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Environmental Litigation: Safeguarding Our Planet Through Legal Action.

Environment derived from French term ‘environia’ which means surrounding. The term Litigation means the process of resolving disputes based on rights through the Court system, and Environmental Litigation is when legal actions are taken to protect the environment and natural resources for the future generations. This manuscript aims to shed light on how legal action can drive environmental conservation and promote sustainability.



Historical Perspective

The historical perspective of environmental litigation encompasses various eras, including ancient times, the medieval period, pre-Independence, and post-Independence periods.

Ancient Times

- **Indus Valley Civilization-** During ancient times, the Indus Valley Civilization, particularly in Harappa and Mohenjo-Daro, implemented underground drainage, waste

disposal systems, public baths, and bathrooms, indicating their commitment to environmental preservation, cleanliness, and sanitation.

- **Vedic Civilization** – In Vedic Civilization, rivers, trees, and nature were revered as divine entities, elevated to the status of gods and goddesses. This reverence extended beyond mere acknowledgment of their existence to a profound spiritual connection, where these elements were worshipped and held in high regard as manifestations of the divine. This perspective emphasized the interconnectedness between humans and the natural world, fostering a deep respect for the environment and a sense of stewardship towards its preservation.
- **Arthashastra** - The Arthashastra sought to regulate human behaviour in relation to the environment by establishing laws and punishments that discouraged activities harmful to nature and encouraged responsible stewardship of natural resources. These regulations reflected an understanding of the interconnectedness between humans and their environment, recognizing the importance of preserving ecological integrity for the well-being of present and future generations.

Medieval

During medieval times, significant deforestation occurred as societies expanded through new settlements and agricultural endeavors. This widespread clearance of forests was driven by the growing population's need for land to cultivate crops, establish villages, and build infrastructure such as roads and fortifications. As a result, vast tracts of woodland were cleared to make way for agriculture and human habitation.

Pre-Independence

Before Independence, the British exploit natural resources for military needs, local infrastructure development, and the exportation of valuable woods like teak and sandalwood. The British implemented the Indian Forest Act of 1865, the first legislation aimed at regulating forest usage in a formal manner, allowing for legal exploitation. However, this law also granted authorities the power to revoke the rights of villagers and tribal communities at any time. Prevailing law system during British Era view environmental problems as Public Nuisance. In IPC, provisions

given relating to public nuisance and in CrPC, provisions relating to abatement of Public Nuisance.

Before Independence, the introduction of various wildlife conservation acts likewise Elephant Presentation Act, 1879 by Madras Government, Wild Birds and Animals Protection Act, 1912 etc. aimed to establish a structured legal framework for environmental governance, paving the way for the development of formalized environmental laws in India and laying the foundation for environmental jurisprudence in the country.

Post-Independence

The Constitution adopted in 1950 did not address matters related to environmental protection or pollution control. After the UN Conference on Human Development, 1972 which is also known as Stockholm Declaration was the first Declaration related with environment protection.

Government started making laws on environment.

The 186th Report of Law Commission gave this recommendation for the formulation of **National Green Tribunal** in the year 2003. NGT replaced the National Environment Appellate Authority. NGT helps in the reduction of the litigation burden on Environmental matter in the Higher courts.

Role of Tribunal

“All tribunals are courts, but not all courts are tribunal”

Tribunals are established to reduce the workload of courts, provide speedy justice and provide an alternative to the traditional court system. Tribunals are statutory agencies that deal with specific cases. Tribunals give awards while court give judgement, decree, conviction or acquittal.

Members of Tribunal known as Adjudicators or Tribunal Judges.

For the protection of environment, National Green Tribunal was established on 18th October, 2010, under the National Green Tribunal Act, 2010. A specialised judicial body equipped with expertise solely for the purpose of adjudicating environmental cases in the country. NGT provide effective and expeditious remedy in cases relating to environmental protection, conservation of forests and other natural resources and enforcement of any legal rights, relating to environment.

Any person seeking relief and compensation for environmental damage may submit cases to the National Green Tribunal. The decision of the NGT are binding. The Tribunal's orders are enforceable as the powers vested are the same as in a civil court under the Code of Civil Procedure, 1908. The Tribunal has power to review its own decisions. If this fails, the decision can be challenged before the Supreme Court within 90 days.

The Writ Petition was filled in the Supreme Court where the petitioner challenged Section 22 of NGT Act which provides for appeal to Supreme Court against NGT orders. It was contented that an appeal mechanism as a matter of right should also be provided before the concerned High Courts. The SC said that the options available to a litigants to either move to the Supreme Court in a case where a substantial question of law arises or proceed under Article 226 or 227 must not also be overlooked. With such choices being available for a party no National justification is found for striking down Section 22 of the Act which provides for a direct appeal to the Supreme Court.

Another Case came in limelight in 2022, **State of Andhra Pradesh vs. Raghu Ramakrishna Raju**, where the contradiction orders of High Court and the NGT would leave to analogous situation, as authorities wouldn't know which order to follow. In such a case, orders of the Constitutional Court would prevail over orders of the Tribunal. Ultimately, ensures the precious assets are protected for the future generations to enjoy.