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Environmental Discourses in Ancient India: Lessons from the Vedas

Viswajit Giri

ABSTRACT

Environmental concerns that began to evolve in the past include three core assumptions: anthropogenic acts as the core factors of environmental degradation; man has a civic duty and moral responsibility to maintain the environment, and technocentrism as a means of tackling environmental problems. Albeit technocentrism remains to be an extensively used scientific tool for addressing environmental issues, nevertheless, it is criticized on the grounds of its potential failure to produce enduring & steady results, limited & confined applicability, temporal dimensions, and volatile effects. Keeping this hypothesis in view, this study seeks to examine if the ancient Indian environmental ethics, particularly the environmental teachings of the Vedas, can be applied to address the current environmental crisis of the world, to what extent and in what ways. This study finds that ecocentrism, deep ecology & non-interference are the three fundamental environmental gospels that the Vedas have prescribed. Considering these three principles as the foundational values of environment protection, this study intends to propose a theoretical model of legal standing for nature and natural objects in the Indian environmental defense paradigm. This study argues that incorporating the model would help at least in three important ways: first, it would provide Ante-Mortem legal protection to the environment, second, it would mitigate the environment-development conflict significantly, and third, it would promote sustainable development.

Keywords: The Vedas, Environmental Discourses, Environmental Jurisprudence, India

JEL Classification: Q56, Q58

Biographical Note: Dr. Viswajit Giri has completed PhD, Centre for the Study of Law & Governance (CSLG), Jawaharlal Nehru University (JNU), New Delhi. He can be reached at viswajitgiri@gmail.com

INTRODUCTION

The environmental crisis is one of the biggest dangers that humanity is facing today. Literature emanating from several sources indicate that anthropogenic acts have been the core factors of environmental degradation during the last two or three centuries. While unchecked population growth has led to overconsumption of resources, simultaneously, economic growth, particularly during the post-industrial revolution era has caused overexploitation of world resources, produced irreversible pollution and unmanageable wastes. Scholars have predicted that some of the environmental problems including global warming, biodiversity loss, and ecological collapse can even pose an existential risk to the human race capable of causing partial or complete human extinction from the earth. Against this backdrop of environmental concerns, there has emerged a plethora of environmental schools, often conflicting, who prescribe a wide range of theories, ideas, and principles for environmental protection. Regardless of the divergences of ideas, their prescriptions can fall naturally into two major domains: anthropocentrism (founded on the principle

of techno centrism) and ecocentrism. It has widely been observed that global environmental protection policy has primarily been based on the principles of techno centrism. Albeit techno centrism remains to be an extensively used scientific tool for environment protection, nevertheless, it is often criticized on the grounds of its potential failure to produce long term & steady results, limited & confined applicability, and temporal dimensions and volatile results. Correspondingly, while ecocentrism is advocated as a good idea, it is not entirely insulated from criticisms as well. Opponents of ecocentrism argue that this theory is fundamentally non-pragmatic, excessively value-laden, and intrinsically Antiscience. Rejecting the conventional techno centrism and antithetical ecocentrism debate on the grounds of incongruence, this study seeks to argue for implanting a more synthesized integrative paradigm in the environmental protection framework. Reverting to ancient Indian literature, this study seeks to examine if the environmental teachings of the Vedas can be applied to address the current environmental problems of India in particular. This study is divided into five sections. The first section critically examines the Indian environmental defense paradigm and its pros and cons. The second section is a study about the environmental teachings of the Vedas. The third section sets down the Vedic ideas of environment management. The fourth section recommends methods and techniques to materialize the Vedic principles of environmental protection. The final section comes with a conclusion.

Revisiting the Indian Environmental Defence Paradigm

Viewed from an Inertial frame of reference, the Indian environment and development paradigm is based on three broad legal principles of Eminent Domain, Compensation Liability, and Limited Right. While the policy of Eminent domain institutes the legal capacity of the state to take over nature and natural resources including private property, particularly land, and other immovable properties for public purposes, the principle of compensation liability is instead an obligatory duty of the state to provide just and fair compensation to the victims of Eminent domain. The limited right which is a natural corollary of Eminent domain authorizes the state to put a legal restriction on the right to property of the individual. The dilemma is that in development paradigm, these three concepts are so interdependent with each other that they cannot be separated. Singh (2010) and Pandey (2018) argue that if the Eminent domain is eliminated from the state-capacity, it would catastrophically damage national development and state-progress.

