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Introduction

Theoretically speaking property has been looked upon as an extension of the individuals personality. In other words property is a means to satisfy the needs of the individual. This is necessary to maintain the stability that is expected through the property. Otherwise it will result in uncontrollable changes in the society. The individuals will be in collision with one another. This is for the each ones bid to promote his security and stability. Otherwise this would be injurious to the society. Public harm will ensue from private acts. Thus to reconcile the needs of the individual with societal needs what is a possible framework for property relations? What is the position of land as property apart from other property rights, because of its prime importance? What is the solution in this era of increased state controls over the land?

Land is universally accepted basis for the production of wealth. Considered from the stand point of ownership and its use rights over the land were of prime importance. Two parallel practises were found in this respect. They were absolute state ownership and on the other hand private or individual ownership. The latter refers here the

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1 R. Noyes, The Institution Of Property, A, Kocour, Jural Relations, (2nd Edn.) p.334
2 At common law, the term “land” when used in relation to a particular parcel meant the surface of the Earth, the soil beneath the surface to the centre of the Earth and the column of air above the surface. It included all things growing on or affixed to the soil, such as trees, crops and build ins. It also included all the minerals in the soil excepting gold and silver, which at law belongs, to the Crown as royal metals” (Hallmann 1994, 9.1).
3 Baillie, John, Outline of Law in Australia, edited by G A Flick, The Law Book Company Australia. 4th edition 1979
4 Burke, J 1976, Osborn’s Concise Law Dictionary, Sweet and Maxwell London
6 Public finance in ancient India, K.R. Sarkar
private ownership in its entirety. This covers the right to sale, gift and mortgage. Another common feature was limited ownership of the tiller over the land or over the use of land. To reconcile the harm of absolute private ownership the theorists say that land is to be held by the individual for the “common good” of the society. Thus the holding acquires the characteristics of “public interest”. Within the frame work of this theory individual is allowed to hold some property to satisfy his needs. How much is to be allowed to satisfy the needs is qualified by the phrase that it would depend on “all attending fact” at that particular time.

The fundamentals of land ownership date back to the very roots of nation. Matters relating to possession and ownership of land are well recognized in historical records. Indeed, the territorial control of land has been a fundamental issue in the rise and fall of empires throughout history. This has been the cause of a great number of the world’s wars since civilisation began.

In the centuries BC, the importance of land ownership was focussed on arable lands used for productive agriculture. Even in those times there were issues associated with occupation and boundaries. There are evidences of state actions to separate the land of the state from that of private persons, because private land owners had slowly expanded their boundaries into public lands.

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Refer also Mill, James; Wilson, Horace Hayman, The History of British India, Volume 5, 1858 London: OCLC 3019507.
6 In 173 BC Lucius Postumius Albinus, a statesman of the Roman Republic, was sent to Campania (a region in Southern Italy) reference from Lucius Postumius Albinus (Consul 173 BC) wiki 2011
Biblical references to the Land of Israel, and its boundaries, can be found in various books\(^7\). In fact, the boundaries of the Middle Eastern States have changed regularly throughout history.

In India the above mentioned divergent practices relating to ownership of land were followed and statutes were framed governing the relation between the individual and the state. State is the ultimate owner of the land in its domain. The absolute or limited rights of enjoyment and ownership were granted to certain classes who satisfied the needs of the state\(^8\). State also held the property under its direct control and was engaged in various trades and production. Thus it is clear that there existed a mixed economy in India based on the ownership and production from land.

**Land Use Controls by The State: Analysis**

There were various modes of controls exercised by the state over the individual owners. But all these were directed to common goal of societal needs. Some of them were state controls for the protection of the rights of the tenants against the landlords. There were positive and negative rules concerning the user of land. There were also expropriation for community purpose. Rights were also given to public utilities to acquire easements. They were drainage, telephone poles, electric distribution systems and where it is necessary to transmit high voltages on steel towers. Sometimes this leads to the conflict between the preservation of amenities of the landscapes and the cheap electricity. Another control is breaking up of large estates to small. Also the taxes imposed on the owners for the use of land is another type of control exercised by the state. Thus the state could exercise myriad and varied varieties of controls over the land use. But all these were directed towards the protection of public interest. ancient land use

\(^7\) Genesis 15; Exodus 23; Numbers 34; and Ezekiel 47 (*Land of Israel wiki* 2012)

\(^8\) They were the affluent classes in the society and they were called Jenmies. Certain government servants were assigned with lands apart from the wades received by them. These lands were inalienable by these servants.

van Hattem, Peter 1997, *Demystifying Native Title*, Murdoch University Electronic Journal of Law, Perth, Western Australia, viewed 4 February 2012

http://www.murdoch.edu.au/edlaw/issues/v4n3/vanh43.txt
restrictions as stated above were mainly to protect the public health, safety, morals and general welfare of society. Hence land use regulations always involves a balance and often conflicts both between private and public property rights and among private rights itself. The questions to be answered in this context are, How far the restrictions imposed on land use is feasible? What is the most acceptable mechanism to be evolved for this purpose? What are the most relevant concerns to be satisfied for the maintenance of maximum happiness of maximum number of people without doing much harm to the resource base of the individual countries? Therefore the satisfaction of the concept of “sustainable development” in all realms of life specially with reference to land use became the need of the hour.

Various theories of property⁹ argue for the protection of individual property rights. But these are subject to the public interest. But during this creation and transformation of private ownership over land it was put under the rule of law. Thus the state as well as the arbitrary power exercised by the private owners was put under the rule of law. The real question before the modern world is how far the rule of law could reconcile the private property rights enjoyed by the owner with the land use controls exercised by the state over their rights.

According to Locke political power is the power that every man in the state of nature possess but which is given over to the society that they form. It is entrusted to the government set up to create an established and known set of laws to arbitrate in disputes and preserve the life and property of its members. Locke’s vision is of minimal state interference whose justification can only be that of consent. The state must not possess arbitrary, absolute powers over the lives and property of the civilians. Yet its mandate must seek the public good and be democratic applying the majority rule.

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⁹ Labour theory, personality theory, private property as the creation of the state after the long struggle between state and the society, the functional theory which caste a duty on the owner that he serves a social function……

For further reference read H Rashdall, Property its Duties and Rights, p.68
Even as a strong supporter of private property Locke explains that in the state of nature, everything is commonly owned, but God gave man senses and reason to use for his preservation and reproduction that which he removes from the common.  

According to him land is the chief matter of property. A man who appropriates and cultivates land does not lessen its but increases the common stock of mankind. The reason for this claim is that one acre of enclosed land yields support of human life than an acre of equal richness' lying waste in the common. From this Locke draws somewhat specious conclusion that a man who encloses and cultivates ten acres may truly be said to give ninety acres to mankind. As well as in justifying the appropriation of land in terms of mixing ones labour with it, Locke also seeks to justify its appropriation on the ground that doing so serves to advance the common good in maximising the utility of land. This is a reason Pufendorf too asserts in favour of private ownership of land.

Locke’s second Treatise of Government “of property” consist of theory of appropriation, labour theory of value. In this he explains that during the first ages of the world the state of nature prevailed. Both land and natural products of the soil were available in excess of men’s needs. This may be called the age of abundance. Such condition prevailed in some part of the world. For the rest the age of abundance had come to an end when money had been introduced and communities had been formed. The following period may be called age of scarcity. Locke’s theory of appropriation in the age of abundance is his account of origin of private property.

