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Constitutional Framework for Environmental Justice in India: A critical study

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Abstract

Indian environmental jurisprudence has transformed pollution control into a constitutional field concerned with life, equality, public trust, scientific uncertainty and ecological restoration. This paper examines that transformation through a socio-legal analysis of Supreme Court decisions, the statutory design of the National Green Tribunal (NGT), and selected implementation evidence. It identifies five broad phases: public interest litigation and remedial innovation; constitutionalisation of a pollution-free environment; incorporation of environmental principles; specialised adjudication through the NGT; and the emerging constitutional law of climate change and prior environmental clearance. Particular attention is given to *M K Ranjitsinh v Union of India* (2024), which recognised a right against the adverse effects of climate change under Articles 14 and 21, and *Vanashakti v Union of India* (2026), which reaffirmed mandatory prior environmental clearance while permitting only a narrowly tailored, legally valid amnesty in supervening public interest. The paper argues that Indian courts have supplied strong norms but cannot substitute for preventive, participatory and technically capable administration. Persistent barriers include cumulative-impact blindness, unequal access to evidence and remedies, weak compliance, fragmented institutions, and conflicts generated by both conventional development and the green transition. Reform should therefore move environmental justice upstream into planning, impact assessment, regulatory data, community participation and enforceable restoration.

Keywords: India; Supreme Court; National Green Tribunal; Article 21; climate justice; environmental clearance

1. INTRODUCTION

Environmental disputes in India are rarely only about ecology. They are also disputes about land, livelihood, public health, housing, energy, cultural identity and the distribution of development. A factory may generate employment but externalise contamination to nearby settlements; a dam may supply power while displacing communities; a conservation programme may protect habitat but restrict customary access; and a renewable-energy corridor may serve climate mitigation while imposing local biodiversity or land costs. Environmental justice provides a framework for evaluating these trade-offs through equality, participation, recognition and effective remedy.

The higher judiciary has played an unusually prominent role because constitutional writ jurisdiction and public interest litigation made environmental injury justiciable even when affected people could not pursue conventional private-law claims. Judicial decisions created principles, appointed expert committees, closed hazardous units, ordered restoration and expanded the meaning of life under Article 21. Yet a socio-legal account must resist a simple narrative of judicial success. It must ask who can reach courts, whether orders are implemented, whether scientific processes are transparent, and whether remedies address the lived and distributional character of harm.

2. RESEARCH DESIGN AND METHOD

Research question	How have Indian courts and environmental institutions advanced environmental justice, and what contemporary barriers limit effective implementation?
Objective	To analyse the evolution, contribution and limits of Indian environmental jurisprudence and the NGT through an equality-sensitive socio-legal lens.
Hypothesis	Judicial innovation has significantly strengthened environmental justice norms, but their practical effect remains constrained by preventive-governance deficits, unequal participation and weak compliance.

The study is doctrinal and qualitative. It analyses constitutional provisions, statutes, delegated legislation and selected Supreme Court decisions that mark shifts in doctrine or remedy. It also uses official river-monitoring data as a limited empirical illustration of the scale and complexity of implementation. The cases are not treated as a complete census of environmental litigation. Their selection is purposive: each demonstrates a distinctive contribution to rights, liability, participation, expertise, restoration or climate governance. The paper is current through 2 August 2026.

3. CONSTITUTIONAL AND STATUTORY ARCHITECTURE

The Constitution distributes environmental responsibility across enforceable rights and directive duties. Article 21 has become the principal source of the right to a healthy environment, while Article 14 addresses arbitrariness and unequal vulnerability. Articles 48A and 51A(g) make environmental protection a State endeavour and citizen duty. Articles 32 and 226 give the Supreme Court and High Courts remedial authority, and Article 39(b) supplies a distributive concern for material resources.¹ The structure allows environmental justice to be framed as a constitutional relationship among life, equality, public resources and accountable government.

The regulatory framework is sectoral. The Water Act created pollution control boards and consent mechanisms; the Air Act extended control to air pollution; and the Environment (Protection) Act supplies broad central powers and the basis for major delegated regimes.² The 2006 EIA Notification requires prior environmental clearance for scheduled projects and organises appraisal through screening, scoping, public consultation and expert assessment.³ The Forest Rights Act, Biological Diversity Act, land-acquisition law and other sectoral statutes add rights and procedures that may become central in particular disputes.

