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HUMAN RIGHTS IN ASIAN REGION: ENVIRONMENT SUSTAINABILITY IN A LEGAL SCENARIO

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ABSTRACT
Asia is developing region in the world. The economic conditions in this region are still in poverty and also including much environmental degradation with negative effects on human well being. This paper explains about the developments in between human rights and environment from the legal point of view in the Asian Region. The paper also explains about the procedural aspects of human rights and case laws and the environment decisions that affect them, and the question of access to justice through the courts and other mechanisms. However despite the inadequacy of the Environmental legal frameworks in some countries, particularly in South Asia and South East Asia, the courts have nevertheless been able to achieve significant environment outcomes by using national and constitutional provisions focused on basic human rights, especially right to life. The paper briefly explains constitutional provisions that included references to various kinds of environmental rights and briefly examines the Jurisprudence of human rights and environment in several Jurisdictions to illustrate this phenomenon. All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full; enjoyment of a wide range of human rights. There is a well aware of the recognitions of the links between human rights and the environment. The scope of national and international laws, Judicial decisions, Human Rights machineries has been growing rapidly NHRC and several Judicial decisions like Stockholm 1972 declaration etc., has made a tremendous changes in Environmental policy.

Keywords: *Economic conditions - Asian Region - human rights - environmental rights - national and international laws.*

INTRODUCTION

Asia is the world's largest continent. Asia is bounded by different land masses i.e., on the East by the Pacific Ocean, on the south by the Indian Ocean, and on the north by the Arctic Ocean. Asia has the largest continental economy by both GDP Nominal and PPP in the world, and is the fastest growing economic region. As of 2018, the largest economies in Asia are China, Japan, India, South Korea, Indonesia and Turkey based on GDP in both nominal and PPP. Based on Global Office Locations 2011, Asia dominated the office locations with 4 of the top 5 being in Asia: Hong Kong, Singapore, Tokyo and Seoul. Around 68 percent of international firms have an office in Hong Kong.Asia is the largest continent in the world by a considerable margin, and it is rich in natural resources, such as petroleum, forests, fish, water, rice, copper and silver. Manufacturing in Asia has traditionally been strongest in East and Southeast Asia, particularly in China, Taiwan, South Korea, Japan, India, the Philippines, and Singapore. Japan and South Korea continue to dominate in the area of multinational corporations, but increasingly the PRC and India are making significant inroads. Many companies from Europe, North America, South Korea and Japan have operations in Asia's developing countries to take advantage of its abundant supply of cheap labour and relatively developed infrastructure. Asia has both the highest and the lowest points on the surface of Earth, has the longest coastline of any continent, is subject overall to the world's widest climatic extremes, and, consequently, produces the most varied forms of vegetation and animal life on Earth. In addition, the peoples of Asia have established the broadest variety of human adaptation found on any of the continents. Asia is bounded by the Arctic Ocean to the north, the Pacific Ocean to the east, the Indian Ocean to the south, the Red Sea (as well as the inland seas of the Atlantic Ocean—the Mediterranean and the Black) to the southwest, and Europe to the west. Asia is separated from North America to the northeast by the Bering Strait and from Australia to the southeast by the seas and straits connecting the Indian and Pacific oceans. The Isthmus of Suez unites Asia with Africa, and it is generally agreed that the Suez Canal forms the border between them. Two narrow straits, the Bosporus and the Dardanelles, separate Anatolia from the Balkan Peninsula. The land boundary between Asia and Europe is a historical and cultural construct that has been defined variously; only as a matter of agreement is it tied to a specific borderline. The most convenient geographic boundary—one that has been adopted by most geographers—is a line that runs south from the Arctic

