



## The Notion of Green Federalism and Environmental Justice in India: An Analytical Study

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### ABSTARCT

*In this modern age of science the protection of environment is one of the most cardinal aspects towards the betterment of ecological equilibrium of this universe. The progressive development of the environmental jurisprudence is the utmost required by the State as well as the Central legislators and this can only be possible when there is an existence of co-operative federalism. Therefore, the modern legislative era highly demands the principle of green federalism in a co-operative manner where State and Central philanthropically adopt an efficient step to protect our mother environment. The promotional principle of the green federalism also must be pioneered by the interpretative approach of the judiciary. The role of judiciary is also equally considered as the most cardinal aspect in the process of establishing the environmental justice because, the constitutional legislative mandate casts a special duty upon the State and Central through an amicable legislative relations in this regard under the strict judicial supervision and judicial creativity.*

**Keywords:** Environmental Jurisprudence, Co-operative federalism, Green federalism, Role of Judiciary, Judicial creativity

### **Introduction**

In a constitutional democracy the essence of federalism is considered as the touch-stone to establish an ideal state. The Indian democratic system being the largest democracy in the world the inter-relationship between the Central Government and the Regional Government is a unique constitutional equilibrium. In a federal constitution there must be a strong presence of theoretical aspect of the separation of powers among the various organs of the government. The uniform federal relationship between the two set of governmental mechanism are the

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genesis of the true constitutionalism. From the close proximity of Article 50 of the Constitution of India it is crystal clear that there is a separation of powers among the various organs of the government viz. Legislature, Executive and the Judiciary. In a federal constitution the judiciary is playing the most cardinal role in the procedure of protecting the constitution and the rights of the common people. It is also acting as the guardian of the constitution. The judiciary is also playing the most pivotal role in the process of mitigating the legislative disputes between the Centre and the State. Hence, it may be stated that, in a federal structure the judiciary is the life-blood of the vibrant democracy towards establishing an ideal state with a strong base of utopian philosophy. In the present day the protection of the environment is one of the pivotal concerns at the world wide because the right to get pollution free environment is the *sine-qua-none* of the environmental justice. The right to get pollution free environment as well as purification of environment also very much inherent in ancient texts. Hence, in the words of Rig-Veda it may be stated that “*madhu vata rtayate madhu ksaranti sindhavah; madhvirnah santvosadhih*”<sup>77</sup> which narrates that the mother environment provides us the eternal bliss to live our life. Therefore, the principle of green federalism is not only to be adopted for the protection of the environment but also to be ensured the protection of the living creatures in regard to the promotional values of the Rig-Veda shloka “*tasmat yajnat sarvahutah samvrtan prasadajyan pasuntansakre vayabyanaranyan gramyasca ye*”<sup>78</sup> which indicates that, every living creature has its own environment and which also contributes in forming an unique environment of this universe.

### **Concept of Green Federalism and the International Perspective**

In a democratic system the positive essence of federalism is one of the paramount features which make the Central and the State government to work in a co-operative manner. In the present day the protection of environment is one of the primary concerns of all most all the countries across the globe. Therefore, there should be a proper uniformity between the central and the regional government in the process of protecting the environment as well as the environmental rights of the citizen by implementing suitable and appropriate legislation. The concept of green- federalism can be achieved through the effective mode of the co-operative federalism. The higher degree of the industrialization, urbanization is genuinely hampering the ecological imbalances. Therefore, the need of green federalism becomes very much essential

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<sup>77</sup> See Rig-Veda, 1/90/6 [c.f. <https://tfi-store.com/sanskrit-shlokas-on-nature/> (Accessed on 03/05/2022)]

<sup>78</sup> See Rig-Veda, 10/90/8 c.f. <https://blog.ucbms.org/department/environmental-services-evs-department/protection-of-environment-ethics-in-vedas-shloka> (Accessed on 03/05/2022)

in order to promote the philanthropic spirit of sustainable development. So, it is the collective duty of both the set of government to fight against the ecological imbalances and the environmental crisis for the protection of the common people and the Mother Nature. Etymologically, the concept of green- federalism signifies the edictal role and the responsibilities of different units of government in the protection of environment within the strict supervision of legislative and administrative boundary. The procedural acceptability of environmental-federalism at the various countries at the worldwide at their constitution may be summarized in the following manner:

**i. Section 20**<sup>79</sup> of the Constitution of the Federal Republic of Nigeria castes a duty upon the state to improve and protect the environment as well as the state should also protect the air, water, land, forest and the wild life of the state of Nigeria.

