Chapter-II

IMPERATIVES FOR ENVIRONMENTAL LEGISLATION AND CONSERVATION

The man "no longer lives overwhelmed by the scale of his natural environment. It is the environment that is beginning to be overwhelmed by man. In other words, man interacts with the natural environment through a complex system of relationships embracing the entire planet in which causes and effects are often separated by dimensions of space and time, and that transed conventional geographical, national and institutional boundaries. Science has a powerful methods that produce knowledge, and knowledge changes people's beliefs. On the other hand, the scientific achievements have changed the picture, the image of the universe and the earth, of the man and his role in creation radically from different than the earlier picture of the time of Copernicus and Newton.

However, it is the scientific revolution that is changing people's beliefs about what is valuable. The impact of scientific revolution is to change people's values in the sense of increasing their concern about 'the quality of life' that is, about the quality of the
Integration of Environmental Consideration in the Program Cycle

Provide environmental briefing profiles, strategy studies, etc. Discuss with CPM.

Participate in CPM: liaise with government agencies & NGOs.

Review focus, scope & environmental intervention with CPM.

Participate in CPM: liaise with government agencies & NGOs.

COUNTRY PROGRAMMING MISSION (CPM)

POSITION PAPER PREPARATION

INTERDEPARTMENTAL REVIEW

COUNTRY PROGRAM PAPER (CPP) FINALIZATION

Prepare & review terms of reference for CPM on environmental matters.

Modify, if necessary environmental interventions: finalize CPP; identify needs for further review.

Participate as required in interdepartmental review.
culture they live in. But ultimately it leads to environment decay, mounting pollution, materials and energy shortage, and a widening gap between rich and poor. Technological advances in defence which lead to the threat of worldwide destruction. The rising standards of living lead to world over exploitation. Advances in communication and transportation lead to greater urbanization and increasing risk of social breakdown from action by very small groups. Industrial engineering efficiency leads to the de-humanization of work and so on. The recent liberalization globalization and the race of multinational companies as well as the strategy of geo-business lead the environment at the brink of devastation.

Emissions from industry, transport and from domestic energy consumption, impose serious costs of health and productivity. These specific problems stand out for their effect on human suffering. About 1.3 billion people of the world live in the urban areas that do not meet the standards of health set by the World Health Organization. They face the threat of serious respiratory disorders and cancers. Air pollution has three man made sources: energy use; vesicular emissions; and industrial production.
Planning Hierarchy in Developing Countries Showing Various Approaches for Incorporating Environmental Needs

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Many of the consequences of pollution and loss of biodiversity are evident today. Some environmental threat will have their main effects in the future. That creates special problems for policymakers with limited resources who must decide how much to devote to addressing known threats to present population and how much to uncertain and irreversible hazards to future generation. Greenhouse warming on account of the principle greenhouse gases increases of carbon dioxide and the methane in areas of natural wetland, rice paddies, and livestock. Burning of fossil fuels and use of refrigeration are the main source of CO2 and HCFCs. Among all countries about 50% emission comes from the USA and the European Economic Community and China and Russia also (Medows, D., 1992). Among third world, India and Brazil are main countries for such effects. There is some agreement that climate change induced by greenhouse warming may cause drier soils in midcontinental areas and lead to a substantial rise in sea levels. The plausible argument that tropical storms will become more frequent.

In 1985 the appearance of a dramatic ozone reduction over Antarctica was confirmed. Ozone depletion is mainly the result of increasing atmospheric concentration of
J
AIR, WATER, LAND
and
BIODIVERSITY
(Plants, Animals & Micro-organisms)
Fundamental Capital Stock: occurs as
Individuals, Populations, Communities &
ECOSYSTEMS
Terrestrial, Freshwater & Marine

ECOLOGICAL
PROCESSES
- Photosynthesis
- Carbon, Phosphorus,
  Nitrogen, Oxygen,
  Sulphur and other
cycles
- Water cycle
- Soil formation

ORGANIC
EVOLUTION
- Mutation,
  Recombination and
  Natural selection
- Speciation
- Competition
- Predation/Parasitism
- Mutualism
- Co-adaptation and
  Co-evolution
- Survival of the
  Fittest

