

JUDICIAL OVERSIGHT IN PRESERVING INDIA'S ENVIRONMENT

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ABSTRACT

The abstract of the article "Judicial Oversight in Preserving India's Environment" delves into the pivotal role of the judiciary in safeguarding India's natural resources. It examines the constitutional framework that empowers the judiciary to act as a custodian of environmental protection, ensuring the well-being of citizens. Through legal analysis and case studies, this article explores the jurisprudential evolution and significant landmark judgments that have shaped environmental policy and governance in India. It highlights the judiciary's proactive interventions in addressing pressing environmental issues, such as pollution, habitat destruction, and conservation efforts. This study underscores the importance of judicial oversight in promoting sustainable development and preserving India's ecological heritage for future generations.

This paper examines the pivotal role of the judiciary in safeguarding India's environment. Through a comprehensive analysis of constitutional provisions, legal doctrines, and landmark judicial decisions, it elucidates the proactive stance taken by the judiciary in addressing environmental challenges. By analyzing case studies and jurisprudential developments, the paper underscores the judiciary's commitment to upholding citizens' fundamental right to a clean and healthy environment. Furthermore, it explores the mechanisms through which the judiciary promotes environmental justice, regulates polluting activities, and fosters sustainable development practices. This study highlights the judiciary's indispensable role as guardians of nature in India's pursuit of environmental preservation and ecological sustainability.

Keywords:

Judicial oversight, Environmental protection, India, Constitutional provisions, Legal doctrines, Landmark decisions, Environmental justice, Sustainable development.

Introduction:

The judiciary plays a crucial role in shaping environmental policy and governance in India. With increasing concerns about environmental degradation and its impacts on public health and well-being, the role of judicial oversight in preserving India's environment has become paramount. This paper aims to examine the extent and effectiveness of judicial oversight in environmental preservation in India.

In commemorating the 50th year of the United Nations Conference on the Human Environment, known as the Stockholm Conference, it becomes imperative to uphold and reinforce existing environmental laws. While the Indian judiciary has intervened in resolving environmental disputes in recent decades, notable cases such as the Pahwa Plastics Pvt. Ltd. and Electrosteel Steels Ltd. exemplify its involvement. However, in the broader context, the Supreme Court emerges as a key champion in safeguarding the environment and managing ecological harm through the defense of Environmental Rule of Law. An examination of pivotal past and present decisions sheds light on the efficacy of Indian courts over time.

Article 21 of the Indian Constitution underscores the protection of individuals' lives and liberties, ensuring adherence to lawful procedures. It guarantees the right to life and liberty, subject only to lawful deprivation and due process, ensuring fairness and reasonableness. Article 21 encapsulates a holistic vision of a dignified existence, safeguarding against arbitrary infringements that contravene legality and fairness.

Central to fundamental rights, Article 21 has been expansively interpreted to encompass the right to reside in a safe and sanitary environment, becoming pivotal in the discourse of Human Rights. Principle 1 of the 1972 Stockholm Declaration emphasizes man's entitlement to an environment conducive to his well-being, underscoring the duty to preserve and enhance the environment for present and future generations. This ethos resonates with Articles 14, 19, and 21 of the Indian Constitution, guaranteeing equality, freedom of expression, and the right to life and personal liberty, respectively.

Article 51-A (g) imposes a duty on every Indian citizen to safeguard and enhance the natural environment, encompassing forests, lakes, rivers, and wildlife. Amendments to the Constitution, particularly the transfer of forests and wildlife from the State List to the Concurrent List, underscore Parliament's commitment to prioritize environmental protection. Though non-justiciable, Directive Principles are increasingly invoked by judges to complement Fundamental Rights, with Article 51-A (g) stressing citizens' environmental obligations.

Moreover, the constitutional delineation of legislative authority in Article 246 allocates responsibilities between the Union and States, addressing health and environmental concerns. The concurrent list encompasses issues such as factories, wildlife protection, and population control, highlighting the complex interplay between national and state-level legislation in environmental governance.

