
COURTS AS CUSTODIANS: PUBLIC INTEREST LITIGATION AND ENVIRONMENTAL JUSTICE IN INDIA

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ABSTRACT

Public Interest Litigation (“PIL”) has been the fundamental mechanism through which Indian environmental law has been developed, primarily in the absence of a comprehensive statute at the time it took birth. Through the relaxation of locus standi in conjunction with the recognition of epistolary jurisdiction, the Supreme Court made it possible for the public spirited citizenry and organizations to invoke the writ jurisdiction for diffuse, cumulative and inter-generational harm to the environment that ordinary civil procedure cannot accommodate. This article notes the doctrinal origins of PIL and its constitutional foundations under Articles 21, 48-A and 51-A(g). It goes on to discuss the transformative Supreme Court cases in which the court threw up doctrines such as absolute liability, the polluter pays principle and the precautionary principle. Notably, these all came about largely through the former and not from the latter. The paper also investigates the institution of PILs, such as the continuing mandamus and court-appointed monitoring committees, and then critiques the limitations of judicial environmentalism as a substitute for sustained administrative enforcement. In conclusion, a short set of recommendations is presented with a view to consolidate the gains of the PIL era into predictable, institutionally enforceable environmental governance.

Keywords: Public Interest Litigation; Environmental Justice; Locus Standi; Epistolary Jurisdiction; Absolute Liability; National Green Tribunal; Judicial Environmentalism; Sustainable Development.

I. INTRODUCTION

The public interest litigation, commonly known as PIL, is one of the most important innovations of the Indian judiciary. The concept of Public Interest Litigation (PIL) emerged around the late 1970s and early 1980s. Its purpose was to provide access to justice to individuals who lacked the resources to approach the Supreme Court or High Courts. PIL relaxed the existing traditional rule of locus standi. Any public-spirited citizen or organization can move the court on behalf of those whose rights are being violated. In the environmental protection area, that tool has never been used with such a great result, or with such lasting institutional effect.

Environmental damage in India-industrial effluents poisoning rivers, unregulated quarrying destroying hill ecosystems, deforestation eroding biodiversity, vehicular and industrial emissions corroding heritage monuments-rarely creates an individual litigant with the kind of narrow and identifiable injury that ordinary civil procedure resolves. The damages are diffuse, cumulative, inter-generational and often downloaded onto those that have the least capacity to fight back in particular forest dwellers, fisherfolk, and the urban and rural poor. The very lacuna between large-scale environmental damage and limited access to procedures offered a perfect setting for the birth of PIL.

The article evaluates how PIL has enhanced environmental protection and sustainable development in India. It begins with the origins of Public Interest Litigation (PIL) as a doctrine of standing. It further delves into the constitutional foundations which made environmental PIL possible and landmark cases through which the Supreme Court built a body of environmental jurisprudence largely from scratch. Moreover, it further discusses the doctrines and institutions that this litigation produced. Finally, it concludes with a critical appraisal of the limits of judicial environmentalism as a substitute for administrative enforcement. Additionally, it has a short set of recommendations for the road ahead.

II. THE BIRTH OF PIL: LOCUS STANDI AND EPISTOLARY JURISDICTION

Before the Public Interest Litigation (PIL) could serve as a tool for environmental justice, the judiciary needed to remove the procedural obstacle in its way. According to the common law rule of locus standi, only a person who was personally affected by a certain legal injury could approach a court. As two identifiable and distinct parties are involved in an ordinary civil

dispute, thus, also, the rule was clear enough. However, in a claim of an environmental hurt, that is another matter entirely. Thus, a whole river basin or a whole city's population of commuters or even a particular species of tree is one class of tree.¹

There was a breakthrough in S.P. The Judges Transfer case commoner called Gupta v. Union of India was decided by a seven-judge bench in 1981. The case concerned the appointment and transfer of High Court judges. The case, did not, however, concern the environment. Taking advantage of the case, Justice P.N. Bhagwati gave an all important broad rule of standing. Subsequently, any member of the public acting bona fide, and not as a mere busybody or meddlesome interloper, could invoke the writ jurisdiction of the High Courts or the Supreme Court. All of this would be on behalf of a class of persons whose constitutional or legal rights have been violated. As a result, judges observed that such class of persons due to poverty, disability, or social and economic missing were unable to approach the court themselves.²

