

Judicial Activism And The Evolution Of Environmental Jurisprudence In India: From Constitutional Mandate To The National Green Tribunal

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ABSTRACT

Environmental jurisprudence in India represents a distinctive field of constitutional development in which judicial interpretation converted environmental protection from a largely directive constitutional commitment into an enforceable dimension of the right to life. Through public interest litigation, expansive interpretation of Article 21, and doctrines including absolute liability, sustainable development, the precautionary principle, polluter pays, public trust and intergenerational equity, the Supreme Court reshaped environmental governance. The National Green Tribunal Act, 2010 subsequently institutionalised several of these principles within a specialised adjudicatory framework. This article examines that transition, evaluates the legitimacy and limits of environmental judicial activism, and considers the emerging constitutional significance of climate change.

Keywords: Judicial activism; environmental jurisprudence; Article 21; PIL; sustainable development; NGT; climate change.

1. INTRODUCTION

The evolution of Indian environmental law cannot be understood solely through legislation. Although Parliament enacted an increasingly elaborate environmental statutory framework, constitutional courts supplied many of the principles that gave environmental protection its contemporary legal character. The Supreme Court's environmental jurisprudence emerged especially strongly during the expansion of public interest litigation in the 1980s. Relaxed standing enabled environmental harms affecting communities, ecosystems and diffuse public interests to be presented as constitutional questions.

The central doctrinal development was the transformation of Article 21. Once "life" was interpreted as encompassing dignity and conditions necessary for meaningful existence, environmental quality could be treated as a component of constitutional liberty rather than merely an administrative objective. Articles 48A and 51A(g) supplied an environmental constitutional ethic that courts read together with fundamental rights. The resulting jurisprudence did not simply enforce existing environmental statutes; it generated principles of liability, prevention, restoration and stewardship that subsequently influenced legislation and institutional design.

2. OBJECTIVE OF THE ARTICLE

The principal objective is whether judicial activism has merely filled temporary gaps in environmental administration or has fundamentally altered the constitutional architecture of environmental governance in India. The article examines how environmental protection became associated with enforceable fundamental rights, how judicially developed doctrines migrated into statutory law, and whether the National Green Tribunal represents institutional maturation of environmental judicial activism.

The Primary materials include constitutional provisions, environmental statutes, Supreme Court judgments and the National Green Tribunal Act, 2010. Secondary materials include leading scholarship on Indian environmental constitutionalism, environmental justice and specialist adjudication. The analysis is both descriptive and normative: it traces doctrinal development while evaluating institutional legitimacy, scientific competence, access to justice and implementation.

3. CONSTITUTIONAL MANDATE AND ENVIRONMENTAL CONSTITUTIONALISM

The Constitution of India did not originally contain an express fundamental right to a healthy environment. The Forty-Second Amendment inserted Article 48A, requiring the State to endeavour to protect and improve the environment and safeguard forests and wildlife, and Article 51A(g)[1], imposing upon citizens a duty to protect and improve the natural environment. Although these provisions do not operate as ordinary enforceable fundamental rights, they became interpretative resources in environmental constitutional adjudication.

The jurisprudential foundation for this development was the expansive reading of Article 21 following *Maneka Gandhi v. Union of India*. [2] The constitutional conception of life moved beyond protection from physical extinction to encompass dignity, health and conditions necessary for meaningful human existence. In *Subhash Kumar v. State*

of Bihar[3], the Supreme Court expressly stated that the right to life includes enjoyment of pollution-free water and air. Environmental quality thereby became capable of constitutional enforcement.

4. PUBLIC INTEREST LITIGATION AND THE JUDICIALISATION OF ENVIRONMENTAL GOVERNANCE

Environmental degradation presents unusual procedural problems. Pollution, deforestation and ecological depletion frequently affect large populations, future generations and natural systems that cannot themselves litigate. Traditional standing rules were therefore poorly adapted to environmental injury. Public interest litigation altered this position by enabling public-spirited individuals and organisations to invoke constitutional jurisdiction.

Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh[4], concerning limestone quarrying in the Dehradun-Mussoorie region, became an early landmark. The Court prioritised ecological protection despite economic consequences and demonstrated that environmental preservation could be treated as a matter of constitutional public interest. Environmental PIL later evolved into structural litigation in which courts retained jurisdiction, appointed committees, demanded compliance reports and issued continuing directions.

5. M.C. MEHTA AND THE CREATION OF ENVIRONMENTAL LIABILITY

The M.C. Mehta cases constitute a central body of Indian environmental jurisprudence. In the Oleum Gas Leak case, M.C. Mehta v. Union of India,[5] the Supreme Court considered harm arising from an enterprise engaged in hazardous activity. Rejecting the limitations of the English rule in Rylands v. Fletcher, the Court formulated the doctrine of absolute liability. An enterprise carrying on hazardous or inherently dangerous activity owes an absolute and non-delegable duty to the community and cannot ordinarily rely upon the traditional exceptions to strict liability. The innovation was constitutionally important because industrial risk was connected to social responsibility. The Court also indicated that compensation should bear a relationship to the magnitude and capacity of the enterprise, strengthening the deterrent dimension of environmental liability.

