

CONSERVATION OF NATURE *ENROUTE* RELIGION

A NEW PARADIGM EMERGING IN INDIA

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1. INTRODUCTION

The residents of Kurturu, a village located in the Papi hills of the Eastern Ghats in Andhra Pradesh, India, are fighting a battle of their lives. The Polavaram dam on the Godavari River received the clearance of Union Ministry for Environment and Forests (MoEF) of India in 2005.¹

Envisaged as a part of National River-Linking Scheme, the project already has been given national status by the government of India. The proposed dam along with its reservoir spreading in parts of Chhattisgarh and Orissa States may displace about 400,000 people and submerge nearly 4,000 hectares of forest. Konda Reddy tribe, the residents of Kurturu village will not be spared once the dam is in operation.

Legal battle has already ensued on issues like tendering process, water, land and environmental rights. In 2011, Odisha government filed a suit in the Supreme Court of India challenging the Ministry of Environment and Forest's

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1 In January 2014, the Ministry of Environment and Forest finally rejected Vedanta's controversial bauxite mining proposal in Odisha's Niyamgiri, after all the gram sabhas unanimously decided against it. <http://www.newindianexpress.com/nation/Environment-Ministry-Rejects-Vedantas-Mining-Proposal-in-Niyamgiri/2014/01/11/article1993935.ece>, accessed on 13/04/2014.

environmental clearance. The Apex Court, however, refused to entertain Orissa's plea as the construction was already in progress.

Two years later, Vedanta Resources plc, an international mining company has received an immense set back when Supreme Court of India, in a landmark judgment, directed the gram sabhas to take a decision on whether the Vedanta's \$1.7 billion bauxite mining project in Odisha's Niyamgiri Hills could go ahead or not. Finally, Ministry rejected the project after all the 12 villages voted against the project.

Initially, in 2008, the Stage II clearance was given to Vedanta to mine at Niyamgiri. However, following an expert committee report the same was called off after two years. Odisha Mining Corporation (OMC), having a tie-up with Sterlite, a subsidiary of Vedanta, challenged the ban in a writ petition. OMC argued that the ban was making it difficult for them to supply raw materials to Sterlite.

Rejecting the plea, the Court said that the project has an effect on the religious rights of the tribe "...especially their right to worship their deity, known as Niyam Raja, in the hills top of the Niyamgiri range of hills, that right has to be preserved and protected. We find that this aspect of the matter has not been placed before the gram sabha for their active consideration."²

The landmark judgment has certainly opened a whole new paradigm in the ecological conservation process in India. This is a case where religious belief of a tribal community is in direct conflict with the public purpose.

Although, there are plenty of examples worldwide where courts have dealt with the issue of minority land right, religion and development, the approach of Indian Supreme Court is unique in at least one sense – it places the fate of a big business in the hands of few poor people. In other words, it compromises right to develop for right to worship.

It is quite possible that environmental law can be very well influenced by religious faith. Usually, legislators rely on scientific findings to formulate environmental law, particularly different standards or parameters of pollutant

2. *Orissa Mining Corporation Limited v. Ministry of Environment and Forest*, MANU/SC/0396/2013, para 58.

discharge in the natural environment. However, as Holmes Rolston opines, scientific analysis can only provide 'partial' and 'value-free guidance'. Therefore, religion can fill the void by offering a 'value-laden, unified understanding of creation, humankind, and our obligations as stewards of the Earth'.³

Rolston was cautious about the mix of politics with religion.⁴ The initial concern, of course, can give way to a more transparent approach if the public institutions use both of them in a pragmatic manner. The object and purpose of a statute may be helpful. In any way, constitutional mandate has to be kept in mind and must be understood in its broader perspective. Such task is complex particularly in a country like India that preaches secularism through its Constitution when it comes to faith.

The Polavaram issue certainly throws a different challenge where rights of tribal people are in jeopardy due to a large construction project which is a part of national developmental agenda. Certainly, Apex Court's approaches in the two cases are strikingly different and there may be an interesting premise. What if in Polavaram case villagers had the practice of worshipping their deity in the area where the dam or its reservoir is located?

