
THE GREEN BENCH: SHAPING ENVIRONMENTAL JURISPRUDENCE OF INDIA THROUGH JUDICIAL ACTIVISM

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ABSTRACT

In India, Environmental degradation has emerged along with the urbanisation and industrialisation that is to say development at the cost of ecological health. Almost every major river across the India bears the burden of the pollution resulting from the unplanned industrialisation and poorly executed developmental policies. Air, water, soil and other natural resources have been suffering due to their overexploitation in the race for socio-economic development. Despite having numerous central legislations and international commitments to protect environment, enforcement has often been inconsistent and weak. However, Indian judiciary has played an instrumental role through the exercise of judicial activism, stepping in to safeguard the environment when administrative and legislative measures fall short.

This paper study the judicial interventions that have significantly transformed the environmental governance in India. By invoking Article 21, 32 and 226 of the Indian Constitution. Further, the legislative action has placed a constitutional obligation on the state as well as on the citizens to protect and preserve the environment, through the PART IV and PART IV A of the Indian Constitution respectively.

This paper argues the evolution of environmental jurisprudence in India rests upon the guiding concept of sustainable development which seeks harmony between the economic growth and ecological health. This principles of *Precautionary Principle* and *Polluter Pays Principle* are the foundation for this protective approach to bridge the gap between the development and ecological cost.

Keywords: Environmental jurisprudence, judicial activism, Ecological health, precautionary principle, polluter pays.

INTRODUCTION

The environmental problem is one of the pressing challenges faced by almost ever nations across the world. It is an undisputed fact that each developing nations develops at the cost of their ecological health of the nation. The term 'environment' connotes surrounding. The environment comprises of air, water, soil, food, sunlight and etc effecting the life of the living creatures like humans, trees and plants. The relationship between human civilization and the natural environment is of interdependence and as the society has been moving towards the industrialization the delicate balance between the economical development and ecological preservation began to erode. In the Indian context, this tension has assumed a distinctive legal and constitutional dimension, giving rise to a robust jurisprudential links between the environmental protection and the Right to life enshrined under Article 21¹ as a fundamental right. Over the last few decades, the Indian judiciary has emerged as a controlling guardian of environmental justice by developing doctrines, principles and precedents that have not only shaped the domestic legal development but have also contributed significantly to the global discourse on the sustainable development.

The concept of environmental protection in India cannot be understood in isolation from the constitutional framework and the underlying philosophy of the Indian civilization. Ancient mythological texts which envisioned nature as a sacred entity thereby emphasizing on the coexistence and preservation.

The interplay between environment and judicial activism in India represents a profound narrative of legal evolution and institutional courage. It showcases the capacity of judiciary to transcend the traditional adjudicatory boundaries and emerge as an agent of socio-ecological transformation. This paper seeks to critically analyse the contribution of the Indian judiciary in shaping environmental policy and promoting sustainable development.

STATEMENT PROBLEM

Environmental degradation has already reached an alarming stage in India due to the rapid growth of urbanisation and growing infrastructural webs on the greens. Despite having wide range of regulatory legislations and policies measure, pollution has been a bone of contention between the economic development and the sustainable development due to the weak

¹ Constitution of India Act, 1950

enforcement mechanism of the administrative wings. However, judiciary has been compelled to intervene to uphold the constitutional rights and environmental protection like a rider steering the horse through hand pulls. The problem lies in understanding how judicial activism has filled the gaps left by the legislative and executive and whether such interventions have been effective in ensuring sustainable environmental governance.

SCOPE AND LIMITATION

This research paper dives into the role of the Indian judiciary in the development of environmental jurisprudence in India with particular emphasis on the judicial activism and landmark judgments from the Supreme Court of India and different High Courts of the states. This study covers the provisions especially Article 21, 48A and 51A(g) of the Indian Constitution and principles such as polluter pays principle and the precautionary principle.

This study has certain limitations, the primary limitation is that it focuses on the Indian legal context, i.e. the comparative analysis with other countries law and practices would be minimal. Although some international perspectives may be discussed as an inspiration, however, the core of the study will remain grounded to the Indian context. Another limitation is the reliance on the secondary data for assessing the development of the environmental jurisprudence i.e. due to the time constraint and logistical challenges, the research will not involve primary empirical data i.e. the findings of the study will largely depend on existing reports, literatures and online database.

RESEARCH OBJECTIVE

1. To examine the constitutional and legal framework for environmental protection in India.
2. To study the role of judicial activism and enforcement of the principles to preserve the environment.
3. To evaluate the effectiveness and limitations of judicial intervention in promoting environmental justice.

HYPOTHESIS

1. Judicial activism in India has played a decisive role in shaping and strengthening the

environmental protection laws, and

2. despite its positive impact, the judicial intervention alone cannot ensure sustainable environmental development without corresponding administrative and legislative support.

