



IMPACT OF ENVIRONMENTAL ISSUES ON PUBLIC ADMINISTRATION IN INDIA

Dr. Anil Kumar Pareek

Assistant Professor, Public Administration, Govt. Arts College, Kota, Rajasthan

ABSTRACT

The Ministry of Environment and Forest and Climate Change is the Nodal Agency in India for Policy Making and Implementation of the various matters pertaining to Environmental Issues. It consists of the following Organisations, under the direction of the Ministry for the day to day Administrative work of the Ministry.

- 1. Regional Offices*
- 2. Subordinate Offices*
- 3. Autonomous Organisations*
- 4. Authorities/Tribunals*
- 5. Boards*
- 6. Institutes*

National Environmental Policy 2006: The Following are the Objectives of the National Environment Policy: 1. To protect and conserve critical ecological systems and resources and invaluable natural and man-made heritage, which are essential for the life support, livelihoods, economic growth, and a broad conception of human well-being. 2. To ensure equitable access to environmental resources and quality for all sections of society. 3. To ensure judicious use of environmental resources to meet the needs and aspirations of the present and future generations. 4. To integrate environmental concerns into policies, plans, programmes, and projects for economic and social development. 5. To ensure efficient use of environmental resources in the sense of reduction in their use per unit of economic output, to minimise adverse environmental impacts. 6. To apply the principles of good governance (transparency, rationality, accountability, reduction in time and costs, participation, and regulatory independence) to the management and regulation of use of environmental resources. 7. To ensure higher resources flows, comprising finance, technology, management skills, traditional knowledge, and social capital for environmental conservation through mutually beneficial multi-stakeholder partnership between local communities, public agencies, the academic and research community, investors, and multilateral and bilateral development partners.

INTRODUCTION

The Directive Principles of State Policy contained in Part IV of the Constitution set out the aims and objectives to be taken up by the States in the Governance of the country. The Directive Principles lay down certain economic and social policies to be pursued by the various Governments in India i.e., Central, State and local; they impose certain obligations on the State to take positive action in certain directions

in order to promote the welfare of the people and achieve economic democracy. Directive Principles or constitutional Provisions relating to Environmental Protection. Article 39 of the Constitution envisages the distribution and management of material resources which includes natural and manmade resources in such a manner that their concentration and monopoly over their use should not give rise to ecological imbalance and health hazards.



Article 42 of the Constitution empowers the state to make provision for securing just and human condition of work which can be achieved in a clean environment and for maternity relief. Article 47 Declares that the State shall regard the raising of the level of nutrition and the standards of living of the people and the improvement of public health as among its primary duties and in particular, the State shall endeavour bring about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health. [1,2]

