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# JUDICIAL GUARDIANSHIP OF NATURAL RESOURCES: A COMPARATIVE STUDY OF THE PUBLIC TRUST DOCTRINE IN INDIA AND BEYOND

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## ABSTRACT

The Public Trust Doctrine (PTD) is a foundational principle of environmental jurisprudence that traces its lineage to Roman and English law and requires the State to act as trustee of natural resources for the benefit of the public and future generations. In India, PTD was formally recognized in *M.C. Mehta v. Kamal Nath* (1997) and subsequently reinforced in *M.I. Builders v. Radhey Shyam Sahu*, *Intellectuals Forum v. State of Andhra Pradesh*, and *T.N. Godavarman v. Union of India*. These cases tied PTD to constitutional provisions under Articles 21, 48A, and 51A(g), embedding it within the right to life and situating it as a mechanism for intergenerational equity and sustainable development. Despite this doctrinal strength, PTD in India continues to suffer from serious limitations, including the absence of statutory codification, inconsistency in judicial application, weak administrative follow-through, and expansive interpretations of “public purpose” that allow the diversion of forests, wetlands, rivers, and coasts for industrial and commercial projects. This neglect disproportionately impacts marginalized groups such as Adivasis, fisherfolk, pastoralists, and the urban poor, for whom access to commons forms the basis of survival. A comparative analysis reveals that other jurisdictions have integrated PTD more systematically: the United States expanded it to water rights and ecological services through state-level innovation; South Africa entrenched it in its Constitution and statutes; the Philippines linked it with the constitutional right to a balanced ecology; and Ecuador gave it a radical form by granting rights to nature itself. These examples highlight the potential pathways India could adopt to transform PTD from a judge-made principle into a robust governance framework. The study argues that codification, integration into policy and planning, and participatory inclusion of local communities are essential for PTD to realize its transformative promise as a tool of inclusive and sustainable environmental governance.

**Keywords:** Public Trust, Article 21, Sustainable Development; Intergenerational Equity, Judicial Environmentalism.

## CHAPTER 1

### INTRODUCTION

The Public Trust Doctrine (PTD) is a fundamental concept of environmental law. It designates the State as a steward of natural resources, responsible for conserving them for public utilisation and the benefit of future generations<sup>1</sup>. Unlike private ownership frameworks, it regards resources like air, water, forests, and wetlands as collectively owned, ensuring they remain outside the realm of total privatisation<sup>2</sup>. The concept of PTD originated from the Roman law idea of *res communis* and further developed through English common law<sup>3</sup>, PTD was solidified in the United States with the case *Illinois Central Railroad v. Illinois* (1892).<sup>4</sup> In India, it was formally acknowledged in *M.C. Mehta v. Kamal Nath* (1997)<sup>5</sup> and reaffirmed in *M.I. Builders v. Radhey Shyam Sahu* (1999)<sup>6</sup> and *Intellectuals Forum v. State of A.P.* (2006)<sup>7</sup>, where the Supreme Court protected rivers, parks, and wetlands from commercial exploitation.

The significance of PTD lies in its function as a barrier against environmental harm and arbitrary governmental actions. Article 21 the right to life to encompass a clean and healthy environment has been broadened under this doctrine.<sup>8</sup> In contrast, Articles 48A and 51A(g) emphasises the State's obligations and the responsibilities of citizens to safeguard nature.<sup>9</sup> By designating the State as a guardian, PTD promotes intergenerational fairness, prevents the privatisation of common resources, and upholds accountability in a democratic context.<sup>10</sup>

However, India is currently grappling with an ecological crisis: deforestation, wetland destruction, dwindling groundwater supplies, and polluted rivers exhibit weak enforcement and fragmented governance.<sup>11</sup> According to The State of India's Environment Report 2023 reports

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<sup>1</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

<sup>2</sup> Joseph L. Sax, *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*, 68 Mich. L. Rev. 471, 475–76 (1970).

<sup>3</sup> Sanyogita S. & Thakur R., *Sustainable Development: A Comprehensive Analysis of Public Trust Doctrine*, Int'l J. of Novel Rsch. & Dev., Vol. 9, Issue 4, at c129 (2024).

<sup>4</sup> *Illinois Central R.R. Co. v. Illinois*, 146 U.S. 387, 452–53 (1892).

<sup>5</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

<sup>6</sup> *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 S.C.C. 464 (India)

<sup>7</sup> *Intellectuals Forum v. State of Andhra Pradesh*, (2006) 3 S.C.C. 549 (India).

<sup>8</sup> *Virender Gaur v. State of Haryana*, (1995) 2 S.C.C. 577 (India); *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India).

<sup>9</sup> Indian Constitution Articles. 48A & 51A(g).

<sup>10</sup> L. Rajamani, *Doctrine of Public Trust: A Tool to Ensure Effective State Management of Natural Resources*, 38(1) J. Indian L. Inst. 72, 75–76 (1996).

<sup>11</sup> Sahu, G., *Public Interest Environmental Litigations in India: Contributions and Complications*, 69(4) Indian J. of Pol. Sci. 745, 749 (2008).

that over 30% of wetlands have been damaged or destroyed in the last two decades,<sup>12</sup> The WHO linked more than six hundred thousand deaths in 2022 due to air pollution.<sup>13</sup> Despite legal innovations, PTD lacks statutory codification, clear institutional guidelines, and consistent enforcement. This study investigates the development, shortcomings, and future possibilities of PTD in India as both a constitutional doctrine and a legal mechanism for sustainable and equitable environmental governance.<sup>14</sup>

## 1.2. LITERATURE REVIEW

The Public Trust Doctrine (PTD) is invariably recognized as a constitutional protection, giving the State the status of trustee for natural resources.<sup>15</sup> Seemakurthi identifies that PTD advances sustainable development and intergenerational justice while learning comparative lessons from the United States; nonetheless, the examination is predominantly theoretical and fails to examine practical application.<sup>16</sup> Verma also connects PTD to the constitutional order of India, emphasizing its basis in Article 21 and other connected provisions, but its emphasis lies mostly on judicial interpretation instead of administrative usage.<sup>17</sup> The judiciary's key role in its extension is a theme that runs through the scholarship.

