
ENVIRONMENTAL CONSTITUTIONALISM AND INTERGENERATIONAL JUSTICE IN INDIA

M. Chenbaga Sree, LL.B. (Hons), Joy University, Tirunelveli District, Tamil Nadu

ABSTRACT

Constitutionalism in India establishes an essential framework that connects environmental protection with inter generational justice, ensuring natural resources are managed wisely — today — so future generations inherit a thriving, livable planet. This paper asserts that the Preamble of the Indian Constitution encapsulates a commitment to social justice, advocating for proactive state engagement in environmental governance and prioritizing sustainable development over excessive resource exploitation. This analysis emphasizes the significance of environmental well-being as an integral aspect of human rights. Central to this constitutional framework are the Directive Principles of State Policy, particularly Article 48A, which mandates the state to safeguard and improve the natural world, encompassing both forests and the diverse wildlife that inhabit them. This paper illustrates how this provision empowers the government as the custodian of natural resources, necessitating the integration of ecological concerns into governance processes. Furthermore, Article 21, which guarantees the right to life, has been interpreted by the judiciary to include the right to a clean and healthy environment. This interpretation supports the notion of inter generational equity, urging current policies to account for the rights and interests of future generations. The paper also examines how judicial activism in India reinforces these constitutional principles. Landmark rulings, such as the *Kancha Gachibowli Forest* case, exemplify the Supreme Court's commitment to preserving ecological integrity against harmful development initiatives. In the *Aravalli* case, the court reiterated the importance of conserving the Aravalli mountain range for the sake of environmental justice. Additionally, the recent decision in

S.P. Muthuraman Vs Union of India (2025) illustrates the judiciary's determination to enforce environmental legislation. This paper discusses contemporary challenges related to inter generational justice, emphasizing the obligation of the present generation to ensure a sustainable environment for future inhabitants. By addressing issues such as climate change, biodiversity loss, and resource depletion, this study advocates for principles of caution, sustainability, and equity. Ultimately, this paper underscores the importance of constitutionalism in advancing environmental justice and inter generational equity.

Keywords: Environmental, Future generations, Judicial activism, intergenerational justice, Constitutional framework.

1. INTRODUCTION

In recent years, the intersection of environmental protection and constitutional law has gained significant attention, particularly in the context of inter generational justice. India, with its rich legal framework rooted in the Constitution, presents a compelling case for examining how constitutional principles can promote sustainable environmental governance.¹ The Preamble of the Indian Constitution reflects a commitment to social justice and the well-being of its citizens, highlighting the necessity for a proactive state role in environmental stewardship. This foundational document serves as a guiding principle for the management of natural resources, ensuring that present actions do not jeopardize the ability of future generations to enjoy a healthy and sustainable environment.

The Directive Principles of State Policy, specifically Article 48A, plays a crucial role in this framework by mandating the state to protect and improve the natural environment. This article places the responsibility of environmental conservation in the hands of the government, establishing it as a guardian of ecological integrity and requiring the incorporation of environmental considerations into governance processes. Furthermore, Article 21, which guarantees the right to life, has been expansively interpreted by the judiciary to encompass the right to a clean and healthy environment, reinforcing the concept of inter generational equity.

Judicial activism has emerged as a critical force in upholding these constitutional commitments. Landmark judgments have consistently emphasized the judiciary's role in safeguarding ecological interests against unsustainable development practices. This paper aims to explore the constitutional underpinnings of environmental justice in India while addressing the pressing challenges associated with intergenerational justice.

2. Preamble as the Constitutional Compass for Ecological Justice & Sustainable Governance:

The Preamble declares India to be a Sovereign Socialist Secular Democratic Republic — and each of those words carries weight for environmental governance. While “socialist” doesn’t imply state ownership of everything, it does mean the State must act as a guardian of collective welfare, especially when private greed threatens public good. Today, environmental harm is

¹ <https://academic.oup.com/jel/article/34/3/399/6648946>

not just ecological it's social injustice.

The Preamble pledges to secure for all citizens: justice social, economic, and political. Environmental justice sits comfortably within this triad.² Though "environment" isn't written there, it's implied because you can't have social justice without clean surroundings, economic justice without sustainable livelihoods, or political justice without the right to protest ecological destruction.

Importantly,³ the Preamble's promise extends beyond today's citizens it implicitly includes future generations. Our Constitution doesn't just protect rights of those alive it imposes duties toward those yet to be born. The State holds natural resources in trust not to squander, but to preserve. This inter generational dimension transforms environmental protection from policy choice into constitutional obligation.

