

Supreme Court and Environmental Justice: A Historical Analysis

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It is only stating the obvious that the higher judiciary in India, the Supreme Court in particular, plays a leading role in protecting the environment by looking at environmental issues as important for sustaining development and enhancing human rights. The parameters of such environmental jurisprudence are closely linked with significant constitutional developments in the last two decades. In this setting, the recent spurt of 'judicial activism' assumes significance, particularly when the processes of globalisation, liberalisation and privatisation have accentuated environmental degradation. Through judicial activism, the Court moves beyond its normal role of a mere adjudicator of disputes to one of becoming an active player in the country's political system, laying down the principles and guidelines that the executive must carry out. This process is analysed through Pareto Criterion on the parameters of environment and development.

Keywords: Judicial Activism, Sustainable Development, Iron Triangle, Ecosystem Refugees, Public Interest Litigation, Pareto Optimality.

Under the Indian Constitution, the State is primarily responsible for ensuring justice, freedom, equality and fraternity in the country. The State is under the obligation to protect the individuals' Fundamental Rights and enforce the Directive Principles of State Policy. To prevent the state from evading its responsibilities, the Indian Constitution gave the Court inherent powers to control the state's actions. Against this background, the Indian judiciary was regarded as the guardian and protector of the Indian Constitution. Considering its constitutional duty, the Indian judiciary has taken on an active part, whenever demanded, in protecting the individuals' Fundamental Rights against the State's unjust, unreasonable and unfair actions or inactions (Saxena, 2005, p.281).

Black's Law Dictionary defines judicial activism as: "a philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usually with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore precedent"(Judicial Activism, Black's Law Dictionary,10th ed. 2014). Judicial activism in the Indian context means the proactive role played by the judiciary in safeguarding the rights and liberties of the citizens. The trend of judicial activism emerged because of the perceived failure of the other organs of the state to perform their functions, thereby requiring the judicial process to activate for the public good. Through judicial activism, the Courts move beyond their normal role of a mere adjudicator of disputes and lay down the principles and guidelines for the governance

of the country(Sharma,2005, pp.76-79). Indeed, during the past two decades, the lack of enforcement of environmental norms and the rapid rise in pollution levels has prompted public interest in environmental litigation and the rise of judicial activism in India's environmental management.

Research Questions

The article explores the circumstances under which the Supreme Court has taken onto itself the role of protecting the environment, the various types of environmental issues the Court has been primarily focusing on and the central idea one could discern in the various Supreme Court decisions on the environment and how it is related to development.

Methodology

The methodology followed in this study is a blend of historical, analytical and descriptive aspects of the development of third generation, environmental rights and the role of the Supreme Court in creating an arena of such rights through various judgements. A historical approach has been followed in the study of the provisions relating to the environment in the Indian constitution, specific laws related to the environment and other laws indirectly dealing with environmental protection and various judicial pronouncements on this subject.

The importance of the environment lies in the fact that it is an integral part of development. It includes everything on this earth, everything that influences man, and every kind of life. It is, therefore, necessary to have a comprehensive policy which can really protect the environment. In India, the right to development must be carried out in such a manner as to meet the development and environmental demands of the present and future generations equitably. Both economic experts and environmentalists agree that ecology and the economy should go hand in hand, but how to balance the two pillars or how to harmonise the two entities is the big question. In 1972, the world manifested its concern for the environment by organising a conference in Stockholm. The U.N. Conference on 'Human Environment' alerted the nations to the growing threat to the very survival of the human race and civilisation as a result of the mindless distractions of the environment. The U.N. Conference on 'Human Environment' held in June 1972 declared that "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and Man bears a solemn responsibility to protect and improve the environment for present and future generations"(S.R, 2013, p.5).

