



LEGAL REGULATION OF ECOTOURISM IN INDIA

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Introduction

Amongst all animals in the world, the human beings have a special feature of curiosity, the curiosity regarding the incidents and wonder happening in the universe. During the topical period the people have traveled to outlying region of the globe to perceive monuments, works of art, to learn languages, experience new cultures, to taste different food or traveling for entertainment and leisure. So recently travel and tourism are fastest growing industries in the world as a means of economic development and environmental conservation. However such travel and tourism should be eco friendly we may call as ecotourism. Therefore ecotourism should be regulated by legal mandates.

Meaning and the Concept of Ecotourism

The word tour is derived from the Latin world 'tomare'. A circle represents a journey of a round trip that is the act of leaving and then returning to the original starting point and therefore one who takes such a journey can be called a tourist.¹ It is believed that the world tourism had been derived from the Greek word 'tornos' its meaning that a tool for describing a circle or a turner's wheel it may be used to denote a person undertaking a journey, which entitled a circuitous route.³

Eco-tourism is the concept says about the environment friendly or harmonious co-existence with nature while traveling as a tourist. Ecotourism is a careful travel to natural areas and to realize the importance of natural environment for the survival ship of all the beings. It refers to a model of economic development of the nation. No doubt the tourism being helps for the economic growth of the nation but it should not be ignored for taking care that does not disturb the integrity of the biodiversity and ecosystem. It means that we should keep in mind that the principle of sustainable development.

Ecotourism Definitions

Generally ecotourism is called as a 'travel ethics' or 'morals.' A Canadian definition, describe it as "an enlightening nature travel experience that contributes to conservation of the ecosystem, while respecting the integrity of host communities." The Ecotourism Society defines it as "responsible travel to natural areas which conserves the environment and sustains the well-being of local people."

Broader definitions include, "travel to enjoy and appreciate nature" or "tourism related to nature/adventure/culture in the countryside."²

According to the World Tourism Organization defined ecotourism as-

"Travelling to relatively undisturbed natural areas with the specified objective of studying, admiring and enjoying the scenery and its wild plants and animals, as well as any existing cultural aspects found in these areas" is ecotourism.

The legal definition specified by the World Conservation Union (IUCN) is-

"Ecotourism is environmentally responsible travel and visitation to relatively undisturbed natural areas in order to enjoy and appreciate nature (and any accompanying cultural features both past and present) that promotes conservation, has low negative visitor impact and provides for beneficially active socio-economic involvement of local populations."³ The ecotourism also defines as, "a nature-based tourism that involves education and interpretation of the natural environment and is managed to be ecologically sustainable."⁴ Here a

² *Theobald, wilium F-Global tourism 2nd edition, Oxford (England) Butterworth, 1998*

² *The Vancouver consulting firms, ARA Group*

³ *Definitions of Ecotourism, <http://www.piedrablanca.org/ecotourism-definition.htm>*

⁴ *The Australian National Ecotourism Strategy*

question moved up is, what is sustainability? In response to his it can be said that, tourism sustainability suggest to result from a general optimistic balance of socio economic and cultural effect on environment. Hence, tourism tricks that engender more benefits would be sustainable.

Ecotourism Ethics

Those who implement and participate in ecotourism activities should practice the following principles,⁵

- Adopt low-impact tourism that protects ecological integrity of wilderness areas, secures wildlife values of the destination and its surrounding areas
- Highlight the heritage value of India's wilderness and protected areas
- Build environmental and cultural awareness and respect
- Facilitate the sustainability of ecotourism enterprises and activities
- Provide livelihood opportunities to local communities
- Use indigenous, locally produced and ecologically sustainable materials for tourism activities

Regulating Ecotourism: Legal Frameworks and Market Guidelines

Ecotourism Problem

Ecotourism is one of the useful device in protecting endangered vegetation and natural world. The worldwide phenomenon of ecotourism can increase awareness relating to vegetation. Visitors can also bring lot of funds which would be used for conservation programs.

- 1) However, lofty numbers of visitors can cause issues with resource depletion, pollution, exploitation and threat to the environment. The requisites to provide services and facilities for visitors may affect surroundings including animals, plant and property.
- 2) Unlicensed and untrained guides may proceeds visitors towards delicate or dangerous areas without concern for the

wildlife, increasing the risk of harm. Sometimes certain rare species or articles in specified area can become target for theft and smuggling, providing black-market pets for wealthy foreigners.

