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Green Collar Crimes – A Crime against Environment and Wildlife

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ABSTRACT

In the current world scenario Green Collar crime is one of the major concern of the India as well as all over the world. Basically, Green Collar Crime are those crimes which are committed against the Environment and wildlife. Green Collar crimes are designated under the organized criminal activities in the world and comes under the fourth largest areas of crime in the list of structured crimes around the world. The criminal activities against the Environment and wildlife are increasing steadily and its adverse effect on ecosystem and the enormous damage to humankind attracted the world's attention towards these crimes committed against the nature on the daily basis.

The present paper is an attempt to mark the crimes committed against environment and wildlife. It mainly focuses upon statutes, laws and policies in India, relating to environmental protection and prevention. This paper shall also briefly discuss the various existing National and International legal framework (environmental protection) which are available and their applications, problems and remedies available for it.

Keywords: Environment, wildlife, crime, protection, pollution.

I. INTRODUCTION

Environment plays an important role for the existence and regulation of life on this earth. It has provided all possible resources which leads to comfortable life. Main elements of Environment are air, water, soil, living organisms, solar energy and without these elements life is impossible. Each and every biotic element on this earth is dependent and surrounded by the environment. Human beings are considered as the most intelligent living creature on this earth but despite being most intelligent creatures human affected the Environment the most through their activities which lead to mass destruction. As humans evolved, he began to damage the Environment for his own benefits for making human life more comfortable then before. In spite of being most intelligent living creature of the earth, humans became the first and foremost criminals of the environment because of his own activities. Over time, crimes

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against environment kept on increasing with high speed and now it has become a serious problem all over the world. The crimes committed against environment and wildlife are not only the crimes committed against the nature but also a crime committed against the humanity because of the harmful and revert back effects of the environment faced by the humans itself in return.

The list of crimes against environment and wildlife is so long that it can't be discussed in detail but some of the most common environmental and wildlife crimes such as deforestation, air and water pollution, landscape degradation, destruction of natural flora and fauna, illegal dumping of chemical waste, trading wildlife illegally, smuggling of resources, poaching, illegal logging, unreported fishing, boulder mining from the rivers moving through forests etc. According to a survey done in India, the cases against wildlife and environmental crimes increased about 790% in 2017 from that in 2016, which was a tremendous jump of crime cases against environment within a year. Though many laws and legal actions are initiated by the government to control and stop crime against environment and wildlife but no laws and actions can fix the damage caused to the environment till now but it can be reduced if implemented strictly and properly. To sum up all these crimes against environment and wildlife into one, the concept of Green Collar Crime has been made which is a subdivision of white collar crimes. Green Collar crimes specifically deals with the Environmental and wildlife crimes. Green Collar Crimes, despite being a very serious topic of concern it has been neglected for so long until the time it has become a serious topic to take a lawful actions against the criminals of the environment. Criminal activities against environment committed by humans for making their lives more comfortable and easy, gave the invitation to enormous amount of damages to ecosystem, wildlife and animals and also the lives of human beings.

II. ENVIRONMENTAL CRIME AND INTERNATIONAL LAW

International law provides the platform for the States to come together and frame a standardized guidelines or rules for protection and conservation of environment and wildlife. The major efforts in modern International law started with The Stockholm Conference in 1972 which was the first ever truly International inter governmental conference devoted solely to issues related to environment. This created International awareness on Environmental degradation and prompted the countries to make legislations related to Conservation and protection of Environment and wildlife and its related elements. The Rio declaration on Environment and development 1992 supported the domestic legal frameworks further in attaining the goal of sustainable development. The major international legal

instruments deals with issues and crimes related to environment and wildlife are as follows:

a) Convention on International Trade in Endangered Species of Wild Fauna and flora 1973.

This convention was formulated to regulate International Trade on wildlife. It is a legally binding treaty and currently protects more than 5000 species of animals and 29000 species of plants. This convention encourages the nations to adapt domestic legislation to ensure implementation of its objectives. It works on the concept of permit and prohibition on International Trade on any of the listed species without its prior permission. It also states that parties to the convention are obliged to take appropriate measures including penal measures to prevent violation of the convention provisions through penalisation on return of traded goods.

b) The convention on protection of migratory species of wild animals 1979.

