# UBI JUS IBI REMEDIUM IN ENVIRONMENTAL JURISPRUDENCE: A CRITICAL ANALYSIS OF JUDICIAL REMEDIES IN INDIA

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## ABSTRACT

The principle of ubi jus ibi remedium or "where there is a right there is a remedy," is at the heart of justice and legal repair in democratic regimes. In the Indian environmental law context this principle has gained further significance and assumed greater importance due to the impact of judicial activism where the constitutional right to life under Article 21 has been read to include the right to clean and healthy environment. This research paper critically examines the use of the maxim in the environmental jurisprudence of India and, in particular, in the evolution of the judicial remedies for the protection of environmental rights. The paper examines several landmark judgments of the Supreme Court and the National Green Tribunal to explain the role of the judiciary in bridging the gap between the law and practice. Further, it identifies structural and procedural challenges that are negatively impacting the provision of effective remedy, including weak mechanisms for implementation, low institutional capacity, and a lack of technical skills. To that end, the paper argues that a wide range of reforms is necessary in order to make remedial machinery more effective, including improvements in enforcement regimes, the inclusion of environmental expertise in adjudication, and public legal education. This paper performs a content analysis of court rulings from the past decade, alongside a gap analysis of the legal gaps and suggests a more powerful norms approach (including rights norms) as the optimal path forward for environmental governance. While the maxim ubi jus ibi remedium has a long way to go before becoming a reality, it must be followed as a doctrine that is enforceable in law and that ensures timely effective and inclusive remedies for environmental harm in the Indian context.

**Keywords:** Environmental Jurisprudence, Ubi Jus Ibi Remedium, Judicial Remedies, Indian Constitution Article 21, National Green Tribunal

## 1. Introduction

The Latin legal principle ubi jus ibi remedium (or as close to my lazy fingers could perceive, "and" must satisfy) means "where the right exists, the remedy also exists.*''* The first one is the principle of judicature according to which an entitlement raised as a fundamental component of the right must be coupled with an award for its infringement.[1] It originated in Roman law and has since developed into a cornerstone of modern legal systems.[2] In jurisdictions following the common law tradition, such as India, this maxim plays a pivotal role in reinforcing both fundamental and statutory rights, including the right to a clean and healthy environment.[3]In recent decades, *ubi jus ibi remedium* has acquired greater relevance in environmental law, particularly in India, where environmental protection has been judicially recognized as an essential component of the right to life under Article 21 of the Constitution.[4] Environmental degradation—caused by industrial pollution, deforestation, or illegal resource extraction—often leads to direct violations of individual and collective rights.[5] The Indian judiciary has expanded the interpretation of the right to life to include the right to a wholesome environment, thereby providing remedies under constitutional writ jurisdiction and statutory frameworks.[6] This evolution reflects a broader judicial commitment to upholding the principle that legal rights must be enforceable through judicial remedies. Through public interest litigation (PIL), judicial pronouncements, and the establishment of specialized bodies such as the National Green Tribunal (NGT), Indian courts have used the doctrine of *ubi jus ibi remedium* to ensure environmental justice.[7]

This research paper aims to critically examine the application of this maxim within Indian environmental jurisprudence. The objectives of the paper are:

- To analyse how Indian courts have invoked the maxim *ubi jus ibi remedium* in environmental disputes;
- To evaluate the adequacy and effectiveness of remedies provided under Indian

[1]John w. Salmond, *jurisprudence* 228 (glanville l. williams ed., 12th ed. 1966).
[2] R.W.M. Dias, *jurisprudence* 21 (5th ed. 1985).
[3] V.D. Mahajan, *jurisprudence and legal theory* 476 (5th ed. 2013).
[4] Shyam Divan & Armin Rosencranz, *Environmental law and policy in India* 57–61 (2d ed. 2001)
[5]*Subhash Kumar v. State of Bihar*, A.I.R. 1991 S.C. 420.
[6] *M.C. Mehta v. Union of India*, A.I.R. 1987 S.C. 1086; *Vellore Citizens Welfare Forum v. Union of India*, A.I.R. 1996 S.C. 2715.
[7] Sairam Bhat, *Law relating to environmental pollution and protection* 145–52 (2d ed. 2017); *The National Green Tribunal Act*, no. 19 of 2010, § 15, India code (2010).

environmental law;

- To identify judicial trends and highlight gaps or inconsistencies in the enforcement of environmental remedies.

