

Role of Judiciary in Environmental Protection in India

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Abstract

Environmental degradation has become a serious issue in modern-day governance and public policy worldwide. In India, urbanization, population growth, and rapid industrialization have added to environmental issues. In spite of a strong legal framework, gaps in enforcement remain substantial, with the need for the proactive intervention of the judiciary. This research paper examines the evolution in the role of the Indian judiciary as a powerful player in environmental governance. Through constitutional mandates, statutory interpretation, landmark judgments, and establishment of legal doctrines, the judiciary has played a crucial role in environmental protection. The paper further examines the rise and role of Public Interest Litigation (PIL), establishment of the National Green Tribunal, and the role of judicial activism in environmental jurisprudence.

Keywords: Environmental protection, public interest litigation, Article 21, National Green Tribunal, sustainable development

1. Introduction

Issues related to environmental degradation have moved to the forefront of policy discourse at both national and international levels. In India, the increasing severity of environmental challenges such as air and water pollution, deforestation, biodiversity loss, and water scarcity has raised pressing concerns about the sustainability of development and the capacity of governance systems to preserve ecological balance. Amid this crisis, the Indian judiciary, especially the Supreme Court and various High Courts, has emerged as a central actor in shaping the trajectory of environmental protection. Traditionally seen as an interpreter of laws, the judiciary in India has transformed into a proactive guardian of the environment, playing a pivotal role in both enforcing constitutional mandates and guiding administrative action. It has often stepped in where legislative and executive responses have been inadequate or delayed, issuing guidelines, setting up monitoring committees, and devising innovative mechanisms for environmental justice. This transition—from a passive adjudicator to an active policymaker—has significantly reshaped the landscape of environmental governance in India. The roots of this judicial activism lie in the expansive interpretation of Article 21 of the Indian Constitution, which guarantees the right to life. Landmark rulings have held that this right includes the right to a clean and healthy environment (*Subhash Kumar v. State of Bihar*, AIR 1991 SC 420). In conjunction with Article 48A (Directive Principles) and Article 51A(g) (Fundamental Duties), the judiciary has developed a progressive body of environmental jurisprudence that integrates constitutional values with ecological concerns.

One of the most remarkable aspects of this judicial evolution is the emergence of Public Interest Litigation (PIL), which has enabled citizens and civil society organizations to seek legal remedies against environmental violations. Through seminal judgments in cases such as *M.C. Mehta v. Union of India*, the courts have addressed diverse environmental issues—from industrial pollution and vehicular emissions to river pollution and waste management. In the process, the judiciary has institutionalized globally recognized legal principles such as:

- **The Precautionary Principle**
- **The Polluter Pays Principle**
- **The Public Trust Doctrine**

These principles, introduced and entrenched by judicial interpretation (e.g., *Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715), have not only filled critical legislative gaps but also inspired policy formulation and institutional innovation. The synergy between constitutional interpretation, legislative support, and citizen activism has catalyzed the development of a dynamic and evolving framework of environmental law in India. This

framework reflects the judiciary's ability to bridge the gap between environmental idealism and practical enforcement, asserting its role not merely as a legal authority, but also as a custodian of intergenerational equity and sustainable development.

The present study aims to undertake a comprehensive examination of the Indian judiciary's contribution to environmental protection, analyzing key mechanisms, landmark cases, legal doctrines, and structural interventions that have shaped environmental governance. It also seeks to assess the institutional limitations, challenges of judicial overreach, and prospects for future reforms, particularly in scaling these efforts to address large-scale environmental threats in a rapidly developing nation.

2. Constitutional and Legislative Framework

Constitutional Provisions

The original text of the **Constitution of India**, as adopted in 1950, did not contain any explicit or specific provisions related to **environmental protection**. The framers of the Constitution did not anticipate the scale of ecological degradation that modern India would face due to industrialization, population growth, and urban expansion. However, the environmental consciousness of the nation evolved significantly over time, leading to constitutional, legislative, and judicial responses. Among these, the role of the **Constitution**, through both **amendments** and **judicial interpretation**, has been foundational in shaping the legal landscape of environmental governance.