Amongst various issues confronting environmental and ecological degradation the two most important issues include reconciling the needs for economic growth, development and industrialisation with the need for protecting and preserving the environment and ecology, the rising epidemic of consumerism and heightened desire for comforts causing harm to the environment and nature, ensuring an international environment regime which is based on justice and equity(World Development Report,1991). The human right to conservation requires the protection of the environment for a life of dignity and well-being. And various rights, right to life, health, livelihood and cultural or economic rights , are seen as contingent on the right to natural resources or nature in a more holistic sense. This shift created a

legacy in Indian constitutional jurisprudence. The Supreme Court emerged as a defender of property rights, traversed through its strong orientation in crafting a public interest jurisdiction towards social justice, and ended in fashioning an environmental jurisprudence spreading a set of third-generation environmental values. However, to the extent the construction of environmental jurisprudence rests on the constant negotiation of the tensions between conservation and democracy, resources and amenities, livelihoods and public health, ultimately envisioning inter-generational equity and the inhabitation of planetary consciousness, the Supreme Court is called upon to struggle out of class affinities and contemporary pressures. In the 1995 ruling, the Court was quite expansive noting that the word “environment” encompassed both a hygienic atmosphere and ecological balance. Enjoyment of life, the Court held, is not possible without the protection and preservation of the environment, and therefore, air or water pollution and ecological degradation should be regarded as a violation of the Right to Life(Virender Gaur v. the State of Haryana,1995). The development of case law on the environment was marked in the late 1990s by the adoption of various principles, which made it possible to develop more legal standards beyond the expansion of permanent or Fundamental Rights and procedural flexibility or administrative engagement on the part of the Court.

Environmental Justice

Environmental justice is an emerging development challenge that can help combat legal discrimination, eliminate poverty and reduce inequality. It is a legal and regulatory framework so that the poor, indigenous groups and local communities have secure access to natural resources (including land, water and forests), and that the benefits arising from the sustainable use of biodiversity and ecosystem services are shared in a fair and equitable way, consistent with international instruments and national legislation(UNDP,2014). The concept of environmental justice is a mechanism of accountability for the protection of rights and the prevention and punishment of wrongs related to the disproportionate impacts of growth on the poor and vulnerable in society from rising pollution and degradation of ecosystem services and from inequitable access to and benefits from the use of natural assets and extractive resources. In 1992, the Rio Declaration in Principle 10 declared “Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided”(IUCN,2007).

Pareto Criterion

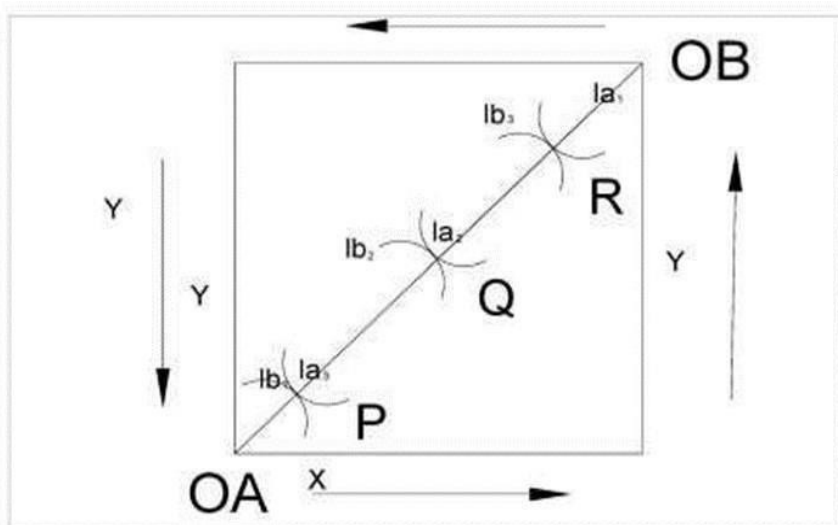
Pareto efficiency, also known as “Pareto optimality,” is an economic state where resources are allocated in the most efficient manner, and it is obtained when a distribution strategy exists where one party’s situation cannot be improved without making another party’s situation worse. Suppose two persons A assume the form of development and B assumes the form of environment. The various levels of their

satisfaction by consuming various combinations of the two concepts have been represented by their respective indifference curves. Pareto considered the question of maximising social welfare on the basis of general optimum conditions. According to Pareto, “A decision related to a change that harms no one but benefits someone must be considered as an improvement.” This is the Pareto criterion of maximising social welfare. Let us assume that environment and development are two goods. Both goods are produced independently. Each consumer wants to exchange one thing for the creation of another.

