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**A COMPARATIVE STUDY OF PUBLIC TRUST DOCTRINE IN
INDIA AND USA**- Apuroopa Seemakurthi¹**ABSTRACT**

In recent years, Public Trust Doctrine has become one of the fundamental legal principles for promoting the legitimacy and use of natural public acts by the general public. The doctrine is an ancient concept of law and is more and more considered as a modern preservation structure. At the core of the PTD is the idea that private owners cannot efficiently or fairly manage certain natural resources. Although a few natural resources, such as the coasts and overwhelmed lands have been traditionally used for public trust and trust, the definition of trust and trust resources has been extended to include wildlife, sea and general ecosystem services, by the Court and legal professionals. The broad view of PTD (due to uncertain property ownership) is a weakness and power (because it can adapt to accommodate emerging science about what it takes to protect ecosystems). This doctrine is included in our legal system and gave rise to much-needed control of governments seeking, in favor of private parties, to free themselves from natural resources of this kind. Learning origins and vintage can be traced to ancient times in the United States, although Indian law is modern. This article discusses the concept of public trust in India and the USA with various landmark judgments. A comparative analysis is done with regard to the application of this doctrine in India and USA.

Keywords: Public Trust Doctrine, India, United States of America.

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INTRODUCTION

The doctrine of public trust is a powerful common law teaching in Romanesque and English based on common law.²The doctrine safeguards land with shared values forever and unhindered by public access under the trust of the Sovereign.³ The public confidence, which has interfered with public use of natural resources, has become a core principle to the judiciary throughout the years. The principle of public trust has evolved. With this doctrine being incorporated into our legal system, government authorities, in favor of the private parties, those who are trying to dislocate the State of control over such natural resources had to be closely monitored. The source of the doctrine in the United States dates back to ancient times, its application to Indian law is evolving in a modern age.⁴

The principle behind Public Trust's doctrine lies primarily in the fact that some resources such as air, sea, waters and forests play a very important part in ensuring the people in general are subject to private ownership completely unfairly. Such resources should be made available freely for all regardless of the status in life as a gift of nature.⁵ The doctrine urges the Government not to allow private ownership or commercial use to protect the resources for general public enjoyment.

Two purposes of public confidence doctrine are to mandate affirmative State measures for effective resource management and to enable citizens to challenge inefficient natural resource management.⁶ This is a common law concept that universities in the United States and the United Kingdom define and address. There are several commons, including rivers, sea and air. The government has a number of commons. Therefore, if the grant is infringing on the public interest, the Sovereign cannot transfer public trust property to a private party.⁷ The public confidence in the United States was widely used and checked, but its scope remains uncertain. This doctrine

² Mark Dowie, Salmon and the Caesar: Will a Doctrine from the Roman Empire Sink Ocean Aquaculture?, (Sept.-Oct. 2004).

³ Ibid.

⁴Public Doctrine Trust. (July 2019).
lawteacher.net/free-law-essays/public-law/doctrine-of-public-trust.php

⁵Tanvi Kapoor, Public Trust Doctrine. (May 2018).
<http://www.legalserviceindia.com/articles/ptdoc.htm#:~:text=The%20Public%20Trust%20Doctrine%20primarily,a%20subject%20of%20private%20ownership>.

⁶David Takacs, Public Trust Doctrine, Environmental Human Rights, and The Future of Private Property. (2008).

⁷ Supra Note 4

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has been implemented in many ways in order to protect and implement public and private seawater, sandy public parks, public land and environmental resources. In addition to environmental and aesthetic considerations, the Californian Supreme Court expanded on public trust. While the doctrine of public trust increasingly has to do with sustainable development, with precautionary principles and biodiversity protection, rather than without its fair share of criticism. The doctrine combines public access guarantees with a public accountability requirement for decision-making with respect to such resources. It is also important for the intergenerational dimension, not just to protect the public from the misuse of plan law or environmental assessments.⁸

Public Trust Doctrine Objective

Traditionally the doctrine of public trust was restricted to protecting only the rights such as fishing rights, boating, anchoring rights and standing rights. But it monitors the national action for the management of resources and also questions their actions in the current scenario. It declares the government to be a trustee and it has all the resources. The State is responsible for preserving, preventing and protecting public resources. The State will fulfil its positive function.

