



Review of Environmental Laws and Policies in India

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It is our collective and individual responsibility to preserve and protect the world in which we all live.

-Dalai Lama

Abstract

Addressing environmental issues involves action at the global, regional, national, municipal, and neighbourhood levels. The Indian Constitution, notably Articles 48-A and 51-A(g), requires the conservation of natural resources as an environmental obligation. The Constitution also includes state-specific national lawmaking mechanisms. Indian courts and the National Green Tribunal have shaped this age. This research paper briefly addresses Indian environmental legislation and international treaties that protect and improve the environment. The enforcement, breadth, and restrictions of these laws have been critically examined. Environmental protection and ecological equilibrium need government, people, organizations, society, industry, and companies.

Keywords: *Indian Constitution, Environmental Challenges, National Green Tribunal, Indian Environmental Legislation, International Environment Treaties*

1. Introduction

Environmental governance has direct (and indirect) effects on both human rights and the environment. Every action, whether opting to chop down trees, constructing an industry or a dam, mining land, disposing of rubbish in a certain manner, or the government doing nothing to prevent environmental degradation, has an impact. These implications may include higher health risks or death rates, limited access to natural resources such as clean groundwater or forest products, or financial losses such as lower agricultural yields or company shutdown. People who have been damaged or offended by these situations seek appropriate legal remedies. People may seek

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remedies from the administration or *via* a specific grievance procedure under environmental law, although they often appeal to the court. Depending on the nature of the problem, different legal remedies are available. People who have legal claims about the environment usually go to the National Green Tribunal.¹ Criminal courts (magistrate's courts) must examine environmental offenses² such as air³ or water pollution.⁴ Cases may also be filed before the High Courts of several states, as well as the Supreme Court of India, particularly if core constitutional rights have been violated or if they are likely to be jeopardized.

2. Human Rights and Environmental Governance

Human rights and environmental governance are inextricably linked, with one influencing the effectiveness and moral foundations of the other. The environment has a significant influence on fundamental human rights such as access to food, water, health, and culture. Environmental governance encompasses international treaties,⁵ national regulations, local and community governance, as well as fundamental concepts such as sustainability, equality, justice, accountability, and participation.⁶ Environmental justice, climate justice,⁷ Indigenous rights, and corporate accountability are all part of the human rights-environmental governance interface. Weak enforcement, conflicts of interest, and global inequities are some of the challenges. Pathways ahead include building legal frameworks, empowering communities, increasing education and awareness, and

¹ National Green Tribunal Act, No. 19 of 2010, Sec. 14, 16.

² Environment (Protection) Act, No. 29 of 1986, § 15 (as amended by Jan Vishwas Act 2023) (formerly 5–7 years imprisonment; now administrative penalties ₹10,000–15 lakhs via Adjudicating Officers; NGT appellate review Sec. 16).

³ Air (Prevention & Control of Pollution) Act, No. 14 of 1981, Sec. 37–49.

⁴ Water (Prevention & Control of Pollution) Act, No. 6 of 1974, Sec. 36–48.

⁵ U.N. General Assembly, Res. 48/13: The Human Right to a Clean, Healthy and Sustainable Environment (Oct. 8, 2021).

⁶ Human Rights Council, Framework Principles on Human Rights and the Environment, U.N. Doc. A/HRC/37/59 (2018).

⁷ Paris Agreement under the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104.

collaborating internationally to solve transboundary environmental and human rights challenges.

3. International Environmental Laws and Policies

The imperative to address environmental issues that transcend national borders and the growing global ecological challenges that affect all nations have resulted in a significant transformation of international environmental law over the past century. The development of this body of law has been greatly impacted and guided by several important treaties, seminal case law rulings, and guiding principles that together set the recognized standards for both state accountability in preventing environmental harm and international collaboration in resolving common environmental issues.

In its early phases, international environmental law was mainly concerned with resolving particular, well-defined challenges such as transboundary contamination occurrences and the sustainable use of common natural resources. The *Trail Smelter*⁸ Arbitration between the US and Canada and the *Corfu Channel Case*⁹ between the UK and Albania established the principle of state responsibility for environmental harm that originates within their borders and affects other nations. This idea, defined in these early court rulings, was later included a number of international accords, cementing its status as a cornerstone of international environmental law.