- Living Mantle forms an interconnected, interrelated and interdependent system
- Autosustainable and self-regenerating, if no natural and man-made perturbations
- Fuelled by Solar energy: The only external input

Interactive components of Biosphere
chlorine originating from CFCS. The largest ozone impact is over Antarctica. An important consequence of ozone depletion is an increase in solar ultraviolet radiation received at the earth’s surface. Biologically damaging UV has more than double during episodes of ozone depletion in Antarctica. Recent studies show that increased UV radiation in Antarctica during the peak of the ozone hole is sufficient to cause some seasonal decline in the production of vegetative plankton. The larger impact on marine productivity and ecosystem is not yet understood.

As for the availability of fresh water by the year 2100 A.D. when the population of the world would cross 10.5 billion, the per capita availability of fresh water would decrease from the the present average between 100 to 800 cubic meters per person. Massive investment will have to be made country-wise for preventing population and for desalinization, re-cycling and conservation of fresh water for the 1 billion people in developing countries who do not have access to clean water and 1.7 billion who lack access to sanitation. These are the most important environmental problems and their effect on health are shocking; they are major contributor to the 900 million cases of diarrrhial diseases every year which causes the
death of more than 3 million children. 2 million of these deaths could be prevented if adequate sanitation and clean water are available. At any time two million are suffering from schistosomiasis and 900 million from waterborne diseases. However, the most widespread contamination of water is from disease-bearing human wastes.

Intensive cultivation of land without conservation of soil fertility and soil structure would ultimately to the point of no return. Irrigation without arrangement for drainage would result in soil getting alkaline or saline. Indiscriminate use of pesticides, fungicides and herbicides would cause adverse changes in biological balance as well as lead to an increase in the incidence of cancer and other disease through the toxic residues being present in the grains or other edible parts. The rapid replacement of numerous locally adopted varieties with one or two high yielding strain in large contiguous areas would result in the spread of serious diseases capable of wiping out entire crops as happened prior to many countries. At the mid-century, Indian farmer cultivated 50,000 varieties of rice but by 2000 A.D. they will probably grow not more than 50. India kill 9000 tonnes of frogs every year and consequently 9000 tonnes mosquitoes
and crop pests survive daily. The lack of an integrated approach to pest control has led to the re-emergence of many diseases.

Forest, especially mostly tropical forests, coastal and wet lands, coral reefs and other eco-system are being converted or degraded at rates that are high by any historical standards. Tropical forests have declined by 1/5th in this century and the rate has accelerated. In 1980’s tropical deforestation occurred at a rate of 0.9% a year. The loss of forests has severe ecological and economic costs-lost watershed protection, local climate change, lost coastal and fishing grounds and affects people’s lives. The tropical forests still cover more than 1.5 billion hectares: and they are the richest ecosystems in biomass and biodiversity on land. Biological diversity - a composite of gene information, species and ecosystem - provides material wealth in the form of food, fiber, medicine and inputs into industrial processes. There rewards are already threatened by the loss of biological diversity as revealed by the studies conducted in the mid 1980’s by the International Union for the Conservation of Nature and Natural resources (IUCN) and UNEP indicated that 65% of original wildlife habitats in tropical Africa
and 65% in tropical south and east Asian countries have been converted to other uses.

The economic factors are solely responsible for the degradation of the environment (Lutz, E., 1993). Today the discipline of economics and its practices as basic tools used in allocating resources are being challenged on many fronts. By and large, most economists have tended to ignore those social and environmental variables that do not fit into their theoretical and practical models. Economics and its modern tools, such as cost/benefit analysis, have now begun to obscure social and moral choice and prevent a vital, new, national debate about what is valuable. The business cycle themselves are created by economists rather than market, as they alternately inflate and deflate the economy. Such aggregate demand management control addresses the structural problems of our complex nature of economy. There is an increasing conviction among resource economists that environmental degradation is an Index of an economy's inefficiency in utilizing resources., many social critics in market oriented economics contend that over all efficiency and general welfare can be improved by shifting resources from the private to the public
sector of an economy. Nature may gain systemic stability through decentralization and diversification.

