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Global Environmental Norms and the Evolution of Indian Environmental Jurisprudence

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ABSTRACT

Environmental protection in India was not always framed as a constitutional concern. For a considerable period, it was largely treated as a matter of statutory regulation. However, developments at the international level - particularly after the Stockholm and Rio Declarations - brought certain guiding principles into global circulation. Ideas such as sustainable development, precaution and the polluter pays doctrine began influencing national debates, including those within India.

In the Indian setting, these principles did not enter the legal system through a single legislative reform. Instead, they gradually surfaced in constitutional adjudication. While interpreting Article 21, the Supreme Court began acknowledging that environmental degradation directly affects the quality of life. Over time, concerns relating to pollution, ecological balance and industrial accountability were examined within the broader framework of fundamental rights. International environmental principles were referred to as interpretative aids, assisting the Court in articulating remedies and responsibilities.

The expansion of environmental public interest litigation strengthened this movement. Judicial intervention in cases relating to pollution control and environmental management translated broad normative commitments into enforceable obligations. Yet this development has not been free from criticism. Questions continue to arise regarding the limits of judicial intervention and the effectiveness of implementation at the ground level.

Indian environmental jurisprudence, therefore, reflects an evolving engagement with global environmental thought. It illustrates how international principles have been read into the constitutional framework through interpretation and adaptation rather than direct transplantation.

Keywords: *Environmental Jurisprudence; Article 21; Sustainable Development; Public Interest Litigation*

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I. INTRODUCTION: SHIFTING FROM REGULATORY GOVERNANCE TO FRAMING ENVIRONMENTAL GOVERNANCE WITHIN A CONSTITUTION

The initial phases of India's plans for Environmental protection Post-independence did not consider the Constitution. Instead for the first several decades the Indian Government chose to address its concerns through Statutorily established Technocratic-Administrative approaches to regulate the breach and compliance of particular sectors. The Governance of Air Pollution, Water Pollution, Wild Life, and Forests, Which established the administrative technical and regulatory frameworks.

While the Constitution did reference the environment, in particular the articles 48A, and 51A(g), These provisions are, In fact, Directives. They are Made policies, and civic responsibilities that do not grant rights under the Constitution that are able to be claimed in court. The first Environmental provisions of the Constitution did not recognize the degradation of the environment as a breach of fundamental Rights.

The move from Regulative Governance to Environmental Constitutionalism has been a long process, and for a long time has not been due to a specific Judicial decision or legislative change. Instead it has resulted from the continued Evolvement of Jurisprudence, in particular Article 21. Injury to the Environment has been understood to affect one's Life, Health, and Dignity. The jurisprudential shift has meant Environmental protection has been elevated from a policy choice to a policy mandate.

International events were instrumental in this change. Despite this, the Indian case shows us that the global standards for the environment were not simply taken in. There was a process of adaptation by way of constitutional reasoning. This paper looks at that process of reasoning and the impact it has had on India's environmental governance.

II. GLOBAL ENVIRONMENTAL DISCOURSE

The Evolution of Norms The 1972 Stockholm Conference first recognized the global impact of environmental decline on humanity and articulated the connection of low quality environments and issues that affect humanity's most basic needs. The Stockholm Conference was the first Conference on the Human Environment and although it was not a legally binding conference, the impact of the conference was the first of many socio-legal lexicons that described the evolution of environmental governance. The 1992 Rio Declaration Legacy of the Stockholm Conference, The Rio Declaration Legacy of the Conference acknowledged the first elements and socio-legal operationalization of persuasive advocacy for norm-defining environmental

governance. The Rio Conference Legacy, with the incorporation of sustainable development, changed the world policy positioning of the principles and socio-legal operationalization of advocacy for the acknowledgment of the world policy positioning of the Re-framed Principle of Integration of environmental protection and development sustainable development advocacy. It changed the world policy positioning of the principle of integration of environmental protection and development. The Rio Conference Legacy, with the Principle of Precaution and Principle of Integration of Environmental Protection and Development Sustainable Development, changed the global environmental policy advocacy discourse. The Re-framed Principle of Integration of Environmental Protection and Development Sustainable Development, the Principle of Precaution, and the Principle of Polluter Pays, changed global environmental policy advocacy discourse. The Re-framed Principle of Integration of Environmental Protection and Development Sustainable Development, The Principle of Precaution, and The Principle of Polluter Pays, changed global environmental policy advocacy discourse. The principle of Precaution changed the doctrine that scientific evidence must conclusively demonstrate a need for regulation. The principle of polluter pays altered the doctrine of environmental accountability by introducing an economic dimension that integrated environmental harm by identifying a responsible entity and a specific social actor. In India, courts have approached these principles not as binding treaty obligations, but as persuasive guidelines that are constitutionally committed.

