

Environmental pollution in the name of religion: a critique

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Email:

Abstract

Environment provides bliss to people leading their life perfectly. Rivers bliss us with sacred water and provide us health, night, morning, vegetation. Sun bliss us with peaceful life. Our cows provide us milk.

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INTRODUCTION

Environment plays a very significant role in sustainability of human civilization. The whole environment and ecology consisting of earth, air, water, plants and animals provide the necessary and sufficient conditions for sustaining human life. Unbridled use of right to freedom of religion and unfettered religious practices have given birth to many problems including the problem of eco-imbalance and environmental degradation. This problem has not only caused damage to nature but threatened the very existence of mankind. Article 25 mandates that subject to public order, morality and health, all persons enjoy the freedom of conscience and have the right to entertain any religious belief and propagate it. This means that every person has the right to freely profess, practice and propagate any religion of his choice. This right does not give license to any person to pollute environment in the light of freedom of the religion as this right is itself subject to restrictions. None of the religion says to pollute environment rather in every religious teachings and texts you will get the reference of environmental protection. For instance Hindu religion in Vṛkṣāyurveda says-

“dasakūpa sama vāpi dasa vāpi sama hradaḥ dasahrada samah putro dasaputra sama drumah”

Meaning: planting a tree is equally beneficial as having ten sons.

“aśwatthu devasadanastriyashamityo divi.

tatramṛitayasyo śakhan deva kushthamavanwat’

Meaning: It was prohibited to cut Vatavṛkṣa because gods live in this tree and no disease where this tree is situated.

According to modern scientists now a day’s pippala and Vatavṛkṣa says they consume carbon dioxide and gives us oxygen.

Islam religion says:

“If a Muslim plants a tree or sows seeds, and then a bird, or a person or an animal eats from it, it is regarded as a charitable gift (sadaqah) for him.” (Bukhari)

“Whoever plants a tree and diligently looks after it until it matures and bears fruit is rewarded,” (Musnad)

Christianity says: Revelation 11:18 *“The nations raged, but your wrath came, and the time for the dead to be judged, and for rewarding your servants, the prophets and saints, and those who fear your name, both small and great, and for destroying the destroyers of the earth.”* God will not leave those unpunished who destroy the earth because those who do so are only interested in using and abusing the earth to make a profit but at what cost? We all are responsible for how we live our lives and if we throw trash out of the car, how we leave trash in campsites or pour out toxic wastes in the ground. Years ago our neighbor used to pour his used motor oil on the fence line so that he wouldn’t have to weed eat where the mower wouldn’t reach but his trees started to die and he ended up having to cut down two

huge one hundred year old tress in his back yard. How sad. **Proverbs 27:18** “*Whoever tends a fig tree will eat its fruit, and he who guards his master will be honored.*” This is a double proverb in the sense that the one who tends or takes care of the fig tree will probably tend after other things and by doing so, he is guarding his master’s possessions. We might not be able to tend the world but we can tend our own little corner of it and do what we can where we live.

ENVIRONMENTAL PROTECTION AND CONSTITUTIONAL OBLIGATION

The problem of the environmental pollution is as old as the evolution of homo sapiens on the earth planet. However, different dimensions of the problem of environmental protection and its management have taken a serious turn in the present era. So, Environmental law has come into existence as a result of confrontation with the serious problems concerning environment. In response to environmental problems, law seeks to protect and promote environment. It is designed to prevent and control environmental pollution. The constitution of India, which is the supreme law of land, has imposed an obligation to protect the natural environment both on the state as well as the citizens of India, or we can say that the Constitution of India is known as the ‘basic law of the land’ from which all other laws derive their sanctity or validity. Therefore, it must be a living and growing law means must be able to cope with the newer situations and development. India is the first country to provide constitutional protection to environment. Originally, the constitution did not contain specific provisions for protection and promotion of environment. In 1972, Prime minister, Smt. Indira Gandhi attained the United Nations conference the followings two resolutions which are considered to be the Magna Karta of environmental protection and sustainable development were adopted:

Principle 1: Man has the fundamental right to freedom, equality and adequate conditions of life of dignity and well being;

Principle 4: Heritage of wildlife and its habitat should be safeguard;

Principle 5: Economic system should be protected and struggle against pollution should be supported;

Principle 8: Pollution of sea should be prevented; in this conference it was also said under a principle that the economic and social development is essential for ensuring a favorable living and working environment of men for the improvement of quality of life.