Conversely, if the people's access to environmental services is infringed by the state arbitrarily, it would amount to a loss of livelihoods. This is a paradox that has to be dealt with by the state justly and fairly with the art of statecraft so that neither party has to lose. The disorder arises when the state fails to uphold this balance.

Secondly, ***Legislations*** in the Indian environmental defence paradigm have consistently been construed to impose merely procedural obligations, requiring full disclosure of environmental impacts and mitigations options, but not a particular decision. Although sustainability remains to be the fundamental principle of development both at the Union and at the Provincial levels, regrettably, however, neither the Union Government nor the Provincial Governments in India have shown a propensity to decide in favour of sustainability. The Indian environmental defence paradigm works more as a post-mortem examination instead of working as an ante-mortem obligation, i.e., curing the disease instead of preventing it. Currently, the Indian environment protection framework includes three primary policy measures: adaptation, mitigation, and environmental engineering. Major drawbacks with these measures are that these measures are more curative than preventive and are biased towards technocentrism, leaving out any scope for ecocentrism.

Thirdly, it is the institutional issue. In India, there are two primary environmental-legal institutions: the National Environmental Tribunal and the National Green Tribunal. National Environmental Tribunal provides for strict liability for damages arising out of any accident occurring handling any hazardous substances. On the other hand, the National Green Tribunal established for the quick disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment and providing relief and compensation for damages to persons and property. Although these institutions have been assigned responsibility to resolve disputes regarding common environmental issues, however, they have not been authorized to look into matters relating to nature and natural resources protection. The fact is that there is no such legislation which can empower or authorize these institutions to interpret nature and natural entities as legal entities. These institutions are limited only to the domains of liability, compensation, and damage control, which are merely a set of common mechanisms of the traditional environmental regulatory system.

The Environment and the GIGO Swindle Hypothesis

GIGO is a computer language. It stands for Garbage-In-Garbage-Out, meaning if wrong or weak quality data is put into a computer, the transgression or poor quality result will come out of it. Similarly, if injustice or poor quality policies are framed in the environment protection domain, wrong or poor quality result will come out of it. Instead of cleaning and protecting the environment, we will be creating more garbage. Needless to argue, the current Indian environmental defense framework is suffering from a similar disease. It is working in a paradigm wherein the Rights of the Accused far outweigh than that of the Victim. In the Environment-Development dichotomy, it has been

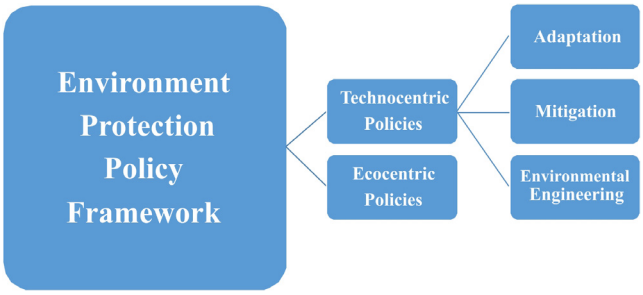


Figure 1: Indian Environment Protection Policy Framework

pragmatically observed that the Environment has often been the victim of anthropogenic hazards, and not the vice-versa. Accordingly, the environment, as the victim, should have more rights than human beings who are the accused of environmental degradation in environmental jurisprudence. Albeit, a thousand environmental policies are made and implemented both at the Union and the Provincial levels, nevertheless, those policies fail to full-fill one basic premise of environmental jurisprudence, which is, ensuring the rights of the victim, the environment. Putting it simply, the environment as the victim does not have a right of self-defence (right to defend) in a court of law. Until and unless, this requirement is fulfilled, all other policy efforts to protect the environment would go in vain.