Article 21: Right to Life and Environmental Protection

Perhaps the most significant contribution to environmental protection has come through the dynamic and expansive interpretation of **Article 21**, which states:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

Initially interpreted narrowly, Article 21 underwent a judicial metamorphosis in the post-Maneka Gandhi era, where the **Supreme Court of India** began reading into it several **unarticulated rights** necessary for a life of dignity. One such right that emerged through a series of landmark rulings is the **right to a clean and healthy environment**.

In Subhash Kumar v. State of Bihar (AIR 1991 SC 420), the Supreme Court held:

"Right to life is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life."

Similarly, in **M.C. Mehta v. Union of India (1987)** and subsequent cases, the Court reinforced this position by holding that environmental degradation directly violates Article 21. This constitutional grounding has empowered citizens to seek **judicial remedy against environmental harms** through **Public Interest Litigations (PILs)**, thus making Article 21 a cornerstone of Indian environmental jurisprudence.

Article 48-A: Directive Principles of State Policy

Recognizing the growing need for environmental governance, the **42nd Constitutional Amendment Act, 1976**, introduced **Article 48-A** under the **Directive Principles of State Policy**. It states:

"The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country."

Though non-justiciable in nature, Article 48-A has been used by courts as a **guiding principle** to assess government actions and to reinforce constitutional obligations. The Supreme Court has consistently invoked this article alongside Article 21 to interpret the State's responsibility in environmental protection. In **Sachidanand Pandey v. State of West Bengal (AIR 1987 SC 1109)**, the Court affirmed that when interpreting environmental matters, the court must keep Article 48-A in mind.

Article 51-A(g): Fundamental Duties of Citizens

The same 42nd Amendment also introduced **Article 51-A(g)** under the **Fundamental Duties**,

which declares:

"It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures."

Although these duties are not enforceable by law, Indian courts have increasingly cited Article 51-A(g) to foster a **culture of environmental responsibility** among citizens. The judiciary has emphasized that **environmental protection is not solely a duty of the state**, but a **shared responsibility** involving every individual. For example, in **T.N. Godavarman Thirumulpad v. Union of India (1997)**, the Court underlined the importance of public participation and civic responsibility in preserving ecological integrity.

Environmental Laws

India has promulgated a number of environmental legislations in the last half century, focusing on control over pollution, wildlife protection, and the management of natural resources. These include:

The Environment (Protection) Act, 1986 is a comprehensive enactment for environmental protection and enhancement. It confers sweeping powers upon the central government to fix standards, regulate industry, and impose sanctions.

The Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, create pollution control boards and a system for maintaining surveillance and for abatement against pollution.

The Wildlife Protection Act, 1972 offers protection to wild animals, birds, and flora, and seeks to maintain ecological balance.

The Forest Conservation Act, 1980 aims to curb deforestation by relinquishing the diversion of lands in the forests for non-forest use. These legislative instruments, as elaborate on paper, prove ineffective in practice, and thus the courts step in.

3. Judicial Activism and Public Interest Litigation (PIL)

PIL in Environmental Law:

Historical Development

Public Interest Litigation (PIL) has opened up avenues to environmental justice in India. Previously, legal remedy was limited to those immediately impacted by a problem. The rule of *locus standi* was liberalized by the courts, enabling interested citizens, social activists, and NGOs to approach courts in the interests of affected parties or future generations. The PIL mechanism has facilitated the intervention by the courts in systemic environmental concerns that include pollution by industries, deforestation, and urbanization. This innovation has opened doors for common citizens to engage in environmental decision-making and mainstreamed environmental questions into the legal arena. The courts frequently initiated *suo motu* actions on the basis of reports in newspapers or public complaints, increasing the role played by the courts in environmental protection. Through PILs, the courts not only provided redressal but also issued guidelines, established expert committees, and ensured compliance through frequent hearings, thereby affirming its interventionist role.

Landmark Cases

There have been a number of path-breaking judgments that helped to revolutionize India's environmental jurisprudence:

In *Rural Litigation and Entitlement Kendra v. State of U.P.* (1985), the Supreme Court directed the shutting down of limestone quarries in the hills of Mussoorie due to irreversible ecological harm. It was one of the earliest examples of environmental intervention by the courts.

