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Environmental Protection in India: A Study of Legal Mechanisms and Institutional Accountability

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Abstract

This paper examines the relationship between India's environmental legal architecture and the institutions charged with implementing it. The paper uses a doctrinal and legal-analytical method to study the constitutional foundations of environmental protection, the principal pollution-control and forest-conservation statutes, and the institutional roles of the Ministry of Environment, Forest and Climate Change (MoEFCC), the Central and State Pollution Control Boards, and the National Green Tribunal (NGT). It argues that India's environmental law is normatively sophisticated but operationally uneven. Judicial innovation has enlarged the substantive content of environmental rights and introduced principles such as sustainable development, precaution, and polluter pays. Yet these advances have not been matched by equivalent institutional accountability. Fragmented mandates, weak compliance monitoring, delayed enforcement, appointment-related concerns, and limited public-facing transparency continue to dilute statutory effectiveness. The paper's originality lies in shifting the focus from doctrinal recognition alone to the accountability structure that determines whether legal norms become regulatory outcomes. It concludes that environmental protection in India now depends less on the absence of law than on the quality of institutional design, disclosure, monitoring, and coordinated enforcement.

Keywords: *Environmental governance; institutional accountability; environmental protection; CPCB; NGT; regulatory enforcement; sustainable development*

Introduction:

India's environmental crisis is no longer episodic; it is structural. Air pollution remains a public-health emergency across multiple urban clusters, river stretches continue to record pollution levels above prescribed norms, forest diversion remains a site of contestation, and climate-linked stresses intensify the ecological costs of unplanned urbanisation and extractive development. Environmental law therefore performs a dual function in India. It is at once a framework for ecological preservation and a constitutional instrument for securing dignified human life. Its importance is heightened by the fact that environmental harm is rarely confined to nature alone; it distributes risks across labour, health, housing, livelihood, and inter-generational justice.¹²

The research problem addressed in this paper is the widening gap between legal design and regulatory delivery. India has enacted a dense body of environmental legislation, supplemented by delegated legislation, clearance procedures, standards, monitoring mechanisms, and specialised adjudication. Yet repeated episodes of non-compliance reveal that the mere existence of statutes does not guarantee accountability. Institutional accountability in environmental governance may be understood as the duty of public authorities and regulated entities to act within law, disclose relevant information, justify decisions, monitor compliance, and face consequences for failure. In the Indian setting, this concept is central because environmental governance operates through multiple agencies with overlapping roles, uneven capacity, and differing political incentives.³⁴

This paper has three objectives. First, it analyses the legal mechanisms that structure environmental protection in India. Secondly, it evaluates the institutional framework responsible for implementation, with particular emphasis on accountability deficits. Thirdly, it assesses the role of the judiciary and the NGT in correcting administrative failure while asking whether adjudicatory innovation can substitute for regulatory competence. This paper critically argues that while India possesses a comprehensive environmental legal framework, the lack of institutional accountability significantly undermines its effectiveness. The central claim is that the crisis of environmental protection in India is not primarily legislative insufficiency but governance failure.

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

²Ministry of Environment, Forest and Climate Change, Annual Report 2024-25; Press Information Bureau, Parliament Question on NCAP annual performance assessment for 2023-24, 28 November 2024.

³For comparative environmental accountability norms based on information access, participation and review, see UNECE, Aarhus

Research Questions

The principal research question is: how far do India's legal mechanisms for environmental protection translate into accountable and effective environmental governance? The supporting questions are: what constitutional and statutory tools structure environmental protection in India; how are responsibilities distributed among the MoEFCC, CPCB, SPCBs, and the NGT; where do accountability gaps emerge in monitoring, disclosure, appointments, and enforcement; how has judicial intervention reshaped environmental accountability; and what reforms are necessary to align legal ambition with administrative performance?

Research Methodology

The paper adopts a doctrinal and legal-analytical methodology. It relies on the Constitution of India, the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Forest (Conservation) Act, 1980, the National Green Tribunal Act, 2010, leading Supreme Court decisions, and recent official reports and notifications. The method is evaluative rather than merely descriptive: statutes are read alongside institutional practice to identify the reasons why legal commands are not consistently converted into compliance outcomes.

