand and Uttar Pradesh where excessive illegal mining of sand along the riverbed of Ganga has added to the *pollution of the river, affected the marine life (tractors and trucks along the banks of the river crushed the eggs of the turtles and alligator who had laid them on the banks of thee river)*. The changing of the river course also contributed to the massive floods in Uttarakhand in 2013 in which over *6000 people lost their lives*[15]. The rampant quarrying of sand has changed the landscape of the river beds to such an extent that there are now *deltas forming, changing the course of the river and significantly increasing the threat of floods, putting at risk settlements nearby*. There are now around *100 deltas in the Ganga* at Haridwar alone. The *Kosi too has formed deltas in Bajpur*. Despite this, the sand mafia continues to operate brazenly ravaging sands from the banks of rivers.

MEASURES TAKEN

Sand, being minor mineral, comes under jurisdiction of State government. There is no mechanism developed either by State or Central government which determines the amount of sand being annually mined in the country, or what is sustainable level at any given location. State govts have failed in restricting the illegal mining with Kerela being the only state which

[11] SUSTAINABLE SAND MANAGEMENT GUIDELINE REPORT, Ministry of Environment, Forest and Climate Change, Sept 2015
[12] Bhure Lal Committee Report, 21st October 2002, Pg 148
[13] M.C. Mehta vs Union Of India & Ors, Writ Petition (Civil) 4677 of 1985 on 18th March, 2004
[14] https://sandrp.wordpress.com/2016/02/01/river-sand-mining-in-india-in-2015/ last visited on 1st July, 2016 at 14:56 p.m
[15] http://www.thenewsminute.com/news_sections/290, last visited on 7th July, 2016 at 15:10 p.m

decided to impose a total ban on sand mining from six rivers and to allow restricted sand extraction in five other rivers for the next three years.

As the operation of the illegal sand mining mafia increase manifold causing immense damage to the environment, several PIL's are filed in the various courts of the country and the burden has now fallen upon the judiciary to combat this blight. The landmark judgement in this regard was given in the case of *Deepak Kumar* v. *State of Haryana*[16] wherein the SC directed all Union Territories and State Governments to seek Environmental Clearances (EC) from Ministry of Environment, Forest & Climate Change (MoEF&CC) for mining minor minerals even in less than 5 ha or renew the same after prior approval from the MoEF&CC. Before this order, mining areas of less than 5 ha were exempted from EC enacted under Environmental Impact Assessment (EIA)-2006.

The NGT reiterated this stand of the SC in *National Green Tribunal Bar Association* v. *Ministry of Environment & Forests & Ors*[17] and ordered a ban on sand excavation across the country without seeking prior approval for the same from State Environment Impact Assessment Authority (SEIAA) and MoEF&CC. The green court also directed all concerned departments in States to ensure compliance of its orders.[18]

In April 2015, the NGT slammed MP govt. for failing to stop illegal sand mining in Narmada & Ken Rivers. The green tribunal also directed the concerned agencies not to release vehicles involved in mining without its permission while in February 2015, NGT imposed a ban on all mining activities around Sariska National Park, Alwar (Rajasthan). The court observed that 85 mining leases were operating in the area without obtaining EC from SEIAA Rajasthan and rebuked the State Govt. for shutting its eyes on indiscriminate sand mining. In September 2015, while hearing a petition filed by two villages complaining of rampant sand extraction in the middle of Chapora River, Goa, NGT Pune Bench put a ban on illegal sand mining in Goa. The green panel also directed to Directorate of Mines and Geology to conduct strict vigilance to check sand miming during nights. In October 2015 NGT halted riverbed mining in Neugal River near Palampur, Himachal Pradesh asking State forest and mining departments to submit their report.[19]

CONCLUSION

Various High Courts have also tried to regulate and restrict sand mining in different parts of the country but, in the absence of the support of the executive and weak legislations, haven't achieved much success. This is a telling story of on-going directions of the courts and untiring assurances of state governments. What falls within the cracks of this conversation are the actual safeguards and mandatory legal requirements. With such a lackadaisical attitude of the law enforcement agencies towards this burning issue, the ecology and the aquatic system continues to bear the brunt of society's perennial and infinite greed.