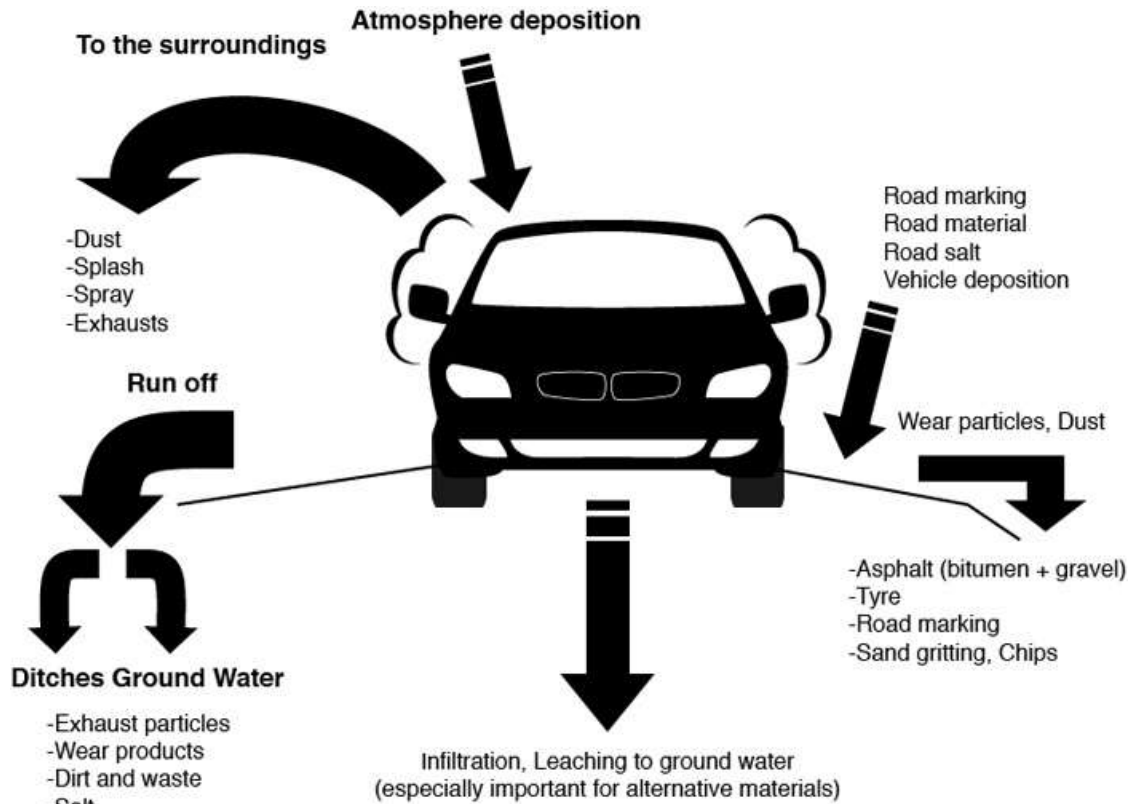
Organisation of agriculture and animal husbandry: The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle. Bulls and bullocks up to the age of 16 years can be said to be useful for the purposes and legitimate restriction can be placed against their slaughter.

Protection and improvement of environment and safeguarding of forests and wild life: The State shall

endeavour to protect and improve the environment and to safeguard the forests and wild life of the Country. The Constitutional (42 Amendment) Act, 1976 added a new directive principle in Article 48A which deals specifically with protection and improvement of environment. In this way, the constitution of India became one of the rare constitutions of the world where specific provisions were made in the Supreme Law imposing obligations on the State to 'Protect' and improve the environment.

Protection of monuments and places and objects of national importance: Article 49 Declares that it shall be the obligations of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Right Against Environmental Pollution: Right Against Environmental Pollution as the Fundamental Right was evolved as the Right to Equality and the Protection of Environment.



The environmental issues are relevant and deserves serious consideration. The needs of the environmental safeguard required to be balanced with the need of the community at large and the need of the developing countries. The following are the cases the Supreme Court held the protection of Environment as the matter of Right to Equality. In Bangalore Medical Trust Vs B.S Muddappa [(1991) 4 SCC 54], the Supreme Court held that “Protection of the environment, open spaces for recreation and fresh air, playgrounds for children, promenade for the residents, and other conveniences or amenities are matters of great public concern and of vital interest to be taken care of in a development schemes... The public interest in the reservation and preservation of open space for parks and playgrounds cannot be sacrificed by leasing or selling such sites to private persons for conversion to other user... it would be in direct conflict with the constitutional mandate.” The court has held that the allotment of site reserved under the scheme for public park to construct a hospital by a private party by the authorities was arbitrary and hence ultra vires and vocative of article 14 of the constitution. In T. Damodhar Rao V. S.O Municipal Corporation [AIR

1987 AP 172], the Andhra Pradesh High Court declared that the enjoyment of life and its attainment and fulfilment guaranteed by Art 21 of the constitution embraces the protection and preservation of nature’s gifts without which life cannot be enjoyed. There can be no reason why practice of violent extinguishment of life alone should be regarded as violate of Article 21 of the constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and exploitation should also be regarded as amounting to violation of Article 21 of the Constitution. [3,4]

