

**Directive Principles of State Policy and Fundamental Duties: Constitutional
Imperatives**

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**Lecture 36: Revering Nature: Indian Knowledge System and Relevance in Fundamental
Duties**

Greetings to all of you, we are in module 7 where we are discussing the connect between fundamental duties and Indian Knowledge System. Where we are trying to understand that how our ancient text can further strengthen our understanding on the duties incorporated through 42nd constitutional amendment act. And in today's in our session we shall be talking about the fundamental duty on protecting and improving natural environment. And that is how we will try to look at the ancient text that what ancient text teaches us on revering nature and how the same learning can be employed for reaffirming our conviction on fundamental duties. So, these are the concepts which we aim to cover where we shall be looking at environment in the ancient text. We will also look at that how environment has been featuring into modern contemporary constitution. Then, dimensions of environmental duties we shall look at and then of late we have been observing that the court has also been reading environmental duties toward non-humans and then corporate environmental duties briefly also we will talk about it in order to understand that how everyone is obligated towards clean environment be it corporation or individual.

When we look at the ancient text we find that in in the ancient text nature has been symbolized as mother nature, where relationship between nature and the human spirit finds a sort of profound expression in our ancient text, where it is it is having a kind of very close connection be it a spiritual kind of understanding or philosophical underpinnings you find that Indian text have celebrated the importance of nature and the environment. When you look at Vedas, when you look at Upanishads or Puranas or Bhagavad Gita you find that all these ancient texts they heavily revered for the natural world. This text not only emphasize a sort of religious or a spiritual connect between humans and nature, but very strongly advocates for responsible

stewardship of the environment which closely connects with the fundamental duties given under Article 51A(g) which is about protecting and improving natural environment. Let us look at some of the literature from the ancient text and try to develop an understanding on the significance attached to environment under those text and how such learning or teaching can be helpful in giving the meaning and understanding to the fundamental duty inscribed under Article 51A(g). Under the Indian tradition environment was not considered only simply a case of human existence. It was not seen that a clean or good environment is needed or a prerequisite for only humans existence, but it was seen for a living entity and that is how Rig Veda extols the creator as Hiranyagarbha, the golden womb from which the cosmos emerges. So, it reverse the elements of Agni (fire), Vayu (wind), Varuna (water), and Prithvi (earth) as deities fostering a world view of deep ecological sensitivity. You find in Yajurveda (36.17) it is written that may there be peace in the heavens, peace in the atmosphere and peace on the earth. when you try to look at all these in a very holistic way you would find that there is a call for harmony across all dimensions of existing. It is not something which is human centric, but it is something which is nature centric which of late we have been talking about. Atharvaveda emphasizes that “Earth, in which lie the sea, the river, and other waters, in which food and cornfields have come to be, in which lives all that breathes and moves, may she confer on us the finest of her yield”. Isha Upanishad declares that ईशावास्यमिदं सर्वं यत्किंच जगत्यां जगत्। तेन त्यक्तेन भुञ्जीथा मा ग्रधः कस्यस्विद्धनम्।, which translates as “The entire universe is enveloped by the Lord; enjoy its bounty with detachment. Do not covet what belongs to others”. This very profound learning urges mankind to adopt sustainable practices, so that you should be living for the coming generation as well. Respecting the intrinsic value of nature rather than exploiting it for greed. So, we must take only what is required from the nature and live it leave the nature leave the environment for the next generation in such a way. So, that the life can be livable also for the coming generation that is what we read as the kind of idea of sustainable development. Another Indian philosophy we generally see that the concept of dharma is very broad very holistic which encompasses duties and responsibilities which extends beyond human interactions, which also includes natural world. For example, when you look at Mahabharata (Shanti Parva, 109.11), it states, “The earth is our mother, and we are her children”. This very metaphor underscores that there is a moral imperative upon all of us to care for the environment as one would for one's parent. Now if you go by this metaphor you would find that everything which is happening in around us we would be owning the responsibility.