This is the first international treaty which dealt with the protection and prevention of migratory species. It is an umbrella convention which provides for regional and multilateral arrangements between the parties to the convention to come up with measures for protection of migratory species of wild animals in their migratory range.

c) The Basel convention on the control of Trans boundary movements of hazardous wastes and their disposal 1989.

The main objective of this convention was to protect human health and environment against the adverse effects of hazardous waste. It covers Hazardous Wastes and also other waste including household waste and incinerator waste. It tries for International Corporation in reduction of hazardous waste generation, promotion of proper waste management, restrictions on trans boundary movements and the regulatory system. The convention works on the basis of the prior informed consent. The state of export shall notify the states of import and trans it and provide them with detailed information on the intended movement of the hazardous waste and the movement is only possible when all states have given their written consent.

d) The Stockholm convention on persistent organic pollutants 2001.

Persistent pollutants are those substance which remain in a nature for a long time and adversely affect the environment or ecology. Persistent organic pollutants includes pesticides, industrial chemical substances and other chemicals. This convention aims to protect environment and human health from harmful persistent organic pollutants by limiting the production and eliminating the use of POPs.

e) Rotterdam convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in International Trade 1998.

This convention deals with pesticides and industrial chemicals that has been banned or severely restricted for health and environmental reasons. This creates legally binding obligations on the states with regard to the implementation of prior informed consent procedure and it also encourages the prevention from hazardous waste causing harm to environment and its elements

III. LEGAL FRAMEWORK IN INDIA

(A) Constitutional Provisions

The Directive Principles of State Policy contained in part IV of the Indian Constitution set out the aims and objectives to be taken up by the states in the governance of the country.

Article 48A was added by the 42nd Amendment Act, 1976. This article talks about the Protection and improvement of Environment and safeguarding of forests and wildlife which requires the State to take such steps for protecting and improving the environment and to safeguard the forests and wildlife of the country.

Part IV A of the Indian Constitution consists of only one article i.e. article 51A which was added by the 42nd Amendment Act, 1976, it talks about the fundamental duties which are implemented on citizens of India.

According to Article 51A (g) it is the fundamental duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.

CASE :- M.C.Mehta v. Union of India²

The Supreme Court has held that under article 51-A (g) it is the duty of the Central Government to introduce compulsory teaching of lesson at least for one hour in a week on protection and improvement of environment in a the educational institutions of the country. It directed the Central Government to get textbooks written on that subject and distribute them to the educational institutions without any money charges. In order to arouse amongst the people, the consciousness of cleanliness of environment, it suggested the desirability of organising – keep the city clean week, keep the town clean, keep the village clean week in every city, town, village throughout India at least once in a year.

² (1983) 1 SCC 471.

(B) Environmental Protection Act, 1986

This act came into force on the ninth day of November, 1986. The two main reasons behind the enactment of this act was, Bhopal gas tragedy in 1984 and to implement the decision of Stockholm declaration. During the incident of Bhopal gas tragedy in 1984 there were no laws that can fix the liabilities of such hazardous cases and looking at this situation and to deal with such hazardous cases, the Environmental Protection Act, 1986 was introduced under Article 253 of the Indian Constitution which gives the power to the Indian parliament to make laws for the benefits of the country. The main objectives of Environmental Protection Act was to protect the forests and wildlife of the country, to protect and improve the environmental conditions, to fill the gaps or deficiencies of previous acts , to make coordination between State government and central government, to coordinate the activities of the various regulatory authorities, to create an authority to regulate and deal with the discharge of environmental pollutants and hazardous substances, to provide the punishment to those who knowingly cause harm to environment.

This act is divided into four chapters. Chapter 1 consists of section 1 and 2, which deals with short titles and definition clauses. Section 3 to 6 comes under chapter 2 which deals with general powers of Central Government to protect and improve the environment, rules to regulate environmental pollution and appointment of officers and their powers to give directions. Chapter 3 consists of section 7 to section 17 which talks about prevention, control and abatement of environmental pollution. Section 18 to section 26 is given in chapter 4 which talks about miscellaneous provisions of the act.