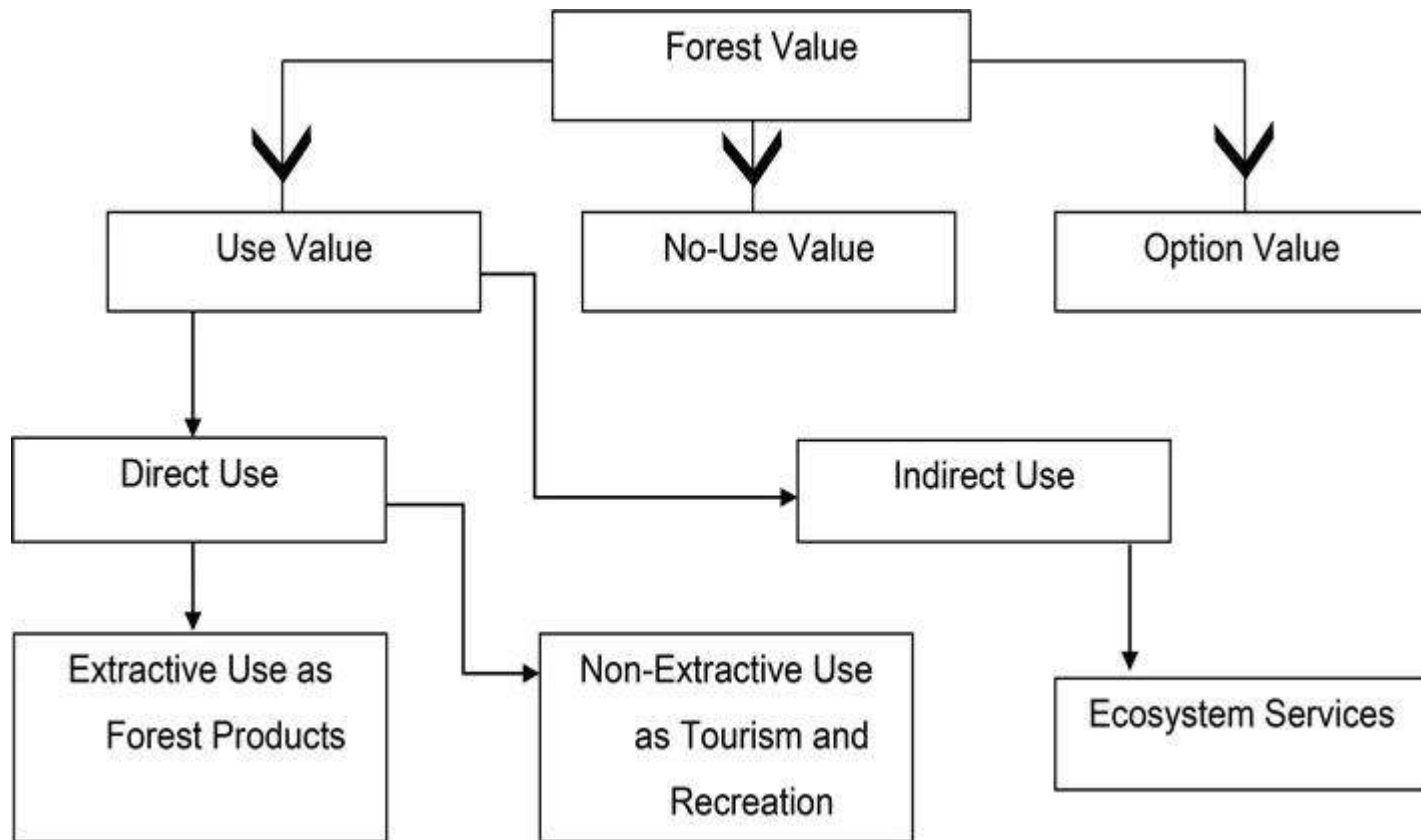
DISCUSSION

An exception conferred by any law, from a general rule. Immunity is the favour granted by law contrary to the general rule. Thus an immunity is a right peculiar to some individual or body; an exemption from some general duty or burden; a personal benefit of favour granted by law contrary to the general rule. Judicial Scrutiny, Is an action performed by a court, touching the rights of parties or property, brought before it by voluntary appearances or by the prior action ministerial officers or enactments.



