



ASHIFT FROM ANTHROPOCENTRIC TO ECO-CENTRIC APPROACH FOR MANAGEMENT & PROTECTION OF SPECIFIC SPECIES: A CASE STUDY

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ABSTRACT

We are living on the verge of imbalanced ecology. The human endeavour to restore that balance is evidenced by an array of measures to prevent the frightening prospect of ecocide. The efforts have warranted international environmental cooperation cutting across nation-states. A set of principles and rules of international law have evolved in the process to provide a basis for international environmental regulatory efforts. However, all these efforts were surrounded towards the interest of human being i.e. anthropocentric approach was prevalent. However, recently the Supreme Court of India in *Centre for Environmental Law, WWF-I Vs. Union of India*, on 15th April 2013 shifted its focus from Anthropocentric to Eco-Centric approach. In this case the Court has clearly stated that, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Eco-centrism is, therefore, life as well as nature-centred where nature includes both humans and non-humans. So, this paper focus upon a shift From Anthropocentric to Eco-centric approach for management and protection of specific species, through the case study method.

Key Words: Wildlife, management, protection, anthropocentric, eco-centric

INTRODUCTION

We live in an era of momentous changes and global environmental challenges. It is no doubt great testing period for the human species on this small planet. History shows that humans, as one of nature's finest creatures, have time and again shown a remarkable ability to survive within the means dictated by the finite resources of the Earth. But as Gandhi underscored "Earth provides enough to satisfy everyone's need but not anybody's greed". In fact defining and respecting the threshold of need is the principle source of humankind's dilemma. The problem is, we are upsetting the delicate balance which the nature defines for us.

All countries of the globe are very much concerned with the serious threat being caused to the earth's deteriorating environment. Scientists and engineers usually take years to find a solution, often only part of the solution to a given environmental problem and sometimes decades for its development, implementation and utilization, while the society continues to create new environmental problems at an alarming rate.

World is facing adverse consequences of the gradual degradation of its natural resources in the form of draughts,

floods and heavy rains. Quality of human life is being seriously damaged by air, water and noise pollution, combined with mismanagement of solid waste, changes in mortality, fertility, loss of competitiveness, reduced output in resource based sectors, ecological imbalance, bio-diversity, acid rains are other disasters.

Besides, urbanisation and industrialisation, availability of natural resources and the life style of the people also affect the environment. The most important cause, however, is growth of population and resultant rise of poverty. The World's population is increasing relentlessly and so are peoples perceived needs and especially wants and this is putting all sectors of the global economy, power generation, transportation, agriculture production etc. under increasing pressure. The problem is exaggerated by the fact that people in the developing countries are now persuaded by all manners of consumerism of what is paraded as Western life style- the good life. Growth of unchecked population, increase of human wants and desire have direct impact on natural surroundings i.e. land, water and air in various ways.

The human endeavour to restore that balance is evidenced by an array of measures to prevent the frightening prospect

of ecocide. The efforts have warranted international environmental cooperation cutting across nation-states. International Environmental Institutions have been employed as tools for the protection of the environment and natural resources. A set of principles and rules of international law have evolved in the process to provide a basis for international environmental regulatory efforts. However, all these efforts were surrounded towards the interest of human being i.e. anthropocentric approach was prevalent. However, recently the Supreme Court of India in *Centre for Environmental Law, WWF-IVs. Union of India*, on 15th April 2013 shifted its focus from Anthropocentric to Eco-Centric approach. In this case the Court has clearly stated that, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Eco-centrism is, therefore, both life and nature-centred where nature includes both humans and non-humans. So, this paper attempts to focus upon a shift From Anthropocentric to Eco-centric approach for management and protection of specific species, through the case study method.

ROLE OF JUDICIARY

Our judiciary especially the Supreme Court of India has adopted a new role, what we may call 'the precipitant role' involving different kinds of judicial strategies. Realising the serious damage to the quality of life that was being continually caused by the environmental pollution, the apex Court stepped into the arena that patently and potentially belongs to the executive government. It is indeed true that the problem of environmental protection is extremely complex. It is so because it has many loose ends and trying them together is not an easy task. May be it is for this reason, coupled with the kind of technical assistance that came to be provided to the court at various phases of development, the progress in the desired direction had been extremely tardy. Notwithstanding all sorts of limitations, attempt made by the judiciary spell out the gains made by the Supreme Court, howsoever feeble they may sound at first blush, in this rather elusive area of environmental protection. The gains here are being seen as a part of the precipitant role of the Supreme Court in the form of continual creation of successive strategies by way of judicial intervention. The recent judgement of the Apex Court, because of its prospective approach has once again proved that, our Supreme Court has become truly an 'environmental court' monitoring the progress of the environmental project as its chief concern or preoccupation.