Efficiency in Exchange

In exchange, the quantities of both goods are fixed. The goal is to allocate these goods among individuals in an efficient way. For an allocation of the available goods to be efficient, the goods should be distributed in such a manner so that the marginal rate of substitution between any two goods is the same for both individuals. Pareto optimum is characterised by the equality of certain pairs of marginal quantities. Indeed, these equalities are necessary conditions which must be satisfied if the economy is to have an economically efficient allocation. It can be represented using an Edgeworth box diagram (Sharma & Jhingan,2007).

FIGURE 1:Edgeworth Box



This can be solved by constructing an Edgeworth-Bowley box diagram on the basis of the individual preference map represented by Ia1, Ia2, Ia3 and Ib1, Ib2, and Ib3 respectively. On the left side, Oa is the origin of individual A, and on the right upside, Ob is the origin of individual B. There are three conceivable points of exchange on the contract curve OaOb. OaPQROb line defines the points of conflict between the two individuals, given the ownership of the original goods. Any point of this line is inferior. However, both will be in an equal position of advantage at point Q where the indifference curve of each individual touches. Both exchange the same quantities by mutual agreement (Sharma & Jhingan, 2007).

The ability of the Apex Court to ensure economic development and environmental protection can be analysed through these criteria. The judicial decisions in each case and each situation differ in many ways. It was due to the peculiar socio-economic condition of India. Balancing ecological concerns with the imperative of high economic growth was to be a major challenge and proved to be contentious since it would involve making choices. The contest between the demands for environmental protection and conservation, on the one hand, and economic growth, on the other, is inevitable. Both ends are good and, therefore, the struggle would always be about maintaining a carefully calibrated balance to prevent intolerable choices (Ramesh,2015). The judicial pronouncements can be well understood only by looking into the core of Indian society. According to Gadgil, the Indian population can be divided into two categories—a group which enjoys all fruits of development is called omnivores. Another category is those who live on the margins of islands and are categorically described as ecosystem refugees. It was represented using a table(Guha & Madhav,1995,p.2).

TABLE 1: Exhibiting the Characteristics of Omnivores and Ecosystem Refugees

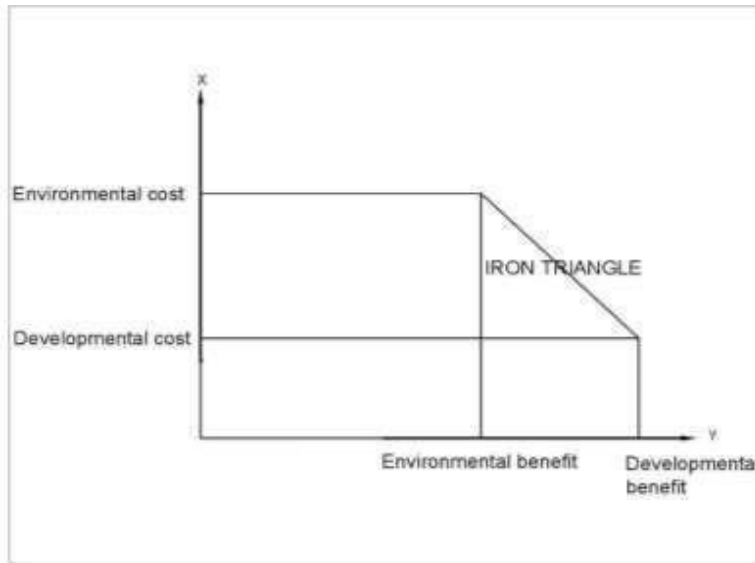
| <i>Sl. No.</i> | <i>Omnivores</i> | <i>Ecosystem refugees</i> |
|----------------|--|---|
| 1 | Beneficiary of economic development | Donor of economic development |
| 2 | Owned vast resources and commodities | Very limited resources |
| 3 | Access to large catchment area | Very less catchment area |
| 4 | Varying powers to control the state | Less power |
| 5 | Favour market economy and integration to globalisation | Favour natural resource base economy and integration into nature |
| 6 | Elite group who constitutes a minority | The majority in an elite group who constitute common man. They also constitute the minority who stand to lose from such developmental projects. |
| 7 | Profit maximising individual | The individual owns social and environmental costs |