In the account of Grotious and Pufendorf the origin of private property started from the tenet that God at creation had given the earth with all plants and animals to mankind. This was the reason why men could own anything. The donation was to all men in common.

11 supra note 5
12 Genesis I 29-30 and IX 2
To begin with people lived in the state of communism. But after a time this was found inconvenient. People then agreed to divide certain things and tracts of land, leaving the rest free to occupation. In this way private right of property, dominium was introduced.

According to Grotius, during the era before the introduction of dominium it was permitted for everybody to take from the common such things as were needed for the support of life. What a man took for his use and could consume became his own. Pufendorf disagreed on this point. It would be incurr an against all others to take anything from the common without their consent. A general agreement allowing the appropriation of things required for the support of his life must therefore have been concluded. From another point of view it was also necessary. He said that people at every time had made a compact to the effect that each was entitled to collect as much of the fruits of the earth as was needed for his existence. The dominium was introduced in a limited extent. The substance of the thing remained common property. The fruits became the property of those who collected them. Thus there was a mixture of private and common property during the first era.

Industrial revolution and technological development which took place in the later centuries brought in drastic changes to the life style pursued by the communities or individuals\(^{15}\). This in turn led to the rethinking of property relations. Most important change was the change of community holding to the individual\(^{14}\). Along with this the states power also underwent a number of changes. The concept of State as “Leviathan” which was created solely for the protection of life and liberty of individual\(^{15}\) changed to the concept of welfare state. Along with this the functions of the state also became more complex. Everyone expected the state to be more powerful than the Leviathan in the state of nature\(^{16}\). Thus protection of property acquired more

\(^{15}\) R S Bhalla, *The Institution of property*, p.64

\(^{14}\) id at p.90


individual colours than social. As the powers of state increased the duty of the state to ensure the social interest at par with individual interest made the state to make more and more controls over the individualistic property rights. It continued through centuries and still exists. The extent of controls exerted by every state depends on the political philosophy followed by the concerned state. This can be gathered from the basic law of the land\textsuperscript{17}. Property is of course an economic asset. But only a secure property right provides a sense of identity and belonging that goes far beyond and underpins the values of democracy and human freedom. Historically, however, land rights evolved to give incentives for maintaining soil fertility. But making land-related investments and managing natural resources sustainable are the creation of modern state. Therefore, property rights are well managed in modern economies.

During industrial revolution property began to be recognised in terms of the economic value\textsuperscript{18}. This brought in changes in the mental attitude of man also. He became greedy and began to amaze wealth for luxury and the concept of property lost its original notion. The original notion of property was in tune with the nature. Man had respect and love for the nature and the resources\textsuperscript{19}. From there onwards another notion of property began to attract significance i.e. the legal concept of property as including the ownership and its component elements, like exclusiveness, possession and thing. It became an independent institution free from the communal or societal control.

Some theorist like Hegel argues for protection of individual property rights and says that some amount of property is essential for

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\textsuperscript{17} For every recognized territory is having a recognized constitution and that will specify the property relations recognized and enforced by the state. eg. Constitution of India art.31
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\textsuperscript{19} The original notion of institution of property was: property as an expression of self to control and use to fulfill the needs of individual got completely changed. Greek philosopher Aristotle observed “It would be ideal; for property ought to be generally and in the main private, but common in one respect i.e. in use. The renowned natural law theorist, Grotius relying on Justinian observed that private property originated in a kind of agreement among men to respect the right of occupations at the time of agreement.
\end{flushleft}
the development of personality\textsuperscript{20}. He says that it is the control of property which makes a person free. He is an exponent of private property. He classified the gradual development of community holding of property to individual. He also says that community should give each members opportunity to toil, within his powers, acquire such property as is necessary for the true self realization\textsuperscript{21}. What is that extent of true self realization is not made clear by him. It can ordinarily be the attribute the societal control or states control for the protection of social interest.

**Land Use Controls in India**

Indian administration was complex one due to invasion of various cultures. Therefore the land use controls varied from time to time according to the needs of society. In India land tenure the relationships between the land holder and the State. The absolute ownership of land rests with the Government. Government gives proprietary rights to individuals or communities. Thus, a land owner, is the proprietor of that land and he has to pay revenue for that\textsuperscript{22}. In India the concept of proprietary right in land gets its origin from Manu’s Occupation Theory\textsuperscript{23}. It is the counter part of the Roman Doctrine of Occupation. According to them in order to convert the cultivator of the land to the owner, permission of the state is not needed.

Under Hindu period the land was considered to be the property of society. King had only the right to protect and do well to the community interest. The state was entitled to the tax. During this period the cultivated land was not considered as common land. But the waste land was considered to be common. The right of the first person who makes the beneficial use of the land was recognised in many cases

\textsuperscript{20} H. Radall, Property Its Duties and Rights, p.68
\textsuperscript{21} Dias, Jurisprudence, Butterworths, London,5th edn. 1985 pp.274-275
\textsuperscript{22} Naresh Chandra Sen Gupta, Evolution of Law; 1962, p.85
\textsuperscript{23} Manusmriti, IX-44
invade the rights of the individual unless it be for the most urgent and important reasons”.

The above approach was also reflected in the constitution\textsuperscript{31}. While at the presentation of the draft article, Nehru commented that the article was a just compromise and it does justice and equity not only to the individual but to the community\textsuperscript{32}. Thus the original of the constitution guaranteed deprivation of property by law alone. It also guaranteed the payment of compensation as fixed by the legislature.

Legislative power over land vests with the state\textsuperscript{33} government even though the obligations to implement international conventions\textsuperscript{34} lies with the Centre. The 74\textsuperscript{th} amendment\textsuperscript{35} of the constitution also provides for delegation of more powers to the state in relation to the land and constructions and developmental activities over the land. But it is not an absolute freedom. It is to be interpreted in tune with the policy laid down by the Centre and five year planning policy adopted by the government in accordance with the needs of each area. Because the ultimate obligation is towards the people of India and as a whole the holistic development of environment of India. Thus due consideration of individual, community and above all the sustainable development principle is the need of hour.

\textsuperscript{31} Art.31
\textsuperscript{32} ibid. at 1193
\textsuperscript{33} list II item 18
\textsuperscript{34} Art.258
\textsuperscript{35} http://urbanindia.nic.in/theministry/ministry\_page.htm visited on 09-04-2012
PADDY LANDS PROTECTION: AFTER THE KERALA
CONSERVATION OF PADDY LAND AND WETLAND ACT, 2008

Dayana M.K.*

Abstract: Kerala which receives an annual rainfall about 3010 centimeters of rainfall annually, and there large number of lakes and rivers all over Kerala experiences acute drinking water shortage for the six months. About two thirds of the population does not have access to safe drinking water. The cost benefit analysis study which is absent from the part of both government and the land owners when the question of conversion comes in to.

Key Words: Paddy, Food Security, Community Acceptance.

Introduction:
Drastic social transformation took place in Kerala since 1960. The earlier Legislations1 enacted by the Kerala Legislature for the protection of paddy fields, makes it clear that conservation and protection of paddy lands was a malady. The attempts made by judiciary was also worthless. More over in the conflicts of the Economics v. Environmental consideration, in a state like Kerala having more literacy rate, the balance always tilts in favor of the economics from the part of land owners perspective. But the state being the custodian of all property and protection of community interest may go with environment. Therefore economic rationale of the private owners of paddy fields suggests the paddy fields to convert for non-agricultural purposes2. But it is clear that majority of farmers or as of now the land mafia ruling most of the farm lands in Kerala are not aware of the real long term impact of ecological and environmental imbalances that may result due to transformation of the paddy land agroecosystems. This made the state to come out with the stringent measures and we could observe more and more additions3 to the rules for the protection of the community interest. The academicians are doubtful about the sustainability of development model adopted by the government of Kerala. More over the loss of sustainability raises doubt about the livelihood of marginalized sections in the society.