Numerous multilateral environmental agreements (MEAs) were established during the mid-20th century to address a broader array of environmental concerns, such as the regulation of whaling activities,¹⁰ the sustainable management of fisheries, and the control and prevention of pollution. This period was characterized by growth and expansion. The International Whaling Commission (IWC) was formed in 1946 with the main goal of preserving whale populations. Another early MEA, the Ramsar Convention on Wetlands,¹¹ was adopted in 1971 with the same intention, recognizing the ecological

⁸ *Trail Smelter* (U.S. v. Can.), 3 R.I.A.A. 1905 (1938 & 1941 awards; Arbitral Tribunal).

⁹ *Corfu Channel* (U.K. v. Alb.), 1949 I.C.J. 4 (Apr. 9, 1949).

¹⁰ International Convention for the Regulation of Whaling, Dec. 2, 1946, 161 U.N.T.S. 72.

¹¹ Convention on Wetlands of International Importance, Especially as Waterfowl Habitat (Ramsar Convention), Feb. 2, 1971, 996 U.N.T.S. 245.

functions and economic, cultural, scientific, and recreational value of wetlands of worldwide importance and focusing on their conservation and wise use.

The United Nations Conference on the Human Environment, held in Stockholm in 1972, was a watershed moment in the evolution of international environmental legislation. This conference is of significance because it formalized and codified the principle of state responsibility for environmental damage in Principle 21 of the Stockholm Declaration.¹² Driven by the urgent need to address environmental challenges that transcend national boundaries and the growing severity of global ecological crises, international environmental law has experienced significant development. This critical area of law has been profoundly shaped by a collection of pivotal treaties, influential case law decisions, and fundamental principles that collectively establish the essential norms for state responsibility in environmental matters and promote international cooperation to address shared environmental challenges. Important treaties, such as the Vienna Convention for the Protection of the Ozone Layer, signed in 1985,¹³ and the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in 1987,¹⁴ were specifically designed to phase out the production and consumption of ozone-depleting substances like chlorofluorocarbons. The Montreal Protocol has helped the ozone layer recover, proving that international collaboration can solve global environmental issues. However, progress in other areas has been uneven, owing to competing national interests and the difficulties of reconciling environmental conservation with economic growth.

Environmental ideas, including the precautionary principle, the polluter pays principle, and the notion of shared but differentiated duties, are progressively being incorporated into larger international legal frameworks. UNCLOS, enacted in 1982, regulates all ocean space, its users, and resources. Article 194 of UNCLOS, for example,

¹² U.N. Conference on the Human Environment, Declaration on the Human Environment (Stockholm Declaration), princ. 21, U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972).

¹³ Vienna Convention for the Protection of the Ozone Layer, Mar. 22, 1985, 1513 U.N.T.S. 293.

¹⁴ Montreal Protocol on Substances that Deplete the Ozone Layer, Sept. 16, 1987, 1522 U.N.T.S. 3.

makes it clear that states must do everything they can to stop, lessen, and control pollution of the marine environment from any source. This is based on the basic idea that states are responsible for protecting the environment. Similarly, the Rio Declaration of 1992 strengthened the incorporation of environmental concepts into sustainable development efforts.¹⁵

Notwithstanding the notable advancements in the creation and application of international environmental law, there are still many obstacles to overcome in areas like environmental regulation enforcement, guaranteeing adherence to international agreements, and resolving the fragmentation of the current legal system. Cases brought before international courts and tribunals, such as the Pulp Mills on the *River Uruguay* case in 2010,¹⁶ which involved a dispute between Argentina and Uruguay over the construction of pulp mills on a shared river, highlight the critical importance of conducting environmental impact assessments (EIAs) and encouraging strong state cooperation in the responsible management of shared natural resources. The International Court of Justice's (ICJ)¹⁷ anticipated advisory opinion on states' duties in respect to climate change has the potential to reshape international environmental law by defining countries' legal responsibilities in tackling this global crisis. International environmental law has grown significantly, moving from a focus on individual pollution problems to a far broader spectrum of global difficulties. These difficulties currently encompass critical concerns such as climate change, biodiversity loss, and global ecological deterioration. International environmental law has been

¹⁵ U.N. Conference on Environment and Development, Rio Declaration on Environment and Development, princ. 15, U.N. Doc. A/CONF.151/26 (vol. I) (June 13, 1992).