## 2. Constitutional Framework for Environmental Protection in India

Environmental protection in India derives not only from statutory enactments but also from the constitutional framework that embeds environmental rights within the broader matrix of fundamental and directive principles. The Indian Constitution, though originally silent on environmental rights, has been interpreted by the judiciary in a progressive manner to include the right to a clean and healthy environment as part of the fundamental right to life under Article 21.[8] This judicial expansion of constitutional rights has provided fertile ground for the application of the maxim *ubi jus ibi remedium* in environmental matters.Article 21 of the Constitution of India guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law."[9] In a series of landmark decisions, the Supreme Court has interpreted the term "life" to include the right to live with human dignity, which encompasses the right to a clean, safe, and pollution-free environment.[10] In *Subhash Kumar v. State of Bihar*, the Court held that the right to life includes the right to enjoy pollution-free water and air for the full enjoyment of life.[4] Similarly, in the *M.C. Mehta* series of cases, the Supreme Court reaffirmed this expansive interpretation by recognizing environmental protection as intrinsic to the right to life.[11]In addition to Article 21, Article 48-A of the Constitution, inserted by the 42nd Amendment in 1976, imposes a duty on the State to "endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country."[12] Though part of the Directive Principles of State Policy and thus non-justiciable, Article 48-A has been used by the judiciary in conjunction with fundamental rights to impose affirmative obligations on the State.[13]Complementing Article 48-A is Article 51-A(g), which casts a fundamental duty upon every citizen of India "to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures."[14] Although fundamental duties are not enforceable in themselves, the courts

[8] Supra note 4.
[9] Constitution of India Article 21.
[10] Maneka Gandhi v Union of India A.I.R. 1978 SC 597.
[11] Supra note 5.
[12] M.C. Mehta v. Union of India, A.I.R. 1987 S.C. 1086; M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388.
[13]India Const. art. 48-A.
[14]Sachidanand Pandey v. State of W.B., A.I.R. 1987 S.C. 1109

have used them interpretatively to justify environmental restrictions and to reinforce collective responsibility.

Together, these provisions establish a constitutional basis for environmental protection in India. The convergence of enforceable rights under Part III (Fundamental Rights), non-enforceable goals under Part IV (Directive Principles), and moral obligations under Part IVA (Fundamental Duties) has enabled the judiciary to interpret environmental preservation as a matter of constitutional justice.[15] In this context, the maxim *ubi jus ibi remedium* gains substantive relevance, as courts have fashioned innovative remedies to redress environmental harms through writs under Articles 32 and 226.

The unique constitutional synergy between rights, duties, and policy directives has, therefore, empowered courts to deliver both preventive and remedial justice in environmental matters. This has laid the foundation for India's robust and evolving environmental jurisprudence.

**3. Judicial Recognition of Environmental Rights in India**

The Indian judiciary has played a transformative role in recognizing and expanding the scope of environmental rights. Although the Constitution of India does not explicitly guarantee a separate right to the environment, the Supreme Court and High Courts have consistently interpreted Article 21—the right to life—to include the right to a clean, safe, and healthy environment.[16] This judicial creativity has not only elevated environmental protection to the status of a fundamental right but has also enabled the enforcement of environmental claims through constitutional remedies, embodying the essence of the maxim *ubi jus ibi remedium*.