The Vedas: Heeding the Omens of Environment Protection

The Vedas are large bodies of knowledge texts composed in Vedic Sanskrit and originating in the Ancient Indian Subcontinent. The Vedas are believed to originate in the Vedic Period or the Vedic Age that

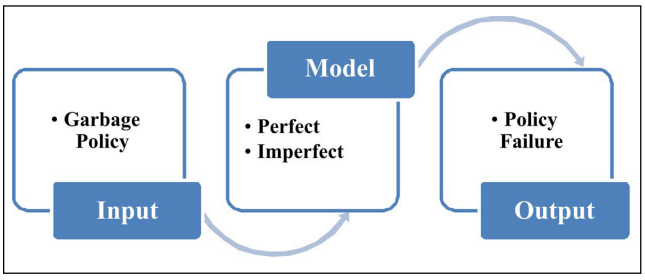


Figure 2: Model Calculation in the GIGO Paradigm

flourished and sustained between 1500 BCE to 600 BCE. Principally, there are four Vedas: the Rig-Veda, the Yajur-Veda, the Sama-Veda, and the Atharva-Veda. The Vedas broadly deal with the universe, nature, environment, ecology, cosmos, and terrestrial & extra-terrestrial objects on the one hand, and on the other, they seek to explore the relationship between these objects and the living beings, and their impacts and effects on the living beings on earth, and the vice-versa. The Vedas, while illustrating the man-nature relationship, hold a very scientific logic. That is, any living or non-living entity that exists on earth is a composite creation of five classical elements of nature: Earth, Water, Fire, Wind, Space/Aether. Accordingly, any variations, damages, or pollution to these traditional elements, whether natural or anthropogenic, would catastrophically damage the very existence, survival, and growth of that living or non-living entity. Thus the Vedas have prescribed humanity not to temper with the classical elements, rather to, cordially co-exist with the items. Human and non-human living beings are born and live in the realm of nature. They are always surrounded by nature and interact with nature. They are parts of nature and not the vice versa. The environment, which is an integral element of nature, has within us not only its image but also it's physical energy and information channels and processes. The presence of nature in an ideal materialized, energy, and information form in man's Self is so organic that when these external natural principles disappear, man, himself disappears from life. If we lose nature's image, we lose our life.

The Vedic Mantras of Environment Management

There are principally two major scientific theories on the origin of life: Abiogenesis and Biogenesis. The Abiogenesis theory holds that origin of life is a natural process by which life originated on earth and elsewhere, if exists, from non-living matters, such as simple organic compounds. In other words, Abiogenesis is a hypothesis which states that all life is from non-life or non-living matters. Biogenesis encompasses the belief that complicated living things come only from other living things, using reproduction. That is life does not arise from non-living material; instead, life arises only from living material. This hypothesis holds that all life is from life. Considering either of the two theories, it is evident that human and non-human living beings are only a part of nature, and not vice-versa. Everything is connected to everything else. Human and other species are related to and dependent on other species, the nature, environment, and ecology for their origin, survival, and growth. One affects the other. If one is modified, it will affect the other. The effect can be a circular, linear, ripple, horizontal, or vertical. Any intrusion into nature has numerous effects, many of which are unpredictable and immeasurable. Better is the environment within which we live, better will be the living standard of us and the vice-versa.

Divinity is omnipresent, omniscient, and omnipotent, and takes infinite forms. Divinity resides in every living being. Every living being that exists in the world is a composite creation of the Five Classical Elements, and the Five Classical Elements are the creation of Divinity. Thus explicitly or implicitly every living being is a part of Divinity. They are thus defying the sanctity of a living being whether human or non-human would amount to challenging the will of Divinity. As all living beings are the creations of one Divine Entity, all have equal shares in nature. Man, animals, nature, natural objects, environment, ecology, to name a few, are similar in status in the eyes of the Divine. Neither one supersedes the other. They are complementary to each other, not competitors of each other. They have to exist with cordial harmony and not in discord for their survival and growth. Thus there comes the natural law theory.