And in order to own the responsibility we shall also be discharging our responsibility which is closely aligned with the idea of fundamental duties given under the Indian Constitution. Something similar has also been suggested in the text which is about Buddhism, where it is emphasized compassion or mindfulness has been emphasized, which provides a kind of very rich resource on understanding environmental ethics. What you find in Dhammapada (verse 129) is, “All beings tremble before violence. All fear death. Comparing oneself with others, one should neither kill nor cause harm.” This principle advocates for non-violence ahimsa not just towards humans, but all sentient beings fostering an ethic of ecological compassion. So, Buddhism teaches us that what we need to look at is not only towards fellow beings, but also a larger kind of cosmic understanding where for towards nature also we need to very compassionate. Similarly, when you look at the literature on Jainism you find that the doctrine of aparigraha which is non possessiveness is there, which is about commitment of an individual towards ahimsa, which certainly highlights the need for sustainable living and minimal ecological footprints. That is what Acharanga Sutra underscore the sanctity of all forms of life urging restraint and care in human activities. In modern mandate you find that the very commitment for environment is a commitment which is which was not originally there under the Indian Constitution. It got incorporated through 42nd Constitutional Amendment Act and with that 42nd Constitutional Amendment Act two provisions were added with regard to our commitment towards the environment. One in the chapter on fundamental duties and other is on the chapter on directive principles. So, one is seen as a kind of obligation of the states where Article 48A was incorporated as a directive principle where the state has an obligation to work towards protecting the environment and improving the natural environment. Another was connected with the duty of every citizen towards the environment under Article 51A (g). It would not be an exaggeration to say that the incorporation of this principle and this duty is a true reflection of the teachings and learnings based on ancient texts. The teaching and learning of ancient texts can very well guide us in implementing these two important provisions of the Constitution or giving meaningful understanding to these two provisions of the Indian Constitution. As I said, these two provisions were added through the 42nd Constitutional Amendment Act. Article 48A reads as: “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country”.

So, under Article 48A, responsibility has been entrusted upon the state, which says that the state shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country. You would find a corresponding provision for citizens where there is a

fundamental duty imposed upon a citizen which leads us to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. One can very well say that these provisions are not to be seen only from a legalistic viewpoint, but it is more of a moral entrenchment. It is a kind of moral obligation which certainly echoes the Indian Knowledge System's reverence for nature, how the texts of ancient India teach us that we need to respect nature, we need to commit ourselves to nature. So, that we can ensure a clean environment we can ensure a good living environment for all of us, and possibly this very understanding can also help us in addressing the issue of climate change. Generally, we have found that these two provisions are being read together along with Article 21 of the Constitution, where these three provisions—rights, directive principles, and fundamental duties—they are being read together to strengthen our resolve towards the environment, where it has been suggested that the importance of environmental protection is of very high value, which has become a kind of collective responsibility of the state as well as of every citizen. In fact, protecting the environment is of such an emergent need that it should be seen and undertaken on a very urgent basis. So, we should not be waiting for any crisis to come before we awaken and realize our duty towards the environment, and that is how you find that. The court has expanded the meaning of Article 21, whereby the code has read the right to a clean environment. At the same time, the reading of a clean environment as a facet of the right to life has been made or carried along with the understanding of the duties of every citizen towards the environment, towards protecting the environment, and that is how you find that the reading of these provisions has also led to the rise of a duty-based discourse on environmental issues. That is how you find that the duties have built upon, and one can broadly classify them under three broad categories.

Polyvalent and multi-directional, multi-sources of duties, linking rights and duties together. When you read it as polyvalent, you read that it is multi-directional, where the first dimension of duties in contemporary jurisprudence traces its origin to ancient Indian texts, is of polyvalent and multi-directional nature, where you find that duties are not limited. To the traditional vertical relationship between the state and the citizen, you find that duties are interpreted in a very broad way to encompass obligations such as protecting the environment, preventing any kind of degradation, remediation is also there, and procedure and provisioning is also there. So, it is a multi-directional kind of approach, which is talked about in the ancient texts. Then we have got multiple sources of duties, where you find the duties relating to the environment arise from the text of the Constitution. It further gets stressed in the statutory provisions. I

would say, or further gets broadened through statutory law, where we have very specific laws dealing with environmental issues.

For example, we have the Water (Prevention and Control of Pollution) Act, 1974 Air (Prevention and Control of Pollution) Act, 1981 Environmental Impact Assessment Notification, 2006 (issued under the Environment (Protection) Act, 1986. Generally, it has been seen that the court has read the rights and duties on the environment in a very strong way, in a very visible kind of relationship. You find that it has been stated that wherever there is an assertion of the right to a clean environment, there should always be a reminder also of the duty of every citizen. So, that is how the court has emphasized upon the significance of rights along with duties particularly on the matter of environmental issues, particularly on the matter of ensuring clean environment. For example, the Rajasthan High Court in LK Koolwal v. State of Rajasthan, (1986) has highlighted on the issue sanitation problem of the city the court has said that the right and duty coexist and that Article 51A(g) should be seen both as a source of duties as well as of rights.