The court agreed to treat even a letter or postcard addressed to a judge as a writ petition under epistolary jurisdiction. Thus, the litigational requirement of pleadings, court fees, or representation counsels, which would have meant litigation beyond the reach of most would be discarded with. This was a very significant development during the liberalisation of standing. During the same period, in the case of People's Union for Democratic Rights v. Union of India, the Court further extended these principles to allow an organisation to sue on behalf of construction workers, who were employed for the construction of projects connected to the Asian Games. This further cemented the idea that PIL existed to vindicate the rights of groups who could not vindicate their own.³

The environmental PIL cases of the next decade must be read against this background. The relaxation of standing rules in S.P. Gupta and the other cases paved the way for the conditions that allowed, just a couple of years later, a small NGO in Dehradun or a single public interest lawyer motivated by seeing a yellowing Taj Mahal to unleash the full power of the Supreme Court's writ jurisdiction on environmental degradation which no single identifiable victim would otherwise be able to litigate.

¹S.P. Gupta v. Union of India, AIR 1982 SC 149. See also S.P. Gupta v. Union of India: Case Analysis, available at: <https://blog.ipleaders.in/s-p-gupta-v-union-of-india-case-analysis/> (last visited on August 22, 2026).

²Inception of Epistolary Jurisdiction, available at: <https://www.rostrumlegal.com/inception-of-epistolary-jurisdiction/> (last visited on August 22, 2026).

³People's Union for Democratic Rights v. Union of India, 1982 AIR 1473.

III. CONSTITUTIONAL FOUNDATIONS ENVIRONMENTAL PIL

The original Constitution of India did not say anything about a clean environment. The Forty Second Amendment to the Constitution of India was introduced in 1976. During this time, Article 48A was inserted, which directed the State to protect and improve the environment. Moreover, Article 51A(g) which enshrined a fundamental duty upon every citizen to protect the natural environment. Both provisions cannot be enforced directly in a court of law. This is because each belongs to the Directive Principles and the chapter on the fundamental duties respectively. Moreover, neither could have single-handedly supported the extensive remedies generated by later PIL litigation produced.

A broad interpretation of Article 21 which guarantees the right to life and personal liberty was adopted by the judiciary. Starting with the Dehradun Quarrying case, the Supreme Court held that unregulated limestone quarrying in the Mussoorie hill range was damaging perennial water springs and threatening the health and safety of the local population, and the Court increasingly read the right to a wholesome environment into the right to life itself.⁴

This constitutional move was significant for at least three reasons. To begin with, it made a non-enforceable directive principle into an enforceable fundamental right. It was made actionable directly before the Supreme Court under Article 32 or before the High Courts under Article 226 without the delay and uncertainty of waiting for Parliament to legislate. Furthermore, article 32 and article 226 permits any person acting bona fide to move the court on behalf of an affected class, which made lawyers, journalists, non-governmental organisations, etc., the custodians of the environmental claim rather than a directly injured person alone. The judiciary was attributed an independent constitutional basis, not dependent upon any one statute, on which to create remedies against polluting industries, negligent state agencies, and occasionally even Parliament's legislative choices where they fell short of the guarantee in the Constitution.

IV. JUDICIAL INTERVENTIONS AS A CATALYST FOR ENVIRONMENTAL PROTECTION

A. The Dehradun Quarrying Case

Rural Litigation and Entitlement Kendra, a Dehradun-based organisation, wrote to the Supreme

⁴Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P., AIR 1985 SC 652.