LEGAL FRAME WORK

Let us first understand the constitutional and the legal framework on which the various issues which have come up for consideration in this case.

The subject "Protection of wild animals and birds" falls under List III, Entry 17B of Seventh Schedule. The Parliament passed The Wild Life (Protection) Act 53 of 1972 to provide protection for wild animals and birds to ensure the ecological and environmental security of the country. The Parliament vide Constitution (42nd Amendment) Act, 1976 inserted Article 48A w.e.f. 03.01.1977 in Part IV of the Constitution placing responsibility on the State "to endeavour to protect and improve the environment and to safeguard the forests and wild life of the country." Article 51A was also introduced in Part IVA by the above-mentioned amendment state that "it shall be the 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".

By Act 23 of 1982, Section 12(bb) was inserted in the Wild Life (Protection) Act w.e.f. 21.05.1982 which authorised the Chief Wild Life Warden to grant a special permit for the purpose of scientific management which would include translocation of any wild animal to an alternative suitable habitat or population management of wild life without killing or poisoning or destroying any wild animals.

The Parliament later vide Act 16 of 2003 inserted Section 5A w.e.f. 22.09.2003 authorizing the Central Government to constitute the National Board for Wild Life (NBWL). By the same Amendment Act, Section 5C was also introduced eliciting functions of the National Board. Section 5B was also introduced by the aforesaid amendment authorizing the National Board to constitute a Standing Committee for the purpose of exercising such powers and performing such duties as may be delegated to the Committee by the National Board. NBWL is, therefore, the top most scientific body established to frame policies and advise the Central and State Governments on the ways and means of promoting wild life conservation and to review the progress in the field of wild life conservation in the country and suggesting measures for improvement thereto. The Central and the State Governments cannot brush aside its opinion without any cogent or acceptable reasons. Legislation in its wisdom has conferred a duty on NBWL to provide conservation and development of wild life and forests.

MANAGEMENT & PROTECTION OF WILD LIFE

The Hon'ble Supreme Court of India in *Sansar Chand vs. State of Rajasthan*, held that all efforts must be made to implement the spirit and provisions of the Wild Life (Protection) Act, 1972; the provisions of which are statutory and are necessary to be implemented to maintain ecological chain and balance. The Stockholm Declaration, the Declaration of United Nations, Conventions on Human Environment signed in the year 1972, to which India is the signatory, have laid down the foundation of sustainable development and urged the nations to work together for the protection of the environment. Conventions on Biological Diversity, signed in the year 1992 at Rio Summit, recognized for the first time in International Law that the conservation of biological diversity is "a common concern of human kind" and is an integral part of the development process.

The Parliament enacted the Biological Diversity Act in the year 2002 followed by the National Biodiversity Rules in the year 2004. The main objective of the Act is the conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Biodiversity includes all the organisms found on our planet i.e. plants, animals and micro-organisms, the genes they contain and the different ecosystems of which they form a part. The rapid deterioration of the ecology due to human interference is aiding the fast disappearance of several wild animal species. Poaching and the wildlife trade, habitat loss, human-animal conflict, epidemic etc. are also some of the reasons which threaten and endanger some of the species.

BRIEF FACTS OF THE CASE

The Wildlife Institute of India (WII), an autonomous institution under the Ministry of Environment and Forests (MoEF), Government of India, through its Wildlife Biologists had done considerable research at the Gir Forest in the State of Gujarat since 1986. All those studies were geared to provide data which would help for the better management of the Gir forest and enhance the prospects for the long term conservation of lions at Gir, a single habitat of Asiatic lion in the world. The data collected by the Wildlife Biologists highlighted the necessity of a second natural habitat for its long term conservation.

The court were supposed to decide the necessity of a second home for Asiatic Lion (*Panthera leo persica*), an endangered

species, for its long term survival and to protect the species from extinction as issue rooted on eco-centrism, which supports the protection of all wildlife forms, not just those which are of instrumental value to humans but those which have intrinsic worth.