CASE: S.Jagannath v. Union of India³

The petitioner, Chairman, Gram Swaraj Movement, a voluntary organisation for uplift of weaker section of society, filed a writ petition under Article 32 by way of a public interest litigation seeking the enforcement of Coastal Zone Regulation Notification of the Government of India stopping of intensive and semi intensive type of prawn (small fish) farming in the ecological fragile costal areas, prohibition from using the waste land, wet lands for prawn farming and the constitution of a National Coastal Management Authority to safeguard the marine life and coastal areas. It was contended that a large number of private and multinational companies have started setting up shrimp farm in the coastal areas of the country causing serious threat to the environment and ecology of these areas. The Court held that setting up of shrimp (small fish) culture farms within the prohibited areas and in

³ (1997) SC 811.

ecological fragile coastal areas have adverse effect on environment and coastal ecology and economics and, therefore, they cannot be permitted to operate. Shrimp culture industry is neither “directly related to waterfront” nor “directly needing foreshore” facilities and cannot be allowed to be set up anywhere in the Coastal Regulation Zone under CRZ notification. The damage caused to ecology and economics by the aqua culture farming is higher than the earning from the sale of costal aquaculture produce. The court further held that the traditional type of shrimp farming are environmentally benign and pollution free. But the modern technological type of farming using chemical to create more produce create pollution and degrading effect on the environment and ecology and therefore such type of shrimp farming cannot be permitted. The court issued comprehensive direction for the regulation and control of shrimp industries in the coastal areas. It directed the Central Government to constituted high power authorities for granting permission for installation of shrimp industry. The authority so constituted by the Central Government shall implement the “Precautionary Principle” and the “Polluter Pays” principles. The court held that the employees of the industries directed to be closed are entitled to retrenchment compensation and 6 years wages as additional compensation.

(C) Wildlife (Protection) Act, 1972.

This act was enacted on ninth of September in the year 1972. The main objective behind the enactment of this act is to protect and conserve the wild animals, birds and plants or simply the wildlife of the country. The provisions of this act are similar to an international agreement known as Convention on International Trade in Endangered Species for wild fauna and flora (ITES). National Board for Wildlife was constituted under this act, which provides recommendations and guidelines for the formulation of policies for the protection and conservation of wildlife species of the country. This act comprises of 7 chapters, 6 schedules and 66 sections. Chapter 1 of this act consists of section 1 and 2 which talks about short titles, extent, commencement and definitions. Chapter 2 starts from section 3 and continues till section 8 which gives description about the authorities to be appointment or constitutes mentioned under this act. Chapter 3 talks about the prohibition and permission for hunting of wild animals. Section 18 to section 38 are mentioned under chapter 4 which gives information about protected areas for wildlife species which includes natural parks, sanctuaries , zoos and restricted areas. Chapter 5 includes section 39 to section 49 which discusses about the trade or commerce in wild animals, animal articles and trophies. Chapter 6 of the act provides the penalties, punishments, prevention and detection of offences committed against the wild species. Chapter 7 defines miscellaneous provisions from section

59 to section 66 mentioned under the act. Despite of 7 chapters and 66 sections this act also contains 6 schedules. Part II of the Schedule 1 and 2 defines Absolute protection for wild species and strict punishments and higher penalties including fine, imprisonment or both for harming wild species of the country. Whereas in the schedule 3 and 4 the punishments and penalties are less in comparison with the penalties and punishments mentioned under schedule 1 and 2 of the act. Schedule 5 is considered as exception because it allows hunting of certain animals. The last Schedule i.e. 6th schedule deals with the plants or flora of the country and related provisions, penalties and punishments.

CASE: - T.N. Godavarman Thirumulpad v. Union of India.⁴

A writ petition was filed, seeking protection for directions to prepare rescue plan to save wild buffaloes from extinction, the plea of the State Government stated that there were lack of funds to undertake various programs for protection of wild buffalo, was held to be not defensible. The state government was directed to give full effect to centrally sponsored schemes for saving wild buffaloes from extinction.

(D) Forest (Conservation) Act, 1980.