**ii. Article 41**<sup>80</sup> of the Constitution of Argentina 1853 (Reinstated in 1983) provides that:

- ✓ All the individuals have the right of enjoyment of the right to pollution free and healthful environment for the human development as well as the individuals also have the prime duty to protect the environment;
- ✓ It must be the priority obligation to repair the environmental damage in the canopy of the effective legislative framework;
- ✓ The appropriate authorities must also provide the information and education on the environment protection, the right for reasonable or rational use of natural resources and the biological diversity;

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<sup>79</sup> See *Article 20 of The Constitution of the Federal Republic of Nigeria, 1999*: “The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria”.

<sup>80</sup> See *Article 41 of The Constitution of Argentina 1853 (Reinstated in 1983)*: “All inhabitants enjoy the right to a healthful, balanced environment fit for human development, so that productive activities satisfy current needs without compromising those of future generations, and have the duty to preserve the environment. Environmental damage shall generate as a priority the obligation to repair it under the terms that the law shall establish.

The authorities shall provide for the protection of this right, for the rational use of natural resources, for the preservation of the natural and cultural patrimony and of biological diversity, and for information and education on the environment.

It falls to the Nation to dictate laws containing a minimum budget [necessary] for protecting the environment, and to the Provinces [to dictate] those laws necessary to complement the National laws, without such laws altering local jurisdictional [authority].

The entry into the National territory of dangerous or potentially dangerous wastes and of radioactive materials is prohibited”.

- ✓ It is also the duty of the Nation to implement and dictate suitable laws on the matter of protection of environment and the provinces are also need to complement the National laws in the respective subject matter as well;

**iii.** By virtue of *Article 23*<sup>81</sup> of the Federal Republic of Brazil, 1988, the Union, the State, the Federal District and the Municipalities have the common power of enacting the legislation in regard to protect the environment and fight against pollution as well as to preserve the forest, fauna and flora.

**iv.** *Article 23*<sup>82</sup> of the Federal Republic of Brazil, 1988 also narrates that the Union Government, the State Government, the Federal District and the Municipalities have the concurrent power to enact the law in regard to the subject of forest, hunting, fishing, fauna, preservation of nature, natural resources etc. as well as the environmental protection and control of pollution.

**v.** *Schedule 4, PART A* of the Constitution for the Republic of South Africa, 1996, enumerates for the concurrent jurisdiction of National and Provincial government to legislate on the subject in regard to the matter of environment.

**vi.** *Article 24*<sup>83</sup> of the Constitution for the Republic of South Africa, 1996 provides that, every individual must have the following rights:

- a.** Right to get healthy environment;

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<sup>81</sup>See *Article 23 of the Federal Constitution of Brazil, 1988*: “protect the environment and combat pollution in any of its forms” (Entry VI) and “preserve the forests, fauna and flora” (Entry VII).

<sup>82</sup> See *Article 24 of the Federal Constitution of Brazil, 1988*: “forests, hunting, fishing, fauna, and preservation of nature, defense of the soil and natural resources, protection of the environment and pollution control;” (Entry VI).

<sup>83</sup>See *Article 24 of the Constitution for the Republic of South Africa, 1996*: Environment: Everyone has the right:

- a. to an environment that is not harmful to their health or wellbeing; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that—
  - i.** prevent pollution and ecological degradation;
  - ii.** promote conservation; and
  - iii.** secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

b. Right to protection of the mother environment through the appropriate legislation in regard to:

- The prevention of pollution and ecological degradation;
- The promotion of the conservation;
- To ensure and achieve the ecologically sustainable development as well as to secure the promotion of justifiable social and economic development;

vii. *Article 74(1)*<sup>84</sup> of the Constitution of Switzerland, 1999 enables that the Confederation must legislate on the subject of protection of natural environment against damage or nuisance.

