Swami Vivekananda Advanced Journal for Research and Studies
Online Copy of Document Available on: www.svajrs.com

ISSN:2584-105X **Pg. 320-324**

Environmental Law in India: A Critical Analysis of Legal Framework, Judicial Intervention, and Enforcement Challenges

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Accepted: 09/03/2026
Published: 10/03/2026 ***DOI: http://doi.org/10.5281/zenodo.19509767***

Abstract

This paper analyses environmental law in India through a doctrinal study of constitutional provisions, pollution-control statutes, the National Green Tribunal Act, and leading judicial decisions. It seeks both to map the legal architecture of environmental protection and to explain why ecological degradation persists despite a dense regulatory framework. The paper finds that Indian environmental law is normatively ambitious and jurisprudentially innovative. Through Article 21, the Supreme Court has converted environmental protection from a policy aspiration into an enforceable constitutional concern, while the National Green Tribunal has institutionalised specialised environmental adjudication. Yet these advances coexist with fragmented administration, weak monitoring, executive dilution, and a compliance culture that often privileges post-facto regularisation over prevention. The paper's central claim is that the next phase of Indian environmental law must move beyond episodic court-led correction toward a more durable environmental rule-of-law model grounded in regulatory capacity, transparency, restoration, and climate-conscious governance.

Keywords: *Environmental law; Article 21; National Green Tribunal; sustainable development; precautionary principle; polluter pays; India*

Introduction:

India's environmental crisis now appears in the routine degradation of rivers, hazardous urban air, unmanaged waste, stressed aquifers, biodiversity loss, and the intensifying effects of climate change. Environmental law therefore performs a constitutional and distributive function: it mediates the relationship between economic growth, ecological limits, public health, and inter-generational justice. Yet India presents a paradox. It possesses extensive environmental statutes, a constitutionalised right to a healthy environment, an active judiciary, and a specialised tribunal. Despite this, environmental harms remain recurrent and systemic.[1]

The central research problem is not the absence of law, but the gap between legal promise and environmental outcomes. Courts have expanded environmental protection through public interest litigation and Article 21, while Parliament has created a layered framework dealing with pollution control and specialised adjudication. Still, the continuing need for judicial supervision suggests that environmental compliance has not been internalised as a normal function of governance. Recent decisions reflect this dual movement: *M.K. Ranjitsinh v Union of India* recognised a right against the adverse effects of climate change, while *Vanashakti v Union of India* resisted attempts to normalise ex post facto environmental clearance.[2]

This paper analyses the constitutional and statutory framework of Indian environmental law, evaluates the judiciary's role in developing environmental principles, examines the National Green Tribunal, and identifies the enforcement deficits that limit legal effectiveness. It argues that Indian environmental law is strong in constitutional vision and judicial doctrine but weak in everyday administration. Judicial intervention has been indispensable, yet it cannot permanently substitute for credible regulators, preventive decision-making, and accountable implementation.

II. Research Questions

The principal question guiding this paper is whether the existing environmental legal framework in India can effectively address environmental degradation while reconciling development with sustainability. Subsidiary questions concern the constitutional and statutory allocation of powers and duties, the judicial transformation of environmental protection under Article 21, the absorption of sustainable development, precaution, and polluter pays into Indian law, the institutional contribution of the National Green Tribunal, and the reasons enforcement failures persist despite dense legislation and continuing judicial oversight.

III. Research Methodology

This paper adopts a doctrinal and legal-analytical methodology. It relies on constitutional text, parliamentary enactments, judicial decisions, and selected scholarship. The analysis is interpretive rather than empirical: it evaluates how legal norms are structured, how courts have developed environmental doctrine, and how institutional design affects implementation.[3]

IV. Constitutional and Statutory Framework

The constitutional foundation of Indian environmental law rests on enforceable rights, directive principles, and civic duties. Article 21, though textually framed as a protection of life and personal liberty, has been judicially expanded to include life in conditions compatible with health and ecological security. Articles 48A and 51A(g), inserted by the Forty-second Amendment, direct the State to protect and improve the environment and impose a civic duty to safeguard forests, lakes, rivers, and wildlife.[4] Article 21 supplies enforceability, Article 48A policy direction, and Article 51A(g) an ethic of shared responsibility.

At the statutory level, the Water Act, 1974 and the Air Act, 1981 created the foundational pollution-control architecture. The Water Act established the Central and State Pollution Control Boards and a consent regime for outlets and discharges.[5] The Air Act extended the board model to air pollution control, required consent for industrial plants in notified control areas, and was enacted under Article 253 to implement India's Stockholm commitments.[6] These statutes are significant, but they remain command-and-control enactments that depend heavily on monitoring and prosecution by boards whose capacities vary sharply across States.

The Environment (Protection) Act, 1986, enacted in the aftermath of Bhopal, functions as India's umbrella environmental legislation. It confers broad powers on

[1] Lavanya Rajamani, 'The Right to Environmental Protection in India: Many a Slip between the Cup and the Lip?' (2007) 16(3) *Review of European Community and International Environmental Law* 274; Geetanjoy Sahu, 'Implications of Indian Supreme Court's Innovations for Environmental Jurisprudence' (2008) 4(1) *Law, Environment and Development Journal* 1.