Forest Conservation Act is one of the smallest act with of only 5 sections but the most important act of environmental law. This act came into force on 25th of October in the year 1980. This act aims conservation and protection of forests and its flora and fauna, deforestation and degradation and to stop illegal and unnecessary consumption of the forest resources. This act is applicable in whole of India and covers all types of forests i.e. reserved, protected and any forested land. Under this act there is a national forest policy which was signed in 1980, this policy prohibits state government for declaring any forest as non-reserved which means state government cannot use forest land for commercial purposes without the prior permission of the Central Government of India. Forest (Conservation) ACT, 1980 allows the government to take immediate actions or stop any illegal non-forestry activity within a forest. Section 1 of the act consists short title, extent and commencement of the act. Section 2 says that restriction on the dereservation of forest or use of forest land for non forest purpose which means that State government or any other authority cannot use or give permission to use forest land or area for commercial purposes without the prior permission and approval of Central Government of India. Clause iii and iv of the section 2 of the act which was inserted by the Amendment Act, 1988 clause (iii) talks about the prohibition on leasing of forest land by the state government to any private person, authority,

⁴ (2012) SC 1254.

organisation, corporation, agency or commercial body. Whereas clause (IV) talks about enhancing forest conservation and increasing forest covering area upto 30 percent of total forest land area. Section 3 provides constitution of advisory committee for the grant of approval given under section 2 and other matters related to protection and conservation of forests. Section 3A and 3B are the provisions related to penalties for contravention and offence by the government departments and authorities. Section 4 of the act provides the Power to central government to make rules regarding protection and conservation of forests and its related matters. Section 5 is about repeal and saving provisions. The amendments under the act provides the provisions related to prohibition on cultivational activities in forest area, survey and exploration is completed prohibited in protected and reserved forest areas. Amendments under this act also provides some provisions which allows non forest activities like mining, but with prior permission from the Central Government.

CASE: State of Tripura v. Sudhir Kumar Ranjan Nath⁵

In this case, the power of the State Governments to regulate the transit of timber and other forest produce provided under Article 42 of the Indian Constitution was challenged as violation of freedom of trade and commerce. The Supreme Court held that the Forest Act is primarily enacted to preserve, protect and promote the forest wealth of the country and collection of revenue is regulatory measure to achieve the this objective. Similarly, to regulate cutting, removal, transport and possession of forest produce is in the interest of State and its people. Therefore, control of the State over forests and over collection of forest produce and movement of drift and standing timber is right in consonance with the provision of Constitution.

(E) Water (Prevention and Control of Pollution) Act, 1974.

Water (Prevention and Control of Pollution) Act was enacted in the year 1974 with the main objective to prevent and control all type of water pollution related to all types of water bodies in the country and also maintaining and restoring wholesomeness of aquatic resources. Another important objective behind this act is to establish the central and state boards or committees for the prevention and control of water pollution. This act also prohibits the disposal of polluting substances into aquatic bodies of the country.

This act includes 8 chapters and 64 sections. Chapter 1 and 2 mainly talks about definitions of water pollution and terms related to it, maintenance and restoration of of quality of all types of water bodies whether it is surface water bodies or underground water bodies and

⁵ (1997) SCC 665.

establishment of central and state boards for controlling and preventing water pollution. Whereas chapter 3 of the act defines joint Boards and its composition, constitution and special provisions relating it. Chapter 5 and 6 consist of provisions which gives information about powers, functions, emergency measures and duties of Central and State Boards established for the control and prevention of water pollution. Sections under chapter 6 is about contribution and funds of central and state boards, budget, annual report, accounts and audit. Chapter 7 is an important chapter of the act, as it comprises of provisions related to penalties, punishments and procedures against people or person who fails to fulfil the basic requirements of the act related to water prevention and control. Last chapter of the act that is 8th chapter consist of miscellaneous provisions.

CASE: - M.C. Mehta v. Union of India.⁶

In this case the Supreme Court ordered the closure of tanneries at Jajmau in Kanpur, polluting the river Ganga. The petitioner brought a public interest litigation against Ganga water pollution requiring the court to issue appropriate directions for the prevention of Ganga water pollution. The court said that notwithstanding the comprehensive provisions contained in the Water (Prevention and Control of Pollution) Act and the Environmental Protection Act, no effective steps were taken by the government to stop the grave public nuisance caused by the tanneries at Jajmau, Kanpur. In the circumstances, it was held that the court was entitled to order the closure of tanneries unless they took steps to set up treatment plants.

(F) Air (Prevention and Control of Pollution) Act, 1981.