¹⁶ Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. 14 (Apr. 20, 2010).

¹⁷ CJ Holding (para. 204): "The obligation to protect and preserve, under Article 41 (a) of the Statute, has to be interpreted in accordance with a practice, which in recent years has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource."

greatly influenced by important court cases, important treaties, and basic environmental principles. However, for it to be truly useful in the long term, it needs stronger enforcement mechanisms, better cooperation between countries, and more integration of basic environmental principles into larger legal and policy frameworks.

4. The Stockholm Declaration (1972)¹⁸ and the Rio Declaration (1992)¹⁹

These declarations are the products of inter-governmental conferences that incorporate recognized principles of international law. Both statements highlight a human-centered approach to sustainable development, with persons at its foundation. Nonetheless, these instruments have been criticized for failing to explicitly articulate a human right to the environment, or a healthy and appropriate environment. While sustainable development is a core idea of the United Nations Conference on Environment and Development (UNCED), its actual application has proved to be difficult. The Stockholm Declaration recognizes the possible negative consequences of unsustainable resource usage for both current and future generations. The Rio Declaration expands on this idea, outlining critical environmental legal indicators. Despite these advances, effective implementation of sustainable development remains a challenge, as highlighted by former UN Secretary-General Ban Ki-moon, who advocated for the establishment of transparent and quantifiable targets and indicators ahead of the “Rio+20” conference.²⁰

5. History about Environmental Protection in India

India’s ancient books, including the Ramayana, Mahabharata, Vedas, Arthashastra, Sathapatha Bhramanas, Manusmriti, and four Vedic hymns, have emphasized environmental protection. The pre-Vedic

¹⁸ U.N. Conference on the Human Environment, Declaration on the Human Environment (Stockholm Declaration), U.N. Doc. A/CONF.48/14/Rev.1 (June 16, 1972).

¹⁹ U.N. Conference on Environment and Development, Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/26 (vol. I) (June 13, 1992).

²⁰ Rio expands sustainable development framework: 27 principles + Agenda 21 + UNFCCC/CBD treaties.

Indus Valley Civilization, which existed 5,000 years ago, had well-ventilated homes, clean streets, and covered subterranean drains.²¹ The Arthashastra,²² an ancient statecraft, economics, and military strategy, stressed cleanliness and the environment. Forests were exploited for hunting by Mughal rulers, but environmental laws did not change until Akbar's time. The administration prioritized war, religion, and empire. Post-independence India had no explicit environmental policy, although national planning and forest initiatives included environmental protection. India's environmental law has developed over centuries to reflect changing socio-economic realities, cultural values, and environmental concerns. Ancient books and traditions, including the Vedas, Upanishads, and Smritis, stressed the peaceful co-existence of people and the environment. During the medieval era, kings such as Ashoka the Great encouraged environmental protection by issuing edicts that prohibited forest destruction and animal abuse. The Indian Forest Act of 1865 was the first legislation governing forest use, while the Indian Forest Act of 1878 classified forests into Reserved, Protected, and Village categories. Post-1947, India's environmental legislation underwent significant transformations, driven by the need for economic development and ecological preservation.

The Indian Constitution, enacted in 1950, Articles 48A and 51A(g), emphasize the state's and people's obligations to conserve and develop the environment. Early laws protected workers from dangerous pollutants, while significant statutes in the 1970s and 1980s addressed water pollution, air pollution, and environmental protection. The judiciary has had a significant impact on India's environmental governance, with historic decisions broadening the scope of environmental rights and promoting an environmental justice culture. India's legal system has altered fast since 1972 to address environmental problems. M.C. Mehta,²³ an Indian lawyer, changed environmental legislation in 1985, enabling any Indian citizen to petition the Supreme Court or State High Court for environmental law enforcement. This judgment protected the nation's

²¹ M. N. Dutt, *A Prose English Translation of the Rig Veda* (1906).