viii. *Article 77(2)*<sup>85</sup> of the Constitution of Switzerland, 1999 also enables the Confederation to legislate on the protection and conservation of forests;

### **I. Constitutional Efficacy of the National Aspect of Green-federalism in India:**

In a constitutional federalism there is a unique blend of legislative relations between the Central and the state government. Since the introduction of the *Government of India Act, 1935*<sup>86</sup> the concept of federalism uniformly divided under the Federal and the Provincial governments. For instance by virtue of *Section 99* of the said Act, there was a strict distribution of powers among the Federal legislatures, where it can legislate for the whole territory of the British India or for any Federal and the Provincial legislatures which can legislate only for the respective province. By virtue of *Section 100* of the *Government of India Act, 1935*, the Federal Legislatures were entitled to legislate only on the subject enumerated in the “*Federal Legislative List*”; the Provincial legislatures were entitled to frame the laws on the “*Provincial Legislative List*”. However the “*Concurrent Legislative List*” empowered both the government to legislate in the subjects as enumerated in the said list and the same legacy

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<sup>84</sup>See *Article 74(1) of the Constitution of Switzerland, 1999*: “The Confederation shall legislate on the protection of the population and its natural environment against damage or nuisance”.

<sup>85</sup>See *Article 77(2) of the Constitution of Switzerland, 1999*: “It shall lay down principles on the protection of the forests”.

<sup>86</sup> See *Section 99 and 100 of the Government of India Act, 1935*  
c.f. [https://www.legislation.gov.uk/ukpga/1935/2/pdfs/ukpga\\_19350002\\_en.pdf](https://www.legislation.gov.uk/ukpga/1935/2/pdfs/ukpga_19350002_en.pdf) (Accessed on 03/05/2022)

has eventually reflected in our constitutional mandate also in the post 1950. The Indian Constitution is the written constitution in nature but in spite of that it possesses the unique blend of rigidity and flexibility. The Constitution of India very uniformly caters the duty and responsibility on the National Government and the Provincial Government to legislate in their respective sphere under the canopy of the Union List, State List and the Concurrent List. Therefore, the national mandates of green federalism under the constitutional concept may be analyzed in the following manner:

- i.** *Article 21*<sup>87</sup> of the Constitution of India, 1950 provides for the right to life and personal liberty. It also includes the right to enjoy the pollution free environment which is incidental to right to life;
- ii.** *Article 48A*<sup>88</sup> directs the State in the protection and improvement of the environment and also to safeguard the forests and wild life of the country;
- iii.** *Article 51A (g)*<sup>89</sup> caters the duty of the citizen to protect and improve the natural environment which also includes forests, lakes, rivers, wildlife etc;
- iv.** *Article 245(1)*<sup>90</sup> of the Constitution enables that, the Parliament may enact laws for the whole or any part of the territory of India and simultaneously the legislature of the State may also enact laws for the whole or any part of the State;
- v.** *Article 246*<sup>91</sup> narrates about the subject matter of laws where the Parliament and the State Legislature can have the power to legislate on the subjects as specified

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<sup>87</sup> See *Article 21, The Constitution of India, 1950: Protection of life and personal liberty*: “No person shall be deprived of his life or personal liberty except according to procedure established by law”.

<sup>88</sup> See *Article 48A, The Constitution of India, 1950*: “The State shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country”. [Inserted. by the Constitution (Forty-second Amendment) Act, 1976, with effect from . 3.1.1977]

<sup>89</sup> See *Article 51A(g), The Constitution of India, 1950*: “to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures”. [Contained in Part IV of the Constitution of India which was inserted. by the Constitution (Forty-second Amendment) Act, 1976, with effect from . 3.1.1977]

<sup>90</sup> See *Article 245(1), The Constitution of India, 1950: Legislation for giving effect to international agreements*: “Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State”.

<sup>91</sup> See *Article 246, The Constitution of India, 1950*: Subject-matter of laws made by Parliament and by the Legislatures of States.

in the respective Union List and the State List. But the Parliament and the State both can enjoy the law making power on the subjects as specified under the Concurrent List.