Ocean along the Ural Mountains and then turns southwest along the Emba River to the northern shore of the Caspian Sea; west of the Caspian, the boundary follows the Kuma-Manych Depression to the Sea of Azov and the Kerch Strait of the Black Sea. Thus, the isthmus between the Black and Caspian seas, which culminates in the Caucasus mountain range to the south, is part of Asia.Environmental trends in South Asia generally correspond to the development trajectory observed in the EKC as pollution through growing industrialization has become one of the key environmental characteristics of South Asia. Unlike East and Southeast Asia, South Asia has been a relative latecomer in industrial terms (Kumar, 2020a), meaning that South Asian economies had to industrialize rapidly in order to offset the relative late launch of industrial production. Pollution has increased as a direct result of this rapid industrialization (The Energy and Resources Institute, 2019). Levels of air pollution as a result of significant GHG emissions, for instance, can be treated as an indicator for the extent of environmental degradation. Air pollution is primarily measured in particulate matter (PM2.5). The concentration of harmful materials suspended in the air is measured in μg/m3 (pollution in micrograms/cubic meter), with 10 μg/m3 being defined by the World Health Organization (WHO) (2005) as the long-term guideline for acceptable levels of air pollution. In South Asia, however, the annual mean in air pollution levels between 1990 and 2015 was 24 μg/m3 (Krishna et al., 2017), more than twice as much as deemed acceptable by the WHO. Air pollution is even more extreme in urban areas, with 91.2% of the region's population living in areas that register pollution rates of 35μg/m3, making South Asian air some of the most polluted in the world (Krishna et al., 2017). Most of this pollution is the product of growing economic activity, primarily in urban areas (Usman et al., 2019). Growing industrialization is also positively correlated with growing rates of urbanization: although South Asia as a whole is still not as urbanized as other developing regions, urbanization has increased and is usually paired with a decrease in environmental protection and growing environmental degradation (Satterthwaite, 2009). As such, industrialization, demographic growth and urbanization reinforce the growing emission of GHG (Vallero, 2014). Environmental trends in South Asia thus follow the model developed by Kuznets.

Growing environmental degradation has multifaceted effects that can come to negatively shape the long-term sustainability of economic growth models. Heightened urbanization and the extent of air pollution in urban areas, harmful for the inhabitants of these spaces, results in a growing necessity for governments to invest in public health services. More extreme weather patterns also mean that much of the land becomes less cultivable, with weather patterns likely to become more extreme as degradation increases (Kan et al., 2012, p. 17). This is especially an issue for countries such as India and Pakistan, where almost half of the cultivable land is already arid or extremely degraded (Kakakhel, 2012). Considering that nearly 60% of South Asia's population is employed in the agricultural sector (Trading Economics, 2021), growing environmental degradation poses not just structural issues for short-term economic revenues and employment structures but also for long-term food security considerations. These trends, shaping revenues and government expenditures, have direct economic effects: for a big economy like India, for instance, the total cost of air pollution is estimated to range between 4.5% and 7.7% of the national GDP and is likely to double by 2060 (The Energy and Resources Institute, 2019). Growing resource scarcity issues exacerbated by global warming also overlap with potential health issues, for instance as water scarcity can lead to water-borne diseases (Ebi& Hess, 2020). As such, the current extent of environmental degradation, which is likely to rise further as industrialization increases, will create additional economic and governance problems for the region.Environmental degradation can be seen as one of the greatest challenges currently facing Bangladesh. The country has been ranked the 6th most climate-affected country in the world by the Germanwatch Global Climate Risk Index (2017) as it is vulnerable to all effects of global warming, including growing floods, storms, landslides and rising sea levels (Chowdhury et al., 2020; Environmental Justice Foundation, n.d., Kreft et al., 2016). The implementation of effective environmental policies is also key to ensure the sustenance and sustainability of the Bangladeshi agricultural sector (Remais et al., 2014). Domestic lawmakers have sought to involve various governmental agencies in the formulation and implementation of environmental policies, ranging from the Ministry of Power to the Ministry of Environment and Forests and the Sustainable Energy Development Authority. Policy initiatives have predominantly focused on the reduction of methane emissions and on facilitating research into innovative technologies and their implementation. The National Energy Policy seeks to encourage more sustainable ways of production, distribution and use of energy while real estate development initiatives focus on the use of renewable energy sources to reduce emissions. Lastly, the private sector, in combination with non-governmental organizations, has also been setting up initiatives in order to help support climate change policies (Chowdhury et al., 2020). In recent years, climate change has emerged as a key area of policy interest in Bangladeshi politics.

