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Meaning and concept of Environmental justice: A Socio-Legal Analysis

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Abstract

Environmental justice asks a question that conventional pollution control often avoids: not only whether the environment is protected, but who receives environmental benefits, who bears ecological risks, whose knowledge is recognised, and who can influence decisions. This paper reconstructs environmental justice as a composite socio-legal norm comprising distributive, procedural, recognition, capabilities, corrective, intergenerational and ecological dimensions. It traces the concept from civil-rights-based resistance to hazardous siting, through international environmental democracy and human-rights developments, and then situates it within Indian constitutional jurisprudence. The study uses doctrinal analysis, socio-legal scholarship, selected judicial decisions and secondary quantitative evidence on climate litigation. It argues that environmental justice should not be reduced either to equal pollution or to access to courts. Properly understood, it links equality, dignity, participation, accountability, remedy and ecological limits. Indian law contains a strong normative foundation through Articles 14 and 21, public interest litigation and principles such as precaution, polluter pays and public trust. Yet environmental decision-making remains vulnerable to technical exclusion, cumulative-impact blindness, delayed remedies and unequal adaptive capacity. A justice-centred framework therefore requires early participation, distributional impact assessment, recognition of community knowledge, enforceable restoration and a just transition in climate and development policy.

Keywords: *Environmental justice; equality; participation; climate justice; Article 21; socio-legal analysis*

1. INTRODUCTION

Environmental protection and environmental justice are related but not identical. A forest may be conserved while forest-dependent people are displaced; renewable-energy infrastructure may reduce carbon emissions while concentrating land loss in pastoral or Indigenous communities; and a city may improve average air quality while low-income settlements remain closest to roads, landfills and hazardous industry. Environmental justice supplies the missing distributional and democratic inquiry. It asks how environmental goods and bads are allocated, how decisions are made, whether affected groups are treated with equal respect, and whether remedies restore the conditions required for a dignified life.¹

The socio-legal method is especially suitable for this inquiry. Legal doctrine identifies rights, powers, procedures and remedies, but the practical meaning of those rules depends upon institutions, knowledge, social hierarchy and material capacity. A formally open public hearing may remain inaccessible where documents are technical, notices are late, proceedings are distant, or affected people lack independent advice. Conversely, community mobilisation may change law by converting lived harm into a claim of equality. Environmental justice therefore operates both as a legal principle and as a diagnostic framework for examining the distance between law on the books and environmental outcomes.

2. RESEARCH DESIGN AND METHOD

Research question	How should environmental justice be conceptualised as a socio-legal principle, and what legal consequences follow from that conception?
Objective	To develop an integrated account of environmental justice and evaluate its expression in international norms and Indian constitutional environmental law.
Hypothesis	Environmental justice is most effective when treated as a composite right to fair distribution, meaningful participation, recognition, capabilities and effective remedy, rather than as a narrow extension of pollution control.

The paper adopts a qualitative doctrinal and analytical methodology. It reads constitutional

provisions, international instruments and leading judicial decisions alongside socio-legal literature. Quantitative material is used only to illustrate the institutional expansion of climate litigation; it is not treated as proof that litigation necessarily produces just outcomes. The analysis is normative and explanatory rather than a field survey. Its principal limitation is that the experiences of communities differ sharply across regions, ecological systems and regulatory sectors, so the framework offered here must be tested through context-specific empirical research.

3. GENEALOGY: FROM ENVIRONMENTAL RACISM TO A GLOBAL JUSTICE CLAIM

The modern vocabulary of environmental justice emerged from the convergence of the United States civil rights movement, anti-toxics activism and research on the siting of hazardous facilities. Protests against a hazardous-waste landfill in Warren County, North Carolina, became a symbolic turning point because they framed pollution as a question of race, political power and unequal protection rather than an isolated technical dispute. The 1987 *Toxic Wastes and Race* study strengthened this claim by documenting the relationship between race and hazardous-waste location.² The movement thereby challenged the assumption that environmental harm is socially random.