III. NORMATIVE GROUND: ARTICLE 21 IN A NEW LIGHT

The expansion of Article 21 has been one of the most important developments of Indian constitutional jurisprudence. Initially limited to procedural safeguards against deprivation of life and liberty, Article 21 developed into a broad substantive guarantee of dignified existence. The interpretative expansion, in turn, allowed environmental harm to be portrayed as a constitutional injury. In *Subhash Kumar v. State of Bihar*, the Supreme Court had acknowledged that the right to life also includes the right to live in a pollution-free environment and hence enjoy clean air and water.² This articulation represented the juridification of quality of environment. This development took a deeper turn in *M.C. Mehta v. Union of India (Oleum Gas Leak case)*, when the Court formulated the doctrine of absolute liability in hazardous industries.³ The ruling recognized that environmental risks warrant higher standards of responsibility. The traditional tort regime was said to have been inadequate to handle industrial

² *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

³ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

risks.

The definitive infusion of international environmental principles were in *Vellore Citizens' Welfare Forum v. Union of India*.⁴ The Court identified sustainable development, precaution and polluter pays as quintessential concepts in environmental law. Most importantly, these principles were rooted in Articles 21, 48A and 51A(g). By connecting international norms to constitutional provisions, thus converting them into domesticated standards in whole of the constitution.

In *Indian Council for Enviro-Legal Action v. Union of India*⁵, the principle of the polluter pays was put into practice by the imposition of compensation orders against polluting industries. The evolution of the principle shifted from abstract articulations to concrete and enforceable accountability. These decisions embedded the protection of the environment into the Constitution as opposed to limiting it to legislative reform.

IV. PUBLIC INTEREST LITIGATION AND COMBATING ENVIRONMENTAL JUSTICE

The expansion of Public Interest Litigation shifted how Environmental Law was practiced. By relaxing some of the barriers to the initiation of lawsuits, Plaintiffs' attorneys, and other socially-conscious, community-oriented representatives, were able to put greater focus on the environment. This innovation created an avenue for the public to seek Environmental Justice.

Allegations of Environmental Public Interest Litigation encompassed a wide variety of concerns, including but not limited to, the emissions of industrial smokestacks, the pollution of rivers, and the destruction of the ecosystem. Courts have even gone so far as to provide step-by-step instructions on what should be done, and have periodically overseen the execution of those instructions to ensure compliance. In contrast to merely making a decision, Judicial activism moved beyond the 'declaratory judgment' of an issue.

From a practical standpoint, the expansion of environmental Public Interest Litigation represents a combination of both innovation and necessity in the Constitution. The expansion of Environmental Justice Public Interest Litigation demonstrates the need for both the Constitution and the necessity of the situation.

The core divergence focuses on where to draw the line when it comes to how involved the courts should be. With all of the risk of an overreaching Environmental Justice Public Interest Litigation, the Environmental Justice Public Interest Litigation process and the Environmental

⁴ *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

⁵ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

Justice Public Interest Litigation system have adjusted and evolved. It emphasizes the need for Judicial activism and for the necessity of the situation to be the primary motivators for the expansion of Environmental Justice Public Interest Litigation.

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V. INSTITUTIONALIZATION AND THE NATIONAL GREEN TRIBUNAL

Implementation of judicial environmental disputes as a technical issues sparked some of the more recent legislative changes. The National Green Tribunal Act of 2010 created a new adjudicatory body that will have judicial and specialized members.⁶ NGT's purpose is to address the fact that the courtroom does not have the scientific resources to solve all environmental issues. The Tribunal's creation underscores the indirect impacts of judicial environmentalism. Institutional frameworks have been designed in various ways as a response to specific challenges faced. The NGT's Tribunal Banks show how far the environmental governance system in India has come. Even though environmental statutes have been created from conceptual frameworks to specialized environmental courts, they have most often been left unimplemented.