3. ARTICLES RELATED TO ENVIRONMENT

3.1 Article 21: Right to Life and a Healthy Environment

Article 21 guarantees the right to life and personal liberty, but its interpretation by the judiciary has significantly expanded its scope. The courts have ruled that the right to life includes the right to a clean, pollution-free environment. This interpretation highlights the intrinsic connection between a healthy environment and the fundamental right to live with dignity. Judicial pronouncements have emphasized that environmental degradation adversely affects the quality of life, thus constituting a violation of Article 21. As a result, Article 21 has become a powerful tool for environmental advocacy, allowing citizens to seek judicial intervention when their right to a healthy environment is threatened.

3.2 Directive Principles of State Policy

Article 48A: Protection and Improvement of the Environment

The Directive Principles of State Policy, enshrined in Part IV of the Constitution, are essential guidelines for the governance of the country, aimed at promoting social and economic

² <https://www.dmejournals.com/index.php/DMEJL/article/download/372/180/12143>

³ https://www.researchgate.net/publication/384236093_Reading_the_Preamble_to_the_Constitution_of_India_from_an_Environmental_Perspective

justice. While not legally enforceable, these principles provide a framework for state policies that can lead to sustainable development.⁴ According to Article 48A. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. The principles urge the State to formulate laws and initiatives that prioritize environmental protection alongside economic growth.⁵ Article 48A underlines the necessity for policies that foster sustainable practices. It encourages the implementation of measures that not only address current environmental challenges but also safeguard the ecological heritage for future generations. This framework empowers citizens to hold the government accountable for environmental degradation and to advocate for responsible resource management.

3.3 Article 51A(g): Fundamental Duties Regarding the Environment

Article 51A(g) of the Indian Constitution⁶ highlights the fundamental duty of every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife. This provision underscores the role of individual responsibility in environmental conservation, emphasizing that safeguarding the environment is not solely a governmental duty but also a civic duty. By mandating citizens to engage actively in environmental protection, Article 51A(g) fosters a culture of sustainability and accountability within society. It encourages public participation in environmental initiatives and cultivates awareness about the importance of ecological balance. Educational and awareness programs inspired by this article can lead to more environmentally conscious citizens who advocate for sustainable practices in their communities.

Similarly the 73rd constitutional amendment⁷ declared that gram panchayat to be the institution of self government to prepare plans for economic development and social justice

It is established that social justice includes the right to a wholesome environment. It was realised that rural areas are the real repository of the ambient environment that needs protection.

The fifth schedule of Indian constitution empowers states to prohibit the transfers of land in schedule areas even for developmental projects. It is because it may cause detriment to the

⁴ <https://www.ijlrr.com/post/environmental-protection-under-the-directive-principles-of-state-policy-dpsp-in-india-constitutio>

⁵ <https://www.pib.gov.in/newsite/printrelease.aspx?relid=105411®=3&lang=2>

⁶ The constitution of India 1950

⁷ Environmental Protection, S.K Murthy, 1st edition.

conservation of environment.

4. JUDICIAL ACTIVISM IN ENVIRONMENTAL CONSTITUTIONALISM

Judicial activism in environmental constitutionalism denotes the active and constructive role played by the judiciary in interpreting constitutional provisions to ensure environmental protection. In any democratic set up, many times the judiciary is considered to be one of the most important pillars for balancing the other pillars. In the Indian scenario especially environment protection related matters the judiciary has played a proactive role. Assessment of judicial role in environmental protection is a tough task as the judiciary has been adjudicating on environmental protection matters since the last three decades. Public interest litigation and the expansion of locus standi. Prior to the 1980s litigation in India was in rudimentary form as it could only be initiated by an aggrieved party for the vindication of his private interest. But after the 1980s, a change arose, which can be primarily attributed to leading personalities such as Justice P.N. Bhagwati and Justice V.R. Krishna Iyer, and such a new direction and principles under their guidance actually abandoned previous archaic principles and were based on the edifice of social justice afterwards.

4.1 Principles Evolved Through Landmark Indian Judgments

Indian environmental jurisprudence has developed several foundational principles through landmark judicial decisions, demonstrating the impact of judicial activism in strengthening environmental constitutionalism:

Polluter Pays Principle

Case: *M.C. Mehta v. Union of India* (1986)⁸

The Supreme Court established that those who cause environmental damage are liable to pay for the costs of cleanup and restoration. This principle holds polluters financially accountable for their actions and emphasizes the need for compensation and preventive measures.