Court in 1983, which stated that the unauthorized quarrying of limestone in the Mussoorie Dehradun belt was causing landslides and choking river courses and agricultural land. The Supreme Court treated the letter as a writ petition. Moreover, an expert committee was appointed by the Supreme Court called the Bhargava committee. The Bhargava committee classified the quarries under three categories based on environmental damage. Finally, it ordered the permanent closure of the most damage causing category of mine. Moreover, it allowed less damaging quarrying outside the limits of Mussoorie continue.⁵

The Supreme Court of India is a widely celebrated case as the first environmental PIL. The importance of the Order is less in the result for any individual quarry than in the procedure that it initiated. It was no ordinary order. It treated an ordinary letter as a constitutional petition. It appointed scientific experts to assist a court that had no specialised environmental expertise of its own. And it did not pass a final order in the manner of the Supreme Court. Rather, it began continuing supervisory directions. The very hardest alternatives pose significant issues, the Court recognized that closing the quarry would pose economic hardships for workers and lessees who relied on the quarry for their livelihood. However, the question was how to measure this inconvenience against the permanent and irreversible damage caused by quarrying to the valley's ecology valley.⁶

B. The M.C. Mehta Litigation

No single litigant has shaped Indian environmental law more than the public interest lawyer M.C. Mehta. Since 1984, Mehta has received recognition for approximately forty pivotal Supreme Court decisions of 1984.⁷

In 1984, Mehta took a stand when he noticed the yellowing and pitting of the Taj Mahal's marble due to sulphur dioxide emissions from industries, including the Mathura oil refinery. So, he filed a petition. In 1996, the Supreme Court held in what has been termed the Taj Trapezium case that industries in a defined zone around the Taj Mahal must switch over to

⁵Rural Litigation and Entitlement Kendra Dehradun and others v. State of U.P. and others, available at: <https://leap.unep.org/en/countries/in/national-case-law/rural-litigation-and-entitlement-kendra-dehradun-and-others> (last visited on August 22, 2026).

⁶Case Study: Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh, available at: <https://legal-wires.com/case-study/case-study-rural-litigation-and-entitlement-kendra-v-state-of-uttar-pradesh/> (last visited on August 22, 2026).

⁷M.C. Mehta, biography, Goldman Environmental Prize, available at: <https://www.goldmanprize.org/recipient/mc-mehta/> (last visited on August 22, 2026).

natural gas or vacate their location. The Court held that the overriding priority of that time must be to safeguard the cultural and environmental heritage of such eminence and, thus, industrial convenience cannot hold the priority over it convenience.⁸

Mehta also filed a case which was recognised as Ganga Pollution case, where the Supreme Court suggested shutting down or relocating tanneries and other industries that release untreated waste material into the river. Mehta separately initiated litigation which created an enormous change in vehicular pollution in Delhi, including CNG conversion of Delhi public transport gas.⁹

The Mehta lawsuit made a structural contribution in addition to a remedial one. In the case of Shriram Gas Leak where oleum gas escaped from Delhi factory, Supreme Court has departed from the English Rule of Strict Liability of 19th century and evolved the Principle of Absolute Liability. It was held that an enterprise which is engaged in a hazardous or inherently dangerous activity is an absolute and non delegable duty to the community at large and cannot escape liability showing that he has taken reasonable care. The measure of damages must be correlated to the magnitude and capacity of the enterprise so that the compensation must act as a deterrent.

In this landmark decision, the Supreme Court recognized the public trust doctrine as part of the legal framework of India. Essentially, this means that certain natural resources are deemed by the State as public property. More importantly, the State cannot use these resources for private gain. This doctrine has far reaching implications, especially in the protection and conservation of the environment in India and elsewhere. The case arose after the river's course was diverted to benefit a private resort. Further, the Court's readiness to import the doctrine from American public trust jurisprudence into Indian constitutional law considerably extended the scope of judicial review over executive actions concerning natural resources.¹⁰

When considered together, the Mehta cases acknowledged and confirmed the entitlement of individuals to live in an environment that is rid of pollution. Such a right was held to be an

⁸M.C. Mehta v. Union of India, (1997) 2 SCC 353 (Taj Trapezium case). See M.C. Mehta v. Union of India and Others, available at: https://en.wikipedia.org/wiki/M._C._Mehta_v._Union_of_India_and_Others (last visited on August 22, 2026).