At this critical juncture, Kerala legislature decided to enact a legislation to comprehensively protect and manage the paddy lands and wetlands in 2007. At the inception of the bill itself rampant conversions and filling of paddy fields were reported by media. Even though there

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2 Paddy land Conversion in Kerala, An inquiry into Ecological and Economic aspects in a Midland Watershed
Region, G.Gopikuttan and K.N. Parameswarkarup, Final Report undertaken by Kerala Research Programme on Local Level Development Centre for Development Studies, Thiruvananthapuram, August 2004
3 Malayala Manorama daily news paper on 29-04-2014 Aluva edn. Says that the vehicles used for filling the paddy lands unauthorisedly will be seized and an amount equal to the value of vehicle will be charged from the owner of the vehicle for involving in such illegal activity.
were criticisms and problems the assembly enacted the legislation in 2008\textsuperscript{4}. Preamble of the Act itself makes it clear the will of legislature in enacting this specific legislation\textsuperscript{2}. 

**Preamble:**

The twin objectives mentioned in the preamble revolves round the principle of sustainable development. The most important objective still being the food security of state\textsuperscript{9}. The second one being the protection of the ecology of the state\textsuperscript{9}. The Act seems and tries to find out the problems of existing enactments. It also brings out certain compromises for achieving the above objectives.

**Defines the operational areas clearly:**

The Act defines paddy land\textsuperscript{8} and wetland\textsuperscript{9}. Here the important question arises as to when the problem of conversion is faced how to judge whether the property is paddy land under the Act. In a case decided by the Kerala High court, the honorable court held that the judgment is to be based on the actual fact situation and not depending on the description of property as (Nilam) paddy field or wetland in the revenue records is insufficient to assume that land cannot be used for any purpose other than those for which a paddy field or wetland can be used\textsuperscript{10}. To understand the real fact situation the data bank preparation was made a bounden duty on the part of the committee constituted under the Act\textsuperscript{11}.

By this definition the Act confines its operation to paddy lands and wetlands alone. Conversion or reclamation and removal of sand from those areas are prohibited\textsuperscript{12} except in accordance with the provisions of the Act\textsuperscript{13}.


\textsuperscript{5} The preamble of The Kerala Conservation of Paddy Land and Wetland Act,2008 reads as ‘an Act to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system in the state of Kerala.

\textsuperscript{6} Ibid.

\textsuperscript{7} Supra note 3

\textsuperscript{8} See section 2(xii) of The Kerala Conservation of Paddy Land and Wetland Act,2008, paddy land means all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy, cultivation but uncultivated and left fallow, and includes its allied constructions like bunds, drainage channels, ponds and canals;

\textsuperscript{9} See section 2 (xviii) of The Kerala Conservation of Paddy Land and Wetland Act,2008,‘Wetland’ means land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface or which is covered by shallow water or characterized by the presence of sluggishly moving or standing water, saturating the soil with water and includes backwaters, estuary, fens, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers;

\textsuperscript{10} Praveen K v. Land Revenue Commissioner, Thravanathapuram and others, 2010(2) KHC 499, 2010(2) KLT 617(DB)

\textsuperscript{11} See The Kerala Conservation of Paddy Land and Wetland Rules, 2008, rule 4

\textsuperscript{12} See Section 3 of The Kerala Conservation of Paddy Land and Wetland Act,2008, Prohibition on conversion or reclamation of paddy land.—(1) On and from the date of commencement of this Act, the owner, occupier or the person in custody of any paddy land shall not undertake any activity for the conversion or reclamation of such paddy land except in accordance with the provisions of this Act.

\textsuperscript{13} See section 3 (2) of The Kerala Conservation of Paddy Land and Wetland Act,2008 :Nothing contained in sub-section (1) shall apply to the cultivation of any intermediary crops that are cultivated without changing the ecological nature of that paddy land or the strengthening of the outer bunds for protecting the cultivation.
Farmers protection:
Government has realized the difficulty faced by the farmer while doing the paddy cultivation. This was one of the main reasons why the earlier enactments were a failure. Thus through the provisions of the Act government promises to undertake suitable measures\(^{14}\) from time to time in order to assist the farmers to augment the production of paddy in the state.

Community Involvement:
Societal acceptance or community acceptance is another important need of a legislation to survive. Most of the laws which do not augment the happiness of greatest number of people is liable to be rejected\(^{15}\). One of the mechanism to overcome this threat as we faced in the earlier legislation is to make a participatory approach in the implementation of the legislation. This method is attempted in the present legislation. The unique mechanism adopted under the Act is that three tire committees\(^{16}\) are setup under the Act. Every activities is done with the involvement of public.

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\(^{14}\) See section 4 of The Kerala Conservation of Paddy Land and Wetland Act, 2008: Incentives for paddy cultivation.- The Government shall take suitable measures from time to time, in order to assist the farmers to augment the production of paddy in the State

\(^{15}\) Bentham’s theory of greatest happiness of greatest number.

\(^{16}\) See section 5, Constitution of Local level Monitoring Committee.- (1) There shall be a Local Level Monitoring Committee in each Panchayat or Municipality, consisting of the members specified in sub-section (2), for the purpose of monitoring the implementation of the provisions of this Act.

(2) The composition of the Committee shall be as follows:-

(i) The President or Chairperson / Mayor of the Grama Panchayat or the Municipality or the Corporation, as the case may be: Chairman

(ii) The Agricultural Officer/Officers having jurisdiction in the Grama Panchayat or Municipality/Corporation: Member/Members

(iii) Village Officer/Officers having jurisdiction in the said area: Member/Members

(iv) Three representatives of farmers in the Panchayat/Municipality/Corporation to be nominated in such manner, as may be prescribed: Members

The Agricultural Officer shall be the convener of the Committee.

And see section 9, Constitution of District Level Authorised Committee.- (1) Notwithstanding anything contained in section 3, each Collector shall constitute in the District, District Level Authorised Committee for considering the applications for reclamation of paddy land for the construction of residential building to the owner of paddy land and for taking suitable decision:

Provided that the District Level Authorised Committee shall not take any decision granting permission for the filling up of paddy land for the construction of residential building exceeding ten cents in a panchayat and five cents in a Municipality/Corporation, as the case may be.

(2) The District Level Authorised Committee shall consists of the Revenue Divisional Officer, Principal Agricultural Officer and three paddy cultivators to be nominated by the Collector and the Revenue Divisional Officer shall be its Chairman and the Principal Agricultural Officer shall be its Convenor:

Provided that where there are more than one Revenue Divisional Officer in a District, the Collector shall nominate one among them to the District Level Authorised Committee.

(3) The term of office of the nominated members shall be three years from the date of their assuming charge in the office. But after the expiry of the term they may continue in office till the succeeding members are nominated.

(4) Nominated members may resign from the Committee at any time by giving letter under his hand to the Collector.

(5) The District Level Authorised Committee shall take decision on the recommendations made available to it within one month.