Scope of Public Trust Doctrine

In Joseph Sax's opinion, government rules always cause a problem of public confidence and occur in various kinds of situations. Public confidence needs to be protected from private aims. He therefore stated that this doctrine is a sensitive combination of the protection of procedure and substance, is suited to air pollution, wetland willingness, belt mining, resource allocation, etc.⁹

The United Nations and the Public Trust Doctrine

The UN Declaration on the Human Environment in Stuttgart makes this defining proposal clear: 'The natural resources of the earth shall, through careful planning or management, to be protected

⁸ Michael C. Blumm & Rachel D. Guthrie, Internationalizing the Public Trust Doctrine. University of California, Davis, Volume 45. (2012).

⁹ Joseph L. Sax, 'The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention' [1970].

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by present and future generations, Including air, water, soil, fauna and flora, and in particular the natural system representative samples.¹⁰

"Political debate, public sitting and hearings are also allowed in the Doctrine. Such an impact can force agencies to demonstrate that they do not harm the environment in such a way that public resources are destroyed. When agencies lack a more environmentally friendly alternative, a lawsuit against the Public Trust may be brought forward. This often results in lengthy and difficult judicial proceedings, but luckily a number of important precedents exist.

RESEARCH OBJECTIVES

- To understand the concept of Public Trust Doctrine.
- To know the origin and history of Public Trust Doctrine.
- To understand, by means of judicial decisions, the application of public confidence teaching in India.
- Understanding the application of the Public Trust Doctrine by the United States of America.
- In comparison and in contrast, in India and the United States the Public Trust Doctrine is used.

RESEARCH QUESTIONS

- What do you understand by the concept of Public trust Doctrine?
- From where the Public trust Doctrine has originated and how did it evolve throughout the world?
- Discuss the application of Public Trust Doctrine in India through different case laws?
- Discuss the application of Public Trust Doctrine in United States of America?
- Do the application of Public Trust Doctrine in India and Unites States of America have any differences?

LITERATURE REVIEW

¹⁰Kapoor, 'Public Trust Doctrine', <http://www.legalserviceindia.com/articles/ptdoc.htm> (last accessed 22nd March 2010)

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1. **Shibani Gosh** (Indian Environmental Laws: Key Principles, 2019). The author talks about the growth and application of the public trust doctrine, and explains why it is difficult to identify how the doctrine could lend predictability to decision-making regarding public trust properties. She explains the contours of the doctrine as inferred from Indian judicial pronouncements – the source of the doctrine, properties that are held in public trust, and principles that are applied by courts while implementing the doctrine. Rather than insisting on its redundancy, she argues that it is desirable to make the doctrine more relevant, and proposes ways in which it may afford greater protection to natural resources held in trust.
2. **Muhammad Wajid Munir** (Putting Public Trust Doctrine to Work: A Study of Judicial Intervention in Environmental Justice, 2018). This paper analyses the judicial intervention in enforcing the Public Trust Doctrine ('PTD') in Pakistan. According to the PTD, a government is responsible to protect certain natural resources like clean air, water, rivers, public parks, and forests. The government acts as a trustee to protect these unique natural resources. This author critically examines the application of the PTD by the superior judiciary in Pakistan. It does so by tracing out the theoretical framework, origin, and background of the PTD. The paper also analyses the development, application, and geographical scope of this doctrine in Pakistan by critically examining the leading case law. It is argued that the superior judiciary in Pakistan has applied this doctrine in two ways — directly and impliedly. It has done so by relying on Indian and American case law and leading international environmental treaties. This article examines two widely applicable tests namely, the 'Legislative Test Approach' and the 'Substantive Test Approach' to assess the scope of the PTD. Finally, the paper traces the limitations of the PTD. It concludes with the suggestion that policy makers should treat environmental rights as fundamental human rights by including it in Part II, Chapter I of the Constitution of Islamic Republic of Pakistan 1973.
3. **Paromita Goswami** (Public Doctrine Trust: Implications for Democratization of Water Governance, 2016). The authors in this article point out that the existing state-center Water Regime could be transformed into a democracy, in the context of a national Water Framework Law that is based on a thorough understanding of the Public Trusts Doctrine. However, the existence of two contradictory drafts of the law, both claiming to incorporate