RESEARCH QUESTION

1. What are the constitutional and statutory provisions that governs the environmental protection in India?
2. How has judicial activism influenced the development of environmental jurisprudence?
3. What are the limitations of the judicial activism as a tool for the environmental protection?

RESEARCH METHODOLOGY

This study will adopt a doctrinal research approach which would focus primarily on the examination of the relevant legal texts of the statutes, judicial decisions and the academic literatures related to the environmental protection in India. The methodology is structured as *Primary source*: This study will examine the relevant constitutional provisions, statutes and landmark judgments from the Supreme Court and High Courts that have shaped the legal status of environmental protection in India. *Secondary source*: The research will rely on the government reports, books, journal articles and other scholarly works to understand the social, legal and historical development of the environmental jurisprudence.

LITERATURE REVIEW

Environmental Law in India by P. Leelakrishnan²

This book provides a detailed overview of India's environmental legal system while focusing on the constitutional mandates and judicial contributions. However, the work mainly traces legal evolution and does not assess the practical impact or implementation of judicial directives

² P. Leelakrishnan, *Environmental Law in India* (6th ed. LexisNexis 2016).

on environmental governance.

Environmental Law and Policy in India by Shyam Divan and Armin Rosencranz³

It discusses how judiciary has acted as a guardian of environmental rights, especially through PILs, when executive enforcement has failed. However, their analysis remains case-law centric, with limited discussion on how judicial activism has influenced policy reform or administrative accountability in the long term.

The Avatars of Indian Judicial Activism by Upendra Baxi⁴

Baxi's work on judicial activism explores a broader social and constitutional phenomenon. He praises judiciary's role but also warns against overreach and judicial populism. Though insightful but this study does not specifically analyses environmental cases or how judicial activism has shaped India's ecological jurisprudence, which this paper aims to address.

- i The Paradox of Environmental Federalism in India by Dr. Sairam Bhat⁵** Bhat assesses how judicial creativity, through PILs and expansive constitutional interpretation. Has strengthened environmental governance. However, the article does not critically analyse institutional capacity and compliance mechanism that affect the effectiveness of judicial decisions.
- ii Public Interest Environmental Litigation in India by Lavanya Rajamani⁶** Rajamani evaluates environmental PILs through the lens of accountability but does not delve deeply into constitutional interpretation or the broader transformation of environmental rights, area this research paper seeks to explore.

EVOLUTION OF CONCEPT OF ENVIRONMENTAL PROTECTION

The ethos of harmony between the humanity and nature was deeply rooted in the Indian culture through religious practices. The concept of environmental ethics and protection in India has

³ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (3d ed. Oxford Univ. Press 2020).

⁴ Upendra Baxi, *The Avatars of Indian Judicial Activism: Explorations in the Geographies of (In)justice*, in *The Politics of Judicial Activism in India* 156 (S.K Verma & Kusum eds., Oxford University Press 2007).

⁵ The Paradox of Environmental Federalism in India, CEERA-NLSIU, Nat'l L. Sch. of India Univ., <https://ceerapub.nls.ac.in/the-paradox-of-environmental-federalism-in-india/> (last visited Nov. 11, 2025).

⁶ Rajamani, L. (2007). PUBLIC INTEREST ENVIRONMENTAL LITIGATION IN INDIA: EXPLORING ISSUES OF ACCESS, PARTICIPATION, EQUITY, EFFECTIVENESS AND SUSTAINABILITY. *Journal of Environmental Law*, 19(3), 293–321. <http://www.jstor.org/stable/44248613>

deep historical roots, extending far beyond modern legal frameworks. Since the Vedic period, the Indian civilization emphasized living in harmony with nature as reflected in ancient scriptures such as the Vedas, Upanishads, Smritis, and Dharmashastras. These texts preached reverence for the five fundamental elements that are earth, water, air, fire, and space and considered it a sacred duty to protect and preserve them. Practices like yajnas (sacrificial rituals) were performed to purify the environment and to ensure ecological balance. Ancient Indian philosophy recognizes that human life is deeply interdependent with natural elements and that disrupting this harmony leads to ecological and spiritual imbalance.

Environmental ethics were also embedded in religious traditions like Hinduism viewed rivers, trees, and animals as divine manifestations, while Jainism and Buddhism emphasized nonviolence (*ahimsa*) and restraint the use of natural resources. Jain philosophy, through its principles of no harm and simplicity discourages the exploitation and promotes environmental sustainability. Similarly, the King Ashoka's policies of tree plantation and animal welfare marked early state-led environmental initiatives. However, during the British Raj, environmental protection began to take legal shape through the Indian Penal Code of 1860, which introduced punitive measures for public health and safety violations. However, systematic environmental governance emerged only after India's participation in the 1972 Stockholm Conference, leading to constitutional amendments and landmark legislations such as the Water (1974), Air (1981), and Environment (Protection) Act (1986).