The NGT Act marked an institutional shift. It created a specialised body for substantial environmental questions, relief and compensation, restitution of damaged environment and appeals under specified enactments. Sections 19 and 20 permit

¹ Constitution of India arts 14, 21, 32, 39(b), 48A, 51A(g) and 226.

² Water (Prevention and Control of Pollution) Act 1974; Air (Prevention and Control of Pollution) Act 1981; Environment (Protection) Act 1986.

³ Environmental Impact Assessment Notification 2006, SO 1533(E), Gazette of India, Extraordinary, pt II, s 3(ii) (14 September 2006).

flexible procedure while requiring application of sustainable development, precaution and polluter pays.⁴ This design recognises that environmental justice requires both legal and scientific competence, although the Tribunal remains dependent upon regulators and local administrations for inspection, data and enforcement.

4. JUDICIAL EVOLUTION: FIVE OVERLAPPING PHASES

4.1 Public Interest Litigation and Remedial Innovation

In the 1980s, public interest litigation lowered procedural barriers and enabled courts to respond to ecological damage as a collective injury. *Rural Litigation and Entitlement Kendra* addressed limestone quarrying in the Mussoorie-Dehradun region and accepted that ecological stability could justify closure despite economic consequences.⁵ In the *Oleum Gas Leak* litigation, the Supreme Court formulated absolute and non-delegable liability for enterprises engaged in hazardous or inherently dangerous activity.⁶ This doctrine responded to the mismatch between industrial risk and the ability of victims to prove fault, making enterprise responsibility part of environmental justice.

4.2 Constitutionalisation and Environmental Principles

The 1990s converted environmental quality into a constitutional interest. *Subhash Kumar* linked Article 21 with pollution-free water and air,⁷ while *Vellore Citizens' Welfare Forum* incorporated precaution and polluter pays into Indian environmental law.⁸ *Indian Council for Enviro-Legal Action* insisted that responsible industries finance remedial measures rather than shift clean-up costs to the public.⁹ *M C Mehta v Kamal Nath* used the public trust doctrine to protect resources held by the State for public use.¹⁰

The same period exposed the intersection between ecology and social recognition. *Samatha* protected tribal interests in Scheduled Areas against mining

leases that threatened constitutional and statutory safeguards.¹¹ The continuing forest litigation in *T N Godavarman* expanded judicial supervision over forest conservation, demonstrating both the reach and the risks of continuing mandamus: central oversight can restrain destructive activity, but long-running court governance may also distance decisions from locally differentiated rights.¹²

4.3 Expertise, Risk and Developmental Balancing

As disputes became more technically complex, the Court confronted uncertainty and institutional competence. *A P Pollution Control Board v M V Nayudu* emphasised scientific expertise and the difficulty courts face when environmental decisions involve contested probability and irreversible harm.¹³ *Narmada Bachao Andolan* displayed a more deferential approach to a large development project, relying heavily on the clearance and rehabilitation framework.¹⁴ *N D Jayal* reaffirmed that development must proceed within the discipline of sustainable development and the right to environment,¹⁵ while *Lafarge* stressed structured decision-making and institutional safeguards in forest clearance.¹⁶ Together, these cases show that “balance” is not a neutral formula: its justice depends on evidence, alternatives, participation and the treatment of non-substitutable loss.

4.4 The NGT Era: Restoration and Environmental Rule of Law

The NGT has made restoration, compensation and compliance central features of environmental adjudication. The Supreme Court in *Ankita Sinha* confirmed that the Tribunal may exercise suo motu power, reasoning that a body charged with environmental protection need not remain passive until a perfectly framed application is filed.¹⁷ In *State of Meghalaya v All Dimas Students Union*, illegal mining and ecological damage were addressed through restoration-oriented directions and polluter

⁴ National Green Tribunal Act 2010, long title and ss 14-20.

⁵ *Rural Litigation and Entitlement Kendra v State of Uttar Pradesh* (1985) 2 SCC 431.

⁶ *M C Mehta v Union of India* (1987) 1 SCC 395.

⁷ *Subhash Kumar v State of Bihar* (1991) 1 SCC 598.

⁸ *Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.

⁹ *Indian Council for Enviro-Legal Action v Union of India* (1996) 3 SCC 212.

¹⁰ *M C Mehta v Kamal Nath* (1997) 1 SCC 388.

¹¹ *Samatha v State of Andhra Pradesh* (1997) 8 SCC 191.

