

# Constitutionalism and the Quest for Environmental Justice in India: Doctrinal Evolution and the Challenge of Climate Rights

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*Abstract- India's path toward environmental justice is a compelling study of environmental evolution. This research investigates the effectiveness of this legal framework. We begin by mapping the foundational legal architecture, showing the Supreme Court radically broadened Article 21 to guarantee a fundamental, enforceable right to wholesome environment moving beyond the traditionally 'soft' directives of the Directive principles (Article 48A) and Fundamental Duties (Article 51A(g)). This judicial inventiveness established essential doctrines such as Public Trust Doctrine, Polluter Pays Principle and the Absolute Liability- which is now necessary to securing corrective and allocative justice against industrial harm. The Analysis then turns to the National Green Tribunal (NGT), a specialised body to design to institutionalized procedural and restorative justice through expedited, science-informed adjudication and the power to mandate environmental compensation. Despite these comprehensive frameworks, however, the endeavours of environmental justice are impeded by the ongoing distributive and recognitional deficiencies. A significant challenge lies in the profound conflict between centralised, exclusionary conservation efforts and community rights of forest dwellers recognised by the Forest Rights Act, 2006 the research culminates with the momentous M.K. Ranjithsinh & Ors. v. Union of India 2024 SC 570, which anchors the right to be free from the adverse effects of climate change' firmly within the guarantees of Article 21 and 14. This important ruling opens a new chapter, compelling constitutional law to address systematic climatic governance and its disproportionate impact on the vulnerable.*

*Indexed Terms- Environmental Justice, Constitutionalism, Right to Life (Article 21), Judicial Activism, National Green Tribunal, Climate Rights.*

## I. INTRODUCTION

Environmental Constitutionalism lays the foundation for the legal defense of the natural world by defining the responsibilities of the government and citizen's duties with regard to planetary health. This Indian

jurisprudence is an amazing story of constitutional flexibility. It was essentially influenced by strong judicial interpretation necessary to fill a void left by the constitution's initial silence on ecological issues rather than early foresight. The 1972 Stockholm Declaration marked significant turning point that immediately resulted in the 42<sup>nd</sup> Constitutional Amendment Act, 1976 which included provisions related to environmental development.

In India, achieving true Environmental Justice necessitates a viewpoint that goes well beyond merely reducing industrial pollution. It requires a multifaceted analysis that includes distributive justice and recognitional justice and procedural justice. India faces a wide range of environmental challenges, including innate developmental deficiencies like poor access to clean water and sanitation, as well as dangerous pollution brought on modern day consumerism and fast industrial growth. The struggle for Environmental Justice is always intersectional and affects all facet of the society because of its innate dualism.

It was necessary to construct current constitutional path. Remarkably, there is no substantial issue on safeguarding the environment in the Constitutional Assembly debates, therefore Amendment Act of 1976 was a reactive measure. This happened due to the political and institutional mechanism were consistently insufficient to enforce the "soft law" duties outlined in the Directive Principles of State Policy and Fundamental Duties, this historical omission directly forced the reliance on vigorous judicial activism and Public Interest Litigation in the decades that followed. This reliance on the courts has come to define India's environmental governance, demonstrating how judicial capacity and ideology are closely linked to constitutional progress in this field.

This paper undertakes a thorough analysis of this foundation, looking at the landmark legal doctrines developed through judicial precedents, the establishment of specialised organisations like National Green Tribunal, and new challenges brought on by conservation disputes and the constitutionalisation of climate rights.

### The Three Pillars of Environmental Protection in the Constitution

Although this framework was initially unenforceable, environmental protection is expressly required by India's constitution. Three pillars support this important framework which the Supreme Court eventually converted into essential, enforceable rights.

- I. The Substantive Right to Life (Article 21): The Supreme Court has interpreted Article 21, which guarantees the fundamental rights to life and personal liberty, broadly to include the legally enforceable "Right to clean and healthy environment". This crucial expansion permits citizens to directly petition the courts for environmental redress using the writ jurisdiction established under Articles 32 and 226 of the Constitution. This doctrinal shift started with cases like *Rural Litigation and Entitlement Kendra v. State*, 198, acknowledged as the first time the Supreme Court acted on issues of ecological balance by stopping illicit mining operations under the purview of Article 21, marked the beginning of this doctrinal movement. Later decisions affirm that having access to fresh water, clean air, and a pollution-free environment is fundamental to life. Additionally, the Court determined that the freedom to conduct business under Article 19(1)(g) is conditional and susceptible to restrictions, particularly if the activity poses a risk to public health.

The judiciary supplied the required justiciability hook by incorporating environmental protection within "the hard" right under Article 21.

