



# HPNLU GREEN GAZETTE

JULY-AUGUST ISSUE | VOL I

**CENTRE FOR ENVIRONMENT  
AND DISASTER MANAGEMENT**

**HIMACHAL PRADESH NATIONAL LAW  
UNIVERSITY, SHIMLA**

# MESSAGES FROM THE DIGNITARIES

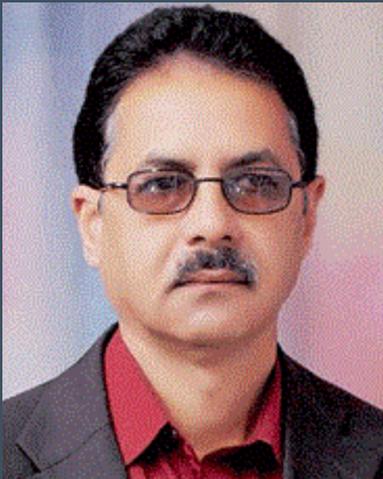
## *FROM THE VICE CHANCELLOR'S DESK*



(Prof.) Dr. Nishtha Jaswal,  
The Hon'ble VC, HPNLU,  
Shimla.

It is a blessing of Almighty to be on a platform to get an opportunity to launch a 'Green Platform', that is, the maiden newsletter of the Centre for Environment and Disaster Management, HPNLU Shimla-THE HPNLU GREEN GAZETTE. Being the *Karta*, it is my sacred duty to impart 'Green Education' to every human being, to create 'Green Awareness' and to inculcate 'Green Responsibility' to protect and preserve the biota of their surroundings. The HPNLU Green Gazette will be a launching pad for the young but maturing minds to collect, create and spread new and enriching insights to readers and environment enthusiasts. May God bestow wisdom on the CEDM team to make the best efforts to shine like a star in the galaxy of information and knowledge. Heartiest congratulations ! God bless!

## *FROM THE REGISTRAR'S DESK*



(Prof.) Dr. S.S. Jaswal,  
Registrar, HPNLU, Shimla.

Centre for Environment and Disaster Management of Himachal Pradesh National Law University, Shimla is publishing its maiden Newsletter HPNLU Green Gazette on Environmental Issues. It gives me an immense pleasure to appreciate that the theme is apt and need of the hour in contemporary India. I am hopeful that this newsletter will help students, academicians and law professionals to put forward their research and share their knowledge on different aspects of environment. I express my best wishes to the Centre for Environment and Disaster Management-HPNLU and to all participants.

## *FROM THE DIRECTOR'S DESK*



Dr. Girjesh Shukla,  
Director CEDM-HPNLU,  
Shimla.

HPNLU Green Gazette is conceptualized to provide an academic platform to all the students, researchers, legal practitioners, and environmental enthusiasts to bring the discourse on environment and disaster management at centre stage. These efforts will undoubtedly generate greater interest in environmental protection but also create and disseminate new knowledge. On behalf of the Centre, I express my appreciation to all the team members of the newsletter committee for their relentless efforts. Without their commitment and contribution, this newsletter would not have been possible. I express my gratitude to all the members of Centre for Environment and Disaster Management, and also good wishes for all future endeavours.

HPNLU GREEN GAZETTE

PART ONE

# GREEN REPORT

"Environmental pollution is an incurable disease. It can only be prevented."

Photographer: Aravind S is a student of Tamil Nadu National Law University.

CEDM

# Sustainable Tourism: An Urgent Need In Light Of The Global Pandemic

**About the Author:** Kanak Mishra is a 4th Year law student in Jindal Law Global School, Sonapat.

## **This lockdown is making us all question**

the simplest of things in life that we could not appreciate enough before. It is also making some of us feel utterly guilty about not being able to give back what nature has given us to cherish but not perish.

Sustainable development is indeed a term all of us have heard back from our primary classes of Environmental studies. Let us revisit this concept more formally. The Intergovernmental Panel on Climate Change (IPCC) defines Sustainable Development as a form of “development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The idea of sustainable development is lately being incorporated in as many fields as possible. Sustainable energy, sustainable future, sustainable agriculture, sustainable consumption, and sustainable tourism, etc., the preoccupation with the essence of sustainable development is growing by leaps and bounds. Considering the rate at which the tourism industry was flourishing before the Coronavirus pandemic, it is reasonable to expect an exponential upsurge in the rate of tourism post the lockdown

While public understanding about the complexities of global tourism would have hopefully improved for the better post this lockdown, there remains a lot of misconceptions and confusion about how world-tourism would span out post-Covid-19. Environment and tourism are always thought of as two distinct terms when tourism is almost always a part of the Environment. The concept of Environment is interdisciplinary, such that it imbibes everything ranging from politics, culture, heritage, geography, science, etc. Tourism, on the other hand, is undertaken for the very purpose of understanding the intersections between the disciplines stated above and those that are emerging. Sustainable tourism, as defined by The World Tourism Organization (WTO), is a type of tourism that “meets the needs of present tourists and host regions while protecting and enhancing opportunities for the future.

It is envisaged as leading to management of all resources in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity, and life support systems.”

## The need for sustainable tourism

Micheal H. Prosser, a notable professor of the University of Virginia, in his book *Sustainable Tourism Practices in the Mediterranean*, laid down four prominent reasons that led to the development of the concept of sustainable tourism.

1. Dissatisfaction with existing products.
2. Growing environmental awareness and cultural sensitivity.
3. Realization by destination regions of the precious resources they possess and their vulnerability and
4. The changing attitudes of developers and tour operators.

## Changes in approaches to sustainable tourism

The understanding of sustainable tourism has undergone a monumental change from what it was initially during the 1990s. The earliest theories were more conservative, owing to the similar conceptualization of the Environment too. The world back then was still trying to adjust to the new global order, i.e., Globalization. Gradually, once the post-globalization phase set in, the theory of sustainable tourism expanded from that of conservation to the one with enlightened anthropocentric approaches. An evolved phase of anthropocentrism, known as enlightened anthropocentrism, set in, that was based on a hierarchical understanding of the Environment. It stems from the belief that the Environment has instrumental value for humans, and thus they can appropriate the Environment to suit their whims and fancies.

This would mean that the tourism industry could operate without having to deal with any sanctions upon any harm to the Environment.

After anthropocentrism, a further evolved conception of sustainable tourism came up that was well known as ecotourism. The International Ecotourism Society (TIES), defined ecotourism as "Responsible travel to natural areas that conserves the environment, sustains the well-being of the local people, and involves interpretation and education." This approach to tourism is now considered a sub-category of sustainable tourism.

The modern idea of sustainable tourism is premised upon the following ideals that seek to establish a balance between tourism, the ecosystem, and the political and economic development of the tourism industry.

## Future of Tourism

The tourism industry is one of the most competitive sectors of the current era. Tourism is not just responsible for generating loads of revenue for the state but is also a vital driver of a country's international standing. Hence, any investment in sustainable tourism must cater to the monetary requirements for building such a place, as well as for upkeeping its sustainability alive over the years irrespective of the multitude of the population visiting that place.

## Equity

The concept of sustainable development imbibes both inter-generational and intra-generational equity, and hence, sustainable tourism also strives to be inclusive of both

the ideas. However, while theorizing about the same has been easy, scholars have often debated the practicability of it in the future. It will be interesting to see how this pans out after the Global Pandemic is over, mainly because the Pandemic has worsened the North-South gap between the developed and the developing countries.

## Development

The idea of development has always been influenced by discoveries and grandeur. To achieve sustainable tourism, the scope of development has to be enlarged into a transformative development framework that ensures social responsibility, is socially inclusive and not only for the rich or the able-bodied, ensures that the voice of the indigenous communities is heard and is impactful in its principles and reach.

Summing up, in the midst of this apocalypse, it is essential to realize that sustainable tourism is as much the need of the hour, as is sustainable development in other fields such as agriculture, energy, consumption, etc. The fight against climate change would be incomplete without sustainable tourism. Thus, proactive engagement with the same is needed not just at the policy-making level but also at the community and individual level as well. It is, after all, in the interest of the ecosystem, including, but not limited to humans only. Plants and animals would benefit as much from sustainable tourism, thereby achieving the essence of the environmental justice movement in its entirety.

# A Tale of Human-Animal Conflict

**About the Author:** Sanighdha joined the University Institute of Legal Studies, Panjab University in 2017. She is currently in third year of B.A.LL.B. (Hons) course.

## Introduction:

When the human civilisation started growing 17,000 years ago, 30% land was under deserts, 24% under mountainous terrain and 50% was left for humans, out of the total 510 million sq. Kms. But now with a stupendous rise in big cities and industries, man is adamant on converting the 'wild land' into 'civilised land'. For infrastructural purposes, man collected timber from the forests, resulting in deforestation; and the loss of trees jeopardized the survival of exotic, vulnerable and endangered fauna. This led to further clearing of wild spaces and increase in human encroachment on exclusive animal habitat. Following these actions of the mankind, the animals, who used to peacefully coexist with mother nature in their own personal space had no place to go. Their food was snatched away, because their basic food base- smaller animals couldn't survive long pangs of hunger- their abode was no longer home and the only place where they could go 'in hope' of finding food and shelter were the new cities that the *home*

sapiens had so mindlessly and irrationally built. But the human terrain was never their place- they had to fight for mere survival even there.

## A Common Scenario

Killings, Revenge and more killings- all of that for a single morsel of food and some freedom. The death of tigers in Goa, Tigress Avni in Maharashtra, the blowing off of an explosive matter in the stomach of a pregnant elephant in Kerala and many more. Predation on livestock or domestic animals, damaging crops, strewing the residential waste, unnatural bird nesting and vehicular-animal collisions are some of the instances of this conflict. The Environment Ministry Data states that almost 1,068 human died due to human-animal conflict in the period 2014-2017, whereas no such figure is provided for the animals. A Study conducted on 52,000 families around 11 protected areas of the country revealed that 71% of the households reported serious crop losses and crop damages due to wild animals razing these strenuously sown crops of poor farmers. If the crops are destructed like this on a much larger scale –which can happen anytime because of indiscriminate and irrational elimination of wild land- then the Food Security of the country will be imperilled, leading to a serious food crisis. As incongruous or absurd this idea may seem as, if seen with open eyes, the devil's day isn't that far.

