

Legal Dimensions of Human Rights in the Technological Realm



— Edited by —

Wasantha Seneviratne
Sourabh Ubale

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THE CENTRE FOR THE
STUDY OF HUMAN RIGHTS (CSHR),
FACULTY OF LAW, UNIVERSITY OF COLOMBO
(SRI LANKA)



MARATHWADA MITRA MANDAL'S
SHANKARRAO CHAVAN LAW COLLEGE, PUNE
(AFFILIATED TO SAVITRIBAI PHULE PUNE UNIVERSITY,
& ACCREDITED 'A' GRADE BY NAAC) (INDIA)

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Technological Realm**

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NEED OR GREED? UNDERSTANDING REAL ENVIRONMENTALISM IN WORLD OF TECHNOLOGY CONCERNING WATER RIGHTS

Mr. Pratik Salgar*

ABSTRACT : *Today, the world is developing along with the pace of development in technology. Accordingly, the human being has also undergone revolutionary changes in day to day life. Natural resources are also consumed with the pace of development to fulfil the needs of a human being. Gradually, the need for humans has transformed into 'greed'. At this crucial point, consumption of natural resources and human rights come in conflict with each other. 'Environmentalism' makes an effort to protect the environment. Now, with the increasing demands; exercising human rights become challenging. At the same time, it is a fact that the consumption of natural resources is an indivisible part of development. With a variety of aspects of development; human rights, and environment the picture of society becomes foggy. To make this picture clear, it is a need of time to understand the real object of environmentalism. Rather, the role of the state as well as citizens will help resolve this conflicting situation. The researcher here makes a genuine effort to analyse this complex issue concerning socio-legal facets of Environment and Water Rights. Considering the existing situation, the researcher here will scrutinize this area of study and strive to have the best key to resolve this deadlock.*

KEYWORDS: *Technology, Environmentalism, Human Rights, Water Rights, Socio-legal Facets.*

A. INTRODUCTION

On the backdrop of Kerala floods, as per the opinion of veteran Environmentalist and Historian Dr. Ramchandra Guha, "Earthquakes and floods do not recognize distinctions invented by crafty humans to divide, and to rule. But there is a second lesson, which may be harder to comprehend and act on. This is that if we abuse nature and disregard the limits it sets on human behavior (and especially human greed), it will take its revenge upon us." This eye-opening statement by Dr. Guha put the question mark on human behavior. Rather, he more emphasizes on 'greed' of human being and says that a day is not far when nature will

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take revenge of over-extraction of natural resources. This triggered my mind to write on this area which connects technology development, human rights, and the environment.

In the era of development, technologies are also developing. These developing technologies destroy the environment. But, looking at the other side, development is required to meet the needs of humankind. Thus, the conflict is between 'need' and 'greed'. Both terms cannot be defined exactly. Rather, every human being interprets these terms subjectively. At the same time, we can't deny the situation of increasing population, industrialization to fulfill the basic needs, technologies - which are developed to have more production in less time, environment - which is abused for these purposes and ultimately, human rights which are in question on this backdrop. Thus, it is the deadlock of human rights, environment, and technology. Human beings are aware of and concerned about their rights. Scientists are concerned about evolving technologies to fulfill their needs. Environmentalists are concerned about the environment which is abused due to these developing technologies to fulfill the needs. Thus, it has become a need of time to find a solution that will take care of all the above mentioned factors. According to me, the real solution is not in 'law', but it lies in 'interpretation of law'. We are having an effective legal framework to deal with the environment and human rights. But the sad story ends at 'we don't have effective implementation of law'.

In my opinion, effective implementation will be achieved when the interpretation of the law will be having an innovative approach. It is not only the case that innovation should only be in technology, but it is now a need of time to have innovation in the legal fraternity as well. An innovative approach in the legal fraternity implies an application of the mind and intellect of a person who is having authority by law. The person having an authority should interpret the law in such a way that it will fulfill the real object of the law as well as environmental protection. While thinking about this, the idea struck to mind about Corporate Social Responsibility (CSR). CSR was imposed by a recent amendment to the Companies Act and accordingly, companies are coming up with new ideas of environmental protection and human rights protection on a social level. According to me, the real object of CSR will be fulfilled when these companies will have their Environment Impact Assessment. By this the companies should have a check and balance on carbon emissions, up to what extent they have utilized natural resources, are there any cases of environmental rights violations, etc. Rather than having any other social activity of set pattern, these companies should check their activities and plan accordingly for the future. The provision of CSR is there for taking care of society at large. But this type of innovative approach of self-assessment will ultimately serve the purpose of that provision in the law and social responsibility as well.

