
ENVIRONMENTAL CONSTITUTIONALISM IN INDIA: JUDICIAL INNOVATION AND CONSTITUTIONAL INTERPRETATION

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ABSTRACT

Environmental constitutionalism represents the integration of environmental protection principles within constitutional law, transforming ecological concerns into enforceable legal rights and duties. In India, this evolution has largely been driven by judicial interpretation rather than explicit constitutional text. The Indian Constitution does not expressly guarantee a fundamental right to a clean environment; however, through creative and purposive interpretation, the judiciary has expanded the scope of Article 21 to include environmental protection as an essential component of the right to life. This paper examines the emergence and development of environmental constitutionalism in India, focusing on the judiciary's role in shaping green jurisprudence. It analyses how constitutional provisions such as Articles 21, 48A and 51A (g) have been harmoniously interpreted to establish environmental rights, duties, and governance principles. The paper further explores landmark judicial decisions that introduced doctrines like sustainable development, precautionary principle, public trust doctrine and inter-generational equity. While judicial innovation has significantly strengthened environmental protection, the paper also critically evaluates contemporary challenges, including concerns of judicial overreach, implementation deficits and conflicts between development and environmental sustainability. The study concludes by emphasizing the need for balanced constitutional governance, where judicial activism is complemented by legislative clarity and effective executive action to achieve long-term environmental justice.

Keywords: Environmental Constitutionalism, Judicial Activism, Green Jurisprudence, Sustainable Development, Public Trust Doctrine.

1.1 Introduction:

Environmental degradation has emerged as one of the most formidable challenges confronting contemporary societies across the globe. Rapid industrialization, urbanization, population growth and technological advancement have led to unprecedented exploitation of natural resources, resulting in pollution, deforestation, climate change, biodiversity loss and ecological imbalance. These environmental harms pose not only a threat to natural ecosystems but also to human health, livelihoods and survival. In this evolving global context, environmental protection has ceased to be merely a policy concern and has increasingly become a matter of constitutional importance. Constitutional law, traditionally concerned with governance structures and individual liberties, is now being invoked as a powerful tool to address ecological crises and ensure sustainable development.

The concept of environmental constitutionalism reflects this shift in legal thought. It signifies the incorporation of environmental values, principles and rights within constitutional frameworks, either through explicit constitutional provisions or through judicial interpretation. Environmental constitutionalism seeks to elevate environmental protection to the highest normative level of law, ensuring that ecological concerns are not subordinated to short-term economic or political interests. By constitutionalizing environmental protection, states acknowledge that a healthy environment is fundamental to the realization of human dignity, life and well-being.

This approach also strengthens accountability by subjecting environmental governance to constitutional scrutiny and judicial enforcement. In India, the development of environmental constitutionalism presents a unique and significant case study. The Constitution of India, adopted in 1950 did not originally contain explicit provisions addressing environmental protection. At the time of its framing, environmental concerns had not yet assumed global urgency, and constitutional focus remained largely on political freedoms, social justice and economic development. Though, the Indian Constitution possessed inherent flexibility and a value-based structure that allowed it to adapt to emerging challenges. This adaptability enabled the gradual integration of environmental concerns into constitutional law, particularly through judicial interpretation.

The formal recognition of environmental values within the Constitution came with the Forty-Second Constitutional Amendment Act 1976 which introduced Article 48A into the Directive

Principles of State Policy and Article 51A(g) into the Fundamental Duties. Article 48A directs the State to protect and improve the environment and safeguard forests and wildlife, while Article 51A(g) imposes a duty upon every citizen to protect and improve the natural environment. Although these provisions are non-justiciable in nature, they reflect a constitutional commitment towards environmental protection and provide interpretative guidance to courts and policymakers.

Yet, the absence of an explicit, enforceable fundamental right to a clean and healthy environment posed limitations on their practical effectiveness. It is within this constitutional landscape that the Indian judiciary assumed a transformative role. Through innovative and purposive interpretation, courts expanded the scope of fundamental rights, particularly Article 21 of the Constitution, which guarantees the right to life and personal liberty. Judicial interpretation of Article 21 evolved significantly over time, moving beyond a narrow understanding of physical existence to encompass the right to live with human dignity. This expansive interpretation provided the foundation for recognizing environmental protection as an essential component of the right to life. The judiciary acknowledged that life cannot be enjoyed in its true sense in the absence of a clean, safe, and healthy environment.