While all of these initiatives seem to be steps in the right direction, their results leave room for significant improvement. Energy consumption has increased further as the national population has grown, coal power continues to be utilized despite clean energy initiatives and corruption undermines the implementation of environmental initiatives on the ground (Manni & Afzal, 2012). This highlights that the design of policy is insufficient if this policy is not also implemented in practice. Bangladesh's economic and demographic trajectory makes it appear likely that GHG emissions and associated issues connected to pollution will only

increase in the coming years if no further regulatory steps are taken. Pakistan's environmental policies find their roots in the 1983 Pakistan Environmental Protection Ordinance (PEPO) and have evolved into the National Environmental Action Plan (NEAP) of 2001. Besides the formulation of environmental policies on a national level, Pakistani businesses and government agencies are also expected to make use of the Environmental Impact Assessment (EIA), which can be defined as *"a process of examination, analysis, and assessment of planned activities with a view to ensuring environmentally sound and sustainable development"*, including the *"collection of data, prediction of impacts, comparison of alternatives, evaluation of mitigatory and compensatory measures, and the formulation of environmental management and training plans"* (Riffat et al., 2006, p. 17-18). The formulation of management tools such as the EIA indicates that environmental concerns play at least some role in the mind of Pakistani lawmakers.

Human Rights

Human rights are the basic rights and freedom that belong to all people in the world, from birth to death. These rights are based on shared values like dignity, equality, fairness, respect, and independence. These ethics are protected and defined by the laws of various countries. Human rights are important because no one should be abused or discriminated against, and because everyone should have the chance to develop their talents. Unfortunately, many people around the world don't have these basic rights and freedoms. Some human rights are more visible than others. It's much easier for people relate the rights like right to vote, or the right to a fair trial in a court of law. These are often related to the roles of government and the democratic process. But some human rights are basic and more fundamental, and often unknown to the public. For example, the right to health is one of the most important, yet overlooked. Without health care, people can't fulfill their basic needs, like getting a good night's sleep, or not getting sick. They also can't contribute to their communities, and may even die from preventable diseases. You can think of human rights as the right to a basic, adequate standard of living, as protected by human rights law.

Human Rights and Environment:

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfil our aspirations. The relation between human rights and environment was first recognized by UN Assembly in Late 1960's. In 1970's the UN Assembly was recognised that there must be a relation in between both Right to Life and environment . In addition to this UN Human Rights Commission has made several resolutions in linking both Human Rights and environment.

The UN Draft Principles:

In 1994 the forty-sixth session of the Commission on Human Rights (Sub-Commission on Prevention of Discrimination and Protection of Minorities) received a report entitled Review Of Further Developments In Fields With Which The Sub-Commission Has Been Concerned On Human Rights And The Environment. This was the Final Report prepared by Mrs. Fatma Zohra Ksentini, the Special Rapporteur on this issue appointed in 1989. Mrs. Ksentini's work focused initially on the issue of toxic wastes and dumping of these wastes in poorer nations (an issue which was high on the international agenda in the late 1980s). Her work broadened during the research on this and became a major overview of environmental rights.

The final report included a full analysis of environmental rights and legislation at a national level. The report also suggested that: For many years environmental problems were almost exclusively considered from the standpoint of the pollution in one part of the world, i.e. the industrialized countries (Immediately after the Stockholm Conference, perception of environmental problems was limited to a specific geographical area, the industrialized countries, and reduced to the simplest of terms, pollution. Mohammed Sahnoun, Environmentdevelopement , Revue algérienne des relations Internationales, No. 8, 1987, OPU, Algiers.). It identified the need for new approaches to these problems.

There are two main approaches to human rights and the environment:

The use of existing human rights, and

The need for new human rights for a safe and clean environment.

The rights we have already are:

1. Civil and political and

2. Economic, social and cultural. Civil and political rights provide for moral and political order.

Such rights include the right to life, equality, political participation and association. They are couched most clearly in the Universal Declaration of Human Rights (1948) and International Covenant on Civil and Political Rights (1966). When realised civil and political rights are fundamental to guaranteeing a political order supportive of sustainable development. They can protect civil mobilisation around environmental protection and equity. Economic, social and cultural rights are often referred to as 'second generation' rights. These provide substantive standards for an individual's well-being.

International Laws: On the environmental, general awareness of environmental issues grew from the 1950's onwards, with the first globally applicable international conventions or Multilateral Environmental Agreements

(MEAs) being agreed in the 1970s and 1980s. These include the 1971 Ramsar Convention on Wetlands, the 1972 World Heritage Convention, the 1973 Convention on International Trade in Endangered Species, the 1979 Convention on Migratory Species and the 1989 Basel Convention Control of Transport of Hazardous Wastes.
United Nations Environment Programme (UNEP) addresses environmental issues at the global and regional levels. Its core objectives are to serve as an authoritative advocate for the global environment, to support governments in setting the global environmental agenda, and to promote the coherent implementation of the environmental dimension of sustainable development within the UN system. One of its key mandates is to promote the development and implementation of international environmental law.UNDP has also conducted a comparative experiences analysis of environmental justice trends as a joint endeavour between UNDP's governance and environment and energy expertise and capacities.

