



JUDICIAL REVIEW AND ENVIRONMENTAL GOVERNANCE: AN INDIAN LEGAL PERSPECTIVE

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ABSTRACT

Environmental governance in India has gained increasing significance in recent decades due to rapid industrialization, urbanization, and ecological challenges. This article examines the pivotal role of judicial review in shaping environmental protection and sustainable development in India. It explores the constitutional and legal framework, including key provisions such as Article 48A and Article 51A(g), alongside statutory measures like the Environment (Protection) Act, 1986, and sector-specific legislation. The study highlights the judiciary's proactive approach through Public Interest Litigation (PIL), the development of principles such as the precautionary principle, the polluter pays principle, and the principle of sustainable development, and the enforcement of compliance through landmark judgments. By analysing the complementary relationship between judicial review and legislative action, the article assesses the effectiveness and limitations of India's environmental governance. It concludes that a synergistic approach involving judiciary, legislature, executive, and citizen participation is essential for addressing contemporary environmental challenges and promoting sustainable development.

KEYWORDS: Judicial Review, Environmental Governance, India, Public Interest Litigation, Sustainable Development, Precautionary Principle, Polluter Pays Principle, Constitutional Mandates, Environmental Law

1. INTRODUCTION

Judicial review is a fundamental aspect of the Indian legal system that empowers the judiciary to examine the actions of the legislature and executive to ensure their compliance with the Constitution. It acts as a mechanism to maintain the rule of law, uphold constitutional principles, and protect fundamental rights. In the context of environmental governance, judicial review assumes a critical role, serving as a tool to ensure that the state and its agencies act in accordance with environmental laws and policies. By scrutinizing government actions, policies, and decisions that have an impact on the environment, the judiciary ensures accountability, transparency, and adherence to the principles of sustainable development. This process allows courts to safeguard public interest, particularly when legislative or executive mechanisms fail to effectively address environmental concerns.

Environmental governance refers to the framework of laws, policies, regulations, and institutional mechanisms that are established to manage human interaction with the natural environment. It encompasses measures to prevent environmental degradation, promote sustainable resource management, and protect biodiversity. Effective environmental governance requires not only well-crafted laws but also their rigorous implementation, monitoring, and enforcement. In India, where rapid industrialization, urbanization, and population growth pose significant ecological challenges, environmental governance is vital to maintain the balance between developmental imperatives and ecological sustainability. It ensures that economic progress does not come at the cost of irreparable environmental harm and that citizens' right to a clean and healthy environment is protected.

The importance of environmental governance in the Indian context cannot be overstated. India faces a multitude of environmental challenges, including air and water pollution, deforestation, loss of biodiversity, and climate change impacts. These challenges threaten public health, livelihoods, and ecological stability. Recognizing these threats, the Indian Constitution incorporates specific provisions, such as Article 48A in the Directive Principles of State Policy and Article 51A(g) under Fundamental Duties, to promote environmental protection. However, the effective realization of these constitutional mandates depends significantly on judicial interpretation and enforcement. The courts, through their power of judicial review, have actively intervened to interpret these constitutional provisions and environmental statutes, thereby filling gaps in legislation and addressing emerging environmental issues.

This article aims to explore the intricate relationship between judicial review and environmental governance in India. It seeks to analyze how the judiciary has shaped environmental jurisprudence, the principles developed through landmark judgments, and the role of courts in ensuring compliance with environmental laws. By examining the constitutional and statutory framework alongside judicial interventions, the article highlights the significance of judicial review as a tool for promoting environmental accountability. The scope of this study includes an assessment of the legal and institutional mechanisms for environmental protection, the interpretation of constitutional and legislative provisions by Indian courts, and the challenges faced in balancing developmental goals with environmental sustainability. Through this analysis, the article underscores the indispensable role of the judiciary in advancing

effective environmental governance in India.

2. CONSTITUTIONAL AND LEGAL FRAMEWORK FOR ENVIRONMENTAL GOVERNANCE IN INDIA

India has established a robust constitutional and legal framework to ensure environmental protection, reflecting the recognition that sustainable development is essential for the nation's progress. The Constitution of India incorporates environmental protection both in its Directive Principles of State Policy and Fundamental Duties, providing a legal foundation for governance in this field. Article 48A, inserted through the 42nd Amendment in 1976, obligates the state to protect and improve the environment and safeguard forests and wildlife. Similarly, Article 51A(g) places a duty on every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife. These constitutional provisions underline the importance of environmental conservation as a shared responsibility between the state and its citizens, forming the basis for judicial intervention when environmental degradation occurs.

