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HUMAN RIGHTS AND ENVIRONMENT LAW ISSUES BEYOND LAW

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ABSTRACT

The phrase "environment" refers to all nations, not just one. Therefore, it is crucial to treat it seriously. The body that makes laws also provides the environment a crucial place in the laws so that the environment can be preserved. There have been numerous initiatives to address this issue at the national and international levels, including the Stockholm Declaration, Montreal Protocol, Brundtland Commission on Sustainable Development, Earth Summit (1992), etc. These efforts demonstrate how crucial the environment is to us. As a result, we can claim that laws protect the environment. And this essay discusses the environmental issues that we are currently dealing with as well as the rules that have been put in place to save the environment. I have deal with the to maintain and secure the effective global enjoyment of human rights, environmental preservation is a crucial weapon and the right of people, I have dealing with the Implications of Ecological Unbalance Ecological imbalances and environmental contamination have the following effects. I have dealing with the New Environmental Legal Protections in Relation to Armed Conflict. The present paper aimed at Regarding changing environmental laws Speedy and fair justice must be served for environmental crimes. The present paper aimed at the "pollution paradigm" needs to be challenged in environmental law.

KEYWORDS: *Crucial, Demonstrate, Effort, Ecological, Imbalances.*

I. INTRODUCTION

Our surroundings are the first thing that comes to mind when we talk about the environment. And there are many different elements that make up our environment, including living things, non-living things, and

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natural processes. Additionally, it should be free of all forms of pollution, including water, air, soil, and noise pollution. There are several environmental issues we face today, and these issues affect all nations, not just one or two. Because the environment belongs to everyone and is not specific to any one nation, it is everyone's responsibility to preserve and improve it. Article 21 of the Indian Constitution establishes a right to The right to life and the right to a healthy environment are guaranteed by Article 21. We learn about the significance of the environment in our lives through a number of constitutional provisions. The connection between human rights and environmental concerns has generated a lot of heated discussion in recent years. The connection between the two emphasises that leading a life of dignity and worth requires a decent physical environment. More specifically, protection from things like noise annoyance, air pollution, surface water contamination, and the disposal of dangerous materials are all aspects of a good physical environment. At the UN Conference on the Human Environment in 1972, environmental degradation and human rights were first brought up internationally. A foundation for the relationship between human rights and environmental protection is laid forth in Principle 1 of the "Stockholm Declaration on the Human Environment," which states that man has a "basic right to freedom, equality, and appropriate conditions of life. "He has a sacred duty to preserve and enhance the environment for both the present and the next generation so that they may live in an environment of a calibre that allows them to do so. The 1972 Conference led to the creation of the UNEP, or United Nations Environment Programme.²

To maintain and secure the effective global enjoyment of human rights, environmental preservation is a crucial weapon.

² Dr. Sara L. Seck, Associate Professor, Schulich School Of Law, Dalhousie University Human Rights And The Environment | Teaching Business And Human Rights Forum (Teachbhr.Org)

The following are just a few examples of how environmental factors affect human rights.

The environmental components of cultural, civil, political, economic, and social rights are combined in the right to a healthy environment. Exposure to dangerous chemicals, tainted drinking water, hazardous waste, deforestation, and degradation of the land all pose threats to the fundamental right to life. The fundamental components of a natural setting that support a life of dignity are safeguarded by the right to a healthy environment.

Human rights and environmental preservation are intertwined. The practise and use of human rights, particularly the right to freedom of expression, participation, education, the remedy, and measures, are crucial for the protection of the environment. A clean, safe, and healthy environment is vital for the enjoyment and satisfaction of human rights³.

II. RIGHTS OF PEOPLE

A bundle of rights known as "human rights" might belong to a single person or to all people. These rights are unquestionably a result of human beings' inherent frailty or because they are required for a decent society devoid of injustice. Whatever the theoretical reason, the term "human rights" refers to a broad range of values or capacities that defend the interests of people, are of a universal character, have been in existence from the beginning of time, and have long advocated for equality among people. Generally speaking, the internal and external environments are crucial for human safety, the enjoyment of fundamental rights including the right to life, and the capacity to improve the environment.⁴

Implications of Ecological Unbalance Ecological imbalances and environmental contamination have the following effects decreased

³ Dr. Sara L. Seck, Associate Professor, Schulich School Of Law, Dalhousie University Human Rights And The Environment | Teaching Business And Human Rights Forum (Teachbhr.Org)

⁴ *Ibid.*

vegetation means that the land is more vulnerable to erosion and desertification. Extinction of some organisms, whether plants or animals, occurs when these organisms lose a habitat that is favourable for their survival, and pollution can induce the proliferation of organisms like rats or locusts.

