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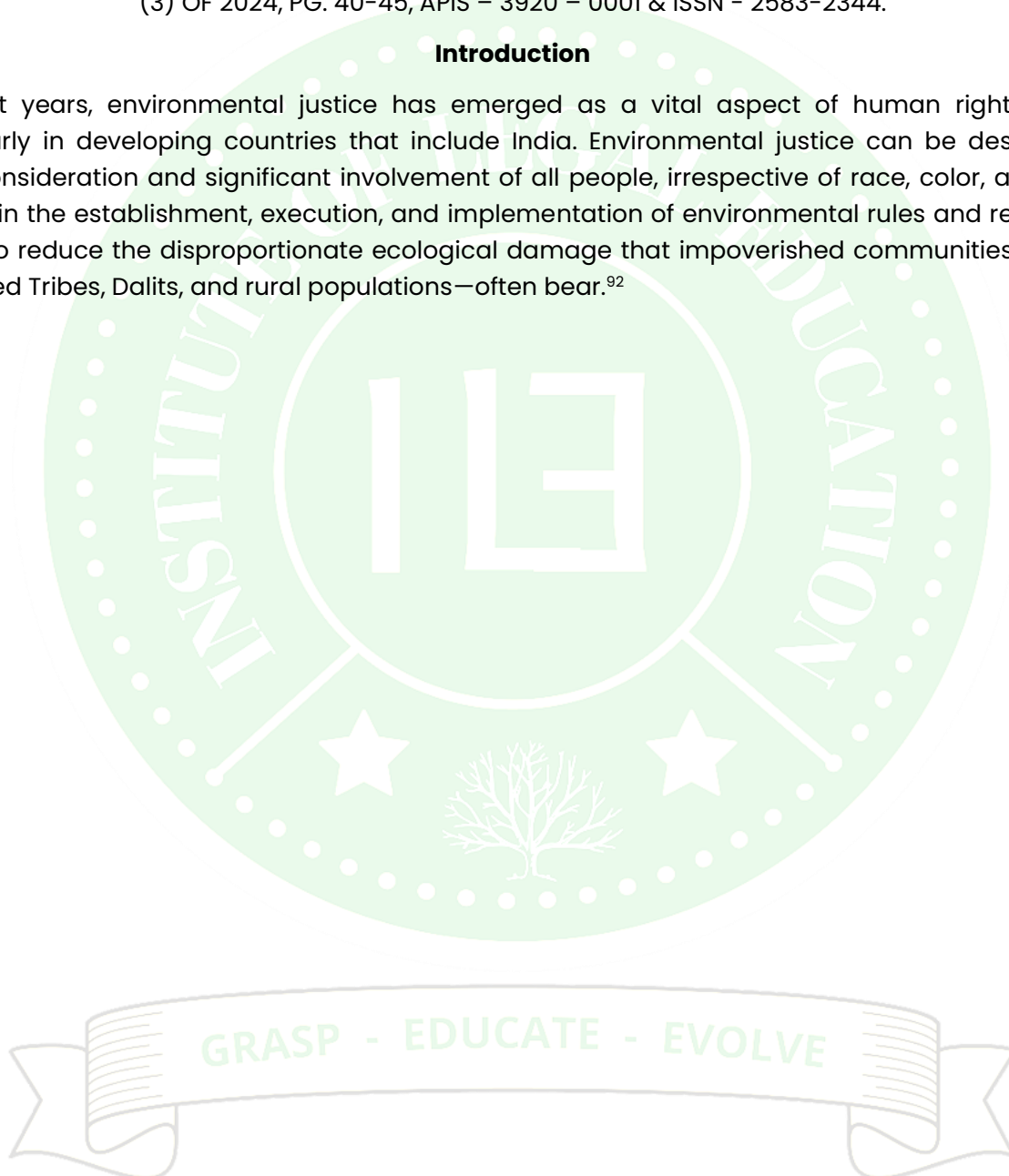
ENVIRONMENTAL JUSTICE AND MARGINALIZED COMMUNITIES IN INDIA: ANALYZING THE ROLE OF LAW AND JUDICIAL INTERVENTIONS

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Introduction

In recent years, environmental justice has emerged as a vital aspect of human rights debate, particularly in developing countries that include India. Environmental justice can be described as equal consideration and significant involvement of all people, irrespective of race, color, a nation or income, in the establishment, execution, and implementation of environmental rules and regulations. It aims to reduce the disproportionate ecological damage that impoverished communities—such as Scheduled Tribes, Dalits, and rural populations—often bear.⁹²



⁹² United Nations Environment Programme (UNEP). "Environmental Justice and Human Rights: An Emerging Framework." Report, UNEP, 2019.