If we consider the Vedanta judgment given by the Indian Supreme Court, knowingly or unknowingly, as an effort of de-establishment of environmentalism, then there is a need to examine whether the idea of religion in Indian Constitution actually has such broader corollary. In other words, we need to understand that some forms of religious practice actually qualify as environmentalism within the meaning of the Constitution.

The paper explores the interaction between faith, religion and environment in the second chapter. Further, it examines the position on environmental protection in India and *inter se* relationship between different provisions of the Constitution. Then, the constitutional debate on religion and environment

3 See, H. Rolston, *Saving Creation: Faith Shaping Environmental Policy*, 4 *Harvard Law and Policy Review* 121 (2010), p.122.

4 *Ibid.* He observed: Americans for centuries have separated church and state. The skeptical will warn that convictions about the supernatural have no place in realpolitik. They are too otherworldly, idealistic, uncompromising, invisible, and impractical. The twentieth century continued a trend toward privatizing religion, moving it out of the public sphere. The Equal Opportunity Act requires an employer to hire without regard to "race, color, religion, sex, or national origin".

has been eloquently presented in the research. The paper concludes by acknowledging the role of religion in furthering the cause of protection of environment.

2. INTERACTION BETWEEN FAITH, RELIGION AND ENVIRONMENT

Association between religion and the environment is rather ancient. Environmental references can be traced out in nearly all the major religions all over the world. Proper environmental management has been one of the key aspects in almost all of them. In the last forty years the idea about nature's use and abuse has gone through significant changes as our world witnessed unprecedented events, negative and positive both, regarding environment. So all the major faiths in the world also have started re-evaluating their teachings and beliefs in the context of the environmental calamities.⁵

Probably, the most influential observation on religion and the environment so far has come from Lynn White, Jr. In 1967 he wrote a short essay where he connected the present trend of exploitation of the natural world by technology with the biblical religion. According to White, Christianity offered the conditions for the democratic fusion of science and technology that in succession allowed us to modify our environment radically. Christianity had divested of nature's sacred and mystifying traits "by destroying pagan animism", and thereby "made it possible to exploit nature in a mood of indifference to the feelings of natural objects."⁶ White also observed that in its Western form, Christianity is the most anthropocentric religion the world has seen.⁷ This anthropocentrism of the biblical belief in reality placed humans at the centre

5 Believers of those faiths realized that they should be more active in caring for the environment, not just because this would be a good thing to do, but because it is a natural expression of their faiths. The faiths are thus natural allies of the environmental movement. *Faiths and the Environment World Bank Support 2000-05*, p.1.

6 Lynn White, "The Historical Roots of Our Ecologic Crisis [with discussion of St Francis; Reprint, "1967] *Ecology and Religion in History*, Harper and Row, 1974.
Also available at http://www.siena.edu/ellard/historical_roots_of_our_ecologic.htm, accessed on 15/04/2014.

7 *Ibid.*

of creation, separating man from nature, and claiming that “it is God’s will that man exploit nature for his proper ends”.⁸

Since its publication, Lynn White’s essay has been a source of debate in the area of religion and environment. Bernhard W. Anderson, the Professor Emeritus of Old Testament Theology at Princeton Theological Seminary, criticized White’s analysis of the Genesis creation story.⁹

Professor Anderson was a biblical scholar. Therefore, this criticism was quite normal. However, historians like George S. Sessions also questioned White’s idea that modern science and technology is embedded in the Christian ideology.¹⁰ On the other hand, French-born American microbiologist, environmentalist and Pulitzer Prize winner René Dubos in his seminal book *A God Within* argued that environmental devastation is not limited to the West only where Christianity rules.¹¹