⁹M.C. Mehta v. Union of India, AIR 1988 SC 1037 (Ganga Pollution case). See also Read all About M C Mehta, available at: <https://www.drishtijudiciary.com/important-personalities/m-c-mehta> (last visited on August 22, 2026).

¹⁰M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388. See M. C. Mehta v. Kamal Nath, available at: https://en.wikipedia.org/wiki/M._C._Mehta_v._Kamal_Nath (last visited on August 22, 2026).

integral part of Article 21 which guarantees the right to life and personal liberty. Further, the Court very progressively narrowed the space within which industrial and governmental actors could regard environmental harm as an externality. This narrowing of space was progressively narrowed as it could be tolerated in the name of development.¹¹

C. Vellore Citizens Welfare Forum and Sustainable Development

The 1996 verdict in Vellore Citizens Welfare Forum v. Union of India is one of the most referred environmental judgments in India. The case arose from a plea by a NGO against several hundred tanneries in Tamil Nadu discharging untreated toxic effluent in the Palar river, which is the main source of drinking and irrigation water for the different districts.¹²

The Supreme Court opined that the concept of Sustainable Development, envisaging development meeting the requirement of the present without compromising the ability of the future generations to meet their own needs, has become a part of Indian environmental law. The Court went on to state that the precautionary principle, which provides that the absence of full scientific certainty must not be a reason for postponing measures to prevent serious or irreversible damage to the environment, and under which the polluter pays, which signifies that a polluting industry must meet the cost of restoring the environmental degradation on his account, and also pay compensation for the harm caused to the public by it, are essential features of sustainable development. Further, the Court said that these principles are binding on all courts and authorities in India authorities.¹³

The Court ordered the polluting industry to prove that its operations are not harmful to the environment. It also ordered the closure of tanneries that had not installed effluent treatment plants. Moreover, the court ordered a pollution fine to be imposed on every defaulting unit which should be deposited in an environment protection fund. Besides this, it directed the constitution of a dedicated authority under the Environment Protection Act, 1986. This authority will assess and apportion the compensation between the victims and the damaged

¹¹Forty Years, One File: The Supreme Court's Closure of the M.C. Mehta Case, The Wire, available at: <https://m.thewire.in/article/law/forty-years-one-file-the-supreme-courts-closure-of-the-m-c-mehta-case> (last visited on August 22, 2026).

¹²Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647. See Vellore Citizens Welfare Forum v. Union of India, available at: <https://indiankanoon.org/doc/1934103/> (last visited on August 22, 2026).

¹³Case Analysis: Vellore Citizens Welfare Forum v. Union of India & Others, available at: <https://www.lawctopus.com/clatalogue/clat-pg/vellore-citizens-forum-union-of-india/> (last visited on August 22, 2026).

ecosystem.

D. T.N. Godavarman and the Protection of India's Forests

The Mehta and Vellore cases laid the foundation of Indian substantive environmental law, the case of T.N. The case of Godavarman Thirumulpad v. Union of India indicates how far the procedural device of continuing mandamus could be extended. After it was converted by the Supreme Court for the conservation of each forest of the country, what started in 1995 as a narrow letter petition regarding illegal felling of timbers in Nilgiri forests of Tamil Nadu became a nationwide proceeding country.¹⁴

The Court issued an order in December, 1996, therefore, as an interim measure a ban was put in place which is to say that there shall be no felling of trees in any forest area which makes use of the word “forest” by being “dictionary meaning” based in the Act namely Forest (Conservation) Act, 1980 and as a result of the same the ban order was framed. After that, the Court retained the matter on its docket instead of disposing of it and issued over a thousand orders over the subsequent decades. The Supreme Court of India, in 2002, instituted a Central Empowered Committee to oversee compliance, investigate violations and report to the Court.¹⁵

The Godavarman lawsuits show the extraordinary reach that continuing mandamus can cover and the institutional questions it raises. According to some, this institution has operated as an environmental watchdog following the breakdown of law and order that has allowed large scale deforestation. Three decades' continuous judicial supervision of an entire sector of natural resource governance does not sit easily with the ordinary separation of powers between the judiciary, meant to decide disputes, and the executive, meant to administer.