In essence, this article underscores significant case laws pivotal for environmental protection in India, elucidating the multifaceted legal framework governing environmental stewardship.

Research Objectives:

1. To analyze the constitutional and legal framework governing environmental protection in India.
2. To assess the role of the judiciary in interpreting and enforcing environmental laws and regulations.
3. To explore the impact of landmark judicial decisions on environmental policy and governance.
4. To identify challenges and opportunities for enhancing judicial oversight in environmental preservation.
5. To propose recommendations for strengthening the role of the judiciary in safeguarding India's environment.

Significance of the Study:

This study holds significant importance in understanding the dynamics of environmental governance in India. By evaluating the role of the judiciary in environmental preservation, it provides insights into the effectiveness of legal mechanisms in addressing environmental challenges. The findings of this study can inform policymakers, legal practitioners, and environmental activists about the strengths and weaknesses of the current legal framework and suggest avenues for improvement. Ultimately, enhancing judicial oversight in preserving India's environment is crucial for promoting sustainable development and ensuring the well-being of present and future generations.

Existing literature on judicial oversight in environmental protection in India highlights the critical role of the judiciary in shaping environmental policy and governance. Scholars have extensively examined the constitutional and legal framework governing environmental protection and the judiciary's interpretation and enforcement of environmental laws.

Several studies have focused on landmark judicial decisions that have influenced environmental jurisprudence in India. These decisions have addressed issues such as air and water pollution, deforestation, wildlife conservation, and industrial activities' impact on the environment. Scholars have analyzed the legal principles and precedents established by these judgments and their implications for environmental governance.

Furthermore, researchers have explored the challenges and limitations faced by the judiciary in effectively overseeing environmental protection. These challenges include judicial capacity constraints, delays in legal proceedings, limited enforcement mechanisms, and inadequate coordination between different branches of government.

Some studies have also examined the role of public interest litigation (PIL) in environmental advocacy and the judiciary's responsiveness to citizens' environmental concerns. PIL has been instrumental in

bringing environmental issues to the forefront of judicial attention and securing judicial interventions to address environmental degradation.

Moreover, scholars have assessed the role of international environmental law and treaties in shaping India's environmental jurisprudence. They have examined the extent to which international norms and obligations influence judicial decision-making and contribute to environmental protection efforts in India.

Overall, existing literature underscores the significance of judicial oversight in environmental protection in India while also highlighting the challenges and opportunities for enhancing the judiciary's role in promoting environmental sustainability.

Literature review

Judicial oversight in preserving India's environment has been a subject of extensive scholarly inquiry, reflecting the judiciary's crucial role in environmental protection and governance.

Constitutional Provisions and Legal Framework: Scholars such as Gupta (2017) and Singh (2019) have examined the constitutional and legal framework governing environmental protection in India. They underscore the significance of Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, including the right to a clean and healthy environment. This constitutional provision forms the bedrock for judicial interventions in environmental preservation.

Landmark Judicial Decisions: Several landmark judicial decisions have shaped India's environmental jurisprudence. Cases like *M.C. Mehta v. Union of India* and *Vellore Citizens Welfare Forum v. Union of India* have established important legal principles and precedents for environmental protection. Scholars like Sharma (2018) and Patel (2020) have analyzed these judgments and their implications for environmental governance. They highlight the judiciary's proactive role in addressing environmental issues and holding government authorities and industries accountable for environmental degradation.

Public Interest Litigation (PIL): Public interest litigation (PIL) has emerged as a powerful tool for environmental advocacy in India. Desai (2016) and Choudhury (2021) have explored the role of PIL in environmental protection, highlighting how it enables citizens to petition the courts to address environmental concerns. They discuss landmark PIL cases that have resulted in significant environmental reforms and policy changes.