The concept subsequently travelled beyond its original setting. It was applied to Indigenous land, extractive industries, transboundary waste, urban infrastructure, food systems, climate vulnerability and the distribution of conservation costs. Kuehn organised the field around distributive, procedural, corrective and social justice.³ Schlosberg later demonstrated that distribution alone cannot explain injustice: misrecognition and the erosion of capabilities may be causes of unequal exposure as well as harms in themselves.⁴ The resulting concept is plural. It retains the movement-based concern with race and class while extending to caste, gender, disability, age, livelihood, culture, migration status and intergenerational inequality.

¹ Robert D Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* (3rd edn, Westview Press 2000) 1-12.

² United Church of Christ Commission for Racial Justice, *Toxic Wastes and Race in the United States* (United Church of Christ 1987).

³ Robert R Kuehn, 'A Taxonomy of Environmental Justice' (2000) 30 *Environmental Law Reporter* 10681, 10683-87.

⁴ David Schlosberg, 'Reconceiving Environmental Justice: Global Movements and Political Theories' (2004) 13 *Environmental Politics* 517, 521-29.

4. CONSTITUTIVE DIMENSIONS OF ENVIRONMENTAL JUSTICE

Distributive justice concerns the allocation of environmental burdens, benefits and protective resources. Its inquiry is comparative but not mechanically equalising. Equal exposure to a toxic substance would not be just; the relevant baseline is protection of health and ecological integrity. Distribution also includes access to clean water, green space, resilient housing, energy, ecosystem services and public finance for adaptation. A distributional analysis must examine cumulative exposure, historical disadvantage and the ability to avoid or recover from harm.⁵

Procedural justice requires access to intelligible information, timely notice, meaningful participation, impartial decision-makers, reasoned outcomes and review. Participation must occur while alternatives remain open, not after a project has become administratively or financially irreversible.

Recognition justice asks whether law sees affected

people as rights-holders and respects their language, knowledge, identity and relationships with place. A hearing that permits speech but dismisses local ecological knowledge as anecdotal may be procedurally open yet substantively misrecognising.

Capabilities justice shifts attention from resources to what environmental conditions allow people to be and do. Pollution may diminish health, education, mobility, livelihood and cultural practice even when a monetary loss is difficult to calculate. Sen's capabilities approach helps explain why identical contamination can have unequal consequences for households with different health, income and adaptive capacity.⁶ **Corrective and restorative justice** then concerns responsibility, compensation, remediation, restitution, health surveillance and guarantees against recurrence. Finally, **intergenerational and ecological justice** expands the community of concern to future persons, species and ecosystems whose interests are not fully represented in present-day markets or elections.

Table 1. Core dimensions of environmental justice

Dimension	Central concern	Illustrative legal expression
Distribution	Allocation of hazards, amenities and protective resources	Cumulative exposure; benefit-sharing; non-discrimination; priority for vulnerable groups
Procedure	Power to know, participate, contest and obtain reasons	Early notice; accessible data; public hearing; independent review; legal aid
Recognition	Respect for identity, culture, knowledge and place	Local languages; Indigenous and community knowledge; freedom from stereotyping
Capabilities	Conditions necessary for health, livelihood and dignity	Health protection; livelihood continuity; mobility; cultural and adaptive capacity
Correction and restoration	Repair of harm and accountability for its causes	Polluter pays; restitution; remediation; compensation; monitoring; deterrence
Future generations and nature	Ecological limits beyond present human preferences	Precaution; intergenerational equity; biodiversity; public trust; ecological baselines

Source: Author's synthesis of the cited socio-legal literature.

⁵ Gordon Walker, *Environmental Justice: Concepts, Evidence and Politics* (Routledge 2012) 40-52.

⁶ Amartya Sen, *Development as Freedom* (Oxford University Press 1999) 74-86.