In the Ganga pollution litigation,[6] the Court required polluting tanneries to install treatment facilities and accepted closure where industries failed to prevent serious contamination. The decisions established that commercial utility cannot justify transferring environmental and health costs to the public.

6. SUSTAINABLE DEVELOPMENT, PRECAUTION AND POLLUTER PAYS

Vellore Citizens' Welfare Forum v. Union of India[7] represents a decisive stage in the incorporation of international environmental principles into Indian law. Addressing pollution from tanneries, the Supreme Court recognised sustainable development and treated the precautionary principle and polluter pays principle as essential features of environmental law.

The precautionary principle shifts environmental decision-making away from a purely reactive model. Where activities threaten serious or irreversible harm, lack of complete scientific certainty cannot automatically justify postponing preventive measures. A.P. Pollution Control Board v. M.V. Nayudu[8] deepened this reasoning by confronting the relationship between legal adjudication, scientific uncertainty and environmental risk.

The polluter pays principle addresses the allocation of environmental costs. Indian Council for Enviro-Legal Action v. Union of India[9] demonstrated that liability extends beyond compensation to individual victims and includes the cost of ecological remediation. This prevents enterprises from privatising profits while socialising environmental damage.

7. PUBLIC TRUST AND INTERGENERATIONAL EQUITY

In M.C. Mehta v. Kamal Nath,[10] the Supreme Court applied the public trust doctrine to natural resources. The State was conceptualised not as an unrestricted proprietor but as a trustee of resources whose ecological and public significance requires protection against improper private appropriation. The doctrine therefore imposes constitutional constraints on governmental discretion concerning rivers, forests and other resources.

Intergenerational equity extends environmental justice temporally. The present generation cannot treat ecological resources as though future interests were legally irrelevant. Forest cases, particularly the continuing T.N. Godavarman Thirumulpad litigation[11], demonstrate the judiciary's willingness to supervise conservation over extended periods. Such proceedings strengthened ecological accountability but also raised concerns regarding judicial administration of technically and politically complex policy fields.

8. FROM CONTINUING MANDAMUS TO SPECIALISED ADJUDICATION

Environmental PIL produced the technique of continuing mandamus, through which constitutional courts retained proceedings and monitored compliance over time. This method proved useful where environmental statutes existed but executive implementation remained weak. It also generated institutional difficulties. Courts possess constitutional authority and legal expertise, but complex environmental disputes frequently require sustained scientific, engineering and economic assessment.

The Supreme Court itself recognised the value of specialist environmental adjudication in A.P. Pollution Control

Board v. M.V. Nayudu.[12] The demand for a forum combining judicial competence with technical expertise eventually contributed to the institutional environment in which the National Green Tribunal was established.

9. NATIONAL GREEN TRIBUNAL: INSTITUTIONALISATION OF ENVIRONMENTAL PRINCIPLES

The National Green Tribunal Act, 2010[13] established a specialist tribunal for effective and expeditious disposal of cases concerning environmental protection, conservation of forests and natural resources, and relief and compensation for environmental damage. Its design combines judicial and expert participation.

Section 14 confers jurisdiction over civil cases involving substantial questions relating to the environment arising from enactments specified in Schedule I. Section 15 empowers the Tribunal to provide relief, compensation and restitution, including restitution of damaged environment. Section 16 establishes appellate jurisdiction over specified decisions. Section 19 gives the Tribunal procedural flexibility by providing that it is guided by natural justice rather than being strictly bound by ordinary civil procedure.

Section 20 is jurisprudentially remarkable because it expressly requires application of sustainable development, the precautionary principle and polluter pays principle. Judicially elaborated doctrines thus acquired direct statutory status. The NGT may consequently be understood as an institutional extension of the constitutional environmental jurisprudence developed by the Supreme Court.

10. NGT JURISPRUDENCE AND ENVIRONMENTAL RULE OF LAW

The NGT has contributed to environmental adjudication in fields including pollution, waste management, mining, environmental clearances and ecological restoration. In *Municipal Corporation of Greater Mumbai v. Ankita Sinha*, [14] the Supreme Court affirmed the distinctive environmental role of the Tribunal and recognised the legitimacy of proactive action within its statutory framework.

The broader concept of environmental rule of law has also become increasingly important. *Hanuman Laxman Aroskar v. Union of India* [15] emphasised reasoned environmental decision-making and meaningful scrutiny in the clearance process. Environmental legality therefore concerns not only outcomes but procedures: disclosure, consideration of relevant ecological information, public participation, expert assessment and reasoned administrative decisions.