VI. ADAPTATION, SOVEREIGNTY, AND JURISPRUDENTIAL IDENTITY

The Indian engagement with international environmental norms illustrates the former rather than the latter. The courts did not view the Stockholm or Rio instruments as binding. Rather, the instruments served as one of many inputs for interpretative reasoning. This strategy sustains the courts' constitutional sovereignty while encouraging a measure of international engagement. The international norms received a domestic filter, and their relevance was only with respect to the constitutional values of Articles 21, 48A, and 51A(g) — and not because of an international legal obligation. Such refined engagement with international norms is a sign of developed jurisprudence, as it avoids both bilateral isolation and uncritical engagement. Indian environmental constitutionalism demonstrates the interplay of international environmental law and the national constitutional framework.

⁶ National Green Tribunal Act, 2010.

VII. GAPS IN IMPLEMENTATION AND THE BOUNDS OF JUDICIAL ENVIRONMENTALISM

When it comes to doctrinal advancement, the persistent issues of urban pollution, industrial contamination, and ecological degradation, continue to pose substantial problems. Compliance is not mandated by the mere constitutional recognition of environmental issues. Implementation gaps typically stem from a combination of poor administration, insufficient resources, and political opportunism. Courts may define the principles and allocate the responsibilities, but environmental governance necessitates the continued coordinated action of all other institutions. The concern about the effect of judicial activism is equally persistent. On the one hand, judicial action has enhanced the environment's right to be protected, but on the other, an inordinate dependence on the courts could upend the system. The ability of environmental constitutionalism to endure will ultimately be determined by how well the regulatory system is balanced with judicial activity.

VIII. CONSTITUTIONAL MORALITY, ENVIRONMENTAL RIGHTS, AND FUTURE TRAJECTORY

The constitution's incorporation of India's environmental protections also needs to be situated in the development of the evolution of constitutional morality. The judiciary's interpretative broadening of Article 21 is an indication that the Constitution is a responsive and evolving document. While a lack of identifiable at the time of adjudication and diffuse victims may be a result of environmental damage, it's still an example of the long-term harm of the non-fulfillment of rights. Constitutional interpretations of provisions of the Constitution that focus on dignity and intergenerational equity make a strong case for the protection of the environment. Although intergenerational equity has not always been explicitly articulated, concern for generations is evident in increasing judicial reasoning. The Indian judiciary's references to sustainable development advocates for the judicial recognition that present economic gains do not justify ecologically detrimental irreversible damage. Environmental jurisprudence in India, in this sense, extends constitutional protection beyond the immediate to the distant and long-term. There are also limits to the constitutional morality. There is a need for judicial activism, and environmental protection must be articulated in legislation to give active accountability to the executive. The future of Indian environmental jurisprudence, for now, seems to strike a balance between the softening of regulatory institutions and the hardening of constitutional barriers.

The international environmental discourse will continue to influence how this evolves. Its

influence, however, is constitutionally mediated. The Indian experience thus models constitutional engagement that accounts for global shifts but is legally domestically grounded.

IX. CONCLUSION

The movement of environmental jurisprudence in India shows how there has been engagement with the constitution rather than simply regulations. From the levels of international law, the Rio and Stockholm Declarations, while providing guidance, remained at the level of soft law and did not create any direct domestic legal obligations. The Supreme Court of India, with the extension of Article 21, added the right to a clean environment to the rights enshrined in the Constitution. Public Interest Litigation brought the international norms into the domestic legal system and made them applicable. The establishment of the National Green Tribunal, among other things, has been a significant and institutional development along this constitutional path.

Indian environmental jurisprudence shows its engagement with international environmental law through the numerous and diverse constitutional interpretations. The international norms have also illustrated the ways in which domestic legal systems can address issues while maintaining its constitutional supremacy. The continuing challenge is to ensure that the constitutional vision is complemented by and results in real, functional, and sustainable environmental governance.