The balancing priority of the judiciary has to dwell on two things such as the demands of a growing economy with faster access to natural resources by propagating a combined target of providing jobs to millions. On the other hand, the livelihoods of a larger section of the population are entwined with nature. Ensuring economic growth that is both sustained and environmentally sound would require sacrifices by all. But these sacrifices would not be for personal gains nor would the sacrifices benefit a few. The sacrifices would form the bedrock of the choices, which would be made for the common good. The task of the Court was to ensure that, the goal of high economic growth was achieved in a manner that was ecologically sustainable—creating safeguards

to ensure that the environment would be protected and to minimise the deleterious impacts of human and industrial activities on the environment. The Court has also pronounced various concepts and principles to alleviate the miseries of the common people (Guha & Madhav, 1995, p.2). It can be diagrammatically explained as follows.

FIGURE 2: Iron Triangle

The diagram reflects that there exists an increase in environmental cost, but the



corresponding increase in environmental benefit is meagre. The corresponding increase in developmental benefit is higher while going through developmental costs. There is an iron triangle between environment and development. So, the task before the Court was to melt down this triangle through judicial activism by recreating society on the pattern of the rule of law. Iron Triangle refers to the relationship between politicians, bureaucrats and pressure groups. An iron triangle consists of a special interest group, a political faction, and a professional society (usually manifest in a government agency). The economic growth iron triangle is formidable. The “special interest group” is essentially the entire corporate community, which benefits from a theory of perpetual growth and resulting policies. These triangles are said to be “strong as iron” in that these mutually supportive relationships are often so politically powerful that representatives of the more general interests of society are usually effectively prevented from “interfering” with policy-making altogether whenever their concept of the general interest runs counter to the special interests of the entrenched interest groups, bureaucrats and politicians (Sharma & Jhingan, 2007).

The present study attempts to analyse the ability of the Supreme Court of India to tackle the pernicious problem of the iron triangle through several elements of sustainability. It analyses how the Apex Court is able to overcome the ethical paradox in dealing with environmental sustainability and developmental prerogative. It also attempts to evaluate the decision of the judiciary on three aspects- economic growth, social development and environmental protection. The choices made by the judiciary on the basis of facts and information, various assessments, and redressal of the

problems which had arisen from choices had a tremendous impact on society. The constant attempt to achieve a precarious equilibrium between growth and environmental protection by the Court throws up an important question. How do we manage what we haven't measured? Measuring an infinite thing and infinite damage by the Court is always on the right path, or it puts common people in peril is a matter of concern. If we are to make a more robust case for environmental protection, we must be able to objectively quantify the costs of environmental degradation caused by our growth process as well as quantify the benefits arising out of interventions to protect the environment. The study of judicial activism in the sphere of environmental jurisprudence has been conducted through the principles of sustainable development, such as Ecological Sustainability, Social Justice and Intergenerational Equity and Justice. The task of the Court was to ensure that the goal of high economic growth was achieved in a manner that was ecologically sustainable, creating safeguards to ensure that the environment would be protected, and to minimise the deleterious impacts of human and industrial activities on the environment. There is an iron triangle between environment and development. So the task before the Court was to melt down this triangle through judicial activism by recreating society on the pattern of the rule of law.