In India, marginalized populations have long suffered under the strain of environmental degradation and extraction of resources, often without benefiting from economic progress. This study paper seeks to explore how India's legal system addresses the notion of ecological justice, particularly for underprivileged people. Through an analysis of key legislations, landmark judicial decisions, and case studies, this paper explores the systemic inequities that exacerbate environmental risks for these vulnerable populations.⁹³

1. Legal Framework for Environmental Justice in India

India has an array of environmental laws meant to safeguard both natural resources and public health. However, when seen through the lens of environmental justice, it is clear that these rules do not always adequately protect those populations which are disproportionately affected by hazards to the environment.⁹⁴

1.1 Constitutional Provisions

The fundamental right to life under the Article 21 of Constitution of India has thus been interpreted in the courts of law as including even the right to life in a healthy environment. In the constitution of Kenya the state has been directed in Article 48A of the Directive Principles of State Policy to protect and enhance the environment. Although these basic safeguards are reasonably sufficient, the proven way they are implemented can often fail to meet the rights of the marginalized. Changing the meaning of Article 21 has been progressive over the years to include the right to clean air as well as clean water. Nevertheless, environmental degradation has contributed to violations of the above-mentioned rights especially for

indigenous people since their lives depend on environmental resources.⁹⁵

1.2 Key Environmental Laws

Several laws constitute the framework for environmental governance in India, including: Several laws constitute the framework for environmental governance in India, including:

- **The Environment (Protection) Act of 1986:** empowers the central government to control a variety of ways at environmental pollution. But again due to its widened net, its application sometimes seems partial leaving disadvantaged communities particularly those in the rural areas vulnerable to uncontained industrial pollution.
- **The Forest Rights Act (2006):** The Act intended for correcting the past injustices against those indigenous tribal and forestry dwelling people, ensures these communities are legal titles to actual forest land and resources. However, this has not been put into practice without challenges, especially in areas where other commercial values such as creation of business ventures and other economic-development projects override the indigenous people's rights.⁹⁶
- **The Water (Prevention and Control of Pollution) Act, 1974:** This regulation for prevention and control of water pollution is very pertinent today especially for rural dwellers who mostly depend on rivers and ground water for survival, because water resource contamination is a big issue. Poor enforcement and corporate involvement are the factors which avert the efficient implementation of these laws in protecting vulnerable groups.⁹⁷

⁹³ Chakraborty, Suranjana. "Ecological Justice and Industrial Development in India: A Case Study Approach." *Journal of Environmental Policy*, vol. 15, no. 2, 2020, pp. 157-173.

⁹⁴ Divan, Shyam, and Armin Rosencranz. *Environmental Law and Policy in India*. Oxford University Press, 2002.

⁹⁵ Article 21 and Article 48A, Jain, M.P. *Indian Constitutional Law*. LexisNexis, 2016.

⁹⁶ *The Forest Rights Act*, 2006.

⁹⁷ *The Water (Prevention and Control of Pollution) Act*, 1974.

2. Case Studies of Environmental Injustice in India

2.1 Vedanta Sterlite Case (Tamil Nadu)

The Vedanta Sterlite Copper Plant located in Tuticorin of Tamil Nadu is one of the most well-known instances of environmental racism. Some of the impacts included environmental degradation of the plant to the local people and particularly fishermen and farmers. Pollution of both air and water became severe resulting in numerous health issues while the weaver people especially the underprivileged were the most affected since they lived close to the factory.

It was found shut after several chorus of protest but by this time, the damage had already been done. In this case there has clearly been an established pattern of society's inability to balance industrial growth with conservation of the environment. Initially, the interest of the economically deprived groups was violated because the government gave support to the business entity profits.⁹⁸

2.2 The NBA's Narmada Bachao Andolan

The Narmada Bachao Andolan may well be the most famous grassroots organization to emerge in opposition to environmental inequality. The large dams built on the Narmada River affected the indigenous people and farmers by denying them their right to basic resources and livelihood; tens of thousands were displaced. Again, there was validation of rehabilitation and compensation, however, a number of affected households had no adequate support. The conflict between the process of megascale development and safeguarding of marginalized populations was given emphasis by the Supreme Court ruling expressing willingness to let the project move forward.⁹⁹ This campaign raised awareness of the fact that regardless of the living standards of vulnerable groups, judicial systems of the country remain incapable to place those groups' rights above economic interests.