- vi.** In regard to the environmental federalism, the subject matters as specified in *Entry 17A* (“Forest”) and *Entry 17B*<sup>92</sup> (Protection of wild animals and birds) of the Concurrent List. In the Seventh Schedule the both the government i.e. Parliament and the State collectively can enjoy the law enacting authority and power which undoubtedly promotes the true spirit of classic cooperative federalism;
- vii.** *Matter 6* and *Matter 7*<sup>93</sup> of the Eleventh Schedule provides for the Social forestry and farm forestry (*Matter 6*) and Minor forest produce (*Matter 7*) respectively;
- viii.** *Matter 8* of the *Twelfth Schedule*<sup>94</sup> narrates about the urban forestry protection of the environment as well as promotion of ecological aspect;
- ix.** *Article 253*<sup>95</sup> empowers the Parliament to provide sufficient legislative effect on the international agreement or treaty and also to enact laws in regard to the implementation of that treaty or agreement for the entire or any part of the territory of India;

Hence, with reference to the constitutional mandates, the Parliament had enacted the following legislations in the domain of protection of environment as well as to explore the true essence of green federalism:

➤ The Wildlife Protection Act, 1972<sup>96</sup>;

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<sup>92</sup> See *Entry 17A: Forests and Entry 17B: Protection of Wild Animals and Birds*. Added by the virtue of *42<sup>nd</sup> Amendment, 1976* which was transferred from the State List Entries 19 and 20

<sup>93</sup> See *Matter 6 and 7, ELEVENTH SCHEDULE* [Added by the *Constitution (Seventy-third Amendment) Act, 1992*]

<sup>94</sup> See *Matter 8, TWELFTH SCHEDULE* [Added by the *Constitution (Seventy-fourth Amendment) Act, 1992*]

<sup>95</sup> See *Article 253, The Constitution of India, 1950: Legislation for giving effect to international agreements*: “Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body”.

<sup>96</sup> For instance it may be stated that, the Central Government appoints the *Director of the Wild Life Preservation*

- The Forest (Conservation) Act, 1980;
- The Water (Prevention and Control of Pollution) Act, 1981<sup>97</sup>;
- The Air (Prevention and Control of Pollution) Act, 1981<sup>98</sup>;
- The Environmental Protection Act, 1986;
- The Biological Diversity Act, 2002<sup>99</sup>;
- The National Green Tribunal Act, 2010;
- National Environmental Tribunal Act, 1995;

## II. Judicial and Administrative Mandates in the domain of Environmental Justice:

In a federal constitution, the Judiciary has been assigned a very meaningful role. It is the guardian of the Constitution. Therefore, in the strict federal structure when there is conflict between the national and the regional government the role of judiciary is unimaginable in the matter of settling the conflicts. In the environmental federalism also the cardinal role of judiciary has created the revolution. The very essence of right to life as enshrined under Article 21 also includes the protection of environmental rights and whenever it is transgressed the remedy is always there from the Indian judiciary. Therefore, the concept of environmental justice may be discussed with the help of following judicial decisions:

- ❖ In *Lalit Miglani vs State of Uttarakhand*<sup>100</sup>, the petition was filed by the petitioner with a prayer of declaring the Himalayas Glaciers Streams and other water bodies like holy river Ganga, Yamuna should be considered as the legal entities as juristic person. In this instant judgment the Hon'ble Uttarakhand High Court had promulgated that:

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and the State Governments appoint *Chief Wildlife Warden* and *Wildlife Warden* at every districts.

<sup>97</sup> For instance Section 3 and Section 4 of the Said Act prescribes for the Constitution of the Central Pollution Control Board and State Pollution Control Boards, respectively for exercising the powers and authority conferred to them under this Act. Even Section 13 prescribes for the Constitution of a Joint Board. Section 16 prescribes about the functions of the Central Board and Section 17 narrates about the functions of the State Board.