The sphere of environmental jurisprudence in India before 2000 can be divided into two phases; an interpretation of statutes and an indigenisation of doctrines. Due to the expansion of industrialisation and the introduction of new laws, a lot of cases appeared before the Supreme Court which evoked a wide variety of judgements. In certain cases, the Court recommended evolving national policies by the government. The Court has removed the role of *locus standi*, expanded the scope of Fundamental Rights and incorporated almost all environmental rights in Article 21. In addition to these, several innovative doctrines were introduced in environmental spheres such as the polluter pays principle, the public trust doctrine, the precautionary principle, the principle of intergenerational equity and the doctrine of absolute liability for solving domestic environmental problems. The Court also entertain petitions on behalf of parties, wildlife and natural resources affected by pollution and environmental degradation; takes *suo moto* action against polluters; appoints expert committees for providing input and monitoring the implementation of judicial decisions; makes spot visits to assess the magnitude of environmental problems at the ground level; appointing *amicus curiae* to speak on behalf of the environment. Since 2000 there has existed a classic struggle between environment and development when comes to the Apex Court in various cases pertaining to the delimitation of the sanctuary, mining in national parks and creation of buffer zones. The Court also has to ponder over the helotic intervention of the right to development over the right to life in matters relating to dam construction and nuclear power plants. While dispensing environmental justice, the Court had to face problems such as access to justice, lack of inclusive justice, and proliferation and abuse of PIL. The Court also adopted various measures for its survival, such as a recommendation for the creation of NGT and other measures.

It is argued that the shelf-life of any constitutional democracy depends upon the generality of the Constitution, the creativity of the Court and the sagacity of the people. In a society where the third factor cannot be overemphasised the judiciary remains the anchor of constitutional democracy. In such a situation where people cannot provide a brake to vast clutches of interest in society, judicial activism is the

best alternative to save the Constitution from being overrun by the political branches of the government. Judiciary in any constitutional democracy is an institution with the purpose of enforcing constitutionalism and counter-majoritarianism or the real application of democracy, i.e., majority rule inconsistent with the Rule of Law and Constitutional Values. The Court articulates and infuses these values and makes democracy a rule of law-based democracy. The Court is an essential component of a democratic process which represents the collective conscience of the people and public reason. It seeks to protect the constitution and democracy by imposing enforceable limitations upon the freedom of the state in order to break that iron triangle. Important methods adopted by the Court are as follows:

Creative Interpretation of the Constitution

The Court has invigorated the Right to Equality by holding that the protection of Article 14 is available not only against unreasonable legislative classification, but also against any arbitrary state action. The Court has developed an edifice of normative human rights jurisprudence for good governance. For instance, the Court has preserved the Fundamental Rights of the people for posterity by holding that the Fundamental Rights constitute the basic features of the constitution which cannot be abridged even by amending the constitution.

The Court has invigorated the Fundamental Rights of the people by collapsing the artificial compartmentalisation between political and civil rights given in Part III of the constitution and Economic, Social and Cultural right in Part IV of the constitution which was hitherto considered as mere directives and hence not enforceable in a Court of law. The Court has even transported some of the directives into the Fundamental Rights, which are of contemporary importance and value. This has enriched Fundamental Rights and made them more meaningful for the people. For example, by transporting the 'Right to a clean Environment' from Part IV to Part III of the Constitution, the Court has enormously enriched the 'Right to life' under Article 21 of the Constitution. A person cannot live a life of dignity in an unhealthy environment. Thus, the fine balance between Fundamental Rights and the Directive Principles, which is a basic feature of the constitution, was creatively maintained. The Court has expanded its judicial capabilities for better protection, enforcement and invigoration of the Fundamental Rights of the people. These capabilities include awarding compensation as an exercise of its writ jurisdiction in cases of constitutional tort violating the Fundamental Rights of the people. In some cases, the Court has also awarded exemplary damages, proactive ascertainment of facts and investigation and proactive monitoring of compliance to Court directives using *Mandamus* (Massey, 2015).

Recognition of Collective Rights

The Supreme Court of India, during the last decade, has been developing a new jurisprudence which may be called 'social jurisprudence'. It has achieved a balance between political rights and social rights. In this achievement, social rights have been given greater importance in some cases. It shows that the Supreme Court of India has impliedly accepted the theory of 'unenumerated rights' in its interpretation of Article 21, it is submitted that there is adequate scope for the development of the theory of 'core rights' or 'subsistence rights'. These subsistence rights do not conflict with traditional liberties. On the contrary, they enhance these liberties. For,

traditional liberties arose out of protest against oppressive political institutions, while subsistence rights arose out of protest against oppressive social and economic institutions. The concept of human rights is complete only when there is an acknowledgement of subsistence rights along with traditional liberties. As a matter of fact, the Supreme Court of India accepted this principle when it laid down in the *Minerva Mills* case that there is harmony and balance between Fundamental Rights and the Directive Principles of State Policy and this harmony and balance is a basic feature of the Constitution.