V. DOCTRINAL AND INSTITUTIONAL ARCHITECTURE OF ENVIRONMENTAL PROTECTION

The combined impact of these litigations has almost entirely built, through judicial pronouncements, rather than legislation, a body of substantive environmental law that did not otherwise exist under Indian law. Under Article 21 the Constitution of India guarantees the

¹⁴T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267.

¹⁵T.N. Godavarman Thirumulpad v. Union of India: Landmark Environmental Case That Transformed India's Forest Conservation and Judicial Activism, available at: <https://www.legalserviceindia.com/Legal-Articles/t-n-godavarman-thirumulpad-v-union-of-india-landmark-environmental-case-that-transformed-indias-forest-conservation-and-judicial-activism/> (last visited on August 22, 2026).

right to a clean environment. Other principles such as Sustainable Development, Precautionary Principle, Polluter Pays Principle, Doctrine of Absolute Liability, Public Trust Doctrine have been interpreted and evolved through PIL and not parliamentary drafting. A remarkable body of environmental law has been assembled through court decisions rather than legislation in a few other jurisdictions.

PIL also brought about institutional change of a more definite kind. The enduring mandamus procedure lets the judiciary keep a case on its rolls for years and even decades. Instead of giving a single final order, the judiciary provides many interim orders. This lets the judiciary keep a watch on compliance with its orders for years. The ordinary adversarial litigation is poorly equipped for this. It is not designed for monitoring compliance over time. The centuries old procedure, with some modifications, is growing in popularity. The courts often suggested that environmental matters should be adjudicated by specialized bodies. As a result, the Law Commission of India published its 186th Report in 2003 which ultimately recommended the creation of environment courts. Thereafter Parliament enacted the National Green Tribunal Act, 2010. It will create a National Green Tribunal with both judicial and technical members to provide for the effective and expeditious disposal of environmental cases and enforcement of any legal right relating to environment.¹⁶

The Tribunal's Statement of Objects and Reasons makes it clear that its origin can be traced to Article 21's constitutional entrenchment of the right to a clean environment. Its purpose was to take away fact intensive scientific adjudications from the higher judiciary who are ill equipped to handle them with their generalist training. At the same time, the Tribunal's vibrant substantive jurisprudence has already been established by PIL, for instance, sustainable development, the precautionary principle and the polluter pays principle. In a sense, the National Green Tribunal represents the institutionalising of a jurisprudence which judges took almost three decades to build case by case.¹⁷

VI. CRITICAL APPRAISAL: THE LIMITS OF JUDICIAL ENVIRONMENTALISM

While all these things have been achieved, one must critically engage with PIL as a mode of environmental justice given the limitations structural in nature, some which come with

¹⁶Law Commission of India, 186th Report on Proposal to Constitute Environment Courts, September 2003. See also National Green Tribunal Act, 2010, available at:

https://en.wikipedia.org/wiki/National_Green_Tribunal_Act,_2010 (last visited on August 22, 2026).

¹⁷The National Green Tribunal Act, 2010 (Act No. 19 of 2010), Statement of Objects and Reasons.

litigation as a mode of governance and others that are merely Indian. To begin with, PIL is reactive and not preventive. The courts can only act after filing and record are complete and always environmental damage has occurred by then, be it to a river, to the forest or to a monument. Judicial orders can stop further harm from being done and order restoration. However, they cannot rectify years of accumulated pollution or can compel restoration of species that are extinct locally. This is because the delay in seeking remedy or repeating mandamus creates a situation where order is passed much after the harm has been already done.

Secondly, the PIL produced doctrines rely on administrative and political implementation, which the judiciary cannot provide. Thus, the need for oversight. Orders have been issued for shutting polluting units, formation of compensation authority and shifting of industry, which repeatedly face non compliance, weak monitoring and reluctance to implement this by the very executive agencies which the court sought. Having a closure order on paper does not amount to a closed factory and the gap between the two has, in several of the cases examined above, lasted for years.

