

Environmental Judicial Activism in India: An Analysis of Judicial Trends from Past to Present

Dr. Binita Pradhan

Sr. Assistant Professor, Law, Sikkim Government Law College

Abstract

Environmental degradation today is largely driven by human activities rather than natural phenomena. Urbanization, industrialization, and unchecked human interventions are significant contributors to environmental issues such as resource overconsumption, ozone depletion, and global warming. These have led to a global crisis, threatening life support systems. The Indian judiciary has played a crucial role in addressing these issues, providing landmark judgments that promote environmental protection. This paper explores the environmental concerns in India, the constitutional provisions related to the environment, the judicial trends and it also highlights the role of National Green Tribunal as a forum for environmental adjudication.

Key words: *Environmental jurisprudence, National Green Tribunal, environmental activism, Public Interest Litigation, Sustainable development*

The term “environment” encompasses the natural world and its interconnected ecosystems, including air, water, land, flora, and fauna. According to the Webster Dictionary, environment means “the Aggregate of all the external condition and effects influencing the life and improvement of a living things.”¹ It is the foundation for all life on Earth, providing essential resources for human survival. Environmental protection refers to safeguarding these natural resources against harm caused by human activity.

During the last few years environment has become a global concern whether it be environmental pollution, climate change, excessive concentration of harmful chemicals Resource Depletion, Global Warming etc. All these have created a threat to life support system. These environmental problems have caught the attention of policy makers, intellectuals, social activists and Judiciary. Several initiatives have been taken by the government, and even Indian Judiciary have played a vital role through judicial activism in safeguarding the environment.

To deal with environmental issues efforts have been made since 1970 both at international and national level. At international level United Nation took the first initiate for the preservation of the environment. Likewise, the United Nation conference on the Human Environment at Stockholm in June 1972 evolved certain principles and action plan for controlling and

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¹ Merriam-Webster’s Collegiate Dictionary, 11th Edition, Merriam-Webster, Incorporated, 2003

regulating environmental degradation. India, actively participated in this conference, which emphasized the duty of the states to protect and improve the environment for present and the future generations. International conventions such as the Rio Earth Summit, the Kyoto Protocol and the Paris Agreement encouraged India to strengthen laws relating to pollution control, biodiversity conservation, climate change and sustainable development.

With all these global steps taken for the protection of environment, India enacted several important legislations including the water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986. Keeping all these development in mind Indian Judiciary have adopted several international environmental principles such as sustainable development, precautionary principle and polluter pays principle.

Constitutional Provisions: -

The supreme law of the land, the Indian Constitution exhibits keen interest in conservation of the environment. It does not, explicitly mention the word 'environment' but the prolific document deals with every aspect of it.² The Constitution mandates in favour of equitable development in consonance with sustainable environment.

- Article 21 which deals with right to life has been expanded to incorporated the right to life includes right to a clean and healthy environment and pollution free environment as a fundamental right.
- Indian Judiciary has frequently relied on Article 48-A which lays down that “the state shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”
- Fundamental duties under Article 51-A (g) states that “it shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.”
- Public Interest Litigation under Article 32 and 226 of the Indian Constitution resulted in a wave of environmental litigation. Wherein, any public-spirited individual or organization can approach the High Court or Supreme Court on behalf of the aggrieved citizen in cases of environmental degradation.

How the Judiciary Has Helped in Protecting the Environment

In *Prabhakar Rao v. State of A.P.*, AIR 1986 SC 210, SC reminded us that: “Justice may be blind but it is not to be deaf. Judges are not to sit in sound proof rooms.”

The Indian judiciary has become a key player in environmental protection by interpreting the right to a healthy environment as an integral part of the right to life under Article 21 of the Indian Constitution. The judiciary has used its powers to ensure compliance with environmental laws and has been proactive in taking suo motu actions to address issues like pollution, deforestation, and illegal mining.

² Rahamatullah Khan, 'Environment v. Development Revisited': Contribution of Indian Judiciary to the conflict Resolution, Asian Year Book of International Law, Vol.2, P.11

Judicial activism in environmental protection emerged notably through Public Interest Litigations (PILs), allowing the courts to take up cases on behalf of the public to address urgent environmental concerns. The Indian courts, particularly the Supreme Court, have invoked their writ jurisdiction under Article 32 to enforce environmental laws, holding both government bodies and industries accountable.

Landmark Judgments

For the protection of environment from pollution, the Hon'ble SC and also various HC have taken enumerable measures in a series of their landmark judgments.