[16] Deepak Kumar v. State of Haryana AIR 2012 SC 138
[17] National Green Tribunal Bar Association Vs. Ministry of Environment & Forests & Ors, O.A 171/ 2013
[18] Supra 15
[19] Ibid

IMPACT OF GLOBAL ENVIRONMENTALISM ON JUDICIAL VERDICTS

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"*Destroying rainforest for economic gain is like burning a Renaissance painting to cook a meal.*"

— Edward O. Wilson

Environmentalism is a growing ideology that concerns itself with issues of environmental protection, preservation and reform on a global level. Environmentalism means taking care of the environment and creating an ambient surrounding so that every creature and species can proliferate and make the environment diverse. It has arisen as a result of concern over reckless misuse and pollution of earth's natural. Humans have, since the beginning of civilization, used earth's natural resources to sustain their lives. However, with the growth urbanization and industrialization, our societies became fragmented parts living in various parts of the earth, claiming ownership over more and more bits of land, air and water and the resources therein. What started as need based use has turned into a greed based reckless and short sighted use of our environment, polluting and degrading it along the way.

Earth has sustained life since the Eoarchean Era at least 3.5 billion years ago. Our ancestors have been known to exist since 6 billion years ago but the modern form of humans only evolved about 200,000 years ago. Civilization started about 6000 years ago. Industrialization, a relatively new concept, started in the 1800s. It is a wonder that we have accomplished so much in such a short span of time. But the amount of harm we have caused to earth and resources that we have consumed in such a short span is mind blowing. We need to take care of the only planet we can live in. We are in this pathetic quagmire because humans use and waste way more resources than they need. We have used up most of the non-replenishable natural resources. What has been formed in almost 3 billion years, has almost been used up in a mere 200 years! And given the pace of this usage, or rather *wastage*, it would hardly take another 100 years to bereave the earth of all its resources! Also, there is utter disregard to other living species. Nearly 99% i.e. almost 5 billion species of all known living species are now extinct[1]!

[1] Novacek, Michael J., *Prehistory's Brilliant Future*, THE NEW YORK TIMES (Nov. 8, 2014);

Pollution is another most prominent environmental issue and so is solid non degradable waste. Economics and social disparity can also become a cause for environmental hazards like population explosion, bad living conditions leading to pollution, etc.[2]

INTERNATIONAL REGULATORY FRAMEWORK

Many international treaties were therefore signed by countries to protect environment. The 1972 Stockholm Conference on 'Human Environment' secured its place in the history with the adoption of the first global action plan for the environment. In *Essar Oil Ltd. v. Halar Utkarsh Samiti and Ors.*[3], SC aptly observed Stockholm Declaration as "Magna Carta of our environment". The 1987 Brundtland Report, 'Our Common Future' called for an integration of our understanding of the environment and development into practical measures of action. The Earth Summit held in Rio de Janeiro in 1992 gave fundamental principles of action for achieving sustainable development. *Sustainability* became a new and accepted code word for development. The World Summit on Sustainable Development' was held in Johannesburg in 2002 to evaluate the obstacles. The right to sustainable development has been declared by the UN General Assembly to be an inalienable human right (Declaration on the Right to Development) (1986). Polluters pay principle emerged to put a check on pollution. Plato talked about this way earlier by saying "*If anyone intentionally spoils the water of another…let him not only pay for damages, but purify the stream or cistern which contains the water*". It is also seen in Kautilya's Arthashastra. Following all these international treaties and laws of their own countries, foreign judiciary too has enforced environmentalism. The Supreme Court of California in *National Audubon Society v. Superior Court of Alpine County*[4], also recognized the public trust principle of environmental law. The European Court of Justice, emphasised in *Portugal v. F.C. Council*[5] the need to promote sustainable development while taking into account the environment. The Kyoto Protocol was adopted in Kyoto, Japan, in 1997 and entered into force in 2005, to extend the 1992 United Nations Framework Convention on Climate Change that commits State Parties to reduce greenhouse gases emissions. The detailed rules for the implementation of the Protocol were adopted in 2001, and are called the

BEVERLY PETERSON STEARNS, C. STEARNS, STEPHEN, WATCHING, FROM THE EDGE OF EXTINCTION (Yale University Press 2000).