## Reasons for the Conflict

A farmer's prime duty and occupation is

growing of crops. Earlier, civilisations were raised on the banks of rivers and near the forests for easier procurement of food and water. Traditionally, conservation ethics has been a part of our culture, where even the smallest creation of nature was revered and worshipped. However, with technological and scientific advancement, man became selfish and ignored the environmental milieu completely. Unplanned urbanisation was the biggest result of this headway. These farmers, who earlier used to do agriculture, had no vast land left now. Farmers were pushed to the margin of the economy, inspite of them forming the biggest share of Indian employment. These farmers now had to increase their cultivated land so as to earn more, because the only other option left was to die starving. This circumstantially forced decision to increase land led to an unintentional infiltration in the forests and earlier non- transgressed lands. The trespass which was done by deforesting made the animals homeless and restless, thus coercing them to come out of their terrain. This further resulted in animals entering the human settlements. On scrutinising the situation, neither the animals nor the agriculturists are responsible for this doomsday. **The greed of some has led to the death of the many.** Constructing roads from within the forests, expanding vehicular traffic, unscientific forest management and decreased prey base of big animals due to poaching are the prime reasons behind the human-animal conflict. This will and has already lead to decrease in wildlife population. These irreversible mistakes have endangered the humans in such a way that now, our food security is insecure.

## Laws

The Madhav Gadgil Report (2011) recommended making Western Ghats an Ecologically Sensitive Area (ESZ) whereas Katuri Rangan Committee recommended only 37% of it as ESZ. Project Tiger (1973) launched in collaboration with the World Wildlife Fund for Nature, managed by National Tiger Conservation Authority has reported a 33% increase than the previous figures. The Wildlife Protection Act, 1972 provides for protection and conservation of our exotic wildlife and lays down serious penalties if a person fails to do so. It prevents poaching, trapping, poisoning or harming the animals; with Wildlife Advisory Boards setup in each State. Prevention of Cruelty to Animals Act and the Performing Animals Rules, 1973 are other protective rules. Drugs and Cosmetic Rules (2nd Amendment) 2014 prohibits animal testing for cosmetic purposes. Project Elephant (1992) aims at providing invasion-free corridors for movement of Asiatic elephants. Zoo Authorities have been setup in every zoo for care giving purposes in zoos.

A specialised service, Indian Forest Service (IFS) is streamlined towards rendering highest service to the conservation of forests and wildlife. Articles 48, 48A, 51A, 243G, 243W and 246 of the Indian Constitution provide special constitutional safeguards to the wildlife. The United Nations Convention on Animal Healthcare and Protection is already in the process and which if signed, will render the cause with much more importance. MoEF&CC has decided to go for “immunocontraceptive measures” to regulate the population of some

fast growing wild animals to reduce the conflict. The Supreme Court in 2018 while considering a petition had directed the Centre to constitute a Task Force to deal with the growing problem of Human-animal conflict. In *Suo Motu v State of Rajasthan (2019)*, the concerned Court had laid down several measures like making a buffer area for reducing human-animal conflict.

Such guidelines have been repeatedly passed by many Courts across the nation.

## Suggestions

Certain measures such as the relocation of human dwellings in a more favourable human setting, formal training of officers concerned with redressing these conflicts must be undertaken, sensitisation and awareness programmes can be organised to deal with the issue. Poaching must be stopped strictly to maintain ecological equilibrium.

Wildlife fragmentation, like the one happening with the Gee Langurs should be taken seriously along with creating solar powered instead of electrical fences to prevent incursion of animals into human dwellings. GPS systems can be installed to track the movement of wild animals for preventing instances of collision. Maintaining a balance between ecology and economy by better management of national parks, wildlife sanctuaries will surely go a long way. Wildlife Corridors like the ones constructed in Canada can be undertaken. Using bees and pepper to keep wild animals away can be another innovative solution, which is already being used across Africa. Utilized Texting like one used in Western Ghats can also be made use of. Last but not the least, adequate compensation must be paid to the affected farmers efficiently.

Environmental ethics, a branch of philosophy, talks highly about the animal rights. Deep Ecology as a notion must be incorporated in the minds of the masses to respect and take care of our exotic fauna. The idea is that even if some aspects or components of the nature are not useful to us, they must still be given equal respect. If something is of non-useful nature to us, the same thing must not be discarded, considering it as a waste material. Aldo Leopold's Land Ethics establishes that land does not only include soil but also animals as an integral part of it.

### Conclusion

Animals are an integral part of our biosphere. If any component of the biosphere is endangered, it clearly leads to destruction. It might be slow, but it is always sure. Humans must understand the importance of animals in our lives. They are not our enemies but our dearest friends. An effective implementation of various laws formulated must be undertaken, along with adopting some of the innovative measures already in place in the world and even in India. Worship of Tigers by the Velip Community in Goa and looking at animals as a renewable but easily destructible part of ecosystem are surely a part of positive Indian attitude. Care and conservation are a part of our culture. Respecting the nature will be in human's favour only. To receive respect, we must first give respect. But our Nature and the voiceless animals never put conditions on respect, love and care. This must not be taken arrogantly but must be respected as a service to the animals and our Earth. In the words of Mahatma Gandhi, "The greatness of a nation and its moral progress can be judged by

the way its animals are treated".

# Destroying Nature Or Destroying Ourselves? A Look Into The Case Of Baghjan Fire Of Assam

**About the Author/s :** Ms Roshni Saikia is a Teaching Assistant serving in Assam Royal Global University and pursuing her Ph.D in the field of tourism. The second author, Mr. Pratim Sengupta is a PG student pursuing his MBA from Assam Royal Global University.

How far we will go before we realise that we are destroying the Earth and that way we are destroying ourselves. The year 2020 has been showing a lot of consequences for the actions of humans. Apart from the global pandemic which has put everyone locked in their houses, there are still simultaneous ongoing disasters throughout the world. Although these may be natural disasters but the reasons may not always be natural. Forest fires, floods, and the spread of dangerous gases polluting the nature and damaging a major part of the nature are few of the occurrences in the nature from past few years. Now the question arises who is to be blamed? Environmental crisis has been always proportional to the action of humans.

On June 9, 2020 shortly after the rapid spread of Covid 19 virus phase in India, a devastating event

occurred in Tinsukia district of Assam, where a massive fire engulfed Well No 5 leading to a major blowout of natural gas and crude oil. This happened at the oil field of Oil India Limited (OIL)-one of India's nine Navratna PSUs. The Baghjan BGR Well No 5 is located south-west of the Baghjan village and north-west of Dhakuwal in Berekuri where drilling was done up to 4,045 metres for natural gas. District after the failure of the Pressure Control Systems has caused a huge damage to the human kind and the nature at large. The blowout happened on 27 May, 14 days prior to the catastrophic fire and the first official reaction from the company came on 29 May, followed by a detailed statement giving about the nature of the incident on 1st June and massive fire broke out in Baghjan oil spill site on 9th June'20. The Baghjan 5 well which is the epicentre of the massacre has been operating since 2006 located at a distance of 900 metres from the ecologically rich and fragile Dibru-Saikhowa National Park and Biosphere reserve with other ecological hotspot which are situated in a close proximity to the area of massacre. 1610 families with around 3000 people was badly hit by the disaster and was evacuated due to the spill and shifted to rescue camps.

According to Assam Pollution Control Board, the gas leakage has flowed upto the radius of 5km and affected the surrounding tea gardens, banana trees, betel nut trees etc. The flaring of gas in the Baghjan incident has caused the villagers severe headache, irritation in eyes, skin and nasal passage. The disaster has caused death to two individuals. The incident has inflicted adverse effects on biodiversity of two sensitive zone of ecology i.e. Maguri-Motapung Wetland which is the part of the eco-sensitive zone of Dibru-Saikhowa

National Park (DSNP), home of at least 36 rare species of mammals including Feral Horses and at least 382 species of birds. The local people found a carcass of the endangered Gangetic Dolphin which was under natural conservation in Maguri Wetland. Additionally, several endangered birds and diverse species of fish died due to the flaring fire and the contamination of air and water due to release of mixture of Propane, Methane, Propylene and other gasses from oil spill. Experts from Singapore based Alert Disaster Control Company, US and Canada were flown in to control the blowout. Machinery and other equipment were brought in from OIL and ONGC facilities located in other parts of the region. The question that arises is how did the blowout happen in a killed well which was investigated by the OIL authorities and two officials has been suspended for undisclosed reason. Baghjan Oil field of OIL has received closure from The Assam Pollution Control Board as they said that OIL has been operating the oil field without obtaining any permission from the board. As per the report of Hindustan Times, OIL was supposed to take sufficient measures to prevent spillage of any hazardous wastes in water bodies through designated drains and facilities. OIL received the environment clearance on the condition for installation of proper Blowout Prevention System to avoid accidents during drilling but they failed. The board has directed the Baghjan OIL field for the closure of all installations under section 5 of Environmental Protection Act 1986. DN Das1 states that complete closure has been ordered because of the negligent behavior. A preliminary report stated that due to blowout, oil has leaked into the mainstream of river Lohit which polluted adjoining Maguri – Motagung Wetland with toxic pollutants. The report by Wildlife Institute of India has recommended to put hold on the approved new wells and exploration in the area until OIL acquires proper disaster handling capabilities.

Even if the the human victims will be provided with assistance, is it sufficient to deal with the long term health effects. Cowan states that significant associations between asthma and oil fire smoke exposure exists. How will nature be assisted for the serious damage caused by the oil spill, gas leakage and continuous flaring of fire since several days. The environmental loss has been given less importance and no measures has been planned to repair the ecological damage. How do we survive our future by neglecting such environmental crisis in present? The report states the toxic fumes and oil coating have universally affected flora and fauna. The contaminants and oil are continuing to be released in the surrounding areas and immediate steps are needed to contain this spillover. The toxins released are known to have long-term persistence in soils and sediments, which will not only affect current life conditions but, due to sustained release over a long period, pose a serious health risk for a long term. According to Cowan exposures to high concentrations of small-diameter particulate matter is associated with asthma and is long term.