Now, the world is trying to solve the complex problem of 'Sustainable Development'. The United Nations has set Sustainable Development Goals which are to be achieved till 2030. From a development point of view and environment, these goals are significant. The real challenge of nations in the world is to make their legal system suitable for environmental sustainability and development friendly. As far as India is concerned, environmental degradation is going on a huge rate and the legal system is lacking to deal with it. One can observe it easily that the work of environmental protection takes place at a personal level or organizational level. The ideas which are implemented by organizations that are working for environmental protection or persons who are working for environmental protection are needed to be globalized so that sustainability will be achieved. As far as environmental sustainability is concerned, we have to consider the socio-legal aspects of that time and accordingly, the law has to be framed. Thus, the researcher has focused on deadlock between technological development, environment, and law. The researcher tries to look at this problem as a third person and states suggestions that will be helpful to resolve this deadlock up to some extent.

B. CHANGING LIFESTYLE: HUMAN BEING AND ADVANCEMENTS IN TECHNOLOGY

The developments in technology have a great impact on the lifestyle of humankind. Indeed, it has changed many things due to which life of humans has become fast. The world has become tiny. Earlier, Food-Shelter-Clothing were the basic needs but now, Internet-Smartphone-Computer has become the basic needs. We are in the world of Artificial Intelligence. So now the real challenge is to preserve human intellect. With the developed technologies, we have a change in the lifestyle of a specific group in society, and on the other side, some of our brothers-sisters are fighting for basic rights of livelihood. For example, when we go to restaurants, we consume soft drinks like Coca-Cola or Pepsi for our enjoyment. On the other side, villagers near Plachimada in Kerala are struggling with the fundamental right to health and the right to have a clean and healthy environment.

India has the world's second-largest population, of 1.3 billion. Its economy ranks sixth globally in terms of gross domestic product (GDP), just after the UK, and is the world's fastest-growing major economy. India's population is expected to become the world's largest by 2025, overtaking China and peaking at 1.7 billion in 2060.¹ It is also the fact that

¹ Jocelyn Timperley, *The Carbon Brief Profile: India*, Carbon Brief, (Dec 10, 2019, 4:40 pm), <https://www.carbonbrief.org/the-carbon-brief-profile-india>

India is rich in Biodiversity. That is the reason why the world has an interest in Indian Environmental issues. As per the above explanation, the Indian population is exploding and with that, the needs will also increase. With increasing needs, technology also needs to be changed to have more and more production. At this point, human has to compromise with the degradation of the environment.

It has been observed that water pollution in mines is common and well described but their scientific importance is often ignored while managing the mine production.² The hotels/motels are continuing to operate in violation of the environmental laws and no effective steps have been taken by the Delhi Government in spite of representation dated 16.11.2019 based on photographs dated 08.11.2019 showing violations. Local bodies have also failed to take action.³ CGWA was repeatedly taking the plea that charges were being collected for permitting withdrawal of underground water for commercial purposes in OCS against the Precautionary Principle, Sustainable Development as well as Intergenerational Equity Principles.⁴ These abovementioned issues clearly show that natural resources are extracted at an unsustainable rate. With the increasing population as well as their needs of lifestyle, natural resources are consumed at unsustainable rates. Now, the question arises that whether these are the needs of humans or it is greed? The line of difference between need and greed is unclear. The consumer consuming natural resources may feel that it is a 'need' and the same thing according to environmentalist/social scientist may be 'greed'. The fact also remains undebatable that the natural resources are to be conserved even if we are consuming them. In my recent visit to London, I visited Buckingham Palace which is in front of Green Park. The Green Park is located in between the metro rail station and Buckingham Palace. **It is spread in an area of approximately 53 acres.** The Royal Parks manages tens of thousands of trees across all parks and in doing so seek to manage in a way that complies with current best practice and always aims to exceed legal minimum standards. The Royal Parks employs specialist Arboriculturists to inspect trees and plant works in liaison with the Park Managers in the respective parks and their teams.⁵ I found many parks which are well maintained, and

² Abhay Kumar Soni, Mining of Minerals and Groundwater in India, Intechopen, (Dec 10, 2019, 4.55 pm), <https://www.intechopen.com/books/groundwater-resource-characterisation-and-management-aspects/mining-of-minerals-and-groundwater-in-india>

³ Westend Green Farms Society v. Union of India, 751/2019 before National Green Tribunal Delhi.

⁴ Shailesh Singh v. Hotel Holiday Regency, Moradabad, and Ors., Original Application No. 176/2015, before National Green Tribunal, Principal Bench, New Delhi.

⁵ Park Regulations, Legislation, and Policies, The Royal Parks, (Dec.12, 2019, 2.55 pm), <https://www.royalparks.org.uk/managing-the-parks/park-regulations-legislation-and-policies#regulations>.

these parks are in the heart of cities. This is an example that sets an ideal in which way the natural resources are conserved with the pace of development. Such type of balance between technology and the environment will be beneficial to mankind and the environment as well.

