

IDOLS IMMERSION – ENVIRONMENTAL POLLUTION

Dr. K. Krishna Murty

Assistant Professor©, Mahatma Jyotirao Phule College of Law, Dr.B.Ambedkar

University, Srikakulam, Etcherla – 532410, Andhra Pradesh

The whole universe together with its creatures belongs to the nature. Implicitly in this thought is that no creature is superior to any other and that a human being should not have absolute power over nature. Let no species encroach over the rights and privileges of the other species. One can enjoy the bounties of nature by giving up greed. ---- Upanishad

There is ample evidence to prove that the society in ancient times paid more attention to the protection of environment than what we think at present.

Nature is God and God is Nature. That's how our ancient sages and wisemen treated our natural environment in all her glory. Ancient civilization has never sacrificed nature to speculation, but holding it has divine, has honored her natural beauties by the erection of works of art. Solace of nature is what they had uppermost in their minds, which we too despite the past face of modern life should aim to imbibe. On the other hand, rapid economic development software, technological and scientific advancements have increased their impact on the natural environment, famous ecologist Edward Goldsmith said, "By now it should be clear that the environment becoming less capable of sustaining the growing impact of our economic development"

It was 'dharma' of each and every individual in the society to protect the nature. The people in ancient times worshipped the objects of the nature. In the ancient times the trees, water, land and animals gained important position. For causing injury to plants different punishments were prescribed Govindaraja makes a distinction between injury to shade-giving plants, flower-bearing plants and fruit-bearing plants and he prescribes the lowest, middle and highest immurements respectively. Kautilya went a step further and fixed the punishment on the basic importance on the part of the tree. Manu imposes duty on mankind to protect the forests.

On the other hand we are running blindly behind economic advancement selfishly without considering about the future of the future generation as rapid economic development technological and scientific advancements have increased their impact on the natural environment.

With reference to India, the gloomy picture of the status of the natural world becomes clear from the following report.

Most of fresh water bodies all over the world are becoming polluted, thus decreasing the portability of the water. In India religious practices have deep relationship with water bodies. They also patronized religious practices and constructed numerous relatively small water bodies along with temples throughout the country. Today, with the rapid pace of urban development, most of these water bodies have become sinks for waste discharge, resulting in deterioration of their water quality.

Idol worship is common in India. Idols are usually made up of wood, bamboo, straw, jute ropes, clay, and plaster of Paris and are painted with bright synthetic colors, which often contain heavy metals. Other materials, such as straw, jute ropes, flowers, leaves and germinated grains cause short-term deterioration of water quality on their decay, while heavy metals in the paints pose health hazards in the long-run.

Air and water, the most precious gifts of the nature, are very essential not only to the man kind but flora and fauna also. All living creatures on the mother earth have a right to environment in order to survive themselves. Right to water is an essential right for mankind. Right to sweet water and right to free acid are the natural heights given to mankind by nature. Air, water, land are the representatives sample of natural environment and geophysical, atmospheric, and hydrological system determine the character of bio-sphere including bio-data and mankind of a region. If we try to disturb nature, it disturbs and damages us irreparably¹.

Environmental Ethics:

Sky is like father, earth is like mother, and all the creatures that live in between constitute a family. Any disturbance to any one of them will disturb the entire system. Since vedic times, the main purpose of the social life was to 'live in harmony with nature' sages, saints and Gurus of India lived in forest, meditated and expressed themselves in the form of Vedas, Upanishads, Smritis and Dharmas.

In ancient times, people attitude towards plants, trees, mother earth, sky, air, water and animals and to keep a benevolent attitude towards them Hindu religion enshrined a respect for nature, environmental harmony and conservation. Trees, animals, hills, mountains, rivers are worshipped as symbols of reverence to these representative sample of nature. Therefore cutting of tress, polluting air, water, land were regarded as sins as elements of nature were to be respected as regarded as gods and goddesses.

Rigveda², Manu Smriti³, Charakasanhita⁴ have emphasized on the purity of water and healing and Medical value of water. Similarly trees, and plants have been regarded as indispensable in the life of human beings. Rigveda devoted one entire hymn to the praise of healing properties of trees. Following are some of the names of trees associated with god and goddesses.

Vat	-	Brahma
Pipal	-	Vishnu, Krishna
Kadams	-	Krishna

¹ Environmental pollution: with special reference to water pollution through idols immersion in Nyaya deep, Oct,2005 by Dr.S.R.Sharma, P.73-74

² Rigveda VII,42

³ Manusmriti IV,56

⁴ Charakasanhita, Sutrasthanam, XXVII,2013,215, Charakasanhita VI manusthana III 6(1)

Fig	-	Vishnu, Rudra
Ashoka	-	Indra
Lotus	-	Laxmi
Mango	-	Laxmi Govardhan
Neem	-	Sitala, Manasa

Similarly, several Hindu gods and goddesses have animals and birds as their mounts. Some of them, associated with god & goddesses are as follows.

Rat	-	Ganesh
Bull	-	Since
Swan	-	Saraswathi
Eagle	-	Vishnu
Serpant	-	Shiva
Monkey	-	Hanuman
Wild Ghosh	-	Brahma
Lion	-	Durgo
Peacock	-	Kastikeya
Owl	-	Laxmi
Deer	-	Vayu
Dog	-	Bhairava, Dattatreya

By the end of Vedic and Upanishad period, Buddhism and Jainism came into existence. Non-violence, truth, respect and love for other living organisms including tress became the basic tenets of these religions. These religions continued with precepts for environmental protection⁵.