[2] *M.K. Ranjitsinh v Union of India* 2024 INSC 280; *Vanashakti v Union of India* 2025 INSC 718.

[3] Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* (3rd edn, Oxford University Press 2022); P Leelakrishnan, *Environmental Law in India* (5th edn, LexisNexis 2019).

[4] Constitution of India, arts 21, 48A and 51A(g).

[5] The Water (Prevention and Control of Pollution) Act, 1974, ss 3, 16, 17, 24, 25 and 26.

[6] The Air (Prevention and Control of Pollution) Act, 1981, ss 16, 17, 21 and 22; India Code, 'The Air (Prevention and Control of Pollution) Act, 1981' (noting that the Act was enacted under art 253 to implement decisions taken at the Stockholm Conference on the Human Environment).

the Central Government to protect environmental quality, issue binding directions, and frame rules regulating emissions, hazardous substances, and environmental procedures.[7] Much of India's contemporary environmental governance—including environmental impact assessment and hazardous waste regulation—has been built through delegated legislation under this Act. That flexibility has allowed regulatory expansion, but it has also made governance highly notification-driven and susceptible to executive dilution.

The National Green Tribunal Act, 2010 added a specialist adjudicatory layer. It created a tribunal with jurisdiction over substantial environmental questions arising under scheduled enactments, powers of relief and restitution, and an express mandate to apply sustainable development, precaution, and polluter pays.[8] The framework is thus impressive in breadth. Its weakness lies in fragmentation, administrative discretion, and uneven enforcement.

V. Judicial Contribution and Environmental Principles

Indian environmental jurisprudence has been shaped decisively by the higher judiciary. In *Rural Litigation and Entitlement Kendra v State of U.P.*, the Supreme Court treated ecological destruction in the Doon Valley as a matter of public law and ordered closure of harmful limestone quarrying, marking the shift of environmental disputes from private nuisance to constitutional adjudication.[9] The later *M.C. Mehta* decisions deepened this shift. In the oleum gas leak case, the Court formulated absolute liability for enterprises engaged in hazardous activity, moving beyond *Rylands v Fletcher* and insisting that industrial modernity be disciplined by a stricter standard of responsibility.[10]

The constitutionalisation of environmental rights became explicit in *Subhash Kumar v State of Bihar*, where the Court held that the right to life includes pollution-free water and air.[11] Doctrinal consolidation, however, occurred in *Vellore Citizens' Welfare Forum v Union of India*, where the Court absorbed sustainable development, the precautionary principle, and the polluter pays principle into Indian law.[12] Sustainable development was not framed as a licence for growth at any cost; it made ecological protection an internal condition of lawful development. Precaution emphasised anticipatory regulation under scientific uncertainty, while polluter pays required that environmental costs not be externalised onto the public.

These principles were further operationalised in *Indian Council for Enviro-Legal Action v Union of India*, where the Court underscored that polluter pays includes not merely compensation to victims but also restoration of environmental damage.[13] More recently, *M.K. Ranjitsinh v Union of India* signalled that the constitutional reach of environmental rights extends to the adverse effects of climate change, even without an umbrella climate statute.[14]

The judiciary's contribution has therefore been transformative. It has produced principles, widened standing, and infused environmental governance with constitutional seriousness. But it is not beyond criticism. As Rajamani argues, the environmental right is often under-specified in application, and broad principles may obscure difficult distributional choices.[15] Judicial creativity is strongest when it exposes executive failure and clarifies minimum standards; it is weaker when courts must supervise long-term administration.

VI. Institutional Mechanism and Role of the National Green Tribunal

The National Green Tribunal represents India's most important attempt to institutionalise specialised environmental adjudication. Unlike ordinary civil courts, the Tribunal combines judicial and expert membership, has original jurisdiction over substantial environmental disputes under the statutes listed in Schedule I, and may order compensation, restitution of damaged property, and restitution of the environment itself.[16] Section 19 frees it from the rigidities of the Code of Civil Procedure and directs it to follow natural justice, while section 20 requires it to apply the core principles that the Supreme Court had earlier constitutionalised. This statutory design allows the Tribunal to function not merely as a forum for dispute settlement, but as a site where environmental science and legal reasoning can interact more closely.

Its contribution has been considerable. The Tribunal has improved access to technically informed adjudication, scrutinised flawed clearances, and expanded the remedial vocabulary of environmental law. Yet its effectiveness remains qualified. Its jurisdiction is limited to scheduled enactments, implementation of its orders still depends heavily on executive agencies, and recurring vacancies and compliance failures reduce its promise of expeditious

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[7] The Environment (Protection) Act, 1986, ss 3, 5, 6, 7 and 8.

[8] The National Green Tribunal Act, 2010, ss 14, 15, 19, 20 and 22.

[9] *Rural Litigation and Entitlement Kendra v State of U.P.* 1989 Supp (1) SCC 504.

