

Economics and environmental law assignment

Law



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The concept of social costs attached to any mammoth project in rural areas has been time and again been discussed extensively in judiciary showing us how, economic concepts such as cost benefit analysis, tradable permits tax incentives and budget controls can be given legal effect in actual application in society. But one very pertinent debate is, as to whether economic growth and opportunities coming in can be traded for applying stricter environmental laws and preserving the environment. One should look at different factors that affect how economic efficiency of Environmental laws in India can be made more advanced.

Dehradun Case was the first PIL which came before Supreme Court in India, wherein Supreme Court very correctly pointed that economic growth cannot be achieved at the cost of environment destruction and people's right to healthy environment. Also for the first time, Supreme Court extended the meaning of Article 21 of the Constitution also includes within its ambit right to wholesome and safe environment, and this decision not only breathed life in Fundamental rights of the victims of illegal mining, but also became one of the very important case study for knowing what are the economic repercussions of deteriorating environment.

Coming to the economic perspective of the case at hand, it was observed by researchers that economic activities of villagers was seriously endangered, but problems such as irrigation channels being highly affected by the flow of deposits and other debris from mines or from mining roads had cropped to huge extent. Village Bhitara was self-sufficient in food grains and had surplus food and milk production before the quarrying operations destroyed the food and fodder base of the village.

But the submersion of the irrigation channels led to a drastic reduction in food production and the loss of grazing land had decreased the cattle population of eight households from 194 to 37. 2. From the above consequences which people saw with respect to mining activities exploiting the natural resources which were for native people's use, it can be seen that social cost in the longer is extremely high since, it is almost uttingoutingection of society in worse off condition.

One more example can be with respect, to pollution of ground water due to problems industries developing beyond city levels and encroaching the natural environment of rural areas. Centre of Action, Research and Education in Water (CAREWACARETAKERinitiative of India National Resource and Economics and Management Foundation, Anand, Andbrought forth a much summarized version of the disease burden that society as a whole faces due to huge amount to pollution of water.

Due to high amount to fluorofloristsound water, the villages who endpend appendly on wells have faced certain very critical medical costs such as dental and skeletal fluorsfloorseart and kidney complications, and such people who on regular basis are exposed to unhealthy groundwater are 10 to 60 million all across country. Since people's lives are at stake with respect to such environmental problem, there are many other purely economic impacts which can be seen as loss of wages, loss of skill due to health limitations to undertake an alternative work, and substantial decrease in GDP anGAPivestock of village.

But the social benefit of such providing defluodeformationovidirovingble ground water will anyways be less than the cost incurred by such huge population. 3. Furthering the same point, it has to be seen for the policy makers to consider and weigh the cost of people affected by unreasonableness of industries in releasing effluents and the revenue they earn in respect of corporate tax, property tax and revenue in respect of sometimes foreign exchange also. It has been seen from the case, “ KholmuOklahomanry Fishermen v.

State of OrissaAriosother” that the fact that the State exchequer earns any amount of money from using natural esourcourceso ground to forget the people who reside near that area since the State owes a duty to them as well for protection of their interest even if that amount of affected people are small in number in comparison to the revenue generated. Also there have been various judicial examples which have brought forth cost benefit analysis of the mining and other similar polluting activities such as industrial pollution in the form of air and soil pollution and one such case is “ T.

N GodavaGoddamnedion of India and other “ wherein SC has brought exact valuation of the costs to the tribe residing in Niaymglmagining where VedantPedantnum Co. wants Wants established and the benefits the company will accrue in 23 time span of the project. The table shows the following costs which have been accounted for: Cost of deforestation of forests Rs. 44RSICroresScoresnnum Cost of carbon dioxide emissions Rs. 65RSICroresScoresnnum Costs such as social costs of replacing the tribes to other parts and breach of damns causing floods due to blockage of red mud of industry has not been accounted.

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While the benefits of making the Company function for 23 years is Rs. 46RSI 2 croresscores5 years and Rs. 18RSIcroresscoresear which clearly shows what level of disparity is going to occur if on the basis of economic analysis the company is set. The judgment showed a legal innovation by putting down following recommendation, “ The State Forest Department will take up compensatory afforeorestationoject cost with suitable indigenous species and will declare the said area identified for compensatory afforeorestationrotected forest” under the OrissaAriosot Act 1 972 for the purpose of management”.

Concluding, it has been seen at various instances how economic tools have come to legal rescue in determining what will be conomieconomicallynable to do so and what would be economically harmful. Also concept of sustainable development which has been advocated by new age economists is also legally backed in many cases such as “ M. C Mehta Meation of India” which puts forward the aim emphasized by economics, that balance is required between developmental activities and environmental protection which can be achieved through sustainable development and without putting the lives of future generations in jeopardy. B.