The following of the cases involves the Immunity of Environmental Legislation from judicial Scrutiny under Article 31 – C In Sachinanda V. State of W.B [AIR 1987 SC 1109], the Supreme Court held that in cases where the problem of ecology is brought before the court, the court is bound to bear in mind Article 48-A which enjoins that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. In M.C. Metha (II) V. Union of India [(1988)] the Supreme Court, relying on Art 48-A gave directions to the Central and the State Governments and various local bodies and Boards under the various statutes to take appropriate steps for the prevention and control of pollution of water. In Rural Litigation Kendra V. State UP [AIR 1987 SC 359], the court directed the closing down of the mines in the Mussoori Hill Range due to

the danger relating to environment and ecological balance arising out of the large number of leases of limestone quarries carrying operation and its effect on the people residing there and the welfare of the generality of the people living in the country. Every State has sovereignty in its own territories. It has the right to development. It has the right to exploit the natural resources available within it. Every State allows industrialists to establish industries and expand agriculture for food production. This right to development has been recognised by the U.N. General Assembly on 4th December, 1986 in a “Declaration on the Right to Development”. This Declaration stated that the right to development of a sovereign State is a necessary right to protect the human rights. Equitable access to the basic resources is an ingredient of the right to development.



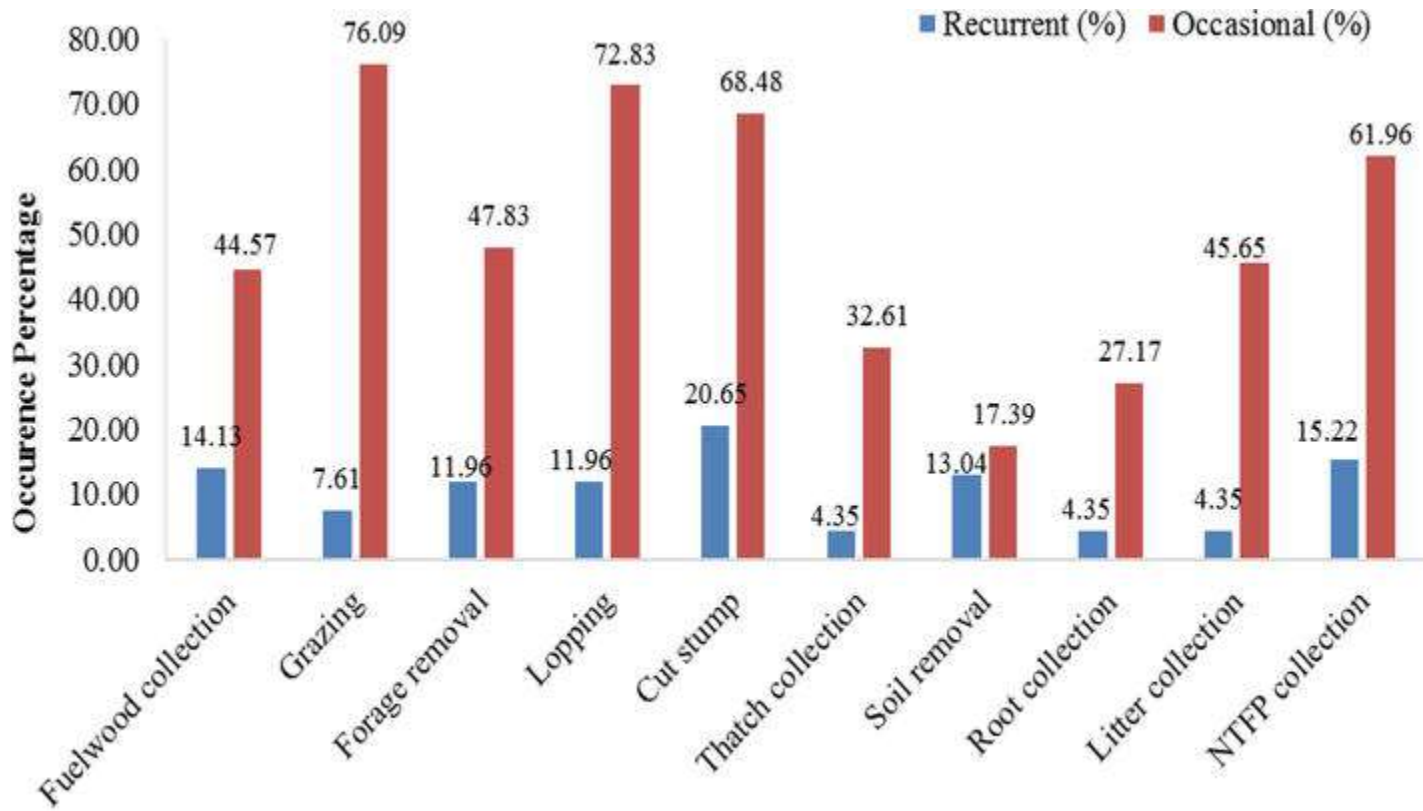
The U.N Declaration on the Right to Development imposes on State Parties, an obligation to undertake all necessary measures for the realisation of the right to development, and to ensure inter- alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing and employment. The World Commission on Environment and Development Observes: “What is required is a new approach in which all nations aim at a type of development that integrates production with resource conservation and enhancement, and that links both to the provision for all of the adequate livelihood base and equitable access to resources. The Stockholm Declaration 1972 admitted that there must be development in all the states and the same time we should prevent environmental pollution by taking ‘precautionary Steps’. Development is must and necessary for human beings. Without stopping the development, and without polluting the environment means an integration of development and environmental imperatives.[5,6]