[10] *M.C. Mehta v Union of India* (1987) 1 SCC 395.

[11] *Subhash Kumar v State of Bihar* (1991) 1 SCC 598.

[12] *Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.

[13] *Indian Council for Enviro-Legal Action v Union of India* (1996) 3 SCC 212.

[14] *M.K. Ranjitsinh v Union of India* 2024 INSC 280.

[15] Rajamani (n 1).

[16] The National Green Tribunal Act, 2010, ss 4, 14, 15, 19, 20 and Schedule I.

justice.[17] The Tribunal is therefore a vital but incomplete response to India's enforcement crisis.

VII. Critical Analysis: Enforcement Challenges

The most persistent weakness of Indian environmental law lies in enforcement. Pollution control boards, which occupy the front line of regulation, remain burdened by inadequate staffing, weak laboratories, patchy data systems, and a dependence on inspections and prosecutions that are often delayed or selectively pursued. Where regulators lack credible monitoring capacity, the legal architecture becomes reactive rather than preventive. Consent conditions exist on paper, but continuous compliance is insufficiently verified. Environmental law therefore punishes violation late, after ecological harm has already occurred.

A second problem is administrative fragmentation. Environmental governance is divided among the Union, States, pollution boards, district authorities, local bodies, and sectoral ministries. This produces coordination gaps, especially where land use, infrastructure, mining, waste, and water governance overlap. The Environment (Protection) Act, though broad, has also encouraged heavy reliance on subordinate legislation and executive notifications. That model enables flexibility, but it makes governance vulnerable to reversals and ad hoc exemptions. Litigation over ex post facto environmental clearances is illustrative. In *Vanashakti v Union of India*, the Supreme Court reaffirmed that retrospective environmental clearance is alien to the logic of prior appraisal, exposing the dilutionary pull within executive practice.[18]
Thirdly, political economy pressures continually reshape environmental administration. Clearances are often treated as gateways for investment rather than rigorous precautionary filters. In such a setting, sustainable development risks becoming a justificatory phrase rather than a limiting principle. The precautionary principle also suffers when data are poor and public hearings are reduced to formalities. In practice, uncertainty frequently benefits the project proponent rather than the affected community.
Finally, there is a deeper structural issue: the over-judicialisation of environmental governance. Courts and the NGT intervene because regulators underperform, but repeated judicial monitoring cannot become the ordinary mode of administration. It is episodic, case-specific, and dependent on continuing litigation. Indian environmental law thus combines normative expansion with administrative weakness.

VIII. Suggestions and Reforms

Reform must begin with regulatory capacity. Pollution control boards and related agencies require professional staffing, modern laboratories, real-time monitoring, independent budgets, and publicly auditable performance standards. Environmental compliance should move from a paper-based consent culture to data-driven supervision. Public participation must also be strengthened at the appraisal stage. Environmental impact assessment should become genuinely deliberative, with accessible disclosure, cumulative impact analysis, and meaningful hearings rather than ritual consultation.

The polluter pays principle should be operationalised as restoration, not merely revenue extraction. Environmental compensation must be scientifically assessed, transparently administered, and tied to remediation plans. The National Green Tribunal should be strengthened through timely appointments, stable regional access, and better compliance mechanisms. Finally, India needs a clearer climate-conscious governance framework. Even without a single climate code, statutory and regulatory decision-making should expressly consider climate risk, cumulative ecological effects, and long-term resilience. The objective should be to shift from ad hoc judicial rescue to an institutionalised environmental rule of law.[19]

IX. Conclusion

Indian environmental law is one of the most ambitious examples of judicially enriched public law in the Global South. Through Article 21, the Supreme Court has transformed environmental protection into an enforceable constitutional commitment. Through the Water Act, Air Act, Environment (Protection) Act, and National Green Tribunal Act, Parliament has created a substantial legal infrastructure for pollution control, governance, and specialised adjudication. The incorporation of sustainable development, precaution, polluter pays, and absolute liability shows that India has not treated environmental protection as peripheral to constitutional governance.

Yet the central lesson of this paper is that legal richness has not yielded consistent ecological protection. The enforcement deficit persists because environmental institutions remain fragmented, under-capacitated, and vulnerable to executive dilution. Judicial intervention has corrected many failures and remains indispensable. But courts cannot permanently stand in for regulators. The future of Indian environmental law depends on converting principle into administration, rights into

[17] Armin Rosencranz and Geetanjoy Sahu, 'Assessing the National Green Tribunal after Four Years' (2014) 5 *Journal of Indian Law and Society* 191.
[18] *Vanashakti v Union of India* 2025 INSC 718.
[19] Geetanjoy Sahu, 'Implications of Indian Supreme Court's Innovations for Environmental Jurisprudence' (2008) 4(1) *Law, Environment and Development Journal* 1; *M.K. Ranjitsinh v Union of India* 2024 INSC 280.

monitoring, and liability into restoration. The real challenge is no longer to discover environmental norms; it is to build institutions capable of implementing them with consistency, scientific integrity, participation, and long-term ecological responsibility.

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