The formation of this act is based upon the guidelines of the United Nations Conference on the Human Environment held in Stockholm in the year 1972 which stated that every country should take required and appropriate measures for the preservation of the air quality and control and prevention of air pollution. On 29th March, 1981 Air (Prevention and Control of Pollution) Act came into force with the purpose of prevention and control of air pollution. This act is applicable in whole of India. It has 7 chapters divided into 54 sections which are similar to Water Act, 1974. Chapter 1 is a preliminary chapter which deals with the definition of the air pollution and its related matters. Chapter 2 and 3 sets out the responsibilities, powers and functions of Central and State Boards for preventing and controlling air pollution. Whereas chapter 3 lays down the provisions related to the actions and procedures followed by the central and state boards for the Prevention and Control of air pollution. Chapter 6 is about the contributions and funds of central and state boards, budgets, annual reports, accounts and

⁶ (1988) 1 SCC 471.

audit. Sections under chapter 7 describes the procedures adopted by the boards, punishments and penalties imposed in case of non-compliance with the formal requirements mentioned in the act. And the last chapter i.e. 8th chapter comprises of miscellaneous provisions of the act.

CASE : - M.C. Mehta v. Union of India⁷ (Pollution of Taj Mahal)

In this case the petitioner, M.C. Mehta, filed a PIL in the court drawing the attention of the court towards the degradation of the Taj Mahal due to the atmospheric pollution caused by a number of foundries, chemical hazardous industries established and functioning around the Taj Mahal, and also requested the court to issue appropriate directions to the authorities concerned to take immediate actions to stop air pollution in the Taj trapezium. Justice Kuldeep Singh, known as a green Judge for his decisions on pollution, delivering the judgement of the court on behalf of the court directed 292 to polluting industries locally operating in the area as the main source of pollution to change over within fixed time schedule to natural gas as industrial fuel and if they could not do so they must stop functioning beyond 31st December, 1997 and be reallocated alternative plots in the industrial estate outside Taj trapezium. The government/corporation would then provide alternative plots to the industries seeking relocation. The closure by December 31st 1997 was unconditional and applicable to new and old both units. The Deputy Commissioner of Agra and the Superintendent of Police would affect the closure of industries. The U.P. State Government would render all assistance to the industries in the process of relocation. The court also took care of rights and benefits of the workers employed in these industries and issued necessary directions regarding their employment in the relocating industries with same terms and conditions and also be provided with all benefits.

IV. PRINCIPLES

(A) Public Trust Doctrine

Ancient Roman empire developed a legal theory which was termed as Public Trust Doctrine. Through time this doctrine was laid down in modern way by Professor Joseph L. Sax. The basic principle on which this doctrine is based is that, the resources like water, air, forests should not be transferred to private ownership because resources are important for the benefit of society at large and no one person has the right over these resources. From traditional aspect this doctrine means that no individual person has the ownership over natural resources, they are for general public use and every person has the right to use them. For the protection of natural resources from over exploitation, Public Trust Doctrine is used

⁷ (1997) SC 735.

as legal and planning tool to fulfil the sovereign's role as a trustee of environment of future generation which means that it is the duty of government to protect the existing natural resources from over exploitation for upcoming generation so that these resources can also be used by future generations in the way it is being used now.

CASE: M.C. Mehta v. Kamal Nath⁸

In this case Public Trust Doctrine was invoked for the first time. In the State of Himachal Pradesh, Span motel, owned by the family members of Shri Kamal Nath, Minister for Environment and Forests, Govt. of India diverted the Course of river Beas to beautify the motel and also encroached upon some forest land. The apex court ordered the management of the Span motel to hand over forest land to the Govt. Of Himachal Pradesh and remove all sorts of encroachments. The Court delivered a land mark judgment and established principle of exemplary damages for the first time in India. The Court said that polluter must pay to reverse the damage caused by his act and imposed a fine of Rs. 10,00,000 on the Span motel as exemplary damages.

(B) Polluters Pay Principle

In 1970, the Polluters Pay Principle was promoted by OCED as a tool to protect the environment on the demands of government and various institutions. Later on it was incorporated into European Community Treaty under Article 102 R (2), which stated that the environmental considerations are to play a part in all policies of the community and to the action can be based on three principles, third one being "polluter should pay". Earlier this principle was considered for economic and administrative measures for controlling pollution but now it is used as a powerful tool for taking actions against environmental pollution and its related matters.

The basis of this principle is that the Polluter is liable for bearing the cost of Pollution because he is responsible for it. Polluter bear the cost of paying compensation to the victims of pollution and another is to restore the environment which means this principle imposes two fold liability on polluter. This principle promotes the idea of 'Prevention is better than cure'. This principle is also used by the Courts to provide preventive relief. This principle was evolved from the rules of absolute liability which was laid down by the Supreme Court in Sri Ram Gas Leak Case.