Legal Mechanisms for Environmental Protection

The constitutional basis of environmental protection in India rests on a productive interaction between enforceable rights and directive obligations. Article 21, through judicial interpretation, has become the principal gateway through which environmental degradation is linked to life, health, and dignity. Articles 48A and 51A(g), though non-justiciable in formal terms, have supplied interpretive and normative support for state action and civic responsibility. This architecture allows environmental law to be framed not simply as administrative regulation but as a constitutional commitment.⁵

The statutory framework is comparatively robust. The Water Act, 1974 created the central and state pollution control boards and established the consent regime for discharges into water bodies. The Air Act, 1981 extended a similar regulatory logic to air pollution and vested pollution boards with functions relating to standards, inspections, and control areas. The Environment (Protection) Act, 1986 is broader

Convention materials on public participation and access to justice in environmental matters.

⁴The Constitution of India; The Water (Prevention and Control of Pollution) Act, 1974; The Air (Prevention and Control of Pollution) Act, 1981; The Environment (Protection) Act, 1986; The Forest (Conservation) Act, 1980; The National Green Tribunal Act, 2010.

⁵The Constitution of India, arts. 21, 48A and 51A(g); Subhash Kumar v. State of Bihar, (1991) 1 SCC 598.

and more centralised: it empowers the Union Government to take measures for protecting and improving environmental quality, issue directions, prescribe standards, regulate hazardous substances, and frame subordinate legislation. The Forest (Conservation) Act, 1980 subjects diversion of forest land for non-forest purposes to central control and thereby inserts ecological scrutiny into developmental decision-making.⁶⁷⁸⁹

As illustrated in Table 1, these enactments collectively cover pollution control, environmental

standards, forest conservation, and administrative oversight. Their strength lies in their breadth and in the availability of delegated rule-making. Their weakness

lies in enforcement architecture. Consent systems often function as paperwork-heavy licensing regimes rather than dynamic compliance tools. Environmental clearances may become front-loaded approvals without equally rigorous post-clearance supervision. Older board-based laws were drafted for a different industrial scale and now operate in a far more complex economy. Even where the central legislation is broad, effective implementation depends on monitoring, data integrity, inter-agency coordination, and timely coercive action against violators. In this sense, the problem is not statutory absence but regulatory follow-through.

Table 1. Key Environmental Laws and Principal Enforcement Agencies

Legal mechanism	Primary objective	Lead agency / forum	Accountability concern
Constitution (Arts. 21, 48A, 51A(g))	Rights-based and directive basis for ecological protection	Courts; State; citizens	Diffuse duties; depends on judicial enforcement
Water Act, 1974	Control of water pollution; board-based consent regime	CPCB / SPCBs	Consent-heavy system; uneven prosecution
Air Act, 1981	Control of air pollution; air quality management	CPCB / SPCBs	Monitoring and non-point source complexity
Environment (Protection) Act, 1986	Umbrella powers; standards; directions; subordinate legislation	MoEFCC; CPCB; SPCBs	Broad powers, but post-clearance oversight gaps
Forest (Conservation) Act, 1980	Control of diversion of forest land	MoEFCC; State forest authorities; NGT (appeals)	Clearance-centric compliance and compensatory follow-up

Source: Compiled by the author from the Constitution and the principal environmental statutes.

Institutional Framework and Accountability

India's institutional framework is layered but not always coherent. The MoEFCC functions as the nodal ministry for environmental policy, rule-making, clearances, and inter-governmental coordination. The CPCB, constituted under the Water Act and carried into the Air Act framework, performs advisory, standard-setting, technical, and coordinating roles at the national level, while SPCBs and Pollution Control Committees carry out consent administration,

inspections, monitoring, and prosecution at the state and Union Territory levels. The NGT provides specialised adjudication for specified environmental disputes and compensation claims.¹⁰¹¹¹²

Figure 1 demonstrates that environmental governance in India is not a single-chain model but a distributed regulatory system. This structure is useful because environmental harms are sectorally diverse and geographically dispersed. However, the same structure diffuses responsibility. The MoEFCC often retains decisive power over notifications, standards, and clearances, while CPCB issues guidance and national coordination, and SPCBs carry the operational

⁶The Forest (Conservation) Act, 1980, ss. 2, 2A and 3.