Thus, India's environmental consciousness evolved from ancient moral and religious duties to codified legal responsibilities, reflecting a continuum of thought that connects spiritual reverence for nature with modern environmental jurisprudence.

ENVIRONMENTAL PROVISIONS IN INDIAN LAWS

Initially there was no comprehensive environmental law in India however, fragmented efforts can be traced under Indian Forest Act, 1927 and the Factories Act, 1948. Thereafter a major shift occurred when at the international level, United Nation Conference on Environment held in Stockholm in 1972 turned to a watershed moment for the environmental law across the world at large as it marked a new beginning of an era of development of environmental jurisprudence and thereafter India adopted and took decisive legislative and institutional measures to implement its international commitments through 42nd Constitutional Amendment, 1976. This amendment introduced Article 48A in the Directive Principles of State Policy, obligating the

State “to protect and improve the environment and safeguard forests and wildlife,” and Article 51A(g) followed imposing a fundamental duty on citizens to protect and improve the natural environment. Subsequently judiciary expanded the scope of Article 21 as to Right to Life to include the right to clean and healthy environment, marking a transformative phase in Environmental jurisprudence. The first comprehensive legislation addressing pollution control was The Water (Prevention and Control of Pollution) Act, 1974 thereafter The Air (Prevention and Control of Pollution) Act, 1981 and later a comprehensive legislation - Environmental (Protection) Act, 1986 was enacted. Though these statutes provided a comprehensive legal framework for environmental regulation in India but the insufficient administration led it to be inefficient. Hence, this led to the intervention of judiciary to control the situation. And other key laws include the Wildlife (Protection) Act, 1972 and the Forest (Conservation) Act, 1980.

India’s legal framework evolved through both legislative amendments and judicial activism and led it to be a right-based approach towards environmental protection whereby, balancing ecological integrity and economic progress.

JUDICIAL ACTIVISM AND GREEN GOVERNANCE

The judicial interpretation of Article 21 represents a landmark point in the Indian environmental jurisprudence. Through numerous and series of judgments the Supreme Court of India has expanded the scope of term “life” to include not merely physical existence but the right to clean, healthy environment and sustainable development, thereby establishing the judiciary as the primary guardian of ecological rights in India.

The genesis of this transformative jurisprudence can be traced to the landmark case of *Municipal Council, Ratlam v. Shri Vardhichand*⁷ which marked the beginning of this era, where Justice Krishna Iyer emphasized that financial inability could not justify municipal negligence in providing basic sanitation and thereby embedding social justice within the ambit of environmental law, recognising that the poor and marginalised sections of society bear the disproportionate burden of environmental degradation. Thereafter, Supreme Court in the case of *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985)*⁸ which is popularly known as the *Dehradun Quarrying Case*⁹, where the Supreme Court ordered the

⁷ AIR 1980 SUPREME COURT 1622.

⁸ AIR 1985 SUPREME COURT 652.

⁹ Supra note 6.

closure of the limestone mining as it was the causing ecological destruction in the Mussoorie hills. This decision recognised that environmental degradation directly impacts the quality of life of a human and therefore it is violative of Article 21 of the Indian Constitution. The subsequent decisions like *M.C Mehta v. Union of India (1986)*¹⁰ also known as (*Oleum Gas Leak Case*) where justice P. N Bhagwati established the principal of absolute liability, moving beyond the doctrine of strict liability and held that any enterprise engaged with hazardous activities must bear the absolute and non-derogable duty to ensure the safety of the society.,

The judicial activism continued with the *Ganga Pollution Case (1988)*¹¹, where M.C Mehta once again approached the Supreme Court seeking directions to prevent the pollution of sacred river Ganges. The court issued comprehensive order to prevent industrial effluents and municipal waste from being discharged into the river, recognising the cultural, spiritual and environmental significance of the Ganges to millions of Indians.

A significant advancement in environmental jurisprudence came with *Vellore Citizens' Welfare Forum v. Union of India (1996)*¹², where the Supreme Court, for the first time explicitly recognised the *precautionary principle* and the *polluter pays principle* as integral component of Indian environmental law. This judgment also emphasized that environmental protection and economic development must proceed hand in hand, introducing the concept of intergenerational equity into Indian constitutional discourse.

The *Taj Trapezium Case (1997)*¹³ further demonstrated the judiciary's commitment to environmental preservation when the Supreme Court ordered the closure and relocation of industries operating within the Taj Trapezium Zone, a defined area around the iconic Taj Mahal. The court recognised that the marble was being discoloured by industrial emissions and directed stringent measures to protect this world heritage site, illustrating that cultural heritage preservation is intrinsically linked to environmental protection.