The significance of an environmental human rights approach to BHR has been brought to light by the Covid-19 epidemic. This is due to the close relationship between human health and the health of the environment. For instance, it is generally known that a rise in zoonotic diseases is correlated with the loss of biodiversity and climate change. While people without access to clean water are less able to protect themselves by following public health recommendations like hand washing, those with health issues brought on by pollution exposure are more susceptible to infections like Covid-19⁵.

According to the Guiding Principles on Business and Human Rights, business enterprises have a responsibility to respect human rights, which includes the responsibility to refrain from causing or contributing to environmental harm, to address such impacts when they occur, and to seek to prevent or mitigate adverse human rights impacts that are directly related to their operations, products, or services by their business relationships. Businesses should abide by all applicable environmental laws, make clear commitments to uphold their obligation to respect human rights through environmental protection, implement human rights due diligence procedures (such as human rights impact assessments) to recognise, prevent, mitigate, and account for how they address their environmental impacts on human rights, and make it possible to remedy any negative effects⁶.

⁵ Dr. Sara L. Seck, Associate Professor, Schulich School Of Law, Dalhousie University Human Rights And The Environment | Teaching Business And Human Rights Forum (Teachbhr.Org).

⁶ Environmental Issues as Legal Issues' (Law Bhoomi, 15 Feb. 2020) *available at* <https://lawbhoomi.com/environmental-issues-as-legal-issues/>.

III. PROBLEMS WHICH WE ARE FACING

1. **Ozone layer Depletion:** Ozone, a colourless gas with three oxygen atoms, shields us from the sun's UV rays. These UV rays are extremely dangerous, and if they reached the earth's surface from the sun, there wouldn't be any life there. However, human activities like the usage of chemicals and fluorocarbons have an impact on the ozone layer. Human activities were decreasing the ozone layer, which has a number of negative repercussions on the planet, including low productivity and skin conditions. As a result, the ozone layer was the subject of a successful global action. There has been a noticeable drop in atmospheric gases such decrease in atmospheric gases like CFCs and halon, which are frequently used in insulation foams, spray cans, fire suppression, and refrigerators. Whenever there is a special occasion, such as New Year's Eve, Diwali, a birthday party, etc., we want to commemorate it with fireworks or a DJ system, or both. Due to the air and noise pollution caused by these factors, this is a rather depressing way to celebrate.
2. **Water waste disposal-** Due to its poisonous nature, today's factory waste is often dumped in rivers and other water bodies, harming aquatic life. If this process continues, water will become polluted and lose all of its cleanliness. It is contaminating the water Plastic is not biodegradable, thus businesses and manufacturing dump their waste plastic in the environment.

As is well known, environmental challenges are becoming more significant than ever. An environment that is healthy and the general economic state of the community are closely related. Both wealthy and underdeveloped or poor nations struggle with the issue of environmental degradation. And it's fascinating to learn that the Indian Constitution was the first to include clauses pertaining to the

environment. The environment is protected against pollution by a number of laws and constitutional clauses.⁷

3. **Preamble:** According to the Preamble of the Indian Constitution, our nation is based on a socialist model of society, in which the state prioritises societal issues over personal issues. Its goal is to ensure that everyone has a decent level of living, which is only feasible in an environment free from pollution. Given that pollution is a societal issue, the State is obligated under the Supreme Law to focus more on this issue.
4. **Fundamental Obligations** – Part 4A, which covers 10 fundamental duties, was added to the Constitution by the 42nd Amendment of 1976, which also added Article 51A. One of these ten obligations, Article 51A(g), is concerned with the environment. Article 51A(g) stipulates that every citizen has a fundamental responsibility to preserve and enhance the natural environment, according to Article 51A(g). Therefore, it is not only our responsibility to safeguard the environment but also to work to make it better so that future generations can enjoy it in the same manner we do.
 - In ***Sitaram Chhaparia v. State of Bihar*** the Patna High Court ruled that Article 51A(g) of the Indian Constitution's duty to safeguard the environment is a basic one.⁸⁹
 - ***Tarun Bharat Sangh v. Union of India***¹⁰- It was directed by S.C. that Police Administration to provide police protection to environmental activists against any physical threats and there should be no hindrance in their work. So these are the Constitutional provisions which deal with the protection and improvement of environment.

⁷ Supra 6.

⁸ AIR 2002 (2) BLJR 859.