⁷The Environment (Protection) Act, 1986, ss. 3, 5, 7-10, 25.

⁸The Air (Prevention and Control of Pollution) Act, 1981, ss. 3-5, 16-17, 19-21.

⁹The Water (Prevention and Control of Pollution) Act, 1974, ss. 3-4, 16-17, 24-26.

¹⁰The National Green Tribunal Act, 2010, ss. 14, 15 and 19; National Green Tribunal, About Us.

¹¹The Water (Prevention and Control of Pollution) Act, 1974, ss. 16-17; The Air (Prevention and Control of Pollution) Act, 1981, ss. 16-17.

¹²Ministry of Environment, Forest and Climate Change, Annual Report 2024-25, chapter on role and mandate of the Ministry.

burden of compliance enforcement. When pollution persists, accountability can be displaced between standard-setting, inspection, prosecution, and local

implementation. The result is a system in which authority is shared but blame is fragmented.

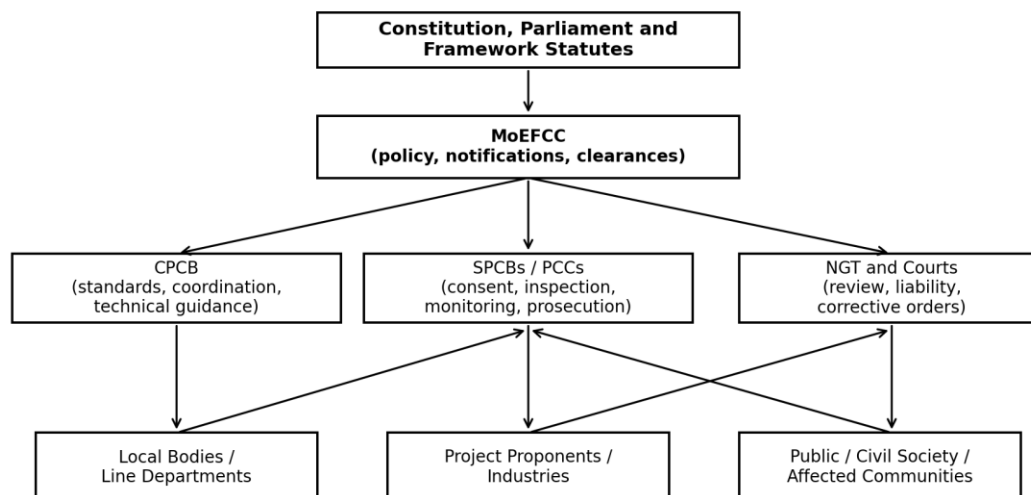


Figure 1. Environmental governance structure in India

Source: Author's schematic based on the Constitution, principal environmental statutes, and the NGT framework.

Recent institutional reforms reveal both recognition of and hesitation about this problem. The 2024 rules governing appointment of Chairpersons of SPCBs and PCCs require stated qualifications, open advertisement, a selection committee, and safeguards against conflicting interests. Normatively, these measures are significant because they acknowledge that appointments are themselves an accountability issue. Yet the reform also illustrates the deeper challenge: independence, expertise, and transparent selection must be matched by measurable performance obligations, public disclosure, and insulation from political convenience.¹³

A limited comparative insight is useful here. International environmental governance standards increasingly treat access to information, public participation, and access to justice as integral accountability devices rather than optional democratic extras. India recognises these values unevenly across sectors, but its administrative practice remains more command-and-control than disclosure-and-participation oriented. Table 2 captures this recurring mismatch between formal responsibility and actual performance.¹⁴

¹³State Pollution Control Board and Pollution Control Committee (Appointment, Qualifications and Other Terms and Conditions of Service of Chairman) Rules, 2024, rr. 3, 4, 6 and 7.