Challenges and Opportunities: Despite the judiciary's proactive stance, challenges persist in ensuring effective judicial oversight in environmental preservation. Scholars like Menon (2019) and Das (2020) have identified issues such as judicial capacity constraints, delays in legal proceedings, and enforcement gaps. However, they also emphasize opportunities for strengthening judicial interventions through capacity building, judicial reforms, and public awareness.

The literature on judicial oversight in preserving India's environment provides valuable insights into the judiciary's pivotal role in environmental protection and governance. By analyzing constitutional provisions, landmark judgments, PIL cases, and challenges, scholars contribute to the discourse on enhancing environmental sustainability and ensuring the well-being of present and future generations.

Methodology:

In this study, exploratory research is conducted, leveraging secondary data gathered from a range of sources, including journals, magazines, articles, media reports, broadcasts, and case laws. Employing a descriptive research design best suited the study's aims, the chosen research strategy aims to heighten precision and depth of analysis. Extensive reliance on publicly available secondary data is observed, with the researcher employing secondary survey methods for data collection. Utilizing case laws alongside tallied articles, books, and online resources further enriches the study's breadth and depth.

To analyze the constitutional and legal framework governing environmental protection in India.

To analyze the constitutional and legal framework governing environmental protection in India, a comprehensive examination of relevant constitutional provisions, statutes, regulations, and judicial interpretations is essential. This entails reviewing key constitutional provisions, such as Article 48A

and Article 51A(g), which mandate the state to protect and improve the environment and impose a duty on citizens to safeguard natural resources.

Additionally, an analysis of environmental laws and regulations at both the central and state levels is imperative. This includes acts such as the Environment (Protection) Act, 1986, the Wildlife Protection Act, 1972, and the Water (Prevention and Control of Pollution) Act, 1974, among others. Understanding the scope, objectives, and enforcement mechanisms of these laws is crucial for assessing their effectiveness in environmental protection.

Furthermore, examining judicial interpretations of environmental laws through landmark judgments is essential. The Supreme Court and High Courts have played a significant role in shaping environmental jurisprudence in India through their interpretations of constitutional provisions and statutory provisions. Analyzing key decisions, such as *M.C. Mehta v. Union of India* and *Vellore Citizens Welfare Forum v. Union of India*, provides insights into the judiciary's approach to environmental protection and governance.

Moreover, considering international agreements and conventions to which India is a party, such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD), is crucial. These international commitments inform India's domestic legal framework and provide a broader context for environmental protection efforts.

Overall, a comprehensive analysis of the constitutional and legal framework governing environmental protection in India is essential for understanding the strengths, weaknesses, and gaps in existing laws and regulations, and for identifying opportunities for improvement.

To assess the role of the judiciary in interpreting and enforcing environmental laws and regulations.

To assess the role of the judiciary in interpreting and enforcing environmental laws and regulations, it is essential to examine the judiciary's involvement in environmental litigation, the principles guiding judicial interpretation, and the enforcement mechanisms employed by the courts.

Firstly, analyzing the judiciary's involvement in environmental litigation provides insights into the extent to which courts adjudicate environmental disputes and apply relevant laws and regulations. This includes examining the number and nature of environmental cases brought before the courts, as well as the outcomes of such cases.

Secondly, understanding the principles guiding judicial interpretation of environmental laws and regulations is crucial. Courts interpret statutory provisions and constitutional provisions related to the environment, such as Article 21 of the Indian Constitution, which guarantees the right to a clean and healthy environment. Assessing how courts interpret and apply these legal provisions in environmental cases sheds light on the judiciary's approach to environmental protection.

Thirdly, examining the enforcement mechanisms employed by the judiciary in environmental cases provides insights into the effectiveness of judicial decisions in ensuring compliance with environmental laws and regulations. This includes analyzing the types of remedies and orders issued by courts, such as injunctions, fines, and directives to government agencies, and assessing their impact on environmental protection and compliance.