Precautionary Principle

Case: *Vellore Citizens Welfare Forum v. Union of India* (1996)⁹

⁸ *M.C. Mehta vs Union of India* 1986

⁹ *Vellore Citizens Welfare Forum vs. Union of India*

The Court highlighted that preventive actions must be taken to avoid environmental harm, even in the absence of scientific certainty, shifting the burden of proof to the polluters.

Public Trust Doctrine

In the case of *M.C Mehta vs Kamal Nath (1997)* The State holds natural resources in trust for the public, requiring it to protect these resources from exploitation and ensure their sustainable use.

Sustainable Development

Case: Ministry of Environment & Forests v. Kailash Verma (2013)

The judiciary emphasized that development must be balanced with environmental protection, promoting the integration of sustainable practices in economic growth.

Right to Information

Transparency in environmental decision-making has been upheld as essential to democratic governance.¹⁰ In *Rakesh Kumar v. State of Bihar*, the Court recognized the public's right to access environmental information, thereby encouraging accountability and informed public participation.

In The Kancha Gachibowli case¹¹ pertains to unauthorized constructions and encroachments in ecologically sensitive areas near Hyderabad. The Hyderabad High Court, exercising its judicial review jurisdiction, issued injunctions restraining further development, mandating strict compliance with environmental statutes, zoning regulations, and land-use norms.

The Court underscored the application of the precautionary principle and the public trust doctrine, asserting that natural resources are held in trust for the public and cannot be degraded for private or commercial purposes. It emphasized the conservation of urban green spaces amidst rapid and unplanned urbanization.

The judgment reaffirmed the constitutional obligation under Article 21 to protect the right to a

¹⁰ *Rakesh Kumar Vs State of Bihar*

¹¹ *In Re: Kancha Gachibowli Forest, State of Telangana, Suo Moto Writ Petition (Civil) No. 3/2025; W.P.(C) No. 287/2025 (PIL-W)*

healthy environment as an intrinsic part of the right to life and personal liberty. It highlighted the role of judicial activism in enforcing environmental governance and ensuring sustainable development.

The Court further imposed statutory accountability on both public authorities and private actors for non-compliance with environmental laws, directing the State to monitor, regulate, and restore the affected areas.

In the Aravalli case

The Supreme Court of India dealt with longstanding litigation on defining and protecting the ecologically sensitive Aravalli Hills and Range across Delhi, Haryana, Rajasthan and Gujarat, due to environmental harm from inconsistent mining regimes.¹² The issue was Whether a uniform, scientifically sound legal definition of “Aravalli Hills” and “Aravalli Range” can be adopted to effectively regulate mining and protect the fragile ecosystem.

The verdict given in nov 20 2025 The SC, in a suo motu matter, accepted a committee’s definition of “Aravalli Hills” as any landform in designated Aravalli districts with elevation \geq 100 metres above local relief (plus associated slopes and landforms) and “Aravalli Range” as two or more such hills within 500 metres, and directed that no fresh mining leases be granted.

The Current Status (as of Jan 2026) of the case On 29 Dec 2025, the Supreme Court stayed its own Nov 20 order and kept all directions in abeyance, noting critical ambiguities in the definition and ecological concerns, and constituted a new high-powered expert committee to reassess the framework; notices were issued to the Centre and state governments, the ban on new mining and renewals continues.

5. INTERGENERATIONAL JUSTICE AND ENVIRONMENTAL HARM CONSTITUTIONAL DUTIES BEYOND PRESENT RIGHTS:

The term "intergenerational equity" refers to a widely accepted principle of international environmental law that calls for the preservation of natural resources and the environment for future generations' benefit. The concept was first proposed in 1972 by the Stockholm Declaration, and it now serves as a foundational principle in the framework of sustainable

¹² The Aravalli case 2025 INSC 1338

development.¹³ Intergenerational equality is a basic premise of the UNFCCC's international climate change policy. Article 3 establishes a framework for the protection of the climate system for future generations' benefit and usage.

Historically, it owes its recognition to the Brundtland Report,¹⁴ *Our Common Future* (1987), which popularized the principle of “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

Sustainability is possible only if we look at the Earth and its resources not only as an investment opportunity but as a trust, passed to us by our ancestors, to be enjoyed and passed on to our descendants for their use. Such a "planetary trust" conveys to us both rights and responsibilities. The theory of intergenerational equity proposed argues that we, the human species, hold the natural environment of our planet in common with all members of our species: past generations, the present generation, and future generations. As members of the present generation, we hold the Earth in trust for future generations.