(6) Any person aggrieved by the decision of the District Level Authorised Committee, may prefer an appeal before the Collector within thirty days from the receipt of the decision, in such manner as may be
Three Tier Mechanism:
The committee designated and vested with grass root powers\(^{17}\). They are invested with the power to participate, prepare data bank, inspect the lands, and find the reason if the lands are not cultivated, inquire the violations or non compliance, accept the complaints from the public regarding the violation and suggest the measures to come back to the culture of cultivation. They are also vested with the power of recommending to allow conversion\(^ {18}\). But prescribed.

(7) The Collector shall take a decision thereon within one month from the date of receipt of appeal and the decision of the Collector shall be final.

And see section 8. Constitution of the State Level Committee.- (1) The Government shall, constitute a State Level Committee for furnishing report to Government after the detailed scrutiny of the applications recommended by the Committee regarding the filling of paddy land for public purposes.

(2) The Agricultural Production Commissioner, the Commissioner of Land Revenue and an expert in the field of environment and a Scientist in the field of paddy cultivation, to be nominated by the Government, shall be the members of the State Level Committee and the Agricultural Production Commissioner shall be its Convener.

\(^ {17}\) Ibid at section 5

\(^ {18}\) See section 5(3) of the The Kerala Conservation of Paddy Land and Wetland Act, 2008 Local level Monitoring Committee shall have the following powers, namely:- (i) Subject to the provisions of this Act, to recommend to the State Level Committee or District Level Authorized Committee, as the case may be, for the reclamation of paddy land for public purpose or for construction of residential building for the owner of the paddy land;

Provided that the Committee shall not recommend for filling of paddy land of more than ten cents in a Panchayat or five cents in a Municipality/Corporation, as the case may be, for the construction of residential building for the owner of the paddy land;

(ii) to inspect the paddy land situate within the jurisdiction of the Committee to monitor whether the provisions of this Act are being complied with and to report to the Revenue Divisional officer regarding violations, if any of the provisions of this Act;

(iii) to examine the complaints received from the public regarding the attempts to violate the provisions of this Act and to intervene in the issue to prevent such violation;

(iv) to examine the reason for keeping the paddy land fallow and to suggest remedial measures so as to persuade the holder of paddy land to cultivate it with paddy or any intermediary crops;

(4) The Committee shall perform the following functions, namely:- (i) to prepare the data bank with the details of the cultivable paddy land and wetland, within the area of jurisdiction of the Committee with the Help of the map prepared by the State Land Use Board or any Central-State Science and Technology Institutions on the basis of satellite pictures by incorporating the survey numbers and extent in the data bank and get it notified by the concerned Panchayat/Municipality/Corporation, in such manner as may be prescribed, and exhibit the same for the information of the public in the respective Panchayat/Municipality/Corporation Office and in the Village office/Offices.

(ii) to make alternate arrangements under section 16 where a paddy is left fallow without taking steps in spite of the instructions given by the Committee under item (iv) of sub-section (3); (iii) to prepare detailed guidelines for the protection of the paddy lands / wetlands in the areas under the jurisdiction of the Committee; (iv) to collect the details of the paddy land within the area of jurisdiction of the Committee, reclaimed in contravention of the provision of any law for the time being in force, before the date of commencement of this Act and to give the report to the Revenue Divisional Officer; (v) to perform such other functions, as may be prescribed from time to time.

(5) The quorum for a meeting of the Committee shall be three and it shall meet as and when required and the venue for the meeting shall be the respective Panchayat Office and the time of meeting shall be fixed by the Chairman.

(6) The Committee may decide the procedure for its meetings and the concerned Agricultural Officer shall keep proper minutes of the meeting signed by every person attended.
this power is also limited 19. Thus the legislation beautifully blends the power with reasonable restrictions. Therefore the members of the committee becomes the guardians of the Act. Apart from this analysis of the working of the present Act, the local committee is also entrusted with the duty of finding out the data of paddy land reclaimed in contravention of the provisions of any law for the time being in force. All these reports are to be submitted to both Revenue Divisional Officer of the area. The data banks prepared in relation to this Act shall be maintained as public document and it can be inspected by the interested public. Thus the local level monitoring committee is to monitor the implementation of the provisions of the Act. Any willful omission to take action under the Act is deemed to be an offence under the section 23 20 of the Act.

The environmental jurisprudence and different principles 21 adopted in the sustainable development is reflected in the other provisions of the Act. The state level committee while dealing with the applications recommended by the local level monitoring committee shall examine in detail whether any alternate land other than paddy land is available in that area. Along with this it has to assess the ecological changes that may occur due to such filling up of paddy land, a report regarding the same is to be submitted to the government 22.

Apart from the committees a district level committee to take decisions on the application for reclamation of paddy land is constituted under this Act. An appeal from the order of district committee is dealt by collector and his decision shall be final on those matters 23.

**Public Purpose and Conversion:**

Public purpose is given utmost importance under the Act. The power to make the decisions of reclamation for public purpose lies with the government. But there are certain checks and balances in the exercise of power. Before the exercise of the power government should be satisfied that there is non availability of alternate land and such conversion will not affect the adjoining paddy fields and also the ecological conditions in that area 24. Even though the Act

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19 Ibid.

20 Section 23 of The Kerala Conservation of Paddy Land and Wetland Act, 2008 deals with Penalty: Any person who, in violation of the provisions of this Act converts or reclaims any paddy land or wet land notified under sub-section (4) of section 5, shall on conviction, be punishable with imprisonment for a term which may extend to two years but shall not be less than six months and with fine which may extend to one lakh rupees but shall not be less than fifty thousand rupees.

21 Precautionary principle, public trust doctrine, polluter pay principle and sustainable development are the core principles and the deciding authority based on these principles makes the impact assessment on the conversion application and makes a reasoned decision.

22 See section 8 (3) The Kerala Conservation of Paddy Land and Wetland Act, 2008, The State Level Committee shall scrutinize each application recommended by the Local Level Monitoring Committee for filling up or reclamation of paddy land for public purpose and shall examine in detail whether any alternate land, other than paddy land, is available in that area and the ecological changes that may occur due to such filling up of paddy land and submit a report to Government.

23 Supra note 15

24 See section 10 The Kerala Conservation of Paddy Land and Wetland Act, 2008 deals with the Power of Government to grant exemption. - (1) Notwithstanding anything contained in section 3, the Government may grant exemption from the provisions of this Act, if such conversion or reclamation is essential for any public purpose.

(2) No exemption under sub-section (1) shall be granted by the Government, unless the Local Level Monitoring Committee has recommended the conversion or reclamation and the Government are satisfied on the basis of the report submitted by the State Level Committee, that no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area.
covers both paddy land and wetland, the area which can be reclaimed under this Act for public purpose is paddy land.

Protection of Wetlands:
Complete prohibition on reclamation of wetland is another bold attempt form the legislature. This is at the wake of Ramsar convention, 1971. We could observe that the severe drought and many other problems relating to the drinking water is reported from many parts of Kerala. The solution to this problem can be achieved by maintaining the available wetlands in the original condition.

Authorized Officers:
To report on the violation of this Act and to take actions here under, an authorized officer is appointed. He is vested with the powers which necessary to exercise the functions under this Act. He is deemed to be a public servant. Another important feature is that if he fails to report or to take action under this Act, he will be punished as per section 23 of the Act. Again to strengthen the arms of implementation collector can reclaims or reconvert the land already converted in violation of the provisions of the Act. This is one of the most important power under this Act.