Such was the influence of Lynn White that dialogue in environmental ethics generally then followed his central hypothesis by allowing suggestions for ethical biocentrism and nature’s built-in values. However, much before Lynn White somewhat similar idea was found in the thinking of Aldo Leopold, an American author, scientist, ecologist, forester, and environmentalist.¹² A paperback edition of *Sand County Almanac*, written by Leopold was published in 1968¹³ that actually reflected the moral summary of White’s thesis *i.e.* we might become ethical citizens and members of the land community by revoking the anthropocentric privilege learned from the Abrahamic religions and recognizing nature’s intrinsic value.¹⁴

8 *Ibid*; See also Ronald A. Simkins, ‘An Introduction: The Legacy of Lynn White, Jr.’, 3 *Journal of Religion and Society*, 1, 2008, at p. 2.

9 Bernhard W. Anderson “Human Dominion over Nature”, *Biblical Studies in Contemporary Thought*, M. Ward (ed.) Greeno, Hadden and Co, 1975, pp. 27-45.

10 George S. Sessions, ‘Anthropocentrism and the Environmental Crisis’ 2 *Humboldt Journal of Social Relations*, 1974, pp. 71-81.

11 See generally, René Dubos, *A God Within*, Scribner Book Company, 1972.

12 Ramchandra Guha, *Environmentalism: A Global History*, Oxford University Press, 2000, p.55.

13 The original book was published in 1949.

14 *Supra* n 6.

Around the same time when White's idea was published, Paul Ehrlich, a Stanford ecologist, published his famous account *The Population Bomb*.¹⁵ In 1972 Dennis Meadows and his team at MIT published the *Limits to Growth*.¹⁶ Both these works turned our attention towards catastrophic future ahead accelerated by population growth and unsustainable consumption pattern. In a way, together with *Silent Spring*¹⁷ they marked a new found environmental awareness worldwide.

In 1973, when Arne Naess gave the term "deep ecology"¹⁸, Richard Routley, in his important 1973 paper *Is There a Need for a New, an Environmental Ethic?*, defended the idea of intrinsic value of the non-human, natural world.¹⁹ Holmes Rolston and many others like J. Baird Callicott further explained that consistent environmental ethics stands on the development of non-anthropocentric value theory.²⁰

However, away from this intense debate on ethics, the world was waking up to another possibility. In 1986, at a meeting held in Assisi by WWF-International there emerged the five original Faith Declarations on Nature. The meeting actually was an idea of His Royal Highness Prince Philip, Duke of Edinburgh at which five leaders of the five major world religions, Buddhism, Christianity, Hinduism, Islam and Judaism were invited to discuss how their faiths could

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- 15 The Population Bomb was published in 1968. It cautioned the world of the mass starvation of population due to unchecked growth. The book has been criticized for its inaccurate prophecy. The authors revisited their ideas in 2009.
 - 16 Limits to Growth was a study conducted by Donella Meadows, Dennis Meadows, Jorgen Randers and their team at Jay W. Forrester's institute at MIT. The study was about the future of the planet. The researchers created a model by taking into account the relationship between various global developments and gave computer simulations for alternative scenarios.
 - 17 Rachel Carson, *Silent Spring*, A Mariner Book Houghton Book Company, 40th Anniversary Edition, 2002.
 - 18 Deep ecology, an environmental philosophy, provides that the natural world is a delicate balance of intricate inter-relationships. It is a holistic approach to address world problems and advocates for moving away from the individualism of Western culture to see ourselves as a part of nature.
 - 19 Richard Routley, 'Is There a Need for a New, an Environmental, Ethic?' Proceedings of the XV World Congress of Philosophy, Varna, 1: 205-10. Reprinted in M. Zimmerman *et al.* (Eds.), *Environmental Philosophy: From Animal Rights to Radical Ecology*, Prentice Hall, 1993, pp 12-21.
 - 20 Willis Jenkins, 'After Lynn White: Religious Ethics and Environmental Problems', 37 *Journal of Religious Ethics*, 2009, p. 5.

and should help save the natural world.²¹ By 1995, when the Alliance of Religions and Conservation,²² a UK-based international organisation founded by Prince Philip, was formed these five initial faith declarations got modified further and six other important world faiths had also made their statements about the environment.