Policy precautions that can be taken in long run and short run to curtail nvironenvironmentaldation. 1. The primary cause for implementing stringent policies is to refrain industrialists and traders to indulge in rent seeking behavior and then exploit natural resources to maximize their profits. Also one reason can be frequent breaking of permitperceptibleton limits since, without any check on the amount of pollution being released and what amount that has to be curbed policy cannot be formulated. Pollution for <https://assignbuster.com/economics-and-environmental-law-assignment/>

rights or permits are sold by the government and then traded among companies and industries as their needs change. . One very essential way in hort rworthan be energy efficiency in business sectors. Energy efficiency will help in lessening the burden on industries with regard to usage of electricity and make the output efficient in the ways of using less means to harm environment. With passing of Energy Conservation Act in 2001, there is a provision for appointing Bureau of Energy Efficiency (BEE), which has made which has made energy efficiency come under the purview of legality making it enforceable by courts through BEE. In the case of “ Tata PData Company Limited v.

MaharaMaharajah’sricity’ it has been stated that in terms of in terms f demand side management companies should take up schemes to motivate the consumers to adopt energy efficiency and energy conservation measures and practices by providing technical and financial assistance, incentives and guidance as well as motivate other stakeholders such as manufacturers, financiers, etc. , to participate in the DSM inADSMative. Such efforts on the behalf of judiciary have made companies know how clever programming would it be for them to use energy judiciously and make their external costs internalized.

The World Bank has estimated that developing countries can save between 5 and 25 per cent of the total energy used in their petroleum refinery industries by adopting a variety of energy savings measures, including the replacement of inefficient equipments. 3. One more effective measure to control the pollution and environmental degradation will be the principle of “ polluter pays” liability. Polluter pays liability is basically a concept where the <https://assignbuster.com/economics-and-environmental-law-assignment/>

polluter who damages natural resources for commercial purposes, is liable to pay and it is not the government that should meet the costs which will be incurred in future for remedying the damage.

The economic rationale for this rule is extremely simple that by letting the government pay for it first what will happen will be shifting the burden for such externalities on tax payer and other will be that manufacturer who use large quantities of chemicals in their plants will be free to bear the burden of the cost which the society incurred, making them pollute more. This principle makes the polluter absolutely liable to compensate to individual aggrieved people and also for restoring the damage done to environment.

Polluter pays principle is also in line with Article 21 of the Constitution and Article 47, 48A and 1(g). . Also the concept of adaptive co-management can be taken by not only government agencies but also can be taken up by NGOs, Nagsthe advantage of taking this issue up will be incentive for wildlife conservationist, and environmental enthusiasts. Allocation decisions, logistical thinking as to who can harvest and who cannot and also democratic decision making by giving equal status to local information of inhabitants with expert knowledge. . Therefore ending the recommendations as to how environmental degradation can be reduced, it will be important to know that it is vitally important to keep the household sector in mind also, there has to be a lot that can be done. Household sector especially of urban areas should also make proper and required use of energy and also try not to pollute their surrounding since in the long run it will be them who

will bear the brunt of heavy taxation from government to make the surroundings better.

C. Judicial Innovations taken up in India, and its effect on societal aspect of economy. Expansion of traditional rule of locus standi standsocus standi standswo pre- requisites. The first one being that the petitioner should himself be one of the ggrievaggrieved and other being that the petitioner's personal or legal interest should have been harmed, so that the courts can intervene.

In environmental cases where high stakes of industries and enormous quantum of environmental degradation is happening, such principle will not stand since, such activities will not have huge impact on industrial sector but also it is wrong against the community interest and therefore ambit Of locus standi standslarged and any public body can challenge functioning of industrial zones and make an appeal in courts. This has brought forth a myriad of avenues for

NGOs, Nagsaffected parties to indeed check the abuse of high public officials of environmental functionaries, to challenge governmental policies and to test the legality of fiscal policy that favored tax dodgers. 2. The economic rationale which comes out of such cases is that in order to look at growth of any area, or any section of society it is the checks and balance on government machinery and policies effective implementation is very necessary which will make sure whether particular rule or law is effective for the people who are affected due to violation of their rule.

There always policy decisions to be made with respect of whether the aggrieved party is to be compensated from the industrial emission taxes or whether the government should strictly giving out leases for industries in ecologically sensitive areas, which has been advocated by majority of environmentalists for area of Western Ghats , which has been declared as ecologically sensitive zone under the Environment (Protection) Act, 1986.

Concept of Public Trust 3.

Public trust principle is gaining recognition by Courts by not Only holding the industrial sectors and the actual offenders liable for damages done to ecology but also to the respective Governments. This principle has very correct impact on the revenue mechanisms of the government, since under this concept there are certain resources which should be only for exclusive public use and not subject to any private ownership. Here the government acts as trust to see that public at large is beneficiary of natural resources and there is no monopolizing process taken up by commercial sectors.

This limits the revenue generation of the government since it cannot allow the hazardous industries to exploit natural resources to the fullest and thereby taking large sums of revenue from industrial sector. 4. Now looking from an economic perspective, public choice theory will come into play in the present issue, since under this concept purpose of government is to promote the interests of general public rather than redistribute public goods from broad public uses to restricted private benefit.

Public choice theory also more or less expounds the same principle that from taxing a larger section of society and compensating a smaller section with

that great amount to uplift them. The rationale would be that the large section would not realize what they have lost by cost sharing but for the smaller group that will make them active participants in gaining from that amount.