The very success of judicial environmentalism has, however, invited the criticism that unelected courts utilising general constitutional language and imported doctrines like the public trust doctrine have encroached upon a quasi-legislative domain that properly belongs to Parliament and the state legislatures. The ongoing three decades of supervisory orders in a single case like the Godavarman litigation, naturally raises issues whether a court is still adjudicating a dispute or whether it has, in effect, become a standing regulator of an entire sector. However, as the judicial process is based on adversarial argumentation rather than continuous administration, it is not obviously well geared to play this role.

Fourth, access to PIL, while formally open to any citizen since S.P. Gupta relaxed the rules of standing, which is usually mediated by organized civil society groups, senior advocates, and media fuss. Without a M.C. Community many communities severely affected by the industrial pollution, deforestation, and mining are tribal, rural and forest dwelling people. A well-established organized non-governmental alternative like Mehta is required to represent them. But still, they are underrepresented in the very jurisprudence made to serve them. In a twist of irony, the forest conservation orders often considered the most effective in the Godavarman litigation have been subjected to criticism for infringing upon the customary rights of communities dwelling in forests.

The fifth impact of PIL is that it considerably burdens courts institutionally that are not otherwise able to resolve scientific questions or any questions relating to technology or anything else like carrying capacity, safe emission limits, wetland ecological value, etc. In order to sidestep this issue, judges have appointed expert committees, as they did in the Dehradun Quarrying case, or relied on amici curiae. However, this pragmatic solution also means that much of the actual fact-finding in environmental PIL is delegated to unelected experts. The court then largely adopts these experts' reports, a further layer removed from ordinary democratic accountability.

VII. RECOMMENDATIONS

A number of modest reforms could help environmental PIL deliver on its promises more consistently. To strengthen judicial compliance, pollution control boards and other implementing agencies must file periodic compliance reports in the public domain, rather than leaving them to carry out only contempt proceedings, the report said. The National Green Tribunal (NGT) can be strengthened with better resources and establishment of more regional and circuit benches so that litigants outside the five cities, where it is currently stationed, are not forced back to high courts. Legal support and standing clinics may be extended specifically to forest dwelling, tribal and other marginalised communities so that the benefit of relaxed locus standi rules reaches those for whom it is originally intended and not for those who are already able to engage a senior advocate. Ultimately, the court will exercise continuing mandamus over long running matters. The court could periodically revisit whether continued judicial supervision is necessary. Or whether the relevant statutory and administrative machinery has matured sufficiently to take over. Therefore, judicial oversight must function as a transitional measure to effective regulation.

VIII. CONCLUSION

Sustainable development and environmental protection were mostly implemented in Indian law through public interest litigation has been the most significant instrument. The relaxation of locus standi in *S.P. Gupta* initiated activities to close limestone quarries in Mussoorie hills, protect the Taj Mahal, clean the Ganga, impose a nationwide ban on illegal felling in the Godavarman litigation, and inject the precautionary and polluter pays principles into the constitution in *Vellore Citizens*. Thus, despite constitutional silence on environment, PIL turned into a one of the most doctrinally rich areas of Indian public law within a single

generation.

Simultaneously, a functioning administrative and regulatory state is not replaceable by a Public Interest Litigation (PIL). Judicial rulings can express principles or shut down individual polluting units. They can enable institutions like the National Green Tribunal. But they can't themselves create the monitoring capacity, scientific infrastructure and sustained political will needed to convert a favourable ruling into a cleaner river, an intact forest or a healthier city. The way forward lies not in avoiding environmental PILs, which continues to be an essential check on regulatory failure and a savior of communities that would otherwise have no voice at all, but in strengthening the statutory and institutional machinery, particularly the National Green Tribunal and the pollution control boards, so that environmental protection in India depends less on the persistence of individual litigants like M.C. Mehta. The tranquil setting served to hide the pain of an editing job that inflicted wounds and troubled a stalwart of the industry. T.N. Mehta Godavarman more on the everyday functioning of the State.