5.1 The Evolution of right of inter-generational equity under the Indian Constitution

The Supreme Court of India, realising the tremendous danger posed by environmentally harmful activities, has stepped in to play an activist role. One such right is the evolving right to Inter generational Equity. In the following cases, the Supreme Court of India read into Articles 14 and 21 of the Constitution, the right to Inter generational Equity.

In the case of State of Himachal Pradesh v Ganesh Wood Products (1996) SC 149

The issue arose out of a permission granted by the Himachal Pradesh government for the setting up of Katha factories which was derived from Khair trees and which was used in pan masala products. Manufacturers from several states shifted base to the state of Himachal Pradesh after manufacture of Katha was prohibited elsewhere.¹⁵ It had been contended at the High Court by one of the parties that there was a shortage in quantity of Khair trees and hence permission for setting up new factories should not be granted. The Supreme Court directed the Government to conduct a fresh survey of the availability of trees since the government figures were based upon a survey carried out in 1992. In answering the question of availability of resources, the Court

¹³ <https://www.allsubjectjournal.com/assets/archives/2015/vol2issue10/37.pdf>

¹⁴ <https://iucn.org/sites/default/files/2023-02/equity-in-international-law-briefing-note-1.pdf>

¹⁵ <https://www.jetir.org/papers/JETIR2206502.pdf>

made the following observations.

The Court observed,

*“It is also violative of the National Forest Policy and the State Forest policy evolved by the Government of India and the Himachal Pradesh Government respectively - besides the fact that it is contrary to public interest involved in preserving forest wealth, maintenance of environment and ecology and considerations of sustainable growth and inter-generational equity. After all, the present generation has no right to deplete all the existing forests and leave nothing for the next and future generations.”*¹⁶

In the case of A.P Pollution control board (II) v Prof. M.V. Nayudu and Ors. (1999) 2 SCC 718¹⁷

The Supreme court Held as under: The principle of inter-generational equity is of recent origin. The 1972 Stockholm Declaration refers to it in principles 1 and 2. In this context, the environment is viewed more as a resource basis for the survival of the present and future generations.

Principle 1 - Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being, and he bears solemn responsibility to protect and improve the environment for the present and future generations.

Principle 2 - The natural resources of the earth, including the air, water, lands, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of the present and future generations through careful planning or management, as appropriate.

Goa Foundation v. Union of India & Ors., W.P. (C) 435/2012 (SC, 2014)¹⁸

The Supreme Court recognised that mineral resources are held by the State in public trust for present and future generations. The Court directed sustainable extraction practices, emphasising

¹⁶ <https://www.allsubjectjournal.com/assets/archives/2015/vol2issue10/37.pdf>

¹⁷ <https://www.ijllr.com/post/a-p-pollution-control-board-vs-prof-m-v-nayudu-retd>

¹⁸ <https://www.allsubjectjournal.com/assets/archives/2015/vol2issue10/37.pdf>

that exploitation today must not compromise ecological and economic rights of future citizens, thereby institutionalising intergenerational equity.

Samaj Parivartana Samudaya v. State of Karnataka, (2013) 8 SCC 154

The Court held that present generations cannot deplete natural resources in a manner prejudicial to posterity. It reaffirmed that intergenerational equity and sustainable development are integral to Article 21, obligating the State to protect ecological balance for future generations.

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

In this long-standing forest conservation matter, the Supreme Court held that forests are national assets held under public trust. The Court directed strict protection of forest lands to maintain ecological integrity and uphold intergenerational responsibility, relying on Articles 21, 48A, and 51A(g) of the Constitution.

Climate change:

Climate refers to the average weather conditions of a region, including temperature, rainfall and wind. Climate change refers to statically significant variation in either the mean state of the climate or in its variability, persisting for an extended period. ie decades or longer. Climate change may be due to natural internal processes or external forces or due to persistent changes in the composition of atmosphere or in a line use.¹⁹

6. CHALLENGES IN MAINTAINING INTERGENERATIONAL JUSTICE:

Temporal Myopia in Governance

Most environmental and development policies operate within short political or economic timeframes, often ignoring long-term ecological impacts. This “temporal myopia” undermines the principle that current decisions should safeguard resources and ecosystems for posterity.

Resource Allocation Dilemmas

Determining how much of a resource to conserve for future generations versus current

¹⁹ Global Climate Change And Environmental Law In India - Dr. Chiradeep Basak

utilization is a persistent ethical and legal challenge, particularly in sectors like minerals, forests, and water, where public trust obligations intersect with economic interests

Climate Change as an Exacerbating Factor

Global environmental crises, particularly climate change, compound the challenges by introducing uncertainty and cross-generational risks.