²² Kautilya, *The Arthashastra* s. 2.1.20-25 (L.N. Rangarajan ed., Penguin Books 1992) (c. 3rd century BCE).

²³ AIR 1987 SC 1086; AIR 1988 SC 1037 & (1991) 1 SCC 283.

natural resources and cultural heritage, including the 1991 rule mandating environmental studies at all levels of school.²⁴

6. Criminal Laws for Environmental Crimes

Environmental crimes are illegal activities that inflict considerable environmental damage, often including the exploitation of natural resources, pollution, or breaches of current legislation. These crimes are intended to disturb public health, biodiversity, and the environment. Pollution, wildlife crimes, illegal logging, deforestation, illegal fishing, climate crimes, hazardous material breaches, and illicit transit of dangerous chemicals are among the most serious environmental offenses. International rules and agreements, like the Paris Agreement,²⁵ Basel Convention,²⁶ CITES,²⁷ Clean Air Act, Clean Water Act, and Environmental Protection Act, deal with these violations. The Environmental Protection Agency (EPA) and Interpol's Environmental Crime Unit monitor²⁸ and enforce environmental regulations, imposing penalties such as fines, jail, license revocation, and restoration of justice. However, environmental crime prevention is hampered by a scarcity of enforcement resources, corruption, weak governance, international coordination challenges, and a misunderstanding of environmental laws and offenses.

The following are the primary areas of environmental crimes: illegal waste disposal, pollution violations, wildlife trafficking, illegal forestry, overfishing, marine crimes, violating environmental permits, and climate crimes. Law complexity, corporate influence, limited

²⁴ *The Indian Supreme Court and the Environment* 45-60 (Jona Razzaque ed., 2018).

²⁵ Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No. 16-1104.

²⁶ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, Mar. 22, 1989, 1673 U.N.T.S. 57.

²⁷ Convention on International Trade in Endangered Species of Wild Fauna and Flora, Mar. 3, 1973, 993 U.N.T.S. 243.

²⁸ Interpol, *Environmental Crime*, <https://www.interpol.int/en/Crimes/Environmental-crime> (last visited Apr. 10, 2025). See also Interpol, *National Environmental Security Taskforce (NEST)*, <https://www.interpol.int/en/Crimes/Environmental-crime/National-Environmental-Security-Taskforce-NEST> (last visited Apr. 10, 2025).

resources, and cross-border crimes all pose problems to enforcement.

7. Climate Change's Impact on Developing Countries

Climate change poses substantial issues to developing nations, including agriculture, food security, water shortages, public health hazards, economic consequences, displacement and migration, ecological degradation, and rising inequality. Rising temperatures, shifting precipitation patterns, and severe weather events impair agricultural output, resulting in food shortages and livelihood loss. Water shortage is compounded by glacier melt and unpredictable rainfall patterns. Malaria and dengue fever, as well as heat-related ailments and hunger, are examples of public health concerns. Economic consequences include decreased production, infrastructure damage, increasing poverty, displacement and migration, environmental destruction, and rising inequality. Women often face the brunt of climate consequences since they are disproportionately engaged in agricultural labor and family caring. Increasing resilience, getting help from abroad, and being involved in the community are some ways to lessen these consequences. Global collaboration, financial assistance, and new solutions are critical for achieving a sustainable future.²⁹

8. Environmental Movements in Independent India

Environmental movements in India are mostly shaped by local non-governmental organizations (NGOs). Examples include the Chipko movement, Dasholi Gram Swarajya Mandal, Silent Valley Movement, Kerala Sastra Sahitya Parishad, and Narmada Bachao Andolan.³⁰ Non-governmental organizations have gained significance in India's growth trajectory, addressing environmental issues since the early 2000s. These organizations assist communities in protecting their rights and the environment, therefore advancing the nation's environmental development. Environmental movements in India have a long history, with groups such as Chipko Andolan and Narmada Bachao Andolan

²⁹ Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* 9-12, 1287-1310 (2022).