JUDGEMENT

The Court observed that, "India is known for its rich heritage of biological diversity and has so far documented over 91,200 species of animals. In India's bio-geographic regions, 45,500 species of plants are documented endangered as per IUCN Red List 2008. India has many critically threatened animal species. IUCN has noticed today the only living representative of lions once found throughout much of south-west Asia occurred in India's Gir forest which has been noticed as a critically endangered species in IUCN Red List. The IUCN adopted a resolution of 1963 by which a multi-lateral treaty was drafted as the Washington Convention also known as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973. CITES entered into force on 1st July, 1975, which aims to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the species in the wild, and it accords varying degrees of protection to more than 33,000 species of animals and plants. Appendix 1 of CITES refers to 1200 species which are threatened with extinction. Asiatic lion is listed in Appendix 1 recognizing that species is threatened with extinction."

The Hon'ble Court noticed, for achieving the objectives of various conventions including Convention on Biological Diversity (CBD) and also for proper implementation of IUCN, CITES etc., and the provisions of the Wild Life (Protection) Act, Bio-diversity Act, Forest Conservation Act etc. in the light of Articles 48A and 51A(g), the Government of India has laid down various policies and action plans such as the National Forest Policy (NFP) 1988, National Environment Policy (NEP) 2006, National Bio-diversity Action Plan (NBAP) 2008, National Action Plan on Climate Change (NAPCC) 2008 and the Integrated development of wild life habitats and centrally sponsored scheme framed in the year 2009 and integrated development of National Wild- life Action Plan (NWAP) 2002-2016. Further observed that, the integrated Development of Wild Life habitat under the Centrally Sponsored Scheme of 2009 and the NWAP (2002-2016) have to be read along with the provisions of the Wile Life (Conservation) Act.

The Court further observed that, “the Prime Minister of India on 1.1.2002, in the XXI Meeting of the Indian Board for Wildlife, released the ‘National Wildlife Action Plan (2002-2016)’ (NWAP 2002-2016). NWAP has highlighted that the wildlife encompasses all uncultivated flora and undomesticated fauna and every species has the right to live and every threatened species must be protected to prevent its extinction. It was noticed with the mounting agricultural, industrial and demographic pressures; wilderness areas, which are the richest repositories of wildlife and biodiversity, have either shrunk or disappeared and their continued existence is crucial for the long term survival of the biodiversity and the ecosystems supporting them. NWAP, inter alia, highlighted the necessity to protect the long term ecological security of India and to identify and protect natural ecosystems from over-exploitation, contamination and degradation. NWAP has also urged the necessity to give primacy to *In Situ* conservation which is a sheet anchor of wildlife conservation. *Ex Situ* measures in zoological parks and gene banks may supplement this objective, without depleting scarce wild resources. NWAP also highlighted the ecological requirements for the survival of threatened, rare and endangered species together with their community associations of flora and fauna. It also highlighted the imperative necessity to have alternative homes for highly endangered species like the Great Indian Bustard, Bengal Florican, Asiatic Lion, Wild Buffalo, Dugong, the Manipur Brow Antlered Deer and the like. It was also noticed that where *In Situ* conservation efforts are unlikely to succeed, *Ex Situ* captive breeding and rehabilitation measures may be necessary, in tandem with the preparation of their wild habitats to receive back captive populations, especially in respect of lesser-known species where status and distribution of wild animals are not fully known.” NWAP also highlighted the necessity of taking the following actions:

1. To identify all endangered species of flora and fauna, study their needs and survey their environs and habitats to establish the current level of security and the nature of threats. Conduct periodic reviews of flora and fauna species status, and correlate the same with the IUCN Red Data List every three years.
2. Invest special care and resources to protect habitats that harbour highly endangered species especially those having single population and a high degree of endemism.
3. Initiate action to prevent the “genetic swamping” of wild species.
4. To undertake a programme of *Ex Situ* captive breeding and rehabilitation in the wild for critically endangered species in accordance with IUCN guidelines, after developing requisite techniques and capabilities in this regard.
5. To publish flora, fauna and species status papers periodically, which should be translated into local languages.
6. To declare identified areas around Protected Areas and corridors as ecologically fragile under the Environment (Protection) Act, 1986, wherever necessary.

NWAP also highlighted the priority projects and to initiate a time-bound plan to identify and conduct status surveys of all endangered species covering all groups of rare and threatened species of flora and fauna and to provide protection to the environs and habitats of all rare and threatened species of flora and fauna under the priority projects. 2.2 of Para 3 of NWAP read as follows:

“Identify suitable alternative homes for single isolated populations of species such as Jerdon’s Courser, Asiatic Lion, Manipur Deer, Wroughton’s Free Tailed Bat and the like, and manage the same as Protected Areas effectively.”