2.3 POSCO Case (Odisha)

The upcoming POSCO steel plant in the state of Odisha meant that the indigenous people of the area were forcefully removed from the area where they relied much on the forests and the land. The approval of the project was granted despite the protest, meaning that injustice is something that the deprived must go through in order to seek justice for the environment. Because of this case which has side-stepped the Forest Rights Act 2006, which gave tribal individuals legal title to forest property, questions arising as to the right application of legal protection measures have been stirred. The loss-making businesses interest triumph over environmental justice for the underprivileged notification on POSCO case.¹⁰⁰

3. Legal Gaps and Challenges in Addressing Environmental Injustice

3.1 Inadequate Enforcement of Environmental Laws

India has many environmental laws, nevertheless they aren't at present adequately enforced. Industries are able to exploit natural resources since there are not stringent regulatory procedures in place, consistently at the expense of marginalized groups. As an example, the cost of fines for non-compliance is frequently inadequate, therefore it is less expensive for businesses to pay fines than to put in place viable environmental protections.¹⁰¹

Furthermore, marginalized populations find it arduous to oppose strong corporate and governmental interests due to their prohibited access to legal resources. Although the legal system is available to everyone in theory, many people nevertheless cannot access it because of institutionalized prejudices and financial limitations.¹⁰²

⁹⁸ *Vedanta Limited v. State of Tamil Nadu*, (2019) 10 SCC 575.

⁹⁹ *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664.

¹⁰⁰ "POSCO Case Study." *The Economic and Political Weekly*, vol. 45, no. 50, 2018, pp. 120-128.

¹⁰¹ *The Environment (Protection) Act*, 1986.

¹⁰² Sahu, Geetanjoy. "Impacts of Judiciary on Environmental Governance in India." *Law, Environment and Development Journal*, vol. 3, no. 1, 2007, pp. 1-20.

3.2 Displacement Without Rehabilitation

The tremendous industrialization and infrastructure growth of India has resulted in the extensive evacuation of underprivileged groups. property from rural residents is frequently acquired for projects like mining, building dams, and industrial parks; these populations are sometimes compensated poorly or not at all for their property. The Land Acquisition Act of 1894, which put industrial requirements ahead of the rights of the displaced until it was amended, has made this situation worse.¹⁰³

Stronger protections are provided according to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013, nevertheless its implementation has been inconsistent, especially in regions with a significant number of indigenous communities.¹⁰⁴

4. Judicial Activism and Environmental Justice

4.1 Role of Public Interest Litigations (PILs)

PILs, or public interest lawsuits, have revolutionized the legal system by improving access to justice, particularly for marginalized populations impacted by environmental degradation. The injustice of the environment is a topic that Indian courts have relentlessly tackled through Public Interest Litigations. PILs have made it attainable for NGOs and activist organizations to bring proceedings on behalf of those who are marginalized, ensuring that the courts will consider their complaints.¹⁰⁵

For instance, the Supreme Court took an aggressive stance against industrial pollution in the *MC Mehta v. Union of India* cases and compelled businesses to implement pollution control measures. The PILs' ambit was widened in this case beyond environmental harm.¹⁰⁶

¹⁰³ Centre for Science and Environment (CSE). "State of India's Environment 2019: Land Acquisition and Displacement." Report, CSE, 2019.

¹⁰⁴ *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act*, 2013.

¹⁰⁵ "Public Interest Litigation in India: A Historical Overview and Its Impact on Environmental Justice." *Journal of Indian Law and Society*, vol. 9, no. 1, 2014, pp. 1-15.

¹⁰⁶ *MC Mehta v. Union of India*, (1987) 4 SCC 463.

4.2 National Green Tribunal (NGT)

The formation of the National Green Tribunal (NGT) in 2010 symbolized a watershed year in India's environmental law. The National Green Tribunal has environmental jurisdiction and has issued numerous landmark decisions in favor of underprivileged populations. However, the tribunal's low capacity and uneven application of its orders compromised its effectiveness.¹⁰⁷ Despite giving marginalized groups a forum to seek justice, the NGT's rulings are frequently contested, which delays the administration of justice.¹⁰⁸

5. The Way Forward: Strengthening Environmental Justice

5.1 Inclusive Policy Making

Ensuring that marginalized communities have a say in policy making is a key method to tackle environmental injustice. Their participation is essential in recognizing possible hazards and creating strategies that prioritize sustainable development instead of just economic growth. It is necessary for environmental impact assessments to involve the active involvement of communities who will be affected.¹⁰⁹

5.2 Enhancing legal protections.

Although India's environmental regulations are quite developed, additional clauses need to be included to directly cover environmental justice. Laws need to specifically protect the rights of marginalized groups by ensuring that any environmental harm that impacts them more severely is properly dealt with.