³⁰ Baviskar, Amita. *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley* (2d ed., Oxford University Press 2005).

playing important roles since independence. These movements transcend social and cultural boundaries, bringing together individuals of many castes, nationalities, political philosophers, genders, and ages to work toward a shared aim of environmental conservation. Women have played an important role in these movements, especially from the weaker sectors. The Gandhian impact may be seen in any movements that follow Gandhian ideas such as non-violence and Satyagraha. The engagement of non-governmental organizations (NGOs) is an important aspect of these movements, as seen by the well-known Chipko movement. These movements address a variety of environmental challenges as well as current socio-economic issues related to the environment.

Environmental movements in independent India are crucial for their ability to raise awareness, advocate for local rights, subsistence, and ecological health, and participate in development. However, only a few of these initiatives have been successful owing to poor local administration and a lack of knowledge, coordination, and legal assistance. Development activities that have jeopardized the ecological balance have inspired various grassroots environmental movements, which continually engage residents around similar environmental and economic justice problems, therefore assisting in the avoidance of severe environmental catastrophes. The absence of assistance offered by environmental legislation further impedes public engagement in environmental management. Indian environmental groups are very important for preserving the atmosphere and dealing with social and economic problems. However, its effectiveness is dependent on the power of local governments, the availability of technical knowledge, and the protection afforded by environmental regulations.³¹

9. Environmental Cases: Judicial Responses

The National Green Tribunal (NGT) is a specialized judicial body in India that was founded in 2010 to hear and decide disputes involving environmental protection, forest conservation, and sustainable natural resource management. Its main goal is to guarantee the

³¹ Sharma, Mukul. "The Green Field of Politics: The Silent Valley Hydroelectric Project and the Rise of Ecological Science in Modern India." 18 *Indian Economic & Social History Review* 129 (2021).

prompt and efficient settlement of legal disputes and environmental-related concerns, offering a strong and easily accessible platform for the enforcement of legal rights that are directly associated with the environment. The NGT's makeup is deliberately designed to guarantee that both legal knowledge and scientific understanding are used in environmental disputes. The tribunal is made up of judicial members with expertise in environmental law and expert members with specialized knowledge in related subjects. This combination of legal and scientific understanding is critical for making sound and successful judgments. The NGT follows a set of guiding principles that guide its approach to environmental adjudication.³² These principles include sustainable development, the precautionary principle, and the polluter-pays principle, which guarantee that NGT choices are consistent with long-term environmental sustainability objectives. Some important NGT decisions include the ban on diesel cars older than 10 years in Delhi (2015), the restriction on open rubbish burning, the preservation of wetlands, and the ban on single-use plastics in Delhi. The prohibition on diesel automobiles was a crucial step in combating Delhi's escalating air pollution. The NGT acknowledged that older diesel cars considerably contribute to air pollution by producing toxic particles that endanger human health. The NGT also prohibited the practice of burning rubbish in open spaces throughout the nation, including landfills and other sites where waste is often disposed of. In order to guarantee the efficient preservation of these important ecosystems and to forestall any encroachment upon them, the National Geographical Survey (NGS) established the protection of wetland areas. The ban on throwaway plastics in Delhi and the National Capital Region (2017) sought to lessen the environmental impact of single-use plastics.³³

The NGT is critical to tackling environmental challenges and delivering timely and informed justice in India. The National Green Tribunal (NGT) has played an important role in resolving environmental challenges in India by offering a specialized and easily accessible court for environmental lawsuits. Its verdicts have constantly emphasized the significance of sustainable development and

³² Divan, Shyam, & Armin Rosencranz. *Environmental Law and Policy in India: Cases and Materials* (3d ed., Oxford University Press 2021).