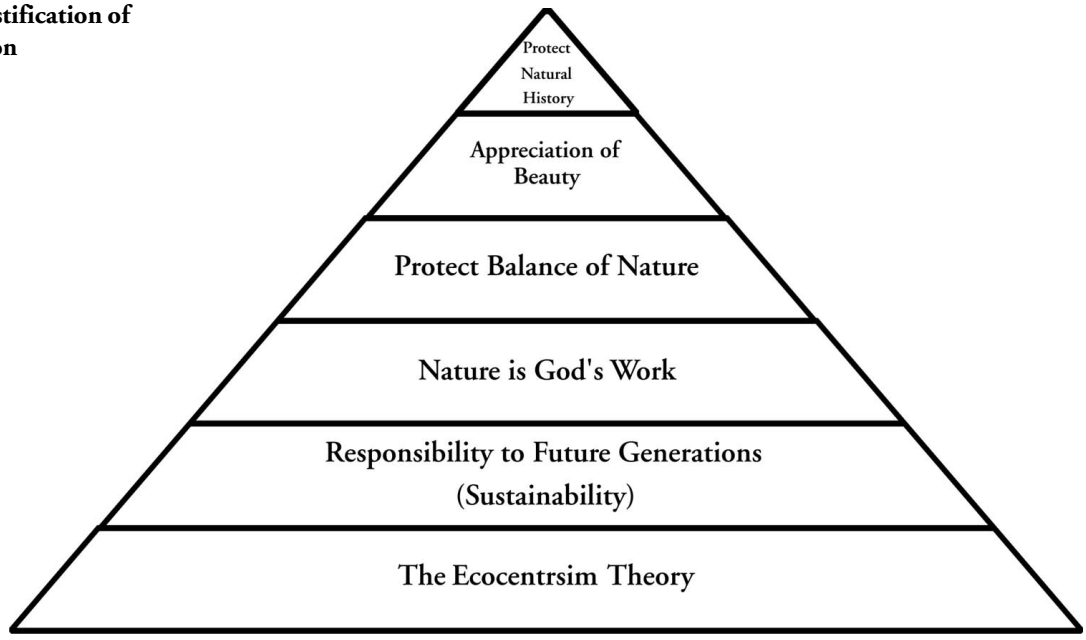
The Vedanta Philosophy never forbids consumption. It postulates the same laws of modern science as we

are studying today, such as the law of conservation of energy and the laws of thermodynamics. Action without energy consumption is a logical impossibility. If water is not used as a source, hydroelectricity production is not possible. If coal is not burnt as a source of heat energy, thermal electricity cannot be produced.

Similarly, if anatomy does not consume food, it cannot survive and grow. For, it can't produce the energy required for its biological function. That's why the Vedas in every sphere of discussion have prescribed required consumption. What they have forbidden is destruction. For, nature possesses enough resources to feed, it has but a little for our greed. We are allowed to consume as long as we are not an imminent and potential threat to nature.

The Vedas prescribe three simple but very rational environmental principles: First, it is the Rights of Nature which signifies nature and natural objects in all forms have certain inherent and inviolable rights, such as the right to exist, persist, maintain and regenerate its vital cycles. Human beings have no right to infringe, abridge, or take away the rights of nature. Second, it is Deep Ecology and Ecocentrism. The two are complementary to each other. Deep ecology promotes the inherent worth of non-human living beings regardless of their instrumental utility to human needs. It holds the view that the natural world is a harmony of homeostasis due to the complex inter-relationship in which the life of organisms is actively regulated, partially by the existence of other organisms within the biosphere, to continually be conducive to life. Deep ecology's core belief is that the living environment as a whole should be respected and regarded as having certain inalienable rights to live and flourish independent of its practical instrumental benefits for human use. Ecocentrism, which carries similar views and which is a natural corollary of Deep Ecology, states that the environment has to be managed according to the rules of nature, and not according to man's whimsical impulse. Third, it is the non-interference theory, which asserts not to interfere in the natural cycles and processes of nature. It is instead of a negative aspect. This prohibits human beings from violating the natural rights of the environment and nature. This theory holds that by not interfering in the natural functions of the environment, we allow it

Figure 3: The Vedic Justification of Environment Protection



to survive and flourish so that the environment can provide its best to the survival of other species.

Materializing the Vedic Principles: From Legal Positivism to Legal Naturalism

The Vedas, it is clear from the above discussions, set down three fundamental principles for environment protection: deep ecology, ecocentrism, and non-interference. Now the big problem is: How to embed these Vedic Ideas in the environmental jurisprudence? What is noteworthy is that these three principles cannot functions in the legal-constitutional vacuum. The principles have to be institutionalized through Legal-Constitutional mechanisms to protect and guarantee the fundamental and inalienable rights of nature for its existence, survival, and growth. The concept can be termed as the Rights of Nature model of environmental protection and sustainable development. In other words, what is required is Integrative Jurisprudence that is a combination of all the three Schools of Jurisprudence: the Positivist School, the Historical School, and the Naturalist School.