In *M.C. Mehta v. Union of India* (Oleum Gas Leak Case), the Supreme Court departed from traditional notions of liability and introduced the doctrine of absolute liability, holding that industries engaged in hazardous activities are absolutely liable for harm caused, without exceptions.[17] This case also marked a fundamental shift by recognizing that environmental harm directly infringes upon the right to life under Article 21.[18]Similarly, in *Vellore Citizens' Welfare Forum v. Union of India*, the Court reaffirmed that the right to a healthy environment

[15] See M.C. Mehta v. Union of India, (2002) 4 S.C.C. 356 (Taj Trapezium Case).
[16] Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* 67–68 (2d ed. 2001).
[17] M.C. Mehta v. Union of India, A.I.R. 1987 S.C. 1086.
[18] Id.

is a part of the right to life.[19] The judgment introduced and endorsed two key principles of international environmental law—the precautionary principle and the polluter pays principle—as part of Indian environmental jurisprudence.[20] These principles have since been applied as enforceable standards in domestic environmental adjudication.[21] The Supreme Court has also shown willingness to grant remedies through writ petitions under Article 32, even in the absence of specific statutory provisions. In *Indian Council for Enviro-Legal Action v. Union of India*, the Court directed industries to compensate affected populations and restore the damaged environment, invoking the polluter pays principle.[22] This case reaffirmed that judicial remedies can be directly granted for environmental wrongs that violate fundamental rights. Public interest litigation (PIL) has emerged as a critical tool through which environmental rights have been judicially enforced. The relaxation of traditional rules of standing has allowed social activists, NGOs, and concerned citizens to approach the courts on behalf of affected communities and eco-systems.[23] PILs have thus operationalized the maxim *ubi jus ibi remedium*, making environmental justice accessible to the marginalized and voiceless. Furthermore, High Courts across India have followed the lead of the Supreme Court in recognizing environmental rights. The Madras High Court in *T. Damodhar Rao v. Special Officer, Municipal Corporation of Hyderabad* held that environmental degradation through unchecked urbanization violates Article 21.[24] This trend illustrates a consistent and expansive judicial approach in interpreting the Constitution to fill legislative gaps and offer remedies.Through these judgments, the Indian judiciary has not merely interpreted laws but has shaped environmental policy, created binding principles, and fashioned innovative remedies. This proactive role reflects the judiciary's deep commitment to ensuring that the violation of environmental rights does not go unaddressed and that justice is both preventive and corrective in nature.

## 4. Types of Remedies Granted by Indian Courts in Environmental Cases

The Indian judiciary has played an instrumental role in shaping environmental jurisprudence by crafting diverse remedies to address environmental harm. These remedies—both constitutional and statutory—are a direct reflection of the maxim *ubi jus ibi remedium*, which

[19] Vellore Citizens' Welfare Forum v. Union of India, A.I.R. 1996 S.C. 2715.
[20] Id.
[21] A.P. Pollution Control Bd. v. Prof. M.V. Nayudu, (1999) 2 S.C.C. 718.
[22] Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 S.C.C. 212.
[23] Rural Litigation and Entitlement Kendra v. State of U.P., A.I.R. 1985 S.C. 652.
[24] T. Damodhar Rao v. Special Officer, Municipal Corp. of Hyderabad, A.I.R. 1987 A.P. 171.

mandates that the existence of a right must be accompanied by a mechanism for redress. Indian courts, particularly the Supreme Court and High Courts, have not only interpreted the right to a clean environment under Article 21 of the Constitution but have also evolved a robust remedial framework to enforce this right.[25]

### *4.1 Constitutional Remedies*

Under Articles 32 and 226 of the Constitution, the Supreme Court and High Courts respectively have the power to issue writs for the enforcement of fundamental rights. In environmental cases, courts have issued writs of mandamus to compel government authorities to take preventive or corrective action, writs of prohibition to halt environmentally harmful activities, and even continuing mandamus in complex or ongoing environmental matters.[26] For instance, in *M.C. Mehta v. Union of India* (Ganga Pollution Case), the Court issued a series of directions over several years to regulate industrial effluents and municipal waste.[27]

Continuing mandamus—an innovative remedy developed by Indian courts—involves ongoing judicial supervision of executive functions to ensure compliance with environmental directions.[28] This remedy has been used effectively in cases like the *Taj Trapezium Case* to oversee the relocation of polluting industries.[29]