In addition to constitutional mandates, India has enacted several legislative measures aimed at comprehensive environmental governance. The Environment (Protection) Act, 1986, enacted following the Bhopal gas tragedy, serves as an umbrella legislation empowering the central government to take all necessary measures to protect and improve the environment. It provides for the setting of environmental standards, regulation of hazardous substances, and monitoring of environmental compliance. Complementing this Act are sector-specific legislations such as the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981, which aim to regulate pollution and establish regulatory authorities at central and state levels. The Wildlife Protection Act, 1972, and the Forest Conservation Act, 1980, further enhance environmental governance by focusing on biodiversity preservation and sustainable forest management.

The establishment of specialized judicial and quasi-judicial institutions has also strengthened environmental governance in India. The National Green Tribunal (NGT), constituted under the National Green Tribunal Act, 2010, provides a dedicated forum for speedy resolution of cases involving environmental protection and conservation of forests and natural resources. The NGT exemplifies the integration of legal, scientific, and administrative expertise to enforce environmental laws effectively. Moreover, state-level authorities and pollution control boards operate in tandem with these frameworks to ensure regulatory compliance and to address localized environmental concerns. These legislative and institutional measures collectively create a comprehensive system to protect and preserve the environment.

The Indian judiciary has played a pivotal role in interpreting constitutional provisions and environmental statutes, effectively expanding the scope of environmental governance. Courts have adopted an expansive and purposive approach, applying principles such as the precautionary principle, the

polluter pays principle, and sustainable development to address complex environmental challenges. Landmark judgments by the Supreme Court and High Courts have reinforced the enforceability of constitutional and statutory environmental mandates, often filling gaps where legislative or executive action has been inadequate. Judicial interventions have not only provided remedies for environmental harm but have also guided policy formulation and implementation, thereby shaping a proactive approach to environmental governance in India.

In conclusion, the constitutional and legal framework for environmental governance in India represents a multi-layered structure integrating fundamental rights, statutory provisions, and specialized institutions. This framework empowers the state, citizens, and judiciary to collaborate in addressing environmental challenges, promoting sustainable development, and ensuring ecological balance. By providing both the legal authority and judicial mechanisms for enforcement, India's governance framework underscores the critical role of law and judiciary in safeguarding the environment for present and future generations.

3. CONCEPT OF JUDICIAL REVIEW IN INDIA

Judicial review is a cornerstone of the Indian legal system, serving as a mechanism through which the judiciary ensures that legislative and executive actions conform to the Constitution. It empowers the courts to examine the validity of laws, policies, and administrative decisions, striking down those that violate constitutional provisions or fundamental rights. Rooted in Articles 32, 226, and 227 of the Indian Constitution, judicial review enables citizens to challenge state actions that infringe upon their legal or constitutional rights. While its primary objective is to uphold the supremacy of the Constitution, judicial review has evolved to encompass broader social and environmental dimensions, reflecting the dynamic nature of governance in India.

In the context of environmental governance, judicial review has emerged as an essential tool for the protection and preservation of natural resources. The judiciary, through its interpretative role, has recognized the environment as a vital component of the right to life under Article 21, thereby linking environmental protection directly to fundamental human rights. This expansive interpretation allows courts to intervene in cases where legislative or executive measures fail to prevent environmental degradation or adequately protect ecological interests. By exercising judicial review, the courts ensure that environmental laws are not only implemented but also aligned with constitutional principles such as the duty of the state to safeguard natural resources and the obligation of citizens to protect the environment.

The scope of judicial review in environmental matters in India is notably broad. Indian courts have adopted innovative approaches to enforce environmental laws, relying on doctrines such as the precautionary principle, which emphasizes preventive action in the face of potential environmental harm, and the polluter pays principle, which assigns responsibility for environmental damage to the party causing it. Furthermore,

the principle of sustainable development has been consistently recognized, guiding judicial decisions to balance economic growth with ecological preservation. These principles, though not explicitly stated in statutory texts, have been developed through judicial interpretation, demonstrating the courts' proactive role in shaping environmental governance.

Judicial activism, a term often associated with the Indian judiciary, has been instrumental in enhancing the scope of judicial review in environmental matters. Through Public Interest Litigation (PIL), the judiciary has empowered individuals and civil society organizations to bring environmental grievances before the courts, thereby democratizing access to justice. This mechanism has allowed courts to address systemic environmental issues, ranging from industrial pollution to deforestation and water contamination, which might otherwise remain unaddressed due to bureaucratic inertia or lack of awareness. Landmark judgments have thus not only provided remedies to specific environmental harms but have also set precedents that guide policy, administration, and future legislative actions.