Vellore citizens welfare Forum V Union of India [(1996) 5 SCC 650]: where a writ petition was filed regarding the pollution caused by enormous discharge of untreated effluent by the tanneries into

waterways, the Supreme Court held: “Economic Development and Pollution and Controversial. When a Country wants to develop it has to face the risky situations. If we fear, our development will stagnate. It is also necessary to point that when science and technology are increasingly employed in producing goods and services calculated to improve the quality of life, there is a certain element of hazard or risk inherent in the very use of science and technology and it is not possible totally to eliminate such hazard or risk altogether. We cannot possibly adopt a policy of not having any chemical or other hazardous industries merely because they pose hazardous industries merely because they pose hazard or risk to the community.

IMPLICATIONS

The term ‘Public Interest Litigation’ (PIL) consists three words, ‘public’, ‘interest’, and ‘litigation’. The word ‘public’ carries the meaning of the people, the general body of making, the community at large, the whole body politics, all the citizens of the State, the people of the neighbourhood, the inhabitants of a particular place, populace, society, etc.

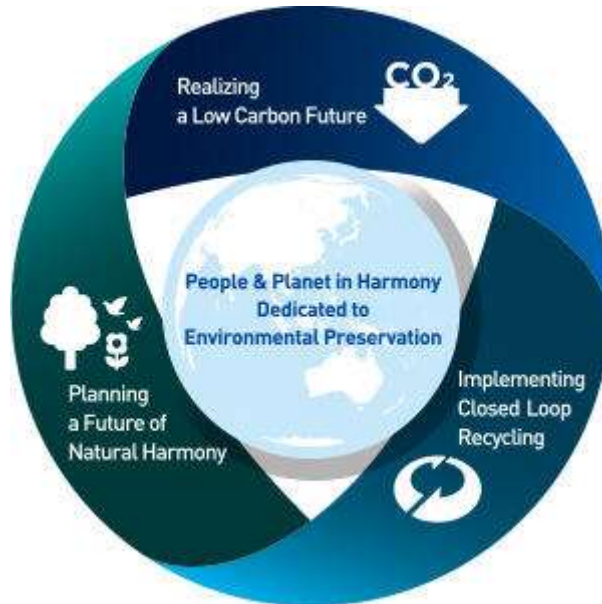


Disturbances

The word 'litigation means legal concern, right, pecuniary stake. The legal concern of a person in the thing or in the right to some of the benefits which can be enforced by judicial proceedings. The 'word 'litigation' means, a judicial controversy, a contest in a court of law, a judicial proceeding for the purpose of enforcing a right to seeking a remedy; legal proceedings; the action of carrying on a suit in law. The term 'public interest' is defined in the Oxford English Dictionary as "the common well – being... also public welfare". The seeds of the concept of PIL were initially sown in India by Krishna Iyer. in 1976(without assigning the terminology) in Mumbai Kamgar sabha V Abdul Bhai [AIR 1976 SC 1455]. In 1981, Krishna Iyer used the terminology of 'Public Interest Litigation' in Fertiliser Corporation Kamgar Union V Union of India [AIR 1981 SC 149]. The idea of 'Public Interest Litigation was blossomed in S.P. gupta and others V President of India and others [AIR 1982 SC 149]. Aims of Public Interest Litigation: The Public Interest litigation's aim is to provide an effective remedy to the poor, weak and illiterate persons to enforce their rights and interests.