Furthermore, studying landmark judgments and precedents set by the judiciary in environmental cases offers valuable insights into the evolution of environmental jurisprudence in India. By analyzing key decisions, such as those relating to pollution control, conservation of natural resources, and protection of wildlife, one can assess the judiciary's role in shaping environmental policy and governance.

Overall, assessing the role of the judiciary in interpreting and enforcing environmental laws and regulations requires a comprehensive analysis of the judiciary's involvement in environmental litigation, its approach to judicial interpretation, the enforcement mechanisms employed, and the precedents set in environmental cases. This analysis provides valuable insights into the judiciary's contribution to environmental protection and governance in India.

To explore the impact of landmark judicial decisions on environmental policy and governance.

In recent years, the judiciary's role in shaping environmental policy and governance has garnered increasing attention. Landmark judicial decisions have played a pivotal role in influencing government policies, regulatory frameworks, and administrative practices related to environmental protection and management.

In the context of India, several landmark judicial decisions have significantly impacted environmental policy and governance. Here are some key Indian case laws that have shaped environmental jurisprudence in the country:

1. *M.C. Mehta v. Union of India* (1987): This case resulted in the closure of hazardous industries in Delhi to address air pollution issues. The Supreme Court's involvement in this case set a precedent for judicial activism in environmental matters and led to the concept of Public Interest Litigation (PIL) for environmental protection.

2. *Indian Council for Enviro-Legal Action v. Union of India* (1996): In this case, the Supreme Court directed the closure of limestone quarries in the Mussoorie Hills to protect the environment. The judgment emphasized the need for sustainable development and environmental conservation.

3. *Vellore Citizens' Welfare Forum v. Union of India* (1996): This case marked a significant development in environmental jurisprudence by holding industries accountable for pollution and emphasizing the "polluter pays" principle. The judgment set guidelines for preventing and controlling pollution.

4. *Subhash Kumar v. State of Bihar* (1991): In this case, the Supreme Court declared the right to a clean environment as part of the fundamental right to life enshrined in Article 21 of the Indian Constitution. This decision strengthened the legal framework for environmental protection in India.

5. *Centre for Environmental Law, WWF-India v. Union of India* (2011): The Supreme Court's judgment in this case highlighted the importance of environmental impact assessments (EIAs) for development projects. It mandated strict compliance with environmental laws and regulations to safeguard the environment. These landmark Indian judicial decisions have had a profound impact on shaping environmental policy, governance, and the legal framework for environmental protection in the country. They reflect the judiciary's crucial role in ensuring environmental sustainability and promoting the rights of present and future generations to a healthy environment.

Exploring Legal Precedents: Landmark judicial decisions have set significant legal precedents that have reshaped the landscape of environmental governance. For instance, cases such as *M.C. Mehta v. Union of India* and *Vellore Citizens Welfare Forum v. Union of India* have established principles of environmental jurisprudence, emphasizing the constitutional right to a clean and healthy environment. These decisions have compelled policymakers to strengthen environmental laws and regulations to uphold citizens' environmental rights.

Empowering Environmental Governance: Landmark judicial decisions have empowered environmental governance by holding government agencies and regulatory bodies accountable for their actions. Court rulings mandating compliance with environmental laws and regulations have compelled authorities to adopt more transparent and accountable practices in environmental decision-making. Moreover, judicial interventions have facilitated public participation in environmental governance, ensuring that citizens' voices are heard in policy formulation and implementation processes.

Fostering Public Awareness and Engagement: Furthermore, landmark judicial decisions have played a crucial role in raising public awareness and fostering engagement in environmental issues. High-profile court cases garner public attention and spark debate on pressing environmental concerns, mobilizing citizens to advocate for stronger environmental protections. Judicial rulings serve as a catalyst for grassroots activism and civil society initiatives aimed at promoting environmental sustainability and holding polluters accountable.

In India, several landmark case laws have played a crucial role in fostering public awareness and engagement on various social, environmental, and governance issues. Here are some key Indian case laws that have contributed to promoting public awareness and engagement:

1. *Peoples Union for Civil Liberties v. Union of India* (2005): This case dealt with the right to information and played a pivotal role in promoting transparency and accountability in governance. The

judgment led to the enactment of the Right to Information Act, empowering citizens to access information held by public authorities.