Ahlawat et al. discuss its evolution through ancient Indian literature and constitutional guidelines, observing definitional ambiguity and a lack of statutory clarity.<sup>18</sup> Sanyogita and Thakur place great importance on the contribution of PTD towards ensuring sustainable development and underscore the community participation but caution that enforcement is mainly dependent on judicial orders.<sup>19</sup> Razzaque refers to the case of *M.I. Builders v. Radhey Shyam Sahu* and illustrates how courts have used Articles 21, 48A, and 51A to protect public resources from commercialization.<sup>20</sup> In spite of such useful contributions, there are large gaps

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<sup>12</sup> Centre for Science and Environment, *State of India's Environment Report 2023*, at 154 (2023).

<sup>13</sup> World Health Organization, *Air Pollution and Health Statistics 2023* (2023).

<sup>14</sup> Razzaque, J., *Application of Public Trust Doctrine in Indian Environmental Cases*, 13(2) *J. Env't L.* 221, 229 (2001).

<sup>15</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India)

<sup>16</sup> B. Seemakurthi, *Public Trust Doctrine and Environmental Protection in India: A Comparative Study with the United States*, 4(2) *Indian J. Env'tl. L.* 117 (2021).

<sup>17</sup> S. Verma, *Constitutional Dimensions of Public Trust Doctrine in India*, in *Judiciary and Environmental Jurisprudence* 59–74 (S.C. Roy ed., 2020).

<sup>18</sup> R. Ahlawat, R. Sharma & V. Tyagi, *Revisiting Public Trust Doctrine: Ancient Indian Perspective to Contemporary Relevance*, 10(3) *Int'l J. Rsch. & Anal. Rev.* 552 (2023).

<sup>19</sup> S. Sanyogita & R. Thakur, *Sustainable Development: A Comprehensive Analysis of Public Trust Doctrine*, *Int'l J. Novel Rsch. & Dev.*, Vol. 9, Issue 4, at c129 (2024).

<sup>20</sup> *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 S.C.C. 464 (India); See also: J. Razzaque, *Application of the Public Trust Doctrine in Indian Environmental Cases*, 13(2) *J. Env'tl. L.* 221, 229 (2001).

in the literature. Research primarily centers on judicial reasoning at the expense of incorporating PTD into executive or legislative structures. The research gap, therefore, is the absence of systematic enquiry into PTD's application within governance systems, its reflection in statutory law, and its dovetailing with policy. PTD is, therefore, a strong judicial protection but a weak one concerning administrative and legislative enforcement.

Locally, the Public Trust Doctrine safeguards communities reliant on forests, wetlands, and rivers such that their way of life is not threatened by unregulated commercial use and at the national level, the doctrine has been judicially broadened under constitutional guarantees to fill environmental governance gaps, but the implementation is uncertain due to poor enforcement and absence of statutory codification. Overviews mention shocking environmental deterioration, such as the disappearance of more than 30% of India's wetlands in twenty years.<sup>21</sup> Internationally, PTD is aligned with the cause of sustainable development and intergenerational justice, bringing India's environmental jurisprudence into consonance with universal international environmental ethics and governance principles.

### **1.3. RESEARCH OBJECTIVES**

1. To critically examine the judicial affirmation and enforcement of the Public Trust Doctrine (PTD) in India, specifically with reference to key cases and its constitutional basis under Articles 21, 48A, and 51A(g).
2. To determine the chief limitations and issues in its judicial and administrative implementation, such as lack of statutory enshrinement, spotty enforcement, and poor institutional accountability.
3. In order to conduct a comparative analysis of PTD in other countries like the United States, South Africa, the Philippines, and Ecuador, bringing out similarities, divergences, and lessons for India.
4. To evaluate the effect of PTD's implementation or failure on marginalized groups reliant on commons and to suggest a framework for enhancing PTD as a tool of sustainable, equitable, and inclusive environmental governance.

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<sup>21</sup> Centre for Science and Environment, State of India's Environment Report 2023, at 154 (2023).

## **1.4 RESEARCH QUESTIONS**

1. To what degree has the Public Trust Doctrine been recognized and enforced by Indian courts for the protection of natural resources?
2. What are the major limitations and challenges of India's existing judicial and administrative enforcement of the Public Trust Doctrine?
3. What are the most significant constitutional, statutory, or common law distinctions between India and other jurisdictions in applying the Public Trust Doctrine?
4. In what ways does the invocation or violation of the Public Trust Doctrine affect marginalised groups and public use of common natural resources?

## **CHAPTER 2**

### **2. Judicial Recognition and Application of the Public Trust Doctrine in Safeguarding Natural Resources**

Indian courts' adoption and enforcement of the Public Trust Doctrine (PTD) has arguably been one of the judiciary's most significant contributions to environmental regulation. The doctrine was invoked in Indian jurisprudence for the first time in *M.C. Mehta v. Kamal Nath* (1997)<sup>22</sup> and has now become a constitutional principle embedded in Article 21, which guarantees the right to life has been interpreted to include the right to a clean and healthy environment.<sup>23</sup>

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<sup>22</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

<sup>23</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India) (recognizing the right to a pollution-free environment under Article 21).

Further, Articles 48A and 51A(g) support the trustee obligations of the State<sup>24</sup>. With landmark judgments, Indian courts have increasingly extended the scope of PTD to encompass rivers, forests, wetlands, public parks, biodiversity, and even ecosystem services.

### **M.C. Mehta v. Kamal Nath (1997): Judicial Formal Acceptance of PTD**

The turning point for PTD in India was in *M.C. Mehta v. Kamal Nath*<sup>25</sup> when the Supreme Court formally adopted the doctrine. In this case, a private company that had links with the family of then Environment Minister Kamal Nath had leased forest land along the Beas River to build a motel. The construction involved diversion of the river course to protect the motel from floodwaters. The Court intervened, cancelling the lease and ordering restoration of the environment. It held the view that rivers, forests, and natural resources are of the State in trust on behalf of the public and cannot, therefore, be parted with for private commercial considerations in a manner detrimental to ecological balance.

The decision entrenched PTD in Indian law and clarified that the State does not own natural resources but is a custodian bound to act in the public interest. It also sets the means for citizens to challenge state acts that dismantle public access to and enjoyment of natural resources. The case thus gave a doctrinal basis for the subsequent expansion of PTD in India.