Constitutional provisions in India: The *chapter* on fundamental duties of the Indian Constitution clearly imposes duty on every citizen to protect *environment*. Article 51-A (g), says that It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. The improvement of public health also includes the protection and improvement of environment without which public health cannot be assured. Article 48 deals with organization of agriculture and animal husbandry. It directs the State to take steps to organize agriculture and animal husbandry on modern and scientific lines.In particular, it should take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle. Article 48 -A of the constitution says that the state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.The Constitution of India under part III guarantees fundamental rights which are essential for the development of every individual and to which a person is inherently entitled by virtue of being human alone. Right to environment is also a right without which development of individual and realisation of his or her full potential shall not be possible. Articles 21, 14 and 19 of this part have been used for environmental protection.According to Article 21 of the constitution, no person shall be deprived of his life or personal liberty except according to procedure established by law . Article 21 has received liberal interpretation from time to time after the decision of the Supreme Court in Maneka Gandhi vs. Union of India, (AIR 1978 SC 597)[5]. Article 21 guarantees fundamental right to life. Right to environment, free of danger of disease and infection is inherent in it. Right to healthy environment is important attribute of right to live with human dignity.

Procedural Aspects of Human Rights in Environmental Degradation

The innovative methods include both procedural and substantive features. Procedural innovations mean the judicial activities which develop or enhance the existing procedure of the environmental jurisprudence for protection and improvement of the environment. These include activities like expanding the sphere of litigation, hearing cases filed on behalf of another affected party, the appointment of expert committees, conducting field visits to know ground realities, and appointment of amicus curiae to represent affected parties. Whereas, the substantive innovations refer to the decisions of the court that creates, defines, or rejects policy and governance structure for environment protection and prescribes the method of implementation of such policies. These innovations include the application of new environmental principles, expansion of fundamental rights, and the creation of new structures and protection of the environment through the implementation of court orders. Public Interest Litigation (PIL) was one of the most important procedural innovations that took place in the 1980s. It allowed hearing petitions filed on behalf of the affected party even by third parties having sufficient interest in order to assert diffused and meta-individual rights. Earlier, this was not the case. When the third parties approached the court for seeking relief against an injury they did not suffer directly, the action was not maintainable as the focus of the court used to be on the identity of the petitioner and not the subject of the petition. PIL has helped to gain more attention towards environmental issues as earlier due to lack of knowledge not many had awareness about the problem of the environment.

The first PIL on environmental issues before the Supreme court was initiated in 1983. In the *Rural Litigation and Entitlement Kendra & Ors. vs. State of Uttar Pradesh & Ors,* quarrying activity created environmental problems. Due to this, landslides occurred which killed many villagers and destroyed their property. In 1961, mining was prohibited. However, the operations were started again in 1982 without any safety rules. Thus, PIL was filed before SC to seek remedies. After proper evaluation of the case, the SC ordered the closure of 101 mines in the area.

After the success of the above case, many PIL came before SC relating to environmental law. Ganga Water Pollution Case, Tehri Dam Case, Narmada Dam case, and Oleum Gas leak case, all were the result of PILs. Thus, PIL has helped change the form and substance of environmental jurisprudence. It provides many benefits like giving voice to inanimate objects, which cannot represent themselves in litigation. However, there are certain concerns related to PIL which need attention. For instance, the PIL method can become an attention-seeking mode for a few individuals, and sometimes the case takes more than a decade to settle and thus, becomes an expensive mode of redressal.

CONCLUSION

It is evident that environmental and human rights are closely related. The development of the relationship between human rights and the environment would facilitate the merging of human rights priciples within an environmental scale. The human rights would be stregthened by the amalgamation of environmental concerns providing victims of environmental dilapidation the opportunity of access to justice and enabling the expansion of the scope of human rights protection and generation of concrete solutions for cases of degradation. Connecting human rights and the environment brings victims of environmental degradation nearer to the mechanisms of protection that are provided for by human rights.

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