¹² *T N Godavarman Thirumulpad v Union of India* (1997) 2 SCC 267.

¹³ *A P Pollution Control Board v Prof M V Nayudu* (1999) 2 SCC 718.

¹⁴ *Narmada Bachao Andolan v Union of India* (2000) 10 SCC 664.

¹⁵ *N D Jayal v Union of India* (2004) 9 SCC 362.

¹⁶ *Lafarge Umiam Mining Pvt Ltd v Union of India* (2011) 7 SCC 338.

¹⁷ *Municipal Corporation of Greater Mumbai v Ankita Sinha* (2022) 13 SCC 401.

responsibility.¹⁸ The Tribunal's flexible procedure can improve access, but its effectiveness depends upon accurate field evidence and executive compliance.

Judicial control of illegal mining and approvals also became more exacting. *Common Cause* imposed substantial compensation for mining without lawful clearances,¹⁹ and *Alembic Pharmaceuticals* rejected ex post facto environmental clearance as contrary to the prior-assessment logic of environmental law while moulding relief in light of completed operations.²⁰ *Hanuman Laxman Aroskar* linked environmental rule of law with reasoned decision-making, disclosure and genuine appraisal rather than mechanical approval.²¹

4.5 Climate Rights and Prior Clearance, 2024-2026

M K Ranjitsinh marked a constitutional climate turn. In proceedings concerning the Great Indian Bustard and overhead transmission lines, the Court recognised a right against the adverse effects of climate change under Articles 14 and 21. It connected climate harm with unequal vulnerability and sought an expert-mediated balance between species conservation and renewable-energy expansion.²² The judgment is

important not because it resolves every climate conflict, but because it makes distribution and equality explicit within climate constitutionalism.

The current position on post facto environmental clearance is stated in *Vanashakti v Union of India* (29 July 2026). The Court held that the prior-clearance regime under the 2006 Notification is mandatory. It upheld the 2017 Notification as a narrowly tailored and time-bound delegated amnesty, but quashed the 2021 Office Memorandum prospectively because an administrative instruction could not create a perpetual regularisation regime and because it failed Articles 14 and 21 scrutiny. Existing clearances remain valid unless individually challenged; no fresh applications may be entertained under those instruments; and any future amnesty must be issued through a valid notification under section 3 of the 1986 Act, without restricting the Supreme Court's Article 142 power in appropriate cases.²³ The decision rejects “build first, regularise later” as a general model while recognising a bounded statutory exception in supervening public interest.

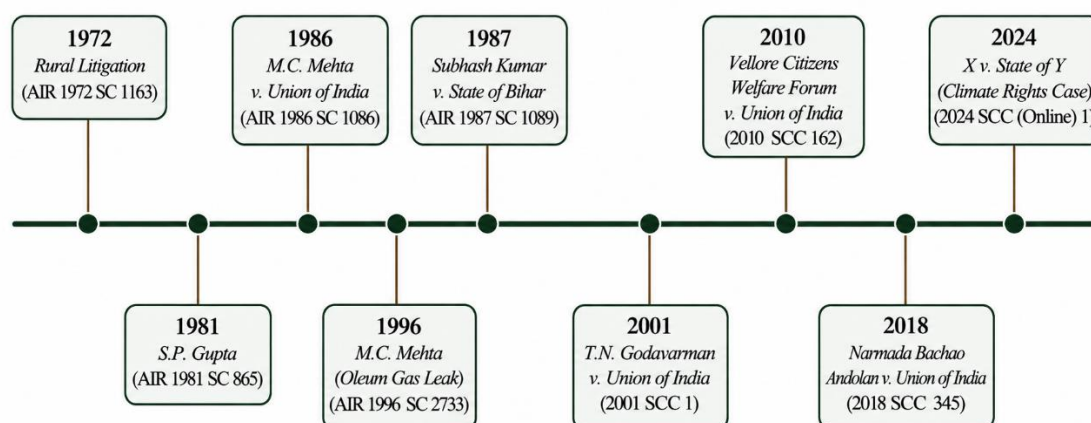


Figure 1. Selected milestones in Indian environmental jurisprudence

Source: Author's synthesis of reported Supreme Court decisions.

