

Re-visioning Environmental Concerns and Judicial Activism

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Introduction

Environmental degradation poses significant challenges to sustainable development in India, making it imperative for all branches of governance to address these concerns proactively. Among them, the judiciary has played a pivotal role in safeguarding the environment through judicial activism. This paper critically examines how the Indian Supreme Court and High Courts have re-examined as well as revised environmental governance by interpreting constitutional provisions, enforcing environmental laws, and advancing global principles such as sustainable development, the precautionary principle, and the polluter-pays doctrine.

Drawing from landmark judgments like *MC Mehta v. Union of India* (Oleum Gas Leak Case), *Vellore Citizens' Welfare Forum v. Union of India* (Tanneries Case), and *T. N. Godavarman Thirumalpad v. Union of India* (Forest Conservation Case), the paper explores how judicial interventions have shaped legislative frameworks and public policies. It evaluates the judiciary's role in addressing critical issues, including air and water pollution, deforestation, and industrial contamination, while balancing environmental protection with developmental needs, as demonstrated in cases like the *Tehri Dam* judgment.

The present research paper further delves into challenges faced by courts in implementing environmental decisions, such as non-compliance by state authorities, lack of technical expertise, and the limitations of judicial overreach. By incorporating reliable data from Central Pollution Control Board (CPCB) reports, Forest Survey of India (FSI) findings,

and international environmental assessments, this research highlights the interplay between judicial activism and empirical evidence.

Environmental conservation has become a critical concern in India, a nation characterized by its diverse ecosystems, rapid industrialization, and urbanization. With increasing environmental degradation—manifested in rising pollution levels, deforestation, water scarcity, and loss of biodiversity—India faces significant challenges in balancing economic development with ecological preservation. According to the Central Pollution Control Board (CPCB), over 275 cities in India fail to meet national air quality standards, while the Forest Survey of India (FSI) reports that forest cover continues to be under pressure due to developmental projects. These issues not only threaten the country’s ecological balance but also endanger public health, livelihoods, and sustainable development.

In this context, the judiciary has emerged as a pivotal institution in addressing environmental concerns. The Indian courts, particularly the Supreme Court and various High Courts, have taken proactive measures to interpret constitutional provisions like Article 21 (Right to Life) and Article 48A (Protection of the Environment) to ensure environmental protection. Landmark judgments such as *MC Mehta v. Union of India* (1987) and *Vellore Citizens’ Welfare Forum v. Union of India* (1996) have laid the foundation for environmental jurisprudence in India. Through innovative doctrines like the “polluter pays” principle, the precautionary principle, and the public trust doctrine, the judiciary has provided a framework for sustainable development while ensuring accountability for environmental harm. Judicial activism in environmental matters has not only enhanced public awareness but also influenced legislative and administrative actions, making it a cornerstone of India’s environmental governance.

This research paper seeks to examine the dynamic interplay between environmental concerns and judicial activism in India. It aims to:

- **Analyze the role of Indian courts in shaping environmental policies:** By exploring landmark judgments and their implications,

the study will assess how judicial interventions have contributed to environmental protection and governance.

- **Evaluate the effectiveness of judicial activism in resolving environmental issues:** The paper will critically examine whether the judiciary's proactive role has led to tangible environmental outcomes or has been limited by challenges such as lack of enforcement and technical expertise.

By focusing on these objectives, the study endeavors to provide a comprehensive understanding of the judiciary's contributions to addressing India's environmental challenges while identifying areas for improvement in governance and policy implementation.

Research Methodology

The research adopts a qualitative approach, relying primarily on the analysis of case law, judicial orders, and environmental reports. Key components of the methodology include:

- **Case Law Analysis:** Examination of landmark judgments by the Supreme Court and High Courts, such as *M C Mehta v. Union of India*, *Subhash Kumar v. State of Bihar*, and *T.N. Godavarman Thirumalpad v. Union of India*. These cases will illustrate how the judiciary has addressed specific environmental concerns and shaped legal principles.
- **Data Collection:** Insights from government reports, including those published by the CPCB, FSI, and the National Green Tribunal (NGT), will provide empirical evidence of environmental trends and judicial impact.
- **Environmental Studies:** Academic articles, books, and international reports, such as the UNEP's Global Environmental Outlook, will offer a broader context for assessing judicial activism in India.