In the *MC Mehta* cases, the courts dealt with questions such as pollution caused by industries, pollution by vehicles, and pollution of the river Ganga. The courts established the principle of absolute liability and laid down the necessity for a clean environment in Article 21. The right to clean air and water became a part of the fundamental right to life under Article 21 as per *Subhash Kumar v. State of Bihar* (1991).

Indian Council for Enviro-Legal Action v. Union of India (1996) upheld the principle of the polluter pays and mandated compensation for chemical contamination victims. The precautionary principle and the polluter pays doctrine found a place in Indian environmental jurisprudence in *Vellore Citizens Welfare Forum v. Union of India* (1996).

4. Doctrines and Principles Framed by Judiciary

Polluter Pays Principle

The courts have stood by the rule that environmental polluters must pay for pollution control. The rule is derived from international environmental law and is a bedrock doctrine in Indian jurisprudence. In the case of *Vellore Citizens Welfare Forum*, the Supreme Court positively reinforced this doctrine, requiring industries to pay not only those who had been harmed but also for restoring the environment. These principles have been implemented in a variety of cases relating to industrial accidents, dumping, and air and water pollution, thus integrating environmental costs into business practices. This principle has also resulted in the establishment, under the courts' supervision, of environmental compensation funds for the restoration of damaged communities and ecosystems.

Precautionary Principle

This principle promotes preventive action despite scientific uncertainty. It reverses the burden of proof to put the burden on the developer or the polluter to show that their actions would not cause harm to the environment. The Indian courts, in the case of *Vellore Citizens Welfare Forum*, established this principle firmly in Indian law, instructing the regulatory agencies to be prudent and forward-looking.

Courts have applied this principle to put a halt to projects that may end in environmental degradation, for example, industries in proximity to eco-sensitive sites or toxic waste disposal complexes. The use of this principle prevents insufficient scientific certainty from being a justification for taking a wait-and-see approach in environmental protection.

Public Trust Doctrine

The Supreme Court applied this doctrine in *MC Mehta v. Kamal Nath* (1997) that natural resources such as air, water, forests, and wildlife belong to the state in trust for the public. The court underscored that the state cannot arbitrarily divert such resources for commercial purposes or personal use. The doctrine has been instrumental in precluding land invasions, conserving wetland environments, and resisting the privatization of public resources. It represents the idea that there are some shared goods that must be left in common for public use and cannot be privately owned.

5. Role of National Green Tribunal (NGT)

Establishment and Purpose

The National Green Tribunal (NGT) was created by the National Green Tribunal Act, 2010, for the provision of a specialized forum for the expeditious disposal of environmental cases. Environmental cases had to be dealt with by the regular civil or constitutional courts prior to the NGT, leading to delays and varying judgments. The NGT was a big step with respect to environmental governance, with the objective of providing efficient and economic justice within a time-bound framework.

The Tribunal was mandated to hear solely environmental cases like pollution control, biodiversity and forest conservation, and natural resource protection. It is vested with jurisdiction on a number of important environmental laws like the Water Act, the Air Act, the Environment (Protection) Act, and the Forest Conservation Act. NGT's establishment also brought relief to regular courts by ensuring expertise-based decision-making.

Powers and Jurisdiction

The NGT enjoys original as well as appeal jurisdiction and is mandated to hear cases related to environmental clearances, pollution from industries, illegal mining, and other environmental offenses. It can provide relief as well as compensation to pollution victims, make interim as

well as final orders, and order restoration of the environment. It is also mandated to take suo motu cognizance of environmental injury based on media reports or complaints from citizens. One difference is that the NGT incorporates the principles of sustainable development, precaution, and the polluter pays principle in judging cases. These concepts have been successfully internalized into the decision-making system of the Tribunal, with the consequent evolution of progressive and sound environmental jurisprudence.

Notable Contributions and Shortcomings

During the years, NGT has handed down some landmark judgments, such as suspending environmental clearance for big projects, shutting down pollution-spewing industries, managing sand mining, and safeguarding eco-sensitive areas. In the case of Almitra H. Patel, NGT ordered municipal corporations in India to adopt solid waste management standards, which raised a lot of awareness for city waste. The Tribunal is also criticized, though. Despite its mandate for expeditious disposal, insufficient benches, regular vacancies, and administrative limitations have hampered its effectiveness. Furthermore, recent legislative actions narrowing the NGT's jurisdiction and enhancing bureaucracy's control have questioned its autonomy. Regardless, it is a critical institution within India's environmental system.

