

# A PSYCHOLOGICAL PERSPECTIVE OF JUDICIAL TENETS IN INDIA ON ENVIRONMENT

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## ABSTRACT

*The Pandemic of 2019 vividly portrayed the need for Humankind to integrate life and living with Mother Nature and understanding the nuances of living and life on the planet. This paper explores the psychological dimensions of the path-breaking green judicial tenet set by former Justice Kuldip Singh (Retd.), popularly called “Green Judge” for championing environmental concerns. His lordship coined the principles of polluter pays, precautionary principle, and the doctrine of public trust as the key benchmarks for deciding environmental pollution-related matters. Justice Singh passed various landmark judgments on several environmental issues. This paper attempts to discuss the psychological perspective based on researched models of the three principles and the contrast in the perspectives.*

**Keywords:** Judicial tenet, Polluter pays, Precautionary principle, The doctrine of public trust

## 1. Introduction

According to the Buddha in the Dhammapada, we are what we are what we think and the world we create is the manifestation of our thoughts. The consequences of our living style are mirrored in our environment today as it is. Our behaviors are predominantly centering on the human being with no consideration whatsoever on the environment<sup>1</sup>. Psychologists engaged in specialized environmental study are deeply concerned with the person vis-à-vis the environment. The pertinent issues are; do the environmental conditions stimulate behaviors? What happens when there is explosion of human life adversely affecting environment due to excess numbers and lifestyles? Can the planet support this explosion coupled with consumerist lifestyles? How does a human being process the environment cognitively and live in consonance with the environment? How does the present built-in environment contrast with the natural environment in terms of evaluation of what is ideal and appropriate? Do the present environmental conditions promote wellbeing and happiness of human life? Are living organisms experiencing health and wellbeing in the present environment? Can it be evaluated? Is it positive? If not, why? Does environment impact behaviour of human beings and maybe other organisms? Are people unsatisfied with different environments, if so why? How does the physical environmental condition shape behaviour? Does it shape some behaviours positively? Does it discourage or inhibit certain types of behaviours? Is human being place-centric? Does it form part of our physical and psychological identity?

These are issues that psychologists studying environment are concerned about and researching on. The environment is not a backdrop without any value given to human beings as a stage to enact or conduct the business of life. On the contrary environment shapes and directs all life forms which are not understood by **Homo sapiens**. The human being has always regarded the environment as subservient to human life. Human beings have been relentlessly engaged in activities of polluting the planet. Ngedikes Olai Uludong Ambassador and Permanent Representative of Palau to the United Nations and the ambassador on Climate Change expressed concern on several issues which are the fallouts of environmental abuse<sup>2</sup>. Paul C. Stern, Ph.D. President and Senior Scholar, Social

and Environmental Research Institute is a noted environment scholar and researcher who has famously remarked that if human behavior is responsible for climate change then the key is changing human behavior<sup>3</sup>. The existing Psychological theories may not be sufficient enough to underscore the validity and life-enhancing role of the environment. The present conditions need a new school of psychology along with other sciences to evolve a new paradigm of Environmental behavior. The study of that discipline would quintessentially remain the Psychology of space. It will analyze the individual's and communities' perceptions, behaviors, attitudes in a specific context to the environment, both physical and social, which is peopled by individuals and communities. Environmental psychology will evolve with other sciences developing integrated theories with psychological insights. The concepts of space and place are central to environmental psychology. From a purely deterministic and also behaviorist perspective the environment has a direct impact on people's perceptions, attitudes, and behavior. Another approach could be referred to as interactionism in which the environment impacts individuals and groups, who in turn respond by impacting upon the environment. A very interesting perspective was expounded by Bonnes and Secchiaroli (1995). In this approach, the individual and the environment are embedded in one capsule. One cannot be defined without the other. This trans-nationalism has two aspects *namely, the primary one being a constant* exchange and reciprocity of the individual with the environment and vice-versa. The second one is the intentional and active role of the individual<sup>4</sup>. Three of the most important phenomena mirroring environmental concerns are mass media coverage of environmental issues, the growth of many organizations voicing environmental concerns, and the placing of environmental issues on international political agendas. According to the Brundtland Report sustainable development means the development that caters to the present generation while not compromising with the development needs of the future generations<sup>5</sup>. The report emphasizes that sustainable development should integrate economics and ecology in all levels of decision-making.