Table 1. Landmark decisions and their environmental justice contribution

Decision	Principal contribution	Justice dimension
<i>M C Mehta</i> (Oleum Gas), 1987	Absolute and non-delegable liability for hazardous enterprises	Corrective justice and risk allocation
<i>Vellore Citizens' Welfare Forum</i> , 1996	Precaution and polluter pays as part of domestic law	Prevention and restoration

¹⁸ *State of Meghalaya v All Dimas Students Union* (2019) 8 SCC 177.

¹⁹ *Common Cause v Union of India* (2017) 9 SCC 499.

²⁰ *Alembic Pharmaceuticals Ltd v Rohit Prajapati* (2020) 17 SCC 157.

²¹ *Hanuman Laxman Aroskar v Union of India* (2019) 15 SCC 401.

²² *M K Ranjitsinh v Union of India* 2024 INSC 280 [20]-[28], [53]-[60].

²³ *Vanashakti v Union of India* 2026 INSC 761 [79]-[82].

Decision	Principal contribution	Justice dimension
<i>M C Mehta v Kamal Nath</i> , 1997	Public trust doctrine for ecologically important resources	Public resources and intergenerational duty
<i>A P PCB v M V Nayudu</i> , 1999	Judicial recognition of scientific uncertainty and expertise	Procedural quality and precaution
<i>Orissa Mining Corporation</i> , 2013	Gram Sabha role in community and religious rights	Recognition and participation
<i>Ankita Sinha</i> , 2022	NGT may act suo motu to discharge its protective mandate	Access and institutional responsiveness
<i>M K Ranjitsinh</i> , 2024	Right against adverse effects of climate change under arts 14 and 21	Climate equality and vulnerable groups
<i>Vanashakti</i> , 2026	Mandatory prior EC; only bounded, legally valid amnesty	Rule of law, prevention and proportionality

Source: Author's doctrinal synthesis.

5. THE NATIONAL GREEN TRIBUNAL: PROMISE AND STRUCTURAL LIMITS

The NGT's principal contribution is remedial integration. A conventional court may focus on legality of an order, whereas sections 14 and 15 permit the Tribunal to examine substantial environmental disputes and order compensation and restitution. Its technical members and procedural flexibility can improve the handling of scientific evidence. Regional access, electronic filing and suo motu cognisance can reduce some barriers. The Tribunal also gives operational content to precaution, polluter pays and sustainable development rather than treating them as rhetorical principles.

The jurisdiction is nevertheless bounded. Schedule I lists the enactments from which the Tribunal's jurisdiction is derived; important laws such as the Wild Life (Protection) Act 1972 are not independently included.²⁴ Limitation periods, appellate pathways and the characterisation of a dispute can therefore determine access. The NGT also lacks its own field enforcement service. It relies upon pollution control boards, district administrations and expert bodies for sampling, closure, recovery and restoration. A strong order can lose practical force when responsible agencies do not report, funds are not ring-fenced, or remediation standards remain vague.

Specialisation does not automatically guarantee social inclusion. Technical pleadings, travel, digital access and the cost of experts can exclude precisely those communities most affected. Research on the Tribunal therefore emphasises the need to examine institutional practice, not only statutory design.²⁵ Environmental legal aid, local-language material,

mobile or circuit access, independent experts and transparent compliance dashboards are necessary if specialised adjudication is to become environmental justice rather than simply expert environmental administration.

6. VULNERABLE COMMUNITIES AND RECOGNITION

Forest and mineral conflicts show how distributive and recognition claims overlap. *Orissa Mining Corporation* required the Gram Sabha to consider the cultural and religious claims of Scheduled Tribes and other forest dwellers in the Niyamgiri hills.²⁶ The Forest Rights Act recognises community forest-resource rights and assigns the Gram Sabha a central role in determining claims.²⁷ These are not procedural ornaments. They acknowledge that a landscape may be a source of livelihood, identity, governance and spirituality, and that monetary compensation cannot fully substitute for its loss.

Urban environmental justice presents a different pattern. Low-income settlements may face poor water and sanitation, heat exposure, flood risk and proximity to waste or traffic, while also being vulnerable to eviction in the name of river restoration or beautification. Informal workers - including waste pickers, sanitation workers, construction labour and workers in hazardous recycling - often provide environmental services while bearing concentrated health risks. A just remedy must therefore distinguish between polluting activity for profit and survival activity produced by inadequate public infrastructure.

²⁴ National Green Tribunal Act 2010, sch I.

²⁵ Gitanjali Nain Gill, *Environmental Justice in India: The National Green Tribunal* (Routledge 2017) 90-121.