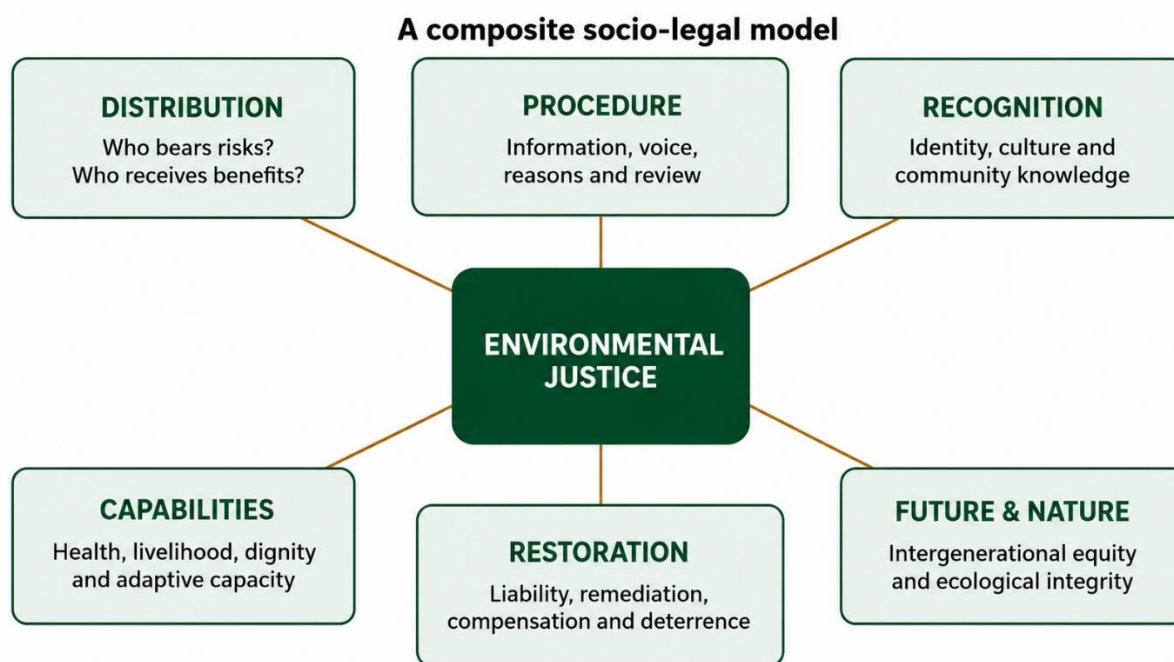


Figure 1. Integrated socio-legal model of environmental justice

Source: Author's conceptualisation.

5. INTERNATIONAL ENVIRONMENTAL DEMOCRACY AND HUMAN RIGHTS

International environmental law supplied several building blocks without initially using a single, settled definition of environmental justice. Principle 1 of the Stockholm Declaration connected human dignity and well-being with environmental quality.⁷ The Rio Declaration added a procedural architecture: Principle 10 links environmental governance with access to information, public participation and access to remedies; Principles 15 and 16 articulate precaution and polluter responsibility.⁸ The Aarhus Convention later organised environmental democracy around the same three pillars and demonstrated how procedural entitlements can be expressed as enforceable legal duties.⁹

The human-rights dimension became explicit when the Human Rights Council recognised the right to a clean, healthy and sustainable environment in 2021,¹⁰ followed by the General Assembly in 2022.¹¹ These resolutions do not by themselves create a global treaty cause of action, but they consolidate a normative standard and influence constitutional interpretation, policy and advocacy. The UN Framework Principles clarify that States should prevent environmental harm, ensure non-discrimination, protect environmental defenders and provide effective remedies.¹² Environmental justice gives these duties an equality-sensitive structure: prevention must focus not only on aggregate risk but on who is most exposed and least able to adapt.

⁷ Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), UN Doc A/CONF.48/14/Rev.1 (1972) principle 1.