The inferno due to the oil spill can further accentuate into forest fires if proper steps are not taken and poses a potential threat. as As per the report of Mongobay Publisher 22nd Jan'20 "According to the India State of Forest Report 2019, over 30,000 incidents of forest fires were reported in India in 2019. Additionally, more than 36 percent of Indian forest cover (657,000 sq km area) is prone to frequent forest fires and of this, 10 percent are highly prone, according to a Forest Survey of India (FSI) report on fire prone forest areas. Around 21 percent of the total forest cover is highly to extremely fire prone, adds the latest forest survey. The report says that the primary cause of fire is the human

activities. Most of these fires are surface fires and may be easily manageable but sometimes it can go out of hand.

The Oil India Limited's reaction at at the beginning has crushed the principles of Good International Petroleum Industry Practices<sup>3</sup>. In the report in the year 2016 prepared by Directorate General of Hydrocarbons by Ministry of Petroleum and natural Gas, GoI stated that events line oil spill cannot be prevented but their impact can be reduced by proper planning and preparedness.

Hazard identification is the initial step for contingency planning and the last step is NEBA (Net Environmental Benefit Analysis). The main objective in developing an emergency plan is to create a framework that to assist the company for a response during an emergency which is functional.

Although in a presentation on December 2019, Disaster in Oil & Gas Sector –Preparedness in the country , Oil India Limited's chief manager while referreing to "Blowout or Fire in Wells - Either during Drilling or while producing" did mention that India is not well equipped for controlling such accidents and still relies on foreign experts and for the same . This is due to the lack of expertise and proper facilities. Statistically it is the second such incident of Assam in the company's history since 1961 with the Dikom Well No 15 fire in September 2005 being the first one. The gas leakage at Dikom started on 13 September 2005 and caught fire on 15 September after attempts to plug the leak failed. The Emergency Response Centre planned for Petroleum sector has not considered its operations in Assam and Arunachal Pradesh due to the terrain. Although there are presently 15 active oil fields in the Upper Assam Basin divided into smaller fields and having many oil wells in each of them. India's North East has been exploited for profits, damaged the region's ecology and further contributed minimum to CSR activities as compared to its margins and imposed the side effects of Dikom and Baghjan .

The pitfalls need to be addressed and proper technology suitable for the Northeast India terrain along with proper training on expertise. MGS De states that inventions should be taken up to provide a wheeled vehicle which can withstand high temperatures and adapted to be operated from a remote position by means of suitable radio control means for putting out oil fires. Proper time management should be done as the crucial time is lost while planning for tackling the situation which further aggravates the situation. There should be an independent enquiry by committees, free from any external pressure and preferably under judicial supervision which can further look into the case and provide the cause and solutions. Most of all, the voices and problems of local community of the region should given importance, policies and steps to be taken should be consultation with them. Immediate steps to mitigate the adverse effects on the environment must be taken up by the company and sincere efforts for CSR is to be done. The Baghjan fire has failed to catch the attention of the country irrespective of causes severe damages to the ecosystem and humankind and as Dikom incident it will should perish in history. We need to make sure that lessons are learnt so that it doesnot repeat again.

The preceding century has witnessed an unimaginable increase in the population which in return has placed a huge burden over the natural resources. The nature has been giving all what it has but now Earth is giving up on itself due to the disproportionate cultivation resulting in soil degradation, use of harsh chemicals and pesticides to grow crops and the rapid industrialization that has led to increase in huge undisposed waste and contamination of air and water bodies. The growing consumer has been damaging the nature by its greedy acts right from uncontrolled exploitation of natural resources

to use of luxurious cars that generates fumes and pollutes the air. The idea of sustainable development seems no more a sustainable idea in the rat race of technological advancement that has helped creating a lot of machines and formulas making the human life more easy to live in, but if the consequences of such advancement at the cost of nature's damage is not addressed now then the time is not very far when the earth will be deserted. If nature is affected, damaged or getting dilapidated then we human kind is liable for such loss.

At this time, we are struggling with problems from diverse categories like terrorism, border disputes, economic tensions, employment crisis, trade war. Midst all, we have failed to acknowledge and address the important problem related to environmental protection. The prime duty lies on the common men to give up exploiting the nature for their selfish intentions and adopt sustainable development in truest sense. One doesn't need to understand the definition of sustainable development but just adopting the three R's (reduce, reuse, recycle) would automatically help the nature to heal itself. Together pledging to adopt the required measures to save nature and maintain the concept of sustainability would enable us to make this earth a better place to live in future because it is rightly said by Sukhvinder Singh Dari Nature provides free lunch, but only if we control our appetite..."

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## DO YOU KNOW?

When you throw plastic bags and other plastic materials in the ocean, it kills as many as 1 million sea creatures annually.

reduce

reuse

PART TWO

recycle

save nature,  
save life

GREEN  
CLAUSE

Artist: Harmanjot Kaur Kang is a 2nd year law student at Mohindra College, Patiala.



# MC Mehta And The Advent Of Environmental Jurisprudence In India

**About the Author:** Charulata Singh is a 4th Year B.B.A.LL.B. student in Chanakya National Law University, Patna

**Meriam** webster defines environment as, the circumstances, objects, or conditions by which one is surrounded. So to say, the environment is our vicinity, where we co-exist with every other element. This coexisting makes it essential for us to let that vicinity thrive in the best possible way. To prompt the same, the legal route of drafted rules and legislated statutes has been taken. Environmental law is the regulations enacted and enforced by an authority to regulate human treatment of the nonhuman world.

## Understanding Environmental Jurisprudence

Environmental laws are supported through environmental jurisprudence. Environmental Jurisprudence could be a philosophy of law and human governance that supported the concept that humans are just one a part of a wider community of beings which the welfare of every member of that community depends on the welfare of the surroundings as a full. It states that human societies can solely be viable and flourish if they regulate themselves as a part of this wider Earth community and do so in a very approach that's in line with the basic laws or principles that govern how the universe functions. From policies, guidelines to the mighty

constitution, India has incorporated environmental jurisprudence in several forms, one such being the statutes. The Environment (Protection) Act, 1986; The Forest (Conservation) Act, 1980; The Wildlife Protection Act, 1972; Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981 and The Indian Forest Act, 1927 are some such legislations out of many.

## Article 21 and its Interplay with Environment

The importation of the 'due process' provision by the dissident methodology of the Supreme Court in Maneka Gandhi's case has reformed the ambit and extent of the articulation 'right to life' epitomized in Article 21 of the Constitution. The right to live in a healthy environment is one increasingly brilliant quill of Article 21. The privilege implies that the pleasure throughout everyday life and its accomplishment and satisfaction ensured by Article 21 grasps the security and safeguarding of nature's blessing without which life can't be delighted in. The Supreme Court of India, in 1980, in a roundabout way considered this privilege in a monumental judgement in the case of Ratlam Municipality v. Vardichand.

In the Oleum Gas Leak Case, *M. C. Mehta v. Union of India*, Chief Justice P. N. Bhagwati (as he then was) speaking for the Court clearly treated the right to live in a healthy environment as fundamental right under Article 21 of the Constitution.

In *Andhra Pradesh Pollution Control Board v MV Nayudu*, the Supreme Court placed environmental concerns and human rights on the same pedestal and held that both are to be traced to art 21. In *Hinch Lai Tiwari v Kamala Devi*, the court held that preservation of material resources of the community such as forests, tanks, ponds, hillocks is needed to maintain ecological balance so that people would enjoy a quality of life, which is the essence of right guaranteed under art 21. Explaining the concept of the right to life in art 21 of the Constitution, the Supreme Court held in *KM Chinnappa v Union of India*, "Enjoyment of life and its attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution". In a landmark verdict, the Right to Pollution Free Environment was declared to be a part of Right to Life under Article 21 of the Constitution of India in the case of *Subhash Kumar vs. State of Bihar and Ors.*

## Judicial Determination of Environment

Indian judiciary is said to be the first to show greater concern and due attention to the protection of environment from various pollutions. A perusal of the thought provoking decisions of various High Court's as well as the Supreme Court speaks volumes about the significant role played by the judiciary has

opened new aspirations in the arena of environmental protection. Through its activist approach took initiative in development of environmental Jurisprudence.

In *Ratlam Municipal Corporation v. Vardihchan*, the Supreme Court made the use of dormant provisions of code of criminal procedure 1973 as a potent instrument for resolving pollution problems and for the enforcement of statutory duty.

In the *R.L. & E. Kendra and Others v. State of U P* (Popularly known as Dehradun Quarrying Case) the Supreme Court complained about the illegal / unauthorized mining in the Missouri, Dehradun belt. As a result the ecology of the surrounding area was adversely affected and it leads to the environmental disorder. The Supreme Court treated the letter as a writ petition under Article 32 of the Constitution and directed to stop the excavation (illegal mining).

In *Vellore Citizen's Welfare Forum v. Union of India*, the Court held that, precautionary principle and the polluter pays principle are part of environmental law of the country. The 'polluters pays' principle is the commonly accepted practice that those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment.

In A.

*P. Control Board v. M. V. Nayudu and Others*, Supreme Court was called upon to decide a question as to whether a cashew factory was a polluting unit. The Court relied upon precautionary principle and explained that the principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose least environmentally harmful activity. In *MI Builders Pvt. Ltd. v. RadhetShyamSahu*, a city development authority was asked to dismantle an underground market built beneath a garden of historical importance.

-ental law of the land, though it is mentioned impliedly. Mehta's endeavours not only aided the victims to be finally recognised as victims of some misconducts which were not even considered offences until then, but also gave a new deep meaning to the highest right vested with the people through Article 21 of the Constitution. The extended meaning of right to life has made headway in advent of various new dimensions that we not even be acquainted with yet. The events which spurred Mehta to file the environmental cases in the Supreme Court of India have long been in existence until he realised them to be an infringement of human rights of innumerable people affected by the regular occurrence of those events. The subsequent advancement in environmental jurisprudence has been slow, but powerful.

# The Legislative Framework and Constitutional Safeguard on Genetically Modified Crops and the Impact on Environment

**About the Author:** Mr. Ranit Kumar Bose is a LL.M. student from Department of Law, University of Calcutta.

## Introduction

There are public debates regarding the coterminous effects of the Genetically-Modified Crops related to the costs and benefits and also to the environmental safety. The cropping system have to be modified for responding the increasing of population, food crisis, globalization, decreasing of tamable land, rising consumer demands and health safety. The imperishable agriculture and food security are important foundations for human society; sans collapsing the farming systems, environment, and eventually the economy. Therefore the scientists have approached the modern biotechnology using Recombinant-DNA (RDNA) technology for improving the quantity and quality of food.

