

## ROLE OF JUDICIARY VIS-A-VIS DHARMA IN STRENGTHENING PROTECTION OF ENVIRONMENT - NATIONAL PERSPECTIVE

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### Abstract :

A clean, healthy setting is essential for hosting this kind of event. However, a healthy environment has become a man's dream because of the unintentional and unconscious use of environmental measures in the pursuit of human comfort. The contemporary scenario people are witnessing some of the most pressing environmental issues on all levels of society. State and federal environmental governance must be improved, and the researcher has found several loopholes in the law and offered ways to fix them. In this paper, researcher indicate that the international community should prioritize preventing the destruction of the planet's ecosystem due to massive socio-economic development. Furthermore, it is the responsibility of every nation to enhance its environmental governance as a UN member. Environmental hurdle removal is a shared duty between judiciary and government. The environmental crisis is to do what they can to protect and improve the natural world, all the while keeping anti-pollution laws in place through the legal system in case they are needed. This research aims to delve into the ways in which the principles of Dharma and constitutional provisions impact India's efforts to protect its environment.

**Keywords-** Dharma, environment, nutrition, health, judiciary

### A. Introduction

All life on Earth depends on the environment, which includes not only the natural world but also human habitats and the larger ecosystem. Development and environmental protection have long intersected in India, a nation with a wealth of cultural, religious, and legal traditions. There is a strong correlation between India's commitment to environmental preservation and the country's constitutional mandates as well as the spiritual and cultural norms of Dharma.

In Vedic literature, Mother Earth was personified as Goddess 'Bhumi' or 'Prithavi.' During the ancient Vedic era, people of India held great respect for the environment and worshipped various objects and manifestations of nature with utmost devotion and sincerity. The wise seers of the Indian subcontinent recognized the need to attribute religious sanctity to the environment for maintaining ecological balance and fostering societal acceptance. They worshipped every facet of environment: land/soil, water, rivers, plants, animals, birds, mountains, sky, and more<sup>1</sup>.

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<sup>1</sup> Narsingh purana personifies trees as God himself. Varaha purana advocates regular plantation as a means of achieving heaven. Matsya purana regards planting of single tree is equivalent to leaving a progeny of ten sons. Vishnu purana says that God is pleased with a person who does not harm or destroy other non-speaking creatures or animals. Padma purana and Kama purana it is mentioned that the trees like peepal, bel, her, neem etc.

The most important factor influencing human progress and development is the planet's environment. Water, soil, air, trees, and animals were all considered sacred by the ancient Indians, who saw protecting them as part of their Dharma. However, problems like climate change, acid rain, and global warming have arisen as a consequence of the irresponsible use of natural resources brought about by digitalization, modernization, and new innovations like nuclear power plants, thermal power, and so on. Many outdated laws have been replaced with newer ones in the name of protection, much like old wine in a new bottle. However, from a practical standpoint, comprehensive analysis of environmental protection is required by nature. There has been consistent attention in recent years to the judiciary's function in overseeing the execution of control measures. The Indian government acts as a guardian of the constitution by ensuring the preservation of the fundamental rights guaranteed to all Indian citizens.

Rising environmental pollution is one of the most pressing problems facing the modern world. Preserving the natural world is not a modern concept; evidence of this can be found in ancient societies. According to ancient scriptures, it is our personal duty to safeguard the environment and all its vital resources, including the land, water, trees, and animals. Improvements in technology and innovations like thermal power plants and atomic power plants have an impact on the modern world. Thus, climate change, global warming, etc., has evolved into an international issue.

## **B. Objectives**

While most would agree that there is a connection between environmental protection and human rights, the exact nature of that connection is up for discussion. Degradation of the environment has negative effects on human rights, but human activities also cause environmental degradation. Human rights, including the right to live in a safe and healthy environment, are at the heart of the environmental protection movement around the world. Given its unique position at the crossroads of national government and civil society, the Indian judiciary is well-positioned to address, accelerate, and raise awareness of the connection between environmental protection and human rights in this context. The 'protection gap' between individual rights and state obligations can be filled.

- To trace into the empirical research on the Indian judiciary, the theoretical section provides the necessary background and context.
- To gain a better grasp of the indigenous people's motivations for studying the constitutional environmental protection measures of India.

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are the abode of God and they are not to be cut. Durga saptasati says that so long the earth has mountains, forests, trees plants etc. human race will continue to survive. Charak samhita considers destruction of vegetation as the cause for drought. The Padma purana mentions that those who sacrifice cattle are doomed to perdition. In Manusmirthi the cruelty towards animal is totally condemned. It also mentions optimum use of the natural resources to maintain the balance in the eco system. Bhagavat Gita: Bhagavat Gita considers Nature as one entity with two components The entire universe of which the Earth forming a small of it is created with the union of two elements. The physical part of it is animated by the consciousness part and as such everything visible is considered to be manifestation of one Supreme whole. Gita considers the Nature as the essence of human culture and the man devoid of Nature is considered, an entity without soul.