It is thus, clear that the Stockholm declaration is a significant document so far as international and national environmental movement, the general assembly of U.N. passed resolution on 15th August 1972 emphasizing

cooperation between states in the field of conservation of human environment. Part IV of the constitution of India called directive Principles of state policy has imposed certain fundamental duties on the state to protect the environment. Part IV A of the constitution has imposed a fundamental duty on every citizen of India “to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures”. So, The Indian constitution is amongst the few in the world that contains specific provisions on environmental protection. In a case Supreme Court intervened to protect the forest wealth and wild life from the ravages of mining in and around sariska sanctuary in the Alwar district of Rajasthan, the court viewed its own constitutional role thus: This litigation concerns environment. A great American Judge emphasizing the imperative issue of environment said that he placed government above big business, individual liberty above government and environment above all. The issues and concerns in this case far transcend the trivialities and inhibitions of an adversarial litigation. All the parties must be forthcoming in a concerted efforts to find a satisfying solution to problem which, in more ways than one, is typical of the Indian predicament. We are, therefore, entitled to expect that the state Government and the mining-entrepreneurs in their own their enlightened self interest will discard the adversarial litigative stance. The Constitutional scheme to protect and preserve the environment has been provided under Articles 21, 48-A and 51-A(g) which includes fundamental right to have healthy and pollution free environment, constitutional obligation of the state and fundamental duty of all the citizens of India to protect and improve the natural environment. The Supreme Court has clarified it in many cases. It has also been observed by the court that this scheme is based on the “constitutional policy of sustainable development which must be implemented”. If we focus on the Article 21 we also find that this article though guarantees right to life and personal liberty,¹ does not directly confer right to clean, unpolluted and healthy environment. But various judicial pronouncements on various occasions have expanded the right to life and personal liberty to include this right by recognising various “unarticulated liberties” as recognised implicitly by Article 21. In recently decided case, *Hinch Lal Tiwari v. Kamla Devi*¹, the Supreme Court declared that material resources of a community like forests, tanks, ponds, hillocks, mountains, etc. are nature’s bounty. They maintain a delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality of life which is the essence of guaranteed right under Article 21 of the constitution. The court decided that the pond’s land could

not be allotted for a residential purpose. So, there are several case law which has been decided by the Supreme Court and high court as well with regard to environmental protection and constitutional obligation, or we can say in the other words that the how or in which way the constitutional obligation played important role in keep the clean the environment. It is not only obligation upon state to clean the environment but the constitution of India also declares that, in the provision mentions under Article 51-A(g), it shall be the fundamental duty of a citizen of India “to protect the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures”

RELIGIOUS FREEDOM AND ENVIRONMENT PROTECTION

As we know that the “religious freedom” and “environmental protection” are two different ‘or’ we can say that both has own separate concept, even though there is overlapping between them sometimes has been seen. For instance, we take the *Article 19(1)(a)* of the Constitution of India, and which provides that, all citizen shall have right to freedom of speech and expression but with the some reasonable restrictions of decency, morality, security of State, defamation, incitement of offence etc., and if this article is interpret with respect to religious freedom even no religion prescribed that prayer should be performed by disturbing the piece of other nor it preach that they should be through voice amplifiers or beating of drums, so, in this case it was declared that the right to religion under Articles 25 and 26 are subject to “public order, morality and health” and no religion prescribes or preaches that prayers are required to be performed through voice amplifier or beating drums. In the most of the countries, including advanced countries, there is move for college celebration of festivals and believe in show of fireworks to express their feelings. In India there are various festivals (like deepawali, Durga puja, marriage celebrations, and etc.) when the persons express their feeling of happiness by bursting fireworks in private and public. It has been observed by the courts on various occasions that right to religion under articles 25 and 26 is not an absolute right and it is subject to reasonable restrictions. Even the *ramleela* and *Akhanda Path* cannot be allowed to disseminate excessive noise which coerces a man to listen to unwanted/undesired/unagreeable noise. Since the right to profess and caused by loudspeakers can be checked in the interest of health. It can be restrained by injunction. The Delhi High Court in *Free legal Aid cell Shri Sugan Chand Aggarwal v. Gov. of NCT of Delh*³ declared: noise can be regarded as pollutant because it contaminates environment, causes nuisance and effects the health of a

person and would, therefore, offend right to life, Article 21, if it exceeds reasonable limits. It was also observed by the court that effect of noise on health has not yet full attention of our judiciary. In 1952 the Bombay High Court in *State of Bombay v Narasu Appa Mali*³ asked authorities to regulate the use of loudspeakers during night when the Ganesh and Navratri festivals were being celebrated. The Court ordered the strict implementation of Environmental Acts. Nobody can object on celebration of festivals, but their means of celebration must not disturb the peace and tranquility of the neighborhood was the strict view of the Judiciary. So, as per these judicial decisions we can say that the if we talk about the environmental protection then we also focus on the religious freedom which is used in wrong way by the people we have to use in the manner in which there is no destruction of public peace and in the view of public welfare some law has been enacted to religious freedom but subject to some restrictions. Now, if we take example of water pollution then, also found that for the purpose of fulfill the some religious purposes mainly in Hindu religion people polluted the water by throwing dead human body in the river, pond, and some time also in well but not for religious purpose but some personal purposes. So, there are several cause of polluted water in urban area due to industrialisation not only water pollution occurred, but full environment becomes pollute. In case of *Birangana Religious society v. State of Orissa*², where thw Court declared that the right to profess, practice and propagate religion is subject to the provisions of Article 19(1)(b) of the Constitution. It cannot be said that “a citizen should be coerced to hear anything which he does not like or which he does not require”. In *Guruvayur Devaswom Managing Committee v. Supdt. of Police*¹, a writ was filed under Article 226 of the constitution against the order of the Police Officer (S.P.) to remove loudspeakers which were installed for a festival season. They were installed within a radius of one kilometer. The loudspeakers were of horn type. The respondents alleged that such type of loudspeakers caused irreparable damage to the ears and they were installed without obtaining sanction from any competent authority. After filing a writ petition on which stay was issued by a single Judge, the Guruvayur Temple authorities approached the Kerala State pollution control board to get expert opinion regarding the use of horn type loudspeakers. the board submitted its report to the court mentioning that the audibility of the devotional songs was limited within the temple area and they also served the purpose of a wake-up call for devotees who had to attend