In 2003, the World Bank published *Faith in Conservation* which was a part of the “Directions in Development” series.²³ The book discussed how religions can work with environment and development and therefore, can promote sustainable development in true sense. This idea might work as an unconventional but an alternative form of conservation approach. Views of eleven major world religions are explored in the book to understand how these can outline useful environmental policy.²⁴

Recently, from July 23 to 28, 2013, Rio de Janeiro of Brazil held the biggest Catholic event in the world, the World Youth Day. Near about two millions pilgrims from different nations gathered together for a week of activities, including Pope Francis’ visit. WWF was also present there to demonstrate the need for a stronger understanding of the important relationship between faith and nature conservation and the possibilities of WWF collaboration with the faith leaders interested in nature conservation and sustainable development.²⁵

If these are the value laden judgements on the need for worshipping environment as sacred deity, the example of the recognition of right to worship clubbing

21 The Assisi Declarations, available at www.arcworld.org/downloads/THE%20ASSISI%20Declarations.pdf, accessed on 20 April 2014.

22 ARC is a secular body whose aim is to assist the major religions of the world to develop environmental programmes based on their own core teachings, beliefs and practices. In 2007 it joined with the United Nations Development Programme (UNDP) to develop a significant and innovative programme to work with the world’s major faiths to address issues of global warming and the natural environment through the development of faith-based “Long Term Commitments for a Living Planet” - pledges of faith action on the environment aimed at achieving generational change.

23 *Faith in Conservation: New Approaches to Religions and the Environment*, available at <http://www.arcworld.org/downloads/Faith-in-Conservation-2013.pdf>, accessed on 20/04/2014.

24 *Ibid.*

25 http://wwf.panda.org/what_we_do/how_we_work/key_initiatives/?210334/Faiths-and-Nature-Conservation-a-week-to-remember, accessed on 26/09/2014.

with a right to a healthy environment is scanty. In *Dann v. The United States*²⁶ Western Shoshone elders Mary and Carrie Dann, members of the Shoshone Tribe in Nevada alleged that their rights to equal protection before the law, right to religious freedom and worship, right to family protection, right to work with fair remuneration, right to a fair trial and right to property under the American Declaration had been violated because of, inter alia, the state's appropriation of their lands through an unfair procedure and permitting gold prospecting on traditional lands. In an unprecedented decision, the Inter-American Commission on Human Rights ruled that the United States government had violated the rights of Mary and Carrie Dann in its seizure of their property and improper handling of their rights to tribal land in the state of Nevada.²⁷ Indian Supreme Court's judgment carries almost the similar spirit, at least on the face of it. But there lies some unique concerns too.

3. ENVIRONMENTAL PROTECTION IN INDIA AND RELATIONSHIP WITH OTHER PROVISIONS OF THE CONSTITUTION

The Indian Constitution is the first constitution in the world which contains specific provisions for the protection and improvement of environment.²⁸ Taking the commitment of protecting the environment further, a section was scripted in Chapter IV A of the Constitution which stipulates fundamental duties of citizen of the country in relation to natural environment.²⁹ Together, the provisions highlight the national consensus on the importance of environmental protection and improvement and lay the foundation for a jurisprudence of environmental protection.³⁰ The national consensus has got entrenched in the constitutional framework through innovative interpretation of Article 21 of the Constitution whereby 'right to a wholesome environment',

26 Case 11.140, Report No. 75/02, Inter-Am. C.H.R., Doc. 5 rev. 1 at 860 (2002).

27 *Ibid.*

28 Article 48A of the Constitution states 'The State shall endeavour to protect and improve the environment and to safeguard the forest and wildlife of the country'.