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the public trust perspective and yet with divergent implications for social equity and ecological sustainability has led to a need for further discussions in the public domain. He also argues about the details of legislation will determine the future trajectory of democratisation of water governance in the country rather than a mere invocation of the Public Trust Doctrine. He also discussed about how The PTD has developed in India through several landmark cases in the Supreme Court. The author also highlighted how the PTD is poised to make an entry into water legislation through the National Water Framework Law. Such a law is being mooted to overcome some of the seemingly intractable problems plaguing water governance in the country today. Lastly he concluded that PTD has important repercussions for democratisation of water governance in the country because it curtails state control and actions on various grounds.

4. **Melissa Scanlan** (A comparative analysis of the public trust doctrine for managing water in the United States and India, 2016). In this paper the author says that the public trust doctrine has survived over the millennia to adapt to changing societies and water management challenges. It provides an overarching governance theory for the shared water commons. The doctrine establishes that the government holds waters in trust for the use and enjoyment of the public. The scope of which waters are held in trust and which activities or interests are protected public rights has evolved over time. This chapter compares the use of the doctrine in the United States and India. Also, whether contesting access to the beach for recreation in the United States or protection of scarce drinking water resources for a rapidly growing and urbanizing population in India, the courts have applied the doctrine to guard against privatizations, impose a continuing duty to sustainably manage shared resources, and protect long-term intergenerational equity.
5. **Michael C. Blumm & Rachel D. Guthrie** (Internationalizing the Public Trust Doctrine, 2012). In this paper the author discusses about how the Public Trust Doctrine inherited from England by the American states and has been extended in recent years beyond its traditional role in protecting public uses of navigable waters to include new resources, like groundwater, and for new purposes, like preserving ecological function. Authors also talked about the several countries in South Asia, Africa, and the Western Hemisphere have discovered that the public trust doctrine is fundamental to their jurisprudence, due to natural law or to constitutional or statutory interpretation. It is also said that This international public trust case

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law also incorporates principles of precaution, sustainable development, and intergenerational equity; accords plaintiffs liberalized public standing; and reflects a judicial willingness to oversee complex remedies. These developments make the non-U.S. public trust case law a much better reflection of Professor Sax's vision of the doctrine than the case law of the American states.

6. **Hope M. Babcock** (The Public Trust Doctrine: What a Tall Tale They Tell, 2009). The author discusses about the stability of a doctrine that has been applied successfully through the centuries to protect important communal natural resources from destruction. He also talks about the professed myth of the public trust doctrine under which he explained about the Professor Huffman's complaint that the doctrine's shaky provenance should cause courts to pause when asked by advocates to extend the doctrine further to reach unprotected communal resources is misguided. His advice that advocates of the doctrine should "search for constitutional sources" for it or "make the case for judicial lawmaking beyond the traditional judicial role of legal interpretation" which seems tongue-in-cheek at best. He also highlighted why it is important not to impede the expansion of the public trust doctrine with regard to filling the regulatory gap, providing normative standards and enactment of positive law, and ending the regulatory commons. Lastly he concluded that The public trust doctrine offers a way to fill regulatory gaps with normative standards and various resource management tools like public interest balancing, comprehensive planning, and natural resource accounting.
7. **Takacs David** (Public Trust Doctrine, Environmental Human Rights, and The Future of Private Property, 2008). The Doctrine of the Public Trust had proven to be a means to protect the environmental resources in a sustainable way and in the future, at the point when it is converted into or put in the assistance of natural rights. The creator likewise infers that public certainty offers the chance of filling administrative holes with administrative principles and different asset the executives apparatuses like adjusting public interest, far reaching arranging and representing characteristic assets. Positive law and stop the administrative regular incapacitating latency. Regardless of whether Professor Huffman contends that the public trust tenet is a lawful fiction, it is a decent one. It is a significant expository target to the degree that it gives the voice of the legal executive to values which are consolidated in like manner property.