³³ Leelakrishnan, P. *Environmental Law in India* (5th ed., LexisNexis 2020).

environmental justice, establishing significant precedents for environmental preservation throughout the nation. The tribunal has helped to increase awareness about environmental concerns and create more responsibility for environmental infractions. However, the tribunal has experienced obstacles such as delays in implementing its rulings owing to bureaucratic impediments and entrenched interests, as well as inadequate enforcement measures. Strengthening these features would be critical for the NGT to reach its full potential in protecting India's environment.³⁴

In the *Ganga River Pollution Case*,³⁵ the National Green Tribunal granted orders to address pollution sources and restore the river's ecological health. In the *Art of Living case*³⁶ on the Yamuna floodplains, the NGT issued a fine for environmental damage to the Yamuna floodplains during the World Culture Festival in 2016. The tribunal stressed the need for environmental impact studies and proper environmental management.

In *M.C. Mehta Union of India—Air Pollution in Delhi-NCR*, the NGT told the government of Delhi and nearby states to take action right away to clean up the air. The tribunal's action was intended to minimize air pollution and safeguard public health in the area. During Diwali, the NGT sought to limit air pollution and preserve public health during the celebration. The NGT's relevance stems from its capacity to raise awareness of environmental concerns and promote responsibility for infractions.³⁷

The Tribunal handles cases related to seven environmental laws: the Water (Prevention and Control of Pollution) Act, 1974; the Water (Prevention and Control of Pollution) Cess Act, 1977; the Forest (Conservation) Act, 1980; the Air (Prevention and Control of Pollution) Act, 1981; the Environment (Protection) Act, 1986; the Public Liability Insurance Act, 1991; and the Biological Diversity Act, 2002.

Environmental law violations are considered criminal offenses and are decided by criminal courts. Certain illegal activities are classified

³⁴ Gill, Gitanjali N. *Environmental Justice in India: The National Green Tribunal* (Routledge 2017).

³⁵ *M.C. Mehta vs Union of India*, AIR 1988 SC 1037;(1987) 4 SCC 463.

³⁶ *Surendra Singh v. Ministry of Environment & Forests*, OA No. 04/2016, NGT (Principal Bench, Mar. 9, 2017).

³⁷ *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, AIR 1987 SC 965, *M.C. Mehta v. Union of India*, Order, NGT (Principal Bench, Nov. 10, 2016).

as crimes under the Water Act and the Air Act. Industrial establishments must get prior clearance from State Pollution Control Boards (SPCBs) before establishing and functioning. Beginning operations without the necessary consents is a criminal offense.³⁸ After receiving clearance, an industry must adhere to all standards and specifications for the equipment and processes described in the consent. Exceeding the SPCB's emissions or sewage discharge restrictions becomes a criminal offense.

The Supreme Court of India and high courts in various states have declared that the fundamental right protected by Article 21 of the Indian Constitution, the right to life, includes the right to a clean and healthy environment, a pollution-free environment, a clean and hygienic environment, etc. Individuals affected by environmental degradation have petitioned the Supreme Court and High Courts throughout the past three decades to protect their fundamental right to life, which has been jeopardized by environmental degradation.³⁹

10. Public Interest Litigation (PIL)

Public Interest Litigation (PIL) is an important tool for environmental preservation because it allows courts to actively address environmental concerns that affect the general population. PILs enable concerned persons and groups to bring environmental issues to the attention of the court, therefore aiding the implementation of environmental laws and regulations. A substantial number of landmark decisions, notably those issued by the Supreme Courts of India and other countries throughout the globe, have helped to set crucial precedents and shape the landscape of environmental law. These legal cases clearly highlight the judiciary's extremely critical role in protecting the environment *via* the effective and strategic use of the PIL procedure. The courts' verdicts serve as a key check on governmental and corporate acts that may damage the environment, guarantee responsibility and encourage sustainable practices.⁴⁰

³⁸ Leelakrishnan, P. *Environmental Law in India* 67-82, 102-120 (5th ed., LexisNexis 2020).

³⁹ Divan, Shyam, & Armin Rosencranz. *Environmental Law and Policy in India: Cases and Materials* (3d ed., Oxford University Press 2021).

⁴⁰ Bhagwat, M.M., & B.P. Acharya. *Public Interest Litigation: A Handbook* (2d ed., Universal Law Publishing 2012).