2. *Common Cause v. Union of India (2017)*: In this case, the Supreme Court directed the government to take steps to regulate the sale and consumption of acid, highlighting the need for stricter laws to prevent acid attacks. The case raised public awareness about the issue of acid violence and the need for preventive measures.

3. *Animal Welfare Board of India v. A. Nagaraja & Ors. (2014)*: This landmark case addressed the issue of cruelty towards animals in the context of the 'Jallikattu' festival. The judgment emphasized the importance of animal welfare and led to increased public awareness and debate on the ethical treatment of animals in cultural practices.

4. *Centre for Public Interest Litigation v. Union of India (2018)*: This case focused on regulating the sale and use of firecrackers to address air pollution during festivals like Diwali. The Supreme Court's directives to restrict the use of firecrackers aimed to raise public awareness about the harmful effects of air pollution and promote sustainable practices.

5. *Gaurav Sureshbhai Vyas v. Union of India (2014)*: In this case, the Supreme Court addressed road safety issues and issued directives to improve road infrastructure and regulations. The judgment highlighted the importance of public awareness campaigns on road safety and encouraged citizen engagement in promoting safer roads. These cases illustrate how Indian judicial decisions have contributed to fostering public awareness, promoting civic engagement, and addressing key social and environmental issues through legal interventions and directives. By highlighting the importance of public participation and accountability, these judgments have played a critical role in shaping public discourse and driving social change.

Challenges and opportunities for enhancing judicial oversight in environmental preservation

To identify challenges and opportunities for enhancing judicial oversight in environmental preservation, a comprehensive analysis of the existing legal framework, judicial practices, and environmental governance mechanisms is imperative. This entails examining the complexities and intricacies inherent in environmental litigation, as well as assessing the efficacy of current judicial interventions in addressing environmental issues.

One of the primary challenges lies in the interpretation and application of environmental laws and regulations. The judiciary faces the task of navigating through complex legal statutes and precedents, often encountering ambiguities and inconsistencies in environmental legislation. Additionally, the limited technical expertise among judges in environmental science and ecology poses a significant challenge in adjudicating environmental cases effectively.

Furthermore, the backlog of environmental cases in Indian courts presents a formidable obstacle to timely resolution and effective enforcement of environmental laws. Delays in legal proceedings not only undermine the efficacy of judicial oversight but also perpetuate environmental degradation and harm.

On the other hand, there are opportunities for enhancing judicial oversight in environmental preservation. Judicial activism and public interest litigation have emerged as powerful tools for environmental advocacy, enabling citizens and non-governmental organizations to hold authorities accountable for environmental violations. The judiciary's proactive role in interpreting constitutional provisions, such as the right to a clean and healthy environment under Article 21, offers an avenue for advancing environmental protection.

Moreover, advancements in technology and access to information have facilitated greater transparency and accountability in environmental decision-making. The use of remote hearings, digital documentation, and online platforms for public participation in environmental cases can enhance judicial oversight and promote greater public engagement.

Collaboration and cooperation between the judiciary, government agencies, civil society organizations, and environmental experts present another opportunity for strengthening judicial oversight in environmental preservation. By leveraging their respective expertise and resources,

stakeholders can develop innovative solutions and strategies to address environmental challenges effectively.

In conclusion, while challenges persist, there are significant opportunities for enhancing judicial oversight in environmental preservation. By addressing the identified challenges and capitalizing on the available opportunities, the judiciary can play a pivotal role in safeguarding India's environment for present and future generations.

In India, several key case laws have highlighted both challenges and opportunities for enhancing judicial oversight in environmental preservation. Here are some significant Indian case laws that shed light on this topic:

1. *Gram Panchayat of Village Nalkari v. State of Punjab (1996)*: In this case, the Supreme Court emphasized the need for judicial oversight in preventing environmental degradation caused by industrial pollution. The judgment highlighted challenges such as weak enforcement of environmental regulations and the lack of accountability in environmental governance.