[2] Chris Woodford, *Environmentalism*, EXPLAIN THAT STUFF (Dec. 1, 2015), http://www.explainthatstuff.com/introduction-to-environmentalism.html

[3] Essar Oil Ltd. v. Halar Utkarsh Samiti and Ors., AIR 2004 SC 1834.

[4] National Audubon Society v. Superior Court of Alpine County 33 Cal. 3d 419.

[5] Portugal v. F.C. Council, 3 C.M.L.R. 331 (1997).

"Marrakesh Accords." Protocol places a heavier burden on developed nations under the principle of "common but differentiated responsibilities."

HISTORY IN INDIA

Many movements took place in the past concerning about environment like the Chipko movement. It was against deforestation and impliedly for the protection of natural resources against the commercial exploitation by setting up factories and industries. Govt. also showed the concern by establishing Department of Environment, now known as Ministry of Environment, Forests and Climate Change, and enacted laws to protect and preserve environment. Wildlife Protection Act, Forest Conservation Act etc. are there in place conforming to the UN and other treaties to which India is a party. Concept of sustainable development was developed which professed development that meets the needs of the present without compromising the ability of future generations to meet their own needs. ***National Green Tribunal (NGT)*** was established on 18.10.2010 to effectively and expeditiously deal with the preservation and protection of environment including forest and natural resources and the enforcement of any legal right connected to or incidental to environment.[6] It has been given full power to decide the cases in accordance with Principles of Natural Justice without being bound by Civil Procedure Code. It mentions the importance of Global Environmentalism by incorporating the fact that India is a party to UN Conference on the Human Environment, 1972 and UN Conference on Environment and Development, 1992. Australia and New Zealand too have such system which shows the impact of Global Environmentalism in Judicial System of other countries as well.

JUDICIAL DECISIONS

India was the first country in the world to enshrine environmental protection as a state goal in its Constitution. In Articles 48A and 51A(g) of the Constitution, a strong foundation has been laid down pertaining to environment, preservation of forests, wild life, rivers and lakes. Indian judiciary too has been very actively endorsing environmentalism.

The most remarkable and creative judgment by the Supreme Court in this respect is the *Oleum gas leak case* which propounded the concept of absolute liability over strict liability. Any organization engaged in a hazardous or inherently dangerous activity has to bear the full

[6] The National Green Tribunal Act, 2010.

liability by rendering them defenseless in case of any damage, including the damage caused to environment, by such activity.[7]

In *Sri. C. Kenchappa case*[8], in consonance with the principle of 'Sustainable Development', a golden balance was struck between the industrial development and ecological preservation. Clean and decent environment is fundamental right in terms of Article 21 of the Constitution of India as declared by the Apex Court in the case of *Virender Gaur case*[9] and *Jayal case*[10]. In *Indian Council for Enviro Legal Action*[11], it was held that both development and environment must go hand in hand. SC in *Vellore Citizens Welfare Forum*[12], acknowledged that the traditional concept that development and ecology are opposed to each other, is no longer acceptable. Sustainable development is the answer and "the Precautionary Principle" and "the Polluter Pays Principle" are essential features of "Sustainable Development." In *Subhas Kumar case*[13], SC held that pollution free water and air are the fundamental rights of the people under Art.21. SC in *Narmada Bachao Andolan case*[14] made similar observations. In *M.C. Mehta v. Union of India*[15], the SC gave directions to reduce the pollution created by vehicles. In the **2016 judgments** of *Qamaruddin Gazi*[16] and *Mukesh Yadav*[17], environmental jurisprudence was discussed in detail. In *UCC case*[18], the SC held that every citizen has a right to enjoy healthy environment as a fundamental right. Protection of environment was held to be a matter of constitutional priority in *V. Lakshmipathy case*[19].