29 Article 51A (g) of the Constitution states 'to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.

30 *M C Mehta v. State of Orissa*, AIR 1992 Ori 225, 227.

unarticulated right, has been recognized as a central feature of 'right to life and personal liberty'.³¹

Along with an impregnated provision on liberty under Article 21, various Articles in the Directive Principles of State Policy strengthen the affirmation of right to healthy environment in India. The Supreme Court has aptly observed that "whenever a problem of ecology is brought before the Court, the Court is bound to bear in mind Art. 48 A of the Constitution ... and Art. 51 A (g) ...when the Court is called upon to give effect to the Directive Principles and the fundamental duty, the Court is not to shrug its shoulders and say that priorities are a matter of policy and so it is a matter of policy making authority."³²

Additionally, the Apex Court has also employed 'right to equality' provision to caution the decision making authority to give due weight and regard to ecological factors such as environmental policy of government and the sustainable use of natural resources.³³

Notably, the Supreme Court refused to expand the ambit of freedom of speech and expression guaranteed under Art. 19 (1) (a) for causing noise pollution by using loud-speakers. The Court observed that "Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge into aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21. Article 19 cannot be pressed into service for defeating the fundamental right guaranteed by Article 21."³⁴

The expansion of definition of state under Art. 12 of the Constitution, through judicial pronouncements, gave impetus to cause of environmental protection

31 *Rural Litigation and Entitlement Kendra v. State of U.P.*, AIR 1985 SC 652; *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420; *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577.

32 *Sachinanda Pandey v. State of West Bengal*, AIR 1987 SC 1109, 1114-15.

33 *State of Himachal Pradesh v. Ganesh Wood Products*, AIR 1996 SC 149, 159, 163.

34 *In Re: Noise Pollution*, AIR 2005 SC 3136.

in India.³⁵ This expanded scope has made it possible to include the state as a necessary party in almost all the environmental issues adjudicated before the courts in India.³⁶ This approach has made constitutional remedies available in case of environment not only against direct state action but also indirect state action or inaction.

Interrelationship among different provisions of the Constitution contributes to the growth of constitutionalism and fortifies the sustenance of the foundational document. The synergy between different provisions relating to fundamental rights gets persuaded by several factors which are traceable to the nature of human person, consequences of human actions, intricate social relations, role of the state, and goals set for perfection of personality and attainment of justice.³⁷ The habitation and enjoyment of resources and opportunities in partnership, common stock, common means of communication or language, common ways of life and faith and common belongingness to entitlement class – all offer connecting links between man and community.³⁸ Thus, interrelationship between ‘right to equality’ and ‘right to life and personal liberty’ for ensuring healthy environment leaves scope such interaction of the rights in future also.

The affirmation of the same position to the Directive Principles of State Policy (DPSP) with the fundamental rights ushered into a new era of human rights jurisprudence. It was held that the courts have a responsibility in so interpreting the Constitution as to ensure implementation of the DPSP and to harmonize the social objectives underlying them with individual rights.³⁹ In the matter of right to environment, the related provisions in the directive principles obligates the state to undertake necessary measures required for guaranteeing pollution

35 Through series of judicial decisions the definition of ‘the state’ got expanded and consequently a body, registered or incorporated, commercial or non-commercial, regarded as state within the scope of Art. 12. See, *Sukhdev v. Bhagatram*, AIR 1975 SC 1331; *R D Shetty v. International Airport Authority*, (1979) 3 SCC 489; *Ajay Hasia v. Khalid Mujib*, AIR 1981 SC 487.

36 C M Abrham, *Environmental Jurisprudence in India*, Kluwer Law International, 1999, p. 23.

37 P Ishwara Bhatt, *Fundamental Rights – A Study of Interrelationship*, Eastern Law House, 2004, p.12.

38 B A Masodkar, *Society, State and the Law*, Tripathi, 1979, p. 45.

39 *Keshvananda Bharti v. State of Kerala*, AIR 1973 SC 1506.

free environment on one hand, and on the other hand provision related to fundamental duties on protection and improvement of natural environment generates a sense of responsibility upon citizens of the country.