In essence, judicial review in India functions as both a protective and corrective mechanism, ensuring that environmental governance remains consistent with constitutional mandates and sustainable development principles. By interpreting laws expansively and intervening in cases of environmental neglect, the judiciary has established itself as a pivotal actor in safeguarding the ecological integrity of the nation. This role underscores the importance of an independent and vigilant judiciary in promoting environmental accountability and enforcing the rights of citizens to a clean and healthy environment.

4. JUDICIAL APPROACH TO ENVIRONMENTAL GOVERNANCE

The Indian judiciary has played a transformative role in shaping environmental governance through its proactive and interventionist approach. Over the past few decades, courts in India have not only interpreted existing environmental laws but have also expanded their scope through innovative judicial reasoning, often stepping in where legislative and executive mechanisms have proven insufficient. This approach, commonly referred to as judicial activism, reflects the judiciary's commitment to protecting ecological balance, safeguarding public health, and ensuring sustainable development. By adopting a broader perspective on constitutional and statutory provisions, the judiciary has effectively bridged gaps in environmental governance and reinforced the accountability of state authorities and private actors.

One of the most significant tools employed by Indian courts in environmental governance is Public Interest Litigation (PIL). PIL allows concerned citizens, non-governmental organizations, and civil society groups to approach the judiciary on matters affecting the environment, even if they are not directly impacted by the issue. This mechanism has democratized access to justice, enabling courts to address widespread ecological concerns and systemic environmental

violations. Through PILs, the judiciary has been able to tackle issues such as industrial pollution, deforestation, river contamination, and waste management, thereby creating a robust avenue for environmental accountability and citizen participation in governance.

The courts have also developed and applied several key principles that have become central to environmental jurisprudence in India. The precautionary principle mandates preventive action in situations where environmental harm is imminent, even if scientific certainty is not fully established. The polluter pays principle ensures that those responsible for environmental degradation bear the cost of remediation and compensation. Furthermore, the principle of sustainable development guides judicial reasoning to strike a balance between developmental objectives and ecological preservation. By integrating these principles into their judgments, Indian courts have created a normative framework that extends beyond mere statutory compliance and emphasizes proactive environmental stewardship.

In addition to establishing principles, the judiciary has exercised its powers to monitor and enforce compliance with environmental laws. Courts have frequently issued directions to government authorities, regulated industrial operations, and supervised the implementation of environmental policies. For instance, monitoring committees and court-appointed experts have been employed to ensure that polluting industries adhere to emission standards and that ecological restoration projects are effectively executed. This hands-on approach underscores the judiciary's recognition that environmental protection requires continuous oversight and intervention, particularly in a rapidly developing country like India.

Overall, the judicial approach to environmental governance in India reflects a blend of creativity, activism, and adherence to constitutional principles. By interpreting environmental laws expansively, enforcing compliance rigorously, and promoting citizen engagement through PILs, the judiciary has strengthened the institutional framework for environmental protection. This approach demonstrates the courts' indispensable role in promoting sustainable development, safeguarding natural resources, and ensuring that both state and private actors are accountable for ecological preservation. The proactive stance of the judiciary continues to set benchmarks for environmental governance, shaping policies and influencing legislative reforms in the country.

5. LANDMARK JUDGMENTS AND THEIR IMPACT

The evolution of environmental governance in India has been significantly influenced by landmark judicial pronouncements, which have not only interpreted existing laws but have also created new legal principles to address emerging ecological challenges. Among these, the series of cases filed by M.C. Mehta before the Supreme Court stand out as pioneering examples of judicial activism in environmental protection. In the Oleum Gas Leak Case (1987), the court applied the polluter pays principle for the first time in India, holding that the company responsible for the leak was liable to compensate

victims for damages. This judgment established a precedent for assigning financial responsibility to polluters and emphasized that industrial growth cannot occur at the expense of public safety and environmental integrity.

Another significant contribution to environmental jurisprudence was the Ganga Pollution Case, also brought by M.C. Mehta. The Supreme Court directed the government and concerned authorities to take immediate steps to prevent the pollution of the Ganga river, highlighting the state's duty to protect natural resources under Article 21 of the Constitution. The court's intervention underscored that access to a clean and healthy environment is integral to the right to life and that environmental protection must be treated as a fundamental obligation of the state. This case also reinforced the role of monitoring and enforcement mechanisms, prompting the establishment of pollution control initiatives and regulatory oversight.