Turning to international examples, the United States Supreme Court issued a landmark decision affirming that the Environmental Protection Agency (EPA) has the legal authority and jurisdiction to regulate greenhouse gases under the existing provisions of the Clean Air Act, recognizing the significant impact of these gases on climate change and the environment. The case of *Sierra Club v. Morton*⁴¹ was significant not only for its immediate decision but also for the insightful and thought-provoking discussion it sparked on the complex issue of standing in environmental litigation, particularly the rights of environmental organizations to represent the interests of the environment itself.

The UK Supreme Court made a clear decision that the government must act right away to meet all European Union (EU) air quality standards. These cases highlighted the judiciary's crucial role in enforcing environmental laws and holding the administration responsible for fulfilling its declared environmental duties and international commitments. These cases also, taken together, provide compelling evidence of the judiciary's critical role in actively safeguarding the environment through the strategic use and rigorous enforcement of the Public Interest Litigation (PIL) mechanism, ensuring that environmental laws are upheld and environmental justice is served. They demonstrate the courts' readiness to step in and preserve the environment when other bodies of government or private corporations fail to do so sufficiently.⁴²

The *Oleum Gas Leak Case*⁴³ is a landmark case in India that laid the groundwork for unlimited responsibility. This approach was developed expressly to target companies that engage in intrinsically hazardous activities, recognizing the increased danger they bring to the environment and neighboring populations. The court unequivocally declared that such industries are obligated to provide comprehensive compensation for any and all harm resulting directly or indirectly from their operations, regardless of whether negligence or a lack of due care can be demonstrated in a court of law. This obligation is absolute and non-delegable. This historic decision

⁴¹ 405 U.S. 727 (1972).

⁴² Bhagwat, M.M., & B.P. Acharya. *Public Interest Litigation: A Handbook* (2d ed., Universal Law Publishing 2012).

⁴³ *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, AIR 1987 SC 965.

represented a dramatic divergence from the conventional negligence-based liability framework, thereby imposing a higher and more demanding responsibility on hazardous sectors to proactively avoid environmental harm and fairly compensate victims in the case of an occurrence. It represented a move toward more corporate responsibility and a stronger focus on preventive actions.

The case of *Vellore Citizens*⁴⁴ played a significant role in establishing the critical notion of sustainable development into Indian legal theory, alongside the equally essential and related precautionary principle. The court emphasized that the polluter pays principle is an essential component of sustainable development, effectively mandating that those entities or individuals directly responsible for environmental pollution bear all of the costs associated with remediation efforts and provide just compensation for the environmental damage caused by their actions. This landmark decision emphasized the critical need to carefully balance economic development imperatives with equally important considerations for environmental protection, ensuring that future generations are not unduly burdened by the environmental consequences of current activities and choices. The notion of intergenerational equality was therefore deeply ingrained in Indian environmental law.

The SC further fortified the application and enforcement of the polluter pays principle within the Indian legal system, thereby reinforcing its fundamental role in the Indian environmental law. The court strongly said that companies found to be causing serious environmental harm must carry the complete and comprehensive cost of all essential remediation measures to restore the environment to its prior condition, or as near as physically practicable. This sent a clear and unambiguous message to the industrial sector that environmental responsibility is more than a suggestion but a fundamental obligation and that industries cannot and will not be allowed to avoid the significant financial consequences of their polluting activities and environmentally harmful practices.

The court provided a groundbreaking and progressive interpretation of the fundamental right to life, as enshrined in Article 21 of the Indian Constitution, arguing that it inherently includes and encompasses the right to a clean, healthy, and sustainable environment. The

⁴⁴ *Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715.

government's duty to provide a clean, healthy, and environmentally sound environment for all citizens, protecting their right to life and well-being, was highlighted by this landmark judgment.⁴⁵

11. Precautionary Theory and Environmental Law in India

- The precautionary doctrine applies international environmental law in cases of scientific ambiguity or uncertainty. The hypothesis was formally accepted in the Rio Declaration in the mid-1980s.
- The precautionary doctrine is a tenet of Indian environmental law, according to the Supreme Court's ruling in the *Vellore Citizens Welfare Forum v. Union of India* case.
- The Polluter Pays Theory requires the individual responsible for pollution to pay for the costs of pollution and its subsequent expenses.
- The Apex Court determines environmental damages by conducting an examination and inspection of the situation, taking into account factors such as the preventive nature of the award.