### **M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu (1999): Linking PTD with Right to Life**

The next milestone judgment was *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*,<sup>26</sup> where the Supreme Court struck down the construction of an underground shopping mall in the historic public park in Lucknow. The Court drew a direct connection between PTD and Article 21 of the Constitution, reasoning that the right to life includes access to open areas, parks, and recreational areas in favour of quality of life.<sup>27</sup>

The decision emphasised that public property must not be alienated or destroyed for commercial or personal gain, even if apparently sanctioned by the state. The Court has upheld using PTD as its basis, that the government had a duty to preserve the park for the present and future generations. The decision further expanded the application of PTD beyond the traditional

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<sup>24</sup> Indian Constitution Articles 48A and 51A(g)

<sup>25</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).

<sup>26</sup> *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 S.C.C. 464 (India).

<sup>27</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India) (recognizing the right to a pollution-free environment under Article 21).

natural resources, such as rivers and forests, to cultural commons and city parks. This meant that the doctrine would not be static but evolve to meet contemporary ecological and social needs.

### **Intellectuals Forum v. State of Andhra Pradesh (2006): Intergenerational Equity**

The same principle was established in *Intellectuals Forum v. State of Andhra Pradesh*, where two Tirupati lakes were reallocated for development purposes. The Supreme Court reiterates that environmental protection cannot be sacrificed in the name of economic progress in the short term. In infusing the principle of intergenerational equity in PTD, the Court held that natural resources must be developed to leave them intact for future generations.<sup>28</sup>

The Court highlighted that PTD is limited to preventing privatisation or alienation and imposed positive obligations on the State for actively conserving environmental resources. The court has strengthened judicial review of governmental actions, holding that any developmental scheme using public trust resources has to pass through strict ecological assessment and judicial review. This judgment positively positioned PTD in harmony with the international wisdom on sustainable development.

### **T.N. Godavarman v. Union of India (2022): Contemporary Reaffirmation**

The most recent reaffirmation of PTD took place in the continued string of cases in *T.N. Godavarman v. Union of India*. In 2022, the Supreme Court broadened PTD's scope by directing the setting up of mandatory Eco-Sensitive Zones around forests. The Court has highlighted that the State must safeguard biodiversity and ecosystems from unsustainable exploitation as a trustee of natural resources.<sup>29</sup>

The ruling clarified that wildlife and forests are not just resources of exploitation but part of the right to life under Article 21. By converting PTD into an imperative in making environmental buffers, the Court made PTD serve as a defensive doctrine of non-alienation of resources and a positive tool invoking proactive ecological conservation.<sup>30</sup>

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<sup>28</sup> *Intellectuals Forum v. State of Andhra Pradesh*, (2006) 3 S.C.C. 549 (India).

<sup>29</sup> *T.N. Godavarman Thirumulpad v. Union of India*, (2022) S.C.C. Online S.C. 716 (India).

<sup>30</sup> *M.C. Mehta v. Union of India*, (2004) 12 S.C.C. 118 (India) (Yamuna case); *Rajeev Suri v. Delhi Development Authority*, (2021) 15 S.C.C. 675 (India); *Research Foundation for Science v. Union of India*, (2005) 10 S.C.C. 510 (India).

## 2.1 Expansion of Scope: From Rivers to Ecosystem Services

In time, the courts have broadened PTD from rivers and forests to wetlands, wildlife reserves, coastal areas, parks, and even intangible ecological functions<sup>31</sup>. Such elasticity reflects the doctrine's vitality in responding to India's changing environmental challenges. For instance, PTD has been utilized to stop urban encroachments, mining in sensitive ecosystems, and wetland destruction vital for flood control.<sup>32</sup> By expanding the scope of the doctrine, courts have made PTD sensitive to both classical and modern-day ecological threats.<sup>33</sup>

## 2.2 Citizens Empowerment and State Accountability

One of the most revolutionary dimensions of PTD in India has been its capacity to empower citizens and ensure State accountability. PTD enables citizens and civil society groups to contest arbitrary state actions that encroach on public assets.<sup>34</sup> This brings PTD into the larger umbrella of Public Interest Litigation (PIL), itself a hallmark of Indian environmental jurisprudence.<sup>35</sup> By placing PTD under PIL, the judiciary has guaranteed that marginalized groups, those most reliant on natural commons, enjoy legal recourse to challenge environmentally destructive projects.<sup>36</sup>

## 2.3 Limitations and Challenges

Even with its strong judicial legitimization, PTD in India has several limitations. First, it is a judge-made rule without codification in statute, and hence its application is arbitrary and based on judicial activism.<sup>37</sup> Second, since there is no clear legislative or administrative direction, enforcement then falls back on ad hoc judicial directions.<sup>38</sup> Third, public authorities often circumvent PTD requirements by relying on indeterminate concepts of "public purpose" to justify diverting resources for infrastructure or industrial purposes.<sup>39</sup> Lastly, although courts

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<sup>31</sup> M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388; T.N. Godavarman Thirumulpad v. Union of India, (2022) S.C.C. Online S.C. 716.

<sup>32</sup> Intellectuals Forum v. State of A.P., (2006) 3 S.C.C. 549; M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu, (1999) 6 S.C.C. 464.

<sup>33</sup> T.N. Godavarman Thirumulpad v. Union of India, (2022) S.C.C. Online S.C. 716

<sup>34</sup> M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388

<sup>35</sup> Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 S.C.C. 212.

<sup>36</sup> Intellectuals Forum v. State of A.P., (2006) 3 S.C.C.

<sup>37</sup> Lavanya Rajamani, The Public Trust Doctrine in India: Environmental Rights as Human Rights

<sup>38</sup> M. C. Mehta v. Kamal Nath, (1997) 1 SCC 388; see also A. Muralidhar, Public Interest Litigation: A Reappraisal, 6 SCC J. 31 (2004).