11. CLIMATE CONSTITUTIONALISM

Climate change is expanding the conceptual boundaries of environmental constitutionalism. Unlike many conventional pollution disputes, climate injury is cumulative, scientifically complex, geographically diffuse and deeply intergenerational. It intersects with health, biodiversity, livelihood, equality, energy policy and development. In *M.K. Ranjitsinh v. Union of India*, [16] the Supreme Court articulated a constitutional right to be free from the adverse effects of climate change in the context of Articles 14 and 21. The development is significant because it connects the earlier constitutional right to environmental quality with systemic climate risk. At the same time, climate adjudication requires institutional restraint: courts can enforce constitutional duties and legality, but energy transitions and distributive choices also demand legislative, executive and expert decision-making.

12. CRITICAL ANALYSIS: ACTIVISM, LEGITIMACY AND INSTITUTIONAL LIMITS

Indian environmental judicial activism has made enduring contributions. It widened access to justice, constitutionalised environmental interests, developed innovative liability rules, introduced preventive and restorative principles, and strengthened accountability where administrative enforcement was deficient. It also helped create the jurisprudential foundations upon which specialist environmental adjudication could develop.

Nevertheless, judicial success can obscure institutional limits. Continuing judicial supervision may blur adjudication and administration. Courts may lack the scientific capacity necessary for technically complex disputes. Environmental orders can also encounter implementation deficits caused by weak regulatory institutions, fragmented governance and competing developmental priorities.

The appropriate question is therefore not whether judicial activism is categorically desirable or undesirable. The more important inquiry concerns the conditions under which intervention strengthens environmental rule of law without displacing democratically accountable and technically competent governance.

13. FINDINGS AND RECOMMENDATIONS

The doctrinal trajectory demonstrates that Indian environmental law has moved from constitutional aspiration to enforceable environmental rights and then toward specialised institutional adjudication. Judicial activism was especially important where statutory enforcement and administrative capacity were inadequate. Its most durable contribution lies in principles that now operate beyond individual cases.

Future reform should strengthen scientific and technical capacity in environmental institutions, ensure effective enforcement of NGT orders, improve environmental impact assessment and public participation, and develop coherent legal responses to climate change. Constitutional courts should preserve their role in protecting fundamental rights and reviewing legality while specialist bodies undertake detailed environmental adjudication within statutory

14. CONCLUSION

The evolution of environmental jurisprudence in India illustrates a remarkable interaction between constitutional interpretation and institutional development. Articles 48A and 51A(g) supplied an environmental constitutional mandate; Article 21 enabled environmental quality to become a fundamental-right concern; PIL opened constitutional courts to diffuse ecological injury; and landmark decisions developed doctrines of absolute liability, precaution, polluter pays, sustainable development, public trust and intergenerational equity.

The National Green Tribunal represents the institutional maturation of this jurisprudence. By expressly incorporating major environmental principles into a specialist statutory forum, the NGT marks a transition from extraordinary judicial intervention toward institutional environmentalism. The contemporary emergence of climate constitutionalism shows that this evolution remains unfinished. The long-term objective should be neither judicial withdrawal nor permanent judicial administration. It should be an environmental constitutional order in which courts, the NGT, legislatures, regulators, scientific institutions and citizens operate within mutually reinforcing structures of ecological responsibility and environmental justice.

REFERENCES

1. Divan, S., & Rosencranz, A. (2001). *Environmental law and policy in India: Cases, materials and statutes* (2nd ed.). Oxford University Press.
2. Gill, G. N. (2016). Environmental justice in India: The National Green Tribunal and expert members. *Transnational Environmental Law*, 5(1), 175–205.
3. Leelakrishnan, P. (2016). *Environmental law in India*. LexisNexis.
4. Shastri, S. C. *Environmental law*. Eastern Book Company.
5. United Nations. (1972). *Declaration of the United Nations Conference on the Human Environment*.
6. United Nations. (1992). *Rio Declaration on Environment and Development*.

End Note

1. India Const. arts. 48A, 51A(g).
2. *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).
3. *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India).
4. *Rural Litig. & Entitlement Kendra v. State of Uttar Pradesh*, 1985 Supp. S.C.C. 79 (India).
5. *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395 (India) (the Oleum Gas Leak case).
6. *M.C. Mehta v. Union of India*, (1988) 1 S.C.C. 471 (India) (the Ganga pollution case).
7. *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India).
8. *A.P. Pollution Control Bd. v. Prof. M.V. Nayudu*, (1999) 2 S.C.C. 718 (India).
9. *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212 (India).
10. *M.C. Mehta v. Kamal Nath*, (1997) 1 S.C.C. 388 (India).
11. *T.N. Godavarman Thirumulpad v. Union of India*, W.P. (C) No. 202 of 1995 (India) (order continuing).
12. *A.P. Pollution Control Bd. v. Prof. M.V. Nayudu*, supra note 8.
13. *National Green Tribunal Act*, No. 19 of 2010, §§ 14–16, 19–20, India Code (2010).
14. *Mun. Corp. of Greater Mumbai v. Ankita Sinha*, (2022) 13 S.C.C. 401 (India).
15. *Hanuman Laxman Aroskar v. Union of India*, (2019) 15 S.C.C. 401 (India).
16. *M.K. Ranjitsinh v. Union of India*, W.P. (C) No. 1121 of 2021 (India, decided Apr. 6, 2024).