Idol Immersion - Water Pollution:

We can do without so many things but not water that is very essential for survival of any creature. In fact water is life, and it is inevitable necessity for subsistence. The purity of water has always been emphasized from time immemorial. In Yajurveda water is regarded a source of life and grain. In Manusmriti water is regarded as a creator and source of life on the earth.

The protection of water tank or dam was equivalent to the protection from a highway robbery or plundering of a village. In ancient times, it was the duty of all to keep water pure and pollution or destruction of water was recognized as an offence. The pollution of the water means and includes rendering the water noxious or unfit for use, making soft water hard, making water selfish, altering its temperature, discharging substances which through harmless in themselves become noxious by combination with other substances in water, or discharged into etc.,

Ideal immersion is also becoming a main factor of water pollution on occasion Ganesh and Durga Puja. The factual position of ideal immersion in that about one lakh ideals are immersed in various water bodies ever year. About 5 kg powder paint is used by artists in each idol, which shows that about 500 tonnes estimated toxic metal is discharged into rivers and sea, which is very harmful to water, fishes and other living beings.

⁵ Environmental Pollution with special reference to water pollution through idols immersion – Dr. S. Sharma. Nyayadeep, Oct,2005 , P.75,76

One of the environmentalist cleared to hear with 99% of the idols made of Plaster of Paris (POP) instead of eco-friendly clay and sprayed with harmful chemical, dyes, the immersions are being seen as a 'red sign' by greens. And also ideal immersion is harmful during festival season in Hyderabad, Ahmedabad, Kolkata and Delhi.

It is to noted that an ecological warning was issued at the Kankaria lake in Ahmedabad, when score, of dead fish surfaced after 2000 idols were immersed. An impermeable layer was formed on the surface because of the idols and colours. Absence of sunlight augmented the effect and the dissolved oxygen (DO) level had gone down to zero⁶.

The chemicals used in these idols are heavy metals like, lead, mercury, arsenic, nickel, cadmium, and chromium and colours bicarbonates of copper, sulphur, sodium and phosphorous are equally unhealthy.

It is very important to know that we celebrate the festivals keeping in view the environmental protection and also prevention and control of pollution. It is suggested that after immersion, the recyclable articles like Jari, clothes, plastic aluminium foil wood and bamboo may be taken out from the water bodies. The civil authorities may engage agencies or persons for doing the job. And by and large efforts should be made by local bodies to identify adequate number of designated immersion centers to avoid overcrowding and also to reduce pollution leading on water bodies. Such places should be notified and adequate publicity arranged every year preferably a month before such festivals.

It is suggested that people should be encouraged to go for smaller size ideals and through media people should be educated about the ill-effect of such activities on holy water bodies.

In the month of Durga Puja on this occasion Central Pollution Control Board (CPCB) issued some guidelines to control pollution in rivers and other water bodies. The board has said that before idol immersion, flowers, vastras (cloths) and decorates material made of paper or plastic should be removed from idols. It is further said that local bodies collect the remaining materials within 24 hours and dispose them. However, the guidelines have not been taken well by the Durga Puja organizing committee which says that these may hurt the sentiment of devotees because removal of clothes of the deity before immersion is a very touch subject. But steps of CPCB to control pollution should be appreciated for the sake of public interest⁷.

Over the years, Ganapathi idols have become bigger and more in numbers. In almost all of them uses harmful substances and materials that do not dissolve easily in water. Every year over approximately more than 1 lakh idols are immersed causes serious environmental issues. The gold and silver shimmer used in tusk, ears and the ornaments contains the most poisonous and dangerous chemicals that, when consumed, can affect brain and causes genetic mutations. The chemicals are heavy metals like lead, mercury, arsenic, nickel, cadmium and chromium etc. The colours used on the idols such as

⁶ The Times of India dt: Oct 10th, 2005.

⁷ Law on Environmental pollution – S. Indira Devi (1995) 2 SCJ

biocarbonates, copper, sulphur, and sodium and phosphorous are equally so unhealthy. When these chemicals dissolve in the water, they formed as layer blocking the sunlight from entering the water. Subsequently it affects supply of oxygen in the water which severely causes life threatening to the aquatic creatures⁸.

According to CPCB, general guideline for idol immersion mentioned below:

- Idols should be made from natural materials as described in the holy scripts. Use of traditional clay for idol making rather than baked clay, plaster of paris, etc. may be encouraged, allowed and promoted.
- Painting of Idols should be discouraged. In case idols are to be painted, water soluble and nontoxic natural dyes should be used. Use of toxic and n
- On-biodegradable chemical dyes for painting idols should be strictly prohibited.
- Worship material like flowers, vastras (clothes), decorating material (made of paper and plastic) etc. should be removed before immersion of idols. Biodegradable materials should be collected separately for recycling or composting. Non biodegradable materials should be collected separately for disposal in sanitary landfills. Clothes may be sent to local orphan house(s).
- Public should be educated on ill effects of immersion in the holy water bodies through mass awareness programme.

The "Idol Immersion Points" shall be cordoned and barricaded. Synthetic liner may be placed in the bottom, well in advance. The said liner shall be removed on completion of immersion ceremony so that remains of idols would be brought to the bank. Bamboo and wooden logs, if any would be reused. Clay, etc may be taken to sanitary land fill for disposal⁹.

In Pune, the municipal corporation has successfully convinced people not to immerse the 'nirmalya' into the water. Instead, they have installed large bins shaped as traditional pots or 'kalashes' to receive this nirmalya. While this is a good first step, the appropriate management of the nirmalya is still crucial considering the volumes that are collected every year.