So, it is in this case the court has appointed a commission to look into the sanitation work of the municipality, but the court has also highlighted that it is the duty of a citizen to see that that the problem of the city gets addressed with the collective cooperation. On this case of Vimal Bhai v. Ministry of Environment and Forests (2011), the National Green Tribunal has given a very prominent pronouncement on the issue of locus standi, where it was challenged that the person who has approached the NGT does not have locus standi because he is neither interested party nor accrued nor injured under the National Green Tribunal Act, 2010. But then the Tribunal has set aside this objection and relies upon Article 51A(g) and says that *“the protection and improving the natural environment is the fundamental duty of a citizen, any person can approach this Tribunal and agitate his grievance as to protection and improvement of the natural environment”*. Look at the way the court has widened the scope of judicial process by the same time through this judgment we also need to understand that how indirectly the court has also reminded all of us of a broader duty that as a citizen we have got a we have got a duty towards environment. So, if we have got a right to approach NGT even though we are not interested on a similar line on a analogy we also have got a duty even if we are not directly affected you know by polluted environment. We must do something where the same the polluted environment can be mitigated and can be truly handled or truly addressed through all kind of scientific means or in a legal processes. The court has expanded the ambit of

environmental duty towards non-humans also. This is a kind of adding a new jurisprudence to environmental law and environmental rights, where the court has expanded the meaning of rights and duties including non-humans like animals, rivers and nature, where the court has evoked this doctrine of *parens patriae* by casting a duty upon the state government officials and the court. In the case of cleanliness of river Ganga, in *Lalit Miglani v. State of Uttarakhand*, (2017), the court has conferred the right on river Ganga and river Yamuna and all their tributaries and streams and the duty of the state to protect them.

Obviously, the question always arises when such an assertion is made for non-humans: what shall be the process for claiming the right if such rights are in favor of non-humans? The Punjab and Haryana High Court has also, on a similar line, granted the status of rights to non-humans, in the case - *Court on its own Motion v. Chandigarh Administration*, (2020) to the Sukhna Lake, where the court has again stated that there is a right in favor of this lake. Furthermore, the court has also highlighted the responsibility of corporations towards the environment, where the court has imposed liabilities upon corporations and interpreted it as a case of not only the violation of an individual's rights but also an additional obligation of the corporation towards the environment. For example, in the very famous case of *M.C. Mehta v. Union of India (Shriram Oleum Gas)* (1987), the court has introduced the idea of absolute liability in case of the violation of environmental rights, in cases such as the loss of life due to pollution. In another important case, *Indian Council for Enviro-Legal Action v. Union of India* (1996), the court has introduced the idea of the polluter pays principle, where the court has stated that if corporations are engaged in hazardous activities, then they do have a kind of strict and absolute liability, and it is their responsibility to compensate for the loss, and they must pay for the pollution they have caused. Another important case where the court has highlighted the connection between climate justice and Article 21 in *MK Ranjitsinh vs Union of India* (2021). The court has stated that the protection of the Great Indian Bustard and the Lesser Florican is part of corporate social responsibility under Section 135 and Section 166, Clause 2 of the Companies Act, which talks about the statutory recognition or regulation of CSR activities. So, you find that the court has read the duties along with the rights along with Article 21 and the Directive Principles, where the court is not just reminding citizens of their duties, but also interpreting the significance of the relationship between rights, directives, and fundamental duties vis-à-vis individuals. But the court is also interpreting it in relation to the activities that corporations are undertaking and how corporations are also under an obligation to ensure that their activities do not pollute the environment. So, this is a very expansive and appreciable

approach, where these three segments—rights, directive principles, and fundamental duties—are coming together to strengthen the cause of the environment.

One may conclude that the very idea of respecting, valuing, and revering our nature is important. This is deeply rooted in our ancient knowledge, the Indian Knowledge System, and ancient texts, which certainly advocate for harmony with the environment. Such harmony is getting reiterated in forms like Article 51A(g) in the Indian Constitution. It is not that we are bringing some new value; it is all about reiterating those old values. That is how you find that the court, through its interpretative processes, has created corresponding rights and enabled citizens to approach tribunals for the issue of environmental protection. So, Indian courts have widened the scope of environmental rights and duties by extending them to non-humans, such as rivers and animals. Also, a kind of responsibility is clearly imposed upon corporates if they are found polluting the environment.

These are the references for this session.

Thank you very much.