NWAP also states that the same is the responsibility of MoEF, State Governments, Scientific Institutions and NGOs. The necessity to take immediate steps for preventing the entry of domestic and feral species that may lead to genetic swamping, has also been highlighted. The importance to safeguard genetically pure populations from future genetic contamination and where genetic swamping has occurred, to phase out such swamping, was also highlighted. NWAP, in chapter IV, has highlighted the necessity to the restoration and management of degraded habitats outside the protected areas. MoEF noticed that the fragmented nature of wildlife rich areas, increased human pressure, habitat degradation, proliferation of invasive species, man-animal conflicts, poaching and impacts of changing climate etc. are some of the challenges that has to be addressed at a war footing. The necessity for ensuring better protection of wildlife outside the protected areas and initiating recovery programmes for saving critically endangered species and habitats has also been high-lighted. Keeping that in view, a comprehensive Centrally Sponsored Scheme titled ‘Integrated Development of Wildlife Habitats’ has been made operational on 30.7.2009 which was in addition to the erstwhile Centrally Sponsored Scheme – ‘Assistance for the Development of

National Parks and Sanctuaries'. The scheme incorporated additional components and activities for implementing the provisions of the Wildlife (Protection) Act (1972), the National Wildlife Action Plan (2002-2016), recommendations of the Tiger Task Force (2005) and the National Forest Commission (2006) and the necessities felt from time to time for the conservation of wildlife and biodiversity in the country. The scheme was formulated during the 11th year plan.

ANTHROPOCENTRIC Vs ECO-CENTRIC

The court observed that, there has been wide ranging discussions and deliberations on the international platforms and conferences for re- building of certain principles laid down in the earlier conventions on the Principles of Sustainable Development. The United Nations Commission on Environment and Development defined the 'sustainable development' as follows:

“Sustainable development is the development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. Sustainable development, it has been argued by various eminent environmentalists, clearly postulates an anthropocentric bias, least concerned with the rights of other species which live on this earth. Anthropocentrism is always human interest focussed thinking that non-human has only instrumental value to humans, in other words, humans take precedence and human responsibilities to non-human are based benefits to humans. Eco-centrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Eco-centrism is, therefore, life-centred, nature-centred where nature includes both humans and non-humans.

The Court re-iterated that while examining the necessity of a second home for the Asiatic lions, our approach should be eco-centric and not anthropocentric and we must apply the “species best interest standard”, that is the best interest of the Asiatic lions. We must focus our attention to safeguard the interest of species, as species has equal rights to exist on this earth. Asiatic Lion has become critically endangered because of human intervention. The specie originally existed in North Africa and South-West Asia formerly stretched across the coastal forests of northern Africa and from northern Greece across south-west Asia to eastern India. Today the

only living representatives of the lions once found throughout much of South-West Asia occur in India's Gir Forest. Asiatic lion currently exists as a single sub-population and is thus vulnerable to extinction from unpredictable events, such as an epidemic or large forest fire etc. and we are committed to safeguard this endangered species because this species has a right to live on this earth, just like human beings.

The court further said that article 21 of the Constitution of India protects not only the human rights but also casts an obligation on human beings to protect and preserve a specie becoming extinct, conservation and protection of environment is an inseparable part of right to life. In *M. C. Mehta vs. Kamal Nath and Others*, the Hon'ble Supreme Court enunciated the doctrine of “Public Trust”, the thrust of that theory is that certain common properties such as rivers, seashores, forests and the air are held by the Government in trusteeship for the free and unimpeded use of the general public. The resources like air, sea, waters and the forests have such a great importance to the people as a whole, that it would be totally unjustified to make them a subject of private ownership. The State, as a custodian of the natural resources, has a duty to maintain them not merely for the benefit of the public, but for the best interest of flora and fauna, wildlife and so on. The doctrine of 'Public Trust' has to be addressed in that perspective.

The court further said that, we, as human beings, have a duty to prevent the species from going extinct and have to advocate for an effective species protection regimes. NWAP 2002-2016 and the Centrally Sponsored Scheme 2009 indicate that there are many animal species which are close enough to extinction and some of the other species have already disappeared from this earth. No species can survive on the brink of extinction indefinitely and that the continued existence of any species depends upon various factors like human-animal conflict, epidemics, forest fire and other natural calamities etc.