These guidelines if followed and acted upon can help in bringing tremendous change in the water quality of water bodies post idol immersion. Debris flowing through in water bodies can be collected and treated with technical measures that can prevent the further deterioration of the river during immersion period¹⁰

Tips for Celebrating Eco-friendly Navaratri and Ganesh Festivals:

The most serious impact on the natural environment is due to the immersion of idols made of Plaster of Paris and polythene bags containing offerings. Celebrating Eco-friendly Navratri does not mean completely giving up the things you love. Eco-friendly Navratri festival enables you to celebrate festival grandly without harming environment

⁸ Subash dutta, Environmental activist of Kolkata

⁹ CPCB, Guidelines for Idol Immersion, 2006..

¹⁰ CPCB Report, (2006), Water quality status of Yamuna river, <http://www.cpcb.nic.in/newitems/11.pdf>, accessed on 15th March, 2012.

and other living beings. Following are ten useful and simple tips for celebrating Eco-friendly Navratri.

- i. **Clay idols for immersion:** The idols made for immersion during Durga Puja festival were made of Plaster of Paris (POP) and painted with layers of chemical paint dissolves slowly, gradually releasing its harmful components. Using only a natural clay idol for immersion and immersing it either in the tank or in a bucket of water at home instead of directly into natural water bodies helps to prevent water pollution and saves environment.
- ii. **Eco-Friendly Rangoli:** Rangoli is an essential part of any Indian festival. Instead of using harmful chemical colors or paints for Rangoli design, you can substitute them with rice flour, pulse and leaves.
- iii. **Eco-Friendly Dolls:** During the festival of Navratri, it is customary to display a “Golu” or dolls. It is a traditional practice to have a figurine of a boy and a girl together called ‘Marapacchi’ Bomma. Homes that follow the custom of displaying can adopt dolls made out of clay, wood and cloth than Plaster of Paris.
- iv. **Eco-Friendly Decorative items:** Decorative items made from thermocol have great demand since they are attractive and can be easily dismantled. But these decorative items made from thermocol pose a grave threat to the environment as well as human health. You can also adopt decorative items made out of palm leaves and other eco-friendly products to decor mandaps, idols, door and wall hangings.
- v. **Hand rolled Incense sticks:** According to study, the incense used primarily for religious, medicinal and meditative purposes, was found to create air quality environments hazardous to human health. Hand rolled incense sticks with natural fragrance can be used for the Puja. Ensure that your room or premises is well ventilated.
- vi. **Anti Noise Committees:** Most people believe that greater the fireworks, better the celebrations. The noise produced by crackers, loudspeaker, traffic etc are extremely hazardous to health. This can be especially upsetting to people who require undisturbed rest like babies and elderly people. You can form anti noise committees in your locality to take up all violations of the Environment Protection Act, with the police, the Municipality and if necessary, the Courts.
- vii. **Save Energy:** Since people decorate their home by lighting them up. This places a huge load on the power supply system. One can save a lot of electricity by opting candles and diyas for decorating their home. Even though they consume oil, these lamps are usually used only for a short time.
- viii. **Say No to plastic:** Save the environment by just saying no to plastic bags. Plastic including polythene bags are one of serious impact on the natural environment during festival seasons. For this Navratri festival, say No to plastic and save the environment.
- ix. **Prevent Water Pollution:** Encourage people to immerse the icons in tanks of water rather than in natural water bodies. Ban on the immersion of Plastic and thermocol waste, including polythene bags containing offerings into lakes, rivers and the sea. If anyone is using a POP idol, adopt symbolic immersion and donate idol to recycling.

- x. **Clean-up drive:** After the immersion ceremony on tenth day of Navratri or Vijayadasami day, encourage associations, NGOs, social workers and volunteers in your neighborhood to participate in Clean-up drive. This helps to prevent water pollution and clean-up in the lakes, ponds and water bodies created for the immersion of idol¹¹.

Moreover the most serious impact of the Ganesh festival on the natural environment is due to the immersion of idols made of Plaster of Paris (POP) into lakes, rivers and the sea. POP contains chemicals such as gypsum, Sulphur, phosphorus, and magnesium. The dyes used to color these idols contain mercury, cadmium, arsenic, lead, and carbon. Plastic and thermocol accessories are used to decorate these idols. Such materials are not biodegradable, hence they are toxic. The water experiences a rise in acidity as well as traces of heavy metal. The toxic waste kills plant and animal life in the water. People who use water polluted by these immersions experience a host of health problems such as infections of the lungs, and diseases of the skin, blood, and eyes.

Ganesh Chaturthi or Ganesh festival is a very popular festival of India. Lord Ganesh is widely worshipped as the supreme god of wisdom, prosperity and good fortune. Ganesh Festival is celebrated all over India as the birthday of Lord Ganesh. Ganesh Chaturthi starts with the installation of these Ganesh statues in colorfully decorated temporary structures mandapas (pandals). A life-like idol of Lord Ganesh is made 2-3 months prior to the Ganesh festival. The whole community comes to worship Ganesh in beautifully done tents or Pandals. On the final day, the idol is taken through the streets in a procession accompanied with dancing, singing, to be immersed in a river or the sea symbolizing a ritual see-off of the Lord in his journey towards his abode in Kailash while taking away with him the misfortunes

Ganesh idols are made of plaster of Paris (POP). POP dissolves slowly, gradually releasing its harmful components. The toxic waste kills plant and animal life in the water. Plastic and thermocol waste, including polythene bags containing offerings, is usually immersed with the idols. It also obstructs the flow of streams, leading to flooding during the rains. The stagnant water become a breeding ground for diseases and is a major health hazard for a locality.