The Vellore Citizens Welfare Forum v. Union of India (1996) further strengthened environmental governance in India. The Supreme Court recognized sustainable development as a constitutional obligation and reiterated the polluter pays principle. It also underscored that economic development should not compromise environmental protection, thereby integrating the principles of equity and intergenerational responsibility into environmental law. This judgment established that industries causing environmental harm are not only liable for remedial measures but must also adopt environmentally friendly practices to prevent future damage.

In the Indian Council for Enviro-Legal Action v. Union of India case, the court addressed the issue of hazardous waste dumping and emphasized strict liability for environmental damage. It held that the state and the polluters could not escape responsibility by citing lack of awareness or procedural limitations. This judgment reinforced the precautionary principle, obligating both the government and private entities to take preventive measures against potential environmental risks.

The T.N. Godavarman Thirumulpad v. Union of India (Forest Conservation Case) has been another landmark in shaping India's forest and biodiversity conservation policies. The Supreme Court intervened to prevent deforestation and unauthorized exploitation of forest resources, emphasizing the need for sustainable forest management. This case also highlighted the judiciary's willingness to issue long-term directives and establish monitoring committees to ensure compliance, demonstrating an active approach to governance rather than merely adjudicating disputes.

The cumulative impact of these landmark judgments has been profound. They have not only created enforceable legal principles but have also expanded the scope of environmental rights in India. Through these interventions, the judiciary has reinforced the notion that environmental protection is inseparable from human rights and developmental planning. Moreover, these cases have guided policy formulation, strengthened regulatory frameworks, and inspired citizens and civil society organizations to participate actively in environmental governance.

In conclusion, landmark judgments in India have transformed the judiciary into a proactive agent of environmental protection. By interpreting constitutional and statutory provisions innovatively, establishing principles such as polluter pays, precautionary measures, and sustainable development, and ensuring enforcement through monitoring and directives, the courts have shaped a legal and institutional framework that serves as a foundation for contemporary environmental governance. These cases continue to influence legislative reforms, administrative policies, and public awareness, reinforcing the judiciary's pivotal role in balancing developmental needs with ecological sustainability.

6. JUDICIAL REVIEW VS. LEGISLATIVE ACTION

The relationship between judicial review and legislative action in environmental governance reflects a delicate balance between judicial oversight and the policymaking authority of the legislature. In India, the judiciary has often stepped in to interpret constitutional and statutory provisions to protect the environment, particularly when legislative measures or executive enforcement have proven inadequate. Judicial review functions as a corrective mechanism, ensuring that laws enacted by the legislature and policies implemented by the executive comply with constitutional mandates and do not compromise public interest or ecological integrity. Through judicial intervention, courts have frequently filled gaps in legislation, provided clarity on legal principles, and enforced environmental accountability where legislative or administrative actions have been insufficient.

Legislative action, on the other hand, provides the foundation for environmental governance by establishing statutory frameworks, regulatory bodies, and policy objectives. Laws such as the Environment (Protection) Act, 1986, the Air and Water Acts, and the Wildlife Protection Act lay down detailed procedures for pollution control, resource management, and conservation. These legislative measures reflect the government's policy priorities and are designed to address the wide range of environmental challenges faced by India. However, legislative processes are often lengthy, and the implementation of laws can be hampered by administrative delays, lack of technical expertise, or competing developmental interests. In such circumstances, judicial review becomes a crucial tool to ensure that legislative intent is realized and that environmental protection is not undermined.

While judicial review complements legislative action, it also faces certain limitations. Courts cannot substitute their policy judgment for that of the legislature or executive; their role is to ensure legality, constitutionality, and adherence to principles of equity and sustainability. Excessive judicial intervention may lead to accusations of judicial overreach, where the judiciary is seen as encroaching on the domain of policy-making. Conversely, legislative action alone may lack the dynamism to respond to emerging environmental challenges, particularly in cases requiring immediate remedial measures or precautionary interventions. This dynamic underscores the need for a cooperative relationship, where legislative frameworks provide the authority and guidelines for governance, while judicial

review ensures accountability, compliance, and protection of public and environmental rights.

The complementary nature of judicial review and legislative action is exemplified in landmark environmental cases where courts have interpreted laws to reinforce statutory objectives. For instance, in cases related to industrial pollution or deforestation, courts have issued directions to ensure compliance with statutory provisions, guided by principles such as the precautionary principle and the polluter pays principle. Simultaneously, legislative action continues to evolve through amendments, new policies, and the establishment of specialized institutions such as the National Green Tribunal. Together, these mechanisms create a synergistic system that balances environmental protection with developmental priorities, ensuring that governance is both proactive and accountable.