### *4.2 Polluter Pay Principle and Compensatory Remedies*

One of the most significant judicial contributions in environmental law has been the incorporation of the polluter pays principle as a basis for awarding compensation and damages. In *Indian Council for Enviro-Legal Action v. Union of India*, the Supreme Court directed the polluting industries to pay the cost of remediation of the damaged environment, irrespective of fault.[30] The Court held that environmental remediation is not merely a regulatory function but a constitutional obligation when environmental rights are infringed.[31]

Similarly, in *Sterlite Industries (India) Ltd. v. Union of India*, the Supreme Court upheld the imposition of exemplary costs on the polluter for persistent violations of environmental

[25]Sairam Bhat, *Law Relating to Environmental Pollution and Protection* 159–65 (2d ed. 2017)
[26] Vellore Citizens' Welfare Forum v. Union of India, A.I.R. 1996 S.C. 2715.
[27] M.C. Mehta v. Union of India, (1988) 1 S.C.C. 471.
[28] S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 149 (2d ed. 2003).
[29] M.C. Mehta v. Union of India, (2002) 4 S.C.C. 356.
[30] Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 S.C.C. 212.
[31] Id.

norms.[32] These decisions show the court's willingness to grant not just compensatory but also deterrent remedies, thereby reinforcing accountability.

### *4.3 Preventive and Injunctive Relief*

Preventive remedies, including temporary and permanent injunctions, have been frequently issued to halt construction, mining, or industrial activity that poses an imminent threat to the environment.[33]In *Kinkri Devi v. State of Himachal Pradesh*, the High Court issued directions against unscientific limestone quarrying, recognizing its potential to cause irreversible environmental damage.[34] Such remedies are grounded in the precautionary principle, now a part of Indian environmental law.[35]

### *4.4 Restorative and Remedial Directions*

Indian courts have also gone beyond traditional forms of relief by issuing restorative directions. In several cases, courts have ordered afforestation, construction of sewage treatment plants, relocation of polluting industries, and establishment of regulatory bodies.[36] The Supreme Court, in *T.N. Godavarman Thirumulpad v. Union of India*, passed a series of orders over the years to monitor forest conservation and curb illegal deforestation across states.[37]

### *4.5 Exemplary and Punitive Damages*

In certain egregious cases, the judiciary has granted punitive damages not just to compensate victims, but also to deter future violations. While Indian tort law traditionally does not favor punitive damages, the courts have made exceptions in environmental cases to reflect the severity of harm and the need for deterrence.[38] This marks a shift from a compensatory model to a more corrective and preventive approach.

These remedies reflect the dynamic and evolving nature of environmental adjudication in India. By expanding the range of available remedies and adapting them to the context of ecological harm, Indian courts have ensured that environmental rights are not merely declaratory, but

[32] Sterlite Industries (India) Ltd. v. Union of India, (2013) 4 S.C.C. 575.
[33] A.P. Pollution Control Bd. v. Prof. M.V. Nayudu, (1999) 2 S.C.C. 718.
[34]Kinkri Devi v. State of Himachal Pradesh, A.I.R. 1988 H.P. 4.
[35] Vellore Citizens' Welfare Forum, A.I.R. 1996 S.C. at 2715.
[36]T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 S.C.C. 267.
[37] Id.
[38] M.C. Mehta v. Kamal Nath, (2000) 6 S.C.C. 213.

actionable and enforceable. This approach breathes life into the maxim *ubi jus ibi remedium* and strengthens environmental rule of law.

## 5. Effectiveness and Limitations of Judicial Remedies in Environmental Law in India

The Indian judiciary has undoubtedly emerged as a proactive guardian of environmental rights, crafting innovative and expansive remedies to address ecological degradation. The application of the principle *ubi jus ibi remedium* has enabled courts to transform environmental rights from abstract declarations into enforceable legal claims.[39] However, while judicial remedies have played a critical role in the evolution of environmental law in India, their effectiveness is not without limitations. A nuanced assessment reveals both commendable successes and structural challenges that continue to constrain the efficacy of environmental justice.