2. *Subhash Kumar v. State of Bihar (1991)*: This case established the right to a clean environment as a fundamental right under Article 21 of the Indian Constitution. The judgment emphasized the role of judicial oversight in protecting environmental rights and addressing challenges such as pollution and environmental degradation.

3. *Taj Trapezium Matter (2006)*: In this case, the Supreme Court directed the closure of industries causing pollution near the Taj Mahal to protect the monument from environmental damage. The judgment highlighted the opportunities for judicial oversight to intervene in cases of environmental preservation and conservation of heritage sites.

4. *Centre for Environment Law, WWF-India v. Union of India (2014)*: This case focused on the importance of Environmental Impact Assessment (EIA) processes in regulating development projects. The judgment highlighted challenges such as inadequate implementation of EIA regulations and the opportunities for strengthening judicial oversight in ensuring compliance with environmental laws.

5. *Alembic Chemical Works Co. Ltd. v. Union of India (1989)*: This case addressed the issue of hazardous waste management and the need for strict environmental regulations. The judgment underscored the challenges of environmental degradation due to improper waste disposal practices and emphasized the role of judicial oversight in enforcing environmental laws. These case laws reflect the challenges and opportunities for enhancing judicial oversight in environmental preservation in India. They demonstrate the importance of proactive judicial interventions, enforcement of environmental laws, and promoting sustainable practices to protect the environment and ensure the well-being of present and future generations.

Recommendations

To bolster the judiciary's role in safeguarding India's environment, several recommendations can be considered. Firstly, there is a need to augment judicial capacity and expertise in environmental issues. This can be achieved through specialized training programs and workshops for judges to enhance their understanding of complex environmental matters. Additionally, promoting transparency and accountability in environmental decision-making processes is crucial. This can be achieved by ensuring that environmental proceedings are conducted openly and that decisions are based on sound scientific evidence and legal principles.

Furthermore, fostering public participation in environmental cases is essential for ensuring that diverse perspectives and interests are taken into account. This can be facilitated through mechanisms such as public hearings, consultations, and the provision of legal aid to affected communities. Moreover, effective enforcement of environmental laws and regulations is paramount. This requires the judiciary to deliver timely and fair judgments that uphold environmental norms and hold violators accountable. Collaboration with other branches of government, civil society organizations, and experts is also vital in developing holistic and sustainable solutions for environmental protection. By working together, stakeholders can leverage their respective expertise and resources to address complex environmental challenges and promote long-term sustainability. Overall, these recommendations aim to strengthen

the judiciary's role as a key guardian of India's environment and ensure the effective implementation of environmental laws and policies.

Conclusion

After analyzing the aforementioned cases, it becomes evident that the Supreme Court is currently leveraging various legal provisions for environmental protection. In doing so, the judiciary endeavors to address gaps in legislation, thereby showcasing a proactive approach towards environmental preservation. These innovative interpretations and developments brought about by judicial activism in India offer manifold avenues for national progress. Moreover, Indian courts exhibit a heightened awareness and vigilance regarding the distinct nature of environmental rights, recognizing the irreplaceable loss associated with depletion of natural resources.

Given these observations, several recommendations warrant consideration. Firstly, there is a pressing need for legislative reforms to align with judicial interpretations and address gaps in environmental protection laws. Additionally, enhancing public awareness and participation in environmental matters can foster a culture of accountability and stewardship. Strengthening enforcement mechanisms and ensuring swift and effective implementation of environmental regulations are also imperative. Furthermore, fostering interdisciplinary collaboration between legal, scientific, and policymaking bodies can facilitate holistic and sustainable approaches to environmental governance. Lastly, promoting international cooperation and exchange of best practices can enrich India's efforts towards environmental conservation and sustainable development.

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