## What is Genetically Modification?

Genetic modification involves the direct manipulation, deletion or insertion of a specific DNA sequence for improving the crop species by adding desirable genes and removing undesirable part.

## Genetically Modified Crops

The genetic engineering came out victorious when the scientists successfully produced the first GM crop i.e. an antibiotic resistant tobacco plant in 1982. The first successfully introduction of GM crops in 1996 globally and India entered into agricultural-biotechnology for producing GM crops in 2002 by approving 'Bt cotton' for commercial cultivation. Since, India has become a major exporter due to active participation of many institutions for enhancing Indian agro-ecological conditions. The successful crops are Bt brinjal, GM rice, GM mustard, etc.

## Issues Relating to GM Crops

Genetically-modified food is the solution problem of malnutrition and hunger and it can help also by protecting and preserving the environment and reducing dependency on pesticides and herbicides. But many challenges are there especially the unintentional harm to the human health and environment from the powerful technology. The nature of the risks depends on the characteristics of the crop along with the ecological system where it is grown. Issues mainly observes as: Lack of regulatory system in India; *Lack of Infrastructure; socio-economic hazards; Food and human safety problems; Problems of safe genetically modified food; legal liability of damage; illiteracy and lack of awareness of the BT technology etc.*

## Environmental Risk Assessment

Environmental risk includes chemicals, biocides, products for plant protection, methods for hazard/exposure characterization and ultimate evaluation for both human/animal health and environment. The consequences can be compared with 'safety thresholds' by regulatory authorities and accepted under specific conditions of management. The environmental risk may be gestured by introduction of new traits and other factors which may affect the environment by interacting pre-existing elements in nature. Such evaluation must be determined by data-analysis as an evidence for measuring the enormity of risk by Government/concerned authority by identifying the probable hazardous events/ risk assessment.

## Legislative Framework on Regulation of GM Crops in India

The OECD released a report on the potential hazards of releasing Genetically Modified Organisms (GMOs) into environment and "Recombinant-DNA Considerations" setting out the first international safety guidelines for using the Recombinant-DNA organisms in industry, agriculture. The Government of India has followed that for pertaining "biosafety" from biotechnology by enacting the Environment (Protection) Act, (EPA) 1986. The preamble ensures the protection/improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property. Section 6 of the Act gives the authority to the Central Government to form the rules and restriction for handling of hazardous substances. Section 8 of the Act prohibits handling any hazardous substances. And, the Section 25 of the Act places the rule-making power to the Central Government. Moreover, the Biotech-safety guidelines of manufacture, storage, import-export of the products derived from gene-technology are covered under "The Manufacture, Use, Import, Export and Storage of Hazardous Micro-Organisms Genetically Engineered Organisms or Cells Rules, 1989" and "Revised Guidelines for Research in Transgenic Plants and Guidelines for Toxicity and Allergenicity Evaluation, 1998". Hazardous organisms which are not genetically modified are also regulated by same.

The competent authorities to review and maintain the guidelines are Recombinant DNA Advisory Committee (RDAC), Review Committee on Genetic Manipulation (RCGM), Institutional Biosafety Committee (IBSC), Genetic Engineering Approval Committee (GEAC), State Biotechnology Co-ordination Committee (SBCC), District Level Committee (DLC). RCGM is empowered to bring guidelines for regulatory process and activities involving GMOs in researches and applications, ensuring environmental safety.

## Constitutional Safeguard

After the Stockholm Declaration 1972, the Constitutional (Forty-second) Amendment Act, 1976 was passed for protection and development of environment under Article 48-A and 51-A (g). Moreover, the increasingly broadening horizon of the interpretations under the head of Article 21 has brought the rights like the right to a clean environment and right to health. Right to live under Article 21 also includes the *right of enjoyment of pollution free water and air for full enjoyment of life*. If anything endangers or impairs that quality of life in derogation of laws, the citizen has right to recover his/her that right to Article 32 and 226 of the Constitution.

Umpteen of judicial decisions have emphasized the requirement of establishing specialized 'environmental' courts to handle the complicated issues with expertise.

In *M.C. Mehta v. Kamal Nath*, the Supreme Court viewed that pollution as a tortious act against the 'community as a whole'. So the Pollution caused by GMOs shouldn't be allowed.

In *Aruna Rodrigues v Union of India*, question arised whether the field tests of GMOs should be banned, wholly/partially. The Court observed that such technical/scientific questions can hardly be subjected to judicial review. The court directed for field trials not openly for avoiding pollution, after the approval of GEAC. In *Gaurav Nagar v. Ministry of Environment & Forests* it was held that being a special provision for dealing with GM food/products, The Food Safety and Standard Act, 2006 has been notified by the Ministry of Health & Family Welfare in order to regulate and address the health concerns/risks by Codex guidelines. The High Court, Gujarat in *All v. State*, interpreted the Rules of 1989 framed by exercising powers conferred under Section 8 of EPA, 1986, mainly to protect environment.

### Concluding Remarks and Suggestions

**Flexible and consolidated policies** providing safeguard both to citizen and environment for responsible using of biotechnology are required now. Biotechnology is the boon of human civilization; it shouldn't turn into bane by malicious practice of policies. After the signatory to the UN Convention on Biological Diversity at Rio de Janeiro, 1992 and Cartagena Protocol Convention, 2000 Government proposed the BRAI Bill, but the conflict between the Bill and the consumer's rights has moved to an undesirable situation. It must be in concern that the GM technology shouldn't infringe the tiller's right and during the allocation of authorities of producing GM products, there shan't be any discrimination. Moreover, there must be proper vigilance to avoid hazardous activities which may cause harm to the man and environment. Finally, no legislative action should be ultra vires of the provisions of the Constitution and upheld the spirit of the Constitution for public welfare.

## The Tale of Recurring Smoggy Falls: A Curious Case of Air Pollution in Delhi NCR And an Armchair Judiciary

**About the Author/s:** Kunal Goswami and Anant Sanghi are the students of 4th Year B.B.A. LL.B. at National Law University Odisha

### Introduction

The WHO Global Air Pollution Database released in Geneva on May 2, 2018 revealed that India has 14 out of the 15 most polluted cities in the world with the capital New Delhi has being tagged as the world's most polluted capital city. Studies have attributed this state of affairs to coal-fired power plants, vehicular pollution, burning of crop residue, emissions from heavy industries, construction dust and bursting of Diwali firecrackers, among other reasons. In the backdrop of this unexpectedly grim scenario the Judiciary had been approached to protect our air and environment and in its otherwise futile attempt to be the paragon of environmentalism the judiciary has assumed upon itself quasi-legislative as well as quasi-ministerial functions by becoming the policy maker as well as the executants which not only marks a severe departure from the principle of separation of power but also, has resulted in unprecedented and abysmal failure of the entire environmental jurisprudence on account of judicial over-reach, anthropocentric vis-à-vis bio-centric impasse, lack of technical know-how and machinery.

In this paper the authors are going to critically examine the judicial response to two of the major sources of air pollution in Delhi NCR which in the past 4 years have been brought to the fore by activists and media viz, bursting of firecrackers and stubble burning.

### **Fire Cracker Ban and the Judiciary: An Ambivalent Oscillation**

While Diwali is celebrated throughout India, New Delhi, which has gained notoriety as the world's most polluted capital city accounts for nearly half of India's demand for firecrackers. The smoke from ear-splitting firecrackers that burst through out Diwali nights shrouds New Delhi and its

satellite cities in a haze that lingers for days due to wind speeds dropping in the cooler weather of October-November, adding to the already severe pollution levels. Inaction and apathy on part of other wings of the government ultimately passes the buck to the judiciary to deal with this issue.

In 2016, the Supreme Court had banned the sale of firecrackers in the National Capital Region in response to a petition from three children.

In September 2017, the court had temporarily suspended the ban, advocating a "graded approach". But a month later, the ban was back in place. This ban, the Apex Court had said, was to test the effectiveness of such a ban on pollution levels, if any. In its order in 2018, the Supreme Court in Arjun Gopal and Others v. Union of India had banned the online sale of firecrackers and had fixed time limit for bursting these crackers to be 8 pm to 10 pm on Diwali and 11:45 pm to 12:15 am on Christmas and New Year. The Supreme Court, had opined during the proceedings that a blanket ban may not be the answer and stated that a balance needs to be struck between the fundamental right to life and clean environment and the right to livelihood of the firecracker manufacturers.

In 2019, the Supreme Court abstained from imposing a complete ban on the sale of firecrackers.

The entire episode of dealing with this crucial issue of air pollution in general and regulating sale of fire crackers specifically by our apex court reverberates loud and clear the oscillation in approach adopted by the concerned forum. This unprecedented and unwarranted saga of reversal of orders and apparent indecisiveness in it can be either due to ambivalence in perspective or due to undue haste and simultaneous lack of prudence on part of the honourable forum and in both cases the trust of populace upon our supreme judiciary is subjected to severe jeopardy.

Moreover, time and again it is reiterated with respect to the Supreme Court that it may not be infallible but is definitely final. These self-contradictory orders

unnecessarily complicating the issue of sale of firecrackers has raised serious questions regarding the finality of decisions given by the honourable Supreme Court and how much seriously this finality doctrine is taken by the apex court itself.

Furthermore, in 2016 honourable Supreme Court ambitiously banned the sale of firecrackers in Delhi NCR thereby projecting itself as watchdog of environmentalism in India. However, in 2017, the court had temporarily suspended the ban and a month later, the ban was again back in place but, only to test the effectiveness of such a ban on pollution levels, if any. This entire episode inadvertently leads to certain terrible but alarming inferences the cardinal among them being sublimation of prudence and foresightedness from the auspicious court rooms of our apex court as they absolutely banned firecrackers in 2016 without educating themselves about effect of firecrackers on pollution levels which shows absolute absence of reasoning and informative backing behind their decisions for which the courts of law are hailed with respect. Apart from this it also shows *drift of the court from the ideals of rule of law and constitutional morality towards the practice of bowing to the whims of popular morality.*

Lastly, the latest approach of the apex court to embargo the online sale of firecrackers and specifying window to burst the same can be viewed as a balancing tactic to strike a balance between two otherwise incomparable ideals viz. right to enjoyment and irreparable environmental degradation. This decision has also witnessed perceiving the environmental issues from anthropocentric perspective whereby right of livelihood gained ground over right to environment.