**Imperatives and Strategies**

Now the mankind is on the brink of critical position not only for their present generation but also for the future generation. There is a needs to find out ways and means to implement the safeguard for the safe and secured environment.

**Scientific Imperative**

Burning of fossil fuels is the main agent for the environmental degradation. Hence there is a need to shift on to renewable sources of energy. At present there is a need to implement H.T. Odum’s energy model. He was the pioneer of energy modelling, quantative method of tracking nature’s flow of energy and matter, which is fast becoming more predictive than economical. Odum’s system convert kilo calories into dollars so that economists can see an account for such work performed by natural system in their traditional cost-benefits analysis. For example, in converting CO2 from combustion back into oxygen or converting industrial wastes and sewage into fuel and fertilizer Odum’s method of measuring efficiency of
production and extraction processes in the form of "net energy" is given wide acceptance. According to the environmental protection Agency, recycling 1000 tons of steel require 70% less energy and 51% water than those the same amount of virgin materials.

**Solid waste management Resource conservation and land protection:**

The solid-waste problem seen as a harbinger of greater challenges to come. The American scientists analysed that if the total mixed waste of the world is channelised, then they produce one third energy, 7% Iron, 8% aluminum, 5% copper, 18% tin, 3% lead and 14% paper of the world with our present demonstrated technology. Secondly, there is a need to use other sources of energy, such as: solar energy; wind energy; tidal energy; ocean thermal power conversion; geothermal energy and biogas energy. These sources of energies are not only environmentally favourable, but also economically cheap and through which we can enhance our development perspective.

**Implementation of Ecodevelopment:**

The concept of ecodevelopment or ecologically sound development had been developed by the UN Environmental
programmes. The development should respect the local ecosystem, it should conserve resources, using renewable resources wherever possible, it should minimize waste and recycle as much as it can. According to the growing population and their demand the net result is the future will be only the case of destruction of the environment (Brown, J.W., 1988). In this situation sustainable model of development is the only alternative method to conserve the environment. For this the following ways are important as the whole paradigm of the development: Agro-forestry and Social forestry, Integrated pest management; shift from chemical to ecological agriculture; watershed development and labour oriented technology.

About 10% of area of the world either manmade or natural wasteland, but for the environmental conservation, there is a need to use properly in the form of forestry and natural habitants. Consequently, It will be possible to established proper environmental balance in their surrounding areas.

Socio-Economic Imperatives:

If economics is to develop even more precise tools to assess the trade in resource allocations, then it needs
to incorporate new data being developed by the physical science, concerning those actual values in the macro-biosystem. Environmentalist expressed the strongest disaffection with corporations, and argued that the theory of economics should not be consumption oriented but should be resources and environment oriented. Economists and Environmentalist have to come close and work in collaboration (Sadler, B., 1992). There is need to make a framework of environmental development rather than economic technological development. The society should not think individually and regionally, but they should think about the environment globally. The following social imperatives are important: Control of population growth; Environmental attitude in the society rather than economic; Rich and poor should think from the same platform about the environment; There is a need to remove the hindrance of North and South dialogue and there is a need to create global society. The above agenda is important for the upkeep of the environment.

Environmental Agenda For The 21st Century

Environment should be included in the priority agenda of the development process at global, regional and national levels (Latika Nath, 1992). It should constitute
the popular agenda (Kimball, L.A., 1992). Issue concerning environment in the 21st century likely are to be:

1. Tropical rain forest and bio diversity conservation;
2. Global environmental concern on climate change, depletion of ozone layer, and transboundary pollution;
3. Population, poverty and environment issue;
4. Industrial and toxic waste;
5. Energy efficient and conservation for economic environmental benefit;
6. Finding environmental projects and resource accounting;
7. Technology transfer and research for appropriate technology;
8. Human Resource development and quality of life

This all could be possible by integrating environmental considerations into the: the Program Cycle; Planning Hierarchy and Environmental needs; Project Cycle; and Economic policies for sustainable development. The two accompanying figures very well illustrate. The basic framework:

1. Integration of environmental consideration in the Programme Cycle
2. Planning Hierarchy and Incorporation of Environmental Needs in the Developing countries.