CASE: - Indian Council for Enviro-Legal Action v. Union of India⁹

⁸ (1997) 1 SCC 388.

⁹ (1996) 3 SCC 212.

An environmentalist organization filed a writ petition under article 32 of the Indian Constitution before the court complaining the plight of people living in the vicinity of chemical Industrial plants in India and requesting for appropriate remedies. The fact was that in a village named Bichari in Udaipur district of Rajasthan. A chemical Industrial complex had been developed and respondents have established their chemical industries therein. Some of the industries were producing harsh chemicals like Oleum and sludge sulphate. The respondent had obtained the requisite licences and nor did they installed any equipment for treatment of highly toxic chemicals effluents discharged by those chemical industries. As a result the water bodies of the village got polluted and became unfit for consumption. Due to the consumption of polluted water some people died and fatal diseases were spread in the village and surrounding areas of that village. The villagers revolted against all this resulting in stoppage of manufacturing 'H' acid and ultimately these industries were closed. But the consequences of their activities remained in existence causing damage to the village. The court requested the National Environment Engineering Research Institute to study the situation and to submit their report. In the technical report, it was found that out of 2440 tons of sludge, about 720 tonnes was still there. With a view to conceal it from the eyes of the inspection teams the respondents had dispersed it all over the area and covered it with the earth. In spite of the court's order they did not remove the sludge. The Supreme Court held that, if by the action of a private corporate body a person's fundamental right is violated, the court would not accept the argument that it is not 'State' within the meaning of article 12 and therefore, action cannot be taken against it. If the court finds that the government or authorities concerned have not taken the action required of them by law and this has resulted in violation of the right to life of the citizen, it will be the duty of court to intervene. The writ was maintainable and directed the government and the authorities concerned to perform their statutory duties under various acts such as Environmental Protection Act, 1986, Water (prevention and control of pollution) Act 1974, Air (prevention and control of pollution) Act, 1981 and Hazardous Wastes (Management and Handling) Rule, 1989. This was a social action litigation on behalf of the villagers whose right to life was invaded and infringed by the respondents as established by the various reports of the experts. The respondents were responsible for all the damage caused to the soil, to the underground water and to the village in general. The central government had power to decide. The principle to determine the liability of the respondents to defray the cost of remedial measures would be, "the polluters pay," i.e. the responsibility for repairing damage would be of the offending industry.

(C)Precautionary Principle

The Precautionary Principle is an important innovation of the Rio Declaration Principle 15 of the Rio Declaration provides that in order to protect the environment the precautionary principle shall be widely applied by the states according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost effective measures to prevent environmental degradation. This principle appeared for the first time in a declaration adopted by international conference of on the north sea in 1987 and is now included in almost all the international instruments related to environmental protection adopted since 1990.

The word precaution itself means to prevent or to be saved. Precautionary principle is one of the essential principle of environmental law, with regards to the sustainable development. The whole aim of the precautionary principle is to take precautions rather than to face the consequences. This Principle is highly based on the foreseeability which means that scientific proofs or facts will not be necessary before taking precautions or actions.

This Principle is basically considered as Rule of evidence which proves the burden of proof in environmental cases. There are four essential features of this principle. First is Environmental Measures, which talks about whether government and statutory authorities should take measures to protect and prevent causes of Environmental degradation. Second, lack of scientific certainty should not be used for applying those measures which are important to prevent Environmental degradation. Third, precautionary duty should not be considered only at the time of danger but should also be followed to reduce the justified risk. Fourth most important ingredient talks about burden of proof. Usually burden of proof lies upon the person who initiates the suit to prove the claims made against the defendant, but in environmental cases this approach is not followed. The onus of proof lies on the defendant to prove that they are not harming the environment this is known as reversal of burden of proof.

CASE: Vellore Citizen's Welfare Forum v. Union of India.¹⁰

In this case the petitioner filed a writ petition by way of public interest litigation drawing the attention of the court towards the pollution caused by enormous discharge of untreated effluents by the tanneries and other industries in the state of Tamil Nadu. It was said that tanneries are discharging untreated affluent into agricultural fields. Waterways, open lands, and rivers rendering the river water unfit for human consumption, contaminating the soil water and had spoiled the physico-chemical properties of the soil making it unfit for

¹⁰ (1996) 5 SCC 650.

agricultural purposes.