the *morning pooja*, or for essential announcements as for missing persons, lost wallets and other goods. The announcements in various languages used to guide the devotees from outside the state. further, there was no complaint suitable and directional for such purposes and better suited for outside use. Thus, the report of SPCB found that no noise pollution if the loudspeakers were put at height of three meters on the temple premises. Therefore, the Court accepted the expert opinion of the PCB and permitted the use of horn type loudspeakers and the Police authorities were directed to give sanction to management Committee of the temple to install such loudspeakers. In *Sayed Maqsood Ali v. State of M.P.*², the Madhya Pradesh High Court stated that reverence for life is a fundamental principle of morality and life and life without good health is denial of life. It also mentioned that even in the international sphere, emphasis is laid on proper health and a right is enshrined providing security against sickness and disablement under Article 25 of the Universal declaration of Human Rights, 1948. In this case, petitioner was a cardiac patient who was residing near an eye hospitals and beside a *Dharmshala*. The *Dharmshala* run by the state, accommodates various categories of persons and many religious functions were held in it throughout the year. It was also made available to hold marriages and other functions with loudspeakers which were used at a very high pitch disturbing the petitioner and other residents of the area. The court observed that the noise is undoubtedly psychologically harmful as an invisible, insidious form. It also causes irreversible harm. Therefore, it violates the right to life which includes the right to health. Therefore, the Court directed that the noise pollution (regulation and control) Rules, 2000 must be implemented and court also said that it is not only harmful to human health and etc but also effect the environment. Recently a PIL moved by three toddlers, aged between three and 14 months, who, through their parents, urged the court to completely ban the bursting of firecrackers in Delhi-NCR. In a PIL, filed through their parents, toddlers Arjun Goyal, Aarav Bhandari and Zoya Rao Bhasin, all residents of Delhi, sought an array of directives from the top court to protect their fundamental right for a clean and healthy environment. During a previous hearing of this PIL, the court had stated that the whole of Delhi will have to shut down one day if “severe” pollution is not checked. The bench had observed that it may completely ban bursting of firecrackers, including at religious festivals. The Supreme Court imposed a blanket ban on sale and stocking of firecrackers in Delhi-NCR with immediate effect, and also suspended all such licences. A bench led by Chief Justice of India T S Thakur directed the Centre to immediately suspend all licences of fireworks in Delhi-

NCR till further orders. “No such licence shall be granted or renewed till our further orders,” said the bench, also comprising Justice A K Sikri and Justice S A Bobde. The court order will, in effect, mean a complete ban on all largescale fireworks in Delhi-NCR since it prohibits sale, stocking as well as its possession in substantive quantity. Besides, all fireworks at largescale displays, including at Ramlilas, temple festivals and melas, require a licence, which the top court said cannot be granted any further. Apart from imposing the ban, the court also asked the Central Pollution Control Board (CPCB) to study and prepare a report to show what elements were used in the manufacturing of the firecrackers in order to ascertain if they were harmful to people.

CONCLUSION

As we know that Pure water or unpolluted water is an essential resources to the environmental balance of the world. Water has life-giving properties which are crucial to the world’s global ecosystem. Water has also been used as a source and a means of trade for hundreds of years. Existing human rights do not allow protection of the environment before the actual harm has occurred and are thus too anthropocentric and instrumental. Environmental considerations are not always afforded sufficient weight with other interests. Those who make noise often take shelter behind Article 19(1)A pleading freedom of speech and right to expression. Undoubtedly, the freedom of speech and right to expression are fundamental rights but the rights are not absolute. Nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. While one has a right to speech, others have a right to listen or decline to listen. Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge into aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21. Article 19(1)A cannot be pressed into service for defeating the fundamental right guaranteed by Art. 21. In the absence of an adequate regulatory framework specific to noise pollution, the status quo has been determined partly by the interpretation of other laws. Important among these have been Article 19 of the Constitution, which guarantees the fundamental right to freedom of speech and expression, and Article 25, which protects the free profession of one’s religion. The use of a loudspeaker, or setting of fire-crackers, has assumed the status of a

fundamental right by virtue of these two articles. Municipal bye-laws regulating their use have been enacted, but must take care not to limit the freedoms afforded by the articles. Also, unless the connections between noise and health are first judicially established, prohibitions against their use are difficult to pass. The judiciary has nonetheless weighed in on questions of noise pollution. The Judicial response has been tremendous and appreciable, but the reality of ground remains unchanged. Only people's movement might bring about this and it is time that people take this challenge.

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