## **Stubble Burning and the Judiciary: A Ministerial Executant Court**

Stubble burning is intentional setting of fire to the straw stubble that remains after grains, like paddy, wheat, etc. after they have been harvested. Each year India's rice farmers burn the stubble of the harvested crop, contributing to an annual haze that damages the health of those in and around the capital. Stubble burning in Punjab and Haryana in northwest India has been cited as a major cause of air pollution in the national capital. The air quality in Delhi sees a steep decline between October and November due to the burning of crop residue in fields in Punjab and Haryana. The recognition of the issue of stubble burning by the judiciary in Delhi happened as late as on September 22, 2017 when the Delhi High Court ordered strict enforcement of ban on burning of stubble including prosecution of violators and its enforcement to be monitored through satellite imaging but, it was of no avail.

Next year, on November 12, 2018 the National Green Tribunal was approached with the same issue and it did not consider the imposition of adverse coercive measures like prosecution etc. for offences under the Air (Prevention and Control of Pollution) Act, 1981 or other applicable laws within its jurisdiction. However, it ordered that, "the existing Minimum Support Price (MSP) Scheme must be so interpreted so as to enable the concerned states to wholly or partly deny the benefit of MSP to those who continue to burn the crop residue" which was not given due attention by the concerned government functionaries.

Finally, in the on-going MC Mehta v. Union of India (Case No. WP (C) No. 13029/1985 the Supreme Court gave the following directions to the Central Government, Punjab, Haryana and Uttar Pradesh State Governments on Jan 15, 2020.

- To prepare a comprehensive plan to curb stubble burning using incentives or disincentives like in situ farming.
- To prepare a Crop Residuary Management Plan and a scheme for making available equipment such as Combine Harvesters, Paddy Straw Chopper, Mulcher, Rotary Slasher, Zero Till Seed

especially dedicated to small and marginal farmers, either free of charge or on nominal rental basis.”

In the pretext of unaware and unwilling legislature and hibernating bureaucracy again as a last resort the judiciary has been approached by the sensitised citizenry to deal with this critical menace. The entire judicial epilogue on this issue makes it clear that the judicial conscience has not yet been shaken by the propensity of the air pollution levels prevalent in Delhi NCR and consequently this issue has not been dealt with as seriously and efficiently as theological and mythological disputes are dealt with in an otherwise secular democracy with a non-theocratic constitutional judiciary.

In this entire saga of environmental activism *the judiciary has restricted itself to giving directions to the other wings of the government and mostly these directions are either completely disregarded or rendered dormant by concerned functionary* and the otherwise overenthusiastic judicial machinery which never hesitates to invoke its contempt jurisdiction even on trivial instances of slip of tongue appears to be in oblivion of this with respect to the current issue.

The aforementioned order of the National Green Tribunal to suspend the benefits of MSP rather than imposing statutory penalties upon the defendants raises crucial questions the most pressing among them being, NGT being a statutory quasi-judicial tribunal was established to give civil and/or compensatory relief when approached however, the current scenario exhibits assumption of equitable jurisdiction on its part to render extra statutory relief which amount to an unprecedented act of judicial overreach. Moreover, directing the state governments to deny the benefits of MSP to farmers appears to be a policy decision which when given by NGT camouflage the same with quasi-legislative authority which is least warranted.

Lastly, this issue of stubble burning has been dealt by the judiciary in a manner where orders were replete with quasi-legislative policy formulations and ministerial executive directives rather than remedies and reliefs aimed at dispute settlement which otherwise is the colour of any judicial decision per se which is a severe departure from the principles of *rule of law and separation of power when it comes to environmental jurisprudence raising serious concerns upon the judicial conscience in action and dwindling the public trust it enjoys apart from being a futile attempt to resolve the issue.*

## Conclusion and Suggestions

In conclusion, it must be acknowledged that judiciary has by far remained the most enthusiastic and sometimes even the solitary institution to address the elephant in the room viz. environmental degradation in general and air pollution in specific when all other organs of the state are either stumbling to admit this crisis or are awaiting an apocalypse to jump-start actions.

However, enthusiasm, appropriateness of actions and resultant success may not always go hand in hand and the same has been the unfortunate eventuality with Indian judiciary with respect to environment jurisprudence so far. This has resulted in courts being put on trial for their practices and preaching and differences thereof. The approach of judiciary has largely been symptomatic rather than being rational and cause and effect based which has dwindled the scope of success on part of measures dictated by the judiciary. Moreover, in its lusty leap to be the paragon of environmentalism the judiciary has assumed policy making and ministerial powers for itself which has resulted in attempts to implementation without capacity thereby proving to be a futile exercise.

Finally the action of judiciary are also subjected to vice of falling prey to and in-turn arousing ‘bourgeois environmentalism’ by ascribing to the issues of ‘middle-class elite’ rather than viewing the

scenario from a broader and holistic prism resulting in constant feud between right to environment and right to livelihood which otherwise could be kept at harmony upon adorning a holistic perspective.

As parting thoughts, the authors most humbly attempt to propose few suggestions which would bestow upon the judicial activism and enthusiasm in the arena of environmentalism the veneer of appropriateness of actions: -

- Judiciary the warden of the rights of the citizenry must strive to adhere to the rudimentary ideals of doctrine of separation of power and rule of law. As a necessary consequence, the judiciary should abstain from embarking upon itself policy making and ministerial functions and rather should concentrate upon its principle function of dispute resolution and up keeping of rights of the claimant. This would inevitably cure the menace of implementation without capacity with which the entire environmental jurisprudence is plagued. Hence, the judiciary must streamline itself towards provision of statutory, common law or tortious, equitable and constitutional remedies.
- The judiciary must do away with the selective and sparing application of its contempt jurisdiction especially in context of environmental jurisprudence and should rather exercise it with utmost enthusiasm and vigour against the defaulters of judicial directives in order to achieve success for its benevolent activism.
- The exercise of the regular statutory, civil, tortious or contempt remedies for that purpose, inevitably necessitates imposition of liquidated or unliquidated damages and the incidence of the same mostly would befall upon the pauper populace as be it those who burn the stubble or be it those whose livelihood depends on firecracker manufacturing belong to this section of

society. This in turn questions the entire exercise of imposing damages as the defendants in such a scenario would in most of the occasions unable to discharge their liability rendering the attempt futile which again coerces the judiciary to embark policy making and ministerial functions upon itself. In order to counter this impasse, the authors most humbly propose reverse adoption of the principle of 'parens patriae' which literally translates into monarch or the sovereign (government in our context) being deemed as the legal guardian or legal protector of the citizenry unable to protect themselves. Adoption of this principle would facilitate the judiciary to impose the incidence of damages upon the government instead of the pauper populace which would result in satisfactory setting off of liabilities by government on behalf of the defendants and default would invite contempt proceedings against the concerned government authorities thereby making the issue of implementation immune from all angles as in both the scenarios the damages would be received which then can be disbursed towards measures necessary for environment protection. Moreover, this approach would make it inevitable for the government to spread awareness and take effective steps to restrict these polluting activities carried out by the pauper populace to protect the public exchequer from shrinking in the wrath of such polluting activities.

- Lastly, the judiciary must unshackle itself from the clutches of 'bourgeois environmentalism' and must expand its perspective in order to not being limited to entertaining the claims of the middle-class elite and coercing the already suffering poorer populace in the garb of environmental protection but, rather must take cognizance of the environmental depleting activities carried on by the other sections of citizenry as it would be smoother for them to abstain from such practices.

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HPNLU GREEN GAZETTE

PART THREE

# GREEN RHYME

Locked Up: Since the Reign of Mankind

Photographer: Harsh Khanchandani is a 1st Year B.B.A.LL.B. student at  
Symbiosis Law School, Pune

Plus  
ANI

CEDM

# मैं हूँ, तो तुम

**About the Poet:** Pooja Gupta is an Advocate by profession and her area of practice is criminal law.

अपनी दशा तुझे यूँ बतलाऊँ,  
कथा तो बहुत लंबी है,  
आ तुझे संक्षेप में समझाऊँ।

एक तो काट दिए पेड़ तूने सारे हैं,  
हवा को शुद्ध करने के वह एक मात्र सहारे हैं।  
और वन भी तो सारे खली हैं,  
पशु पक्षी भी तेरे आगे हारे हैं।

तू इतना स्वार्थी हो गया मनुष्य  
की बनाने को अपना घर,  
न जाने कितने पक्षियों को भी कर रहा बेघर।  
पर क्या फिर भी हो गई ज़रूरतें कम,  
अगर एक पेड़ बदले में लगाया होता,  
तो मिलकर कर सकते थे प्रदूषण खत्म।

देख आसमान में पक्षियों की प्रजाति भी लुप्त हैं,  
और तू मनुष्य अपने कार्य में ही व्यस्त हैं,  
कुछ तो करुणा रखी होती तूने,  
न जाने कैसे तू इतना मस्त हैं।

जब भी कूड़ा मुझमें डालते हो,  
पल पल मुझे मारते हो,  
आज तम्हारे कारण जिसका पानी सबसे गंदा है,  
वहीं पूजनीय नदी गंगा है।

क्यों,  
एक हथिनी के हादसे से मर जाने पर,  
सब हो रहे एक है,  
परन्तु बाकी जानवरो को मारने के दूँढ़ते अवसर अनेक है।

ऐसे,

कब तक मैं अकेले चल पाऊँगी,  
कभी ना कभी तो थक जाऊँगी,  
फिर तुमको भी सताऊँगी।

परन्तु,

ये सब किया तुझ मानव का,  
कदर नहीं ज़रा भी और कहता मुझे धरती मां।  
अभी भी अपने कर्मों की गवाही दे,  
धिकार करती होगी तुझपे तेरी ही आत्मा।

इतनी आसानी से तुम ,

एक एक कर पत्थर पहाड़ पेड़ सब काट रहे हों,  
मेरी धरती को मझसे बिना पूछे  
आपस में बांट रहे हों।

क्या,

आपदाओं में नहीं काम आया विकास,  
अंत में मैं ही बची मनुष्य तेरी आखिरी आस।  
तू न कर सका मेरी रक्षा,  
तो करना ही था आत्म सुरक्षा का प्रयास।

मैंनें,

सालो की मेहनत नहीं कुछ पल की देख भाल मांगी थीं,  
अपना छोड़कर आने वाली पीढ़ी का सोचा होता तो हालत यह ना  
होनी थीं ।