Traditionally, the environmental obligations imposed on the State and its inhabitants (Articles 48A and 51A(g)) are "soft" obligations that cannot be enforced.

By incorporating the "Right to Environment" into Article 21, this structural move successfully transformed environmental protection from a governmental goal to a crucial, state-accountable constitutional need.

- II. State Obligation (Article 48A): The Directive Principle of State Policy (DPSP), which was introduced by the 42<sup>nd</sup> Amendment in 1976, contains Article 48A, which imposes a positive but unenforceable duty on the State. The State actively "protect and improve the environment and to safeguard the forests and wild life of the country" in order to comply. The judiciary regularly cites Article 48A to give context and reinforce the policy directions drawn from the Fundamental Right under Article 21, even if DPSPs are not directly justiciable. It acts as a constitutional guide for the State's legislative and policy actions pertaining to environmental management.
- III. Article 51A(g): Mutual Responsibility Fundamental Duties were added to Part IVA of the Constitution by the same 42<sup>nd</sup> Amendment. Every citizen is required by Article 51A(g) to "protect and improve the natural environment including forests, lakes, rivers, and wild life, and to have compassion for living creatures. This clause emphasizes that environmental protection is a collective, not just governmental, obligation and constitutionalizes shared responsibility. Important citizen-led court advocacy, like Public Interest Litigation (PIL), which has greatly advanced environmental justice in India, is legitimised by this articulation, which offers a moral and legal basis.

### Establishing Environmental Justice Doctrines through Judicial Innovations

By incorporating the ideas from international soft law into binding, enforceable domestic constitutional law, the Indian Supreme Court displayed extraordinary judicial inventiveness. By creating unambiguous accountability for polluters and guaranteeing responsible resource stewardship, these novel legal concepts convert the expansive constitutional mandate into practical policy.

- I. The Public Trust Doctrine

One of the cornerstones of Indian environmental law is the Public Trust Doctrine. It asserts that the government holds vital natural resources- like air, rivers, forests, and ecologically delicate areas- in fiduciary trust for the benefit of current and future generations. Importantly, this principle prohibits the State from assigning these resources primarily for commercial exploitation on private ownership. In *M.C. Mehta v. Kamal Nath* (1997), the Court intervened to prevent the commercial exploitation of forest land and the diversion of a river course for the benefit of a private motel, solidifying the Public Trust Doctrine. The Public Trust Doctrine, which is a crucial component of Article 21, gives individuals the ability to hold the government responsible for how these public assets are managed. The Public Trust Doctrine's applicability, which has recently been expanded to include artificial lakes, ensures judicial supervision and fosters equity for all generations.

## II. Strict and Absolute Liability

To deal with substantial risks connected to high-risk industrial activities, the Supreme Court adopted stringent liability requirements. In *M.C. Mehta v. Union of India* (1987), the principle of "Absolute Liability" was established for firms involved in hazardous or inherent risky operations. This approach holds such enterprises strictly accountable for any ensuring damage, regardless of carelessness or fault, and without any acceptable exclusion. This philosophy stipulates that the entire financial cost of environment repair and victim compensation must be borne by the polluting sector itself, enforcing financial accountability.

This legal action was needed to ensure polluters could not escape the repercussions of environmental deterioration, so establishing a powerful corrective justice apparatus.

## III. Polluter Pays and Precautionary Principle

In Addition to defining the liability, The Supreme Court established important principles for environmental decision-making in judgements like *Vellore Citizens Welfare Forum v. Union of India* (1996).

The Precautionary Principle effectively shifts the burden of proof to the proponent of the potentially harmful activity by requiring authorities to take

preventive actions against environmental harm even in cases where scientific evidence of risk is uncertain. Further, the Polluter Pays Principle requires that the person who produced the contamination bear the financial burden of preventing, controlling and correcting pollution. The NGT is required by law to base its decisions and awards on these two tenets. The courts made guaranteed that India's environmental governance remained effective and in line with international standards by adopting these widely recognised principles and elevating them into binding domestic law through Article 21.

## National Green Tribunal: Establishing Procedural and Remedial Justice

The establishment of the National Green Tribunal under the National Green Tribunal Act 2010, is a crucial step in the development of specialized and quick procedural justice in India. The Act's statement of Objects makes a clear connection between the NGT's mandate and achieving the goals outlined in Articles 21, 47, 48A and 51A(g) o the Constitution.

### I. The Statutory Mandate and Special Adjudication of National Green Tribunal(NGT)

The NGT is specialised forum for the effective settlement of matters pertaining to forest conservation, environmental protection, and damages compensation. The central feature of strengthening NGT's legitimacy is its distinctive, scientifically informed methodology which combines leally trained judges with scientific and environmental expertise. In order to handle complex, multidisciplinary environmental issues, this system ensures that adjudication is based on scientific rigor and professional counsel.