6. Impact of Judicial Interventions

Legal and Policy Reform

Judicial activism has also played a substantial role in shaping and enhancing environmental laws and regulations in India. Numerous directives by courts led to the formulation of newer regulations, revision of environmental standards, and establishment of monitoring systems. For example, the directives by the Supreme Court resulted in the enforcement of vehicle emission standards and the transition to CNG for public transport in Delhi. Judgements have forced governments to make improvements in environmental governance institutions, such as the setup of regulatory commissions, specialist panels, and time-bound mechanisms of compliance. Courts have bridged gaps created by inaction at the executive and legislative levels, and in doing so, become catalysts for reform and enforcement.

Social and Environmental Awareness

The active intervention by the judiciary has also helped generate public awareness in favor of environmental concerns. A case in point is that involving pollution in the Ganga or "air cases" in Delhi, which generated public debates and citizens' involvement on a national scale. Judicial remarks highlighted the responsibility of citizens, NGOs, and panchayats in bringing environmental objectives to fruition. The environmental PILs have democratized environmental justice by making the courts accessible to marginalized groups. This has led to a participatory environmental protection with the courts not only as a decision-making forum but also as a protector of public interest.

Criticisms and Challenges

In spite of the success, the intervention in environmental cases by the courts is not without critique. Critics contend that courts overextend themselves at times, infringing on the roles of the executive and legislative branches. This "judicial overreach" can produce administrative difficulties, particularly where the ordered remedies by the courts are sweeping, unworkable, or unsupported by administrative backing. In addition, sometimes the courts prioritize the preservation of the environment at the expense of livelihood and development, pitting ecology against the economy. Sustaining a balance between environmental protection and economic justice is a challenging task for the courts.

7. Contemporary Challenges and Way Forward

Climatic Change and New Challenges

The courts today also encounter newer challenges like climate change, urbanization, waste disposal, and loss of biodiversity. Indian courts have maintained effectiveness in addressing conventional environmental issues, but climate change litigation demands different approaches

involving climate justice, equity, and intergenerational rights. The courts also need to take cognizance of the transboundary character of environmental issues and align Indian jurisprudence with international environmental law. This requires revised legal interpretations, scientific knowledge, and creative solutions attuned to the changing character of environmental harm.

Reinforcing Institutional Mechanisms

In order to make the judiciary more effective, the institutional architecture favoring environmental justice has to be bolstered. This entails proper funding and staffing for the National Green Tribunal, ongoing legal training in environmental science for judges, and greater coordination between courts and regulatory organizations. There is also a necessity for environmental education in all stages of legal training in order to ensure that judges, lawyers, and policymakers in the future can address environmental disputes in a competent manner.

Collaborative Governance

The future of environmental protection is in collaborative governance. Judiciary, executive, legislatures, industries, and civil society need to join hands. Judiciary has to remain watchful but make sure that its judgments are well-informed, prudent, and grounded in reality.

Fostering public involvement, decentralization, and local knowledge systems in environmental protection can make the efforts in the courts inclusive and sustainable. Courts also need to promote alternative dispute resolution in environmental disputes, leading to faster and community-based solutions.

8. Conclusion

The Indian courts have become a central actor in environmental protection, intervening to enforce constitutional values, implement legislative requirements, and plug executive lacunae. It has extended the horizons of fundamental rights through proactive intervention and developed sound environmental jurisprudence through path-breaking judgments and principles. Though difficulties abound, the role of the judiciary in the evolution of environmental governance in India cannot be denied. In curbing pollution, conserving forests, and safeguarding rivers, the courts not only enforced the law but also imagined a green and fair future. With environmental issues becoming increasingly multifaceted, the role of the judiciary in preventing development at the expense of environmental integrity cannot be overstated. The ongoing commitment to judicial innovation, institutional development, and public awareness is critical to ensuring India's future environment. Along this path, the role of the judiciary as a dispenser of justice must also be that of a guardian of the environment for future generations.

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