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8. **Patrica Kameri** (The Use of Public Trust Doctrine, 2007). I find it very odd to say that the public confidence doctrine (PTD) applied only in accordance with the constitution to South African water legislation and to put it into line with expropriation. The pillar of modern environmental law, PTD, has to do with purchasing, securing and utilizing fundamental normal and social assets. He additionally underlined the birthplaces of the Public Trust Doctrine under the which he concentrates on the doctrine of communes which claims that certain things are 'common to the human race, i.e. air, running water and sea and therefore the right to fish in a port or river is common to all human beings. It was found in particular that ways of ensuring a systemic 'return' of PTD to correct anomalies are to be considered in government decision-making to allocate resources and to restore the public real estate over time. The author also discussed how the Doctrine on public funds is implemented and finally. This must be taken into account in the context where the government holds public funds as trustee without a clear definition of the role of trustee.

HISTORY OF PUBLIC TRUST DOCTRINE

The Roman sovereign, Justinian, follows the historical backdrop of regulation. In Book II of the Institute, Governor Justinian announces: these things are fundamental in the laws of nature to the human being, to air, to the waterway, to the sea and then to the ocean. Consequently, nobody is prohibited from approaching the coast.¹¹

The public trust doctrine “is based on the notion that the public holds inviolable rights in certain lands and resources, and that regardless of title ownership”, and that “the state retains certain rights in such lands and resources in trust for the public.”¹² There are two ancient bases for this concept of public law.¹³ “First, under Roman law the air, running water, the sea, and consequently the sea shore’ were the property of no man but rather were common to all.” “Second, early English common law provided that title to tidelands had two components”: “the

¹¹The Public Trust Doctrine. (2010)

http://www.slc.ca.gov/policy_statements/public_trust/public_trust_doctrine.pdf

¹²Matthew Thor Kirsch, Upholding the Public Trust in State Constitutions. *Duke Law Journal*, Vol. 46, No. 5 (Mar., 1997)

¹³Ibid

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King's right of jus privatum, which could be alienated, and the jus publicum rights of navigation and fishing, which were held by the King in inalienable trust for the public".¹⁴

The Government holds various public properties for continuous public use including rivers, the seaside and air. If such a transfer might interfere with the general public interest, Sovereign was not able to transfer public trusteeship properties clandestinely that the public had a right to enjoy to any private party.¹⁵

The aim of this Regulation was to secure and connect a range of public properties, including non-navigable water, public and sand parks. In its notable *Illinois Central R.R. Co. v. Illinois*¹⁶ choice, the Supreme Court of California broadened its meaning of public certainty to incorporate natural and tasteful contemplations. It is inappropriate to say that there is no absence of reasonableness in the tenet of public certainty. However, despite the strong criticism, the precautionary and biodiversity protection principles are becoming increasingly linked to sustainable development alongside many other new principles of environmental law.¹⁷ Teaching is part and parcel of the public privilege of admission to public trusts and the definitive dynamic of assets. Furthermore, doctrine can be used not only to protect the public from misuse of legislation on planning but also for a faulty assessment of the environmental impact.¹⁸

PUBLIC TRUST DOCTRINE IN INDIA

The doctrine of public trust in India has evolved by monuments. The Tribunal has stated that our constitution includes the doctrine of public trust when we follow the common law system. The Court and its substantive rights take this doctrine for the protecting the environment seriously. It referred to the several articles within the Indian constitution, including Article 48A,¹⁹ in which the privilege to a solid climate under the privilege to a living was appropriately conveyed, and Article 39²⁰ [DPSP], in Article 21.²¹

¹⁴ Ibid

¹⁵Thor Matthew Krisch 46 Duke L. J. 1169

¹⁶*Illinois Central R.R. Co. v Illinois* (1892) 146 U.S. 387, 452.

¹⁷ Ibid

¹⁸ Supra Note 7

¹⁹Article 48A, Indian Constitution 1950.

²⁰Article 39, Indian Constitution 1950.

²¹Article 21, Indian Constitution 1950.