²⁶ *Orissa Mining Corporation Ltd v Ministry of Environment and Forest* (2013) 6 SCC 476.

²⁷ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, ss 3-6.

Climate change amplifies existing inequality. Heat, drought, flooding, crop loss and coastal change have different consequences depending on housing, health, insurance, land tenure and access to public services. Climate litigation and adaptation policy must therefore avoid treating “the public” as homogeneous. The Article 14 reasoning in *M K Ranjitsinh* offers a constitutional basis for vulnerability-sensitive adaptation, but implementation requires disaggregated data and clear duties concerning heat action, relocation, resilient infrastructure and livelihood protection.

7. IMPLEMENTATION EVIDENCE: RIVER MONITORING AS AN ILLUSTRATION

Official river-monitoring data illustrates both progress in surveillance and the persistence of large-scale pollution. CPCB assessments reported 275 polluted rivers out of 390 monitored in 2015 and 279 polluted rivers out of 603 monitored in the 2022 assessment. The apparent share of monitored rivers identified as polluted therefore declined, but the absolute number remained almost unchanged. CPCB also reported 311 polluted river stretches in 2022, compared with 351 in 2018. These figures must be interpreted cautiously because monitoring coverage, locations and assessment periods changed; they cannot by themselves establish causation or uniform improvement.

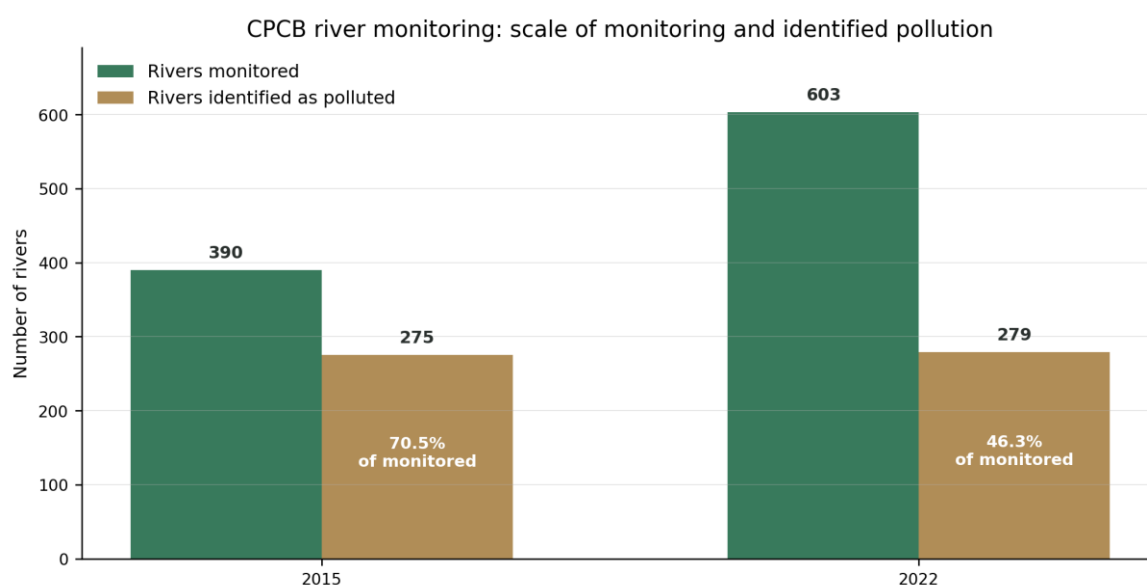


Figure 2. CPCB river monitoring and identified pollution, 2015 and 2022

Source: Author's graph from official CPCB data reported by the Ministry of Environment, Forest and Climate Change.²⁸

The socio-legal lesson is that environmental justice requires more than a national count. Monitoring should reveal who depends on each river stretch, which settlements and occupations are exposed, whether pollution-control infrastructure functions, and whether restoration changes health and livelihood outcomes. It should also link consent orders, prosecution, compensation and treatment-plant performance with geospatial water-quality data. Without this chain,

information can describe degradation without allocating responsibility or enabling remedy.