⁸ Rio Declaration on Environment and Development, UN Doc A/CONF.151/26 (vol I) (1992) principles 10, 15 and 16.

⁹ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (adopted 25 June 1998, entered into force 30 October 2001) 2161 UNTS 447 arts 4-9.

¹⁰ Human Rights Council Res 48/13, *The Human Right to a Clean, Healthy and Sustainable Environment*, UN Doc A/HRC/RES/48/13 (8 October 2021).

¹¹ General Assembly Res 76/300, *The Human Right to a Clean, Healthy and Sustainable Environment*, UN Doc A/RES/76/300 (28 July 2022).

¹² John H Knox, *Framework Principles on Human Rights and the Environment*, UN Doc A/HRC/37/59 (24 January 2018).

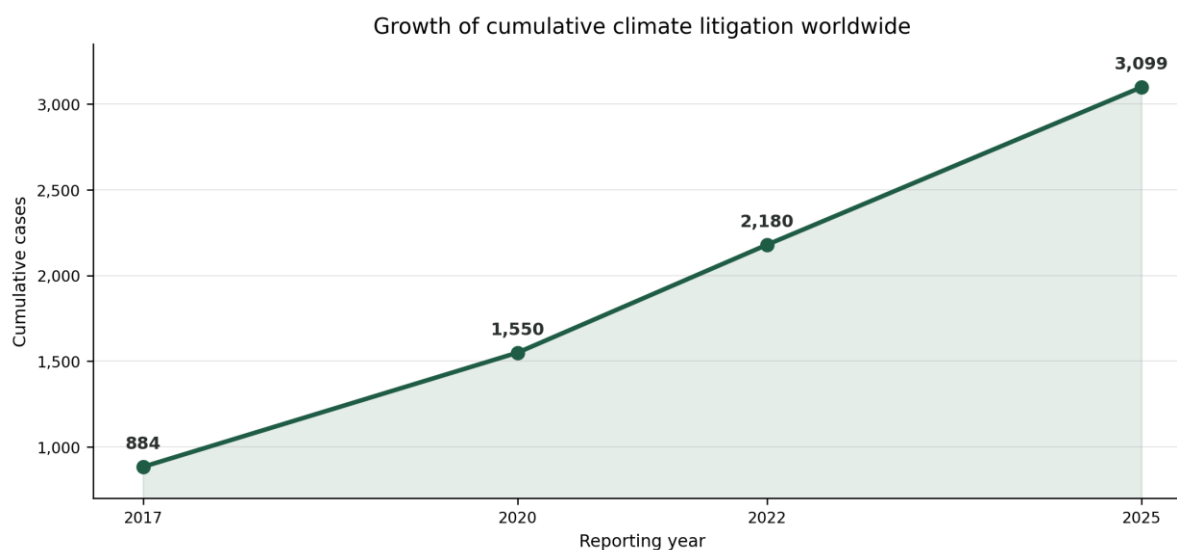


Figure 2. Cumulative climate litigation reported by UNEP, 2017-2025

Source: Author's graph based on UNEP data; totals are cumulative and database coverage changes over time.¹³

The growth of climate litigation indicates that courts and quasi-judicial bodies are increasingly used to contest mitigation, adaptation, corporate conduct and unequal vulnerability. Yet case counts are not a measure of justice. Access remains geographically uneven, litigation is expensive and retrospective, and a favourable declaration may be followed by weak compliance. The justice question is therefore whether adjudication redistributes power, protects vulnerable groups and produces implementation, not simply whether a court recognises an environmental interest.

6. CONSTITUTIONAL FOUNDATIONS IN INDIA

India does not contain an express fundamental right labelled “environmental justice”, but its constitutional structure provides a powerful foundation. Article 21 protects life and personal liberty; Article 14 requires equality and non-arbitrariness; Articles 48A and 51A(g) address environmental protection; Article 39(b) concerns distribution of material resources for the common good; and Article 46 directs special care for weaker sections.¹⁴ Read together, these provisions permit environmental harm to be analysed as a

deprivation of life, dignity and equality rather than merely a breach of technical regulation.