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Since the Supreme Tribunal in India has no special environmental rights, it has made the public trust doctrine even more clear. There are numerous cases, for instance where unapproved mining cause damage to the climate in the space was announced unlawful by the Supreme Court of India as having disregarded Article 21 of the Indian Constitution and the Court said a completely secure climate is important to protect individuals' privileges.²² For another situation, the High Court of Kerala found that it would not disregard Article 21 if the activities of the Government had made harms a wellspring of freshwater.²³ The Court combined life's privilege with the perfect climate in the Bhopal disaster case. Public certainty principle limits Government of India and private property rights. In the wake of perusing the choices and perusing various understandings, it isn't clear how the court summoned individuals' certainty teaching. It is not clear whether Indian law included the doctrine of public trust. This doctrine was only enshrined in the United States by the Court in different judgements and the latter doctrine was also included in British law. What courts felt were necessary for the rights of citizens to be protected and for the state to be held accountable under public trust doctrine.²⁴

M.C Mehta v. Kamalnath²⁵

This landmark case was the first mention of the public doctrine of trust in India. The case is also called the case of SPAN Motel.²⁶ Justice Kuldeep Singh relies heavily on the doctrine of public confidence when delivering the judgment. In this case, the government on the bank of the Beas River handled a number of forest land leased from the Motel. The environmentally fragile and wonderful area should not have become private and commercial property.²⁷

The appointed authority evaluated the historical backdrop of the teaching of public certainty. He focused on that this previous hypothesis of the Roman Empire led to the possibility of certain basic properties, like streams, woodlands and air. It was the public authority that utilized the overall people unhampered. The Roman Reign Contemporary ecological concerns have a solid

²²Rural Litig. & Entitlement Kendra vs. State of Uttar Pradesh, A.I.R. 1985 S.C. 652, 656

²³Attakoya Thangal vs Union of India, A.I.R. 1990 K.L.T. 580.

²⁴Supra Note 3

²⁵M C Mehta v Kamalnath, 1997 (1) SCC 388

²⁶Ibid

²⁷Ibid.

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association with this lawful principle. According to the Roman law, no one (Res Nullius) or anyone in general possessed those resources. The sovereign would however own these resources, according to the law, but ownership has been restricted in nature and the Crown will never be able to grant such properties to private owners if the interests of the people in navigation or fishing are interfered with.

Our overall set of laws is established on the customary law of England, which incorporates the public certainty principle natural to its law. The State is the defender of all regular assets planned to be utilized and appreciated by general society. The overall population gets ocean, running water, air backwoods and earth touchy terrains. The state is the trustee of these public assets and has a lawful obligation to secure regular assets. These publicizing assets can't be changed over into private proprietorship.

The Court additionally noticed that, in the exercise of their established authority of legal audit as an instrument for deciding the administrative aims of a law if a law is embraced by the Parliament or the public council.

The Court coordinated and requested that public trust tenet be remembered for land enactment and that the Government be taken out from the public authority with earlier authorization to lease a backwoods land for inn development and that the Himachal Pradesh organization assume responsibility for regions and reestablish them to their unique common conditions. The Court likewise significantly announced that the inn pay for natural and environmental compensation of the space, via costs. The Court additionally mentioned that the inn show cause why the inn is likewise not dependent upon any contamination punishment.

Th. Majra Singh v Indian Oil Corporation²⁸

Second, the applicant objected to Th. Majra Singh v Indian Oil Corporation's²⁹ location of the oil-filled cylinder filling plant. The High Court was found to be able only to examine whether all precautions were taken by authorities to ensure that environmental and environmental legislation was duly respected. Although the case was settled on the scientific process, it confirmed that Indian legal processes of thought include the doctrine of public confidence. There is no

²⁸ Majra Singh v Indian Oil Corporation , AIR 1999 J&K 81

²⁹Ibid.

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disputation in the High Court that the State is obliged, as well as parts of Article 21 of the Constitution, to guarantee legitimate shielding of backwoods, lakes, untamed life and the climate. As indicated by the Court, the possibility that specific nations and normal zones have an option to anticipate that their natural features should remain is consolidated into the land law.