¹⁴UNECE, Aarhus Convention materials on access to information, public participation in decision-making and access to justice in environmental matters.

Table 2. Institutional Responsibilities and Recurring Accountability Gaps

Institution	Formal responsibility	Recurring accountability gap	Practical consequence
MoEFCC	Policy, rule-making, clearances, coordination	Front-end approval stronger than post-clearance monitoring	Compliance becomes episodic
CPCB	National standards, technical coordination, guidance	Limited direct field enforcement capacity	Dependence on state-level uptake
SPCBs / PCCs	Consent administration, inspection, prosecution	Capacity gaps, appointment concerns, uneven transparency	Delayed or selective enforcement
NGT	Specialised environmental adjudication and compensation	Order implementation depends on executive follow-up	High corrective value, but limited routine supervision
Local bodies / line departments	Waste, sewage, land-use and local implementation	Fragmented data and weak inter-agency linkage	Persistent local environmental harm

Source: Compiled by the author from statutory roles, government materials, and institutional practice.

Judicial Intervention and Accountability

Indian environmental jurisprudence has often advanced by judicial correction of executive inertia. In *M.C. Mehta*, the Supreme Court transformed environmental adjudication by developing principles responsive to industrial risk and regulatory neglect. In *Vellore Citizens Welfare Forum*, the Court expressly incorporated sustainable development, the precautionary principle, and the polluter pays principle into Indian environmental law. In *Subhash Kumar*, the Court linked the right to pollution-free water and air with Article 21, thereby consolidating the constitutional dimension of environmental protection. In *Indian Council for Enviro-Legal Action*, the Court insisted that polluting industries bear the financial consequences of remediation, moving beyond declaratory rights toward liability.¹⁵¹⁶¹⁷¹⁸

These decisions have undeniably deepened accountability. They broadened standing, legitimated preventive action amid scientific uncertainty, and clarified that environmental injury is not merely a private nuisance but a public wrong. They also supplied normative vocabulary to the NGT and to administrative agencies. Yet judicial intervention has limits. Courts can compel, prohibit, interpret, and supervise, but they cannot continuously inspect every

facility, validate every dataset, or manage local enforcement culture. When routine administration fails, the judiciary becomes a site of episodic rescue rather than systemic governance. There is therefore a thin line between judicial creativity as constitutional necessity and judicial centrality as evidence of administrative weakness.

Critical Analysis: Gaps in Institutional Accountability

Despite a robust legal framework, institutional accountability remains structurally weak for five related reasons. First, enforcement is frequently delayed or uneven. Regulators often rely on notices, directions, and prolonged compliance windows even where violations are recurrent. This weakens deterrence and signals negotiability. Secondly, bureaucratic inefficiency and fragmented mandates impede environmental response. The same project may pass through multiple layers of environmental clearance, monitoring, and consent administration without a unified compliance history, making responsibility difficult to fix.¹⁹

Thirdly, political and developmental pressures distort regulatory judgment. Environmental agencies are regularly asked to facilitate growth while

¹⁵*Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

¹⁶*Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

¹⁷*Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

¹⁸*M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

¹⁹*Comptroller and Auditor General of India*, Report No. 39 of 2016, Ministry of Environment, Forest and Climate Change Performance Audit.

simultaneously policing its harms. In such contexts, enforcement may be softened, postponed, or selectively pursued. Fourthly, corporate influence operates not only through overt lobbying but through information asymmetry. Regulators often depend on project-generated data, consultant-prepared reports, and self-reporting models that weaken the independence of compliance verification. Fifthly, public transparency remains inadequate. Although environmental governance increasingly generates digital data, the accessibility, comparability, and real-time usability of such information remain inconsistent across states and sectors.