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25 See section 11 The Kerala Conservation of Paddy Land and Wetland Act,2008, Prohibition on reclamation of wetland On and from the date of commencement of this Act, the wetlands of the State shall be maintained as such and there shall be a total prohibition on reclamation of such wetland and removal of sand there from:

Provided that nothing contained in this section shall affect the removal of slurry and mud to maintain the ecological condition of such wetland

26 section 12 The Kerala Conservation of Paddy Land and Wetland Act,2008 Appointment of Authorized Officers and their powers.- (1) The Government may by notification in the official Gazette, appoint such officers of the Revenue Department not below the rank of a Revenue Divisional Officer, as authorized officers and may determine the area of jurisdiction within which they shall exercise their powers under this Act.

27 See sections 12 (2) The Kerala Conservation of Paddy Land and Wetland Act,2008 The Authorized Officer may, for the purpose of inspecting whether any of the provisions of this Act have been violated, or to prevent the commission of any of the offences under the Act, -

(a) enter any premises or any place connected therewith with such preparation as he thinks necessary for the inspection or investigation into the alleged offence under this Act;
(b) require any person to stop any act in contravention of section 3 or section 11;
(c) seize any vessel, vehicle or other conveyance or any implements used or purposed to be used in contravention of the provisions of this Act and sent a report to the District Collector for initiating proceedings for their confiscation;
(d) require any person to furnish such information as he may consider necessary;
(e) take photographs, make inventories or do other things necessary for collecting evidence regarding the commission of the offence and sent a report to the Court of competent jurisdiction in order to prosecute the accused.

(3) Any person required to produce any document or thing or to give any information to an authorized officer under this section shall be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).
(4) Every authorized officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).
(5) If an officer authorized under sub-section (1), fails to take action on the basis of the report regarding the violation of the Act submitted by the reporting officer under section 7, he shall be deemed to have committed an offence punishable under section 23; and also note section 13. Power of the District Collector. - Notwithstanding anything contained in this Act, the Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original
Community Involvement in Protection of Paddy Lands:

Community involvement in fallow paddy land cultivation could be seen under this Act. If the holders of the paddy land are unable to cultivate the paddy land, it shall be entrusted to Padasekhara Samithi, self help groups, or kudumbasree units in those areas. This is one of the restriction exercised compulsorily on the owner of land by state. This seems to be the reiterating provision of The Land Utilisation Order, 1967. But there is wide gulf between the provisions. Earlier there was practical difficulty in entrusting the land to another person who is interested in cultivation. The authority entrusted was the collector and he is always over burdened and the practical implementation of cultivation of fallow lands would be of great difficulty. This is overcome by the insertion of interested groups. In today’s society these groups play an important role in many functions. Thus this seems to be a possible solution to remedy the malady existed under the earlier enactments. Other intermediate crops which can be allowed other than the paddy is left to the discretion of the holder of land by this discretion the owner is allowed to retain the power of ownership over his land and here we could observe the sustainable development principle incorporated by the legislature. This would bring much more consensus among the holders of land regarding the acceptance of the legislation. The absolute ownership is with the holder himself. His right to sell the property even when it is under cultivation as per the provisions of the Act. Thus for the greater community interest the individual is deprived of his one element of property rights for a period of time. This for the larger community interest. But there is a balance and his permanent enjoyment and disposal rights are retained. Thus the Act tries to strike a balance between individual interest with those of community interest. The entrusted person has the only right to cultivate and he will be evicted after the period of time. Thus it tries to curb the deep wounds and fear of permanent deprivation exerted by the Land Reforms Act, 1963. This was one of the reason for the failure of many legislations which imposed restrictions on the various uses of land. thus the Act tries to strike the balance through the provisions.

Collector is given the power to do such acts for the proper implementation of the provisions. The Act has enabled the authorities to take up cases of reclamation and deal with them appropriately. The district collectors had initiated action against use of tipper lorries and earthmovers for paddy-field conversion. The administration had imposed fines on the owners of the vehicles for their involvement in reclamation. Thus it is only will on the part of officials and people to perform the functions entrusted is necessary. This Act is under operation now. But rampant violations are reported by media’s every day. Even in the name of the public purpose certain violations takes place unnecessarily. A small state like Kerala having three international airports tries to fill the larger extent of paddy fields fort establishing a fourth one. The question is does we need a fourth one at the cost of losing a large area of wetlands and paddy lands? The land mafia plays a great role which could not be controlled even by the stringent provisions of this Act. As many other pieces of legislation, the law to protect wetlands and paddy fields have not been foolproof. One of the recent proposals for position of any paddy land reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from the holder or occupier of the said paddy land, as the case may be, so reclaimed after giving him a reasonable opportunity of being heard.

31 Refer Section 16 (8) of The Kerala Conservation of Paddy Land and Wetland Act, 2008. While entrusting the right to cultivate such paddy land under sub-section (4) the following order of priority shall be followed, namely:-(i) Padasekhara Samithis or Joint Farmers Societies; (ii) Self Help Groups; (iii) the Kudumbasree Units functioning in the Grama Panchayat/Municipality where the paddy land is situated.

29 See The Kerala Conservation Paddy Land and Wetland Rules, 2008, rule (vi)
development of projects on reclaimed land, which has reportedly come up for official consideration, was for establishment of a golf course, a hotel, and luxury resorts in the Kuttanad area of Alappuzha district. The project, if sanctioned, aims at reclamation of 180 hectares of wetland, named Methran Kayal. What are our developmental priorities deserves to be considered. Even Kuttanad, the granary of Kerala is not spared, he said. The area under paddy in this region has shrunk to around 37,000 hectares from around 55,000 ha. The Kayals are allegedly being reclaimed rapaciously for converting into resorts, townships with golf courses. The “Rani kayal” (lake) included in the Rs1,860-crore Kuttanad package created by M.S. Swaminathan Research Foundation in order to bring it back to paddy cultivation, has gone into the hands of a major private group engaged in financial and tourism business. Thus the provisions are not implemented in its letter and spirit.

There are not any provisions under this Act to make the whole community aware of the need for conservation. But there are certain hopes from here and there, which shows that people are becoming more and more vigilant in protecting and bringing up a life style in tune with the nature or bringing back our traditional life style.

There are certain questions which comes to our mind while deciding the priority for cultivation. What are the other crops which can be allowed other than paddy which do not affect the nature of paddy fields both in nature and quality. It mainly relates to its environmental protection. Under the shield of seasonal crops certain Cole paddy lands are being permanently converted to aquaculture areas. These results in serious ecological problems. This makes saline water intrusion into water aquifers creating drinking water shortage in the surrounding areas.

While analyzing the role of judiciary it is sad to notice the absence of positive activism from the part of High Court to incorporate the principle of sustainable development, while dealing with the cases under this Act. It allowed certain violations and it becomes a precedent in the subsequent cases to follow.

Thus, before implementing any legislation of this type i.e. controlling land use or exercising control over property rights mass awareness is to be created. Environmental awareness and the need to protect ecology should be given utmost importance or else we will face severe

30 R Ramabhadran Pliiai, The land question: paddy fields or a place to live? Times of India, reported on January 14, 2012

31 Conservation of paddy lands are necessary because of the various ecological functions of paddy fields which cannot be done by any other area of land and they can be summarized as Maintenance of fertility and productivity such as Biogeochemical cycling, Biosphere stability, Primary production, Biodiversity, Hydrological function, Ground water recharge, Ground water discharge, Absorption and control of floodwater. Another function is water purification function, Habitat of plants, predators and microorganisms, Economic services to human utilization, Production of fish, Medicinal plants, Grass and green leaves for livestock population, Recreation facilities etc. Though the environmental resources are under private control, several stakeholders are involved in their use. People in the locality consider them an open access property for collecting grass/fodder, catching fish, gathering medicinal plants and collecting wild vegetables for consumption and materials (like reed, cane and wild grass) for housing and handicrafts and also see G.K. Nair, No Food, no Water in Lush Kerala, Times of India, reported on March 7, 2013

consequences for the coming generations. Creation of farming culture in the society is necessary. Farmers should be given respectable position in the society. The youth should be made aware of the ecology. Thus only by the community awareness and acceptance such a legislation could survive in our community. National policies should be more farmer oriented. Agricultural subsidies and the promotional measures for the farmers are to be made clear every year through medias and every type of assistance both technical and scientific are to be given to them.