Judicial innovation in environmental matters must be understood against the backdrop of persistent governance failures. Despite the enactment of environmental legislation such as the Water Prevention and Control of Pollution Act 1974, the Air Prevention and Control of Pollution Act 1981 and the Environment Protection Act 1986 environmental degradation continued at an alarming pace. Weak enforcement mechanisms, bureaucratic inefficiencies, regulatory capture and lack of political will often rendered statutory protections ineffective. In many instances, affected communities lacked access to justice, resources, or representation to challenge environmentally harmful activities. These structural deficiencies created a vacuum in environmental governance, which the judiciary sought to fill through constitutional interpretation.

Public Interest Litigation [PIL] emerged as a crucial judicial innovation that enabled courts to respond to environmental harm affecting large sections of society. By relaxing traditional procedural requirements such as locus standi, Indian courts allowed public-spirited individuals, social activists and environmental organizations to approach the judiciary on behalf of affected communities and future generations. PIL transformed environmental disputes from private

grievances into matters of constitutional importance, allowing courts to address systemic environmental issues. Through PILs, the judiciary not only enforced existing environmental laws but also articulated new constitutional principles and doctrines to guide environmental governance.

Over the decades Indian courts have developed a rich body of environmental jurisprudence by integrating constitutional values with international environmental principles. Doctrines such as sustainable development, precautionary principle, polluter pays principle, public trust doctrine and inter-generational equity have been judicially recognized and applied in a variety of environmental disputes. These doctrines have enabled courts to balance competing interests of development and environmental protection, while emphasizing long-term ecological sustainability. By constitutionalizing these principles, the judiciary has strengthened the normative force of environmental protection and aligned domestic law with global environmental standards.

On the other hand, the judicialization of environmental governance has not been free from criticism. Concerns regarding judicial overreach, separation of powers and institutional competence have been raised by scholars and policymakers. Critics argue that excessive judicial intervention in environmental matters may encroach upon the domain of the legislature and executive, leading to governance challenges and democratic deficits. At the same time, proponents of judicial activism contend that judicial innovation is justified in light of persistent executive inaction and the urgency of environmental crises. This tension between judicial activism and institutional restraint forms an important aspect of environmental constitutionalism in India.

In the contemporary era, environmental constitutionalism faces new and complex challenges. Climate change, urban environmental degradation, industrial pollution and resource conflicts demand constitutional responses that go beyond traditional environmental regulation. Issues of climate justice, sustainable development and inter-generational equity require courts to interpret constitutional provisions in light of evolving scientific knowledge and global commitments. At the same time, economic growth and infrastructure development continue to exert pressure on environmental protection frameworks, often leading to conflicts between development objectives and ecological sustainability.

Against this backdrop an examination of environmental constitutionalism in India becomes

both relevant and necessary. Understanding how judicial interpretation has shaped environmental protection provides valuable insights into the strengths and limitations of court-driven governance. It also raises important questions about the future direction of constitutional environmental protection and the role of different institutions in achieving sustainable development. This paper seeks to critically analyze the evolution of environmental constitutionalism in India by examining its constitutional foundations, key judicial developments and emerging challenges.

The study aims to explore how the Indian judiciary has transformed environmental concerns into enforceable constitutional mandates through innovative interpretation. It also seeks to assess whether judicial intervention has effectively addressed environmental degradation or merely compensated for institutional failures. By situating environmental constitutionalism within the broader framework of constitutional governance, this paper attempts to contribute to the ongoing discourse on the role of courts in addressing ecological crises. Ultimately, the paper argues that while judicial innovation has been instrumental in advancing environmental protection in India, long-term sustainability requires coordinated efforts by the judiciary, legislature, executive and civil society, grounded in constitutional values of justice, dignity and equality.

1.2 Legal Framework and Constitutional Foundations:

The constitutional framework for environmental protection in India is built upon a combination of fundamental rights, directive principles and fundamental duties. Article 48A, inserted by the Forty-Second Constitutional Amendment Act 1976, directs the State to protect and improve the environment and safeguard forests and wildlife. Although not enforceable, this provision reflects the constitutional commitment towards environmental preservation. Similarly, Article 51A (g) imposes a fundamental duty on citizens to protect and improve the natural environment, including forests, lakes, rivers and wildlife.

The most significant constitutional provision for environmental protection, however, is Article 21, which guarantees the right to life and personal liberty. Initially interpreted narrowly, Article 21 underwent expansive interpretation after the *Menka Gandhi* judgment enabling courts to include within its scope various socio-economic and environmental rights. The judiciary recognized that life does not merely mean animal existence but includes the right to live with human dignity which necessarily encompasses a clean and healthy environment.