C. NEXUS BETWEEN SUSTAINABILITY OF ENVIRONMENT, HUMAN RIGHTS AND LIFESTYLE OF HUMAN BEING

According to Jon Kabat-Zinn, Professor Emeritus at the University of Massachusetts Medical School, "Mindfulness is a certain way of paying attention that is healing, that is restorative, that is reminding you of who you are so that you don't wind up getting entrained into being a human doing rather than a human being." This eye-opening statement has raised a question to my mind that whether we are in the need for so-called 'development'? The abovementioned statement gives the basic idea of the Slow Movement. This movement started in 1986 through protest against the McDonald shop in Rome. The movement aims at slowing down the pace of development. Technological advances have resulted in labour-saving devices for the home. Who would complain about vacuum cleaners, electric stoves, hot water systems, flush toilets, or the bread maker, but have these technologies given us more time to enjoy life as was their claim? Or have we used this time to become even busier. We are engaged in constant fast-forward motion whereby we are often overscheduled, stressed, and rushing towards the next task. This rushing is not restricted to our work environment. We rush our food, our family time, and even our recreation.⁶ On one side, the world is talking about development and technology while the other side is thinking of slowing down the pace of development. Rather, some philosophers of the Slow Movement have interpreted the word 'SLOW' as 'Sustainable-Local-Organic-Whole'. This aims at the sustainability of the environment which needs to be initiated from the local level with organic things and for all. When development aims to be the development of the whole, this is a similar concept to the 'Sarvodaya' Movement by Mahatma Gandhi.

One more approach which makes the human being to think about his lifestyle is Minimalist Theory. According to this, a human being decides his needs and tries to satisfy his life in minimum stuff. The minimalist lifestyle is about living with only the things you need. Minimalists are free from the desire to buy and accumulate more. Instead, they find happiness in

⁶ The Slow Movement: Making A Connection, Slow Movement, (Dec. 13, 2019, 3:45 pm), <https://www.slowmovement.com/>.

relationships and experiences.⁷ This approach is appropriate for the consumption of natural resources. When a human being decides to make his needs a minimum, that will result in the conservation of natural resources.

The sustainability of the environment depends on how a human being decides his needs and rather how much he consumes to fulfill the needs. According to the lifestyle and economic status of human beings, the basic needs differ. In India, there is a disparity in population-based on economic status. Thus, sustainability has a connection with the economy of the human being as well. In the end, according to me, it is up to the person himself to decide about his needs and how to fulfill them. Great Marathi actor Atul Kulkarni lives simple life based on Minimalism even if he is having good economic status. Thus, it is the right time to think about our needs and restrict ourselves from unwanted 'needs'.

As far as the legal status of environmental sustainability is concerned, India has enough legal structure to deal with it. The real problem is the response given by citizens to those laws. Environmental sustainability needs active public participation. Both of the abovementioned theories are appropriate for environmental sustainability. If humans can decide about the needs and act accordingly then there will be less probability of violation of the right of another. Therefore, ultimately these small changes in lifestyle will fulfill an object of the law, environmental sustainability, and in the end, human rights.

D. FIGHT FOR WATER RIGHTS: EXISTING SITUATION AND LEGAL ASPECTS

Water Crisis and water rights is a burning issue in India. World Bank has reported that India extracts 1/4th of global groundwater. Many other institutions have expressed their serious concern about the water crisis including NITI Ayog. As far as my study in this area is concerned, surface water management is not able to meet the needs of citizens. Thus, most rural areas in India and the domestic part is dependent on Groundwater. The fact is that groundwater is not an organized area of law and that is the reason why we are facing such a crisis of Groundwater. If we consider, geographical diversity in India; groundwater is not uniform in all areas. Thus, it is difficult to have a law to govern it. At the same time, as a part of Riparian Right, an owner of land owns water below that land. Due to these legal conflicts, it is difficult to have a legal framework for this.

⁷ Joshua Becker, *Minimalist Lifestyle: 5 Life-Giving Truths From Years of Living with Less, Becoming Minimalist*, (Dec. 20, 2019, 10.00 am), <https://www.becomingminimalist.com/5-years-of-better/>.