The Wildlife Biologists of WII, after conducting a research on Gir Forests, noticed the necessity for long term conservation of Asiatic lion in Gir and also highlighted the necessity of a second natural habitat for its long term conservation. Population and Habitat Analysis Workshop held at Baroda in October, 1993 also highlighted that fact. NBWL, as already indicted, has taken a consistent view in all its meetings about the necessity of a second habitat for Asiatic lion, an endangered species. Asiatic lion, it has been

noticed, has been restricted to only one single habitat, i.e. the Gir National Forest and its surrounding areas and an outbreak of possible epidemic or natural calamity might wipe off the entire species. A smaller population with limited genetic strength are more vulnerable to diseases and other catastrophes in comparison to large and widespread population. Threat, therefore, is real and has been proved by the outbreak of canine distemper in the lions of Serengeti NP, Tanzania in 1994. 85% of the Serengeti lion population, it was noticed, had Canine Distemper Virus antibodies and at least 30% of the Serengeti and Mara lions died due to the infection. Compared with Gir, the lion population in the 40,000 sq. km. Serengeti-Mara ecosystem is large with about 2500 lions. It was felt that if an epidemic of this scale were to affect the lions in Gir, it would be very difficult to save them from extinction, given the much smaller area of the Gir forests and the smaller lion population. The possibility of the disease spreading to the pockets of habitat such as Girnar, Mityala, Rajula, Kodinar and the surrounding areas, cannot be ruled out.

The Court found that there is uniformity in the views expressed by the Bio-Scientists of WII, NBWL, MoEF and other experts that to have a second home for the endangered species like Asiatic lion is of vital importance. A detailed study has been conducted to find out the most suitable habitat for its re-introduction and Kuno Wildlife Sanctuary (for short 'Kuno') in Madhya Pradesh, as already indicated, has been found to be the most ideal habitat.

The Court further observed that, approach made by SBWL and the State of Gujarat is an anthropocentric approach, not eco-centric though the State of Gujarat can be justifiably proud of the fact that it has preserved an endangered species becoming extinct. The Court, however, showed its concern with a fundamental issue whether the Asiatic lions should have a second home and observed that, the cardinal issue is not whether the Asiatic lion is a "family member" or is part of the "Indian culture and civilization", or the pride of a State but the preservation of an endangered species for which we have to apply the "species best interest standard". "Our approach should not be human-centric or family-centric but eco-centric. "Scientific reasoning" for its re-location has to supersede the family bond or pride of the people and we have to look at the species best interest especially in a situation where the **species** is found to be a critically endangered one and the necessity of a second home has been keenly felt. We, therefore, find it difficult to agree with

the reasoning of SBWL, Gujarat and the State of Gujarat that the Asiatic lion is a family member and hence be not parted with."

The Court highlighted the necessity of an exclusive parliamentary legislation for the preservation and protection of endangered species so as to carry out the recovery programmes before many of the species become extinct and to give the following directions:

(a) NWAP (2002-2016) has already identified species like the Great Indian Bustard, Bengal Florican, Dugong, the Manipur Brow Antlered Deer, over and above Asiatic Lion and Wild Buffalo as endangered species and hence we are, therefore, inclined to give a direction to the Government of India and the MoEF to take urgent steps for the preservation of those endangered species as well as to initiate recovery programmes.

(b) The Government of India and the MoEF are directed to identify, as already highlighted by NWAP, all endangered species of flora and fauna, study their needs and survey their environs and habitats to establish the current level of security and the nature of threats. They should also conduct periodic reviews of flora and fauna, species status, and correlate the same with the IUCN Red Data List every three years.

(c) Courts and environmentalists should pay more attention for implementing the recovery programmes and the same be carried out with imagination and commitment.

CONCLUSION

The doctrine of sustainable development was developed by the judiciary for the protection and management of environmental degradation. No doubt sustainable development is a good concept; nonetheless this postulates an anthropocentric bias, where human interest is always focussed. Therefore what is good or in the interest of a human being is always protected. However, Centre for Environmental Law, WWF-I is a unique case, where we find the shift from Anthropocentric bias to Eco-centric approach, where the importance of non-human species has been emphasised. Though there is theoretical underpinning in all legislative schemes, for the first time it has expressly been held that 'humans' have legal obligations to 'non-humans', independently of human interest. The Court's observations that both humans and non-humans are part of nature, and therefore, humans are legally obliged to take care of them irrespective of human interest is really a welcoming step.

Suggested Readings

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