Public interest litigation converted this potential into enforceable doctrine. In *Rural Litigation and Entitlement Kendra*, the Supreme Court addressed destructive quarrying through an ecological and public-interest lens.¹⁵ *Subhash Kumar* stated that the right to life includes enjoyment of pollution-free water and air,¹⁶ while *Virender Gaur* connected a hygienic environment with human dignity.¹⁷ *Vellore Citizens' Welfare Forum* treated precaution and polluter pays as essential features of sustainable development and part of domestic environmental law.¹⁸

The remedial and institutional dimensions also expanded. *Indian Council for Enviro-Legal Action* required polluting industries to meet the cost of remedial measures,¹⁹ and *M C Mehta v Kamal Nath* employed the public trust doctrine to restrain private appropriation of ecologically important resources.²⁰ *A P Pollution Control Board v M V Nayudu* highlighted scientific uncertainty and the need for expert environmental decision-making.²¹ Most recently, *M K Ranjitsinh* grounded a right against the adverse effects

¹³ United Nations Environment Programme, *Global Climate Litigation Report: 2025 Status Review* (UNEP 2025) <<https://www.unep.org/resources/report/global-climate-litigation-report-2025-status-review>> accessed 2 August 2026.

¹⁴ Constitution of India arts 14, 21, 39(b), 46, 48A and 51A(g).

¹⁵ *Rural Litigation and Entitlement Kendra v State of Uttar Pradesh* (1985) 2 SCC 431.

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

¹⁷ *Virender Gaur v State of Haryana* (1995) 2 SCC 577.

¹⁸ *Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.

¹⁹ *Indian Council for Enviro-Legal Action v Union of India* (1996) 3 SCC 212.

²⁰ *M C Mehta v Kamal Nath* (1997) 1 SCC 388.

²¹ *A P Pollution Control Board v Prof M V Nayudu* (1999) 2 SCC 718.

of climate change in Articles 14 and 21, emphasising that climate impacts fall unequally on vulnerable populations.²² This equality component brings constitutional climate law close to the core of environmental justice.

7. THE SOCIO-LEGAL CONTENT OF INJUSTICE

Environmental injustice is produced through the interaction of exposure, social position and institutional power. Communities with insecure tenure may be located beside drains, floodplains, mines or waste facilities and may receive fewer protective services. Caste and occupational hierarchy can shape contact with sewage, waste and hazardous labour. Women often absorb additional unpaid work when water, fuel or care systems are disrupted. Children, older persons and people with disabilities may face greater physiological or mobility-related risk. These patterns are not explained by pollution data alone; they require analysis of housing, labour, land, public finance and political voice.

Land and forest disputes illustrate the importance of recognition. *Samatha* treated Scheduled Area land and tribal interests as constitutionally significant in the context of mining leases.²³ In *Orissa Mining Corporation*, the Court assigned the Gram Sabha a central role in determining community and religious rights affected by proposed mining in the Niyamgiri hills.²⁴ The Forest Rights Act similarly recognises individual and community forest rights and places the Gram Sabha at the beginning of the claims process.²⁵ These mechanisms matter because conventional compensation may value land as a transferable asset while overlooking livelihood, cultural identity, sacred landscapes and collective governance.

Procedural exclusion is frequently technical rather than openly discriminatory. Environmental impact assessments may be voluminous, consultant-driven and based on incomplete seasonal data. Public consultation may occur after a preferred site and technology have effectively been chosen. Digital portals can improve transparency but also deepen exclusion where connectivity, language or data literacy are unequal. An environmental justice approach

therefore evaluates the quality of participation: whether information is comprehensible, whether objections receive reasoned answers, whether alternatives are examined and whether affected groups possess the resources to engage on reasonably equal terms.

