

AN APPRAISAL OF THE CONSTITUTIONAL PROVISIONS FOR THE CONSERVATION OF BIODIVERSITY IN INDIA

Showkat Hussain Dar

Research Scholar, Faculty of Humanities, Mewar University, Rajasthan

ABSTRACT

India is home to world's largest wild tiger's population and has got distinctive aggregation of globally significant endangered species like Asiatic lion, One-horned Rhinoceros, Snow Leopard, Kashmiri Stage, Great Indian Bustard and so on. In the constitution of India, it is clearly stated that it the duty of the state to 'protect and improve the environment and to safeguard the forests and wildlife of the country.' It imposes a duty on every citizen 'to protect and improve the natural environment including forests, lakes, rivers and wildlife.' References to the environment have also been made in the Directive Principles of State Policy as well as the Fundamental rights. The Department of Environment was established in India in 1980 to ensure a healthy environment for the country. This later became the Ministry of Environment and Forests in 1985. The protection of environment is needed, both locally and globally, for sustainable development or healthy life for humans as well as flora/fauna. The Industrial pollution, water pollution, deforestation, depletion of ozone layer, the greenhouse gases results in global warming and climate change which will have an detrimental effect on environment, human health and our day-to-day affairs of life. There is a necessity for preservation of Biodiversity, protection of wetlands and prevention of environmental pollution. There are number of legislative provisions for the protection of environment. The constitutional provisions are backed by a number of laws, acts, rules and notifications, for instance, The Indian Forest Act, 1927, The Prevention of Cruelty to Animals Act, 1960, Project Hangul, 1970, Project Gir, 1972, The Wildlife Protection Act, 1972, National Wildlife Action Plan, 1983, Biodiversity Act, 2002, Green India Mission, Wetlands (Conservation and Management) Rules, 2010 and National Green Tribunal Act, 2010 etc. The role of judiciary cannot be overlooked because in recent past it has become a vital body in the protection of environment.

Key Words: Endangered species, Constitution of India, Directive Principles, Fundamental rights, Ministry of Environment, Judiciary.

I. INTRODUCTION

In the constitution of India, it is unambiguously mentioned that it is the duty of the state to preserve and improve the environment and to safeguard the forests and wildlife of the country. In order to preserve and protect the wildlife/environment of the country, the constitution has laid down several provisions which are backed by

numerous laws, acts, rules, notifications etc. In this context, the following acts, laws and projects are imperative to understand the importance of wildlife, forestry, environment etc.

II. THE INDIAN FOREST ACT

The Indian Forest Act, 1927 was largely based on previous Indian Forest Acts implemented under the British. The most famous one was the Indian Forest Act of 1878. Both the 1878 act and the 1927 one sought to consolidate and reserve the areas having forest cover, or significant wildlife, to regulate movement and transit of forest produce, and duty leviable on timber and other forest produce. It also defines the procedure to be followed for declaring an area to be a Reserved Forest, a Protected Forest or a Village Forest. Further, it defines what a forest offence is and what are the acts prohibited inside a Reserved Forest, and penalties leviable on violation of the provisions of the Act.

III. PREVENTION OF CRUELTY TO ANIMALS ACT

The Prevention of Cruelty to Animals Act is an Act of the Parliament of India enacted in 1960 to prevent the infliction of unnecessary pain or suffering on animals and to amend the laws relating to the prevention of cruelty to animals. As per the provisions of the law the government of India formed the Animal Welfare Board of India.

IV. WILDLIFE PROTECTION ACT

Prior to Wildlife Protection Act of 1972, India only had five designated national parks. This was the first umbrella act which established schedules of protected plant and animal species. By this act, hunting or harvesting these species was largely outlawed. It extends to the whole of India, except the State of Jammu and Kashmir which has its own wildlife act.

V. BIOLOGICAL DIVERSITY ACT

To regulate access to genetic resources and associated sharing arrangements, apart from developing policies and programmes on long term conservation and protection of biological resources and associated knowledge, the Biological Diversity Act, 2002 was promulgated.

VI. NATIONAL GREEN TRIBUNAL ACT

National Green Tribunal is a statutory body established by a Government Notification using the powers of Section 3 of the NGT Act 2010. It has replaced National Environment Appellate Authority. The objective of establishing a National Green Tribunal was to provide effective and expeditious disposal of cases relating to environmental protection and

conservation of forests and other natural resources including enforcement of any legal right relating to environment.

VII. PROJECT RED PANDA

The highly threatened Red Panda is found in 4 states in India, and recent surveys have shown that habitat degradation is the main cause of its decline – due to the need for fuel and shifting agricultural practices, killing by feral dogs and some hunting, and extinction in some areas is probable. Research and monitoring needs to be carried out as a matter of urgency to assess the population status so that focused conservation efforts can be initiated to secure and improve the present habitat conditions and reduce immediate threats. The project aims to do this through:

- A. Ascertaining the present status of the Red Panda in the Kangchendozonga Landscape and the Western Arunachal landscape through research and updating of distribution map, habitat maps and maps of human population and agricultural expansion;
- B. Evaluating the extent of the identified threats and suitable mitigation measures including feral dogs, poaching and trapping (for pets), threat of proposed highway and including lobbying, local awareness raising;
- C. Ensuring effective management interventions for protecting red pandas in protected areas and community conserved areas including increasing the capacity of forest department staff, reduction in fuel wood extraction, official recognition of conservation areas, workshops for relevant stakeholders and so on.