Residents who use water polluted by these immersions experience a host of health problems. The chemical paints used to adorn these plaster icons themselves contain heavy metals like mercury and cadmium. Hence they are toxic for environment. The day after the immersion, shoals of dead fish can be seen floating on the surface of the water body as a result of this sudden increase in the level of acidity in the water. Song and dance are an integral part of the Ganesh Chaturthi celebrations. Ear-splitting decibels are not just disturbing, but a major health hazard for senior citizens, Children and patients in the locality or neighborhood¹².

International Provisions:

All the four Geneva Conventions of 1949 protect civilians and combatants during armed conflict. The fundamental principal is that the individual should not be indiscriminately affected by conflict, it seeks to maintain individual dignity and thus confirms the supply of basic needs, including water, during times of war. The Additional

¹¹ Mishra A.K. 2010. A river about to Die: Yamuna, Journal of water resource and protection, 2, 489-500.

¹² Anonymous. Ganesh Idol Immersion Peaceful in City. Times of India, 23 September, 2010.

Protocols define that Civilians or Civilian Objects shall not be targets for attack, thus elements essential for human survival are prohibited from attack, including water facilities. These Conventions entitles prisoners of water access to water and sanitation in all the situations of armed conflict and occupation. During the time of war also right to water shall not be suspended as it is basic need for all human beings. These conventions are universally ratified implies all the States are legally binding upon these provisions.

International Covenant on Civil and political right, 1966 does not specifically defined the right to water but indirectly it is applicable by drawing interpretation from the right to life. In this Convention the right to water can be deduced from Article 11 the right to an adequate standard of living, and Article 12, the right to health. Virtually all States that have ratified the International Covenant on Economic, Social and Cultural Rights have acknowledged in political declarations that the right to an adequate standard of living necessarily includes water and sanitation. Hence they need to take adoptive measures through legislations for the enforcement of right to water.

In the Convention on the Elimination of All Forms of Discrimination against Women, 1979 lays specific focus on the rights of women, including the right to non discrimination and the right to participation. This is the first Convention which is explicitly mentioned right to water and sanitation in an international legally binding convention: Article 14.2(h) states that women have the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply.

The Convention on the Rights of the Child, 1989 is the second convention which explicitly refers to the right to water. This convention incorporates specific civil and political and economic, cultural and social rights of the child. It specifically focuses upon giving children a voice and representation. Article 24 of the Convention gives the child the right to health, placing the obligation upon the State to implement this right, especially through appropriate measures to combat disease and malnutrition, through the provision of adequate nutritious food and clean drinking water. The Committee on the Rights of the Child has repeatedly clarified that the entitlement to an adequate standard of living (Article 27) includes access to clean drinking water and latrines.

The Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and Lakes, 1999 does not explicitly defined right to water but it is implicitly confirmed in the Protocol on Water and Health. The convention is intended to strengthen national measure for the protection and ecologically sound management of water resources. Article 5 states that 'equitable access to water, adequate in terms both of quantity and quality, should be provided for all members of the population'.

The 2002 General Comment No. 15 interprets the Convention on Economic, Social and Cultural Rights confirming the right to water in international law. 'The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses'. Although it is not legally binding, and cannot create new laws or State obligations, the Committee is a body with the authority to interpret the provisions, clarifying content, and confirming issues that may have been disputed. This Comment provides guidelines for the interpretation of the right to water, framing it within two articles, Article 11, the right to an adequate standard of living, and Article 12, the right to health. The Comment clearly outlines States parties' obligations to the right and defines what actions would constitute as a violation. Following the

Committee's clarification of core obligations in the General Comment-3, this General Comment defines 9 core obligations to the right to water. These are the minimum essential levels that States parties are obligated to fulfill regardless of their state of development. The Committee confirms that a number of these are of immediate effect.

Therefore, while the General Comment recognizes that full realization of the right to water is not immediately enforceable for all States, there are immediate steps that the State must take towards the realization. The General Comment reasserts the essential role of international co-operation and assistance to achieve the full realization of the right to water. It urges the international community to ensure that the right to water is given due attention in international agreements, specifically noting that agreements concerning trade liberalization should not inhibit the realization of the right to water.

The Convention on the Rights of Persons with Disabilities, 2006 is a legally binding treaty. States parties are obligated to fulfill certain rights concerning individuals with disabilities. Article 28, of this Convention defines the right of persons with disabilities to an adequate standard of living, including social protection, obligating States to ensure equal access by persons with disabilities to clean water services.

In 2006 the Human Rights Council passed resolution 2/104 entitled 'Human Rights and Access to Water'. The Council requested that the Office of the High Commissioner for Human Rights conduct a study upon, "the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments". Its Report was published in 2007.

In the Report, the High Commissioner for Human Rights states that 'it is now the time to consider access to safe drinking water and sanitation as a human right, defined as the right to equal and non-discriminatory access to a sufficient amount of safe drinking water for personal and domestic uses to sustain life and health'.

On 28 March 2008, the Human Rights Council adopted by consensus Resolution 7/22, appointing an Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation. It directly refers to the explicit obligations regarding access to safe drinking water and sanitation within numerous human rights treaties. Thus the Human Rights Council clearly recognizes that all governments are bound by human rights obligations to ensure access to safe water and sanitation for all. Although it is criticized for not explicitly referring to an inherent right to water, it clearly places the issue of the safe water and sanitation on the Council's agenda.

In September 2008, the Human Rights Council appointed Catarina de Albuquerque as the Independent Expert. She began her mandate on 1 November 2008. She has already conducted a number of country visits, where she examines the state of water and sanitation at the national and local level, identifies good practice, makes recommendations to the government on steps to improve access and to ensure protection of the human rights. She presented her report in 2009.

This is the first individual report on the human rights. Following her mandate she communicates with civil society organizations to identify, promote and exchange views on best practices related to access to safe drinking water and sanitation.