<sup>39</sup> Shibani Ghosh, Litigating Climate Claims in India, 114 Am. J. Int'l L. Unbound 40, 41 (2020).

have developed PTD conceptually, its incorporation into executive and legislative activities is a challenge that restricts its influence over grass-root governance.<sup>40</sup>

The Indian judiciary has been instrumental in establishing, enforcing, and developing the Public Trust Doctrine. Through landmark decisions, it has revitalized PTD as a common law principle to a constitutional protector consistent with the right to life, intergenerational justice, and sustainable development.<sup>41</sup> Judicial decisions in cases like *M.C. Mehta, M.I. Builders, Intellectuals Forum*, and *Godavarman* reflect a consistent judicial commitment to the preservation of natural resources as part of the public trust.<sup>42</sup> The doctrine is less than maximally effective because it still lacks statutory basis and administrative enforcement is weak.<sup>43</sup> For PTD to fulfill its potential of protecting India's natural resources, it has to be plugged into legislative structures and governance processes, with a degree of consistency, accountability, and real public involvement in environmental decision-making.<sup>44</sup>

## CHAPTER 3

### 3. Key Limitations and Challenges in the Judicial and Administrative Application of the Public Trust Doctrine in India

The Public Trust Doctrine (PTD) has certainly emerged as a pillar of Indian environmental law, shaping courts to hold the State responsible for the protection of natural resources. Yet, though its intellectual potential is high, its real-world implementation has been beset with limitations. The force of the doctrine resides largely in judicial dicta and not in statutory or administrative enactments. This reliance on the judiciary has rendered its implementation uneven, subject to judicial discretion, and susceptible to the conflicting demands of economic development and governance inefficiencies. The ensuing analysis depicts the main obstacles in both judicial and

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<sup>40</sup> Surya Deva, *Environmental Governance in India: Reflections on Judicial Trends*, 49 *J. Indian L. Inst.* 89, 90–91 (2007).

<sup>41</sup> Michael C. Blumm & Rachel D. Guthrie, *Internationalizing the Public Trust Doctrine: Natural Law and Constitutional and Statutory Approaches to Fulfill the Saxion Vision*, 45 *U.C. Davis L. Rev.* 741, 768–69 (2012).

<sup>42</sup> Int'l Forum for Environment, Sustainability & Tech. (iFOREST), *Judicial Trends in Environmental Law in India*

<sup>43</sup> Armin Rosencranz & Sharachandra Lele, *Supreme Court and India's Forests*, 39 *Econ. & Pol. Weekly* 3421, 3422 (2004).

<sup>44</sup> Arghya Sengupta, *Borrowed Concepts, Undefined Boundaries: A Critical Examination of India's Public Trust Doctrine*, SCC Online Blog (May 2024).

administrative situations.<sup>45</sup>

### 3.1 Lack of Statutory Codification

The primary constraint is the lack of a statutory codification of PTD in India. Unlike principles like the "polluter pays" doctrine that have been incorporated into environmental legislation and regulation, PTD is still a judge-made doctrine. Formulated in *M.C. Mehta v. Kamal Nath* (1997), it has since evolved through a patchwork of judicial precedents without codified law to define its ambit and application. This is producing uncertainty regarding which resources are covered by PTD, the responsibilities of government agencies, and the remedies for when the doctrine is breached.<sup>46</sup>

The absence of statutory codification results in the application of PTD by courts being inconsistent. For instance, whereas in *M.I. Builders v. Radhey Shyam Sahu* (1999) the Supreme Court directed that a shopping complex constructed on a public park be demolished, in other cases dealing with large-scale infrastructure or industry projects, the judiciary has been reluctant to invoke PTD strongly and instead deferred to state assertions of "public purpose."<sup>47</sup> Without legislative guidance, PTD threatens to remain aspirational rather than enforceable.

### 3.2 Judicial Inconsistency and Economic Pressures

The judiciary has been at the forefront of developing PTD, but its application has not always been uniform. Although in *Intellectuals Forum v. State of Andhra Pradesh* (2006), intergenerational equity was enshrined within PTD, courts have sometimes watered down its strength when they are faced with massive economic projects, particularly energy, mining, or infrastructure.<sup>48</sup> The conflict between protecting the environment and promoting economic growth usually leads to judicial compromises that compromise the effectiveness of PTD.<sup>49</sup>

Additionally, judicial activism in the context of environmental issues is inconsistent in the courts. The Supreme Court has used PTD in many of its milestone decisions, but lower courts

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<sup>45</sup> R. Gandhi, *The Public Trust Doctrine in Indian Environmental Law: A Judicial Innovation Rooted in Tradition*, 32 Nat'l L. Sch. India Rev. 112 (2020).

<sup>46</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388

<sup>47</sup> Bimal N. Patel et al., *Environmental Law and Justice in India: Judicial Approaches*

<sup>48</sup> *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 464; see also Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India*

<sup>49</sup> Commission on Environmental Law, International Union for Conservation of Nature (IUCN): *Legal Aspects of Implementing the Public Trust Doctrine* (2006)

might use it hesitantly or eschew it altogether because they lack awareness or are wary of taking action in areas seen as involving the intricacies of policy trade-offs. The inconsistency dilutes the authority of the doctrine as a steady constitutional doctrine.<sup>50</sup>

### 3.3 Weak Administrative Implementation

Even when courts invoke PTD, the implementation problem remains. Administrative agencies rarely emerge as trustees of natural resources.<sup>51</sup> Ministries and departments responsible for managing forests, rivers, wetlands, or coastlines often give preference to development or commercial endeavors, issuing clearances for mining, tourism, or industry in the name of "public interest." The trustee commitment of the doctrine is seldom incorporated into administrative decision-making.

Judiciary orders also do not always get properly enforced. Red tape in bureaucracy, absence of coordination between departments, and technological capacity shortages regularly slow down implementation<sup>52</sup>. To illustrate, instructions to revive wetlands or to raze unauthorized buildings on commons may linger in papers for years, whereas environmental destruction continues unabated. Sometimes government departments silently ignore court statements, relying on public indifference or political patronage to protect them from scrutiny.

### 3.4 Loopholes in "Public Purpose"

One of the principal vulnerabilities in the application of the doctrine stems from the open-ended and frequently imprecise nature of the term "public purpose." State governments often use this rationale to transfer natural resources for infrastructure schemes, industrial corridors, or urban sprawl. Such projects may be advantageous to particular economic players, but most oftentimes displace the very people who survive on these resources. Such assertions have occasionally been accepted by courts, diluting PTD's safeguards.

This overly broad definition of "public purpose" enables the State to behave more like a proprietor than a trustee of natural resources. Rather than holding the commons in trust for all,

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<sup>50</sup> *Intellectuals Forum v. State of Andhra Pradesh*, (2006) 3 SCC 549; see also Shibani Ghosh, *Litigating for the Environment: The Role of the Indian Judiciary*

<sup>51</sup> Shibani Ghosh, *Environmental Rule of Law in India*, 29 *J. Env'tl. L.* 49, 64 (2017).

<sup>52</sup> Kanchi Kohli & Manju Menon, *Development Projects and the Regulatory Process: A Study of Five Environmental Clearances in India*, Centre for Policy Research (2016).

the State tends to opt for short-term economic benefit at the expense of long-term ecological and social disadvantages.

