

**AN OVERVIEW OF ENVIRONMENTAL JURISPRUDENCE IN BHARAT: PRINCIPLE  
TO PRACTICE**

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**Abstract**

*Environment is derived from the French term "Environ," which means "surrounding," and the word "Paryavarna," which means "something that envelops up." Together, these two words form the English word setting. Environmental laws are the rules that effectively control environmental protection authorities and ensure that they are able to do their jobs. The environmental conservation movement is not a recent phenomenon; rather, it has been there since the time of the Vedic civilization. But throughout the course of the last several decades, there has been a pattern of an enormous increase in the amount of pollution in the environment. As a result of this tendency, there is a growing concern that these sectors should not be developed at the cost of the environment. An individual's surroundings are referred to as their environment, and the phrase encompasses everything that has an impact on a living entity during its lifetime. When this perspective is taken into consideration, the purpose of the research study is to investigate the environmental jurisprudence in India with regard to its development, the manner in which environmental and social justice is delivered, and the role that people's attitudes play in the process.*

**Key Words:**

*Environment, Evolution, Jurisprudence, Judiciary, Protection*

**Introduction**

India has a lot of natural problems because its environments and people are so different. The country's natural resources are under a lot of stress from things like air pollution, cutting down trees, not having enough water, and losing species.<sup>i</sup> In this situation, the courts play the most important part in protecting the environment. <sup>ii</sup>The Indian court has been very important in figuring out what environmental laws mean and making sure they are followed. They have also been very important in settling conflicts, protecting environmental rights, and shaping environmental governance. Prior to the 1980s, only the person who was wronged could personally go to court and ask for justice. No one else who wasn't directly touched could do so on behalf of the victim or the person who was wronged. But around 1980, the Indian legal system, especially environmental law, went through a huge change. It got rid of its old, ineffective way of doing things and started looking for new ways to be fair to everyone.<sup>iii</sup> During this time, there was activity in both the executive branch and the legislature, as well as in the courts. In today's welfare state, justice needs to take into account social facts and the needs of the present. The need to protect the earth causes a lot of problems for a growing country like ours. Harmonization of environmental values with progressive values must be a part of administrative and governmental plans. These plans must be made in the context of the country's current socioeconomic situation. It is very important for the courts to decide what the government bodies can and cannot do and to find a balance between growth and protecting the environment. Principle 10 of the Rio Declaration of 1992 says that everyone should be able to effectively access legal and official procedures, such as relief and justice.

**Concept of Environmental Jurisprudence**

Environmental issues have been important in India for a long time. The Vedas, Upanishads, and other Puranas talk about this. Many people think of Dharma as the most important idea in Hinduism.<sup>iv</sup> One way that Dharma can be shown is by saving the earth. In many of its parts, the Bhagwad Gita talks about how the Supreme Divine is present in all of nature. During the later Vedic time, it was illegal to cut down trees and plants. What the term "environmental law" really meant, though, came out during the British rule and after freedom.<sup>v</sup>

## **Evolution of Environmental Laws in Bharat**

The main idea behind the word “environmental jurisprudence” is using the law to protect the earth. There is a law in India called Article 51A<sup>vi</sup> that says every person has to take care of the earth. Additionally, Article 21 protects the right to life, which includes the right to a healthy atmosphere. In 1972, the United Nations held the Stockholm Conference on Human Environment. At this meeting, many policies and plans were made to protect the environment. For this reason, India now has clear and different laws that cover all parts of Mother Nature.

**Prior to the year 1972**, India's legislation for environmental preservation was mostly comprised of a combination of tort laws, criminal laws, restrictions pertaining to water and forests, and specialized legislation. During this time period, India's development was primarily dependent on these many components. It is observable that throughout this generation, there was a very limited amount of progress made in the field of Indian environmental law.

**In the years after 1972**, a substantial advancement was made in the area of international environmental law. This phase coincided with the conclusion of the Stockholm Conference and made a significant contribution to the field. At the Stockholm Conference, knowledge of environmental protection problems was brought to the attention of people all over the world, and India was not an exception to this growing awareness.

## **Laws Relating To the Protection of the Environment**

**The Wild Life (Protection Act), 1972:** This law was made to protect wildlife, which is an important part of the environment, and keep it from going extinct. This law says that every state needs to set up a Wild Life Advisory Board. National Parks and reserves will be set up in some places. The main goal of this Act is to protect the birds, animals, and plants that live in woods. People can only hunt wild animals when those animals become dangerous to people or get sick so badly that they can't get better.

**The Indian Forest Act of 1927** says that anyone who harms the water in a forest area without following the rules set by the State Government will be punished. Section 32(f) says that the State Government can make rules about how to handle poisoning of forest water. <sup>vii</sup>

**The Water Act of 1974 (Restriction on Pollution):** The law in each country about water is more developed than the law in other countries. Still, India doesn't have a broad system in place to control all aspects of waterways. There are many different concepts, rules, and acts that make up India's water law system. These have been put in place over many decades. Some of these are common law principles and irrigation acts from the colonial era. Others are more modern rules about water safety and the legal protection of a person's right to water. The Indian government's first ace is the Water (Prevention and Control of Pollution) Act, 1974. This law gives the SPCB and PCC the power to go into workplaces, industrial plants, and other places and look at records, papers, and files. It also gives SPCB and PCC the power to collect samples of industrial waste water and analyze them. There are parts of this act that also make criminal responsibility possible.