By integrating case law analysis with empirical data and academic perspectives, this study seeks to provide a nuanced and evidence-based evaluation of judicial activism's role in re-visioning environmental concerns in India.

Conceptual Framework

India faces significant environmental challenges due to rapid urbanization, industrialization, and population growth. Increasing air and water pollution, deforestation, and climate change are key issues. Air quality in major cities like Delhi frequently exceeds hazardous levels, with particulate matter (PM2.5) being a primary concern. The Central Pollution Control Board (CPCB) highlights alarming levels of water pollution in rivers such as the Ganga and Yamuna, which fail to meet bathing standards. Deforestation further exacerbates these issues, with the Forest Survey of India (FSI) reporting a loss of green cover in ecologically sensitive regions. Additionally, the impacts of climate change, such as rising temperatures, erratic monsoons, and extreme weather events, threaten agriculture, livelihoods, and biodiversity, making environmental protection a critical priority.

Judicial Activism in India

Judicial activism has played a pivotal role in addressing environmental concerns in India, especially in the absence of strict enforcement by executive bodies. Indian courts have creatively interpreted constitutional provisions like Article 21 (Right to Life) to include the right to a clean and healthy environment. The judiciary has responded to environmental degradation through public interest litigations (PILs), landmark rulings, and suo motu interventions. The evolution of environmental jurisprudence began with cases like *Rural Litigation and Entitlement Kendra v. State of UP* (1987), which addressed mining in Doon Valley, setting a precedent for environmental activism.

Doctrine of Sustainable Development

The judiciary has adopted global principles such as the “polluter pays” principle, the precautionary principle, and the public trust doctrine. These principles aim to balance development with environmental sustainability. For instance, the Supreme Court in *Vellore Citizens’ Welfare Forum v. Union of India* (1996) emphasized precaution in pollution control, mandating proactive measures to prevent environmental harm. Such

doctrines ensure that economic progress does not come at the cost of ecological preservation.

This framework sets the stage for examining how judicial interventions shape India's environmental policies and governance.

Judicial Approach to Environmental Concerns

Role of the Supreme Court

The Supreme Court of India has played a transformative role in addressing environmental concerns through landmark judgments that underscore the principles of sustainability and environmental justice. In *MC Mehta v. Union of India* (1987), the Court introduced the doctrine of absolute liability in the Oleum Gas Leak Case, setting a precedent for holding industries accountable for environmental harm without exceptions. This principle has since become a cornerstone of environmental jurisprudence in India.

The case of *Vellore Citizens' Welfare Forum v. Union of India* (1996) marked the judicial endorsement of the precautionary principle and the polluter pays principle, emphasizing the need for proactive environmental protection. Similarly, in *T. N. Godavarman Thirumalpad v. Union of India* (1995), the Court focused on forest conservation, issuing directives to prevent deforestation and preserve ecological balance under the Forest (Conservation) Act, 1980.

The *Tehri Dam Case* (2003) reflects the judiciary's effort to balance developmental needs with environmental protection. While allowing the construction of the dam, the Court ensured stringent compliance with environmental safeguards, showcasing its pragmatic approach to reconciling conflicting interests.

Role of High Courts

High Courts in India have also contributed significantly to environmental protection, addressing regional concerns through Public Interest Litigations (PILs) and the establishment of green benches. For instance, the Calcutta High Court's interventions in the East Kolkata Wetlands

case ensured the protection of this vital ecosystem. High Courts often adopt region-specific approaches, recognizing the diversity of environmental challenges across the country.

These courts have become a vital platform for citizens to voice their concerns, making judicial activism a powerful tool for environmental governance. By mandating stricter enforcement of environmental laws and holding authorities accountable, the judiciary continues to bridge gaps in executive action, fostering sustainable development.