8. LEGAL PRINCIPLES AS JUSTICE-ENHANCING TOOLS

The **precautionary principle** responds to uncertainty by requiring anticipatory protection where serious or irreversible harm is plausible. Its justice function is strongest when the burden of scientific uncertainty is not shifted onto communities that did not create the risk. The **polluter pays principle** should include prevention, ecological restoration, health costs, livelihood loss and long-term monitoring; a small administrative payment that leaves profitable non-compliance intact is not corrective justice. The **public trust doctrine** protects resources whose ecological and social functions cannot be reduced to private title. Environmental impact assessment, including the prior-clearance architecture of the 2006 Notification, operationalises these principles by requiring examination before commitment.²⁶

The **sustainable development** principle is more ambiguous. It can discipline development by insisting upon ecological limits, alternatives and intergenerational responsibility, but it can also become a formula for validating a project after an abstract “balance”. Justice requires the balance to be structured: minimum environmental standards, non-discrimination, genuine participation, recognition of non-substitutable cultural and ecological loss, and transparent reasons. The NGT Act reinforces this structure by giving a specialised tribunal original, compensatory and appellate jurisdiction and directing it to apply sustainable development, precaution and polluter pays.²⁷

9. OPERATIONALISING THE CONCEPT: A JUSTICE-CENTRED DECISION TEST

Environmental justice becomes legally useful when it changes the questions asked before an environmental decision is made. Formal compliance

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

²³ *Samatha v State of Andhra Pradesh* (1997) 8 SCC 191.

²⁴ *Orissa Mining Corporation Ltd v Ministry of Environment and Forest* (2013) 6 SCC 476.

²⁵ Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, ss 3, 4 and 6.

²⁶ Environmental Impact Assessment Notification 2006, SO 1533(E), Gazette of India, Extraordinary, pt II, s 3(ii) (14 September 2006).

²⁷ National Green Tribunal Act 2010, ss 14-16, 19-20.

with separate permissions is not conclusive where several projects together intensify exposure, where the affected population receives few of the project benefits, or where irreversible commitment occurs before participation. A justice-centred test should therefore operate across screening, alternatives, appraisal, final decision, monitoring and remedy. It does not create an automatic veto. Rather, it makes distribution, recognition and capability effects visible, requires evidence on avoidability, and converts vague balancing into a reasoned and reviewable exercise.²⁸

The first inquiry is **distributional**: which communities, occupations, age groups and ecosystems already carry environmental burdens, and how will the proposal alter cumulative exposure? Average regional data may conceal local hotspots; baseline evidence should therefore be spatially and socially disaggregated. The second inquiry concerns **alternatives**. A project cannot be described as necessary merely because one site and one technology

have been appraised. The no-project option, lower-impact locations, demand-management measures and different scales must be compared before financial or administrative commitment narrows the field of choice.

The third inquiry is **procedural and recognitional**. Notice must be timely and intelligible; hearings should occur while alternatives are genuinely open; community knowledge should be recorded and tested rather than dismissed by status; and objections should receive issue-specific reasons. Where consent or Gram Sabha determination is legally required, it cannot be replaced by a general consultation exercise. The fourth inquiry is **remedial and intergenerational**. Decision-makers should specify restoration standards, health and livelihood monitoring, financial security, responsibility for long-term care and the treatment of residual irreversible loss. These requirements connect approval with accountability throughout the project life cycle.