Conflict Between Development and Sustainability

Rapid urbanization, industrialization, and resource extraction create a persistent tension between developmental needs of the present generation and sustainability imperatives for the future.

CONCLUSIONS

“Earth provides enough to satisfy every man’s needs, but not every man’s greed”

-Mahatma Gandhi

Mankind in the 21st century is supposed to be aware of the nature and consequences of the act what he does. We should choose a course of conduct which is not detrimental to society. The fruits of natural resources made available to us were stored by our forefathers we should make use of the same as trustees so that same be passed on to our future generations also. The examination of environmental constitutionalism in India reveals both its promise and its pitfalls. While the constitutional framework provides a robust foundation for environmental protection, the practical implementation of these provisions faces significant challenges. From the gap between constitutional mandates and on-the-ground realities to issues of judicial capacity, weak enforcement mechanisms, limited public participation, inter-sectoral conflicts, and inadequate resource allocation, a myriad of obstacles hinder the effective realisation of environmental goals. However, amidst these challenges lies the potential for transformation and progress. By acknowledging and addressing these shortcomings, stakeholders can work towards strengthening the implementation of environmental laws and regulations, enhancing accountability, promoting sustainable development practices, and fostering greater public engagement. Collaborative efforts between the State, judiciary, civil society, and the private sector are essential to bridge the implementation gap and realize the vision of environmental sustainability enshrined in the Indian Constitution.

SUGGESTIONS:

Require mandatory long-term (30–50 year) impact assessments for all major government policies and development projects to overcome short-term political planning.

Establish independent Future Generations Commissioners to examine the long-term sustainability of laws and policies.

Create intergenerational equity funds using revenues from resource extraction to benefit future generations and environmental restoration.

Strengthen trans boundary and regional cooperation on shared climate and environmental challenges.

Enforce clear land-use zoning with legally protected ecological “no-go” areas.

Enact anticipatory climate framework laws with legally binding long-term mitigation and adaptation targets.

REFERENCES:

Environmental constitutionalism and duties of Individuals in India Lovleen Bhullar *Journal of Environmental Law*, Volume 34, Issue 3, November 2022, Pages 399–418,
<https://doi.org/10.1093/jel/>

Reading the Preamble to the Constitution of India from an Environmental Perspective Aditya Ranjan, <https://www.dmejournal.com/index.php/DMEJL/article/download/372/180/1214>.

Press Information Bureau Government of India Special Service and Features 04-June- 2014 12:25 IST Environment Protection under Constitutional Framework of India
<https://www.pib.gov.in/newsite/printrelease.aspx?relid=105411®=3&lang=2>

Environmental Protection Under The Directive Principles Of State Policy (DPSP) In India: Constitutional Mandate IJLLR journal Ranjana Tiwari
<https://www.ijllr.com/post/environmental-protection-under-the-directive-principles-of-state-policy-dpsp-in-india-constitutio>

Critical study of the evolution of the principles of intergenerational equity through the lens of indian judiciary. Adv. Wankhede Dnyandeo. <https://www.jetir.org/papers/JETIR2206502.pdf>

Introduction—Intergenerational Justice and Its Challenges Get access Arrow Axel Gosseries (ed.), Lukas H. Meyer (ed.) <https://doi.org/10.1093/acprof:oso/9780199282951.003.0001>

https://www.researchgate.net/publication/384236093_Reading_the_Preamble_to_the_Constitution_of_India_from_an_Environmental_Perspective

<https://www.pib.gov.in/newsite/printrelease.aspx?relid=105411®=3&lang=2>:

<https://www.mea.gov.in/images/pdf1/part4.pdf>

<https://www.ijllr.com/post/environmental-protection-under-the-directive-principles-of-state-policy-dpsp-in-india-constitutio>

The Evolution of the Concept of Inter-Generational Equity under the Indian Environmental Jurisprudence -Taniya Malik

<https://www.allsubjectjournal.com/assets/archives/2015/vol2issue10/37.pdf>

<https://iucn.org/sites/default/files/2023-02/equity-in-international-law-briefing-note-1.pdf>

<https://www.allsubjectjournal.com/assets/archives/2015/vol2issue10/37.pdf>

<https://www.ijllr.com/post/a-p-pollution-control-board-vs-prof-m-v-nayudu-retd>

<https://academic.oup.com/book/32501/chapter-abstract/269867688?redirectedFrom=fulltext>