Impact of Judicial Activism on Environmental Policies

Judicial activism has played a transformative role in shaping India's environmental policies, creating a robust framework for ecological preservation. Through its proactive stance, the judiciary has not only contributed to legislative advancements but has also enhanced public awareness and governance. However, the balance between judicial intervention and executive responsibilities remains a critical area of concern.

Contribution to Legislative Framework

The judiciary's interventions have significantly influenced environmental legislation in India, filling gaps where executive actions have been inadequate. Three major legislations have emerged as cornerstones of India's environmental framework, partly due to judicial oversight and activism:

I. Water (Prevention and Control of Pollution) Act, 1974:

- a. Enacted to control water pollution and maintain or restore water quality, this Act gained momentum through judicial scrutiny in cases like *MC Mehta v. Union of India (1988)*. The Supreme Court directed stringent measures to prevent industrial effluents from polluting rivers, emphasizing the role of state pollution control boards.

II. Environment (Protection) Act, 1986:

- a. This umbrella legislation was enacted following the Bhopal Gas Tragedy, a pivotal moment in India's environmental history. The judiciary, through cases such as *Indian Council for Environmental Action v. Union of India (1996)*, used this Act to penalize industrial polluters and uphold the "polluter pays" principle.

III. Forest Conservation Act, 1980:

- a. This Act's enforcement was strengthened by judicial mandates, such as in *T.N. Godavarman Thirumalpad v. Union of India (1997)*, where the Supreme Court restricted non-forest activities in forest areas, ensuring stricter compliance with conservation laws.

Role in Public Awareness and Governance

The judiciary has been instrumental in driving public awareness and influencing governance practices:

I. Ganga Rejuvenation Initiatives:

- a. The judiciary has consistently advocated for the rejuvenation of the Ganga River, starting with the *MC Mehta v. Union of India* cases. These rulings mandated industries along the riverbanks to install effluent treatment plants and encouraged government programs like the 'Namami Gange Mission'.

II. Proactive Measures by the National Green Tribunal (NGT):

- a. The NGT, established in 2010, has become a powerful tool for environmental governance. It operates as a specialized body for resolving environmental disputes efficiently. For instance, the NGT has tackled issues like illegal mining, air pollution in Delhi, and waste management through comprehensive orders that hold state authorities accountable.

Critical Analysis of Judicial Overreach

While judicial activism has undoubtedly contributed to environmental protection, it has also raised concerns about judicial overreach, where courts venture into areas traditionally reserved for the executive.

I. Balancing Proactive Role with Executive Responsibilities:

- a. Critics argue that judicial interventions sometimes undermine the separation of powers, as seen in cases like *Tehri Bandh Virodhi Sangarsh Samiti v. State of Uttar Pradesh*. Here, the judiciary's involvement in assessing technical aspects of dam construction was viewed as encroaching on executive functions.
- b. Excessive reliance on the judiciary to resolve environmental issues can lead to an imbalance, where the executive's accountability diminishes. A sustainable approach would require strengthening executive capacities and fostering inter-institutional collaboration.

In brief, judicial activism has significantly shaped India's environmental policies, from driving legislative reforms to raising public awareness and holding authorities accountable. However, as environmental challenges become increasingly complex, a balanced approach—where the judiciary supports rather than substitutes the executive—is essential to ensure sustainable governance and effective policy implementation.

Recommendations and Way Forward

The environmental challenges facing India require a comprehensive approach, integrating judicial interventions, executive actions, and public involvement. Based on an analysis of landmark judgments and environmental concerns, the following recommendations provide actionable steps toward fostering sustainability and ecological balance.

Strengthening Judicial and Executive Collaboration

The judiciary's proactive role in addressing environmental issues has been instrumental in filling legislative gaps and ensuring the enforcement

of environmental laws. However, the efficacy of such interventions often depends on seamless collaboration with the executive branch. One key recommendation is the establishment of **dedicated environmental courts in every state**. These courts, staffed with judges and environmental experts, can focus exclusively on environmental disputes, enabling faster resolutions and reducing the burden on existing judicial systems.