The United Nations General Assembly Resolution on the right to water and sanitation, July 2010 formally recognized the right to water and sanitation by supporting the Resolution initiated by Bolivia on 28 July, 2010. The Resolution 64/292 acknowledges that clean drinking water and sanitation are integral to the realization of all

human rights. The Resolution also welcomes the important work carried out by the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation and welcomes her presentation of an annual report to the General Assembly.

The Resolution also calls upon States and international organizations to provide financial resources help build capacity and transfer technology to help other countries to provide safe, clean, accessible and affordable drinking water and sanitation for all.

The United Nations Human Rights Council Resolution on Human rights and access to safe drinking water and sanitation September 2010 affirms that the right to water and sanitation are part of existing international law. This body has therefore confirmed that these rights are legally binding upon States. This is an important step, States parties to the International Covenant on social, political and Economic Rights can no longer deny their responsibility to provide safe water and sanitation for all individuals

Indian Legislations and Judicial Approach:

Article 21, 48 and 51(g) of the Indian Constitution, 1950 are interpreted by judiciary in India to draw right to water as a special right but specifically no provision is constituted explaining right to water. In order to protect the water from pollution the Indian parliament passed legislation on the request of some states legislative assemblies. This legislation is called the water (Prevention and control of pollution) Act, 1974. The very objective of this Act is only prevention and control of water pollution and the maintaining or restoring of water. It also provides machinery to take appropriate action to achieve the objective of the legislation. This Act is silent regarding the planning and management of the underground water and streams. At the same time, it does not deal with prohibition of indiscriminate tapping of underground water, storage of rain water, etc.

In India the architect of the right to water is judiciary. So it is necessary to have a look towards the right to water through judicial perspective. The first landmark decision was in Francis Coralie Mullin Vs. the Administrator, Union Territory of Delhi¹³ where the Supreme Court clearly stated that the right to life included the right to live with human dignity.

It also made passing observation that it also includes the bare necessities of life. The right to water is not specifically mentioned. In 1990 the Kerala High Court recognized the right to water under the Article 21 of the Indian Constitution while delivering the Judgment in Attakayya Tongal Vs. Union of India. In this case, the petitioners claimed that a scheme for pumping up ground water for supplying potable water to the Lakshadweep Islands in the Arabian Sea would upset the fresh water equilibrium, leading to salinity in the available water resources and causing more long-term harm than short-term benefits.

The Kerala High Court, in its judgment, requested deeper investigation and monitoring of the scheme and the judge clearly recognised the right of people to clean water as a right to life enshrined in Article 21, observing that: "...the administrative agency cannot be permitted to function in such a manner as to make inroads into the fundamental right under Art 21. The right to life is much more than a right to animal existence and its attributes are manifold, as life itself. A prioritization of human needs

¹³ (1981(2) SCR 516

and a new value system has been recognized in these areas. The right to sweet water and the right to free air are attributes of the right to life, for these are the basic elements which sustain life itself.”

Therefore even though most of the Countries lack explicit national legislations on the right to water, it can be enforced through Courts of Law under some of the constitutional rights such as right to life or healthy environment. In Subhash Kumar VS. State of Bihar¹⁴ the apex court held that "right to live is a fundamental right under Article 21 of the constitution and it includes the right of enjoyment of pollution free Water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has a right to have recourse to Article 32 of the constitution for removing the pollution of water or air which may be detrimental to the Quality of life". In Narmada Bacho Andolan VS. Union of India¹⁵ the supreme court held that right to water is a fundamental right under Article 21 of the constitution. The court further observed that water is the basic need for the survival of human beings and is part of the right to life and human rights as ensured in Article 21 of the constitutions, and can be served only by providing sources of water where there is none.

In P.R. Subhas chandran VS. Government of A.P¹⁶ the A.P. High court held that "under the constitution, the role of the State to provide every citizen with adequate clean drinking water and to protect water from getting polluted is not only a fundamental directive principle in the governance of the state but is also a penumbral right under Article 21 of the constitution of India". In this case the High Court issued certain directions to the government of A.P for solving the fluorosis Problems in several villages of Nalgonda district. In M.C Mehta VS Kamalnath¹⁷ the apex court observed that the doctrine of public trust demands the sovereign to protect and regulate all environmental aspects of water and land. In Indian council for enviro-legal Action Vs. Union of India¹⁸, the facts are some chemical industries manufactured 'H' acid, which is already banned in western countries. Remedical activities were sought for protection of the men and property of the village where industries were located. They could not completely remove the shidge nor could they store them in a safe place. Sludge percolated into the earth, making the soil reddish and ground water highly polluted. The water in wells became dark in colour and was no longer fit for consumption by human beings or by cattle. The leaves of the trees got burnt and the growth of the trees got stunted; crops were affected. All these facts and materials were brought to the notice of the Supreme Court through a report prepared by the National Environment Engineering Research Institute (NEERI).

In P.R. Subhas chandran VS. Government of A.P¹⁹ also A.P High Court directed the government of A.P to solve the flourosis problem in several villages of Nalgonda district. In a plethora of judgment thus the judiciary directed the government and its

¹⁴ AIR 1991 SC 420

¹⁵ (2000) 9 SCC 571)

¹⁶ (2001 (5) ALD 771 (DB)

¹⁷ (1997 (1) scc 388)

¹⁸ AIR 1996 SC 1446

¹⁹ (2001 (5) ALD 771 (DB)

agencies and companies to take necessary steps and if necessary to close down industries in order to protect the environment and to provide pollution free air, water and land to the people which are part and parcel of their right to life guaranteed under Article 21 of the constitution of India. Thus it is clear that courts have been concerned both with the protection of quantity and quality in dealing with cases with a bearing on the right to water.