By creatively interpreting Articles 21, 19 and 14 as an 'organic whole' the Court has developed a second Bill of Rights for the people, which contains some very important rights similar to the Fundamental Rights given in the Constitution. This Bill of Rights includes rights such as the Right to Clean Environment, the Right to Sustainable development, the Right to livelihood, the Right to Human Dignity, the Right to Privacy, the Right to Free Press, and the Right against Arbitrary Actions of the State. This has made the whole concept of human rights relevant and meaningful to the needs and aspirations of people. Collective rights, wherein public interest or benefit contains, are sought to be safeguarded and furthered by the judicial process. The impediment in the form of the locus was removed by the Court and has opened the doors of the judiciary to the poor, indigent and illiterate. The phenomenon of PIL has crossed a million miles in India covering a territory of water, health, education, environment, prisoners' rights and personal liberty (Ukay,2013, p.48).

Judicial Activism and Public Interest Litigations

The expression 'Public Interest Litigation' means "any litigation conducted for the benefit of the public or for removal of some public grievance." In simple words, public interest litigation means any public-spirited citizen can move or approach the Court for the public cause (or public interest or public welfare) by filing a petition in the Supreme Court under Art.32 of the Constitution or in the High Court under Art.226 of the Constitution or before the Court of Magistrate under Sec. 133 of the Code of Criminal Procedure, 1973 (Ghosh, 2013). Two judges of the Indian Supreme Court (Bhagwati & Iyer. JJ) prepared the groundwork, from the mid-1970s to the early 1980s, for the birth of PIL in India. This included modifying the traditional requirements of locus standi, liberalising the procedure to file writ petitions, creating or expanding Fundamental Rights, overcoming evidentiary problems, and evolving innovative remedies (Deva,2009, pp.19-40).

The Supreme Court of India, in the last quarter of the 1970's, realising its dismay that the poorest of the poor, downtrodden, deprived, women, and children, who are handicapped by 'ignorance, indigence and illiteracy' have either no access to justice or had been denied justice; evolved a new branch of proceedings known as 'Public Interest Litigation' with a view to render complete justice to the aforementioned classes of persons (Nath,2015). The Court in the 1980s developed a new non-adversarial form of public interest litigation ("PIL") aimed at correcting governance failures and human rights abuses. The Court was able to provide 'equal access to justice on an equal basis to all' by innovating the strategy of Public Interest Litigation and Social Action Litigation. This was achieved by lowering the threshold level of the doctrine of locus standi of 'personal injury' standing to 'social concern' standing. Thus, the Court was able to extend its long arms and reach justice to the deprived and disempowered sections of society whose rights were suffering and waste for a long time.

In the last three decades, the Indian Supreme Court and High Courts have been approached through PIL to redress a variety of issues, such as the constitutionality of the Government's privatisation and disinvestment policies, pollution of rivers, relocation of industries out of Delhi, lack of access to food, deaths due to starvation, use of environment-friendly fuel in Delhi buses and regulation of traffic, prohibition of smoking in public places, employment of children in hazardous industries, rights of children and bonded labours, the extent of the right to strike, right to health, right to education, sexual harassment in the workplace, female foeticide and infanticide through modern technology (Dias & Bhagwati, 2012). The Supreme Court also felt that it was an injustice for a person to incur expenses from his or her own pocket for the lawyer's fees to prepare a regular petition to be filed in court. In such a case, a letter addressed by such a person to the Court can legitimately be regarded as an 'appropriate proceeding' within the meaning of Art. 32 of the Constitution. This is known as epistolary jurisdiction where the Court can be moved by just addressing a letter on behalf of the disadvantaged class of persons (Ukay, 2013, p.4).