Even recently, environmentalism concern was raised in **World Culture Festival 2016** organized by Art of Living. Unfortunately, the celebration has caused huge loss to environment by pollution of river Yamuna, which was near to the place of celebration. Many birds were forced to migrate because of the temporary construction of structures including pontoon bridges. NGT initially imposed heavy fine of ₹ 5 crores for the restitution of environment. Fine of ₹ 5 lakh and ₹ 1 lakh was imposed on Delhi Development Authority (DDA) and Delhi

[7] M.C. Mehta v. Union of India (Oleum Gas Leak Case), AIR 1987 SC 1086.
[8] Karnataka Industrial Areas Development Board v. Sri. C. Kenchappa and Ors., AIR 2006 SC 2038.
[9] Virender Gaur and Ors. v. State of Haryana and Ors., 1995(2) SCC 577.
[10] N.D. Jayal and Anr. v. Union of India and Ors., 2004 (9) SCC 362.
[11] Indian Council for Enviro Legal Action v. Union of India, (1996) 5 SCC 281.
[12] Vellore Citizens Welfare Forum v. Union of India, AIR 1996 SC 2715.
[13] Subhas Kumar v. State of Bihar, [1991] 1 SCR 5.
[14] Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751.
[15] M.C. Mehta v. Union of India, (1991)2 SCC 137.
[16] Qamaruddin Gazi v. Chief Secretary, Government of West Bengal and Ors, Original Application No. 52/2015/EZ.
[17] Mukesh Yadav v. State of Uttar Pradesh and Ors., Original Application No. 133/2014.
[18] Union Carbide Corporation and Ors. v. Union of India and Ors, 1991(4) SCC 584.
[19] V. Lakshmipathy and Others v State of Karnataka and Others, AIR 1992 KAR 5.

Pollution Control Board respectively for failing to discharge their duty and being unmindful of the situation in the nick of time which disabled the Authority from taking the decision in time. NGT in its previous decision showed the concern about Yamuna river, by nipping in the bud the proposed recreational facilities by DDA and recommending declaration of that area as 'conservation zone'.

CONCLUSION

Environmentalism has emerged as one of the most important global ideology since the past few decades. It is the need of the hour. Nations across the world have realized this and steps are being taken in all countries to address environmental issues. India too has given high recognition to this fact and come up with several noteworthy policies. Indian Judiciary has done a tremendously good job at ensuring that citizens do not degrade environment in their everyday economic and other activities. Cases like Bhopal gas tragedy case, which gave rise to the absolute liability principle in India and the much recent case of 3 day World Cultural Festival raising concerns over harm to Yamuna river bank exemplify this. The Kyoto protocol and other global frameworks and judgments of apex courts of Australia, Singapore, England, California and other countries also express concerns of environmentalism. While deciding cases, care has been taken to ensure that environmental degradation is prevented. In many countries including India, there is a trend of increasing imposition of fines to prevent pollution and environmental harm. Absolute liability principle in India is a very innovative principle that has gone a long way in preserving our environment. Judicial verdicts have *always* kept environmental cornerstone in judging the permissibility of actions having even remote impact on environment. Environmental concerns have become a cornerstone to judge various cases, becoming invariably a judging factor in judicial decisions across the world.

[Word Count of main text excluding footnotes: 1713]

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CHALLENGES IN MANAGING FORESTS SUSTAINABLY: A NEW PROBLEM FOR PROMOTING ENVIRONMENT PROTECTIONIN INDIA

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One of the major outcomes of the Stockholm Conference on Human environment in 1972 was the acknowledgement of the need to maintain sustainability. Although the concept of sustainability has been being debated worldwide since 1970s, but in India the concept was already there since the time of the Vedas. Indian constitution is probably the first constitution to provide provisions regarding protection of natural environment which includes forests. Forests provide a wide range of ecological, economic and socio-cultural benefits for the communities by enhancing their life style. The concept of sustainable forest management was universally adopted in the Earth Summit at Rio de Janerio in 1992. India has been managing its forest reserves through the national forest policies and it was in 1999 that it adopted sustainable forest management through the Indian Institute of Forest Management (IIFM), Bhopal with the assistance of Food and Agricultural Organisation (FAO) of the United Nations and United Nations Environment Programme (UNEP). Although it was implemented to some extent but for the complete implementation there were certain challenges. This doctrinal research analyses judicial trend concerning the challenges faced during implementation of the sustainable forest management in India and the suggested remedy.