Rights of Nature is a legal-politico notion that advocates legal standing for the natural environment. This notion argues that similar to other legal entities, such as, natural persons, the state and non-state institutions, nature and natural objects, such as ecosystems, forests, marine, wild resources, and biodiversity, are legal entities as well, and thus, they are entitled to enjoy such legal rights and immunities as has been provided and guaranteed to the former. It asserts that nature in all its life forms possesses certain fundamental rights, like, right to exist, persist, maintain and regenerate its vital cycles. Rather than treating the environment as a property under the law, this concept regards nature as a living entity similar to human beings, and accordingly ensures and guarantees such rights that are extremely imperative for the existence, survival, and sustenance of nature and the environment.

This approach is a major break away from Traditional Environmental Regulatory System (TERS) in two broad ways. Firstly, in TERS, nature is considered as mere property, and hence, possessions, ownership, use, and management of this property is controlled and maintained through ordinary property rights legislation. In such a system, nature does not have any legal rights, but its users have. The users decide on how to use, manage, and control it. However, in the following form, nature becomes a legal entity and possesses all such legal rights as held by other legal entities.

Nature itself becomes the defendant. It can fight for its rights whenever there is a condition of breach of its right due to encroachment by any other party. Secondly, the basic principle on which TERS stands is that nature is a mere service provider to man. It thus establishes a master-servant relationship between the two. Accordingly, it confers all rights on the master to use, manage, and control the servant according to the master's impulse. Rights of Nature actively discards this relationship. It postulates that man and nature are two separate and full-fledged legal entities interacting with each other for their benefits, interests, and necessities. They are complementary to each other, and nobody subdues the other.

Rights of Nature in Legal History

The origin of Rights of Nature as an academic legal-politico discourse can be traced back to Christopher Stone's seminal work Should Trees have Standing?-Toward Legal Rights for Natural Objects (1972) in which Stone argued for conferring legal rights on nature and natural objects. Roderick Frazier Nash's The Rights of Nature (1989) is another influential work. Charting the history of philosophical and religious beliefs regarding nature, Nash, in the book, focused his attention primarily on changing attitudes toward nature in American society. Drawing heavy influence from history, he explained how the right-less, such as

slaves, women, and others, have struggled to expand the domain of legal rights to include themselves. Nash's principal argument was that there had appeared an uncontrolled cult of anthropocentric and Technocentric notion of environment protection which was running towards its doom. This attitude was not only dangerous but logically and philosophically wrong also. Nash's study concerned the approach of the Americans towards the idea of wilderness. Nash stated that if wilderness would be to survive, management of the wilderness was necessary, i.e., human behavior towards nature had to be controlled. Attributing anthropocentric attitude as the cause of all evils, Nash argued that an Ecocentric view was an ideal notion of establishing a true relationship between man and nature. In 2001, Thomas Berry published The Origin, Differentiation, and Role of Rights in which he described how all members of the earth community possess certain fundamental and intrinsic rights. Berry argued rights meant giving every being it's due and no entity could abridge or infringe another's rights. The superiority of one living being over the other is fundamentally wrong and against the law of nature. There happens to be a symbiotic relationship between human beings and other living beings. Human rights are not superior to the rights of other living beings. Nor do human rights cancel out the rights of different modes of being to exist in their natural capacity. Wild Law (2003) by Cormac Cullinan succeeded Berry's work and opened up a new front on rights of nature. Together Berry and Cullinan aided spiritual and moral elements to the discussions initiated by Stone and Nash.

The Sierra Club is a landmark environmental justice in the Federal legal history which not only recognized legal standing for inanimate natural objects to sue in courts but also paved the way for future judicial standings. Justice William O. Douglas, in his dissenting judgment, asserted that natural resources ought to have legal status for their protection. Although Sierra Club lost the case, there was a moral victory. The dissenting jury's views based on the noble idea of conferring legal standing on natural objects actively challenged conventional environmental regulatory principles and called for environmental personification concept. This was probably the first instance in the history of federal environmental law in which a jury walked out of the convention and attempted to justify his judgment, not based on text, history or precedent, but based on ethical and philosophical insights. In practice, Ecuador became the first and only country on planet earth to codify rights of nature in her 2008 Constitution. In 2009, Rights of Nature was included as Constitutional rights in Article 10 of the Ecuadorian Constitution. Subsequently, Articles 71 to 74 were incorporated in Chapter Seven of the newly framed Constitution compiling Rights of Nature. The Ecuadorian notion of Rights of Nature (Derechos de la Naturaleza) is founded on the principles of Pachamama (mother earth) and Buen Vivir (good living).