- To Investigate and comprehend the relevance of Dharma principles to environmentally conscious actions, including Ahimsa, Aparigraha, and the interconnectedness of all forms of life.
- To investigate the interplay between ethical principles held by Dharma adherents and constitutional mandates.
- To assess the current policy and legislative structures in the Indian environment in light of how well they implement these principles.

In this contemporary technologically advanced age and as a result of ongoing innovation and technological advancement, it has become an integral aspect of progress, but it has also increased the dangers to human life. Neither climate change nor economic expansion can be their final destination. The people, not the technologists, should be in charge of environmental protection and sustainable development. Everything around us, both living and non-living, is part of our environment. Natural elements such as water, air, light, soil, temperature, and animals and plants make up its entirety. The term "environment" is defined in Section 2(A) of the Environmental Protection Act of 1986. The term encompasses not only the physical elements (land, air, and water), but also all forms of life (humans, animals, plants, microbes, and property). It encompasses everything that can affect a person's natural environment, whether that impact is subtle or obvious. Everything that affects the growth and survival of any given organism is a part of it.

Preserving the integrity of different parts of the vegetation cover in the environment has long been a priority for the Supreme Court. Human beings must be protected from air, water, land, flora, and fauna, among other things. Preserving the environment also served to safeguard both current and future generations of humans. The anthropocentric approach describes this way of thinking. A paradigm shift away from an anthropocentric approach has been recently made by the Supreme Court of India. The anthropocentric view holds that other parts of nature are being preserved because they are necessary for human survival. One and only criterion for protecting and preserving natural resources is the need for humans.

### C. Methodology

This study aims to examine the public's view of the Indian Judiciary and its performance in handling complaints pertaining to environmental issues as a matter of human rights. Historically, human rights organizations around the globe have focused on defending and advancing people's political and civil liberties. After the 1993 Vienna Convention brought "all human rights for all" into the spotlight, human rights organizations started paying more attention to people's economic, social, and cultural rights. In its mission to defend human dignity and protect human rights, the Indian Judiciary has redoubled its efforts to address concerns related to "group rights" and governance, particularly policy decisions that are fundamental to the concept of "better protection of human rights." However, the Indian Judiciary's involvement in the handling and resolution of complaints is still crucial. So, it's reasonable to wonder why people take environmental justice matters to the Indian Judiciary rather than the regular courts in the legal system. The researcher has used the 'Doctrinal Method' for this study. The researcher has

accessed a wealth of relevant literature, including books, articles, authenticated documents, and literal works, in order to compile the substantial data for the study, which is an integral aspect of the doctrinal research method. The data was gathered from a variety of credible sources that were accessible to the researcher. A number of libraries are visited by the researcher in order to gather the data. It is important to seek the necessary books by searching the library's author and title indexes. In addition to consulting relevant statutes in gazettes and periodicals, it researches the subject in legal journals for the case study. Aside from the sources already mentioned, the researcher has also consulted the works of prominent legal and administrative scholars in order to gather extensive information. Primary and secondary sources are the two main categories into which the researcher has sorted the information needed for this study.

#### **D. Significance of the Work**

The concept to decipher the connection between dharma, morality, and values. In general, when people talk about dharma, they usually mean things like conforming to certain rules in order to show our devotion to God, praying in a certain way, worshipping in a certain way, and participating in certain rituals and ceremonies in order to appease God or gods. These are all rites of passage. However, the term dharma has a distinct meaning in Sanskrit that differs from our common understanding. The word 'dharma' is formed by adding the suffix 'mana' to the Sanskrit root word 'dhr'. The term dhr denotes maintenance. "Dharma" means "upholding" or "sustaining" in its derivative form. An object is supported by its essential property. Therefore, dharma is the most important quality of an object. Because its identity is carried by this property. Nothing stays the same when dharma is absent. A man's dharma is his fundamental quality that defines him and sets him apart from other beings; it is this quality that is necessary for man to be considered a man in the strictest sense. The environment, which encompasses the natural world, human habitats, and the broader ecosystem, is central to sustaining life on Earth. India, a country rich in cultural, religious, and legal traditions, has long been at the crossroads of development and environmental protection. The Indian Constitution and the principles of Dharma—an integral part of the country's spiritual and cultural fabric—play significant roles in shaping the nation's approach to environmental protection. This research seeks to explore how constitutional provisions and the values enshrined in the concept of Dharma contribute to the safeguarding of the environment in India.