4. CONSTITUTIONAL DEBATE ON RELIGION AND ENVIRONMENT

If we look at society from a historical perspective, we realize that protection and preservation of the environment has been integral to the cultural and religious ethos of most human communities. Nature has been venerated by ancient Hindus, Greeks, Native Americans and other religions around the world. They worshipped all forms of nature believing that it emanated the spirit of God. Hinduism declared in its dictum that "(t)he Earth is our mother and we are all her children."⁴⁰ The ancient Greeks worshipped Gaea or the Earth Goddess. Islamic law regards man as having inherited "all the resources of life and nature" and having certain religious duties to God in using them.⁴¹ In the Judeo-Christian tradition, God gave the earth to his people and their offspring as an everlasting possession, to be cared for and passed on to each generation.⁴² Religion is believed to have played a positive and beneficial role in environmental conservation; religion can also act against the interests of environmental protection.⁴³

In recent past, the interrelationship between religion and environment to further the cause of pollution-free living and regulation of development activities has been highlighted by the Supreme Court of India. The Court has restricted the scope of religious practice in the matter relating to noise pollution and observed that "The Court by restricting the time of bursting the firecrackers has not in any way violated the religious rights of any person as enshrined under Article 25 of the Constitution. The festival of Diwali is mainly associated with pooja performed on the auspicious day and not with firecrackers. In no religious text book it is written that Diwali has to be celebrated by bursting crackers.

40 Atharva Veda (Bhumi Sukta).

41 See Islamic Principles for the Conservation of the Natural Environment, 13-14 (IUCN and Saudi Arabia, 1983).

42 *Genesis* 1:1-31, 17:7-8.

43 Emma Tomalin, *Bio-Divinity and Biodiversity: Perspectives on Religion and Environment Conservation in India*, 51 *Numen*, 2004, 265, at p. 266.

Diwali is considered as a festival of lights, not of noises. Shelter in the name of religion cannot be sought for, for bursting firecrackers and that too at odd hours.”⁴⁴

On a question that “whether the right to propagate religion includes the right to use loudspeakers and microphones for the purpose of chanting religious tenets or religious texts and/or the indiscriminate use of microphones or loudspeakers during religious performance in the society.” The Court identified that the core of religion protected under Art. 25 and stated that “It cannot be said that the religious teachers or the spiritual leaders who had laid down these tenets, had any way desired the use of microphones as a means of performance of religion. Undoubtedly, one can practise, profess and propagate religions, as guaranteed under Article 25(1) of the Constitution, but that is not an absolute right. The provisions of Article 25 is subject to the provisions of Article 19(1)(a) of the Constitution. On true and proper construction of the provisions of Article 25(1), read with Article 19(1)(a) of the Constitution, it cannot be said that a citizen should be coerced to hear anything which he does not like or which he does not require.”⁴⁵ Though, the case was not directly related to the right to environment, the observation of the court clearly draws limitation on enjoyment of religious right in relation to noise pollution.

Recently, the Supreme Court heavily relied upon religious right of community to regulate development project related to mining in the State of Orissa. In *Orissa Mining Corporation Ltd v. Ministry of Environment and Forest*, the Apex Court held that “Religious freedom guaranteed to STs and the TFDs under Articles 25 and 26 of the Constitution is intended to be a guide to a community of life and social demands. The abovementioned Articles guarantee them the right to practice and propagate not only matters of faith or belief, but all those rituals and observations which are regarded as integral part of their religion. Their right to worship the deity Niyam-Raja has, therefore, to be protected and preserved.”⁴⁶

This judicial pronouncement made distinct impact of environmental protection in India because religious belief has always been vital for preservation and

44 *Supra* n. 34.

45 *Om Birangana Religious Society v. The State*, MANU/WB/105/1996.