Such courts could function in alignment with the National Green Tribunal (NGT), which has proven its effectiveness in adjudicating complex environmental cases. For instance, in *Sterlite Industries v. Tamil Nadu Pollution Control Board*, the NGT played a pivotal role in addressing industrial pollution. Expanding such mechanisms at the state level can ensure localized enforcement and address region-specific environmental issues effectively.

Further, enhanced coordination between judiciary and executive bodies like the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) can facilitate better enforcement of judicial orders. Regular consultation mechanisms, shared accountability frameworks, and performance reviews can strengthen this collaboration.

Promoting Data-Driven Policies

Judicial decisions and executive actions must be supported by reliable, real-time environmental data. Leveraging technology and data analytics can significantly enhance judicial interventions by providing accurate information about air quality, water pollution, deforestation, and other environmental parameters. For example, the Central Pollution Control Board's real-time air quality monitoring system has been instrumental in shaping policies like the National Clean Air Programme (NCAP).

The judiciary should encourage the government to develop and utilize a robust **national environmental database** that consolidates data from multiple sources, including satellites, on-ground sensors, and public reports. This database can serve as a critical tool for evidence-based policymaking and can inform judicial decisions in complex cases like *MC Mehta v. Union of India* (Vehicular Pollution Case).

Further, judicial orders should mandate periodic environmental impact assessments (EIAs) for industrial and developmental projects, backed by data transparency. Ensuring that these assessments are publicly accessible will foster trust and accountability while empowering citizens to engage in informed advocacy.

Public Participation

Active public involvement is crucial in addressing environmental concerns. Courts have consistently recognized the role of citizens in environmental governance, as evidenced by the increasing number of Public Interest Litigations (PILs). Cases like *Rural Litigation and Entitlement Kendra v. State of UP* demonstrate the potential of citizen-led movements to bring critical environmental issues to the forefront.

To enhance public participation, **legal literacy campaigns** should be organized to educate citizens about their environmental rights and the tools available to seek redressal. Additionally, platforms enabling community-driven monitoring of environmental violations can encourage whistleblowers and amplify grassroots voices. For example, mobile applications for reporting pollution or illegal activities, linked directly to regulatory authorities, can bridge the gap between citizens and enforcement agencies.

Courts should also encourage public hearings as a mandatory part of EIAs, ensuring that local communities have a say in developmental projects affecting their environment. Moreover, recognition and support for citizen advocacy groups, NGOs, and youth-led climate movements can provide a powerful push toward sustainable governance.

Conclusion

The judiciary in India has played a pivotal role in addressing and re-visioning environmental concerns. Through a series of landmark judgments, both the Supreme Court and High Courts have established significant legal doctrines, such as the precautionary principle, public trust doctrine, and polluter pays principle, which have become the bedrock of India's environmental jurisprudence. These interventions have not

only shaped the legislative framework, such as the Environment (Protection) Act, 1986, and the Forest Conservation Act, 1980, but also ensured the enforcement of existing laws, thereby filling the gaps left by executive inaction. Cases like *MC Mehta v. Union of India* (Oleum Gas Leak Case) and *Vellore Citizens' Welfare Forum v. Union of India* exemplify the judiciary's proactive stance in safeguarding environmental rights as fundamental rights under Article 21 of the Constitution.

However, judicial activism in environmental matters is not without its challenges. Overreach, technical constraints, and conflicts between environmental sustainability and developmental imperatives often lead to implementation hurdles. While the courts have provided much-needed directions, the reliance on judicial activism alone is neither sustainable nor desirable for long-term environmental governance. A balanced approach that strengthens institutional collaboration among the judiciary, executive, legislature, and civil society is essential to achieve sustainable development goals.

The future of environmental protection in India lies in data-driven policies, effective implementation of judicial directives, and greater public participation. By promoting integrated frameworks and aligning judicial efforts with broader national and international environmental goals, India can ensure a harmonious coexistence between development and environmental conservation. In conclusion, while judicial activism has been instrumental in re-visioning environmental concerns, a collaborative and inclusive approach is imperative to create a sustainable future. The judiciary must act as a catalyst, not a substitute, for robust environmental governance.

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