Unsustainability in agriculture should be removed. Price escalation and the market forces must be controlled to the favour of farmer. Farmers should not be put to a loss at any cost. All round prosperity of the farmers are to be ensured. They should be given more infrastructure facilities to fulfill the entire communities’ aspirations by the farming community. More over the governments should have the will to strictly implement the provisions\(^3\) of the Acts passed for the protection of such ecological reserve for future generation. Agricultural services are to be strengthened to protect the farming community and paddy fields.

\(^3\) The principle of cost-effect analysis and impact study are to be made the bounden duty of the committees involved in taking decision regarding conversion. They should not be mere stumps acting on the basis of the evidence produced by the intended applicant. This would add momentum to the implementation.
Land Use Controls in Kerala with Special Reference to Ecologically Fragile Areas

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Abstract: Land is a prime resource; it is ultimately in the government but the immediate ownership of vast areas are with the private individuals. Lower cost of agricultural produce and unsustainably and uncontrolled developmental measures created great pressure on land- most of agricultural lands got converted to urban lands, barriers removed from other places collected for filling this area, sand, rock and many other land resources exhausted. Water bodies depleted. Food security is affected. Natural ecology is tilted. wetlands, estuaries, river basins, command areas, paddy fields, forests and finally the ecologically and environmentally fragile areas are affected. Socially, psychologically all these measures have seen laws are many but not working and unenforceable. The state has reached that for sustainable and effective land use control, necessary question is how to achieve a better standard of measurement; the major question to be answered is “how the sustainable development can be achieved through the land use legislations.”

Keywords: Land use controls- sustainable development- ecologically fragile areas- private land use

1. Introduction

Land remains to be the prime resource gifted to man by the creator of earth. Each living thing had equal right towards everything on earth. But due to the decreasing capacity of man he dominated the whole world and remains to be the supreme creature of earth. Unhindered use of land and its resources were not restricted by any norms rather than self-regulations and there was no awareness about the concept of environment until the 1950’s. The call from the Rachel Carson through her “Silent Spring” made certain changes in the whole world regarding the need for the protection of environment. But the knowledge or the concept of protection of environment was not enough to control the degradation of environment during that time. The degradation continued unabated. The whole resources of earth got polluted and there remains nothing in the world with its pristine purity. The land is not exception to it. It was mainly affected by the unrestricted use of it. This is mainly due to the lack of proper planning and co-ordination between the authorities. Land is one of the scarce resource and sometimes can be said to be non-renewable if it has lost its characteristics. Land comes within the sovereignty of each nation and therefore the nature and extent of land possessed by each nation determines to a certain extent the development of the nation. The policy regarding the land is determined by the political ideology followed by each nation. Here we are concerned about the land of India and especially Land of Kerala. When we consider the land of Kerala we have to consider the land of India because the polity of land ownership is laid down in the Constitution of India. The perusal of the Constitutional debates shows that the policy which India wanted to follow was a socialist one rather than giving protection of Individual ownership considering the needs of the society as a whole. But this does not allow the state to take away the ownership rights of individual unreasonably. The concept of public purpose and eminent domain continues to be most debated while dealing with the taking away the property rights of individuals. The real question who is the ultimate owner of land? Is it individual or the State? To what extent the state can interfere in the bundle of ownership of individual. What is the scale for determining the balancing of rights? etc. still remains in our mind without a clear answer. Who is responsible to propagate and practice the principle of sustainable development? The answer is that the responsibility lies with the state. If it is to the above questions to be answered giving more importance to the sides of the state. This is because the state is responsible for the development of the individual and the society as a whole. In such circumstance the state should be given certain prominence in taking the decisions regarding the land use. The topic is one of the most debated and arouses curiosity from the whole population including the focal people.

2. Literature Survey

Legislative power on land use is vested in state governments and central government have a little power on the subject. Improper and unscientific land use has given rise to various problems like draughts, floods and water shortage. Improper land use leads to adverse impact on the environment and ecosystem. This emphasis the need for a recording land use. There is a general feeling that the existing Land Use Board in Kerala has not been able to work out proper schemes for scientific land use. The studies conducted by National and International agencies show that land use management in Kerala is in a dismal state. In Kerala there is large scale shifting from food-arable to cash crops and conversion of agricultural land for non-agricultural purposes. Even environmentally fragile areas like wet lands, paddy fields, command areas and mangroves are also destroyed. This has led to the decrease in quality and availability of fresh water. It is believed that lack of a comprehensive land use policy is the major cause for this situation. The present study is an attempt for a critical and systematic analysis of the land use patterns followed in Kerala.
It is also proposed to examine whether the legal system has helped in formulating a comprehensive, eco-friendly and economically viable land use management in Kerala.

Study aims at identifying the Kerala laws and regulations bearing on land use controls. Various schemes and practices evolved for this purpose from time to time will be collected and examined. The problem of dichotomy of control over land use and multiplicity of authorities exercising these powers will be examined. The powers of central and state governments and municipal authorities will be evaluated. For this purpose, the international obligations undertaken by India in its implementation in the National level will be studied. The practices followed by different countries of the world, in this regard, will be collected and analysed. The laws in other states of India and its implementation will also be the subject matter of the study.

The thrust of land use laws will be examined to find out whether it is adequate to protect environmentally fragile areas like command areas, wet lands, paddy fields and mangroves. The data on adverse impact on improper land use in these areas will be collected and analysed. Land use policies formulated in Kerala and other state of India will be collected and studied. The land development, land zoning, land conservation laws will be given special attention. Decisions of higher courts relating to land development and planning will be studied to see whether they are capable of promoting environment friendly land use pattern. Statistical data relating to land use pattern will be collected.

This work will analyze the legislations and the attitude of judiciary towards controlling the use of land by the individuals. For this purpose similar situations in other countries also will be perused. The land remains the hottest topic because of the increasing density of population. This calls for the most proper sudden and long term action from the part of the state to put into practice the principle of sustainable development. The existing legislations to protect the ecologically fragile areas is inadequate. Society also is not aware of this situation and its long term consequences. Any action both from the state and the society can bring adequate changes and this can be facilitated through a strong legislative policy exclusively dealing with land use and its implementation without any hesitation.

3. Research Methodology

The researcher has proposed to adopt the socio-legal method in researching in this work. The primary sources are legislations, committee reports, and forums and National case-laws. The secondary sources are Articles, Books, Web Sites, News Papers and Magazines. To assess the implementation of the legislations a field study is also to be undertaken.

4. Results

The extent to which the state can control the individual right to property. How this problem is addressed by different legal systems. Indian constitutional scheme provides that land is a state subject and the obligation to implement the international conventions lies with the centre. There are many conflicting areas how is this resolved. Use of fragile areas deserves special attention and protection. It has high economic value and another aspect of environmental protection and assuring food security. An effective role covering all aspects of land use and environmental protection under the umbrella legislation of Environmental Protection Act, 1986 would be the best outcome of this research.