**Air (Prevention and Control of Pollution) Act, 1981:** Air pollution was supposed to be stopped, controlled, and lessened by the Act. This law was mostly meant to stop pollution from factories and cars.

**The Environment (Protection) Act 1986:** Based on a quick look at the Preamble, it is clear that the legislation has three main goals. 1) Keeping the environment safe 2) Making the environment better 3) Keeping people, other living things, plants, and land safe from bad things that could happen. There is a lot of different types of law in this umbrella bill. It talks about everything from getting rid of radioactive materials to using plastic bags.

**The Noise Pollution (Regulation and Control) Rules, 2000:** Remember this wise saying: "Noise is a silent killer." This may or may not be where the act's revival came from. In 2000, the Noise Pollution (Regulation and Control) Rules were made. This law says that the State Government has to set noise rules and divide areas into industrial, business, residential, or "quiet" zones. It also says that microphones, amps, drum and tom-tom beats can't be used unless the officials say it's okay.

**The Serais Act of 1867:** A keeper of a Serai or an inn was required by the Act to make sure that the water was of a certain quality so that "persons and animals using it" could drink it. This had to be done to the satisfaction of the District judge or his representatives. Failure to keep the level meant that twenty rupees was due.

**Obstruction in Fairways Act, 1881:** Section 8 of the Act gave the Central Government the power to make rules that would make it illegal or restricted to throw trash into any fairway that led to a port and would cause or likely cause a bank or shoal.

### **Role of Judiciary in Environmental Protection**

The United Nations Conference on the Human Environment and the Stockholm Conference in 1972 were important in making people more aware of the environment and making the idea of sustainable development part of Customary International Law, according to the Supreme Court. A number of concepts of sustainable development have been laid out. These include continuing to make economic and social gains while protecting the environment and natural resources that are needed for growth.<sup>viii</sup> The inter-generational equality concept says that growth should meet the needs of the current generation without using up nonrenewable resources or denying future generations the benefits they deserve. In the case of *Bombay Dyeing & Mfg. Co. Ltd. vs. Bombay Environmental Action Group*<sup>ix</sup>, the Supreme Court agreed with this method. This way, resources won't be used up by current generations in a way that hurts future generations. The Precautionary Principle says that states should be careful when protecting the environment, even if scientists aren't sure about everything, so that damage isn't done forever. The Indian Supreme Court agreed with this idea and added it to the rules about who has to prove environmental issues. Individuals who want to alter the present situation have to prove that their planned actions will not have any negative effects. Besides that, the court agrees with the idea that people who cause pollution should pay for it, as long as it doesn't hurt foreign trade and business. In line with this concept, environmental costs should be shared around the world, and polluters should be held financially responsible for both paying sufferers and fixing up the ecosystem. It shows that the Supreme Court of India cares about environmental protection and healthy growth that it has recognized and applied these concepts. By using these ideas in its rulings, the court promotes responsible behavior, responsibility, and a balance between environmental protection and economic growth.

### **Evolution of Environmental Law Doctrines by Judiciary**

**The Doctrine of Absolute Liability** the Supreme Court of India created the idea of "absolute liability" in the important case *Union Carbide Corporation v. Union of India*<sup>x</sup>. The court said that if a business does activities that are fundamentally dangerous, it is fully responsible for any harm that happens because of events that happen in those activities. There are no exceptions to this responsibility, which means that the business has to pay everyone who was hurt by the accident. The decision made a new standard by bringing the idea of "absolute liability" in environmental cases.<sup>xi</sup>

**Polluter Pays Principle** In recent years, the "polluter pays" concept has gotten a lot of attention. The main idea behind this is that if someone or something pollutes the earth, they should pay for cleaning it up. This concept is not about who is at blame. Instead, it is based on the idea that people who hurt the environment should be responsible for fixing the problems they cause. Getting rid of environmental damage is in line with this goal. In the *Vellore Citizen's Welfare Forum v. Union of India*<sup>xii</sup> case, the Supreme Court of India said that the polluter pays concept is an important part of healthy growth.

**Precautionary Principle** in the *Vellore Citizens Forum case*<sup>xiii</sup>, the Supreme Court of India talked about three important parts of the cautious principle. First, efforts to protect the environment should try to predict, stop, and fix the problems that lead to damage. Second, a lack of scientific proof shouldn't be a reason to put off taking steps that need to be taken. Finally, the person or group doing the deed has to show that they are not harmful. When there is a chance of hurting the earth, these rules help people make decisions.