- 3) Ecotourism can also have a negative effect on local socio-economies. Agencies providing tourist services may offer better jobs than traditional occupations to limited members in the community, depriving towns and villages of services they may need.
- 4) In primitive areas, this can distort the local culture, customs and economy. The local people support themselves by hunting, logging, collecting etc but ecotourism activity forces them out somewhere.
- 5) That automatically affects to the communities may not be able to survive without a constant influx of money and resources, otherwise they may be thrown out of the stream.
- 6) Therefore ecotourism concept can play a role of double-edged environmental sword. On the one side, it can raise awareness and knowledge about delicate ecosystems, endangered wildlife and vegetation as well as the money collection in ecotourism can prove valuable for preservation of itself and local indigenous community. On the other hand, an ecotourism activity involves long-distance air travel and vehicular traffic which increase in air and noise pollution.
- 7) Also large numbers of visitors can put a strain on the local environment and services. Without careful management, an increase in tourists visiting a fragile ecosystem can permanently damage or even destroy it and even under ideal circumstances, ecotourism can be a delicate balancing act. Nevertheless this activity should be controlled and regulated by legislative provisions.

International Legislation

In U.S. and most of the countries of Europe the environmental aspects were dealt with their respective law of land. The existing environmental law is not in a consolidate form but found in fragmentation. There too no federal amendment has been made. In Europe the

⁵ Draft/02 June 2011 Ministry of Environment and Forest, Government of India

member states retain their own power of regulations. In Germany, Spain, Portugal and protection of the environment is seen as a fundamental social right and involve a claim for compensation in the constitutional law.

The foundation of the International environmental law began in 1972 with the principles of Stockholm Conference. Afterward the numerous environmental, mutual covenants had been agreed. Amongst these were the 1942 Western Hemisphere Convention, the 1972 Stockholm Conference and the Rio Conference 1992, UNCED, CITES in 1973 on international trade in endangered species, the Montreal Protocol in 1987 on control of fluorocarbons emissions, the Helsinki Protocol on sulfur emissions, the Law of the Sea Treaty in 1982 and the 1989 Basel Convention on trade in hazardous waste. In 1987, the World Commission on Environment and Development's Bruntland Report reflected a major shift from a transboundary to a global, interactive approach. It viewed development as sustainable only through integration of economic planning with conservation, cultural compatibility, and local input.

Regulatory Policy

In India for the development of tourism there is a nodal agency under the ministry of tourism. This is empowered with formulating national policies and motivation for promotion of tourism. These policies are also to develop tourism in India in a systematic manner and to facilitate investment (worldwide) into the sector. The most important being the National Tourism Policy, 2002 which aims to position India as a global brand to take advantage of the growing global travel trade and the vast unused potential of India as a destination. To boost tourism of various kinds in India the tourism of ministry has recently launched a campaign called 'Incredible India!' in order to encourage different types of tourism in India. FDI in this sector is permitted up to 100 per cent on the automatic route.

Legal Administration of Ecotourism in India

India is the land of varied geography and natural features offers several tourist destination that not just misery but also rejuvenate us there are several ways to enjoy mother nature in the most pristine way, the few places like the Himalayan region, Kerala, north east India, Andaman and Nicobar island and the Lakshadweep islands are some of the places where we can enjoy the treasured wealth of the

mother nature "thenmal in Kerala" is the first planned ecotourism destination in India created to cater to the ecotourists and nature lovers. The legal response on ecotourism in India, there is no any specific law on ecotourism, although some provisions of constitution of India and other environmental basis laws are preventing the pollutions of ecotourism areas.

Provisions under the Indian Constitution

The constitution of India is the fundamental law document of the nation India. It embodies the respective provisions in protecting environment.

Article 253 of the Indian Constitution empowers the parliament to legislate for giving effect to treaties and international agreements in respect of development of any of the sector like environment areas.

Article 244 of the Indian Constitution provides that for notifying certain indigenous people as Scheduled Tribes and areas that are occupied by native people as schedule areas. Tribal people's right is protected. Also in fifth schedule of the Constitution of India provides protection to the indigenous people living in the schedule areas and gives them the right to self rule. It also re enforces the rights of the indigenous people to territorial integrity and decide on own path of development. So obviously Tibals⁶ are entitled to enact even tourism rules to control it but ruling party in past and present does not allow doing so.

To endow panchayats and municipalities at local level with such powers and authority as may be necessary to enable them to function as institutions of self-government, with respect to the preparation of plan of economic development and social justice including tourism, Article 243(g) puts the directives for the central and state government enact such policies.