Indian-Schemes:

There are a number of schemes and implementing machinery to provide for providing safe and accessible drinking water in India. The Rajiv Gandhi National Drinking Water Mission at the institutional level and the Accelerated Rural Water Supply Programme Guidelines at the policy level have greatly contributed to the attention received to access to water issues. The Guidelines specify 40 litres per capita per day as a minimum requirement only for the purpose of drinking and house hold needs. The water must be of adequate quality as well as quantity.

However the policies and schemes of the states will become enough only when they can be claimed as a right rather than a privilege which the state grants.

A law on paper is not adequate for the protection of rights. The implementation of laws must be taken into account ground level realities with strategies to deal with them. In addition to ground level social realities there are a number of developments especially occasioned by the liberalization, privatization, globalization which need to be taken into account.

At present water is becoming an economic good rather than a social asset because of those social developments. Water resources which are not attached to private property are presumed to belong to the state even if there are private users or communities dependent on the water. To conclude, Water as a human right must be recognized at all levels. Water must be remained as a public good but not economic good. Environmental Justice is achieved only when water, especially for drinking and domestic purpose need must be made available freely as a common good and not as a commodity. All the treaties and conventions which were obliged by the parties must be followed properly. State level legislations must be drafted by looking into the possibilities from the grass root levels.

In order maintain underground water levels and to prevent pollution of water from industrial, effluents and aquaculture and also for proper planning and improvement of the water on the earth, the following suggestions are given as directed by Justice Satyabrata Sinha in Rambabu case. Doctrine of public trust shall be extended to the deep underground water. Like other underground natural resources deep underground water shall also be under the full and absolute control of the state. No person shall be allowed to tap underground deep water in discriminatively for commercial purposes, except for drinking water.

In Sandeep Bera vs Chief Secretary²⁰ the Calcutta High Court held that the respondents be directed to extend the time limit for immersion of Durga idol till sunrise of 12th October, 2016 as per Hindu customs and practices as well as devise a route to be taken by the petitioner on the way to immerse the idol.

²⁰ 6th October,2016, Calcutta High Court

It is claimed by him that along with his family members, the petitioner has been observing Durga Puja at his ancestral residence at 8/2A, Rupchand Roy Street within Burrabazar Police Station, Kolkata - 700 007 for about last 200 years. The petitioner has vividly described in his writ petition what the festival is all about.

In short, Durga Puja epitomizes the victory of good over evil. It is further claimed that the family of the petitioner follows the time schedule as provided in the 'Gupta Press Panjika' and in terms thereof, the important custom of 'Debibaran' followed by 'Sindur Khela' is performed only after sunset which can commence after 5.13 p.m. of 11th October, 2016, and that upon completion of customary rites and ceremonies, the immersion procession would commence around 7.00 p.m. The route that the petitioner has been following has also been mentioned in the writ petition. He has also referred to information derived from the media that immersion of Durga idols would not be permitted by the administration after 4.00 p.m. of 11th October, 2016 and the entire day of 12th October, 2016, on account of celebration of Muharram..

In so far as the objection that notice demanding justice has not been served on the respondents, the same is equally without merit. Apart from the fact that some of the petitioners have despatched notices demanding justice and proof of such despatch is also available in W. P. 24471 (W) of 2016 and W. P. 24152 (W) of 2016, the substantive prayer in these writ petitions is for setting aside the decision that has been taken prohibiting immersion of Durga idols not beyond 4.00 p.m. of 11th October, 2016. A writ court sets aside a decision or order by issuing a writ of or direction/order in the nature of Certiorari; and it is settled law that for issuance of a Certiorari, prior notice demanding justice is not imperative. This objection too fails. Mr. Majumder having been called upon to argue the merits of the writ petitions has submitted that a web portal 'Aasan' had been launched by Kolkata Police on 30th August, 2016 which would provide a single window for all clearances, for the Durga Puja festival in West Bengal. While inaugurating the portal, the Chief Minister had, inter alia, informed "....puja organisers and Kolkata Police that the government had decided that idol immersion will take place till 4pm on October 11 - the Bijoya Dasami day."

The above observation of the Chief Minister was widely published in four newspapers and, therefore, all Puja organizers were adequately put on notice in advance that immersion beyond 4.00 p.m. of 11th October, 2016 would not be permitted by the administration.

The decision in Mrinmay Kumar Rath (supra) also does not aid the State Government. It would appear on perusal of the decision that the petitioner prayed for permission to use a particular route for immersion, which was declined by the Bench. The sensitive issue that has emerged for decision in this bunch of writ petitions did not arise there and, therefore, the decision is clearly distinguishable.

On facts and circumstances, there being no decision in black and white taken by the Government prohibiting immersion processions beyond 4.00 p.m. of October 11, 2016, worshippers of Maa Durga who wish to immerse idols on Bijoya Dashami in the evening would stand deprived without the authority of law. The so-called decision of the Government, which was conveyed to the participants of the meeting held on August 30, 2016, as observed earlier, is not binding on the petitioners in the absence of any material being placed before this Bench to demonstrate that such petitioners were invited to attend the meeting of August 30, 2016. Indeed no such invitation may have been sent to

household puja organizers because they are not required to obtain any clearance from the police for organizing puja in their respective residences.

In 2015, the Madras high court observed that decaying the practice of immersion of idols in water, idols immersion pollutes the ecosystem and poses a threat to fish and birds and termed it is "an illiterate attitude towards water that should be put to an end." Justice S Vaidyanathan made the observations while hearing the bail pleas of two men who had been slapped with attempt to murder charges and arrested for a clash during a 'Vinayaka chaturthi' Idols immersion festival. Conceding that enforcing every environmental law at every stage of idol-making is a Herculean task, the judge suggested that artificial ponds could be built in specific areas for immersion of idols during festive season.