1. *M.C. Mehta v. Union of India*³: Also known as the Oleum Gas Leak case wherein, the Supreme Court intervened after the leakage of hazardous gases like chlorine from an industrial plant, emphasizing the need for industries to take proactive measures to prevent environmental harm. Further, the Court ruled that an enterprise engaged in a hazardous or inherently dangerous activity is strictly and absolutely liable to compensate for any harm caused without exceptions. This case highlighted the need to balance industrial development with public safety and environmental concern.
2. *M.C.Mehta v. Union of India and others*.⁴ also known as the Ganga Pollution case. In this case M.C.Mehta filed a PIL concerning the severe pollution of the River Ganga in Kanpur, caused by untreated industrial effluents from tanneries. The petitioner argued that the Nagar Mahapalike had failed to perform its statutory duty to prevent this pollution. The pollution was so severe that the river could no longer be used for drinking or bathing due to the pollution of the river Ganga by industries, particularly tanneries in Kanpur. The Supreme Court ordered the closure of tanneries that failed to install primary treatment plants and directed the authorities to complete the Ganga Action Plan projects to improve the sewage system and reduce pollution.
3. *Municipal Council, Ratlam v. Vardichand and Others*.⁵, throwing of waste materials of alcohol plant into the adjoining nala resulting in spreading of obnoxious smells being released apart from mosquito breeding which lead to a public health hazard from open latrines and stagnant water. The Supreme Court ruled that the municipality could not use a lack of funds as an excuse to avoid its legal obligations to ensure public health and safety. Hence, the Court ordered the municipality to execute the necessary sanitation scheme, setting a precedent for holding local governments accountable for their civic duties.
4. *Rural Litigation and Entitlement Kendra v. State of U.P.*⁶ also known as Doon Valley case. This is the first case where Supreme Court recognized the right to clean environment as the right under Article 21 of the Indian Constitution. The court addressed illegal mining practices in the Himalayan region, emphasizing the adverse effects on the local ecology and ordered the cessation of such activities.

³ (1987) 1 SCC 395

⁴ (1987) 4 SCC 463

⁵ (1980) 4 SCC 162

⁶ (1985) 2 SCC 431

5. Union Carbide v. Union of India⁷ : In the aftermath of the Bhopal Gas Tragedy, the Supreme Court ruled on the accountability of the Union Carbide company for its negligence in releasing toxic gases that caused mass casualties and environmental destruction.
6. Vellore Citizens Welfare Forum v. Union of India⁸, This case focused on the pollution of the Palar River in Tamil Nadu due to industrial effluents, resulting in the destruction of agricultural land. The court issued guidelines for industries to treat effluents before discharge.
7. Bhandu Mukti Morcha v. Union of India⁹, The Supreme Court recognized the right to a healthy environment as a fundamental right under Article 21, which has since been integral to environmental jurisprudence in India. This principle is now been adopted and followed in various other countries.
8. Indian council for Enviro-Legal Action v. Union of India¹⁰, also known as the Coastal Zone Management case, it was held, “while economic development should not be allowed to take place at the cost of ecology or by causing wide spread environmental destruction and violation at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other works, there should not be development at the cost of environment and vice-versa, but there should be development while take due care and ensuring the protection of environment.”
9. M.C.Mehta v. Kamal Nath¹¹, this case is one of the most important environmental law judgments delivered by the Supreme Court of India. In this case the Public Trust Doctrine is introduced into the Indian environmental jurisprudence. Natural resources such as rivers, forests, air and water are held by the state in trust for the public. The government cannot transfer such resources for private ownership or commercial exploitation if it harms public interest. Thus, in this case it was held that the state is the trustee of natural resources and it must protect them for public use and future generations.
10. Murli S. Deorav v. Union of India¹², this is a landmark case wherein the Supreme Court strengthened environmental and public health jurisprudence by prohibiting smoking in public places.

National Green Tribunal

The Indian legislature established the National Green Tribunal (NGT) in 2010 for effective and expeditious disposal of cases relating to environment protection and conservation of forests and other natural resources. It also deals with enforcement of any legal right relating to environment and giving relief and compensation for damages to person and to property.

⁷ (1989) 2 SCC 540

⁸ (1996) 5 SCC 647

⁹ (1984) 3 SCC 161

¹⁰ (1996) 5 SCC 281

¹¹ (1997) 1 SCC 388

¹² (2001) 3 SCC 765

It operates as a specialized body capable of applying environmental laws, granting relief and compensation and reviewing administrative actions impacting the environment. It comprises of both the judicial members and expert members such as environmental scientist and professional to effectively judge complex scientific data. It operates under the principles of sustainable development and precautionary principle and the polluter pays principle rather than the rigid procedures of the Civil Procedure Code.¹³

Further, it aims to provide speedy environmental justice and help in reducing the burden in the higher courts. The NGT is mandated to dispose of the applications or appeals within 6 months of filing of the same. The NGT is proposed to be set up at five places i.e., in New Delhi, Pune, Kolkata, Chennai and Bhopal. The NGT has been instrumental in functioning as quasi-judicial body by providing speedy disposal of environmental related cases and reducing the burden on higher courts.