मौके दिए कई सुधरने के,  
पर ये थी आखिरी चेतावनी हैं,  
भौतिक सुख भूल अलौकिक सुख ले,  
तेरे सामने खड़ी प्रकृति पावनी है।

अंत में,  
बिगड़ी को बनाने का एक ही है समाधान,  
कि लेकर साथ चलना होगा प्रकृति और ज्ञान।

## A Blissful Crisis

**About the Poet:** Roulie Singh is a student of CL Gupta World School, Moradabad, Uttar Pradesh.

Gazing at my rippled reflection in a  
water, so slurry.  
I search the roof of my head to recall a  
time when the sight wasn't all blurry.  
The plastic waste settling in layers at  
the bottom of the shore,  
Like chewed up gum drying under one's  
shoe sole.  
Suddenly, the alarm goes 'ding-dong',  
In this busy age, no thought lingers long.  
The sandwich wrappers and cups of plastic,  
Left for a ghost to pick,  
I shake the sand off my skinny jeans  
As I hurry to grab my car keys.  
Driving in my newly bought sedan alone,  
I open the window for some  
fresh air,  
As I blow dark clouds of cigarette smoke,  
Staring at the star-less sky without a care.  
The radio shrieks at full blast,  
I smile wide,  
Merrily, inhaling carbon monoxide.  
I look away when my windshield knocks.  
Deafened by the sound of coins clinking  
in steel bowls,  
I turn a blind eye to the kids in worn out,  
soiled clothes.  
In full swing,  
I leave as soon as the light turns green.  
Heaving sighs of relief,  
Leaving behind grey rings of disease.  
I finally reach home,  
A 3 bedroom flat that I solely own.  
My body instantly slumps over the  
leather recliner,

As my hands automatically turn on the  
air conditioner.  
I take out my phone, eyes accustomed to  
the flashy screen,  
Gallery filled with selfies near discarded  
beer bottles stained algae-green.  
Oh! It's just another attempt at a senseless  
pretence,  
The cracked bottles, as hollow as my conscience.  
I stumble upon a post on my news feed,  
'Australia Fires: A Bushfire Crisis' the  
caption reads.  
Like an over-learned behaviour mastered  
by most,  
Nonchalantly, my fingers click the  
button marked 'Repost'.  
"Ignorance is bliss", I say with my eyes rolling,  
'Click-Click, Swipe', back to the  
routine, I keep on scrolling.  
Later at mid-night, I fill the bathtub  
up to the brim,  
To wash the fatigue off the creases of  
my skin.  
The water overflows, my feet slip.  
I struggle for air, unable to steal a single whiff,  
My lungs give way, my ribs  
get stiff.  
I look underneath as my pulse grows  
faint,  
The sand I pick-pocketed earlier clogs  
the drain.  
With my nails dug deep in,  
The more I flap, the more  
I sink.  
I scream at the top of  
my lungs,

Only whispers afloat,  
The way oil spills at the ocean's  
brink.  
With the Albatross hung round the  
neck, my throat cuffs.  
I choke to death at the smoke of my last  
puff.  
I lay there, trembling like a fish  
out of water's reach,  
While the quicksand sucks me to the  
vortex of the sea.  
I drown, pale-faced; the room starts to  
spin.  
The water overflows,  
Breaking the dam that bore the brunt of  
all my sins.

## The Unseen Sea

**About the Poet:** Amita Namdeo is a first year student at Dharmashastra National Law University, Jabalpur (DNLU).

I originated millions years ago,  
When only salt  
water and aquatic life would grow.  
When humans didn't use me  
As their means of transportation,  
Every now and then for some occasion.  
Columbus,  
Vasco da Gama didn't travel  
And there was no hassle.  
Dolphins, seal, shark were safe,  
And God's creations  
well-behaved.  
Humans evolved, happened inventions,  
Starting the evermore journey of  
intervention. Industries,  
mills, oil spills are the new diseases  
I'm suffering from,  
But for me,  
nobody is beating drum.

My family is  
becoming extinct and dying,  
Eating plastic  
is the only choice for surviving.  
Idols of gods  
and goddess are immersed in me,  
Making it  
difficult to take a single breath for me.  
Tourists come,  
they enjoy  
Giving me unbearable  
pain, thinking me as a toy.  
I am a lifeline for many, humans  
should think,  
Their children  
are stakeholders for the destruction they bring.  
Nature is  
important, awareness should be spread,  
Binding us in  
a family is this very thread.

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## Do You Know?

If you go to the deepest part of our ocean, the pressure can be compared to a human being trying to hold 50 Jumbo Jets!

Plastic is Forever. It doesn't bio-grade and go back to nature. It photo-degrades into smaller pieces of itself, continually polluting the environment throughout its life cycle.

If the entire world's Ice melted, our sea levels will rise by 66 meters.

HPNLU GREEN GAZETTE

PART FOUR

# GREEN COLUMN

"The only solution to pollution is a people's humane revolution!"

Photographer: Aswin Krishna

CEDM

# Is The Judiciary Successful In Environment Protection?

**About the Contributor:** The HPNLU Legal Aid Committee was formed in the year 2017. The Legal Aid Committee aims to work for the betterment of less privileged people of the society.

The United Nations Conference on the Human Environment in Stockholm on June 5, 1972 marks the beginning of the ‘modern’ international environmental law. This conference was based upon the issue of economic development and environmental protection, thus making a lasting impression on the development on the international environmental law. Later, in the Rio Conference of Environment and Development, various participant countries confirmed the concept of sustainable development. Some important multilateral agreements connected with the Stockholm Conference are the ‘Prevention of Marine Pollution by Dumping of Wastes and other Matters’ and the ‘Convention on International Trade in Endangered Species of Wild Fauna and Flora’ (CITES) in 1973. These agreements have been considered as the early pillars of international environmental law and together with the UN Conference, set stages for the developments in international environmental law.

In India, however, the concept of environment preservation is as old as the nation itself. Since the very inception, Indians have constantly strived towards the protection and preservation of mother Earth. This tradition for protection can also be reflected in the modern-day as well. India has been a member of almost all the conventions, declarations, treaties and protocols,

etc. specially set up for protection of the environment. Unlike the Indian legislature, the Indian judiciary has also taken great interest in the preservation of environment and proper implementation of environmental laws such as the Environment Protection Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, the Factories Act, etc. Thus, looking through the multi-dimensional aspects of environmental law, the main focus of this article would be the judicial activism and later to discuss the areas where the court worked completely against the human mankind.

## Role In Safeguarding Environment Protection

The major contribution of the Supreme Court to human rights jurisprudence has been mainly to enlarge the scope of Article 21 of the Constitution of India, thus including right to safe and pollution free environment within the ambit of right to life. The Indian judiciary has always been very willing to exercise its power whenever the political and executive organs have failed to discharge their obligations. This willingness has often been termed as ‘Judicial Activism’. Areas like the Directive Principles of State Policies, Fundamental Duties, etc. have been the main areas where the judiciary has laid most of its emphasis. Professor Upendra Baxi has often supported judicial activism, as he stated that the

“Supreme Court of India” has many times become the “Supreme Court for Indians”. With the powers vested in judiciary and through activism, the Courts have actively participated and contributed in strengthening the environmental law in India, thus playing a huge role in the 42nd Constitutional Amendment Act, 1972. This amendment introduced certain environmental duties both on the part of the citizens and on the state. These provisions have been used by the Courts to develop a legally binding fundamental right to healthy environment as a part of right to life under Article 21. In the case of Asbestos Industries, the Supreme Court dealt with the issues of occupational health hazards working in the industry. Noting the ‘Asbestos Convention’ of 1986, ‘Universal Declaration of Human Rights’ 1948, and ‘International Convention of Economic, Social and Cultural Rights’ 1966, the court held that the health of the workers is a fundamental right under Art. 21. Further in the Calcutta Wetland Case, the Calcutta High Court stated that since India is a party to the Ramsar Convention on Wetland, 1971, it is bound to promote conservation to wetlands.

As brought out above, the Supreme Court as in the Articles 48A and 51A (g) placed a duty on the citizens making them obligated to protect and improve the environment. Thus, the first ever significant judgment by the apex court making the municipal council responsible for the action against environment degradation was *Ratlam Municipality v. Vardhichand*. The Supreme Court gave directions to the municipalities, the state administrations and statutory bodies to perform their duties in the matter of sanitation, health and environment. Further, in the Delhi Garbage Case, the court held that the Government agencies cannot plead non-availability of funds, inadequacy of staff and such other insufficiencies to justify their non-performance of their duties and obligations.

In the aforementioned public interest matters, the Supreme Court, by giving directions to the government was acting in the parallel to the constitutional obligations they have been bestowed with.

## Public Expectations And Judiciary’s Failure

In the absence of a clear governmental policy, dragging the executive to perform its duties and by stepping into the shoes of administrator, it has appeared so far that the courts have been doing everything they could with all sensitivity and consistency to ensure the protection of interest of individuals as well as the environment. However, the two leading and most important cases in the history of environmental law in India have shown that the apex court failed to meet the expectations of public to provide justice to all the affected communities and victims of the gas tragedy.

### **1. Sardar Sarovar Dam Project**

The Sardar Sarovar Dam Project on river Narmada in the western part of India was the largest and the most contentious among the thirty dams planned by the Indian government. The Narmada project envisioned the creation of 30 large dams, 135 medium dams and 3000 small dams. The government promised that the dams would provide potable water in the region to over forty million people, hydroelectric power and irrigation for over 6 million hectares of land. However, there was no discussion with communities on environment impact and involuntary displacement. Led by a well known activist Medha Pathkar, a number of NGOs and activists came together to form the Narmada Bachao Andolan (NBA), to oppose the construction of the dam. Looking at the court’s previous records of liberal interpretation, the NBA filed a petition. After various orders, The Supreme Court finally on 18th October, 2000 laid down its final judgment and thereby upholding the plan for the Sardar Sarovar Dam. It further allowed the construction of the dam, thus taking a proactive stand for economic growth

and benefit and completely ignoring the stance of environmental degradation and the issue of human rights. Although the court did acknowledge the conflict between the human rights and economic development, but largely it made the case a symbol of large struggle over the discourse of human rights and development in India. None of the issues relating to rehabilitation and resettlement or human rights violation were satisfactorily dealt with either by the government or by the Supreme Court. This hands-off approach of the judiciary towards administrative decisions in environment issues was evident in the early eighties.