Introduction:

The Natural Environment includes forests as a vital part of its existence. Forests provide a wide range of ecological, economic and socio-cultural benefits for the communities by enhancing their life style.In the case of *State of W.B. v. Sujit Kumar Rana* the Supreme Court held that,

‘Forest is a national wealth which is required to be preserved. Depletion of forests would lead to ecological imbalance. The state is enjoined with a duty to preserve the forests so as to maintain ecological balance.’ The concept of Sustainable Forest Management has been being considered as an integral part of sustainable development since the Rio Declaration in 1992. Indian forestry is one among the first in the world to be managed with the principles of modern scientific management in the 18th century which coincides with the Industrial Revolution in the West. During the pre-independence period the forest was only extracted for production purposes until the National Forest Policy of 1952 and 1988, which changed the whole concept of forest management in India. The concept of Sustainable Forest Management was adopted by India through the Indian Institute of Forest Management (IIFM), Bhopal in December 1999.According to International Tropical Timber Organisation (ITTO) -‘Sustainable forest management is the process of managing permanent forest land to achieve one or more clearly specified objectives of forest management with regard to production of a continuous flow of desirable forest products and services without undue reduction of its inherent values and future productivity and without undue undesirable effects on physical and social environment.’ It covers all the three components of sustainability.

Why SFM was required in India?

The Rapid growth of population increased pressure on forest resources in the country and threatened the livelihood of millions of forest dwellers and poor people living in the propinquity of the forest. According to the report of the National Forestry Action Programme (NFAP) in 1999, ‘India having 2.5% of world’s geographical area and 1.85% of forest area, had 17% of world’s population and 18% of livestock population’ and the population was growing rapidly so the demands were.

If all the forest areas were reserved, it would hinder the development of India, which is a developing country, as well as it would make the forest dependant people suffer by taking away their livelihood.

In this context, it was necessary to preserve the forest and its resources and manage them sustainably, so as to ensure the livelihood of the communities depending upon the forests as well as conserving the bio-diversity.

What are the challenges faced during implementation of SFM?

Management of the Forest sustainably in a developing country like India is unique as well as a bit more difficult than in the developed countries like Japan, the US, etc. Although The IIFM implemented this concept in India in1999. But certain Challenges were to be faced for complete implementation. i.e.

(1) Lack of environment consciousness-

One of the basic problem for implementation of any policy or any legislation in any country is lack of public awareness. Although environment laws were introduced in India but public awareness was vital for implementing them. This problem can be partially solved by introduction of environment consciousness in the educational curriculum.

In *M.C. Mehta v. Union of India*, it was held that under Article 51A (g) it is the duty of the General Government to introduce compulsory teaching of lesson at least for one hour in a week on protection and improvement of natural environment in all the educational institutions of the country .It directed the Central Government to get text books written on that subject and distribute them to the educational institutions free of cost. In order to rouse amongst the people.

The consciousness of cleanliness of environment, it suggested the desirability of organising keep the city clean, keep the town clean, and keep the village clean week in every city, town and village throughout India at least once in a year.

In 2003 in an effort to mainstream environmental education and promote responsible environmental behaviour, the Supreme Court of India issued a Directive to the National Council for Educational Research and Training (NCERT) to prepare a model syllabus for environmental education to be introduced in all the grades uniformly throughout the country.

When in 1999 the concept of SFM was introduced in India, the literacy rate in India was very low. According to the 2001 census the literacy rate was 64.8% of the total population where it was 58.7% in Rural India, which was directly influenced by the forests. And even now in 2016 there are more than 450 million people in India who are still illiterate. So promoting environmental consciousness by text books was a partial failure.

(2) Rapid Urbanization and Industrialisation: Lack of Scope to Increase Forest-

Urbanization and Industrialization, for which infrastructural development is vital, are the major causes of deforestation. With rapid infrastructural development the scope of increasing forest is declining.

In 1999 National Forestry Action Programme (NFAP) was established. It had a goal of 33% geographic area of the country under the forest cover in next 20 years. According to the 'Forest Survey of India' in 1999 the total forest cover was 23.28% & the reserved forest area was 12.67% of total Geographical area. So about 46% of total forest was convertible in a desire for urbanization. In the 2015 Forest Survey of India the total forest cover is 21.34%. So the total area of forest cover was declined which shows the failure of NFAP due to rapid Urbanization & Industrialisation.