"It undoubtedly is an effective way of putting an end to the pollution of water bodies," he said. The judge said though religious significance is attached to the traditional practice of immersing idols in water bodies, it has its own ill-effects as well. "On account of the immersion, materials like clay, bamboo, grass, wood, metals, jute, colours, painted cloth, flowers, incense sticks, dhoop, camphor and ash are released into water bodies. Added clay results in siltation of lakes and toxic chemicals used to make idols tend to reach out and pose serious problems of water pollution," he said.

On the adverse impact of such materials on marine and other micro organisms, he said pollution from immersion of such idols also damages the ecosystem, kills fish and other marine life and poses danger to those dependent on water like birds, animals and human beings as it reduces the oxygen level in water.²¹

On 20.09.2014 the Allahabad High Court allows immersion of idols in Ganga, Yamuna. Even as the state government repeated a familiar story for the third consecutive year, the the Court has allowed relaxation in connection with immersion of idols during the festival season near the banks of Rivers Ganga and Yamuna. The district and state authorities have been asked to ensure that the immersion was carried out in strict adherence with the guidelines of the Central Pollution Control Board (CPCB) passed in 2010.

The court has directed that the authorities in Allahabad should be helped by the state, as they have already come up with a plan to ensure immersion of idols as per CPCB-2010 guidelines. It further added that the remaining 21 districts (which are situated along Rivers Ganga and Yamuna in the state) would also follow the same guidelines.

However, the state government was directed to place the reports regarding arrangements being made in these districts by September 26, when it would pass further orders. The high court had in 2012 and then 2013 ordered complete ban on immersion of idols in these rivers as a measure to curb pollution. However, while sitting on the orders in the interim, the state government has twice raised the spectre of law and order situation just before the onset of the festival season to seek relaxation for that particular year. Reluctantly, the high court has granted relaxation in both the years.

Allowing the modification application filed by the state for this year too on Friday while hearing a PIL related to pollution in River Ganga, a division bench of Chief Justice D Y Chandrachud and Justice Dilip Gupta, said: "Once an event has taken place, the

²¹ PTI | Oct 29, 2015, 10.42 PM IST - Idol immersions after Durga Puja in river Ganga –Times of India

emergency of the situation is lost to the State and the matter is taken into cold storage until the next year, when the court is confronted with a human situation and is informed that unless a relaxation was to be granted, the situation would not be capable of being managed on the ground. This, in our view, is a violation by the state government of its obligation to enforce the orders of the Court.”

In recent times the state government had made “solemn promise” before the court that the idols would not be immersed in the rivers from next year. However, the court noted that the first meeting in this regard took place only on August 19 this year, barely a month before the Ganesh Chaturthi festival, which kick starts the festival season leading up to Durga Puja in the early part of October. In the meetings of the state government, the district collectors were asked to adhere to the CPCB guidelines of 2010 and make arrangements in their respective districts.

The court pointed out that, from the records, it was not clear as to what arrangements were being made in the remaining 21 districts. In Allahabad, it has been proposed that 100-metre-by-50-metre spots at a distance of nearly 480 metres from the river would be ear-marked for immersion. Pits would be dug up and the area would be barricaded. A synthetic liner will be placed in the bottom of those pits filled with water. After immersion, the refuse material would be disposed of as per CPCB guidelines.

Some of the salient features of the CPCB guidelines are: No use of chemical paint or plaster of Paris; use of natural dyes; removing worship materials from the idols before immersing it; making public aware about ill effects of direct immersion; collection of bio-degradable and plastic waste and disposing it through composting/ recycling; and clearing of all the waste material within 48 hours of immersion.

The court said that it hoped that the state government would take necessary steps, including release of funds, in the wake of the urgency of the situation. In T. Ramakrishna Rao vs Principal Secretary to Govt. of Andhra Pradesh²², the petitioner states that mass immersion of Ganesh idols in Hussainsagar lake is being done since 1980 at the behest of the political leaders and the same has been causing hindrance to the object of the State to develop the lake into pollution free, serene and attractive tourist centre. During the Ganesh Chaturthi festive season, there had been tapping of electricity from the poles and no action has been taken by the electricity board against the illegal pilferers. It is alleged that the immersion of idols pollute the waters of the lake and unless crores of rupees are spent for cleansing the same, the situation would not improve, as a result whereof, the environment and ecology near the lake is badly affected. The practice of immersion of idols into a lake with no flowing water is a hazardous one and directions should be issued to stop the immersion of idols in the lake. It was further prayed that report should be called for from the Pollution Control Board to assess the damage caused due to the immersion of idols into the lake and also due to the discharge of effluents into the lake by the industries.

As regards the pollution of the lake on account of immersion of idols, it was stated in the counter that a meeting was conducted on 22-7-1998 with the members of Bhagyanagar Ganesh Utsav Samithi and all concerned officials by the Commissioner of Police to discuss location of alternative sites and immersion of idols with a view to

²² 15th June, 2001 By Andhra Pradesh High Court

prevent pollution of Hussainsagar, but the members of the Samithi did not agree for immersion of idols in the lakes other than Hussainsagar and also to reduce the height of idols. The Chief Secretary allegedly held a meeting with all the concerned on 5-8-1998 to discuss various arrangements to be made for Ganesh Immersion and in the said meeting discussions took place regarding decentralization of the procession and immersion of idols at other places i.e., Saroornagar and Balapur tanks. It was opined that idols from Ranga reddy District and surrounding areas can be immersed in the said tanks. The desirability of immersion of Ganesh idols on the other side of railway track was discussed and it was felt that idols coming from some parts of Secunderabad area and up to Panjagutta area would be immersed in the other side of Hussainsagar. Alternate arrangements for immersion of idols are being proposed at Hasmatpet tank in Secunderabad area in addition to Saroornagar and Mir-alam tanks. Organisers had also been requested for local immersion and to utilise Saroornagar, Mir-alam and Hasmatpet tanks for immersion to reduce pressure on the main procession.