8. CONTEMPORARY CHALLENGES

8.1 Prevention versus Regularisation

Prior assessment is central because many ecological losses cannot be fully repaired after construction. Repeated regularisation can reward non-compliance, weaken public consultation and create

²⁸ Ministry of Environment, Forest and Climate Change, “Analysis of Water Quality of Rivers by Central Pollution Control Board” (Press Information Bureau, 20 July 2023)

<<https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1941065>> accessed 2 August 2026.

irreversible “fait accompli” pressure. At the same time, demolition or closure may harm workers, residents or public services. *Vanashakti* attempts to structure this dilemma by preserving prior clearance as the rule and permitting only a narrowly defined legislative exception in supervening public interest. Future policy must ensure that any exception is time-bound, class-specific, preceded by transparent criteria, accompanied by damage assessment and remediation, and unavailable as a routine business strategy.

8.2 Enforcement, Penalties and Restoration

India's environmental regime is increasingly using monetary penalties and adjudication for regulatory contraventions, including amendments associated with the Jan Vishwas Act.²⁹ Administrative penalties may improve speed, but justice depends on calibration. A penalty that is lower than the economic benefit of violation becomes a fee for non-compliance. Monetary recovery must remain additional to ecological restoration, victim compensation and operational correction. Courts have repeatedly emphasised infrastructure and compliance, including time-bound effluent-treatment obligations in *Paryavaran Suraksha Samiti*.³⁰

8.3 Fragmentation and Cumulative Impacts

Projects are often assessed individually even when their combined pressure on an airshed, river basin, coast or forest landscape is decisive. Responsibilities are distributed among ministries, pollution boards, forest authorities, local bodies and disaster-management institutions. This fragmentation can enable each agency to treat its mandate as narrow while cumulative harm remains unowned. Basin-level and airshed-level planning, common data standards and a lead-agency duty are needed to convert sectoral regulation into ecological governance.

8.4 The Justice Risks of the Green Transition

Decarbonisation will require renewable generation, transmission, storage, mineral supply and industrial restructuring. These activities can create new land, biodiversity and labour conflicts. A project does not become just merely because it is labelled green. Climate benefits, local ecological costs, community rights and alternatives must be assessed together. Workers and regions dependent on coal or carbon-

intensive industry require transition planning, while communities hosting new infrastructure require fair benefit-sharing, consent where legally mandated, and protection against involuntary sacrifice zones.

9. REFORM AGENDA

Environmental justice should be moved upstream into planning and administration. Every major approval should include a distributional and cumulative-impact statement identifying vulnerable groups, baseline health and livelihood conditions, project alternatives and expected benefit-sharing. Public consultation should use local languages, accessible non-technical summaries and independent facilitation. Objections should receive issue-by-issue reasons, and material changes after consultation should trigger renewed participation.

The NGT and pollution-control system require stable scientific and enforcement capacity. Technical vacancies and regional access should be treated as rule-of-law concerns; legal aid and community expert funds should support evidentiary equality. Restoration orders should specify ecological targets, timelines, financing, responsible officers and independent verification. Compensation registers should identify beneficiaries and disclose payment status. Compliance information should be machine-readable but also available offline and in local languages.

Climate governance requires a statutory justice framework for adaptation, relocation and transition. Duties should prioritise people facing heat, flood, drought and livelihood risk; require non-discriminatory access to resilient infrastructure; and protect cultural and community ties during relocation. Courts should continue to enforce constitutional minima while avoiding permanent substitution for regulators. As socio-legal scholarship on implementation cautions, the durability of environmental jurisprudence ultimately depends on administrative routines, budgets and local institutions rather than the eloquence of doctrine alone.³¹

10. CONCLUSION

Indian environmental law has moved from nuisance-like control toward a constitutional and institutional jurisprudence of prevention, liability,

²⁹ Jan Vishwas (Amendment of Provisions) Act 2023; Environment (Protection) Act 1986, ss 14A-15D (as amended).

³⁰ *Paryavaran Suraksha Samiti v Union of India* (2017) 5 SCC 326.

³¹ Geetanjoy Sahu, *Environmental Jurisprudence and the Supreme Court: Litigation, Interpretation, Implementation* (Orient BlackSwan 2014) 198-229.

public trust, participation and restoration. The Supreme Court and NGT have made environmental harm legally visible and have created tools that many affected groups could not obtain through ordinary private litigation. The 2024 climate-right decision and the 2026 prior-clearance judgment show a field that continues to evolve. Yet the decisive challenge is implementation. Environmental justice will remain episodic unless equality-sensitive assessment, meaningful participation, credible science, restoration finance and compliance are built into routine governance. Courts can articulate the floor; institutions must make that floor real across places, communities and generations.

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