(3)Rapid Illegal & Commercial Extractions-

As India is the best example for violation of any law, illegal extraction of forest resources is not surprising. The Forests are extracted and destroyed & the resources are sold legally or smuggled only for commercial purposes. According to a news-report,'The non-stop looping of forests caused extensive damage to the dense rain-forests of North-East India, which resulted in the heavy and unbridled plunder of forest resources.'

One of the recent example of rapid commercial extraction can be noticed in the case of *T.N. Godavarman Thirumulpad v. Union of India* where it was alleged that the State allowed the trespassers to enter upon the forest land for the purpose of felling trees and conversion of forest land. The encroachers had been indiscriminately cutting the valuable rosewood tree, teak tree and ayni tree, which would be irreparable, for the purpose of timber. The petitioner pointed out that these said trees were destroyed & the forest area were converted into plantations by the timber contractors for quick profit without any regard to the permanent damage caused to the eco-system. The Supreme Court observed that the Compensatory afforestation Fund Management and Planning Authority(CAMPA) , which has the jurisdiction to the whole of India & was an authority by a notification issued on 23.04.2004 by the Ministry of Environment and Forest under section 3(3) of the Environment Protection act , was only remained on paper & wasn't made functional till that judgement. The Court directed for constituting an ad-hoc committee till CAMPA becomes operational.

(4)Lack of Implementation: Policy and Institutional failure-

The aim of any policy or legislation is successful implementation, which is only possible when the whole of the public is conscious and aware of that. In India implementation of the policies

& legislations are far from satisfactory due to inefficiency of national as well as the regional & local authorities.

The example of such institutional failure can be noticed in *Common Cause v. Union of India* where the Supreme Court dealt with a situation where the lessee was operating the mining lease without clearances under the Environment (Protection) Act, 1986 and the Forest (Conservation) Act, 1980. It was found that many companies were indulged in mining operation without clearance mandatory under said laws, the apex court stopped 26 leases which were not renewed by the state government from further mining operation.

The failure of NCERT & NFAP can be considered as the examples of institutional failure for implementation of SFM. The Policy failure due to lack of implementation can be clearly noticed in the *Godavarman Thirumulpad v. Union of India* case where even after 5 years of notification the CAMPA was not operational & was only on paper.

(5)Other Challenges-

The forest in India threatened by unsound forest management activities including inappropriate productivity (too much) by government companies private sector and cooperative, intensive agricultural operations, indiscriminate forest activities and timber use, Lack of vehicles for foresters, Lack of near cooperation between forest sector with judicial and disciplinary power, Lack of adequate protection personnel, Changing forestlands to agricultural fields, Presence of livestock in forests, Continuous changes in policies, legislation and programs, Lack of education level among personnel, Threat of pests and diseases to plantations, Making roads inside forests, Lack of participation by forest dwellers in protection of forests, Lack of politicians serious belief on the protection of forest, happening of fire, demographic &socio-cultural factors affecting the forests, etc.

Suggestions &Conclusion:

In the light of the above discussions, the followings may be suggested for complete & more effective implementation & further improvement of Sustainable forest management in India.

- The Central Government may constitute a High Powered Cross-checking Committee to constantly monitor the enviro-legal framework of the country.
  This would inter-alia include
  a) Suggestions for enacting new environment laws;
  b) Weeding out laws and regulations, relating to present & future environmental condition, which have outlived their utility;
  c) Cross-checking the leases whether they have clearance under any law or not.
  d) Appointing strong authorities in the state level as well as regional level for effective cross-checking of the enviro-legal system.
- All the states, especially the North-east states may appoint strong Forest Security Teams for weeding out the destroyers i.e. wildlife poachers, wood-smugglers, illegal migrants and militant groups from the forest.
- All the states, especially the North-East States which have weak economic structure, may claim fund from CAMPA for smooth implementation of sustainable development & management of forests.
- The State Governments may increase environment consciousness among the public especially the illiterate people by encouraging 'Environment Awareness Festivals' in the state as well as regional and local level.
- The sustainability of people-oriented management initiatives like joint forest management can be encouraged by the state governments by involving the communities in applying and monitoring the sustainability.