**Public Trust Doctrine** The idea behind the Public Trust Doctrine is that some resources, like air, water, the sea, and woods, are very important to society as a whole and shouldn't be owned by individuals. The Supreme Court said that the Public Trust Doctrine is an important part of the law in the case of *M.C. Mehta v. Kamal Nath and Others*<sup>xiv</sup>. This philosophy makes sure that these resources are kept safe and handled in a way that benefits everyone.<sup>xv</sup>

**Doctrine of Sustainable Development** the World Commission on Environment and Development (WCED) wrote a study called the Brundtland study that talked about the idea of sustainable development. The term "sustainable development" refers to growth that meets the needs of the present without making it harder for future generations to meet their own needs. The courts are very important for finding a balance between environmental safeties and building new things.<sup>xvi</sup> The court made it clear in *Rural Litigation and Entitlement Kendra v. State of UP*<sup>xvii</sup> that natural resources belong to all people and should not be used up in just one generation. In the *Vellore Citizen's Welfare Forum case*<sup>xviii</sup>, the Supreme Court agreed that sustainable development was a good way to end poverty and make people's lives better while still respecting the Earth's carrying capacity.<sup>xix</sup>

### **Present Scenario of Environmental Law Practice**

India's environmental laws are mostly based on Articles 32 and 226 of the Constitution right now. The writ process is better than the usual suit because it is faster, less expensive, and gives you direct access to the top courts in the country. Still, class action lawsuits have some good points as well. In environmental cases, the Supreme Court's power to give orders under Article 32 and the high courts' power under Article 226 have become more important. These are powers that courts have used to fix wrongdoings from the past and stop attacks on the environment now and in the future. It is an amazing accomplishment that some ideas have been put together to help make a better system for saving the earth. In the Bhopal Gas case, the Supreme Court defined the principle of absolute responsibility for harm caused by businesses that are fundamentally risky and harmful. They did this by figuring out what Article 32 means: the power to give any directions or orders that are needed in the right procedures. The Supreme Court said that this power could be used to come up with new solutions and plans.<sup>xx</sup> These rules were made by courts to control the growth process while keeping the needs of environmental safety and integrity in mind. In an earlier case called Rural Litigation Kendra, which was about environmental development, the Supreme Court made some important decisions to keep the environment from becoming out of balance. These included putting together expert committees to study the problem and come up with solutions, creating a monitoring committee to keep an eye on reforestation programs, and stopping mining operations that were bad for the environment. When the courts make a decision in an environmental case, they give a lot of thought to the rights to a good place to live and a clean atmosphere. In CERC's case, workers in the asbestos business were told they were eligible to medical benefits and money for health problems that were found after they retired. Whenever businesses stop or move, workers who lose their jobs and other people who are forced to move are told to get the help they need. When courts give orders to protect plants and animals near reserves or to control coastal zones, they don't ignore the traditional rights of tribe people and fishers. In the case of *L.K. Kolwal v. State of Rajasthan*<sup>xxi</sup>, the Rajasthan High Court said that Article 51-A(g) of the Constitution gives people the right to a clean atmosphere as part of their duty to defend it. As far as asking the government to set up national and state governing boards or environmental courts, the courts may go. In most cases, judges have told statutory officials that they need to remember that it is their job to protect the environment. Local governments, especially city governments, were told to get rid of trash and garbage and clean up towns and cities. In the case of *Indian Council for Environmental Legal Action v. Union of India*<sup>xxii</sup>, the Supreme Court thought that the high courts would be the best place to go to make sure that the anti-pollution law was being followed more closely because they knew more about the situations in different parts of the country.<sup>xxiii</sup> Even though PIL is often used to fight environmental damage, that doesn't mean that the courts will believe every claim, even if they are biased, have bad feelings, or are trying to blackmail people. This is the same thing as pointless and annoying lawsuits. Courts will not get involved when the main reason for making a PIL is not in the public interest. The Supreme Court said in *Subhash Kumar v. State of Bihar*<sup>xxiv</sup> that people who were harmed or even a group of social workers or media could file a public interest litigation

(PIL) for environmental rights, but not one or more people who had a personal grudge or were at odds with the state.<sup>xxv</sup>

## Conclusion

To sum up, the courts are very important for protecting the environment in India. The court has become a strong force in protecting the environment and ensuring sustainable growth for both current and future generations. It does this by being creative and coming up with new ways to use legal principles. One of the most important things the courts have done is make the right to a safe society a basic right. The courts have made important rulings that show the connection between the environment and the right to life. These rulings stress how important clean air, water, and dirt are for people's general health. The courts have also come up with new and important ideas, like absolute responsibility, which holds businesses responsible for accidents that happen because they do dangerous things. No matter how careless a business is, this idea makes sure that they take the right steps to protect the environment and general health. The courts have also stressed that the principles of sustainable development, such as the polluter pays principle and the cautious principle, are important parts of environmental law. Litigation in the public interest has been a strong way for the courts to deal with environmental problems. The courts have been very important in holding governments and harmful businesses responsible for their actions by letting individuals and groups file lawsuits on behalf of the public. This has led to stricter rules about the environment and fines and payments for damage to the environment.

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