<sup>98</sup> Section 3 provides for the establishment of the Central and State Pollution Control Boards respectively which have the responsibility to exercise the powers provided under this Act, and Section 16 prescribes about the functions of the Central Board and Section 17 narrates about the functions of the State Board. Further Section 19 of the said Act provides for the *State Pollution Control Boards* have the exclusive authority to declare any area as an air pollution control area, with consultation of the *Central Pollution Control Board*.

<sup>99</sup> This legislation contains the classification of three tire systems which broadly includes the National Biodiversity Authority, State Biodiversity Authority and Biodiversity Management Committees for the promotion and protection of the biological diversity and the intellectual property rights under the canopy of green federalism.

<sup>100</sup> IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL Writ Petition (PIL) No.140 of 2015, Delivered on: 02.12.2016

- The court by applying the doctrine of “*parens patriae*” with an edictal essence had declared that all the Glaciers including Gangotri and Yamunotri, all the pious rivers like Ganga and Yamuna, streams, lakes, air, forests, springs, waterfalls etc. must be considered as the legal entity or legal personality or the juristic person or moral person or artificial person as well they must also be having all the status of a legal person which includes all the rights, duties and liabilities of a living person in order to preserve and conserve them for their survival sustenance and safety in this universe. The Court had further pointed out that “they are also accorded the rights akin to fundamental rights/ legal rights”;
- The Court had further stated that, “The rights of these legal entities shall be equivalent to the rights of human beings and the injury/harm caused to these bodies shall be treated as harm/injury caused to the human beings”. The Court had also ordered that if any person causes injury or harm either intentionally or unintentionally to the Himalayan glaciers, rivers, lakes, forests etc must be liable under the penal laws, environmental laws and other statutory laws;
- The Court had further ordered the State Government should declare the banks of river Ganga as “River Conservation Zones”. In that respective “River Conservation Zones” no construction activity must be permitted on the banks of river Ganga by any private and governmental agencies.

❖ In *Sushila Saw Mills v. State of Orissa*<sup>101</sup>, the Supreme Court had directed that:

- The imposition of complete banning on the saw mill business in the prohibited area of reserve and protected forest neither arbitrary nor unreasonable nor discriminatory and subsequently it would not be violative of Article 14 of the Constitution of India;
- The Court had further propounded that the preservation of forest is a matter of great significance of public interest;

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<sup>101</sup> (1995) 3 SCC 363

- ❖ In *Shri Sacchidananda Pandey v. State of West Bengal*<sup>102</sup>, the Supreme Court had observed that:
  - Whenever the problem of ecology is to be instituted before the Court then the court must follow the edictal values of Article 48A and Article 51A (g) of the Constitution.
  - While determining the scope and applicability of the public interest litigation or the social interest litigation in the domain of environment justice, the Court had further observed that whenever there are gross invasion of the fundamental rights or basic human rights the essence of public interest litigation may be atomized in the form of remedy under the judicial conscience.
  - The Apex Court had further expressed that “extending help when help is required does not mean that the doors of the Supreme Court are always open to anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants, so that this salutary type of litigation does not lose its credibility”.
  
- ❖ In *Rural Litigation Entitlement Kendra, Dehradun v. State of U.P.*<sup>103</sup>, (popularly known as the Dehradun Lime Quarries Case or Doon Valley Case) the Apex Court had ordered to close down the all the lime stone quarries which are involved in the environmental degradation. Actually this was brought before the judicial cognizance of the Supreme Court by the *Rural Litigation Entitlement Kendra* through a letter which was eventually accepted as a writ petition. The main allegation of ‘*Rural Litigation Entitlement Kendra*’ was that, there were unauthorized, and illegal mining operations carried on in the Mussoorie Hills and nearby areas which was massively affecting the ecology of the area and also caused environmental disturbances and damage.
  
- ❖ In *N. D. Jayal v. Union of India*<sup>104</sup> the Supreme Court had propounded that the right to health being a fundamental right under Article 21 incidentally includes that clean and healthy environment itself is a branch of fundamental rights. The Court had further

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<sup>102</sup> AIR 1987 SC 1109

<sup>103</sup> (1985) 2 SCC 341

<sup>104</sup> (2003) Supreme 572 at 586

observed that, “the adherence to sustainable development is a *sine qua non* for maintenance of symbiotic balance between the right to development and development. This concept is an integral part of the life under Article 21”.