M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu³⁰

The choice was requested for this situation by the Division Bench of the High Court of Judgment in Allahabad. In a joint decision of the High Court's three written requests through Shobha Dixit, J. stated that it was M.I. Builders Pvt. Ltd. (appellant herein), that the MAHIPALICA had been able, in its original position, to restore a park to its adequate position, and was now known as the Nagar Nigam or the firm in Jhandewala Park in Lucknow. The High Court presumed that the Mahapalika didn't question the noteworthy significance of the recreation center and the requirement for maintainability or upkeep and that the Mahapalika was the solitary justification the development of the underground business complex that would facilitate the nearby gridlock. The Court saw the circumstance on the ground and asserted that it was altogether deceptive that the development of the underground business territory, which was purportedly fabricated.

The Court held in request that, in the conditions analyzed, just a single end was drawn: The goal of developing a private retail plaza was essentially an affection and its vital goal was to support M.I. constructors with colossal benefits. By denying individuals of Lucknow of their solaces in the blocked space of the old memorable park in the wide request for decongestion. Mahapalika and her officials have failed to remember their obligation in the public eye. Mahapalika's occupants and others were private of the personal satisfaction which they were qualified for develop under the Constitution and the Act. The understanding is subjective, unreasonable and invaluable. The arrangement was against public approach. It didn't make any difference to the general population. To profit the developer, the whole legitimate interaction was undermined.

Shailesh R. Shah v. State of Gujarat³¹

³⁰ M.I. Builders (P) Ltd. v. Radhey Shyam Sahu, (1999) 6 SCC 464

³¹ Shailesh R. Shah v. State of Gujarat, 2002 SCC OnLine Guj 164 : (2002) 43 (3) GLR 2295.

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In the previous judgement, the Court presented the state negatively. But the Gujarat High Tribunal revealed the mandatory nature of the State in *Shailesh R. Shah v. the State of Gujarat*. As a trustee, the Court said that all the resources, for example lake, ponds, natural gas and wetland, have been conserved and protected by the state. The Court has a positive obligation for the state to prevent and prevent resource and environmental degradation. The State has a positive duty to maintain the funds.

PUBLIC TRUST DOCTRINE IN UNITED STATES OF AMERICA

In the celebrated decision in *Illinois Central Railroad Company v. Illinois*,³² the classic American concept of public confidence can be found. “where the Supreme Court invalidated Illinois’ grant of title to land under Lake Michigan as a violation of the state’s common law public trust obligations.”³³The legislature then conferred on a private company land underlying Lake Michigan. Several years later the legislature reflected on the grant and rejected it. The Supreme Court of the States, in an action brought by it in order that the initial grant was declared invalid, held that the titles of the granted lands were distinct from those of the State... to enjoy the waters navigation, trade in the waters and free from obstructions or interferences in fishing. Although the court did not prevent private parties from disposing confident lands, the court stated that it was not possible for the state to devote itself to governing all areas in which it had responsibility for exercising the police powers. The higher courts of certain States, such as Massachusetts, have subsequently changed the doctrine to conform to their peculiar status and the uses of public resources.³⁴

However, Professor Joseph Sax enhanced the doctrine in 1970 by proposing that the public was spirited can expand and use its doctrine to foster environmental litigation.³⁵ From his perspective, “the doctrine required courts to review with scepticism any government action that restricted or burdened public access to potentially any natural resource.” In its initial trust publication, the courts of the United States have used doctrines requiring public access to various

³²*Illinois Central R.R. Co. v Illinois* (1892) 146 U.S. 387, 452.

³³*Nanda Ved P., et al ‘Public Trust Doctrine’, 5 Ecology L.Q. 291 (1975-1976)*

³⁴ *Ibid.*

³⁵ *Supra* note 10

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resources;including beach dry sand areas, river-based portage roads and wildlife, other than navigable water.³⁶

A considerable lot of them likewise joined 'the reason for public trust' in recommending that the regulation could well be reached out to wild creatures and public grounds. But the growth of the doctrine of people's confidence has dismayed other parties, criticizing it because there is no consistent doctrinal base, it does not reflect existing concerns on the environment, needs a judiciary which is 'pro-environmental bias' and therefore undemocratic.³⁷

Upholding the Doctrine under the State Constitutions

In the USA, after the Illinois choice and the prevalence that came about because of that a significant number of their states Constitutions managing assurance of the climate have been set up with tenet of public certainty. The constitutionalising and extension of the doctrine could circumnavigate the argument that the laws of that state are not based on the doctrine, as now the constitution is the doctrine. There is no ground to argue that a pro-environment judiciary requires the successful implementation of the doctrine. Finally, the fact that the doctrine is undemocratic may be dispelled through the constitutionalization of trust values. On the contrary, it reflects the democratic choice that the State makes to long term commitment to these values by incorporating public trust values into its constitution.

