

CAN RELIGIOUS PRACTICES AMOUNT TO NUISANCE: A BALANCING ACT BETWEEN ENVIRONMENT AND FAITH

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ABSTRACT

India is a country which is known for its colorful and cheerful festivals. We as Indians celebrate over fifty festivals in a year spread across diverse cultures and religions. In India faith plays a significant role in people's life, for some, it provides hope to live thus these festivals become even more crucial. Our constitution also provides us the right to practice our religion under Article 25, but it is subject to reasonable restriction so that it does not violate our fundamental right to life in a clean and healthy environment. Sometimes these religious practices may cause Nuisance to the public as well as the environment. There are many religious practices that harm the environment in terms of air, water and noise pollution and there have been multiple cases in the court of law regarding the practice of one's faith and protection of the environment. Therefore, this work studies the ambit of Article 25 and how religious practices have been affecting the environment. Finally, it could be said that yes religious practice causes some amount of nuisance to the environment and public, but it is not all negative.

KEYWORDS: Environmental Protection, Environmental Laws, Religious Practices, Faith, Nuisance.

INTRODUCTION

India other than its population explosion is also known for its diversity and pluralism. India is home to about 7 to 8 religions and their religious practices. And such practices may have their own impact on the environment and society, it may be positive as well as negative. The Indian constitution provides its citizens with the right to practice, profess and propagate their religion under Article 25. But this right may not be absolute and is subject to reasonable restriction so that it does not violate the fundamental rights of the citizen of the Right to life in a clean and healthy environment. For example, in a case presented before the apex court regarding the alarming condition of air quality in Delhi and the national capital region, the

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Supreme Court banned the use of firecrackers on the occasion of Diwali, but since this also hindered the enjoyment of the right to religion the Supreme court allowed the use of green crackers that have reduced level of emissions¹

The right to religion was included in the Constitution from the day it was implemented, therefore 26th January 1950 but the awareness regarding environmental protection was included in the Constitution only after the 42nd amendment to the constitution in 1976. This shows us how religion played a critical role in society, ignoring the environmental concerns as well that directly impact the health of the citizens. Article 48A was included in the constitution that puts an obligation on its citizens to protect the environment and wildlife but again it is not judicially enforceable.

Nuisance as per section 133 of CrPc is defined as “*any lawful obstruction or nuisance should be removed from any public place or from anyway, river or channel which is or may be lawfully used by the public*”.

Therefore, the use of any public space for creating any kind of pollution, be it air, water, or noise, shall not be allowed, will be considered a nuisance, and will be punishable. For example, the use of loudspeakers may not be considered necessary for the propagation of one's religion and is considered “inessential” by the court and may be considered noise pollution as it excites the level of noise as per the noise rules as granted by the Central Government.²

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Various religions talk about environmental protection way before the Constitution talks about it.

Like in SantanamDharm, we worship all the panchtatva's - Akash, Vayu, Agni, Jal and Prithvi and SantanamDharm greatly talks about the preservation of the environment. Several rivers and mountains are considered sacred and are worshipped as they are sources of life and sustain life. Rivers like Ganga and Yamuna are considered holy. On occasions like Govardhan Puja, the mountains are worshipped. The holy book Bhagvad Gita clearly mentions the preservation of ecology and the interdependence of all life forms on one another from plants to humans.

¹ Arjun Gopal and Ors Vs Union of India and Others

² Afzal Ansari and 2 Others Vs State of UP and 2 others.

Jainism one of the oldest living religions teaches us about ahimsa towards nature and all its forms.

Sikhism teaches us about how all the things present in nature are created by the command of the supreme authority and how God is present in everything be it mountains, rivers, wildlife, etc.³ In Islam as well there are hundreds of verses that support that environment should be protected and should be sustained well. It is the responsibility of humanity to protect God's creation. So, it is not always that religion has a harmful impact on the environment if we look at the teachings provided by different religions, we will surely find how nature, the environment, or wildlife was protected and preserved, and we were seen as a form of God in the ancient times. But nowadays we see that there are some religious practices that are having an adverse impact on the environment. This may be due to the modernization of society and increased awareness among the people about their religion and religious practices. Therefore, it becomes difficult to balance the thin line between the preservation of the environment and one's right to practice our religion

LITERATURE REVIEW

Air Pollution: What makes India's situation different from other countries having high levels of air pollution like China is the practices we follow here. Other than pollution released from transport, construction, and stubble burning, it is the number of crackers we burn in a single day. However, the court has held "There can't be a complete ban on firecrackers, this might be an extreme step"⁴ According to a report, it is said that during the time of November when Deepawali and Dusshera are celebrated the pollution level maxed out the sensors at 999 while the ultra-sensitive monitors recorded it to be 1010. The air quality was so bad that it was considered to be equivalent to smoking 50 cigarettes a day.⁵ Such practices might be considered a nuisance to the public as they cause air pollution as well as noise and distress it causes.⁶ When firecrackers are burnt various toxic substances are released into the air like Barium, Mercury, Nitrate, etc. These substances reduce the working capacity of the lungs in senior citizens and children.