⁹ Supra 6.

¹⁰ AIR 8199 3 SCR (3) 21.

IV. NEW ENVIRONMENTAL LEGAL PROTECTIONS IN RELATION TO ARMED CONFLICT

Armed war devastates the environment and pollutes it, frequently leaving a permanent scar on the biodiversity and terrain of the impacted states. A prime illustration of the damage done to flora and fauna when states wage large-scale war in biodiversity-rich regions is the Russian conflict in Ukraine. It also witnessed a horrible few week during which the world witnessed what occurs when a nuclear-armed state engages in war. Armed conflict thus causes a variety of harms to the natural world, such as the destruction of targets in forests or protected areas, collateral damage from oil spills in the marine or desert environment, toxic chemical pollution from abandoned munitions, destruction of agricultural lands, and the extinction of wildlife¹¹.

The International Law Commission's (ILC) work on its programme of work on the Protection of the Environment in Relation to Armed Conflict has thus been closely monitored by the WCEL Specialist Group on Peace, Security, and Conflict. The 27 Draft Principles that the ILC had suggested were finally adopted in May 2022, and were then forwarded to the General Assembly for final approval before adoption. Many of the Draft Principles already have a foundation in international law, while others offer advice on best practises¹².

The Draft Principles, the product of more than ten years of labour, undoubtedly mark a turning point in the development of legal protection for the environment during warfare. The current ILC Special Rapporteur, Ambassador Marja Lehto, stated that there was no "coherent legal framework for the protection of the environment in relation to armed conflict" prior to the development of the Draft Principles. States'

¹¹ Professor Karen Hulme & Elizabeth B. Hessami, 'New Legal Protections Environment Relation Armed Conflict' (IUCN) *Available At* <https://www.iucn.org/story/202207/new-legal-protections-environment-relation-armed-conflict>.

¹² *Ibid.*

acceptance of the inadequate, ill-defined, and out-of-date nature of the law in this field was thus reflected in their ratification of the ILC mandate. There are certain treaty provisions protecting the ravaged environment, notably in civil conflicts, which are the most common kind of violence. Consequently, the Draft Principles compile a substantial corpus of guidelines governing both international armed conflicts and The Draft Principles are directed to a broad spectrum of non-state actors and so bring together a substantial body of laws governing both civil wars (non-international armed conflicts) and international armed conflicts.¹³

The Special Rapporteurs have undoubtedly benefited from the unusual arrangement, which has allowed them to study the challenges from fresh perspectives. One such instance is the post-conflict section, which examined the requirements of environmental restoration, liability, and collaboration - matters that are typically left out of legal instruments and are currently proving to be fairly tricky in the Russia-Ukraine conflict.

Regarding changing environmental laws speedy and fair justice must be served for environmental crimes in order to prevent the wanton exploitation of natural resources, to prevent acts of pollution, and to provide a system to punish and deter violators, India has eight cornerstone pieces of legislation. Violations are punishable by up to five years in prison, a fine up to one lakh rupees, or both, according to stipulations in the current statute. In the event that infractions persist, there is an extra fine of up to 5,000 for each day that the failure or violation persists after the conviction. Additionally, it is possible for prison terms to go up to seven years.

The "pollution paradigm" needs to be challenged in environmental law.

According to a recent prediction by the 2022 Environmental Performance Index, almost 50% of the world's remaining greenhouse gas emissions in 2050 will come from China, India, the United States, and Russia. A few

¹³ Supra 11.

weeks before, the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report emphasized as a final caution that immediate deep emissions reductions are necessary across all sectors if global warming is to be confined to 1.5°C. As the UN Secretary General Antonio Guterres noted at the release of the IPCC Report, some government and business leaders are saying one thing, but doing another. In other words, they are lying. And the outcomes will be disastrous.¹⁴

V. CONCLUSION

It can be said that since environmental protection is now a part of constitutional provisions, no measure that violates fundamental rights or the environment would be passed. Numerous initiatives have been undertaken on a global scale as well because the environment affects every country, not just one. So, it appears that this problem has been handled by coming together. Could a focus on environmental human rights assist government and business actors better integrate the three pillars of the economic, social, and environmental spheres within secure planetary boundaries.

¹⁴ Sugandha Yadav, 'Environment Law Needs To Go Beyond The 'Pollution Paradigm' (Mongabay, 18 July 2022) *available at* <https://India.Mongabay.Com/2022/07/Commentary-Environment-Law-Needs-To-Go-Beyond-The-Pollution-Paradigm/>.