### **3.5 Obstacles for Citizens and Marginalised Communities**

While PTD enables citizens to question state action, in reality, access to justice is not easy. Tribal, rural, and marginalized communities, which are most dependent on natural resources, usually lack the information, means, or institutional patronage to initiate judicial action. Even where Public Interest Litigation (PIL) offers a way out, the procedure is long, costly, and overwhelming.<sup>53</sup>

In addition, the judicial process seldom involves effective participation by the community in decision-making regarding natural resources. Without institutionalized participatory platforms, the most impacted people by environmental degradation continue to be left out of making decisions that determine their living and environment.<sup>54</sup> Therefore, even as PTD is a principle that acknowledges public ownership, in reality the "public" remains excluded from enforcement.

### **3.6 Institutional Fragmentation and Capacity Constraints**

India's environmental administration is siloed across various ministries, departments, and agencies, with overlapping and often conflicting mandates. For example, forest cover is under the Ministry of Environment, Forests and Climate Change, while water bodies could be under the control of state irrigation departments or urban development authorities.<sup>55</sup> PTD is weakened by this fragmentation in discharging responsibility and causing bureaucratic confusion.

Capacity limitations also worsen the issue. Most agencies are devoid of the scientific skills, funds, and personnel necessary to implement ecological restoration orders or track compliance. Inadequate regulatory monitoring permits violations to continue despite robust judicial declarations.<sup>56</sup>

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<sup>53</sup> Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (Oxford Univ. Press, 2nd ed. 2001).

<sup>54</sup> Sujith Koonan, *Public Trust Doctrine: A Constitutional Tool for Environmental Protection in India*, 2 NUJS L. Rev.

<sup>55</sup> Lavanya Rajamani, *Public Participation in Environmental Decision-making in India: A Review of Legal Provisions and Case Law*

<sup>56</sup> Ministry of Environment, Forest and Climate Change (MoEFCC), *Annual Report 2022–23*

### 3.7 Failure to be Integrated into Policy and Planning

Another constraint is the lack of PTD inclusion in mainstream policy structures. Even though courts have consistently emphasized the trustee role of the State, executive agencies persist in articulating policies within sectoral silos like mining, urban planning, or tourism without integrating PTD principles. Consequently, environmental concerns get marginalized and are often secondary to economic interests, and PTD is used as a last resort judicial mechanism instead of an upfront planning instrument.<sup>57</sup>

Without being incorporated into environmental impact studies, land use planning, and developmental policy, PTD cannot work as a preventive measure. It continues to be triggered only after damage has been done, and it becomes remedial instead of transformative.

### 3.8 Limited Public Awareness and Education

Lastly, PTD's efficacy is affected by low public consciousness. Most citizens do not know their rights under PTD or the State trustee responsibilities. This ignorance undermines public involvement in environmental decision-making and constrains the ability of people to act collectively to hold the State to account<sup>58</sup>. Although PILs have made voices louder, they are still urban activist- and NGO-focused and not based on mass community involvement.

India's Public Trust Doctrine has been judicially established as a powerful means of protecting natural resources, but its potential is abridged by profound structural weaknesses. The lack of statutory codification makes PTD susceptible to unequal application and judicial arbitrariness. Administrative agencies do not internalize their trustee status and view natural resources as developmental commodities instead of public resources for conservation. Loopholes in "public purpose" definition make diversion of resources rampant, as marginalized communities are inhibited from gaining access to justice.<sup>59</sup> Institutional weakness, poor enforcement, and failure to integrate into policy further weaken the impact of the doctrine.

The doctrine still holds an inspiring vision that natural resources belong to everyone and must be saved for future generations. However, until it is codified into law, embedded in

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<sup>57</sup> Centre for Science and Environment, State of India's Environment 2023

<sup>58</sup> Vidya Ramesh, Policy Disconnects in Indian Environmental Governance: PTD and State Planning, 11 *Env'l & Urb*

<sup>59</sup> Shyam Divan, Public Trust Doctrine and Environmental Governance: Legal Responses to India's Environmental Crises, 8 *Indian J. L. & Soc'y* 1, 6 (2020).

administrative practice, and supported by participatory governance frameworks, it will remain a fragile judicial innovation. Strengthening PTD requires not only judicial vigilance but also legislative action, executive accountability, and public empowerment, so that its promise of intergenerational equity and ecological justice can be fully realized in practice.<sup>60</sup>

## CHAPTER 4

### **Impact of the Application or Abandonment of the Public Trust Doctrine on Marginalised Groups and Public Access to Common Natural Resources**

The Public Trust Doctrine (PTD) is not a principle of environmental law alone; in India, it is closely associated with social justice, livelihood security, and dignity of marginalized communities. By requiring the State to keep natural resources like forests, rivers, lakes, coasts, and wildlife in trust for the public, PTD turns environmental law into a tool of distributive justice. Through its steady enforcement, it could potentially avoid ecological dispossession and protect the rights of people who depend on commons to survive. On the other hand, failure to enforce it leads to loss of access, displacement, and worsening of socio-economic inequalities.<sup>61</sup>

#### **4.1 PTD as Constitutional and Social Protection**

The doctrinal acceptance of PTD in judgments like *M.C. Mehta v. Kamal Nath* (1997)<sup>62</sup> and *Fomento Resorts v. Minguel Martins* (2009)<sup>63</sup> re-affirmed the rule that the State cannot alienate natural resources for private ends to the detriment of public access. Article 21 of the Constitution, interpreted liberally to embrace the right to a healthy and clean environment, forms the constitutional base, while Articles 48A and 51A(g) support environmental duties upon the State as well as citizens.<sup>64</sup> For the marginalized sections like Adivasis, fisherfolk, pastoralists, and urban poor, PTD serves as a legal umbrella against being excluded from commons upon which their livelihoods depend.<sup>65</sup>

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<sup>60</sup> Sanjay Upadhyay, *Challenges in Environmental Governance in India: A Legal Perspective*

<sup>61</sup> Lele, Sharachandra, et al. *Commons and Justice: The Public Trust Doctrine in India*. ATREE Research Report, 2020.

<sup>62</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

<sup>63</sup> *Fomento Resorts and Hotels Ltd. v. Minguel Martins*, (2009) 3 SCC 571.

<sup>64</sup> Constitution of India, Articles 21, 48A, and 51A(g).