5. Conclusion and Future Scope

Land use is becoming restricted day by day. This has raised the cry from all sections of community. As all components of ecosystem is interlinked so comes the land use. In ancient days use of certain lands were prohibited. The scope of land use controls were very limited because the land was vast and the pressure of population was limited and therefore the need of restriction was only for protection of divinity of sanctity of certain areas. Another purpose of land use controls was encouraging cultivation to the best possible extent. People had enough reverence for the environment and they had a symbolic relation with the environment. Therefore, depending on the social needs those restrictions were sufficient. But the ownership of the whole land was considered to be vested in the king who gave protection of life and liberty of people. The use of land (individual ownership) was considered at a grant issued by state. For that they paid tax to the state for the produce of land and in most cases it was restricted to 1/6 of the produce of land. This concept could be observed from the writings of Manusmriti and the four principles of Hinduism. But the individual ownership was restricted based on the use of land for cultivation and promotion of cultivation was one of the aims of every kingdom. Because they believed that the maintenance of the kingdom depended on the agriculture. The earlier wars were mainly fought for land and the resources of land. Even during the medieval dynasties also we could observe the similar pattern of limited restrictions. Certain areas of special importance and special protection were unnecessary for the individual ownership. Other areas could be used by the individuals for their agricultural purpose. But the ultimate ownership of land remained with the king.

The advent of British rule changed the property relations in India to a great extent. They were not concerned with the welfare of the people. Their only aim was the augmentation of exchequer and for that they exercised all possible controls over the lands. They collected revenue in excess rules. They also introduced the permanent settlement of land revenue. The collection of revenue was entrusted with certain influential middle men, who had no actual connection with the land and they were not the owners of land but later they were turned as owners of land. This was really a reproduction of feudal system followed in Britain. The legislations concerning the acquisition and forest and planning and zoning enacted. The outlook of the Acts reflected a resource protection approach but the ultimate aim was plundering the wealth
of India without any hindrance under the pretence of ecology and development. There were restrictions on the use of land but those changes were not at all catering to the protection or upgrading of environment.

Before the independence it was voice against the existing system of property relations. Therefore during the constitutional debates there were two sided arguments for the change in property relations. Individualistic arguments showed that property to be vested with the individual and the state shall have no control over it. But the opposite arguments were mainly for the societal protection. Therefore they argued that the property to be ultimately vested with the state even though the ownership can be enjoyed by individuals. Their rights can be restricted for a social need. They also argued that the principle of equity while deciding the matter of compensation shall apply to the society and not to the individual. It was also decided to rearrange the property relations by introducing the concept of land reforms based on the principle of land to the tiller. But the intended aims could not be achieved as envisaged and this paved the way for constant conflict of legislature and the judiciary. The judiciary was not able to understand the noble intention of the framers of the constitution and always stood for the intention of the feudal lords. Therefore the balancing approach of the constitution of right to property as fundamental right and the needs of the society as directive principles of state polity was filtered. It abrogated the property rights to simplify a legal right.

The perusal of these periods shows that the philosophy justified the use and enjoyment and possession of land. But the absolute right to property was not recognized and protected anywhere. The right to enjoyment of land allowed to the extent that the fruits of the soil are not spoiled. Once it was proved to be against this policy it could revert back to the common pool and can be possessed or enjoyed by any one. The community ownership of land in turn gave way to individual holding of land by the industrial revolution. This brought in changes not only in the property relations but in the mental setup of man itself. He became greedier and the value of money acquired much more importance rather than it was before. Therefore the aim of man from the individual satisfaction or societal satisfaction changed to greediness. It led to amalgamation of wealth for gnomes and acquisition of landed property for near and dear ones. From there onwards the legal concept of ownership as a bundle of rights with great complexities arose. Planning, Zoning and restrictions over the use of lands were found to be necessary and the state emerged as an entity with the responsibility for the protection of individual and society arose. Therefore the conflict of individual and society also arose as a necessary evil. This situation still continues with more intensity now also. No comprehensive studies covering the sustainable and environmental aspects of land use is undertaken in Kerala till this day. The topic has a great future because all conflicts start from the property concept and continues in the property concept and it shall remain to be so. This is to conclude with the land remains the most important element of property.

Author Profile

Mrs. Dayana M.K., Assistant Professor of Law Government Law College Thrissur, having more than nine years of teaching experience. Her career as a teacher began in 2006 at M.S. Ramaiyah College of Law Bangalore, thereafter continued to School of Legal Studies, CUSAT, Cochin and thereafter joined the Government service in 2011. She has got 4 national publications and various paper presentations in National Seminars across India. Shortly submitting research thesis on “LAND USE CONTROLS IN KERALA: WITH SPECIAL REFERENCE TO ECOLOGICALLY FRAGILE AREAS” under the guidance of Dr. A. M. Varkey.
RESUME

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Career Objective
Being a devoted person, want to be part of legendary organisation to contribute towards the growth of the organisation, based on my expertise and to further my personal capabilities by learning from the new exposure within the structured framework of the organisation

Key skills and Management

Proven leadership and Management skills
Goal oriented
Managing change
Motivating and developing
Seeking Challenging assignment’s in an organisation of high repute

OVERVIEW

➢ Qualified L.L.M (Masters in Law) Post Graduate from the famous Cochin University of Science and Technology, Kerala, India and L.L.B (Degree in Law), B.A.L (Bachelor of Academic Laws) from reputed Mahatma Gandhi University, Kerala India.
➢ Specialised in Intellectual Property Rights, Environmental Law and sub specialisation in Human rights Law.
➢ Second rank holder from M.G. University for L.L.B in 2002
➢ Submitting Ph.D. October 2015[ Land Use Controls in India with special Reference to Wetlands] in School of Legal Studies, Cochin University of Science and Technology
➢ Qualified University Grants Commissions Test for teaching in Law colleges and Universities.
➢ Submitted thesis in [Antarctica a common concern of mankind] as a part of dissertation for Master’s Degree.

 Instrumental in chalking out strategies for student career developing and day to day operations.

 Expertise in study material preparation, conducting exams, seminars, moot courts and group discussions.

 Skilled in MS office.

 Possess superior working knowledge, skilled in teaching, administration, organisational and time management capabilities.

### CAREER CONTOUR

#### Current work Experience

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Government Law College, Thrissur</th>
</tr>
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<tbody>
<tr>
<td>Duration</td>
<td>June 2011 onwards</td>
</tr>
<tr>
<td>Designation</td>
<td>Assistant Professor Law</td>
</tr>
<tr>
<td>Location</td>
<td>Ayyanthole, Thrissur, Kerala</td>
</tr>
</tbody>
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Transferred as per government order to Government Law College, Ernakulam, on July 25th onwards. Position and duties remain the same.

#### Job Profile

- Handling classes on Bachelor and Master students of Law in various law subjects
- Conducts exams, seminars, workshop and group discussions.
- Conducts National trial advocacy
- Joint co-ordinator in National Seminar
- Conducts interclass moot court competitions
- Handles class moots and drafting of various legal documents
- Handles class charges and various social activities for students
- Handles internship coordination for students by adopting them to various governmental and nongovernmental organisations.
- Responsible for handling paper works.
Previous Assignments

1) Organisation : School of Legal Studies, CUSAT
Duration : 2007 October onwards
Designation : Lecturer in Law
Location : CUSAT, Cochin 22

Job Profile

- Handling classes on Bachelor and Master students of Law in various law subjects
- Conducts exams, seminars, and workshop and group discussions.
- Conducts National seminars
- Conducts interclass moot court competitions
- Handles class moots and drafting of various legal documents
- Handles class charges and various social activities for students
- Handles internship coordination for students by adopting them to various governmental and nongovernmental organisations.
- Undertakes editing of CULR
- Responsible for handling paper works.