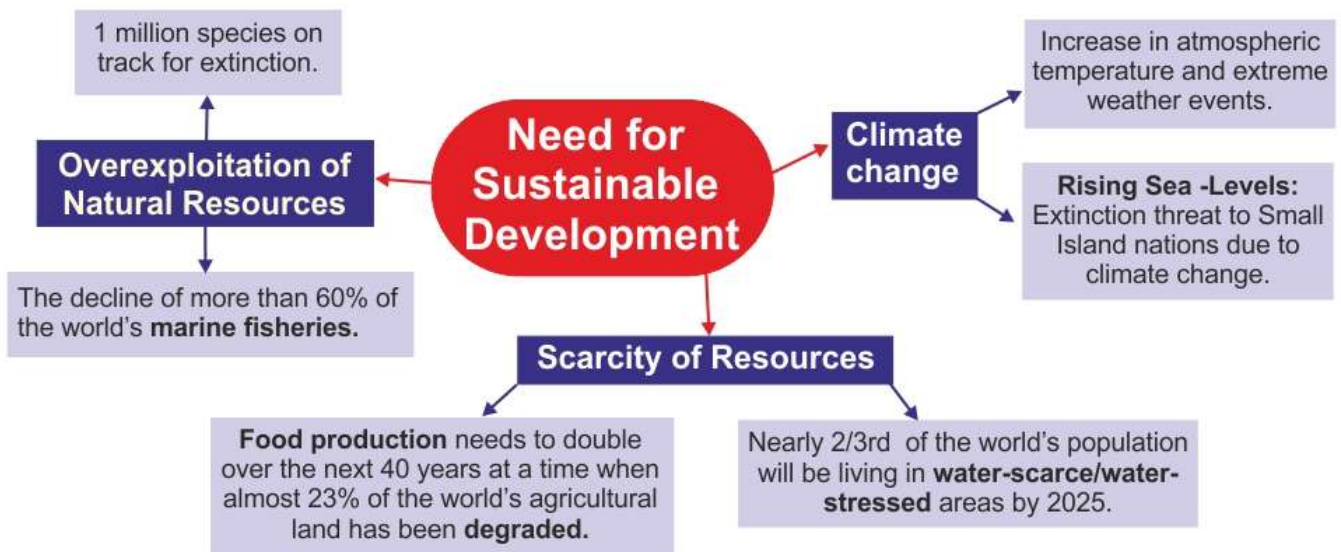
Environmental Protection and Public Interest Litigation: The ability to invoke the original jurisdiction

of the supreme Court and the High Courts under arts 32 and 226 of the Constitution is a remarkable step forward in providing protection for the environment. Courts have widened the dimensions of the substantive rights to health and a class and unpolluted environment. In many cases, this process was made with the aid of the Public Interest Litigation. Case laws of Public Interest Litigation relating to Pollution Control Rural Litigation and Entitlement Kendra, Deharadun V State of Uttar Pradesh [(1985) 2 SCC 431]: A Public Interest Litigation was filed for the closure of certain lime stone quarries on the ground that there were serious deficiencies regarding the safety and hazards in them. The Court had appointed a Commission for the purpose of inspecting certain lime stone quarries. The Commission had reported for the closure of them having regard to adverse impact of mining operations therein and was causing for a large scale pollution by the lime stone quarries. On the basis of the report of the Commission the court ordered the government to take steps to control the affecting the safety and health of the people living in the area otherwise close them. [7,8]



The National Green Tribunal has been established on 18.10.2010 under the National Green Tribunal Act 2010 for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto. It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues. The Tribunal shall not be bound by the procedure laid down under the Code of Civil

Procedure, 1908, shall be guided by principles of natural justice. The Tribunal's dedicated jurisdiction in environmental matters shall provide speedy environmental justice and help reduce the burden of litigation in the higher courts. The Tribunal is mandated to make and endeavour for disposal of applications or appeals finally within 6 months of filling of the same. Initially, the NGT is proposed to be set up at five places of sittings and will follow circuit procedure for making itself more accessible. New Delhi is the Principal Place of Sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai shall be the other four places of sitting of the Tribunal.