### **1.1 The individual psychological approach to the environment**

Psychologically environment is continuously conjuring meanings and messages to all inhabitants both humans and other species. The environment is not a neutral and value-free space. It is an integrated aspect of the planet and human life. Getzel a very noted writer and researcher has

pointed that the vision of human nature expresses itself through the cities, spaces, and buildings we construct. Getzel in one of his books titled perspectives in creativity points out that the vision of human nature finds its expression in the structures we create around us and that is what tells about us. Invariably we express ourselves through the urban environment we create <sup>6</sup>. The issues concerning the environment are indicating ominous signs of concern staking the very futures of all ecosystems and life forms on the planet. One of the most significant topics analyzed at the global level environmental issue is without doubt the individuals' attitudes towards and support sustainable development. A lot of studies and research have confirmed that that pro-environmental attitude does not translate automatically into environmentally sustainable behaviors. According to Vlek, et al (1993) environment is consigned to a common dilemma dimension of the collective and psychologically at an individual level; it is treated as a non-issue <sup>7</sup>. The most defining aspect of this behavior is that individuals such behaviors give more benefits and have lesser costs to the concerned individual. For example, using a personal car is more comfortable and maybe cost-effective than choosing a public interest choice like using public transport or cycling which is more demanding, time-consuming, and may not be cost-effective considering other factors. Research has confirmed that individuals prefer to act in self-interest and value personal rewards over collective rewards.

## **1.2 The collective psychological approach to the environment**

After the industrial revolution “mass production” and “profit motive” formed the core values of nations and states with ruthless development agenda. State policymaker and planners assumed the role of environmental planners with no scientific or structured knowledge base of actions, consequences, impact thus leading to one of the most ruthless assaults on nature unprecedented in the life of planet earth from its onset maybe millions of years <sup>8</sup>. The publicity and media were aggressively used to push consumption and pander to vanity, status, and power-mongering. Vulgar display of opulence and indulgence formed the core social values among the most influential sections of the society. The story of how the diamond came to be marketed and fixed in the Psyche of people as a status and superiority symbol needs no repetition. Where is the need for an Indian to eat cornflakes when there are more than one dozen local millet varieties? Environmentally irresponsible economic policies, industrialization, production, marketing, and consumption

patterns led to systematic destruction of eco-balance, life forms, unhealthy and unsuitable consumption, and lifestyle changes leading more to disease and ill health. To illustrate eating food from your immediate environment sustains both health and the environment. Importing or exporting food from other environments results in environmental destruction due to commercial interest and the profit motive and also causes health and environmental issues due to the transmigration of millions of viruses and bacterium, the effect of which cannot be fully assessed.

### 1.3 The polluter pays

Environmental problems are often global problems that have to be dealt with through collaboration, but this collaboration is difficult as long as people must give up personal gain in favor of collective rewards. Similarly, people tend to prefer immediate over delayed rewards, which inhibits the transformation to a more sustainable lifestyle among the general public, since the temporal distance between our behavior today and future environmental gains is stretched over generations<sup>9</sup>. The drilling and excavation of the earth mass for oil, gas, mineral deposits, and precious stones and metals has disastrous ecological consequences. If nature intended for oil and coal to be deeply buried in the folds of the earth there was a need to keep water and plant sources pristine, what has happened now is clear, we have polluted water bodies, made deserts of pristine forests, diverted rivers and have invited consequences of climate change including earthquakes, Tsunamis, floods, droughts<sup>10</sup>. We have also disturbed the eco-balance and the food chain which have impacted our Environment. Psychologically and **consequently the polluter pays but not individually but collectively**. In the legal perspective when there is tension in a relationship, caused by a harmful action to another person, can be restored by compensation without leaving permanent changes in either person, harmful actions on the environment have permanent consequences, and the principle that polluter pays is purely notional in as much that compensation paid in the Bhopal Gas tragedy can pay for the scale, intensity of suffering and loss of life suffered by the victims.