### *5.1 Positive Impact of Judicial Remedies*

The most significant success of judicial intervention lies in the recognition of the right to a healthy environment as a component of Article 21.[40] Through this interpretation, Indian courts have empowered citizens to seek remedies for environmental harm via constitutional litigation. Landmark judgments such as *M.C. Mehta v. Union of India* and *Vellore Citizens' Welfare Forum v. Union of India* have not only addressed specific instances of pollution but have also set nationwide regulatory precedents.[41]

Judicial remedies have also led to the institutionalization of environmental governance. For example, the establishment of the National Green Tribunal (NGT) in 2010 was partially a response to the judiciary's consistent insistence on the need for specialized forums to handle complex environmental disputes.[42] Furthermore, continuing mandamus has allowed courts to exercise long-term oversight, ensuring sustained compliance by both governmental and private actors.[43]

Through public interest litigation, the judiciary has also democratized environmental justice by enabling civil society actors to approach the courts on behalf of affected populations.[44] This

[39] Sairam Bhat, *Law Relating to Environmental Pollution and Protection* 190–94 (2d ed. 2017).
[40] Supra note 5.
[41] Supra note 35.
[42] Law Commission of India, 186th Report on Proposal to Constitute Environment Courts (2003).
[43] Supra note 28.
[44] Rural Litigation and Entitlement Kendra v. State of U.P., A.I.R. 1985 S.C. 652.

has broadened access to remedies and facilitated the emergence of environmental accountability in the absence of robust executive action.

### *5.2 Implementation Challenges*

Despite these successes, several challenges impede the full realization of judicial environmental remedies. Foremost among them is the gap between judgment and enforcement. While courts have issued comprehensive orders, implementation by executive agencies has often been weak, delayed, or selective.[45] In the *Ganga Pollution* cases, for instance, judicial orders have repeatedly been violated due to bureaucratic inertia, lack of coordination, and political resistance.[46]

Second, judicial overreach and institutional competence have become subjects of concern. Environmental matters frequently involve scientific and technical expertise that courts may not be adequately equipped to evaluate.[47] The lack of consistent reliance on expert evidence sometimes results in directions that are either impractical or disconnected from ground realities.

Third, there is the issue of judicial inconsistency and limited deterrence. In some instances, the judiciary has failed to apply environmental principles uniformly. For example, while the polluter pays principle has been used to award compensation in cases like *Sterlite Industries*, it has not been consistently enforced across all polluting entities.[48] This selective application undermines the deterrent value of judicial remedies.

### *5.3 Institutional Limitations*

The National Green Tribunal, despite being a dedicated body, faces resource constraints, limited benches, and procedural backlogs.[49] Moreover, its orders are often challenged before the Supreme Court, leading to delays in final resolution. This procedural complexity dilutes the immediate effectiveness of environmental remedies and extends litigation timelines.

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[45]Alok Prasanna Kumar, *Environmental Adjudication in India*, 5 N.U.J.S. L. Rev. 41, 57 (2012).
[46]Supra note 27.
[47]Gitanjali Nain Gill, *Environmental Justice in India: The National Green Tribunal and Expert Members*, 6 Envtl. L. Rev. 183, 185 (2014).
[48]Supra note 32.
[49] Shibani Ghosh, *Assessing the Effectiveness of the National Green Tribunal*, 8 Indian J. Envtl. L. 1, 12–14 (2020).

Additionally, lack of public awareness and environmental literacy hinders the widespread invocation of environmental rights. In rural and marginalized areas, where environmental harm is most acute, communities are often unaware of their constitutional entitlements or the availability of judicial redress.[50]

### *5.4 Towards Strengthening Judicial Remedies*

For judicial remedies to be truly effective in the environmental domain, structural reforms are essential. Strengthening the enforcement mechanisms of court orders, enhancing coordination among regulatory bodies, and institutionalizing scientific expertise within the judiciary can significantly improve outcomes.[51] Moreover, increasing environmental education and promoting participatory governance can complement judicial efforts and foster a culture of environmental accountability.