2) Organisation : School of Legal Studies, CUSAT
Duration : 2006 September onwards
Designation : Guest Faculty of Law
Location : CUSAT, Cochin 22

Job Profile

- Handling classes on Bachelor and Master students of Law in various law subjects
- Conducts exams, seminars, and workshop and group discussions.
- Handles class moots and drafting of various legal documents

3) Organisation : M.S. Ramaiah College of Law, Bangalore
Duration : 2005 October onwards
Designation: Lecturer in Law  
Location: Madivala, Mattikkara, Bangalore

Job Profile

- Handling classes on Bachelor and Master students of Law in various law subjects
  Conducts exams, seminars, and workshop and group discussions.
- Handles class moots and drafting of various legal documents

Professional Experience

- Enrolled as an advocate on the roll of Bar Council of Kerala in 2003.
- Practiced as a Junior to R.R. Nair since the passing of LLB

Job Profile

- Practice in various civil and criminal cases.
- Experience in drafting legal documents
- Handling various legal problems and suggesting the settlement for various problems

Awards

Second Rank Holder in L.L.B. from M.G. University

Publications

6. States control over Land Use: Reconciling the Conflicting Needs in Indian Journal of Legal Philosophy pp37-48 ISSN 2347-4963
Land Use Controls in Kerala with Special Reference to the Ecologically Fragile Areas in International Journal of Science and Research (IJSR)

Achievements

Acted as key speaker in International Lecture Series 1 under the Auspices of Barrister M.K. Nambiar Chair organized by School of Legal studies, Kannur University on September 2014.

1 Religious and Ethical Objections to New medical technologies: A Human Right Analysis.-In UGC sponsored National Seminar on human Rights, SLS
2 Scope of Regulation Over admission to self-Financing Professional Colleges.-In national Conference on self financing Professional educational institutions: Role of State, SLS
3 Cyber crimes and Criminal procedure System :Cyber defamation.-In UGC Sponsored national Seminar on human Rights (Human Rights and criminal Justice administration), SLS
4 E-Commerce and taxation –In UGC Refresher course ILI Delhi
5 Data Protection Laws and Right to Privacy ( India )-In UGC sponsored National Seminar on Trips and Globalization :Legal Frame work and Challenges ,GLC EKM
6 Change in Land Use in Kerala :The Neo Colonial Trends.- In National seminar on Conservation of Paddy Lands and Wet Lands in Kerala :The Socio –Legal Perspectives, SLS
7 Whether Clinical Legal Education Effective or Not?-In National Seminar on Reforms in Legal Education :The Global Challenges or National Demands, SLS
8 Dignity of Women through various legislations - In National seminar on Human Rights of the Socially Excluded, GLC, Thrissur
9 Concept of Safe food and Eco Mark in India- in National Seminar on Food Safety: emerging Trends in India, SLS, CUSAT

Workshops and seminars

1 Attended public law lectures on Right to life and Capital Punishment conducted by School of Legal studies in 2010
2 Attended two day National Seminar on Right to Health Care held at School of Legal Studies in 2010
3 Participated in interdisciplinary national workshop on woman and law at GLC Ernakulum in 2011
4 Attended the interdisciplinary National Workshop on Child Abuse: Medico Legal Perspectives held at GLC, Thrissur in 2012
5 Acted as moderator in National workshop on Law, Democracy and Social Justice: Critical Perspectives held at GLC Thrissur 2012.
6 Participated in the training programme for Law Teachers on Curriculum Reforms in Law held at SLS, CUSAT in 2012
7 Participated in one day national workshop on Depreciation of Indian Currency: reasons and counter measures held at GLC, Thrissur, 2013
8 Participated in one day National workshop on River Sand Mining: the role of law in balancing interests held at NUAlS, Kochi in 2014.

Coordinator

1 Functioned as academic faculty in All Kerala Trial Advocacy and Moot Court Competition for Justice T. Ramachandran Memorial Ever Rolling Trophy in March 2013
2 Acted as Joint co-ordinator in two day National seminar on Access to Medicine and patent laws held at GLC, thrissur in 2013
3 Acted as coordinator of National Trial advocacy and Moot Court Competition for Justice T. Ramachandran Memorial Ever Rolling Trophy in February 2014
4 Acted as coordinator of Interclass Moot Court competition held at GLC, Thrissur in 2011.
5 Acted as joint coordinator of National Trial advocacy and Moot Court Competition for Justice T. Ramachandran Memorial Ever Rolling Trophy in September 2014
6 Acted as coordinator of National seminar on Conservation of Paddy Lands and Wet Lands in Kerala :The Socio –Legal Perspectives, SLS.
7 Acted as person in charge of handling internship programme for L.L.B students and placement cell in GLC, Thrissur
8 Examinership in Natioanl university of Advanced Legal Studies since 2007
9 Question paper setter of Arunachal University Rono Hills, Itanagar in 2009
10 Question paper setter for Cochin University of Science and Technology from 2012 in various law subjects.
11 Passing Board Member in Kannur university and Cochin University in various exams.
12 Examinership in Cochin University of Science and Technology and Kannur University.
13 Examinership of Calicut University since 2011.
14 Examinership in M.G. University from 2015.

**Refresher Course**

Participated in the refresher course organized by Indian Law Institute New Delhi, on “Cyber Laws” in 2008 with an A grade.

**Educational Qualifications**

<table>
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<th>Subjects/ Specialization</th>
<th>Institution/University</th>
<th>Year</th>
<th>Class/Rank</th>
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<td>Ph.D under</td>
<td>Environmental law and land laws</td>
<td>Cochin university of Science and Technology</td>
<td>2015</td>
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<td>evaluation</td>
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<tr>
<td>LLM</td>
<td>Jurisprudence, Intellectual</td>
<td>School of Legal Studies, Cochin University of Science and</td>
<td>2005</td>
<td>1st class CGPA 7.04</td>
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<td>Property Law, Environmental Law</td>
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<tr>
<td>LL.B</td>
<td>All Compulsory Subjects</td>
<td>Govt. Law College, Ernakulam Mahatma Gandhi University</td>
<td>2002</td>
<td>1st Class, 71% 2nd Rank</td>
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<tr>
<td>Plus II</td>
<td>Science</td>
<td>Fathima Girls Hr S.School, Nilgiries</td>
<td>1997</td>
<td>Distinction,89%</td>
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**PERSONAL INFORMATION**

Name: Dayana M.K.
Name of Father: Mr. M.T. Kunjachan
Age: 35yrs
Date of Birth: 14/01/1979
Gender: Female
Marital Status: Married.
Language Proficiency: English, Hindi, Tamil, Malayalam, Arabic (to read and write only)
Hobbies: Music, Gardening, Cooking

**Reference**

(Prof.) Dr. A.M. Varkey
Retd. Professor/ research guide
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Mob: 9446140150

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Calicut University P.O., Kerala
Teaching experience: 25 years
Ph. 9947448811
Mail: mercythekkekara@gmail.com
I hereby declare that all the information furnished above are true to the best of my knowledge and belief.

Aluva

Dayana M.K.