**Environmental Legislation and Laws**

In response to the worsening global environmental problems, a number of International environmental regimes have been framed in recent years, comprising both 'hard law' and 'soft law'. In the last two decades from the Stockholm Conference to the Rio Earth Summit - a spate of administration as well as legislation measures have also been taken in developed as well as developing countries (Sanwal, M., 1992). As a result, the legal measures taken to protect and improve the environment have gradually crystallized into an evolving body of "Environmental Law". As a major developing country, India has a well-developed body of environmental laws. India is the only country having an article on environment in our constitution. India is a signatory to practically all International Conferences and Conventions on Environment. India has passed several statutes recently for the protection of environment. The recent ones are Insecticides Act, 1968; Wild Life Protect Act, 1972-86; Water Pollution Act, 1977; Forest (Conservation) Act, 1980; Air (prevention and control of pollution) Act, 1981. Mention may also be made
of the Bhopal Gas Leak Disaster (processing of claims) Act, 1985. Of the recent statutes, the most important is the Environment (protection) Act, 1986.

Man's awareness of his environment i.e. to keep the environment hospitable to man, to maintain the balance in ecology began after the World War II, to be more precise, during the last three decades. The Indian Constitution has laid a new important trail in the section on Directive Principles of State Policy by assigning the duties for the State and all citizens through article 48A and article 51A(g) which state that the "state shall endeavour to protect and improve the environment and to safeguard the forests and wild life in the country" and "to protect and improve the natural environment including forests, lakes and rivers and wild life, and to have concern for the living creatures."

Environmental problems in India can be classified into two broad categories:
1) Those arising as negative effects of the very process of development; and
2) Those arising from conditions of poverty and under-development.
The first category has to do with the impact of efforts to achieve rapid economic growth and development and continuing pressures of demand generated by those sections of society who are economically more advanced and impose great strains on the supply of natural resources. Poorly planned developmental projects are also often environmentally destructive.

The second category has to do with the impact on the health and integrity of our natural resources (land, soil, water, forests, wild life, etc.) as a result of poverty and the inadequate availability for a large section of our population of the means to fulfil basic human needs (food, fuel, shelter, employment, etc.). Needless to say, the two problems are interrelated.

Man’s capability to transform his environment can bring the benefits of economic development and an opportunity to enhance the quality of life. But this same power, incorrectly applied, can also cause incalculable harm to the natural environment and consequently to human life. The United Nations is very much conscious of the world-wide, problem of maintain the environment safe for human beings. The first United Nations Conference on Human Environment (Stockholm, 1972) unleashed a spate of
administrative and legislative measures for environment protection in both developed as well as developing countries.

The U.N. Conference on the Human Environment was held at Stockholm in June 1972 in which:

1) The principles and action plan for controlling and regulating human environment were evolved, and

2) Institutional and financial arrangements were envisaged for achieving that purpose. U.N. Conference on Human Environment of Stockholm in 1972 proclaimed thus: The protection and improvement of human environment is a major issue which affects the well-being of people and economic development throughout the world and it is the duty of all governments and people to exert common efforts for the preservation and improvement of human environment for the benefit of all people and their posterity.

The Charter of Economic Rights and Duties of States of (1974) states: "The protection, preservation and the enhancement of the environment for the present and future generations is the responsibility of all states. All states have the responsibility to ensure that the
activities within their jurisdiction or control do not cause damage to the environment of other states or of areas beyond the limits of their national jurisdiction. All states should co-operate in evolving international norms and regulations in field of the environment."

If the journey from the Stockholm Conference to the Rio Earth Summit 1992 (U.N. Conference on Environment and Development, 1992) has witnessed worsening of the global environmental problems, it has also provided an impetus to the centralisation of law-making process at the international level. This has led to a number of international environmental regimes (e.g. CITES, ozone layer, climate change, biological diversity), comprising both 'hard law' and 'soft law'. Several regional organizations (e.g. the European Community, the SAARC) have also set in motion environmental regulations and action plans. At the global level it is the United Nations Environmental Programme (UNEP) which is in cooperation with other United Nations agencies, including the United Nations, Economic Commission for Europe (ECE), is mandated to find solutions for the most pressing issues in that field. A global environmental strategy elaborated under the auspices of UNEP was adopted by the U.N. General
Assembly in 1987. The report of the World Commission on Environment and Development (WCED), also referred to as the report of the Brundtland Commission (1987), introduced the concept of 'Sustainable Development' which is now widely accepted as a guiding principle for the integration of environmental considerations to all economic activities and social policies.