## **2. The Bhopal Gas Disaster and/or Massacre**

In the most tragic industrial disaster that took place in the Union Carbide India Limited in Bhopal, Madhya Pradesh on the night of December 2-3, 1984 more than 40 tons of methyl isocyanate gas leaked from a pesticide plant, immediately killing at least 3,800 people and devastating the lives of thousands of people. The case involved the strict liability of a multinational for causing mass disaster. The Government of India filed a suit for compensation against the Union Carbide Corporation (UCC). Commenting on the Bhopal litigation, Professor Baxi stated that it is 'unparalleled in the abundance of its ironies and the cruelest and the most saddening of all these is provided by the fact that all the Herculean endeavors were for the 200,000 odd Bhopal victims who were being further revictimised in the process'.

During the time the Supreme Court was zealously active in interpreting environmental rights into constitutional and fundamental rights, the Court clearly fell short of public expectation. The court was expected to arrive at human solidarity and made multinationals responsible for such huge disasters. On the contrary, neither the government nor the Parliament nor the Supreme Court acted in the interest of the victims.

The case dragged for twenty five long years where the relief was neither seen, immediate or adequate. Since the infamous tragedy happened, there have been few changes in the governmental policies for making hazardous industries responsible, but major threats to the lives of the workers and the environment still remain. Not only this, one can see a huge failure in the medical profession in the last few decades since the disaster, the ICMR (Indian Council for Medical Research) has not only miserably failed to come up with a treatment protocol in such disasters but even abruptly abandoned a medical research in 1994. Bhopal gas tragedy is and always will be an example of how the Supreme Court went seriously wrong.

## **Conclusion**

The Indian judiciary, faces inherent problems, and has nonetheless, through its landmark and unconventional decisions, clearly showed its concern for the protection of the environment. Judicial activism in India provides an impetus to the campaign against environmental pollution. Public Interest Litigation (PIL) has come to stay in India. The path for people's involvement in the judicial process has been shown. If this had not been done so, the system would have collapsed and crumbled under the burden of its insensitivity.

However, the apex court has been criticized for its role in the Bhopal tragedy case and in its hands-off approach in the Sardar Sarovar Project. A leading lawyer has appropriately commented that "the right to environment protection has been whimsically applied by individual judges according to their own subjective preferences usually without clear principles guiding them about the circumstances in which the court could issue a mandamus for environment protection. It appears when socio-economic rights of poor come into conflict with environment protection the court has often subordinated those rights to environment protection; on the other hand when environment protection;

on the other hand when environment protection comes into conflict with what is perceived by court to be 'development issues' or powerful commercial, vested interests, environment protection is often sacrificed at the altar of development or similar powerful interests...". (Bhushan, 2009).

While questions have been raised about the competency of the judiciary to deal with complex environmental issues and treading into the domain of the legislature and the executive, the fact remains that the impetus for environment protection in the country has come from judicial activism of the nineties. Its impact has been positive though slow, in forcing the executive and the legislature to act and incorporate the principles laid down by the judiciary into a policy and legislative framework. This has also alerted the policy-makers to bear in mind the fact that the policies they formulate must stand the test of fairness, justice and legality before the courts.

# Shivamogga Monkey Park: Man-Animal Conflict

**About the Author:** Tanya Sharma is a student of B.A.LL.B. (3rd Year) at University of Petroleum and Energy Studies, Dehradun.

## Introduction

The Chief Minister of Karnataka, B.S. Yediyurappa, has announced to make a 'Monkey Park' or rehabilitation centre for all captured monkeys. He has also directed the Deputy Commissioner of the district and the Forest Department officials to find a 100-acre land to create a monkey park for the trouble making simians.

According to the residents of the Shivamogga district, the monkeys are destroying the farmer's crops in Hosanagara, Thirthahalli and Sagar taluks of the district. Due to the increase in the menace of monkeys the farmers are getting scared and the horticulture crops are being destroyed. Hence, the park to be made in the backwaters of the Sharavathi river would be a real boon for the people especially farmers of Shivamogga district.

## Government's Plan

The State Government has passed an order for establishing a monkey park on the uninhabited islands in the Sharavathi backwaters region in Shivamogga district to address the monkey menace and the government of Karnataka has allocated Rs. 6.25 crore in 2020-21 budget for execution of this plan.

## Need for Such Park

The increase in cases of monkeys raiding agricultural and plantation crops in Malnad region in recent times has led the farmers to stage several protests demanding the State Government to solve this problem. According to a recent report, the crops worth over Rs. 300 crore were lost last year due to the menace of monkeys which resulted in leaving farmers in distress. Even the urban dwellers are also struggling with the terror of monkeys. Due to these reasons, the State Government of Karnataka found it necessary to make a 'Monkey Park' as made in the states of Himachal Pradesh, Assam and New Delhi. In Himachal Pradesh there is "Rescue & Rehabilitation Home and Monkey Sterilization Centre" where about 1.57 lakh monkeys are kept sterilized.

## Opposition by Local Residents

Meanwhile, where the Government of Karnataka is planning to establish a monkey park, the local residents of Nittur Gram Panchayat are opposing to

this plan fearing that the establishment of such park would lead to trigger diseases similar to Kyasanur Forest Disease (KFD) Virus. This disease is also known as Monkey Fever where a tick-borne viral haemorrhagic disease is fatal to humans and other primates. Due to this disease, 12 people died and 341 cases were reported in Shivamogga district in 2018-19.

### Opposition by Environmentalists

Not only the residents of Nittur Gram Panchayat but also the environmentalists are opposing to this plan. According to them, translocating monkeys in the rich bio-diversity islands of Sharavathi backwaters may result in an ecological imbalance. Therefore, the hasty decision of the Government to implement the project without studying the impact of the translocation of the primates can make the situation worse than before, not only for humans but also for animals. Lastly, monkeys live in groups and multiple groups of monkeys in one place may lead to clash among themselves.

### Man-Animal Conflict

The conflict between man and animal has been in existence since the dawn of humanity. This happens when animals are displaced from their own habitats. Unabated destruction of forests, loss of wildlife habitats, growing urbanization, expanding agriculture industrialization in and around forests and grasslands, drying up of waterholes like streams and ponds and the attractive sugar and protein-rich agro produce are the main reasons for this conflict. The lack of food and water force animals to invade nearby villages which at last becomes their habit and all these reasons are responsible for such conflict.

### Conclusion

The creation of 'Monkey Park' in the Shivamogga district is a major step in controlling the menace of monkeys by the State Government of Karnataka. Apart from the decision of the Government, there are some possible solutions, if implemented and executed by human beings, can control the man-animal conflict to an extent. Conservation of forests, development of green corridors around human settlements, plantation of fruit-bearing trees on the forest fringes like banyan, banana, mango, tamarind, jamun, neem, etc would keep them hooked to their wild habitats. Promotion of traditional techniques of scaring monkeys like placing scare crows or spreading boneless dry fish with chilli powder or by employing ultrasonic guns or sound systems playing sound of a tiger's roar or of a dog barking can keep monkeys away from consuming the crops. Thus, all these measures are helpful in controlling the man-human conflict.

## Sanitary Napkins: India's Health Issue is now an Environmental Issue

**About the Author:** Anushka Chaturvedi is a student of Master of Social Work at Amity Lucknow Campus.

As we all know menstruation is an integral part of the women's life; and menstruation and woman are inseparable, all the woman go through menstruation cycle from their adolescents to their middle age every month, this period of time may vary from person to person, today there are various period products that available in the market but Sanitary Napkins are the most popular among women as they are convenient to use they are also known as Sanitary Towels or Sanitary Pads.

An average Sanitary Napkin consists of 90% plastic and 10% other material, if we look at this grave issue, which is normally overlooked, a single sanitary pad takes 500-800 years to decompose, just imagine the number of sanitary pads that women push in the dustbins every month, they are still going to be hereafter years when the woman would have gone for years. If we look at the numbers roughly 336 million girls and women menstruate in India, around 121 million girls and women are using pads. Approximately 432 million pads are used annually producing 9000 tons of total waste.

Suitable disposal methods of used Sanitary Napkins are still lacking in many countries, and India being one of them; because of the lacking or no menstrual waste management education many women dispose of their sanitary napkins with the domestic waste or in their dustbins which automatically becomes the part of solid wastes. Improper disposal of sanitary napkins is a serious problem that has to be sorted right from the ground level. Menstruation is considered taboo and people avoid talking about it, therefore people refrain from talking about its disposal too. After the waste is collected from the homes it is segregated manually by waste pickers, this might expose them to various bacterial diseases and may turn into serious diseases like hepatitis and tetanus. If we talk about the Solid Waste Management Rules in India; recently, the Union Ministry of Environment, Forest and Climate Change incorporated the new rules for Solid Waste Management (2016). The rules have introduced various guidelines, which includes that the manufacturers or the brand owners of the Sanitary Napkins should be responsible for making the users aware about the disposal, after using them; do the manufacturers and brand owners are doing something regarding this?

Only by making people aware of the disposal of the Sanitary Napkins the problem of decomposition will not be solved it would just help in the collection of the waste; as we are

aware of the fact that Sanitary Napkins cannot be recycled or reused, if we think of the other methods to demolish the waste, there is also a problem with the incineration of Sanitary Napkins as it produces toxic fumes of dioxine and phuron, which makes incineration impossible, leaving behind the only option to put the used sanitary napkins in pits and landfills for decomposition which takes an eternity to decompose. Earlier the Government introduced various guidelines for the disposal/decomposition of the Sanitary Napkins but they are hardly implemented or followed by the people, I believe that guidelines should be reformed. The Government of India should come up with some new policies for the waste management of used sanitary Napkins, which might help in the proper decomposition of the napkins; which is the need of the hour. later people can be made aware of the substitutes of the sanitary pads which might help a little in clearing our environment. Lately, a lot of awareness programs are run for young girls and women to switch to sanitary napkins from the regular cloth that is being used by them, as a cloth is not healthy to be used in the menstruation; but now we need to run an awareness program parallel to the former to make people aware of Menstrual Waste Management. India requires a lot of awareness and sensitization in regard to Menstrual Waste Management; else we might give rise to a new Environmental Issue while trying to eradicate a Health Issue.