- ❖ In *Indian Council for Enviro-Legal Action v. Union of India*<sup>105</sup>, the Supreme Court in the domain of environmental justice had opined that, the “*Polluter Pays Principles*” would be enforced by the government even under Section 3 of the Environment (Protection) Act, 1986 which empowers the Government to take all such measures as it deems necessary for the purpose protecting of protecting and improving the quality of the environment. In this regard the Court had observed that “the polluter pays principle demands that the financial costs of preventing or remedying damage caused by pollution should lie with the undertakings which cause the pollution, or produce the goods which cause the pollution”.
  
- ❖ *A.P. Pollution Control Board v Prof. M.V. Nayudu*<sup>106</sup> in the reflection of the green federalism the Supreme Court had recommended for the initiating the amendment of the environmental laws. The Court had further directed Central and all the State Pollution Control Boards to communicate the copy of the judgment to the other authorities dealing with the protection of environment, ecology, forest and wildlife. The Apex Court had further directed that all the State Governments must take effective measures to communicate the concerned State Pollution Control Boards in order to adopt the appropriate action against the environmental degradation;
  
- ❖ In the historic judgment *M.C. Mehta v. Union of India*<sup>107</sup> the Supreme Court by generating the new principle of “*absolute liability*” by replacing the century old doctrine of “*strict liability*” which was propounded in the land mark judgment of *Rylands v. Fletcher*<sup>108</sup>. *In this instant judgment the Supreme Court had held that “in a modern industrial society with highly developed scientific knowledge and technology where hazardous or inherently dangerous industries are necessary to carry on as part of developmental programme, the Court need not feel inhibited by this rule merely because the new law does not recognize*

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<sup>105</sup> (1996) 3 SCC 212 (This case is popularly known as the *H-Acid Case*)

<sup>106</sup> AIR 1999 SC 812

<sup>107</sup> AIR 1987 SC 1086 (Popularly known as the *Oleum Gas Leakage Case*)

<sup>108</sup> (1868) (19) L.T. 220

*the rule of strict and absolute liability in case of an enterprise engaged in hazardous and dangerous activity”.*

- ❖ In *M.C. Mehta v. Kamal Nath*<sup>109</sup> the Judiciary has enumerated the *Doctrine of Public Trust* as the part of the Indian environmental jurisprudence. The Court had stated that “the State is the trustee of all natural resources which are by nature meant for public use and employment. Public at large is the beneficiary of the sea-shore, running water, airs, forests and ecological fragile lands. The State as a trustee under a legal duty to protect the natural resources. These resources meant for the public use can’t be converted into private use”.
  
- ❖ In *Vellore Citizens Welfare Forum v. Union of India*<sup>110</sup>, the Supreme Court propounded that, ‘*Polluter Pays Principle*’ and ‘*Precautionary Principle*’ both are the *sine-qua-non* of “*sustainable development*” which are also the part of the environmental law of the country. The Court had also stated that these two basic principles of sustainable development are the part of right to life under Article 21 of the Constitution. The Supreme Court had also recommended for constituting a special bench viz. “*Green Bench*” to monitor and deal with the matters relating to environmental issues and ecological degradation. In the determination of the scope and ambit of environmental federalism the Court had observed that the most significant objective of the Environment Act to constitute an appropriate authority who has adequate powers to control the pollution and protect the environment. The Court had further opined that, “*it is high time that the Central Government realizes its responsibility and statutory duty to protect the degrading environment in the country*”. Therefore, it is utmost necessary for the Apex Court to direct the Central Government to adopt immediate and adequate action under the provisions of the Environmental jurisprudence.