**Need of Environmental Laws and their Typology**

The menace of pollution of air and water in industrial towns is assuming dangerous proportions. The need to curb and control the menace has been universally accepted. It is also universally recognised that law is the only effective instrument to curb and control the menace of pollution. To ensure full implementation and effective enforcement of the pollution control law, it is necessary to import meaningful and worthwhile education of the subject so as to train a cadre of personnel fully aware of the dynamics of law.

It is indeed a matter of satisfaction that largely due to the effort of the United Nations, there is a growing awareness of the need for an environment free from pollution. In the United States of America, right to a
H habitable environment is regarded more important than the fundamental rights. It is, therefore, not surprising that in 1969 the United States Congress enacted the Environmental Policy Act elevating the public interest in the environment to the status of a legal right. The Act expressly recognised that each person should enjoy a healthful environment. All agencies whose activities affect the environment are obliged to show that ecological impact of their plans does not impair the developing environmental right.

In India happily the importance of the subject had been realised quite early. It was in June 1948 that the Ministry of Health, Government of India had appointed the Environmental Hygiene Committee with wide ranging terms of reference. The committee submitted its report in 1950 and made significant recommendations, among others, on the following aspects.

1) Town and village planning;
2) Water supply;
3) Collection and disposal of community wastes;
4) Light and air;
5) Pollution of streams, lakes and beaches;
6) Industrial environment;
7) Hygiene of the rural environment.

It also suggested adoption of suitable measures for organisation and administration of the control machinery and for training the personnel to make it a success. The Government of India recognised the use of law as an effective instrument to control the menace as early as at the beginning of the twentieth century and enacted the Bengal Smoke Nuisance Act, 1905. In recognition of the felt need for environmental protection, various regulation and promotional measures have been taken in our country over the past twenty years. These include:


Broadly Environmental Laws can be divided into two parts: Structural Environmental Laws; and Functional Environmental Laws. Briefly the structural framework of various environmental laws can be outlined as follows.

1) **Protective Legislation** concerning human being and non-human beings. These laws protect human beings and other from the unjust harm caused by other human beings.

2) **Planning Legislation** concerning production and distribution (demographic). Planning legislation concerning production is aimed at regulating the use of resources in such a way that an ecological equilibrium is maintained. Planning legislation concerning distribution is aimed at structuring the social space in such a manner that the advantage gained from the natural environment is equitably distributed amongst those sharing it.

Functionally, all laws concerning the environment can be classified into three basic types:

1) **Primary Laws**: Those which directly govern the activities of the citizens and corporate bodies. These define the legal duties and rights of the concerned
people, including the sanctions to be imposed in case of violations.

2) **Secondary Laws** : Those which govern the activities of Government Boards, Departments, and Non-Governmental Organisations (NGOs), vis-a-vis the citizens and the corporate bodies. These define the powers, immunities, rights and duties of such bodies.

3) **Tertiary Laws** : Those which define the activities of the State. These pertain to the basic constitutional arrangements between the states and the Centre, as well as between the States themselves, vis-a-vis the legislation of primary and secondary laws.

**Modern Legislation in India** : The most comprehensive legislation in India for the prevention and control of water (and air) pollution are the following:

1) **The Water (Prevention & Control of Pollution) Act, 1974.**

2) **The Water (Prevention & Control of Pollution) Amendment Act, 1978.**

3) **The Water (Prevention & Control of Pollution) Less Act, 1977.**

4) **The Air (Prevention & Control of Pollution) Act, 1981.**

The Air Pollution Control legislation envisages the setting up of Air Pollution Control Boards at the Centre as well as in the states with power to issue and revoke licences to polluting industries, enforce emission standards and to frame rules and regulations for the control of air pollution (Section 16 & 17). The Act envisages an integrated approach for tackling the environmental pollution problems by laying down that the Central Board and State Boards for the prevention and Control of Water Pollution constituted under the Water (Prevention & Control of Pollution) Act, 1974 shall also perform the functions of the Central Board as well as the State Board for the prevention and control of air pollutions (Section 3-6).