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## Do You Know?

More than 700 million people do not have access to clean water and more than 2 billion have sanitation problems.

PART FIVE

# COVID-19 SPECIAL

It's a landscape scenery of waterfall. Waterfalls have a way of announcing or indicating the health of an ecosystem. They accomplish this by showing themselves to human observers in whatever state they happen to be in and inspire us in creating awareness towards the environment. Of course, we'd feel more rejuvenated just by being in the presence of Nature functioning normally. It's the way waterfaling should be experienced. Waterfall is indeed the most beautiful aspect of environment. And feeling the waterfall is the most worthwhile things you can do in life.

Artist: Disha Indolia is a student of H.P.NLU Shimla

# A Pandemic of Plastic: Looking at Plastic Pollution During COVID-19

**About the Author/s:** Anubhuti Garg and Gourav Kathuria are students of Nalsar University, Hyderabad.

With the pandemic causing widespread havoc, the steady improvement in the environment has acted as a ray of hope and given mankind some much needed happiness and relief. Numerous reports and studies have shown that, due to the complete standstill of life, the environment has finally had a chance to undo the harm humans have been inflicting upon it. However, unfortunately, the picture is not as bright as it seems. Although pollution levels have gone down, another grave problem has emerged that is gradually letting itself known, which is that of plastic pollution. There has been a horse-race among countries to mass-produce Personal Protective Equipment (PPE) along with other necessities like gloves, masks, and sanitizer bottles.

India has become the second-largest producer of PPE kits in the world. Though necessary during this stressful and strenuous time, these products, consisting of single-use plastic, have already caused significant damage to our seabeds, disrupting the marine ecosystems in the process. Images of dead baby turtles, their bellies filled with plastic, have incited a severe backlash. It should be noted at this juncture that the authors do not intend to disparage the countries trying to fight the pandemic to the best of their capabilities. However, the environmental damage caused by these products has not even featured on the agenda on most of the governments. Countries that had already committed themselves

to stop using single-use plastic, India being one of them, have rolled back their sanctions on plastic production. Due to health concerns of the workers involved and the stoppage of economic activity in totality, these waste products have stopped being recycled and are accumulating in the ecosystem, causing severe threats to marine life.

The pandemic has managed to highlight some grave environmental problems which have been caused due to general government apathy. Thus, the purpose of the article is to highlight the problems caused and suggest some large scale institutional changes to ensure that such a crisis does not happen in the future, wherein the government is made to choose between environment and health.

## A Perusal of Emerging Challenges

Amid legitimate concerns about health and hygiene during the pandemic, the concern about disposable plastics has taken a back seat. Besides the medical waste produced, because of the lockdown imposed and norms of “social distancing,” the operating restaurants only offer home delivery or takeaway, most of which comes in disposable plastic containers. Home deliveries of essentials like groceries and other hygiene products are also wrapped up in plastic. People are often hoarding up on supplies, thus producing far more plastic waste than they would.

Associations like the Plastics Industry Association (PLASTICS) or the American Chemistry Council (ACC) are using this pandemic to lobby their interests. They argue that single-use plastic bags are hygienic and safe to use compared to reusable ones. Because of the sheer magnitude of the pandemic and the political pressures, plastic is even more indispensable for its low costs and the absence of reliable infrastructures of re-use.

However, the rhetoric, as presented by the lobbyists, does not seem sound. Several studies have proven that viruses can stay longer on the surface of the plastic. Greenpeace points out that just because a material is made from single-use plastic does not make it less likely to transmit viral infections. The New England Journal of Medicine recently published the results of an experiment showing that coronavirus is more stable on plastic. It can be detected on plastic up to 72 hours, compared to cardboard, where it can remain up to 24 hours. While the studies mentioned earlier are not entirely established, the point is that there is no clear scientific evidence that plastic is safer than reusable materials.

Along with this, uncleared garbage across cities and towns and the collapse of the recycling industry pose grave health concerns. They are breeding grounds for diseases. A dengue spike was reported as late as June in Bengaluru because of the difficulty posed in garbage collection and recycling of plastic containers. With the onset of monsoons, these containers have proved fatalistic.

## The Position in India

According to a study by the Central Pollution Control Board (CPCB), India generates 25,940 tonnes of plastic per day. To reduce the same, in 2019, the government aimed to eliminate the use of single-use plastic by 2022. The government also took several steps in furtherance of this aim. For example, during elections of 2019, the

Ministry of Environment, Forests and Climate Change had laid down standard guidelines regarding the complete ban on all types of plastic for poll preparations and encourage the use of alternative materials for the election campaign. The directions were followed across all government offices in all the states.

Similarly, the Ministry also announced collaborations with Norway to combat marine pollution. India dumps about 600,000 tonnes of plastic waste into the oceans annually, and thus, facing this issue was of paramount concern. Under the India-Norway collaboration, a joint task force on “Blue economy” was formed to tackle marine pollution.

India also has devised a regulatory framework to tackle plastic pollution. In 2016, the Centre had laid out the Plastic Waste Management Rules. Under Section 9(2) of these Rules, the government provides for “Extended Producer Responsibility (EPR),” wherein the producers are given the responsibility for the treatment or disposal of post-consumer products. Thus, under EPR, the onus lies on big brands like Amazon and Flipkart to collect the plastic waste from their consumers. The companies claim that they have already taken steps to fulfill their duties. However, the manifestation of the same cannot be visualized. A case was also filed before NGT regarding the lack of responsibility by these large companies. The NGT had ordered the Central Pollution Control Board (CPCB) to take strict actions against e-commerce giants and to take coercive steps to recover the compensation. However, no action has been taken so far.

Along with this, certain amendments were brought in the Plastic Waste Management Rules in 2018, which further diluted the stakeholders' responsibility. Norms regarding multi-layered plastics (MLPs), which are a considerable chunk of single-use plastics, were relaxed. Section 3 of the new amendment read as: "manufacture and use of multi-layered plastic which is non-recyclable or non-energy recoverable or with no alternate use if any should be phased out in two years." Therefore, instead of a complete ban

on such plastics, manufacturers were presented with the option of finding "alternate uses." MLPs are the wrappers that are found on biscuits and chips. Earlier, the plan was to phase them out within two years.

Addressing the pandemic and the humongous amounts of waste which are being produced, CPCB had issued guidelines called the Bio-medical Waste Rules to handle the disposal of such waste. These guidelines do not prescribe any concrete solutions for disposal of biomedical waste and allow the deep burial of waste in the absence of a biomedical waste facility. A close perusal of the laws indicates that India woefully lacks a comprehensive regulatory framework to govern plastic disposal. The laws are severely inadequate, given the enormity of the problem.

### The need of the Hour

Plastic became famous in the 1980s because the lobbyists banked the fact that plastic was recyclable, Millions were spent to put across this idea to the consumers. The plastic industry itself then contradicts this claim because recycling plastic has proved to an "expensive" and "unfeasible" affair. This is proven from the fact the countries often dump their plastic waste in other countries for recycling for cheap or into the oceans. According to the Ocean Conservancy, as much as 150 million metric tons of plastics are circulating in our oceans, and we keep adding 8 million metric tons to the ocean every year. Thus, immediate action has become the need of the hour. To tackle the problem of plastic pollution, everyone, from the institutional bodies, the consumers, and producers need to be involved. People need to take slight steps in their daily lives for change to be seen on a large scale. This involves minimizing plastic consumption as much as possible to choose options that provide sustainable packaging. It involves behavioral change at a mass level, and we have to

continuously question what is becoming of our waste and how it is being left in the environment.

However, the more substantial responsibility of collection and awareness falls on the shoulders of institutional bodies as the capacity in which individuals can work is extremely limited. The first step would be the standardization of waste management systems in India. The existing system of segregating the bins into colors has not worked because people are often unaware of what waste goes into each colored bins. So, the concept of "one bin" might be more feasible, where all sorts of waste can be collected in one bag, and the municipality can later segregate this. This is the model recently adopted by Indore, India's cleanest city, for three years. This can also lead to job creation because segregating waste is a tedious task. There has been a massive migration of workers across India, and their labor can be used in recycling and the segregation of waste. This can be fruitful during the times of COVID-19 but also afterward, wherein the plastic industry could use the workers to recycle instead of produce.

Along with this, the government needs to ensure that the cost of producing plastic increases, and a way to do it can be to impose a tax on plastics at the manufacturing level. This would mean that there would be less consumption of virgin material for making plastic, and thus dependency on recycled plastic would increase, leading to a circular economy. The circular economy is where the existing plastic is recycled to meet the needs of the society, without having to produce more plastic. If this is not done at this stage, the future costs to the environment will be astronomical, and dealing with the consequences would be impossible. Spending money at this stage seems wiser than dealing with future consequences of using plastic unabated.

To tackle the existing plastic in the ecosystem, roads can be made of plastic, and India has used this method in some states as a viable solution. Along with this, incentives can be provided to the poor and needy to bring in plastic and get free food. Plastic can also be used to make tiles.

Finally, bans are not the option because of the lack of a robust regulatory framework and society's structure, where most people are not aware of it. Anything in such a system is not bound to succeed unless innovative alternatives are found. Money should be spent on research and development to come up with alternatives. A lot of homework and groundwork has to be done to tackle the problem, but we cannot escape responsibility because it is unfeasible.

## Conclusion

Plastic pollution has always been a problem in the

country, but the pandemic has brought unknown facts and problems to light, which need to be addressed. While the world is grappling with the severe consequences in the wake of COVID-19, lack of preparedness to handle any such thing in the future presents itself in stark reality. The authors want to end the article on this note that while there is nothing that can be done during the pandemic, developing a sustainable and robust system for the future will fill everyone with the hope that if such a problem were to present itself, the country would be ready to tackle it head-on.

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Change

Is

Coming

Whether

You

Like

HPNLU GREEN GAZETTE

It

Or

NOT.

Right now,

Right here is

where we draw

the line.



The painting includes Greta Thunberg, a Swedish environmentalist and excerpts from her UN speech titled, "How dare you?" She has proved that the age doesn't bar you to take a step for the conservation of the environment and Humanity as a whole. She has gained a lot of international recognition for promoting the view that the humanity is facing an existential crises arising from climate change.

The World

IS

Waking Up.

Artist : Anjati Sharma, student of H.P.NLU Shimla

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