The Supreme Court held that such industries though are of vital importance for the development of the country but they cannot be allowed to destroy the ecology, degrade the environment and pose a health hazard and cannot be permitted to continue their operation unless they set up pollution control devices. Justice Kuldeep Singh, who delivered the judgement on behalf of the court, held that while such industries are a vital importance for the country's progress as they generate foreign exchange and provides employment avenues, but having regard to pollution caused by them principle of sustainable development has to be adopted as a balancing concept between ecology and the development. He held that precautionary principle and polluter pays principle are essential feature of Sustainable development and has to be adopted. Remediation of the damaged environment is a part of the process of sustainable development and as such the polluter is liable to pay the cost of the individual suffers as well as the cost of reversing the damaged ecology. The court held that the Precautionary Principle and Polluter Pays Principle has to be accepted as a part of the land law. Article 21 of Indian constitution guarantee protection of life and personal liberty, Article 47, 48 A and 51 A (g) form the constitutional mandate to protect and improve the environment. Apart from the constitutional minded there are number of legislation on the subject which import duty on the governments to precept ecology and environmental pollution. The court directed the closure of these industries unless they installed pollution control devices. All the tanneries are required to obtain the consent of the concerned Board for further operation with effect from December 15, 1996. The court imposed pollution fine of rupees 10,000 on each industry. The money shall be deposited in the "Environmental Protection Fund" and shall be utilised for compensating the affected person and also for restoring the damaged environment. The pollution fine shall be recovered as arrears of land revenue. The tanneries which fail to deposit the amount shall also be liable to the contempt of court. The court suggested for constituting a "Special Bench". "Green Bench" of the Madras High Court to deal with these and other environmental cases as they are in better position to monitor these matters.

V. CONCLUSION

It is very well known that the earth does not belong to man but man belongs to the earth. Whatever befalls the earth befalls the creatures of the earth. Wordsworth said that "*Nature never did betray that heart that loved her*". Pythagoras added by saying that "*For so long as man continues to be the ruthless destroyer of lower living beings, he will never know health*

or peace. For so long men massacre animals, they will kill each other. Indeed, they who sow the seeds of murder and pain cannot reap joy and live". Degradation of environment is not something new. From history itself it is learnt that unscrupulous human activities have resulted in degradation of environment and also the extinction of many creatures of the earth. The impact of man's activities on the environment has resulted in the pollution of environment. pollution not only affects the air water and land but also the organisms in the biosphere. the natural ecosystem has an inherent capacity to decompose that organisms or excreta and recycle them. When harmful substances contaminate the environment in larger quantities, the ecosystem is unable to absorb them and they accumulate in the system resulting in the degradation of the environment. Forest and wildlife are among the most and basic life support systems of earth. They both play important role in maintaining a balanced ecological system. Wildlife keeps food chain balanced whereas forests assist in the essential global recycling of water, oxygen, carbon dioxide and nitrogen. They also influence solar radiation reaching the earth's surface, wind, humidity and temperatures, and does moderate the climate specially the rainfall. They both support an extremely rich biodiversity which provides a wide variety of products and services. The forest wealth is dwindling due to overgrazing, overexploitation for both commercial and household needs, encroachments, unsustainable practises including certain practices of shifting cultivation and developmental activities such as road, buildings, irrigations and power projects.

Environmental Law has been emerged to regulate the impact of human activities on earth, which is considered as one of the most important tool for protection, conservation and management of environment and its resources, while promoting development without destruction. From Stockholm declaration 1972 till date, a lot of discussions have taken place on the need and the Strategies for the protection of environment at the global level. The Stockholm conference triggered legislative and executive actions in many countries. In India, though Conservation of Nature is inherent in the culture and the customary practises of the common man, the legislative activism became vigorous after 1972. This process gained momentum through judicial activism. With responsive judiciary, legislature and executive authorities in India, the environment is sought to be protected from the evil hands of polluters and destroyers of environment. It is not only the duty of the government and its agencies to act against factors responsible for environmental degradation, but also the fundamental duty of citizens and civil societies mentioned under article 51 A (g) of Indian Constitution. Every person need to perform a proactive role to protect the environment at any cost.