Rights of Nature: From Ecuador to India

According to the estimates of the National Commission for Enterprises in the Unorganised Sector, roughly 93% of the total working population of India are absorbed in the unorganized sector. Keeping this figure as 100%, it has been calculated that more than 82% are employed in the rural informal economy. Barring primary agricultural and allied activities, the entire rural economy of India depends on nature and ecosystem services for its survival. On the contrary, Dreze and Sen (2013), Dreze *et al*. (ed. 1997), Patnaik (1998) and Alier (2003) claim that despite her immense economic growth since the New Economic Policy in 1991, India's development paradigm has currently failed to address the core issues of poverty, vulnerability, livelihood security and environment protection on the one hand, and has aggravated environmental conflicts over competing claims on natural resources primarily between two sharp

opposite groups, viz. the peasantry and the industry, between the market and the citizens, and between the government and the people. The development process in India, during the last four or five decades, has caused much socio-political tension, and unquestionably, the poor, the tribal, and the vulnerable groups have become the victims of development. Land acquisition, displacement, loss of livelihoods, large scale migration, increased labour informalization, and environmental degradation are some of the core issues that the current model of development has resulted.

Keeping this scenario in mind, it is highly advisable that, as much like the South American practice, India should march towards the Rights of Nature model of development as well. One major legal constraint that has been blocking the path of environmental justice in the Indian environmental jurisprudence is that the subject matter of environment protection is placed in the Directive Principles of State Policy (DPSPs) of the Constitution that is neither enforceable by any court nor mandatory on the part of the State. As much like the South American practice, the need of the hour in the Indian environmental jurisprudence is to construct environmental legal positivism (technocentrism) on the foundation of legal naturalism (ecocentrism). This would require a paradigm shift relocating the subject matter of environment protection from DPSPs to Fundamental Rights. Building such a movement is not impossible whatsoever, although complicated. It requires sheer political will and public awareness and participation. This model of development would help at least in five important ways:

1. Nature and natural objects with legal standing can fight for their existence and protection from second party encroachment. Courts will have to consider nature and natural objects as a party to judicial decisions, and thus, they can fight for their sustainability.
2. Those who depend on ecosystem services for their livelihoods can approach the court whenever there appears a probable instance of livelihood threat due to anthropogenic interference in nature.
3. Rights of Nature can be used as a foundational principle of the legal framework for development.
4. Rights of Nature does not completely proscribe natural resources use or Eminent domain. It is a legal constraint on unbridled anthropogenic interference in nature.
5. Rights of Nature will increase the scope for Rights to Nature (capacity to access to natural resources).

CONCLUSION

The last four or five decades have been the longest and the darkest part of India's notable development movement politics. How does one weigh human life? How does one consider development? One billion men against the policy of development and in the middle poverty, vulnerability and insecurity that we have ignored, abandoned or marginalized…..a devastating menace to the Indian society……. and that the Indians have paid for that neglect in blood…….is equally real and equally tragic. Albeit India has adopted the sustainability notion as one of her core development policies, however, the country has not been able to develop an appropriate legal framework for the same. Providing legal rights to nature and natural objects in India may not be a magic spell or a radical panacea, which can cure all evils, it could, however, balance the competing claims of sustainable development, environment protection, and livelihood issues. All this would require a shift from legal positivism to legal naturalism in the environmental jurisprudence, i.e., a paradigm shift from exclusive techno centrism to inclusively ecocentrism. This can be achieved by incorporating the Rights of Nature in the Constitutional Jurisprudence of the country. Although India has been a land of vast wisdom since time

immemorial and has been imparting this wisdom to the whole world, however, India herself has failed to materialize her wisdom in her land. Ancient India literature like the Vedas, the Puranas, and the Upanishads are truly vast sources of knowledge that have contributed immensely to humanity. Unfortunately, Indians have neglected the values of that knowledge, while others have benefited. The Rights of Nature model of development and environment protection that Ecuador has adopted recently is not entirely a new concept. It had long been prescribed in the Vedas and the Arthashastra. It is high time therefore, that we should go back to the ancient Indian literature and devise ways to materialize their values and ethics not only for environment protection and development but also for the entire good of humanity.

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