Thus in order to achieve an equilibrium between environmental effluents happening and restoring people's concerns about the degradation they face, it can only be done if there is huge compensatory mechanism that government invests in order to limit the number of plants in polluted areas and to either close or tax highly the factories that do not put sincere efforts in keeping their surrounding places away from deterioration being caused by them. Shifting/ relocating hazardous industries away from residential areas

There have been various initiatives taken up by Courts with respect to protecting people's fundamental rights with respect to healthy and livable environment. In the case of *M. C Mehta v Union of India*, it has been viewed that industries should only be allowed to establish in areas where population is very scarce. This has various benefits of its kind, since in the short run there might not be enough pollution created to directly affect the people but in the long run it might create issues.

The short run time frame used by environmental agencies and government to either try to find some alternative source of energy-renewable sources in the industries concerned or either to give notice period to companies having large shares in such industries to adhere to strict energy audits, effluent treatment plants and in increasing their product efficiency in a sustainable way for people living in surroundings. 2. Also the above

mentioned case, gave industries a reasonable time period to relocate so that the economic consequences of shutting are not faced by the owners and they can continue to work along with respect the decision of court.

But a Very unfortunate incident has been witnessed in present times ith retitct to incident of SoligaSoling in East NilgriMillingg a destitute condition due Forest Department ban on collection of forest produce on marketing. In this particular case, there was no judicial intervention and this has lead to not only affecting one tribe as a whole but also harming the extremely unique species of the mountains. This incident has largely been due to the rent seeking behavior of the industrialists who had an ulterior interest in not letting the ownership remain in the hands of SoligaSoling. . The alternative to actually relocate the industries and enter into a time onsumimisusingity and also affect the market in terms of the sector to which industry belongs is given by professor MadhavMadhyalGailrsing the view of Goa's Go'strialist AudhooAudiooTimber there should be generation Of large- scale employment through the growth of healthy industries and fair economic returns and protecting natural and human capital. D. Case study of some of the critically polluted areas such as AnkhleInhalersdia and the social cost-benefit analysis that society bears 1 .

AnkhleInhalersrat) has the highest pollution rate in India, since it has been a hub of many industries such s chemical, tar and different hazardous industries. Taking into account comprehensive environmental pollution index(CEPI), KEPI pollution in air is 72%, water 72. 75% and land 75. 75% and this area has around 1 941 5 people living within radius of 3km. Tkmcost of effectively preventing pollution in AnkhelEnamelwareapi aAPlding to <https://assignbuster.com/economics-and-environmental-law-assignment/>

Gujarat Pollution Control Board is Rs. 00RSIrore, corethis does not take into account the cost which people are facing since years pertaining to deterioration in healthy life and risk of various diseases. Compared to this the benefits that come along with the industries is hat of development and growth, coupled with investment options that it creates for investors. But the costs in the long run has a very negative effect in the city, since people who are affected due to the pollution is on an increase.

State of MaharaMaharajah'ss held that generation of revenue by State/public authorities is again an essential feature of economic progress but such revenue generation normally should not be at the cost of environmental, social and human rights. This implies that whatever is gained out of industries in AnkhleInhalersthstanding the fact that they give a lot to state treasury should not be done at the cost of the people who suffer due to that. Also this may seem a very moral and emotional argument but it has conomieconomicussions which are far fetching in reality. 3.

Also, it can be very helpful to view at SardarShardsaSarcomahat had been in news due to the NarmadMirandaoBachign. The cost and benefit of the project were examined by the World Bank in 1 990 and the following passage speaks for itself: " The argument in favor of the SardarShardsaSarcomact is that the benefits are so large that they substantially outweigh the costs of the immediate human and environmental disruption. Without the dam, the long term costs for people would be much greater and lack of an income source for future enerateneration put increasing pressure on the environment.

If the waters of the NarmadMiranda continue to flow to the sea unused there appears to be no alternative to escalating human deprivation, particularly in the dry areas of Gujarat. The project has the potential to feed as many as 20 million people, provide domestic and industrial water for about 30 million, employ about 1 million, and provide valuable peak electric power in an area with high unmet power demand (farm pumps often get only a few hours power per day). In addition, recent research shows substantial economic multiplier effects investment and employment triggered by development) from irrigation development.

Set against the futures of about 70, 000 project affected people, even without the multiplier effect, the ratio of beneficiaries to affected persons is well over 1 00: 1 4. This shows some very positive aspects of industries and developmental projects coming in and giving a steady boom to government and benefits to people. Since it has been of view of many environmentalists that all forms of pollution should be reduced and there has been extensive lobbying with governments to impose stricter restrictions.

But here has been a growing need to find something inexpensive for business houses to take into consideration while implementing safety measures with regard to pollutants they create. Conclusion It should be seen that environmental law will be economically efficient only on the account of if the social costs which people are bearing are reduced and there is effective policy that will occur. Also environmental law will be of great utility for sustainable development for years to come if there is a control on what industries can and what they should do to decrease their portion of harm from environmental deterioration.

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