46 MANU/SC/0396/2013.

conservation of ecology.⁴⁷ On the one hand, the decision of the Court emphasized upon the experience, ritual and perspective on social behavior of religion on the other hand it deviates from doctrinal or ethical components of religion. On the matter of the ambit of right to religion, the Court has categorically held that “the matters of religion ... include even practices which are regarded by the community as part of its religion.”⁴⁸

However, it also leaves a bigger question for exploration on the meaning of religious beliefs and practices and protected within the ambit of right to freedom of religion under the Indian Constitution and applicability of the same for protection of environment. The judgment also reflects the approach on widening the interrelationship by construing community, i.e., Scheduled Tribes and Traditional Forest Dwellers, as a subject matter of the right scripted under Articles 25 and 26 of the Constitution which has been primarily invoked to protect religious right of individual and denominations.

As we are gradually moving towards an inclusive world the tendency towards recognizing the ‘forgottens’ will be more prominent in years to come. Beyond Vedanta, therefore, there are stories in making. During monsoon season, the Gond and Korku tribes who live in Betul and Harda districts of Madhya Pradesh observe Hari Jiroti, a month-long festival, during which they plant saplings of fruit-bearing trees. This they do as an expression of claiming back their forest rights that are unheard and rejected by the forest officials in the recent past.⁴⁹

In Mahan forest Mahan Coal Ltd, jointly owned by London-listed Essar Energy Plc and the Aditya Birla owned Hindalco Industries Ltd are all set to mine part of the 1,000-square-km forest for coal. The final forest clearance for the project came from environment minister Veerappa Moily.⁵⁰ The project will

47 See, Pancavati Banwari, *Indian Approach to the Environment*, Shri Vinayaka Publications, 1992.

48 *Venkataramana Devaru v. State of Mysore*, AIR 1958 SC 255, at p. 264.

49 Available at <http://www.downtoearth.org.in/content/protectors-dubbed-criminals>, accessed on 10 March 2014.

50 In less than three months in the job he has approved more than 70 big-ticket projects worth over \$40 billion, some of which were stalled by his predecessors over green concerns. <http://in.reuters.com/article/2014/03/20/india-mining-environment-idINDEEA2I0FV20140320>, accessed on 14/04/2014.

fell thousands of trees and affect the livelihoods of almost 14,000 people who sell products such as mahua seeds and tendu leaves, used to make cheap alcohol and hand-made beedi respectively.⁵¹

No religious question is attached at least in terms of worshipping a deity in disputed areas in Betul or Harda districts or Mahan or even in Polavaram project. However, a different understanding is unmistakably attached which is purely legal.

Under the Forest Rights Act, 2006 (FRA), the Gram Sabha has been given very important role to play. The Gram Sabhas shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under the Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and then pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.⁵²

The clearance of Central Government projects which involve felling of trees not exceeding seventy-five trees per hectare and diversion of forest land clearly depends on the recommendation of respective Gram Sabhas.⁵³

Gram Sabhas are also empowered to protect the wild life, forest , biodiversity, adjoining catchments areas, water sources, other ecological sensitive areas, preserve the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers from any form of destructive practices affecting their cultural and natural heritage etc.⁵⁴

These are the provisions, along with other substantive ones in the Act that entail the idea of social, cultural and political expressions of forest dwellers. Without any doubt that this also includes their right to worship. But such

51 *Ibid.*

52 See Section 6(1) of FRA, 2006.

53 *Ibid*, Section 3 (2).

54 *Ibid*, Section 5.

right is only peripheral to their core right to environment; or *vice versa* the peripheral right to worship defines the right to environment more prominently. Either way it leads to the better protection of environment. Understanding this distinction is important because if we look at any one of these in isolation then bifurcation of rights will be eventual outcome and in turn will promote a reclusive model.

5. CONCLUSION

The use of Religion as a tool for environment conservation is justified because firstly, most lasting social change is anchored in a deep moral imperative. Secondly, values based rationale for protecting biodiversity are widely held and persuasive. Thirdly, religion humanizes and personalizes choices about environment and more importantly, understanding ethics backed by individuals' religions will help us make better decisions on complex issues.

Though the approach of the judiciary intends to achieve a noble aim, it does run the risk of being taken up to support unintended causes, or of becoming implicitly aligned with unwelcome political forces.