India has been successful for implementing Sustainable Development of forests to some extent. It is admirable that being a developing nation it has made such success. It has a good judicial infrastructure &it can be successful in implementing Sustainable Forest Management completely. We can conclude by hoping for the best.

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SUSTAINABLE SANITATION IN INDIA

-Shristi Talukdar[1]

Sustainable sanitation is an approach that considers sanitation holistically. It recognises that human excreta and wastewater are not waste product, but a valuable resource.

- (Sustainable Sanitation and Water Management (SSWM))

Sustainable Sanitation is not a technology, but an approach having certain principles. The first principle of Sustainable Sanitation is to recognise that excreta and wastewater are not wastes, but resources that are valuable and can be reused and recycled. The main objective of sanitation is to provide a healthy and clean environment and breaking the cycle of disease. Now-a-days sustainable sanitation is identified as a key-driver for economic development and sustainable development in general. Recently this has become more and more popular around the globe and had led the UN General Assembly to declare the year 2008 as the "International Year of Sanitation (IYS)".

In the last few centuries the basic concept of collecting domestic liquid waste from sewer systems, treating the wastewater in centralised treatment plants and discharging the effluent to surface water bodies has become the accepted, conventional approach to sanitation. These conventional sewer systems have improved with time in those countries that can afford to install and operate them properly. In countries like India where there is insufficient access to adequate sanitation it becomes a problem. Despite the vastness and the large population, India is working hard and is successful in providing water and sanitation facilities to its people around the country.

Under the Indian Constitution sanitation and water supply are the State's responsibility and according to the 73rd and 74th Constitutional Amendments, the State gives the responsibility and powers to Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs).

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Through the State's Public Health Engineering Departments or Panchayati Raj Engineering Departments or Rural Development Engineering Departments the States generally design, operate, plan and execute the water supply schemes. However the Centre has through the Five Year Plans guided the investment and improved the financial instruments for implementation of infrastructure in the States. There have been many efforts made by the Government of India to focus on sanitation. Awards like Nirmal Gram Puruskar were created to make the sanitation drive more vigorous by the local self governments.

Sanitation is an essential component in a person's life. In India, there are different legislations and schemes that are involved with sustainable sanitation. The Strategic Plan 2011-2022 of Department of Drinking Water and Sanitation- Rural Drinking Water's "Ensuring Drinking Water Security in Rural India" ensures that every rural person has enough safe water for drinking, cooking, and for other domestic needs, as well as livestock throughout the year including times of natural calamities. It states that, waste water treatment and recycling should be an integral part of every water supply plan or project. Management of liquid and solid waste should be promoted together with recycling and reuse of grey water for agriculture and groundwater recharge and pollution control. The Total Sanitation Campaign Guidelines, 2011 is another scheme involved with sustainable sanitation. It aims to improve the general quality of life in rural areas and by 2017 it aims to make toilets accessible to all and popularise sanitation in rural areas. Another aim is by promoting sustainable sanitation facilities through awareness creation and health education by motivating communities and Panchayati Raj Institution. It also aims to encourage cost effective and appropriate technologies for ecologically safe and sustainable sanitation and along with developing environmental sanitation systems by focusing on solid and liquid waste management.

Another scheme by the Government of India is the Nirmal Bharat Abhigyan, 2012. The Nirmal Gram Puraskar (NGP) was launched by the Government of India to give a fillip to the Total Sanitation Campaign and which sought to recognise the achievements and efforts made in ensuring full sanitation coverage. The award became immensely popular and thereby significantly adding to the achievements made for increasing the sanitation drive in the rural areas of the country. Encouraged by the success of the award, Total sanitation Campaign was renamed as Nirmal Bharat Abhigyan which aims to accelerate the sanitation coverage in rural areas to cover the rural community through different approaches. The Swachh Bharat Mission (Gramin) Guidelines also deals with sustainable sanitation. Its objectives are similar to that of Nirmal Bharat Abhigyan.

Millions of people in India need to be provided with sustainable sanitation facilities in the years to come and millions of toilets and related sanitation systems are needed to be built to make sustainable sanitation successful.

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