

## **ENVIRONMENT & HUMAN RIGHT IN INDIA**

**Dr. Daya Shanker Singh Yadav**

**Asst Professor and Head Dept of Sociology**

**C. S. N.(P.G) College Hardoi**

Human rights are rights we have simply because we exist as human beings - they are not granted by any state. These universal rights are **inherent** to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty.

The **Universal Declaration of Human Rights (UDHR)**, adopted by the UN General Assembly in 1948, was the first legal document to set out the fundamental human rights to be universally protected. The UDHR, which turned 70 in 2018, continues to be the foundation of all international human rights law. Its 30 articles provide the principles and building blocks of current and future human rights conventions, treaties and other legal instruments.

In the long evolution of the human race on this planet, a stage has been reached when, through the rapid acceleration of science and technology, we have acquired the power to transform our environment in countless ways and on an unprecedented scale.

Humanity's capacity to transform its surroundings, if used wisely and with respect to the ways of nature, can bring to all communities the opportunity to enhance the quality of life. Wrongly or heedlessly applied, or applied in iniquitous ways, the same power can do incalculable harm to human beings and their environment. We see around us growing evidence of human-caused harm in many regions of the earth:

1. dangerous levels of pollution in water, air, earth and living beings;
2. destruction and depletion of irreplaceable life forms and natural resources;
3. major and undesirable disturbances in the earth's climate and protective layers;
4. gross deficiencies, harmful to physical, mental and social health, in the living and working environments of humans, especially in cities and industrial complexes.

To large numbers of humanity, especially communities that have been termed 'ecosystem people' (people depending on the natural environments of their own locality to meet most of their material needs), natural resources are the base of survival and livelihoods. Their

material and economic sustenance largely depends on these. In India alone, around 70% of the population directly depends on land-based occupations, forests, wetlands and marine habitats, for basic subsistence requirements with regard to water, food, fuel, housing, fodder and medicine as also for ecological livelihoods & cultural sustenance. Given this close interdependence of humans and their environment, it is not surprising that the culture of societies is so greatly influenced by their environment. They seek inspiration, knowledge, spirituality and aesthetics within their natural surroundings.

But it is not only 'ecosystem people' who are dependent on the natural environment. It is all humans, even the rich urban resident in Paris or Washington who may be under the delusion that s/he is buffered by the props of modern technology. In the growing cities of the industrializing world, millions of residents of all classes are now prone to lung and skin diseases, water-borne illnesses, and congenital abnormalities from toxics in their food and water, some of which may have originated hundreds of kilometers away. In classic cases of rebound, pesticides exported from industrial country A (whose 'aware' residents may have forced its government to ban their use in their own country) to 'developing' country B, have been found in food items imported back from B to A. The ozone layer protecting the earth from harmful solar radiation is being punctured and depleted by industrial emissions from industrial countries, causing abnormalities in wildlife and skin cancer amongst humans. Ironically, fair-skinned people are more prone to this effect. And climate change brought about by global warming, is already causing changes in weather patterns, threatening to submerge vast tracts of low-lying coastal areas and islands, and beginning to cause havoc to agricultural systems.

Life, livelihoods, culture and society, are fundamental aspects of human existence – hence their maintenance and enhancement is a fundamental human right. Destruction of environment and thereby of the natural resources, is therefore, a violation or leads to the violation of human rights – directly by undermining the above aspects of human existence, or indirectly by leading to other violations of human rights, for example through social disruption, conflicts and even war. Conversely, human rights violations of other kinds can lead to environmental destruction, for instance, displacement by social strife/war can cause environmental damage in areas of relocation; or breakdown in sustainable common property management. The manifestations of such violations present themselves through a loss of access to clean air and water; loss of access to productive land; loss of energy

sources and biomass; loss of food and health security; social and economic marginalization; and physical displacement.

Several hundred million people have been increasingly forced to live far below the minimum levels required for a decent human existence, deprived of adequate water, food, clothing, shelter and education, health and sanitation. Development, which was supposed to alleviate such problems, has often increased them, especially by allowing the powerful sections of society to appropriate the natural resources of poor and resource-dependent people. Communities, once proudly self-reliant, have been pushed literally or figuratively into begging for existence, their forests and water and lands taken away for 'economic progress.'

It is not only humans that are affected, but all other life forms too. The concept of environment as a basic human right must also encompass a respect for the right of other species to survive on this planet. There are anywhere between 5 and 50 million species of plants, animals, and microorganisms sharing the earth with us, and each has a value of its own, a role to play in a vast, complex web of interdependent connections. This range of species, the habitats they live in, and the internal genetic diversity they display, is called biological diversity or biodiversity. Such diversity is part of our daily lives and livelihoods, constituting resources upon which families, communities, nations and future generations depend. Biodiversity has numerous uses in agriculture, medicine, food and industry. It helps to maintain ecological balance and evolutionary processes, and has spiritual, cultural, aesthetic and recreational values. Its loss is, therefore, a part of the erosion of environmental human rights

**The six laws related to environmental** protection and wildlife are: 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.

A special mention must be made here of the indigenous and tribal (or adivasi) people of the world, virtually all of whom are faced with a serious crisis of survival. Their identity as independent communities and peoples is threatened because the economic, social, cultural, and natural resource base which enabled them to thrive as distinct peoples is being trampled upon. This intrusion is very prominent in their economy. The traditional economy of the indigenous peoples rested on their concept of and relationship with nature.

For most such communities, land, water and forest belong to Mother Earth; human beings enjoy only usufructuary rights over them, nobody can own them; they ought not to be bought and sold, appropriated or otherwise privatized. Land, therefore, is an important ingredient of the indigenous peoples' identity not only for its economic usage but also for its spiritual and emotional quality.

Partly from this relatively symbiotic relationship with nature flows the indigenous peoples' social life characterized by strongly egalitarian values and attitudes towards the other members of the community. The thrust of their social life is much less hierarchical than non-*adivasi* societies, though by no means is this consistent across all indigenous peoples, or through time.

The present crisis of the indigenous peoples consists precisely in the weakening and damaging of the ultimate base of their sustenance, namely land. Since the dawn of independence the Indian ruling class, effectively using the government machinery, has been alienating *adivasi* land in the name of 'national interests'. The biggest threat to the *adivasi* people is the large-scale alienation of their land through mega projects such as mines, industries, wildlife reserves, townships, highways, military establishments, and other projects in the name of 'national development' and 'national interests'.

The environmental conditions have deteriorated and worsened all over the country due to a variety of aggravating factors. The overall situation is certainly a matter of grave concern, more specially because it is affecting adversely the quality of life of the people and eroding the very foundations of the national economy and national security. As mentioned earlier, the worst affected are the poorer sections of society. The situation is compounded by slack and inadequate enforcement of laws and legislations. In this scenario, the importance of strengthening the constitutional safeguards for environment protection and nature conservation cannot be underscored. There can be no doubt that it is only by ensuring ecological security that the goal of sustainable development and national well-being will become feasible.

### **Reference**

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3. M. CRANSTON, WHAT ARE HUMAN RIGHTS? 36 (1973), quoted in Alston, Conjuring Up New Human Rights: A Proposal for Quality Control, 78 AM. J. INT'L L. 607, 615 n.30 (1986).
4. R. FALK, supra note 1, at 10. See also Van Boven, The Right to Health - Paper Submitted by the U.N. Division of Human Rights, in THE RIGHT TO HEALTH AS A HUMAN RIGHT,.