<sup>65</sup> Bandyopadhyay, Jayanta and Shiva, Vandana. "Political Economy of Ecology and Survival: Commons, Rights and Livelihoods." *Economic and Political Weekly*, vol. 22, no. 15, 1987, pp. 653–659.

When PTD is upheld by courts, it makes room for participatory justice. Judicial intervention to stop mining in tribal lands or the stoppage of commercial encroachment in wetlands and parks, for example, has acted as a check against random state action<sup>66</sup>. Such judgments safeguard ecological balance but also establish the socio-economic rights of local people whose connection to natural assets is material as well as cultural.<sup>67</sup>

#### 4.2 Commons as the Foundation of Survival for Marginalised Groups

For India's marginalized populations, natural resources are not theoretical commodities but essential aspects of identity and survival. Adivasi and forest dwellers subsist off forests for food, fuel, medicine, and cultural practices.<sup>68</sup> Fisherfolk subsist off free access to coasts, rivers, and lakes and pastoralists off pastureland and migration routes.<sup>69</sup> For the urban poor, public parks, wetlands, and open land often serve as locations for informal work, dwelling, and subsistence practices.<sup>70</sup>

In these contexts, PTD is crucial in terms of resisting dispossession. By establishing that these resources are in the hands of the people perpetually, PTD offers constitutional justification to prevent their diversion into commercial use.<sup>71</sup> Without it, the marginalised communities risk displacement without rehabilitation, loss of cultural bonds, and exacerbated poverty.<sup>72</sup>

#### 4.3 Judicial Application as a Tool of Resistance

There are places where PTD has offered concrete relief. In *M.I. Builders v. Radhey Shyam Sahu* (1999), the Supreme Court prohibited the building of a shopping complex in a public park, making sure that public use was not compromised for the sake of commercialization.<sup>73</sup> Likewise, in *Intellectuals Forum v. State of Andhra Pradesh* (2006), the Court incorporated

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<sup>66</sup> T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267.

<sup>67</sup> Sundar, Nandini. "Custom and the Court: The Public Domain in the Judicial Imagination." In Baviskar & Sundar (eds.), *Contesting the State: Ideas of Democracy and the Public Sphere in India*, Oxford University Press, 2009.

<sup>68</sup> Gadgil, Madhav, and Ramachandra Guha. *Ecology and Equity: The Use and Abuse of Nature in Contemporary India*. Penguin, 1995.

<sup>69</sup> Kurien, John. *The Socio-Economic Context of Artisanal Fisheries in Kerala, India*. FAO Fisheries Circular, 1991.

<sup>70</sup> Baviskar, Amita. "Between Violence and Desire: Space, Power, and Identity in the Making of Metropolitan Delhi." *International Social Science Journal*,

<sup>71</sup> Upadhyay, Vidya. "The Public Trust Doctrine in India: Environmental Rights as Human Rights." *Journal of Environmental Law*

<sup>72</sup> Menon, Nivedita and Nigam, Aditya. *Power and Contestation: India since 1989*. Zed Books, 2007.

<sup>73</sup> *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 464

intergenerational equity into PTD, emphasizing that the current generation should conserve lakes and wetlands for the future generation.<sup>74</sup> These judgments illustrate PTD's ability to empower citizens and civil society to compel the State into a regime of environmental justice.<sup>75</sup>

For those who are marginalized, such judgments can serve as shields of protection, stopping the legal dislocation of resources for survival.<sup>76</sup> They also illustrate the judiciary as a custodian of both environment and equity, bringing ecological sustainability in harmony with social justice.

#### 4.4 Neglect of PTD and Its Consequences

Though judicially recognized, PTD is practicably applied in a discriminatory manner with far-reaching implications for vulnerable populations. State bodies too readily certify the diversion of forests, seashores, and wetlands for industrial, tourist, or infrastructure development under the vague rubric of "public purpose."<sup>77</sup> Such justification too often benefits upper-class economic interests at the expense of those who depend immediately on such commons.

Environmental Impact Assessments and public hearings, designed to translate PTD ideals into practice, are often marred by non-transparency, token consultations, or bald procedural flouting.<sup>78</sup> Consequently, mining in tribal lands, wetland reclamation for urban development, and coastal works displace thousands and fall short of rehabilitation requirements.<sup>79</sup> People are not only denied decision-making participation but also participation in the very land and water that constitute their lifelines.<sup>80</sup>

The disregard of PTD thus promotes ecological degradation and deepens socio-economic disparities. Marginalised groups are dispossessed of resources without recompense, while ecological harm affects long-term community resilience.

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<sup>74</sup>THE Intellectuals Forum v. State of Andhra Pradesh, (2006) 3 SCC 549.

<sup>75</sup> Lele, Sharachchandra, et al. Commons and Justice: The Public Trust Doctrine in India. ATREE, 2020.

<sup>76</sup> Upadhyay, Videh. "The Public Trust Doctrine in India: Environmental Rights as Human Rights." Journal of Environmental Law, vol. 2, no. 1, 2009.

<sup>77</sup> Menon, Nivedita and Nigam, Aditya. Power and Contestation: India since 1989. Zed Books, 2007.

<sup>78</sup> Kothari, Ashish. "Environment and the State in India." In India's Environmental History, edited by Mahesh Rangarajan, Permanent Black, 2012.

<sup>79</sup> Fernandes, Walter. Rehabilitation Policy for the Displaced. Indian Social Institute, 2006.

<sup>80</sup> Lele, S., Menon, A., Pathak, N. et al. Rethinking Environmentalism: Linking Justice, Sustainability, and Diversity. Springer, 2018.

#### 4.5 Structural Barriers to Justice

Remedies under PTD are theoretically possible via Public Interest Litigation (PIL) or the National Green Tribunal (NGT). Access, however, remains unequal. Rural and tribal people lack legal literacy, means, or organizational strength to approach the courts. Even if PILs are moved by NGOs or activists in their name, the judicial process is long-drawn, costly, and intimidating.