12. Boundaries of Indian Environmental Law

- India's existing environmental legislation is distinguished by a restricted perspective, a sectoral strategy, and a reactive response to environmental challenges.
- The Environment [Protection] Act, 1986, was supposed to protect all parts of the environment, but it has mostly dealt with pollution issues.
- The courts' activism is caused by not being able to see environmental problems coming, not having enough policies and plans, and laws that are static and only react to them. Many environmental regulations lack the support of a policy statement, resulting in "command and control" tactics.

The Indian Supreme Court has helped safeguard and improve the environment. In the above cited cases i.e.; *A.P. Pollution Control Board v. M.V. Nayudu*⁴⁶, *M.C. Mehta v. Union of India*,⁴⁷ and *Indian Council for Enviro-Legal Action*,⁴⁸ the court recognized the need for

⁴⁵ Ivan, Shyam, & Armin Rosencranz. *Environmental Law and Policy in India: Cases and Materials* (3d ed., Oxford University Press 2021).

⁴⁶ (1999) 9 SCC 762.

⁴⁷ AIR 1988 SC 1037.

⁴⁸ AIR 1996 SC 1446.

environmental courts with expert advice from environmental scientists/technologists. The court also said that environmental courts should be formed on a regional scale, with a trained judge and two specialists to resolve environmental matters expeditiously. In the *Kanpur Tanneries or Ganga Pollution case*,⁴⁹ the court blamed the Nagar Mahapalika for pollution. In *Attakoya Thangal v. Union of India*,⁵⁰ the court declared that the right to life is more essential than the right to animal existence and includes the right to clean water and natural air. *Almitra H. Patel v. Union of India*⁵¹ confirmed Wadehra's findings that Delhi is one of the world's most polluted cities. The court ordered officials to reduce pollution and safeguard the environment immediately. The Supreme Court examined sustainable development in *Vellore Citizens case*, including the precautionary principle and polluter pays. Through PIL, the court has broadened and lengthened its jurisdiction, demonstrating the judiciary's creativity in tackling environmental challenges in India.⁵²

13. Conclusion and Suggestions

The Stockholm and Rio Declarations call for environmental liability and compensation laws in India, but states often opt for private law regimes, excluding state accountability. Recent developments include the International Law Commission's draft Principles and the 2010 UNEP Guidelines. The Indian Constitution enshrines the social duty to protect the environment, and local environmental initiatives are prevalent but often overlooked due to lack of significant national environmental issues. Local movements often include ecological, economic justice, and democracy issues. India's environmental concerns include poverty, which was highlighted by Indira Gandhi during the 1972 UN Environment Conference. Many international environmental treaties have been accepted and implemented in India, but domestic implementation requires preserving the environment while meeting population needs, energy demands, and future generations' legacy. Addressing inequalities, linking climate change impacts to human rights, and recognizing Indigenous

⁴⁹ AIR 1988 SC 1037.

⁵⁰ MANU/KE/0060/1990 (Ker. HC 1990).

⁵¹ (2000) 2 SCC 166.

⁵² Rosencranz, Armin, & Geetanjoy Sahu. "The Supreme Court of India: An Environmental Prodigy?" 25 *Journal of Court Innovation* 153 (2013).

communities' critical role in biodiversity protection are essential steps towards creating a sustainable and fair future.

We may endeavor to create a more sustainable and fair future for all by tackling these issues for the following reasons:

- Environment plays a crucial role in fulfilling fundamental human rights such as the right to life, health, water and food, and cultural rights.
- It includes international treaties, national policies, local and community governance, and core principles like sustainability, equity, justice, accountability, and participation.
- Addresses inequalities where marginalized groups bear the brunt of environmental harm.
- Linking climate change impacts to human rights with a focus on vulnerable populations.
- Recognizes the critical role of Indigenous communities in biodiversity protection and their right to manage ancestral lands.
- Weak enforcement, conflicts of interest, and global inequalities pose challenges.
- Pathways forward include strengthening legal frameworks, empowering communities, promoting education, and international collaboration.