Expressing concern over depleting groundwater levels, the National Green Tribunal (NGT) has set up a committee to formulate steps required to prevent its unauthorized extraction. A bench headed by NGT Chairperson Justice Adarsh Kumar Goel directed the committee to evolve a robust mechanism to ensure that groundwater is not illegally extracted and to monitor the manning and functioning of the Central Ground Water Authority (CGWA).⁸ Many years ago, the Supreme Court has expressed its serious concern in *M.C. Mehta vs Union of India*. It may be pointed out that the main reason for the gradual decline in the level of groundwater in certain areas of the country is over-exploitation. Presently the control being exercised in the country for regulating groundwater development is in the form of indirect administrative measures being adopted by institutional finance agencies who largely insist on technical clearance of the schemes from authorized groundwater departments of the respective States.⁹ Till the date, the compliance of that case has not been done and that is the reason why NGT has appointed the committee for the same recently. The legal framework of water management is not clear and that is why the crisis is faced.

While studying in this area of water rights, I came across social work by NGOs, organizations working for environmental sustainability, environmentalists, etc. The government also had many schemes for this purpose which failed at some point in time. The social work done by entities other than the government is scientific and that's why sustainable which is having a good result.

A great example of this is social work done by Mr. Rajendra Singh who is known as 'Water Man' and won the Stockholm Water Prize in 2015. He has done great work of making the villages water-sufficient in the desert region in India i.e. Rajasthan. With inadequate water-management systems, irrigation is insufficient, thus directly hurting agricultural productivity. More than 70% of the farmers are small or marginalized farmers. Loosening cultural bonds and increasing population aggravating land and water disputes among the local communities. In the last few years, it is observed that the scope for construction of new rainwater harvesting structure is reducing due to less land availability but demand for

⁸ NGT forms committee to stop illegal groundwater extraction, *Money control*, (Dec. 21, 2019, 2:33 pm), <https://www.moneycontrol.com/news/business/real-estate/ngt-forms-committee-to-stop-illegal-groundwater-extraction-4432031.html>.

⁹ *M.C. Mehta v Union of India*, (1997) 11 SCC 312.

agriculture and livelihood options is increasing in the region.¹⁰ Mr. Rajendra Singh works on Water Management for Irrigation and Domestic Use through his organization Tarun Bharat Sangh.

South Asia Network on Dams, Rivers, and People (SANDRP) is an informal network working on issues related to rivers, communities, and large-scale water infrastructures like dams: their environmental and social impacts, their performance, and issues related to the governance of rivers and dams.¹¹ This think tank works on various aspects related to river water management with a scientific approach. The opinions given by the intellectuals of this think tank are valuable in this area of River Water Management.

Two youngsters of India Ankit Agarwal and Karan Rastogi have done excellent work. They run an organization named 'Help Us Green'. Help us green is the world's first profitable and lean solution to the monumental 'temple-waste' problem. It collects 8.4 tons of floral waste from temples in Uttar Pradesh, India daily. These sacred flowers are handcrafted into charcoal-free incense, organic vermicompost, and biodegradable packaging material through 'Flower-cycling' technology.¹² All the products by this organization are handcrafted by women and that's why the women in that area got employment. The change has been brought that the orthodox temple and religious authorities want to be part of this. This is real sustainable work by which river pollution is reduced, the wastes in the river are recycled in such a way that those can be used by humans and at last many people around that region are getting employment due to this.

On one side, the citizens are fighting for water rights and state machinery is trying to balance the situation. On the other side, the people and organizations abovementioned are having great work of social stability by environmental sustainability. That's why now the real challenge and fight is to understand the work of such people and to make it socially applicable wherever possible so that sustainability in water rights may be achieved.

¹⁰ Efficient use of Water in Irrigation Rivulet Arvari and Sarsa Basin, Tarun Bharat Sangh, (Dec. 23, 2019, 1.55 pm), http://tarunbharatsangh.in/portfolio_page/efficient-use-of-water-in-irrigation-in-rivulet-arvari-and-sarsa-basin/.

¹¹ About SANDRP, SANDRP, (Dec. 24, 2019, 11.26 am), <https://sandrp.in/about-us/about-sandrp/>.

¹² About Us, Help Us Green, (Dec. 24, 2019, 12.35 pm), <https://helpusgreen.com/about-us/>.

E. CONCLUSION AND SUGGESTIONS

At last, I believe that advancements in technology have changed the world to a great extent due to which the lifestyle of human beings has undergone a great change. To achieve sustainability in the consumption of natural resources and water management, an innovative approach is needed for the interpretation of legal norms. Rather than making these legal norms impossible on others, those should be utilized for self-assessment like I have talked about this in the first part of the article.

It is a fact that technology is going to degrade the quality of the environment up to some extent rather it is a drawback of technology. Thus, the development of technology should be of such a nature so that it will benefit human beings and it will degrade the environment to the minimum extent.

As far as water management is concerned, the concept of water rights is complicated and needs to be resolved carefully. It needs scientific research and its implementation with public participation. Interdisciplinary research will help with this. So, the innovations and great social work done by environmentalists can be applied at the social level to achieve sustainability.

□ □