In addition, remedies are late and interim relief is uncommon, so environmental destruction can continue unabated during litigation. Judicial orders are also poorly enforced: delays from bureaucracy, political interference, and split institutional responsibilities often thwart compliance. To the people, it means cynicism with institutional mechanisms of environmental justice.<sup>81</sup>

#### 4.6 The Role of "Public Purpose"

The most pressing challenge is the elasticity of the concept "public purpose." Governments use it to authorize projects as diverse as mines and industrial corridors, pushing aside ecological sustainability and community rights.<sup>82</sup> For marginalized groups, this implies that the State functions more as an owner than as a trustee of natural resources. PTD's protective potential is undermined when courts uphold such rationale without close examination.<sup>83</sup>

This expansive definition of public purpose leaves the law in a paradox: even as PTD upholds that resources are owned by the public, state policies permit their expropriation for private benefit under the guise of development. The poor bear an unequal share of the costs of such development, losing access to commons without gaining substantial benefits.<sup>84</sup>

#### 4.7 From Judicial Doctrine to Governance Principle

The revolutionary power of PTD is its ability to democratize the use of natural resources and promote ecological justice. Yet its overdependence on judicial validation has placed it in the

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<sup>81</sup> Baxi, Upendra. "Taking Human Suffering Seriously: Social Action Litigation in the Supreme Court of India." *Third World Legal Studies*, vol. 4, 1985.

<sup>82</sup> Sathe, S.P. *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. OUP, 2003.

<sup>83</sup> Rajamani, Lavanya. "Public Interest Environmental Litigation in India: Issues of Equity and Effectiveness." *Journal of Environmental Law*, 2007.

<sup>84</sup> Bhullar, Lovleen. "Redefining 'Public Purpose' in Land Acquisition: A Constitutional Perspective." *NLUJ Law Review*, vol. 6, no. 2, 2019.

courtroom instead of institutionalizing it within governance structures. Absent codification through law or incorporation into administrative processes, PTD continues to be susceptible to abandonment.

For displaced communities, this implies their protection is significantly predicated on judicial intervention, a procedure characterised by doubt and variability. PTD cannot remain an altogether effective bulwark against dispossession unless it is mainstreamed within environmental governance, planning, and policy making. Institutionalising recognition of customary rights, enhancing participatory processes, and integrating PTD into environmental regulation are vital for bringing its constitutional guarantee into everyday practice.

The invocation or abandonment of the Public Trust Doctrine in India has a broader consequence for marginalized groups and their access to common natural resources. Where invoked, PTD upholds the constitutional right to a clean environment, safeguards indigenous livelihoods, and enhances intergenerational equity. Where abandoned, it enables ecological degradation, displacement, and exclusion, aggravating pre-existing inequalities.

Whereas courts have yielded significant precedents, the transformative potential of the doctrine is curtailed by uneven application, bureaucratic lethargy, and structural obstacles to justice. To become a reliable tool of equitable environmental governance, PTD needs to transcend judicial innovation and be codified into laws and absorbed into policies. Then alone can it fulfill its envisaged role: protecting commons not only as natural resources but as survival arteries for the marginalized peoples whose livelihoods hinge on them.

## CHAPTER 5

### 5. Comparative Perspectives on the Public Trust Doctrine Beyond India

The Public Trust Doctrine (PTD) has evolved into a universal legal principle, anchoring environmental governance in many constitutional, statutory, and judicial frameworks across the globe. Though its foundational ideas stem from Roman law's *res communis* and English common law's fiduciary duties, PTD today transcends its Western origins. It operates as a legal bulwark against the privatization or reckless depletion of ecological commons, positioning states as stewards, not owners, of nature. Across jurisdictions, PTD has been codified, constitutionalized, or developed through judicial innovation. India's experience with PTD, rich

in judicial articulation but poor in legislative codification, sits in interesting contrast with global models, where enforceability is often anchored in clear constitutional or statutory language.

### United States

The U.S. presents the most mature and expansive model of PTD. In *Illinois Central Railroad Co. v. Illinois* (1892), the U.S. Supreme Court held that the state could not alienate lands beneath navigable waters as they were held in trust for public use.<sup>85</sup> Later, in *National Audubon Society v. Superior Court* (1983), the California Supreme Court extended this doctrine to non-navigable tributaries, establishing that ecological protection must be embedded in water rights.<sup>86</sup> Hawaii's Constitution (Art. XI, Sec. 1) goes further, declaring that the State holds natural resources in trust for the people.<sup>87</sup> In contrast, India's courts, starting with *M.C. Mehta v. Kamal Nath* (1997), have relied on Article 21 to enforce PTD without legislative backing.<sup>88</sup> The absence of an explicit constitutional provision or statutory recognition makes India's PTD enforcement reliant on judicial will and often susceptible to executive override.

### United Kingdom

Though the UK's common law contributed early fiduciary principles, modern environmental regulation is almost entirely statutory. Cases like *Kinloch v. Secretary of State for India* (1882) indicated limited notions of state stewardship, but the UK never embraced PTD as a justiciable doctrine. Today, environmental governance in the UK is driven by laws such as the Environment Act 1995 and delegated agency powers, not constitutional mandates. Compared to India, where courts like in *Intellectuals Forum v. State of Andhra Pradesh* (2006) have proactively protected lakes and wetlands invoking PTD,<sup>89</sup> the UK model reflects restraint and parliamentary primacy. India's judicial activism fills a legislative vacuum, but also causes doctrinal inconsistency, lacking the regulatory coherence seen in the UK.

### South Africa

South Africa provides a constitutionalized, statutorily supported version of PTD. Section 24 of its 1996 Constitution grants every person the right to an environment not harmful to health or

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<sup>85</sup> *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387 (1892).

<sup>86</sup> *National Audubon Society v. Superior Court*, 658 P.2d 709 (Cal. 1983).

<sup>87</sup> Hawaii Constitution, art. XI, S1.

<sup>88</sup> *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

<sup>89</sup> *Kinloch v. Secretary of State for India*, (1882) 7 App. Cas. 619 (HL).

well-being and mandates the State to protect it for present and future generations.<sup>90</sup> The National Environmental Management Act, 1998 (NEMA), explicitly establishes the State's trustee role under Section 2(4)(o). Indian jurisprudence has recognized similar duties under Article 21 and Article 48A (DPSP), but statutes like the Environment (Protection) Act, 1986 lack any reference to trusteeship or public trust. While South Africa operationalizes PTD through clear statutory language and institutional mechanisms, India's version floats in a legal grey zone, largely judge-made and inconsistently applied.