Table 2. Justice-centred appraisal questions across the decision cycle

Decision stage	Justice question	Minimum evidentiary or legal response
Screening and baseline	Who is already vulnerable or overburdened?	Cumulative-exposure map; disaggregated health, livelihood and ecological baseline; identification of sensitive groups
Alternatives	Can the burden be avoided or reduced?	No-project option; alternative site, scale and technology; transparent criteria and comparative reasons
Participation	Can affected people influence a still-open choice?	Early local-language notice; accessible material; independent facilitation or advice; response to material objections
Recognition and appraisal	Whose knowledge and loss are treated as legally relevant?	Community and expert evidence; cultural and livelihood valuation; uncertainty analysis; consent where law requires
Decision and conditions	Are benefits and burdens proportionate and non-discriminatory?	Distributional reasons; enforceable conditions; benefit-sharing where appropriate; explanation of unavoidable residual harm
Monitoring and remedy	Who restores harm and how is performance verified?	Public indicators; restoration bonds or escrow; beneficiary register; health surveillance; deadlines and consequences for default

Source: Author's analytical framework derived from the dimensions discussed in this paper.

10. CRITICAL EVALUATION

The principal weakness of contemporary environmental justice is not an absence of legal norms but an implementation gap. UNEP found that environmental laws had expanded thirty-eight-fold since 1972 while weak implementation and enforcement remained a global trend.²⁹ A similar pattern can occur domestically when approvals,

standards and judicial directions are not matched by inspections, credible data, restoration finance and consequences for delay. Law then becomes procedurally dense but materially thin.

Court-led environmentalism has produced important rights and remedies, yet judicialisation has limits. Litigation ordinarily begins after exposure, construction or displacement; affected people may lack standing knowledge, time and resources; technical

²⁸ David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (Oxford University Press 2007) 11-40; Gordon Walker, *Environmental Justice: Concepts, Evidence and Politics* (Routledge 2012) 40-52.

²⁹ United Nations Environment Programme, *Environmental Rule of Law: First Global Report* (UNEP 2019) <<https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>> accessed 2 August 2026.

disputes are often delegated to committees; and compliance proceedings can continue for years. Specialised adjudication improves expertise, but access and enforcement remain decisive.³⁰ Environmental justice must therefore be embedded in routine administration, budgeting, land-use planning and public-health systems rather than reserved for exceptional cases.

A second difficulty is the transition from recognition to measurement. Decision-makers require distributional indicators: exposure by location and social group, cumulative burden, health vulnerability, loss of ecosystem services, displacement risk and adaptive capacity. Data must be disaggregated but protected against misuse. Community-generated evidence and citizen science can correct official blind spots, provided that digital systems do not displace in-person participation. The goal is not to turn justice into a single score, but to make hidden assumptions visible and contestable.

11. REFORM FRAMEWORK

First, environmental approval systems should include a mandatory **environmental justice screening** identifying vulnerable populations, cumulative exposure and distribution of project benefits. Second, participation should begin at the alternatives stage, use local languages and accessible summaries, and provide independent technical support to affected communities. Third, impact assessment should integrate health, livelihood, cultural and climate-resilience effects rather than treating them as separate administrative boxes.

Fourth, remedies should be designed before harm occurs: restoration bonds, escrowed funds, baseline health data, beneficiary identification and publicly trackable compliance milestones. Fifth, regulators and tribunals should be supported by stable scientific capacity, field inspection and legal aid. Sixth, decarbonisation policy should follow a **just transition** approach, protecting workers and communities while preventing “green” projects from reproducing land and recognition injustices. Finally, future generations and ecological integrity should be represented through long-term baselines, cumulative-impact limits and reasons explaining why irreversible loss is unavoidable.

12. CONCLUSION

Environmental justice is best understood as a composite principle of fair distribution, democratic procedure, recognition, capabilities, restoration and responsibility to the future. It changes the object of environmental law: the aim is not merely regulatory compliance or aggregate environmental improvement, but conditions in which all people can live with dignity within ecological limits. International norms and Indian constitutional jurisprudence provide a substantial foundation, especially through equality, life, precaution, polluter responsibility and public trust. The next stage must be administrative and institutional. Justice must shape where projects are located, whose evidence counts, how alternatives are evaluated, how climate transitions are financed and whether remedies are actually completed. Without that shift, environmental law may protect “the environment” in general while leaving unequal environmental citizenship intact.

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