Thus, while the Indian judiciary has admirably operationalized the maxim *ubi jus ibi remedium* in environmental matters, sustained progress requires addressing the systemic and institutional bottlenecks that limit the practical enforcement of environmental remedies.

## 6. Suggestions and the Way Forward

The Indian judiciary has commendably upheld the maxim *ubi jus ibi remedium* in environmental jurisprudence, converting environmental rights into actionable claims. However, as discussed in the previous sections, the gap between rights and remedies persists due to structural, procedural, and institutional shortcomings. To bridge this gap and ensure that environmental rights are meaningfully enforced, the following suggestions are proposed.

### *6.1 Strengthening the Enforcement of Judicial Orders*

One of the primary concerns in environmental litigation is the failure of enforcement agencies to implement judicial directives.[52] To address this, mandatory compliance mechanisms must be instituted. The Supreme Court and High Courts should consider establishing court-monitored implementation committees comprising government officials, environmental experts, and civil society members. These bodies can be tasked with periodic reporting and

[50] Armin Rosencranz et al., *Environmental Law and Policy in India* 105–07 (2d ed. 2001).
[51] Centre for Policy Research, *Strengthening Environmental Governance in India* (2018).
[52] Supra note 49.

compliance monitoring.

Moreover, non-compliance with judicial orders should attract civil or penal liability under the Contempt of Courts Act, 1971.[53] Holding public officials personally accountable for failure to implement environmental judgments would serve as a strong deterrent.

### *6.2 Institutional Capacity-Building of the National Green Tribunal*

While the National Green Tribunal (NGT) was envisioned as a fast-track mechanism for environmental justice, it suffers from inadequate human resources, a shortage of technical experts, and limited benches across the country.[54] The government must enhance the infrastructure, budgetary allocations, and staffing of the NGT to expand its reach and capacity.

Additionally, the appointment of scientific experts and technical members must be made transparent and merit-based to ensure sound and evidence-driven adjudication.[55]The Tribunal's accessibility should also be improved by establishing regional benches and mobile courts, particularly in ecologically sensitive zones.

### *6.3 Integration of Environmental Expertise in the Judiciary*

Given the complex scientific nature of many environmental disputes, regular courts often lack the technical understanding necessary for effective adjudication. To remedy this, the appointment of amicus curiae or court-appointed expert panels should be institutionalized in constitutional courts.[56] Further, judges must undergo continuous legal education on environmental science, international environmental law, and comparative jurisprudence, facilitated by the National Judicial Academy.[57]

### *6.4 Legal Recognition of the "Right to Remedy" as an Environmental Principle*

While *ubi jus ibi remedium* has been implicitly followed in Indian environmental jurisprudence, it must be explicitly recognized as a legal principle within Indian environmental statutes such as the Environment (Protection) Act, 1986 or future legislative reforms.[58] This

[53]Contempt of Courts Act, No. 70 of 1971, § 12, India Code (1971).
[54] Supra note 47.
[55] Law Commission of India, 186th Report on Proposal to Constitute Environment Courts (2003).
[56]T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 S.C.C. 267.
[57]National Judicial Academy, India, https://www.nja.gov.in/
[58]Environment (Protection) Act, No. 29 of 1986, India Code (1986).

would reinforce the notion that the violation of environmental rights necessitates both state accountability and individual remedies, strengthening the overall remedial framework.

### *6.5 Promoting Environmental Legal Literacy*

Environmental justice cannot flourish without citizen awareness. There is a dire need to promote environmental legal literacy among the public, especially in rural and tribal areas that are often most affected by ecological harm.[59] Legal Services Authorities, NGOs, and state pollution control boards should collaborate to conduct awareness drives, training camps, and localized environmental grievance redressal mechanisms.[60]

In addition, environmental law and rights awareness should be integrated into school and university curricula to cultivate an informed citizenry capable of demanding remedies and enforcing accountability.[61]

### *6.6 Encouraging Alternative Dispute Resolution (ADR) in Environmental Matters*

To reduce the burden on courts and ensure timely remedies, environmental mediation and conciliation mechanisms must be promoted.[62] ADR mechanisms can provide quicker, cost-effective, and community-based solutions, particularly in cases involving localized pollution, land-use disputes, or environmental impact assessments. A statutory framework enabling environmental ADR under the NGT's jurisdiction may be considered.