Compensation for victims of pollution and other environmental hazards was a major challenge for nations undergoing industrialization. During the early era of Europe's hauntingly new pollution problem, the principle that the polluter should pay for his damages emerged. A petition was filed under Article 32 of the Constitution of India in the case of *M.C. Mehta v. Union of India*, requesting the closure of a factory that manufactured hazardous products. Multiple people were hurt when oleum gas leaked from the plant while the lawsuit was ongoing. The case's importance rests in the fact that it established the overarching concept of liability for businesses that partake in hazardous and intrinsically dangerous operations.

The precautionary principle states that in the absence of scientific measures, the burden of proof is on the persons taking the action or project to prove that it is not harmful to the public and the environment if the action or project has known risks that could cause harm. As long as scientific evidence points to a potential danger, society has an obligation to safeguard its members from harm, according to the precautionary principle. In cases where the party initiating the action can provide solid evidence that no harm will occur, these protections can be relaxed. The significance of the precautionary principle in fulfilling the constitutional obligation to safeguard and enhance the environment was acknowledged by the Karnataka High Court in the case of Vijayanagar Education Trust v. Karnataka State Pollution Control Board, Karnataka. If uncertain and non-negligible risks are discovered, the developer is burdened with the burden of proving the project's benign nature.

It has taken time for the Indian judiciary to incorporate international environmental law into Indian domestic law. From 1950 through 1984, the Indian courts followed the conventional dualist view that treaties are not binding on the country's courts unless explicitly codified into domestic law. The Civil Procedure Code took precedence over the International Covenant on Civil and Political Rights in the case of Jolly George Verghese v. Bank of Cochin which confirmed the traditional dualist approach. Nevertheless, by applying a stringent reading of the Civil Procedure Code, the court in this case reduces the tension between the Covenant and domestic statute.

The Supreme Court's decision in M.C. Mehta v. Union of India mandated the replacement of non-CNG buses with CNG ones in order to safeguard the health of current and future generations as well as the environment. The court ruled that compressed natural gas (CNG) buses should be used to safeguard the health of future generations and to improve and protect the environment. The Supreme Court ruled in the case of A.P. Pollution Control Board v. Prof. M.V. Nayudu that a state cannot provide an exemption to a particular industry that is either already operating in or has plans to set up shop in an area where there is a complete ban on industrialization. The State Pollution Control Board cannot be directed by the state to establish criteria for the issuance of No Objection Certificates. The court in Goa Foundation v. State of Goa ruled that a forest area's land lease could not be upheld because it would lead to dust and water pollution, the destruction of the adjacent forest, and negative effects on the area's ecology, ecology, and right to life.

The Supreme Court of India ruled in the case of M.C. Mehta v. Union of India that chlorine gas poses a threat to the health and safety of anyone in the vicinity in the event of a leakage from a storage tank, cylinder, or any other location during its production. As a result, in order to avoid this kind of thing happening, the food and fertilizer industries were given very strict conditions to continue producing these goods.

Since the right to life, including the right to live in a healthy environment, is guaranteed in article 21 of the Indian constitution, it is crucial to protect the environment in order to maintain the health of the society's inhabitants. Despite the existence of environmental protection laws in India, the country's natural landscape is deteriorating. The most common form of pollution that has been brought about by industrial activities is air pollution. Degradation of the environment is

inevitable due to the exponential growth of human civilization. People in India are still bearing the brunt of severe weather despite the existence of environmental laws. Degradation of the environment and rise in air pollution are becoming inevitable consequences of increasing urbanization and industrialization. Industrial emissions, the sudden disposal of industrial waste, fossil fuels, agricultural waste, and vehicle emissions are the main culprits behind air pollution. Therefore, it is clear that global warming is on the rise, which is having a significant effect on the climate, due to the fact that pollution and environmental degradation are both on the rise.

## E. Conclusion

With increasing environmental challenges, ranging from pollution to deforestation, India's approach to addressing these concerns needs to be critically examined. The Constitution of India and the ancient principles of Dharma both emphasize sustainable living, respect for nature, and the interrelationship between humans and the environment. However, the effectiveness of these principles in practical terms remains underexplored. The Indian Judiciary has been instrumental in enacting environmental protection policies. The Supreme Court has issued multiple rulings aimed at promoting environmental protection. The landmark decision of *Vellore Citizen's Welfare Forum v. Union of India* established the concept of sustainable development in India. The development objectives alone should not be the basis for environmental conservation. As a human, you have a responsibility to the earth and all its inhabitants, as well as to the generations to come. In its most basic form, sustainable development means equality between the generations. A number of causes, including the preservation of forest animals and the environment, have benefited greatly from the decisions of India's highest court.

Absolute liability, which makes businesses liable for accidents caused by hazardous operations, is one of the innovative ideas put forth by the judiciary. Businesses must follow this principle to protect the public and the environment from any potential hazards, even if they are careless. In addition, the courts have highlighted the importance of sustainable development principles, such as the polluter-pay and precautionary principles, as fundamental parts of environmental legislation. The judiciary has made effective use of public interest litigation to tackle environmental issues.

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