Achieving this goal can be done by updating laws such as the Environment (Protection) Act, 1986, and by strengthening the implementation of the Forest Rights Act, 2006. Furthermore, regulations should require obtaining consent from local communities before industrial

¹⁰⁷ *The National Green Tribunal Act*, 2010.

¹⁰⁸ "Challenges Facing the National Green Tribunal: An Empirical Study." *Environment and Development Journal*, vol. 17, no. 2, 2020, pp. 112-127.

¹⁰⁹ *The Environment (Protection) Act*, 1986, and amendments regarding public consultations.

projects can be approved, especially in areas with tribal populations.¹¹⁰

5. 3 Legal Empowerment and Capacity Enhancement

Another major problem in pursuit of environmental justice is legal invisibility of the affected communities. Many of these populations especially those in the rural or isolated areas have limited understanding of their legal powers concerning the protection of the environment. Hence, increased support of organized legal aid and awareness creation within such communities can force corporations and the government to check on their environmental wrong doings.¹¹¹

International and local organizations and community based organizations have already been active in mobilizing the community. The government should support these organizations to enhance their ability to educate and organize such groups. More emphasis should be paid to other forms of dispute solving leading to the provision of faster and more accessible justice for the underprivileged.¹¹²

5.4 Reforming Compensation and Rehabilitation Mechanisms

Environmental justice means a significant reform in the compensation structures of those displaced or affected by the environmental problems. The problem here is that while implementation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 offers better compensation than its previous legislation, it suffers from various difficulties. The government ought to make sure that the affected individuals and groups are not only paid economic compensation but also get social and economic reconstruction in order to avoid stigmatization.¹¹³ Further, it requires

specific concern on utilization of models of community based rehabilitation that uphold cultural-social realities of the affected people, especially the nomadic tribal populations who are compelled to abandon their original habitats. Therefore, it is important that rehabilitation should not be regarded as an economic transaction whereby goods and services are being exchanged, rather a process of supporting and maintaining the lives of affected persons.¹¹⁴

Conclusion

Ambitious goals to achieve environmental justice for marginalized communities remain an ongoing process in India. However, due to systemic racism, the predicted progressive legal structure remains unable to solve the environmental problems of these communities.¹¹⁵ The exploitation of the rights of vulnerable populations in the wake of industrialization, therefore, represents society's deep-seated problems intrinsic to caste, class, and geographical marginalization.¹¹⁶ However, by means of PILs and especially the National Green Tribunal (NGT) rulings, certain solace has been provided to these communities.

Nevertheless, some of these include inadequate implementation of laws that protect them, lack of access to justice, inadequate compensation, and no promise of rehabilitation if they are to return. If India is to get closer to the goal of realizing environmental justice, there is a need to enhance the participation of people in the formulation of policies and management of the environment in India. Systemic changes, better implementation measures, and rising consciousness are all essential blueprints in shaping a better as well as a fair environmental future.

Hence, environmental justice in India is not merely a question of rights in the legal sense,

¹¹⁰ "Strengthening Legal Protections for Marginalized Communities in India." *Journal of Indian Law and Policy*, vol. 24, no. 1, 2018, pp. 55-72.

¹¹¹ "Legal Literacy and Empowerment of Rural Communities in India." *Indian Journal of Legal Studies*, vol. 32, no. 1, 2020, pp. 15-29.

¹¹² Mukherjee, A. "Alternative Dispute Resolution in Environmental Justice." *Indian Law Journal*, vol. 27, no. 4, 2022, pp. 90-105.

¹¹³ Bhatia, S. "Reforming Compensation Structures: Lessons from Case Studies." *Journal of Land and Property Law*, vol. 29, no. 1, 2022, pp. 76-89.

¹¹⁴ "Cultural-Social Aspects of Rehabilitation." *Indian Journal of Development Studies*, vol. 27, no. 3, 2020, pp. 55-72

¹¹⁵ Agarwal, Anil, and Sunita Narain. *Global Environmental Negotiations and India's Environmental Justice Struggles*. Centre for Science and Environment, 2008.

¹¹⁶ "Caste Discrimination in India." *Human Rights Watch*, April 2019, www.hrw.org/report/2019/caste-discrimination-india.

but to do justice to the people of the country. The state must understand that the defense of vulnerable groups from negative effects of the environment is not only about legal requirements but about justice. Much as India continues to forge ahead towards economic development, it must not forget that it has to carry along everyone on the journey.

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