As explained, in at least a few countries in America the doctrine has shifted from a common law guarantee to a broader constitutional environment.

A COMPARATIVE ANALYSIS OF THE APPLICATION OF DOCTRINE OF PUBLIC TRUST IN USA AND INDIA

The US Supreme Court gave a particular assessment in the Illinois P.R Co instance of a state's title to its flowing and submerge land very nearly 110 years sooner, but the fundamental premise is still fundamentally unchanged, even if trust issues have been examined by courts since many times. It has been stated that the tide of a state and the title of its territory are different from its selling territory.“It is a title held in trust for the people of the State that they may enjoy the

³⁶Divan Shyam, 'Environment Law and Policy in India', OUP, 2nd Ed., 2004

³⁷Ibid.

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navigation of the waters, carry on commerce over them, and have liberty of fishing” Free from private parties' obstruction or interference.

M.C. Mehta v. Kamal Nath was the main opinion of public confidence doctrine. In India. In India. The Shri Kamal Nath family, Environment and Forest Secretary Spain motel belongs, and the Indian Government has distracted the Beas River Course to embellish the motel and has also been imprisoned in forested land. The Spanish motel administration was ordered by the Apex Court to give forest area to the administration of Himachal Pradesh.

The Court issued for the first time in India a decision on landmarks and established the exemplary damage principle. In order to reverse the damages caused by his act, the Court held the polluter's duty to pay a fine of ten Lakhs on Spain Motel. The Supreme Court of India has recognised the Polluter Expects to pay and the trust of the public doctrine. Various High Court judgments obviously have taken the decision as evidenced by the decisions taken in the last chapter from around the country. The High Court of Kerala also took a significant decision in the Plachimada case, as it has been received by the rest of the world.

When comparing the application of the US and India doctrine. It has demonstrated that courts are using this doctrine in order to prevent privatization, to make it their permanent duty to manage common things sustainable and to safeguard long-term intergenerational equity.

Here development of the doctrine in the U.S. has focused on state property title and perpetual easements when states have granted private titles, the Indian doctrine is far more ecologically-grounded and expansive – including all of the country’s natural resources. Although the Indian courts were inspired by the U.S. courts, they have gone further in protecting public trust rights by finding the national constitution is a basis for such protections. Indian courts have based public trust protections on several provisions, including Article 21’s³⁸ protections of life and liberty. Perhaps the development of the doctrine between the two countries is now at a point where learning will be reciprocal and the U.S. will adopt the Indian approach to find public trust rights are protected by the U.S. Constitution’s safeguards of life and liberty.³⁹.

³⁸Article 21, Indian Constitution, 1950

³⁹ U.S. Const. 5th Amendment

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CONCLUSION

The doctrine of public confidence is part of our system of common law. The Government was responsible for all the natural resources that the public will use and enjoy. General society appreciates the ocean, running waters, air, woodlands and climate agreeable terrains. As a trustee, government has a lawful obligation to shield characteristic assets, which are not to be converted into private property or used for use by the public. Each stylish or cleaned up greatness might be dissolved for private, business, or some other use, except if decided to be fundamental in compliance with common decency by the courts, in light of a legitimate concern for public interest and the public interest, for impedance with that asset.