Expansion of Article 21

'Life' according to the dictionary is merely the state of being alive. However, the term 'life' in the Constitution has a different interpretation. The Right to Life is guaranteed under Art. 21 of the Constitution. Despite being the smallest article of the Indian Constitution, Art. 21 has the greatest significance. "Art. 21 embodies a constitutional value of supreme importance in a democratic society." (Bhagwati, [1980] 2 SCR 557) This right has been held to be the most organic and progressive provision in our living constitution, the foundation of our laws. Each of the eighteen words of Art. 21 is being interpreted expansively by the Apex Court. However, the term 'life' has been the most dynamic among all the other ones (Bhagwathy, 2017). This right takes within its fold some of the fine graces of civilisation which make life worth living and the expanded concept of life would mean the tradition, culture and heritage of the person concerned. While incorporating the rights such as the right to food, clothing, a decent environment and reasonable accommodation to live into the right to life, the Supreme Court observed that the difference between the need of an animal and a human being has to be kept in view.

An important focus of the Indian judiciary has been on creating new sources and channels for Article 21 to flow and withstand age and times. The Court has converted the procedure established by law in Article 21 into a due process which can stand the test of reasonableness and fairness. During the post-emergency judicial activism period, the Judiciary had explored and expanded the meaning of 'Right to Life', to include various 'rights' as part and parcel of 'right to life'. Such 'rights' are: 'right to bail', 'right to a speedy trial', 'right to legal aid in criminal proceedings', 'right to health', 'right to housing and shelter', 'right to livelihood', 'right to the enjoyment of pollution-free water', and other 'rights'. Indian Supreme Court, while recognising the role of the Supreme Court in providing a healthy environment, in *T.N. Godavarman Thirumulpad v. Union of India*, has said that "natural resources are the assets of the entire nation. It is the obligation of all concerned, including the union government and the state governments, to conserve and not waste resources. Any threat to ecology can lead to violation of the right of enjoyment of healthy life guaranteed under Article 21, which is required to be protected" (Bindal & Uday, 2012, pp.4968).

According to the Court, the Right to Life enshrined in Article 21 is something

more than survival or animal existence. It would include the right to live with human dignity. It would include all those aspects of life which go to make a man's life meaningful, complete and worth living. As a result of the liberal interpretation of the words life and liberty in Article 21, it has become a residuary right, to an extent undreamt by the fathers of these constitutions. Through the magic wand of Judicial Activism, the non-justiciable Directive Principles turn into enforceable rights. A corollary of this development is that while so long the negative language of Article 21 and the use of the word deprived was supposed to impose upon the state the negative duty not to interfere with the life or liberty of an individual without the sanction of law, activist judges have now imposed a positive obligation upon the state to take steps for ensuring the individual a better enjoyment of his life and dignity. For example, maintenance and improvement of public health, elimination of water and air pollution, improvement of means of communication, rehabilitation of bonded labourers, and providing human conditions in prisons and protective homes (Sikri,2015). The Supreme Court in the case of Maneka Gandhi vs Union of India held that the Right to Life embodied in Article 21 of the Indian Constitution, is not merely a physical right, but it also includes within its ambit, the right to live with human dignity. In the case of Francis Coralie vs. Union Territory of Delhi, it was held that the right to live includes the right to live with human dignity with bare necessities of life, such as adequate nutrition, clothing, and shelter over the head and facilities for reading, writing, and expressing oneself in diverse form.

Conclusion

The role of the judiciary in the evolution of appropriate principles and remedies, such as building consensus, and motivating the state and society towards better protection of the environment, has given a new perspective to the right to the environment. Since the efficacy of the policy of environmental protection depends upon the strict application of well-formulated laws, the mechanism of administrative legality is destined to contribute immensely to the right to environmental aspects. Through well-pronounced judgements, Courts enforced justice by calling on the implementers to perform their obligations, disciplining businesses, imposing penalties and granting rewards (Naik,2018).The Court is acting in ways that are consistent with the vision of the Supreme Court as an infallible Court where an individual can seek justice when he or she has not received justice at any other tier of the judicial system (Saha,2008).

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