In conclusion, judicial review and legislative action in India represent two interdependent pillars of environmental governance. Legislative action provides the structural and normative framework for protection, while judicial review acts as an enforcement and interpretative mechanism to ensure that these laws are effective and aligned with constitutional mandates. The interplay between the two enhances the robustness of environmental governance, enabling India to address both immediate environmental crises and long-term sustainability challenges. Through this synergy, the judiciary and legislature collectively uphold the principles of sustainable development, ecological preservation, and the right to a healthy environment.

7. CONTEMPORARY CHALLENGES IN ENVIRONMENTAL GOVERNANCE

Environmental governance in India faces complex and evolving challenges that test the effectiveness of both legislative frameworks and judicial interventions. Rapid industrialization, urbanization, and population growth have placed unprecedented pressure on natural resources, resulting in air and water pollution, deforestation, loss of biodiversity, and the degradation of ecosystems. Despite a robust legal framework and proactive judicial oversight, the implementation of environmental laws often lags due to bureaucratic inefficiencies, inadequate funding, lack of technical expertise, and competing developmental priorities. These challenges highlight the difficulty of translating legal mandates into tangible environmental outcomes and the persistent need for adaptive governance mechanisms.

Climate change has emerged as a particularly pressing challenge for environmental governance in India. Rising temperatures, erratic rainfall, floods, and droughts threaten not only the environment but also public health, agriculture, and livelihoods. Addressing climate change requires a multi-dimensional strategy involving mitigation, adaptation, and sustainable resource management. While India has ratified international agreements such as the Paris Climate Accord and developed national policies on renewable energy and emission reduction, enforcement at the local and regional levels remains inconsistent. The judiciary, through judicial review,

plays an important role in holding authorities accountable for implementing climate-related policies and ensuring that developmental projects comply with environmental and sustainability norms.

Urbanization and industrial development further complicate environmental governance. Rapid expansion of cities often leads to encroachment on wetlands, depletion of green spaces, inadequate waste management, and air pollution. Industrial projects, while crucial for economic growth, can result in ecological degradation if not properly regulated. Courts have frequently intervened to ensure compliance with environmental impact assessments, emission standards, and pollution control measures, demonstrating that judicial oversight is essential in regulating developmental activities. Nevertheless, enforcement challenges persist due to fragmented administration, corruption, and limited capacity of environmental regulatory bodies.

Another significant challenge is public awareness and participation. While the judiciary has facilitated citizen engagement through Public Interest Litigation (PIL), there remains a gap in widespread environmental literacy and community involvement. Effective governance requires active participation from local communities, civil society organizations, and the private sector, alongside legal enforcement. Engaging stakeholders in decision-making, monitoring, and conservation initiatives can enhance compliance and foster a culture of environmental responsibility.

8. CONCLUSION

Judicial review has emerged as a cornerstone of environmental governance in India, complementing legislative and administrative efforts to protect and preserve the nation's natural resources. Through proactive interpretation of constitutional and statutory provisions, the judiciary has expanded the scope of environmental protection, establishing principles such as the precautionary principle, the polluter pays principle, and sustainable development. Landmark judgments, including those in cases brought by M.C. Mehta and others, have set important precedents, demonstrating that the right to a clean and healthy environment is inseparable from the fundamental right to life under Article 21 of the Constitution. These interventions have not only provided remedies in specific cases of environmental harm but have also influenced policy, strengthened regulatory frameworks, and fostered public awareness and participation.

The interplay between judicial review and legislative action highlights the complementary nature of governance mechanisms in India. While legislation provides the structural and normative framework for environmental protection, judicial review ensures accountability, compliance, and interpretation in line with constitutional mandates. This synergy has allowed India to respond to both immediate environmental crises and long-term sustainability challenges, even in the face of bureaucratic delays, implementation gaps, and emerging threats such as climate change and rapid urbanization.

Despite significant progress, contemporary environmental governance continues to face challenges, including enforcement

difficulties, technological limitations, and gaps in public awareness. Addressing these issues requires a holistic approach that integrates effective legislation, active judicial oversight, administrative efficiency, scientific innovation, and citizen engagement. The judiciary's continued vigilance, combined with strengthened institutional frameworks and participatory governance, is essential to ensuring ecological balance and sustainable development.

In sum, judicial review has become an indispensable instrument of environmental governance in India, safeguarding the rights of citizens, enforcing statutory obligations, and promoting a culture of environmental responsibility. Its role is critical not only in interpreting and enforcing laws but also in shaping the broader framework of sustainable development, ensuring that environmental protection remains a central priority alongside economic growth. The Indian experience demonstrates that an active and responsive judiciary, working in tandem with legislative and executive action, can significantly enhance the effectiveness and resilience of environmental governance.

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