In addition to constitutional provisions, statutory enactments such as the Environment Protection Act, 1986, the Water Prevention and Control of Pollution Act, 1974 and the Air Prevention and Control of Pollution Act, 1981 provide legislative support to environmental governance. However, constitutional interpretation has played a decisive role in elevating environmental protection to the level of fundamental rights, thereby strengthening its enforceability.

1.3 Judicial Evolution of Environmental Constitutionalism:

The evolution of environmental constitutionalism in India is largely a judicial creation, shaped through progressive interpretation of constitutional provisions by the higher judiciary. In the absence of an explicit fundamental right to a clean and healthy environment, Indian courts have relied on purposive interpretation to integrate environmental protection within the constitutional framework. The Supreme Court in particular, has expanded the scope of Article 21 of the Constitution, transforming it into a dynamic provision capable of addressing contemporary environmental challenges. Through a series of landmark judgments, the judiciary has elevated environmental protection from a statutory obligation to a constitutionally enforceable right.

One of the earliest and most significant judicial recognitions of environmental rights emerged in *Subhash Kumar v. State of Bihar*. In this case, the Supreme Court explicitly held that the right to life under Article 21 includes the right to enjoy pollution-free water and air for full enjoyment of life. This judgment marked a turning point by establishing a direct constitutional nexus between environmental quality and the right to life. By doing so, the Court laid the groundwork for environmental constitutionalism, affirming that environmental degradation is not merely a regulatory issue but a violation of fundamental rights. This decision empowered citizens to seek constitutional remedies against environmental harm and reinforced the judiciary's role as a guardian of environmental justice.

The development of environmental constitutionalism gained further momentum through the extensive *M.C. Mehta* litigation, which significantly shaped India's environmental jurisprudence. Acting on public interest petitions the Supreme Court addressed a wide range of environmental issues, including industrial pollution, hazardous substances, vehicular emissions and water contamination. These cases demonstrated the Court's willingness to intervene where executive and legislative action was inadequate or ineffective. Rather than

limiting itself to enforcing existing laws, the Court adopted a problem-solving approach, issuing comprehensive guidelines, monitoring compliance and ensuring long-term remedial measures. This proactive stance reflected a shift from traditional adjudication to constitutional governance in environmental matters.

A landmark contribution of the judiciary to environmental constitutionalism was the formulation of the doctrine of absolute liability in *M.C. Mehta v. Union of India* (Oleum Gas Leak case). Departing from the English common law principle of strict liability the Supreme Court held that enterprises engaged in hazardous or inherently dangerous activities are absolutely liable for any harm caused, without exceptions. This doctrine was grounded in constitutional values, particularly the right to life and the duty of the State to protect public welfare. By prioritizing public safety and environmental protection over industrial interests, the Court strengthened constitutional accountability and reinforced the principle that economic development cannot come at the cost of environmental and human security.

The constitutionalization of international environmental principles was further consolidated in *Vellore Citizens' Welfare Forum v. Union of India*. In this case the Supreme Court formally recognized the principles of sustainable development, precautionary principle and polluter pays principle as integral components of Indian environmental law. The Court held that these principles flow from Articles 21, 47, 48A and 51A (g) of the Constitution, thereby embedding them within the constitutional framework. By incorporating these principles into constitutional interpretation, the judiciary ensured that environmental protection became an essential consideration in developmental decision-making. This judgment also aligned Indian environmental jurisprudence with global environmental norms, reflecting India's commitment to international environmental obligations.

Subsequent judicial decisions continued to strengthen environmental constitutionalism by emphasizing doctrines such as public trust and inter-generational equity. Courts recognized that natural resources are held by the State in trust for the benefit of present and future generations, limiting the State's authority to exploit or alienate such resources for short-term gains. This trust-based approach reinforced the constitutional duty of the State to protect ecological resources and promoted sustainable governance. Judicial reliance on these doctrines illustrates how constitutional interpretation has evolved to address complex environmental challenges that transcend traditional legal categories.

Collectively, these judicial innovations underscore the transformative role of the Indian judiciary in advancing environmental constitutionalism. Through expansive interpretation, doctrinal development and continuous oversight, courts have filled legislative and administrative gaps in environmental governance. While concerns regarding judicial overreach persist, the judiciary's intervention has been instrumental in safeguarding environmental rights and ensuring constitutional accountability. The judicial evolution of environmental constitutionalism in India thus reflects a dynamic interplay between constitutional values, environmental imperatives and the pursuit of sustainable development.