Conservation of Forests and Wild Life:

Adoption of a New Forest Policy (1988) with the principal aim of ensuring ecological balance through conservation of biological diversity, soil and water management, increase of tree cover, meeting the requirements of the rural and tribal population, increase
in the productivity, efficient utilisation of forest produce, substitution of wood and people’s involvement for achieving these objectives. Under the *Forest (Conservation) Act, 1980* stringent provisions for preventing diversion of forest land for any other purpose are there setting up of the National Wastelands Board is landable step to guide and oversee the waste lands development programme by adopting a mission approach for enlisting people’s participation, harnessing the inputs of science and technology and achieving interdisciplinary coordination in programme planning and implementation.

**Conservation of Natural Resources**

*Land and Water*: An integrated land and water management approach is extremely important to sustain the food production, animal husbandry and other activities (Pearce, D., 1989). Amelioration of water-logged and salt affected lands, command area development, protection of good agricultural land against diversion to urban and other uses, prevention of land fragmentation, maintenance of sustained productivity of soil and conservation of lands with forests and vegetal cover are the integral components of sustainable management (Goodland R. & Daly H., 1991).
The steps to be taken for sustainable use of land and water should include the following:

1) Classification, zoning and apportionment of land for designated uses such as, agriculture, forestry, grassland, green areas, industrial activities, catchment areas and water sheds and human settlements based on assessment of their capabilities and environmental considerations.

2) Enactment of laws for appropriate land uses to protect the soil from erosion, pollution and degradation.

3) Protection of land near water bodies and prevention of construction thereupon.

4) Measures to ensure equitable access to and responsibility for sustainable use of land and water resources.

Environmental (Protection) Act, 1986:

In order to give a fuller effect to the decisions reached in the Stockholm Conference of 1972, a more comprehensive, bolder and general piece of legislation was framed in the form of the Environmental (Protection) Act, 1986, which is described as an Act to provide for the protection and improvement of environment and for matters connected therewith. The Act was passed for the following
objects and reasons - for the protection, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents threatening environment and deterrent punishment to those who endanger human environment, safety and health. Environment has been widely defined under the Act as inclusive of "Inter relationship that exists among and in-between water, air, land and human beings, other living creatures, plants micro-organisms and property."

**Role of Non-Governmental Organisations**

Implementation of the conservation strategy would be impossible without active participation of the people. NGOs play an important role in mobilising the people at grassroots (Scarce, R., 1990). This will need a network among NGOs to interface between the people and the Government to work on community involvement, providing information on environmental surveillance and monitoring, transmitting development in science and appropriate technology to the people at large.

NGOs, citizen groups and village level institutions like forests, panchayats, and Gram Sabhas should be empowered with locus standi and support for mobilisation
of public opinion and participation in development activities. Managerial capacity of the NGOs should be strengthened. Training programmes for NGOs on regional basis should be organised. An advisory cell for rural NGOs should be made available at all district headquarters.

Women at the grass root level should be actively involved in the conservation programmes which should be income generating and self financing and sustainable on a long term basis and the Government Ministries, Departments should have an NGOs cell or at least Liaison Officer for interaction with the NGOs, basically dealing with women and their role in environment (Rodda, A., 1992).

The continued degradation of the human environment is the gift of modern living, technological advancement, industrialisation and urbanisation. The economic development now enjoyed by the developed states was sometimes achieved due disregard to the preservation of the environment. The irony of the situation is that the more the economic development and industrial development in the world, the more, the danger to the environment. Sacrifices are needed among the affluent countries of the world which are more industrialised than others and enjoy greater power and wealth. They have to devise ways of re-
orienting and redirecting economic growth towards environmentally compatible activities and towards greater satisfaction of non-material needs, of their seeking a more balanced distribution of industrial activity and of adopting such practices or devices or technologies which are less harmful to the environment.
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