The new millennium witnessed continued judicial vigilance with *Narmada Bachao Aandolan v. Union of India (2000)*¹⁴, where the Supreme Court grappled with the complex interplay between developmental imperatives and environmental concerns in the context of controversial

¹⁰ AIR 1987 SUPREME COURT 1086

¹¹ M.C Mehta v. UOI & Ors AIR 1988 SUPREME COURT 1115

¹² Vellore Citizens' Welfare Forum v. Union of India AIR 1996 SUPREME COURT 2715

¹³ M.C Mehta v. UOI & Ors AIR 1997 SCW 552.

¹⁴ Narmada Bachao Aandolan v. Union of India (2000) 10 SCC 664.

Sardar Sarovar Dam project. While the court ultimately allowed the project to proceed, it established important procedural safeguards and emphasized the necessity of comprehensive rehabilitation measures for displaced persons, thereby recognising that development induced displacement represents a violation of the right to life unless adequate mitigation measures are implemented.

Through these progressive judgments, the Indian judiciary has successfully established a robust framework of environmental jurisprudence that balances developmental needs with ecological imperatives, firmly positioning environmental rights as fundamental human rights protected under the Indian constitution.

INSTITUTIONAL EFFICACY AND THE IMPLEMENTATION DEFICIT

While the Supreme Court progressive environmental jurisprudence has undeniably established a robust legal system for ecological protection. The translation of judicial pronouncements into tangible environmental improvements reveals a persistent and troubling implementation deficit that fundamentally undermines the efficacy of judicial activism. The institutional capacity of regulatory bodies such as State Pollution Control Boards and the Central Pollution Control Board remains severely constrained by inadequate funding, chronic understaffing and insufficient technical expertise and rendering them incapable of effectively monitoring compliance with court directives. Moreover, the absence of a specialised environmental court system until the establishment of the National Green Tribunal in 2010 meant the cases languished in overburdened regular courts for years, diluting the urgency of environmental protection. The compliance mechanism themselves suffers from structural weaknesses where penalties for non-compliance are often nominal and fails to serve as effective deterrents while the lack of a systematic monitoring allows industries to continue operations with minimal consequences. Nevertheless, the judicial activism has catalyzed significant policy reforms over the longterm including the enactment of the **Environment Protection Act, 1986** and the establishment of the **National Green Tribunal Act, 2010**, and the introduction of stricter emission norms and environmental impact assessment protocols. Furthermore, the judiciary's consistent emphasis on administrative accountability has compelled government agencies to establish environmental monitoring cells, conduct periodic environmental audits, and adopt more transparent decision-making processes. However, the fundamental challenge remains that judicial orders. However progressive cannot substitute for comprehensive administrative

capacity building and sustained political will. The enduring legacy of environmental judicial activism thus, lies not in immediate compliance but in gradually reshaping institutional culture, embedding environmental consciousness within governance frameworks, and creating precedents that empower citizens to hold the state accountable for environmental stewardship.

CONCLUSION

The evolution of environmental jurisprudence in India demonstrates how judicial activism has played a transformative role in protecting ecological integrity and promoting sustainable development. By interpreting the Article 21 so extensively the judiciary has elevated the environmental protection to a fundamental right, bridging the gap left by legislative and executive actions. However, overdependence on judicial intervention reveals a systematic limitation on courts to interpret and direct that they cannot substitute a long-term policy execution.

While landmark judgments have provided a moral ground and a firm legal foundation for environmental governance but the inconsistent enforcement and lack of administrative will and limited institutional capacity hinder their practical impact. The judiciary's proactive role must therefore complement the statute and not act a replacement to administrative actions. A balanced approach is required where legislation, government and judiciary work in harmony to ensure environmental protection in a robust and practically effective form.

RECOMMENDATION

Strengthening the environmental governance in India requires a coordinated effort from the state and the civil society. Judicial activism has undoubtedly filled the policy vacuums but for the long-term sustainability it's the public conscience that would aid to success. It would be ideal to review the laws periodically to align with the emerging global standards and technological developments. Specialised environmental courts like National Green Tribunal (NGT) should be more empowered with greater enforcement ability and wider jurisdiction. Public awareness and community participation must be enhanced through education and governance mechanism. The integration of environmental consideration should be mandatory in all fields and at all levels. Moreover, there is need for stronger executive agency delegated specifically for environmental issues to ensure the effective implementation of the judicial directions on the ground. Hence, a data-driven environmental monitoring and transparent

reporting mechanism should be enhanced to ensure proper accountability, consistency and scientific accuracy in policy implementation.