Over the millennia, public confidence has survived and evolved to adapt to changing societies and their challenges in water handling. This study has shown how the doctrine is applicable in vastly different circumstances. The teaching and different cases show unmistakably that the state is a trustee who is a dependable individual and not the proprietor of the country's regular assets. The public authorities should expect this task to be loyal to the interests of residents and fulfill their obligation in respect of the citizens' interests and participate in dynamic management of the country's regular assets. The Public Trust Doctrine could give intends to improving the effectiveness of enactment on natural effect appraisal. Likewise, under Article 48A the State is compelled by a solemn obligation to ensure and improve the climate and to secure the forest and natural life of the country. Article 48A of the Directive Principle of Government Policies shall be considered in accordance with Article 21. (right to life). The Treasury has increased with the clean and healthy environment

I believe that the Apex Court of India has taken a vibrant step in invoking the doctrine of public trust. The legal approach to protecting resources and the environment was necessary. The current environmental problems are consistent with this doctrine. People's confidence ensures that the public has a right to fulfill its obligations under law and that the State has a positive obligation to do so. Our constitution reflects environmental issues and ensures that the clean environment also applies to us.

Public confidence is a good way to protect the environment by controlling the administration of state government and ensuring the good management of natural resources. It is an instrument to tackle the growing environmental degradation. Public confidence does not have proper laws and

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legislation in India. It gives the solution to environmental problems an effective legal framework. By conjuring public certainty regulation, we can advance the security of the earth and its assets.

BIBLIOGRAPHY

- Doctrine of Public Trust.(July 2, 2019)

<https://www.lawteacher.net/free-law-essays/public-law/doctrine-of-public-trust.php>

- Minhas Joshi, Public Trust Doctrine In India.

<https://blog.ipleaders.in/public-trust-doctrine-india/>

- David Takcas, The Public Trust Doctrine, Environmental Human Rights, And The Future Of Private Property. (2008)

<http://www.ielrc.org/content/a0804.pdf>

- Hope M. Babcock, The Public Trust Doctrine: What a Tall Tale They Tell. Vol.61:393. (2009)

<https://core.ac.uk/download/pdf/70374707.pdf>

- Paromita Goswami, Public Trust Doctrine: Implications For Democratisation Of Water Governance.(2016)

<http://nujlawreview.org/wp-content/uploads/2017/01/2016-9-1-2-Paromita-Goswami-Public-Trust-Doctrine-Implications-for-Democratisation-of-Water-Governance.pdf>

- Michael C. Blumm and Rachel D. Guthrie, Internationalising the Public Trust Doctrine: Natural Law and Approaches to Fulfilling the Saxion Vision. Vol.45:741.(2012)

https://lawreview.law.ucdavis.edu/issues/45/3/Topic/45-3_Blumm.pdf

- Jona Razzaque, Case Law Analysis: Application of Public Trust Doctrine In Indian Environmental Cases. Journal of Environmental Law, 13(2):221-234.(February, 2001)

https://www.researchgate.net/publication/287465696_Case_law_analysis_Application_of_public_trust_doctrine_in_Indian_environmental_cases

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- Muhammad Wajid Munir, Putting Public Trust Doctrine to Work: A Study of Judicial Intervention in Environmental Justice. (July 17, 2018)

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3203467

- Melissa K. Scanlan, A Comparative Analysis Of The Public Trust Doctrine For Managing Water In The United States and India. (November 3, 2016)

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2863248

- Dr. Kaumudhi Challa, Public Trust Doctrine: A Repository of Governmental Obligation to Protect the Environment. Volume: I, Issue: VI.(March, 2012)

[https://www.worldwidejournals.com/indian-journal-of-applied-research-\(IJAR\)/article/public-trust-doctrine-a-repository-of-governmental-obligations-to-protect-the-environment/MzI4/?is=1](https://www.worldwidejournals.com/indian-journal-of-applied-research-(IJAR)/article/public-trust-doctrine-a-repository-of-governmental-obligations-to-protect-the-environment/MzI4/?is=1)

- Bjayant, Notion of Doctrine Of Public Trust in India.

<http://www.legalservicesindia.com/article/1429/Notion-of-Doctrine-of-Public-Trust-In-India.html>

- Shibani Ghosh, Public Trust Doctrine In Indian Environmental Law. Indian Environmental Law: key Concepts and Principles.(2019)

<https://cprindia.org/research/chapters/public-trust-doctrine-indian-environmental-law>

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<https://www.ijalr.in/>