Official and audit materials reinforce this diagnosis. The Comptroller and Auditor General has previously noted poor compliance with environmental clearance conditions, weak monitoring of environmental parameters by project proponents, and failures by the Ministry and CPCB to undertake environmental quality monitoring in critically polluted areas. That finding is important because it shifts the debate from legal intent to regulatory aftercare. Similarly, official NCAP assessments show measurable air-quality gains in many cities, but the pattern is still uneven: in 2023–24, 97 of 130 cities showed PM10 improvement, 55 achieved reductions of 20 per cent or more, and only 18 met the national ambient standard. Figure 2 uses these official indicators to show that partial improvement does not equal systemic accountability. Outcomes remain contingent, city-specific, and vulnerable to institutional inconsistency.^{20,21}

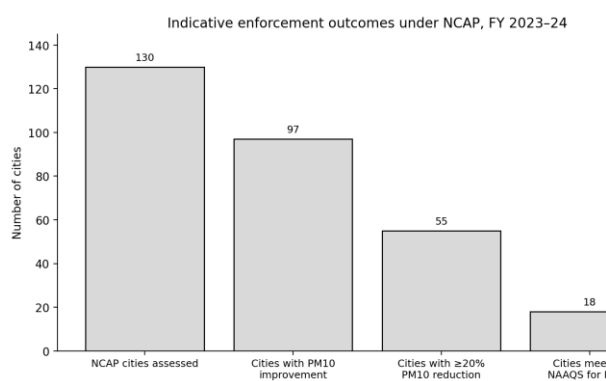


Figure 2. Indicative NCAP performance outcomes and enforcement reach, FY 2023–24

Source: Based on official NCAP annual performance figures released through the Press Information Bureau for 2023–24.

Suggestions and Reforms

Reform should proceed on the premise that accountability is a design question. First, regulators

require stronger independence and professionalisation. Appointment reforms for pollution boards should be complemented by transparent tenure protections, public performance criteria, and periodic external review. Secondly, post-clearance and post-consent compliance must become data-driven. Real-time emissions and effluent monitoring, third-party verification protocols, and interoperable compliance dashboards should be treated as core regulatory infrastructure, not optional innovation. Thirdly, environmental information should be made publicly intelligible. Disclosure must move beyond document dumps to searchable, comparable, facility-level compliance records.

Fourthly, accountability mechanisms should be vertically integrated. The MoEFCC, CPCB, SPCBs, and local bodies should operate through clearer escalation rules, unified digital case histories, and time-bound response protocols. Fifthly, public participation must be strengthened at both pre-decisional and monitoring stages. Access to information and local scrutiny reduce the transaction costs of enforcement. Finally, judicial and administrative coordination should be improved. NGT directions should feed into structured compliance tracking, with consequences for non-reporting and non-implementation. The objective is not more litigation, but less dependence on litigation for ordinary regulatory performance.

Conclusion

This paper has argued that environmental protection in India is constrained less by a shortage of law than by a deficit of institutional accountability. The constitutionalisation of environmental rights, the breadth of statutory mechanisms, and the sophistication of judicial principles together make India's environmental jurisprudence normatively impressive. But that normative strength is repeatedly diluted by fragmented responsibilities, weak monitoring, slow enforcement, opaque data systems, and uneven institutional capacity. Judicial intervention has supplied doctrinal depth and remedial energy, yet courts cannot permanently substitute for accountable administration.

The real test of environmental law lies in whether institutions disclose, inspect, verify, coordinate, and sanction with sufficient regularity to alter regulated behaviour. In that sense, institutional accountability is not a secondary governance concern; it is the condition under which environmental rights become real. India's next phase of environmental reform must therefore focus on the architecture of implementation: professional appointments, transparent metrics, digital compliance, public participation, and enforceable

²⁰Press Information Bureau, Parliament Question on NCAP annual performance assessment for 2023–24, 28 November 2024.

²¹Comptroller and Auditor General of India, Report No. 39 of 2016, Ministry of Environment, Forest and Climate Change Performance

Audit, findings on poor compliance with clearance conditions and lack of environmental quality monitoring in critically polluted areas.

inter-agency responsibility. Without that shift, environmental law risks remaining rhetorically ambitious but administratively fragile.

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