VIII. PROJECT HANGUL

The Kashmir stag also called “Hangul” is found in dense riverine forests in the high valleys and mountains of the Kashmir Valley and northern Chamba district in Himachal Pradesh. In Kashmir, it's found in the Dachigam National Park where it receives protection but elsewhere it is more at risk. In the 1940s, the population was between 3000 and 5000 individuals, but since then habitat destruction, over-grazing by domestic livestock and poaching have greatly reduced that dramatically. This dwindled to as low as one hundred fifty animals by 1970. However, the state of Jammu & Kashmir, along with the IUCN and the WWF prepared a project for the protection of these animals. It became known as Project Hangul. This brought

great results and the population increased to over 340 by 1980. But as per the latest census in 2008, only around 160 exist. There are plans to breed them in captivity to increase their chances of survival.

IX. PROJECT GIR

The Asiatic Lion Reintroduction Project is an initiative of the Indian Government to provide safeguards to the Asiatic lion from extinction in the wild by means of reintroduction. The last wild population of the Asiatic lion is found in the Gir Forest region of the state of Gujarat. The single population faces the threats of epidemics, natural disasters and other anthropogenic factors. The project aims to establish a second independent population of Asiatic lions at the Kuno Wildlife Sanctuary in the Indian state of Madhya Pradesh.

X. PROJECT TIGER

Project Tiger is a tiger conservation programme launched in 1973 by the Government of India during Prime Minister Indira Gandhi's tenure. The project aims at ensuring a viable population of Bengal tigers in their natural habitats and also to protect them from extinction, and preserving areas of biological importance as a natural heritage forever represented as close as possible the diversity of ecosystems across the tiger's distribution in the country. The project's task force visualized these tiger reserves as breeding nuclei, from which surplus animals would migrate to adjacent forests. The Funds and commitment were mastered to support the intensive program of habitat protection and rehabilitation under the project. The government has set up a Tiger Protection Force to combat poachers and funded relocation of villagers to minimize human-tiger conflicts.

XI. PROJECT CROCODILE

First crocodile project programme was implemented in 1975 with following goals and objectives: (1) To protect the remaining population of crocodiles in their natural habitat by creating sanctuaries. (2) To rebuild natural population quickly through grow and release or rear or release technique involving. (3) To promote captive breeding. (4) To take up research to improve management.

XII. PROJECT ELEPHANT

Project Elephant was launched in 1992 by the Government of India Ministry of Environment and Forests to provide financial and technical support of wildlife management efforts by states for their free ranging populations of wild Asian Elephants. The project aims to ensure long-term survival of viable conservation reliant populations of elephants in their natural habitats by protecting the elephants, their habitats and migration corridors. Other goals of Project Elephant are supporting research of the ecology and management of elephants, creating conservation awareness among local people, providing improved veterinary care for captive elephants.

XIII. INDIAN RHINO VISION 2020

IRV 2020 is a partnership between the Assam Forest Department, the Bodoland Territorial Council, WWF, IRF, and the US Fish and Wildlife Service. Its goal is to have a wild population of at least 3,000 Greater one-horned rhinos in the Indian state of Assam – spread over seven protected areas – by the year 2020. IRV 2020 is an ambitious rhino range and population expansion programme.

XIV. PROJECT VULTURE

In May 2006, government of India initiated preventive action to curb further decline in the population of vultures which included banning of diclofenac in veterinary sector.

XV. PROJECT SNOW LEOPARD

India is believed to have between 400-700 snow leopards in the five Himalayan states, Jammu and Kashmir, Himachal Pradesh, Uttarakhand, Sikkim and Arunachal Pradesh. The project aims at to conserve and protect the highly endangered species in its natural habitat.

XVI. ARTICLE 48A

It states: “the State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.”

XVII. ARTICLE 51A (g)

It states to the citizens of India: “protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures.”

XVIII. THE WATER PREVENTION AND CONTROL OF POLLUTION ACT 1974

The Act prohibits discharge of pollutants into water bodies beyond a given standard and lays down penalties for non-compliance with its provisions.

XIX. THE AIR (PREVENTION AND CONTROL OF POLLUTION ACT, 1981)

Every industrial operator within a declared air pollution area must obtain a permit from the State Board (Sec-21(1) and (2)). Within four months from the date of application for the permit, the board must complete the formalities – either grant or refuse consent.

XX. CONCLUSION

To safeguard and revamp the environment is a constitutional mandate. The Indian constitution contains specific provisions for environmental protection under the chapters of Directive Principles of the State Policy and Fundamental Duties. The dearth of any specific provision in the Constitution recognizing the fundamental right to environment has been set off by judicial activism in the recent times.

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