73rd and 74th amendments of the constitution of India, gives right to socio-economic development as well as protects to environment. The Supreme Court of India observed that, the Article 21 of the Constitution of India includes right to protection and preservation of good

⁶ *A political representative elected from tribal*

environment, ecological balance and pollution free environment.⁷

The Supreme Court also observed that, five star hotels of West Bengal must take an additional precaution to protect the environmental pollution and hotel and visitors could not be disturbing to the migratory birds and other species, therefore precautionary measures must be taken and need to preservation of ecological balance.⁸

▪ **Legislations Relating Environment**

In India environmental related legal provisions also gives protective measures to the ecotourism areas in India. With this regard in India, various laws made for protection of environment as well as ecotourism. The Forest (conservation) Act 1980, the law provides conservation of forest land for 'nonforest activity' and the environmental (protection) Act, 1986 provides that, too many important notifications that are closely linked to the development of ecotourism that i.e. the coastal regulation zone notification, 1991 and environmental impact notification, 2006, these notifications are very advantages of the protection of ecotourism.

Coastal Regulation Zone Management, 1991

This is an important piece of legislation guiding the activities along with the sea coast, the activities pursuing industrial establishment, fishing, lodging, traveling etc. This regulation makes four categories of the coastal region for the administration purpose.

Environment Impact Assessment Notification, 2006

No doubt the tourism phenomenon is permitted even in remote area but this activity has totally omitted environmental impact assessment for required tourism, projects as against its predecessor, the notification of 1991, that environmental impact assessment of tourism projects. India has legislation to protect untouched ecologies and sensitive eco-systems. Some important laws are-

The Forest (Conservation) Act, 1980

⁷ *Virnder Gour vs. State of Haryana*
AIR(1995) 2SCC 577

⁸ *Sachidnanda Pandey vs. state of West Bengal* the AIR 1109, 1987 SCR (2) 223

The Act controls the use of forests for non-forestry uses. The law prohibits conversion of forest land for "non-forest" activities³. However, ecotourism is being propagated on the notion that it supports conservation and hence is being allowed in forest areas. Although this Act has the potential to regulate ecotourism, the belief of conservation through ecotourism, has become a stumbling block in the implementation of the Act.

The Wildlife (Protection) Act, 1972

The Act designates the national parks and wild life sanctuaries and stipulates a comprehensive framework for wildlife protection and conservation. The act permits tourism in protected areas along with scientific research and wild life photography. However, the character and volume of tourism in protected areas has changed considerably since this law was framed, hence there is an urgent need to amendments of this act or at least bring out guidelines that regulate the tourism and tourism activity in and around the protected areas.

The Environment Protection Act, 1986

The Act stipulates several measures for protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. Coastal Regulation Zones (CRZ) were gazette by a notification under the Act in 1991 and wide ranges of activities have been prohibited within 500 meters of the high tide line. In addition, the Department of Tourism has been developing a national policy and guidelines for the development of tourism in forests, deserts and marine systems. Once formulated, these underlines would be implemented to ensure the sustainability of ecotourism development.

Due to lack of adequate substantive policies, the authorities are making use of the policies enforced by the government of India to protect the environment, to regulate ecotourism. Few among the other policies are:

- 1) The National Environment Policy, 2006: The policy promotes ecotourism in many fragile ecosystems and overlooks tourism as an impacting agent
- 2) The Ecotourism Policy and Guidelines, 1998

This recognizes key players in ecotourism as government, developers, operators and suppliers, visitors, host community, non-governmental organizations (NGOs) and

research institutions. It also prescribes operational guidelines for these key players. The policy defines and hence approaches ecotourism with a clear conservation bias. It lays out cardinal principles suggesting the importance of involvement of local communities, minimizing the conflicts between livelihoods and tourism, environmental and socio-cultural carrying capacities.

3) National Biodiversity Strategy and Action Plan (NBSAP)

It is made to assess gross impacts of tourism activities in major ecosystems and also to focus on principles in relation to tourism and biodiversity that need to be adopted for the sake of conserving biodiversity. The Ministry of Environment and Forests, Government of India has rejected NBSAP on grounds of it being unscientific. The preparation of NBSAP was one the most participatory processes in Indian history.

Conclusion

The ecotourism activity is not just, only as a fun but it is environmentally responsible travel to relatively undisturbed natural areas in order to enjoy and appreciate nature. The varying size and growth tourism may cause danger to the endangered species, habitat and property, socio-economic lives of the native people. Consequently special care has been taken to protect, preserve and conserve these locations that may divest. Therefore the responsible bodies like UNEP, UNCED, CITES and the WTTC should require making specific international regulation. Moreover just passing of laws doest suffice the purpose but that must be implemented honestly with an utmost will. Hence it again needs systematic measurement and enforcement by making a strategic plan as in Australia, Singapore etc.