### *6.7 Institutional Coordination Between Judiciary and Executive Agencies*

Finally, improved coordination between the judiciary and environmental regulators such as the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and the Ministry of Environment, Forest and Climate Change (MoEFCC) is essential. Courts should be empowered to issue binding directions to regulators and seek independent compliance audits. This would ensure that judicial remedies do not remain merely aspirational but are translated into concrete outcomes on the ground.

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[59] Supra note 50.
[60] National Legal Services Authority, https://nalsa.gov.in/
[61] Ministry of Education, National Curriculum Framework (2023), available at https://ncf.ncert.gov.in/.
[62] NGT Bar Association v. Union of India, (2016) 5 S.C.C. 515 (noting scope for innovative procedures in environmental dispute resolution).

## 7. Conclusion

The Latin maxim *ubi jus ibi remedium*—"where there is a right, there is a remedy"—is not merely a legal aphorism, but a foundational pillar of justice systems across the world, including India. In the realm of environmental jurisprudence, this principle has gained particular prominence as environmental rights have increasingly been interpreted as essential components of the constitutional right to life under Article 21.[63] This research has critically analyzed how the Indian judiciary has invoked and operationalized this maxim to create, expand, and enforce remedies for environmental degradation and ecological injustice.

From the early judicial recognition of environmental rights in *Subhash Kumar v. State of Bihar*[64] to the establishment of the National Green Tribunal and its application of principles like the polluter pays and precautionary doctrines, Indian courts have played an instrumental role in translating environmental ideals into enforceable legal standards.[65] Through mechanisms such as public interest litigation (PIL), continuing mandamus, and court-directed monitoring, the judiciary has demonstrated both creativity and commitment to upholding environmental rights in the face of administrative inertia.

However, the paper also revealed that while judicial activism has significantly advanced environmental protection, it is often constrained by systemic issues. These include inconsistent enforcement, limited institutional capacity, lack of scientific expertise, and inadequate coordination among implementing agencies.[66] Consequently, the practical realization of remedies often lags behind the expansive constitutional and statutory protections granted by the courts.

The analysis also indicated that while *ubi jus ibi remedium* has been applied implicitly in numerous landmark decisions, it lacks express codification in India's environmental statutes. This weakens the remedial framework and leaves room for discretionary application. Additionally, the principle's potential to empower local communities and marginalized populations remains underutilized due to legal illiteracy, procedural complexities, and

[63] Supra note 10.
[64] Subhash Kumar v. State of Bihar, A.I.R. 1991 S.C. 420.
[65] Supra note 17, Supra note 35.
[66] Supra note 47.

socioeconomic barriers.[67]

Therefore, if the maxim is to truly serve its purpose in the environmental context, judicial remedies must be supported by institutional reforms**,** capacity-building**,** public awareness**,** and legislative reinforcement**.** The integration of environmental expertise within the judiciary, stronger compliance mechanisms, and the recognition of a standalone "right to remedy" in environmental law could collectively enhance the enforceability and accessibility of environmental rights.

In essence, the principle of *ubi jus ibi remedium* is not just about the availability of a remedy but about the effectiveness, timeliness, and inclusivity of that remedy. It must be rooted in accountability and driven by a rights-based approach that ensures no environmental wrong remains unaddressed due to procedural inefficiencies or institutional limitations. The Indian judiciary has laid a strong foundation for environmental justice; it is now imperative that the legislative, executive, and civil society stakeholders work in tandem to build upon it and ensure that environmental rights are matched by effective remedies in both letter and spirit.

[67]Supra note 49, Supra note 50.