### Philippines

The Philippines integrates PTD both constitutionally and judicially. Article II, Section 16 of the 1987 Constitution guarantees the right to a balanced and healthful ecology.<sup>91</sup> In *Oposa v. Factoran* (1993), the Supreme Court upheld intergenerational equity, a core PTD principle.<sup>92</sup> In the *Manila Bay Clean-up Case* (2008), the Court asserted continuing mandamus jurisdiction to ensure compliance by government bodies.<sup>93</sup> India's *T.N. Godavarman Thirumulpad* series of forest cases and *M.C. Mehta* litigations have similarly expanded the doctrine's reach.<sup>94</sup> However, unlike the Philippines, India lacks constitutional recognition of ecological rights per se, and judicial monitoring often wanes due to institutional fatigue, making long-term enforcement harder.

### Brazil

Brazil's 1988 Constitution (Art. 225) declares that the environment is a public good and that the State and society must defend and preserve it for current and future generations.<sup>95</sup> The Forest Code (Law No. 12.651/2012) provides regulatory backing, especially for preservation areas (*Áreas de Preservação Permanente*).<sup>96</sup> Though enforcement is uneven, PTD logic is embedded in constitutional text. India has similar Directive Principles (Art. 48A) and Fundamental Duties (Art. 51A(g)), but these are non-justiciable. While *Goa Foundation v. Konkan Railway Corporation* (1992) and *Fomento Resorts v. Minguel Martins* (2009) represent

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<sup>90</sup> *Intellectuals Forum v. State of Andhra Pradesh*, (2006) 3 SCC 549.

<sup>91</sup> Constitution of the Republic of South Africa, 1996, S24.

<sup>92</sup> National Environmental Management Act 107 of 1998, S2(4)(o).

<sup>93</sup> Constitution of the Philippines, 1987, art. II, S16.

<sup>94</sup> *Oposa v. Factoran*, G.R. No. 101083, 224 SCRA 792 (1993).

<sup>95</sup> *MMDA v. Concerned Residents of Manila Bay*, G.R. Nos. 171947–48 (2011).

<sup>96</sup> *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606.

Indian courts upholding PTD against tourism-driven environmental degradation,<sup>97</sup> the absence of codified trust duties limits consistency. Brazil, though enforcement-challenged, offers a more anchored model.

### Kenya and Uganda

Kenya's 2010 Constitution (Art. 69) recognizes PTD explicitly, placing the State as trustee over natural resources.<sup>98</sup> Ugandan courts, interpreting Article XXVII of their 1995 Constitution, have invoked PTD to prevent illegal leasing of forest lands and protect ecosystems (*Greenwatch v. Attorney General*, 2004)<sup>99</sup>. These African nations have a shorter judicial history with PTD but offer more constitutional clarity. In contrast, India's environmental rights jurisprudence spans over three decades, yet lacks explicit constitutional language. While India leads in volume and diversity of PTD jurisprudence, as in *Susetha v. State of Tamil Nadu* (2006) and *M.I. Builders v. Radhey Shyam Sahu* (1999),<sup>100</sup> the enforceability remains piecemeal, relying on court-driven interpretations of Article 21.

India's adoption of PTD is marked by judicial innovation but hindered by statutory ambiguity and executive evasion. Unlike jurisdictions where PTD is entrenched through constitutional and legislative instruments, such as South Africa, Kenya, or Hawaii, India's environmental trust obligations depend on judicial vigilance. This makes enforcement unpredictable, particularly when weighed against economic development pressures or bureaucratic inaction. While courts have expanded the doctrine's scope to cover rivers, forests, coasts, and wetlands, the lack of a unified statutory framework or environmental code weakens systemic protection. What unites these jurisdictions is the recognition that natural resources are not mere commodities but must be protected for future generations. The divergence lies in the legal instruments of protection, India wields PTD as a judicial sword, while others wield it as a constitutional shield or statutory scaffold. For India to consolidate PTD's role in environmental governance, codification, institutional mechanisms, and legislative alignment remain the most critical next steps.

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<sup>97</sup> Constitution of Brazil, 1988, art. 225.

<sup>98</sup> Forest Code, Law No. 12.651/2012 (Brazil).

<sup>99</sup> *Greenwatch v. Attorney General*, Misc. Cause No. 140 of 2002 (Ug. High Ct.).

<sup>100</sup> *Susetha v. State of Tamil Nadu*, (2006) 6 SCC 543; *M.I. Builders Pvt. Ltd. v. Radhey Shyam Sahu*, (1999) 6 SCC 464.

## CHAPTER 6

### CONCLUSION

The Public Trust Doctrine (PTD) has become a fundamental principle of environmental law, symbolizing the school of thought that natural resources should not be viewed as commodities to enhance private wealth but as community resources the State administers on behalf of present and future generations alike. The judiciary in India has played an important role in acknowledging and developing this doctrine through landmark decisions such as *M.C. Mehta v. Kamal Nath*, *M.I. Builders v. Radhey Shyam Sahu*, *Intellectuals Forum v. State of Andhra Pradesh*, and *T.N. Godavarman v. Union of India*. By linking PTD to constitutional rights under Articles 21, 48A, and 51A(g), Indian courts have made environmental protection part of the basic structure of fundamental rights and duties, bringing the doctrine in line with sustainable development principles and intergenerational equity.

Yet the concrete impact of PTD in India is limited. Weakened by the absence of statutory legislation, inconsistent judicial interpretation, procedural delays, and expansive application of "public purpose" have diminished its efficacy. These concerns have an inordinate impact on the marginalized populations, Adivasis, fisherfolk, pastoralists, and urban poor, whose economic sustenance is based on ensured access to forests, rivers, wetlands, and coasts. While PTD provides a constitutional protection against ecological dispossession, its inadequate application in governance systems has obstructed its effectiveness as a tool of environmental justice.

Comparative analysis indicates that other nations have better institutionalized PTD. The United States has evolved PTD under common law and state constitutions; South Africa has enshrined it in its Constitution and laws; the Philippines has adopted it through judicial supervision; and Ecuador has made a progressive move by recognizing the rights of nature. These instances reflect that India's present reliance on judicial ingenuity must be supplemented by a more structured approach in which PTD is legislatively codified and incorporated into administrative and policy structures.

This analysis finds that although PTD in India is robust on paper, it must be converted to an enforceable system of governance. Codification in environmental legislation, integration in planning and policy programs, and active participation of local populations are essential to the

realization of PTD's revolutionary promise. Only by bridging the space between theory and practice can PTD successfully guarantee ecological sustainability, protect the rights of marginalized groups, and perform its constitutional role as a guardian of intergenerational justice.