Environmental (protection) Act, 1986 The Environment (Protection) Act, 1986 is designed to supplement the existing laws as regards pollution by providing in general for environmental protection and to fill in the gap in regulation of major environmental hazards. The provision in Section 2(a) of the Act lays down that the 'environment' includes water, air and land and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property. According to Section 2(b) of the Act, 'environment means any solid, liquid or any gaseous substances present in such concentrations as may be, or tend to be injurious to environment.

Under Section 2(C), 'environmental pollution' means presence in the environment of any environmental pollutant. It is notable that noise is not covered in the definition of environmental pollutants. However, the narrow scope of Section 2(b) is brought out in Section 6(2)(b) of the Act, which refers to noise pollution. It lays down that, Central Government may, by notification in the Official Gazette, make rules prescribing the maximum allowable limits of concentration various environmental pollutants including noise for different areas. In this way, the Environmental Protection Act deals with inter alia the problem of noise pollution.[9,10]

RESULTS

The social and economic fibre of global societies have undergone tremendous change due to the process of urbanization, modernization, increased awareness and public participation in development and decision making. The processes of globalization and political and economic change have introduced socio-economic changes taking place worldwide. The challenges confronting public administration systems as the developed and the developing countries have implemented different types of innovative and capacity-strengthening initiatives at different levels. All these have also multiplied and introduced new challenges into the realm of public administration worldwide. The world has also witnessed the accelerated development of information and communication technologies, the emergence of trading blocs and economic unions. The rural to urban mass migrations accompanied by the increasing pressure on urban resources and the increasing number of urban poor and unemployed youths have posed serious rich and poor divide in developing countries particularly India are some of the new challenges before the government and the public administration.



Environmental consequences

Negative Effects (Agriculture and ranching)

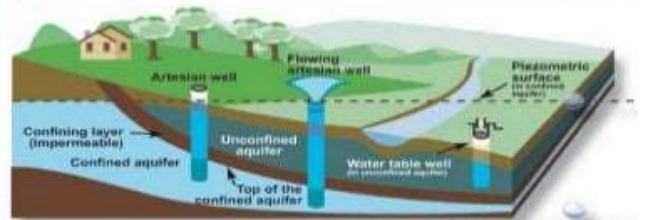
- 1-Plowing new lands for cultivation and for pastures provokes deforestation
- 2-Overexploitation causes depletion of the soils.
- 3-Pollution is provoked by the improper use of insecticides, pesticides...
- 4-Overexploitation of the aquifers.

Solutions (Think and answer)

- 1-The use of Natural credits and technologies that guarantee the enrichment of the soils
- 2-The use of organic products to attack plagues
- 3-The sensible use of the water resources



Aquifers and wells



Source: Environment Canada

The other types of new emerging challenges include growing intercultural interactions economic liberalization, expanding opportunities for the movement of goods and capital, climatic and environmental changes with catastrophic consequences. Some of the more recent ones include the marketing of new drugs and genetically modified food products and the discovery of mysterious diseases that recognize no political or geographical boundaries have compounded the ever increasing challenges for public administration. Many developing and under developed countries are still struggling with the new realities of globalization and liberalization and are yet to introduce few desired and required reforms in governance and economic policy. While the developed nations have already moved much ahead in terms of certain reforms in the functioning of the government and administration, but many developing countries are yet to begin their reforms in order to meet the new challenges due to liberalization and globalization of world trade, production and economy. Some of the

events, which have far reaching consequences world wide like the events of 11 September 2001, which has placed security firmly on the public policy agenda in a number of issues and countries. Now, there is more realization that security needs to be broadly defined to include human concerns, particularly concerns for the socio-economic welfare of the people.[8,9]

CONCLUSIONS

It is also important to understand here that how quickly the developing countries, particularly the least developed ones, improve their economy, and emerge from poverty and achieve improved living standards depends partly on the support of the international community but also on the effectiveness of national public administration systems in implementing the poverty reduction components of the Millennium Development Goals. Those concerns explain the attention given in recent years to measures aimed at enhancing the policymaking capacity and the service-



delivery capacities of public administration systems worldwide. The objectives and strategies of public administration revitalization are as varied as the challenges encountered at different times and places. This is to be expected. In a world characterized by diversity of culture and by disparities in socioeconomic and political conditions, public administration revitalization cannot be projected in a monochromatic format, but rather in a way that vividly brings out the various hues and circumstances distinguishing one environment from another.[10]

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