³ Holy book of Sikhs-*Granth Sahib*

⁴ *Supreme Court in Arjun Gopal Vs UOI*

⁵ *Report given by Asia Times.*

⁶ *Central Pollution Control Board Report in 2017 in accordance with Supreme Courts guidelines*

Water Pollution: During festivals like Holi, Durga Puja, and Ganesh Chaturthi the level of water pollution is on the rise. The idols of lord Ganesha and Maa Durga are made out of Plaster of Paris (POP) i.e., calcium sulphate hemi hydrate and it takes several months to dissolve it into the water. Also, the colors used in making such idols and also the accessories used highly pollute the water. However, the court directed that idols made from Plaster of Paris should be sold as “PoP objects” and not as idols intended for any kind of worship or to be immersed in any kind of water body.⁷ Also due to the performance of cremation, it puts extreme pressure on the river ecosystem. Unfortunately, the cremation preference exacerbated by India's large population is putting extreme pressure on national rivers. Contamination by the cremation process itself, and by dumping cremated and un-cremated substances into rivers, contributes to the deterioration of river ecosystems.

Noise Pollution: According to a report any sound that annoys, or creates disturbance in society can be considered as “noise.” Therefore, any unwanted sound can be considered noise pollution.⁸ The Supreme Court has held that undoubtedly, no religion stipulates that prayer should be done by disturbing the peace of others, nor is it preaching that it should be done by voice amplifiers or drumbeats. Therefore, such activities must not disturb the peace of other people.⁹ It is also said that these loudspeakers are generally used at odd times in the night or early morning that might disturb the sleep of the public at large creating a nuisance. Therefore, the court considered the right to sleep as a fundamental right under the right to life as sleep is considered one of the essential characteristics of life.

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RESEARCH

The article¹⁰ presented deals with how religion influences our relationship with the environment.

Analysis of the article: The article tells us that inhabitants of a country that are less religiously inclined tend to use more resources and produce more emissions for the environment, but they are also better prepared for the environmental challenges they are going to face due to such emissions because they are wealthier than the inhabitants of a country that are religiously more inclined. A nation whose population is more religiously

⁷Vinodkumar Ramesh Chand Gupta & Anr. v. Union of India, Ministry of Environment, Forest & Climate Control & Ors.)

⁸Report of Central Pollution Control Bureau

⁹Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Assn.,

¹⁰<https://news.climate.columbia.edu/2020/10/15/religion-influences-relationship-environment/>

inclined use lesser resources but is at the chance to face more adverse environmental challenges and is subject to adverse outcomes due to poverty and continuous population growth. It also says that religious practices define our lifestyle and also how we conduct ourselves therefore our lifestyle will directly affect our actions towards the environment and will also determine how sensitive and aware we are regarding environmental degradation and environmental issues that we are facing.

CONCLUSION

There are several religious practices followed in India spread across diverse cultures and religions. All religions have equal power to practice, profess and propagate their own religion under Article 25. While the right to practice one's own religion was provided to people way before laws regarding the environment were introduced in the Indian Constitution. This shows how powerful these religious practices are and how ingrained they are in our society. Indian Judiciary in recent times has been very proactive regarding environmental issues. There have been several decisions in the court of law that have set a precedent in environmental issues and are considered landmark judgements. Also, for speedy decisions on environmental issues, National Green Tribunal (NGT) has been set up that has the powers equivalent to that of a civil court and can ensure speedy trial of the issues.

Article 48A is a moral obligation towards the protection of the environment and wildlife and is not judicially enforceable in a court of law, similarly, Article 51(a)(g) puts the State under a moral obligation for the protection of the environment. Both these articles were included in the Indian Constitution by the 42nd amendment act 1976. Before this India did not have any regulations regarding environmental protection. We have discussed above many such instances where religious practices have become a nuisance to the environment in terms of air, water, and noise pollution. Also, we have seen how difficult it becomes even for the courts to maintain the balance between protecting the environment and not hindering one's right to enjoy their religion.

Nuisance in the simplest way can be described as anything which is harmful and not good for the society at large. Recently in Uttar Pradesh, we have seen that the State Government has ordered the removal of around 54000 loudspeakers from Majids and mandirs. This step was in the right direction as these loudspeakers were generally used at odd times and were not

following the noise rules laid down by the Central Pollution Control Boards thus creating a Nuisance in the public sphere.

It is not that change is not there. There are steps such as the use of Eco-friendly idols of Lord Ganesha and Maa Durga, the use of green firecrackers, going waterless on Holi, and using electric ways to cremate a body so that around 500 to 600 kilograms of wood can be saved. Today India ranks 168 in Environment Performance Index out of 180 countries, and this could be due to many reasons and religious practices could be one of the reasons amongst many such reasons. Nowadays people are becoming very protective and sensitive about their own beliefs and practices therefore it has become very difficult to show them the other side of the picture. But our judiciary is very proactive and serious about various environmental issues and steps are being taken for environmental protection.



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