1.4 Doctrines Shaping Green Constitutional Jurisprudence:

Judicial development of environmental constitutionalism in India is closely associated with the evolution of key environmental doctrines. The doctrine of sustainable development emphasizes the need to balance economic growth with environmental protection, ensuring that development meets present needs without compromising future generations. Indian courts have consistently applied this principle to assess the legality of development projects. The precautionary principle, another significant doctrine, requires preventive action in the face of environmental uncertainty. The judiciary has held that lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation. This principle shifts the burden of proof onto those who propose activities that may harm the environment.

The public trust doctrine, adopted from common law principles, holds that natural resources such as air, water and forests are held by the State in trust for the benefit of the public. The Supreme Court has applied this doctrine to prevent privatization and exploitation of natural resources in ways that harm public interest. These doctrines collectively form the backbone of India's environmental constitutional jurisprudence and reflect the judiciary's commitment to ecological protection.

1.5 Role of Public Interest Litigation:

Public Interest Litigation has played a crucial role in advancing environmental constitutionalism in India. By relaxing procedural requirements such as locus standi, the judiciary enabled concerned citizens, environmental groups and social activists to approach courts on behalf of affected communities. PILs transformed courts into forums for environmental governance, particularly in cases involving large-scale pollution and ecological

degradation.

Through PILs, courts have issued continuing mandamus, monitored compliance with environmental regulations and directed administrative authorities to take corrective action. While this approach has resulted in significant environmental improvements in some cases, it has also raised concerns regarding judicial overreach and institutional competence. Nevertheless, PIL remains a powerful instrument for enforcing environmental rights and holding the State accountable under the Constitution.

1.6 Contemporary Issues and Challenges:

Despite significant judicial progress, environmental constitutionalism in India faces several challenges. One major concern is the gap between judicial pronouncements and effective implementation. Weak administrative capacity, lack of coordination among authorities and inadequate enforcement mechanisms often undermine judicial directives. Environmental degradation continues despite progressive constitutional interpretation, raising questions about the effectiveness of court-driven governance. An additional challenge relates to the balance between development and environmental protection. Large infrastructure and industrial projects often receive regulatory clearances despite environmental concerns, leading to conflicts between economic growth and ecological sustainability. Climate change presents an additional challenge, requiring constitutional responses to issues such as climate justice, inter-generational equity and sustainable resource management.

Concerns of judicial overreach have also been raised, with critics arguing that courts sometimes encroach upon executive and legislative domains. While judicial activism has filled governance gaps, long-term environmental protection requires democratic accountability, policy coherence and institutional reform. These challenges highlight the need for a balanced and collaborative approach to environmental constitutionalism.

1.7 Suggestions and Reforms:

To strengthen environmental constitutionalism in India, judicial innovation must be complemented by legislative clarity and administrative efficiency. Environmental laws should be updated to address contemporary challenges such as climate change, biodiversity loss and sustainable resource management. Stronger institutional mechanisms and regulatory bodies are

necessary to ensure effective implementation of judicial directives.

Capacity building of environmental authorities, transparent decision-making and public participation in environmental governance should be prioritized. Courts should continue to play a corrective role while exercising judicial restraint to respect institutional boundaries. Integrating environmental education and awareness into governance frameworks can further strengthen citizen participation in environmental protection.

A holistic approach involving judiciary, legislature, executive and civil society is essential to ensure that environmental constitutionalism translates into tangible ecological outcomes. Such an approach would promote sustainable development while preserving constitutional values of justice, dignity and equality.

Conclusion:

Environmental constitutionalism in India represents a transformative development in constitutional law, driven largely by judicial interpretation and innovation. By expanding the scope of fundamental rights and integrating environmental principles into constitutional jurisprudence, Indian courts have elevated environmental protection to a constitutional mandate. Landmark judgments and doctrinal developments have strengthened environmental governance and aligned domestic law with global environmental standards. Though, judicial innovation alone cannot ensure long-term environmental sustainability. Persistent implementation gaps, developmental pressures and institutional limitations continue to challenge environmental protection efforts. The future of environmental constitutionalism in India depends on balanced constitutional governance, where judicial activism is supported by effective legislation and accountable administration. By fostering cooperative federalism, institutional reform and public participation, India can move towards a more robust and sustainable model of constitutional environmental protection that safeguards both ecological integrity and human dignity.

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