**The precautionary principle** deals with the collective approach to the environment, here even an individual like a government official taking a policy decision or a Justice deciding an environmental dispute or setting policy guidelines represent the collective. The precautionary principle is adopted as a fundamental tool for promoting sustainable development. It has an

important function at national and international forums. It is the articulated statement of state bodies to avert risks and irreversible harm to the environment. This leads to a barrage of claims and counterclaims about that harm and in many circumstances empowers the authority to take public policy decisions covering environmental protection in the face of uncertainty and lack of scientific evaluation. Psychologically a model called the inclusion model of environmental concern; Schultz (2002) tests two psychological approaches to bring positive environmental behaviors<sup>10</sup>. He uses the self-enhancing versus the self-transient models. Based on his studies individuals having ego-based environmental concerns (self-interest) are likely to have pro-environmental behavior when they are given a self-enhancing message. Self-interested concerns are included in broader and transcendent altruistic concerns. Individuals having a self-transient (altruistic) expand their altruism to the entire biosphere and are pro-environmental in their behaviors. According to the study making self-enhancing motivators is likely to increase pro-environmental behaviors in a broader audience. Self-transient messages will only impact only a subset of people with altruistic motives. The study indicates that policymakers should enhance and sustain self-enhancing messages and eschew altruism in policy modeling and public, administration. Both frames of approach can be used to promote pro-environmental behavior

#### **1.4 The public trust doctrine**

There is a fundamental unity, dependence, and need for universal sharing of resources of the planet. The interdependence is a crucial cog on which the whole planet thrives. The loss of any one of them will upset the rhythm of the order and set in motion irreversible changes that can alter and change so much that we can't imagine the scale and magnitude of the change<sup>11</sup>. The Roman emperor, Justinian in 530 A.D proclaimed that Air, Running Water, The Sea, and the shores of the sea belong to everyone. The first seed of Public trusteeship was legally sown after which England and the United States adopted these principles in their legal system<sup>12</sup>. Essentially public trust doctrine espouses the cause of the common good and the need to share and preserve the environment for posterity. It implies the right of every human being to partake and the right to his share in the resources. However, the psychological perspective is very unique. James J Gibson was an American psychologist and wrote extensively on environmental psychology issues and coined a term called *affordances*<sup>13</sup>. The affordances of the environment are in terms of what it offers to the

animals and what it provides. The term affordance used in this context means a noun and not a verb as described in the dictionary. In this context, it refers to the animal and the environment in such a way that no existing term has been done before. It refers to a primal and fundamental relationship between the organism and the environment in a very holistic manner<sup>14</sup>. Commencing from the terrestrial surface like flat, horizontal, convex, concave going on to its flora, fauna, temperature, moisture .climatic conditions, water bodies, etc all aspects provide affordances to every species in a unique way to live, nourish, procreate and support the ecological balance. Every activity of the environment provides affordances to all species at every stage of their life cycle and also very mysteriously provides a balance in the prey-predator equation from the single-cell species to the complex mammals. Ecologists use the term *niche* to describe how an animal lives and where it lives. These are the set of affordances it is also worthwhile to note that affordances are not relative to an animal but they are *unique to that animal like a penguin or a polar bear of the black mamba or the Indian Cobra*. The sharing of resources and the belonging of the environment to all of them is so finely carved out that all of their activities are pro-environment<sup>15</sup>.

Man alone has altered the natural environment and has also destroyed the affordances of many species by causing deforestation, altering landscapes, diverting water bodies, digging and drilling the earth, polluting and filling the rivers and sea with toxic untreated effluents. Climate change and natural disasters are the offshoots of these activities. Concerned environmentalists warn of dire consequences, that our oceans and seas are dying, our soil is getting barren and time is running out.

## 2. Conclusion

Environmental ethics and environmental justice are distinct components of an environmental ethic but combine in many situations where environmental values and social values are inseparable and cannot be distinguished<sup>16</sup>. Often it is not just a question of balancing social versus environmental concerns but identifying and upholding values that are social and environmental. Environmental justice addresses the question of which benefits or risks harm environmental decisions. Environmental justice advocates are concerned about how pollution, toxic wastes, land use, climate change, urban sprawl, and other ecological problems disproportionately impact marginalized classes and other species in terms of sustainability.

Environmental Psychology looks into all life forms and the environment as active and interdependent partners in the sustenance and flourishing of life on planet earth. All life forms

have on earth had only one set of affordances unique to themselves and occupy a niche in the food chain and pecking order. *Nothing in this order is obsolete or redundant.* All of them are essential, depend on each other, support each other and balance out each other. If the balance is disturbed nature will conjure up another set of life forms. The planet was there, is there, and will be there and has the dynamism and vitality to evolve and evolve.

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