These writ petitions are required to be considered having regard to the aforementioned factual matrix. Immersion of idols particularly Ganesh Idols in Hussainsagar lake had been a major source of communal disharmony at one point of time in the twin cities. Various Committees have been appointed which had submitted their reports.

In the year 1985, One Man Commission headed by Hon'ble Sri Justice M. Krishna Rao was constituted in the wake upon of communal disturbances in the twin cities of Hyderabad and Secunderabad. The said Commission had also gone into the matter of immersion of idols in the lake. In the report regarding immersion of idols, it was stated at pages 32 and 33 of the report:

It was Further stated: Based on the field data obtained on quantities of materials and the number of idols of different from the Offices of I & CAD (Mechanical Engg, Division) and Police Commissioner, EPTRI estimated an annual average of 13,900 (average of total number of idols immersed over a period of 4 years 1993 to 1996) idols being immersed in the Hussainsagar. This works out to a quantity of 30,12,781 kgs of solid material including 15,972 litres of paint, 8012 kg of distemper and allied refractory organics, 4,94,585, kgs. of steel and 1,41,603.8 cft of wood added each year to the lake. Further, other solid wastes like flowers paper garlands and other materials used during the festivals are also dumped during the immersion period.

Narmada Mission Vs The State of Madhya Pradesh²³, the Madhya Pradesh High Court directed to the respondents and all other local authorities including Municipal Corporation, Municipalities, Zila Panchayat, Panchayats and M.P. Pollution Control Board to take all possible measures to prevent the water pollution within the State during Ganesh festival, Durga Festival etc. and to comply the guidelines framed by Central Pollution Control Board (Ministry of Environment and Forests) for Idol Immersion. and also given directions to the Idol makers to prepare the idol of Lord Ganapati and Idol of Goddess Ma Durga etc. in clay to paint them only in herbal colours. And submit a report regarding steps taken towards Idol Immersion as per guidelines of the Central Pollution Control Board, New Delhi.

²³ 18th September,2013, Madhya Pradesh High Court

Hon'ble High Court has directed for making scientific and alternative arrangement for prevention of Pollution due fairs, religious events and idol immersion at the banks of River Narmada and its tributaries and other water bodies.

Central Pollution Control Board (Ministry of Forest and Environment, New Delhi) have issued detailed guidelines in June, 2010 regarding immersion of idols in rivers and water bodies. In the light of aforesaid guidelines it is necessary that immersion of idols is to be done with scientific method in a separately constructed tank by making coordination with the local organising committees. Hon'ble High Court has directed for implementation of aforesaid guidelines.

The Central Pollution Control Board, New Delhi has issued detailed guidelines in June 2010 in respect of immersion of idols of deities in Rivers and Water Bodies. It is necessary in the light of aforesaid W.P.No.5347 of 2013 (PIL) directions to immerse idols in a separately constructed tank by making coordination with local organising committees. Hon'ble High Court has directed for compliance of aforesaid guidelines. Simultaneously, it is necessary to implement a working plan for immersion of solid waste, food and pooja articles on the religious functions. For preventing immersion of polluting articles in the river it is necessary to make awareness in the public in general in this regard.

Conclusion:

It is very important that we celebrate festivals keeping in view the environmental protection and also prevention and control of pollution. There are various laws were enacted for the purpose of preventing environmental pollution. However these legislations will be most successful, if they are supported by the people. In this context I would like to make certain suggestions, which definitely could result in reducing water/ noise pollution due to idols immersion activities

- i. Eco-friendly Ganesh and Durga festival enables to celebrate festival grandly without harming environment and other living beings. Natural idols not only help environment but maintain Vedic significance of Lord Ganesh.
- ii. Return to the traditional use of natural clay icons and immerse the icon in a bucket of water or a tank specially made for the purpose. Ensure that the dyes used to color the idols are organic or vegetable in origin. Immersion of plaster icons into lakes, rivers and the sea should be banned.
- iii. It is also noted that we can use idol of stone or metal for ganesh festival and symbolically immerse this in a bucket of water, or even carry it in procession to the sea, hold it under the water, and then bring it back home. Use the same idol for next year on Ganesh Chaturthi or Durga puja etc.
- iv. Devotees can bring fruits and flowers as offering for lord ganesh on the festival day. Polythene bags containing offerings, is usually immersed with the idols. Therefore, Say 'NO' to Polythene or plastic on the occasion of Ganesh festival/ Durga puja.
- v. Banning or reducing the use of loudspeakers will go a long way in reducing noise pollution.
- vi. It is also suggested that people should be encouraged to go for smaller size ideals

- vii. Encourage people to immerse the icons in tanks of water rather than in natural water bodies. Offer incentives or prize for Residents or communities celebrating eco-friendly ganesh festival. If one is using a Plaster of Paris (POP) idol, simply sprinkling a few drops of water on it as a symbolic immersion and donating the idol to be recycled for the following year.

Deterioration of environment cannot be allowed to perpetuate. Prudent environment management should be needed. However effective legal control of pollution can be meaningful only when the people were educated about the consequences of environmental pollution.