The *NITI Aayog* had implemented the Sustainable Development Goals with the successful collaboration or the Union Government and the State Governments/Union Territories for the monitoring the abovementioned goals.<sup>111</sup> In the promotion of green federalism, the Government of India had inaugurated the *National Action Plan on Climate Change* (NAPCC) on 30<sup>th</sup> June in the year of 2008. Apart from that, under the coordination of

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<sup>109</sup> (1997) 1 SCC 388 (Popularly known as the *Spwan Motel Case*)

<sup>110</sup> (1996) 5 SCC 647 (Popularly known as the *Tamil Nadu Tanneries Case*)

<sup>111</sup> See <https://www.niti.gov.in/verticals/sustainable-dev-goals> (Accessed on 24/06/2022)

NAPCC the *State Action Plan on Climate Change* (SAPCC) has also been initiated at the State level by the recommendation of the Central Government which considers as the classic format to cooperative federalism in the domain of environmental protection. The State Governments further may seek financial assistance from the Central Government for the purpose of successful and meaningful implementation of the following activities:

- ✓ To implement the National Missions under the National Action Plan on Climate Change (NAPCC);
- ✓ Receiving the financial allocation by the Finance Commission;
- ✓ Compensatory Afforestation Management and Planning Authority<sup>112</sup>;
- ✓ Promoting the unallocated pool of resources for North Eastern states;
- ✓ Promotion of bilateral and multilateral agencies;
- ✓ Promotion of the Carbon offsetting and trading schemes at the domestic and international levels;<sup>113</sup>

The National Action Plan on Climate Change (NAPCC) had also adopted the eight National Missions on the regulation of the immerging scenario of the climate change which are as follows:

- *National Solar Mission;*
- *National Mission for Enhanced Energy Efficiency;*
- *National Mission on Sustainable Habitat;*
- *National Water Mission;*
- *National Mission for Sustaining the Himalayan Eco-system;*
- *National Mission for a Green India;*
- *National Mission for Sustainable Agriculture;*
- *National Mission on Strategic Knowledge for Climate Change;*<sup>114</sup>

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<sup>112</sup> With reference to the landmark judgment of *T.N. Godavarman Thirumulpad v. Union Of India* [Writ Petition (Civil) No. 202 of 1995] where the Court had recommended for the constitution of Compensatory Afforestation Fund Management and Planning Authority at the National level as well as at the State level under the guidance and supervision of the Ministry of Environment and Forest, Government of India and also under the canopy of Section 3(3) of the *Environment (Protection) Act, 1986*. [Cf.(<https://indiankanoon.org/doc/187366700/>) Accessed on 24/06/2022]

<sup>113</sup> See <https://dste.py.gov.in/sites/default/files/guidelinesforfundingsapcc.pdf> (Accessed on 24/06/2022)

<sup>114</sup> The Government of India further caters a duty on the *Department of Science & Technology*, Ministry of Science & Technology to adopt the responsibility of coordinating two Missions among these eight missions on climate change viz. :

- National Mission for Sustaining Himalayan Ecosystem (NMSHE) and
- National Mission on Strategic Knowledge for Climate Change (NMSKCC)

### III. Conclusion:

In the concluding analysis it may be stated that, the ancient Indian philosophy expressly advocated for the protection of environment. With reference to the *Kautilya's* 'Arthashastra' it may be stated that each and every individual has a sacred *dharma* to protect the environment and the Mother Nature. So, it may be stated that "*ishavashyamidan sarvan yatkinchan jagatyan jagat; tena tyaktena bhunjitha na gridhah kashyacid dhanam*"<sup>115</sup> which immensely emphasized that, the mother environment belongs to all the living beings and subsequently it must be protected by all for the welfare of all because nature is the gift from the God. In the modern age also, every State has the unique responsibility to implement suitable legislative instruments for the protection of mother environment. Hence, in this regard, the concept of green federalism may be considered as the most efficient and effective instrument in combating against the environmental degradation. The role of judiciary is also equally considered as the most cardinal aspect in the process of establishing the environmental justice. So, whenever the basic rights of environment being the *sine-qua-non* of the right to life is infringed due to environmental torts in that regard the rights are reinforced by the judiciary with a very philanthropic approach.

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[Cf <https://dst.gov.in/climate-change-programme> (Accessed on 24th June 24, 2022)]

<sup>115</sup> See *Ishopanisad-I* c.f. <https://blog.ucbms.org/department/environmental-services-evs-department/protection-of-environment-ethics-in-vedas-shloka> (Accessed on 03/05/2022)