Landmark cases by NGT

- ❖ *Prafulla Samantra v. Union of India*,¹⁴ The NGT suspended a strategic environmental clearance granted to South Korean steel major POSCO for a proposed 52000/- crore mega project in Odisha, establishing that massive financial investments cannot bypass community consultation and local forest rights.
- ❖ *Save Mon Region Federation v. Union of India*¹⁵, wherein the NGT suspended the 6,400/- crore Nyamjang Chhu hydro project in Arunachal Pradesh to protect the habitat of the endangered Black-necked Crane, prioritizing biodiversity over unchecked development.
- ❖ *Srinagar Bandh Aapda Sangharsh Samiti v. Alaknanda Hydro Power Co., Ltd.*¹⁶ ,In this case NGT set a strong precedent by penalizing a power company and directing it to compensate residents for damages suffered during the Uttarakhand floods, enforcing the principle that polluters must pay for environmental harm.
- ❖ *Vardhaman Kaushik v. Union of India*,¹⁷ the NGT ordered a total ban on the plying of all diesel vehicles older than 10 years in the Delhi-National Capital Region. It revolutionized urban transport policies, pushing India to accelerate the adoption of stricter vehicular emissions standards.
- ❖ *Almitra H. Patel v. Union of India*¹⁸, the NGT issued a sweeping directive mandating absolute waste segregation and declaring a complete nationwide ban on the open burning of waste on land and at landfills. Till today this case remains as the most widely cited solid waste Management Rules across Indian Municipalities.
- ❖ *M.C. Mehta v. Union of India*¹⁹, in order to curb severe pollution, the NGT declared a 100-meter stretch from the edge of the Ganga between Haridwar and Unnao a No-Development zone and banned any dumping of waste within 500 metres of the river.

¹³ National Green Tribunal Act, No. 19 of 2010

¹⁴ Original Application No. 123 of 2013

¹⁵ Appeal No. 39 of 2012 (National Green Tribunal, Principal Bench, New Delhi)

¹⁶ Original Application No.3 of 2014(PB)

¹⁷ Original Application No. 21 of 2014 (PB)

¹⁸ Original Application No. 199 of 2014 (PB)

¹⁹ Original Application No.200 of 2014 (PB)

- ❖ Vijay Kumar v. Government of NCT of Delhi²⁰ the NGT principal bench issued a landmark directive ordering the registration of FIR and strict administrative action against illegal tree felling in Delhi's Sultanpur area. The NGT ordered the Principal Chief Conservator of Forests to audit and compile all illegal tree felling complaints from the past five years. It introduced strict administrative reforms and mandatory compensatory plantation rules to combat urban deforestation.

Suggestions

1. Public Awareness and Sensitization: There is a pressing need for spreading awareness among the people about environmental issues and their long-term impacts is crucial. Educational programs and media campaigns can help cultivate a sense of responsibility toward nature.
2. Strengthening Environmental Laws and Enforcement: While India has robust environmental laws, their implementation remains weak. Strengthening enforcement mechanisms will ensure that violators face strict penalties.
3. Plantation: more plantation on the road side, barren land and government premises must be done through the help of local Self-Help Group, Non-Governmental Organisation and local bodies through "Shram Daan".²¹
4. Sustainable Development Practices: Promoting sustainable development, which balances economic growth with environmental protection, is key to mitigating environmental degradation.
6. Collaboration between Government, Judiciary, and Citizens: A collaborative approach, where the government, judiciary, and citizens work together to address environmental challenges, will lead to more effective and lasting solutions.

Conclusion

Over the years the Indian judiciary has played an instrumental role in environmental protection, ensuring that the right to a healthy environment is recognized as a fundamental right. Further, with the establishment of National Green Tribunal the sustainable judicial approach towards environment has been strengthened. Through environmental activism, the Supreme Court and various High Courts have delivered landmark judgments that have shaped environmental policy in India and have also given appropriate dimensions to the development of environmental jurisprudence and balanced judicial activism. However, challenge lies in the implementation of these judgments in the grass-root level. As human beings we are dependent on the environment and not the other way around. By following the policy of sustainable development, we can keep the environment safe and development alive. Therefore, it is time for all of us to protect, preserve and support the initiatives taken by the government and judiciary before it's too late. Therefore, the need of the hour is the continued vigilance, stricter enforcement, and greater public participation for a sustainable future.

²⁰ Original Application No. 262/2025 (PB)

²¹ It's a Sanskrit term meaning "donation of Labour" or "voluntary Physical Service"

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