### II. Restitutional And Remedial Jurisdiction

Section-15 of the NGT Act gives the Tribunal extensive authority to provide environmental victims with redress and compensation. Remarkably, Section-15 also provides the authority to the NGT to pass an order for restoration of damaged property and the environment. The Tribunal is required by law to make sure that its decisions, orders and awards are consistent with the precautionary principle, the polluter pays concept, and sustainable development.

This power to impose environment restoration represents a shift in the direction of restorative justice. The NGT is established to uphold the positive duty of environmental improvement, unlike traditional courts that concentrate on penal action. This means that polluters are held responsible not only for damages but also for the active ecological recovery of impacted areas, putting future environmental damage prevention ahead of merely making amends for past harm.

III. Speedy and Flexible Procedure

In keeping with its goal of offering a “fair, fast and satisfactory judicial procedure,” the NGT has clear procedural autonomy. It is not limited by the strict procedural guidelines outlined in the Evidence Act, 1872 or the Civil Procedure Code, 1908 and instead follows the principles of natural justice. In order to mitigate quickly developing environmental problems, quick judicial intervention is made possible by this operational flexibility. The Rio Conference’s 1992 recommendation for countries to guarantee pollution victim’ effective access to judicial and administrative remedy led directly to the creation of the National Green Tribunal.

Gaps in Environmental Justice: Climate Rights, Equity and Conflict

The implementation of environmental justice in India faces significant obstacles despite strong institutional and constitutional foundations, especially where development, social fairness, and conservation coverage.

I. Recognition and Distributive Injustice for Marginalised Communities

Analysis shows that a disproportionate amount of environmental burdens, from localised pollution to acute climate change impacts like food scarcity and health risks fall on marginalised communities, such as Indigenous tribes, nomadic pastoralist, and urban slum dwellers. Environmental regulations frequently result in “epistemic, recognition, and distributive injustice” since they are frequently created and enforced centrally. When resource-dependent societies’ traditional, symbiotic and site based knowledge is ignored or invalidated, this failure takes place. Legal and legislative frameworks

must take a “decolonial intersectional environmental justice” stance that actively incorporates the viewpoints of those on the periphery in order to remedy these systematic injustices.

II. The Conflict between Conservation and Rights

The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the state’s mandatory conservation goals, which are outlined in statutory frameworks such as the Wildlife (Protection) Act, 1972 and the Forest Conservation Act, 1980 are at odds with each other. In recognition of Adivasi and forest dwelling groups’ historical role as environmental steward, The Recognition of Forest Rights Act, 2006 was created to protect their cultural identity, land rights, and resources. However, judicial interpretations have occasionally supported a centralised, constrictive paradigm known as “exclusionary conservation”. In the pretext of protecting animals, this prioritizing runs the risk of violating human rights and uprooting vulnerable populations.

A constitutional dilemma results from this: although Article 21 increases substantive rights, these rights are contested when they clash with the state’s alleged conservation mission. The Supreme Court continues the careful process of balancing the regulatory obligations with the State’s constitutional obligation to provide forest residents with a minimal quality of living given in Forest Conservation Act, 1980. Given India’s highly ingrained legal frameworks originating from colonial-era forest administration, this continuing conflict highlights how difficult it is to achieve broad recognition justice just through litigation.

III. M.K. Ranjitsinh & Others v. Union Of India 2024 INSC 280: Climate Justice as Fundamental Right

The Indian Judiciary has made a significant move toward climate justice in response to the growing global climate problem. The Supreme Court officially stated that the “right to be free from the adverse effects of climate change” is an essential part of the Fundamental Rights under Article 21 and 14 of the Indian Constitution in the landmark judgement of M.K. Ranjitsinh & Ors. v. Union of India 2024 INSC 280.

This landmark judgement affirms that climatic impacts such as droughts, food shortages or pollution disproportionately damage the vulnerable and violate their equality and dignity, placing climate degradation squarely inside the constitutional framework.

The Court's role in future climate governance has greatly expanded by constitutionalizing the right to climate protection. The decision requires the State to treat climate action as a rights-based obligation rather than just a policy objective (DPSP), giving future climate litigation a strong constitutional foundation. It is anticipated that this change will cause litigation to shift from local pollution issues to constitutional arguments against extensive energy and infrastructure policies. The judgements itself immediately brought attention to the conflict between promises to renewable energy and Great Indian Bustard conservation, calling for a practical, nuanced approach to power line siting. According to this new legal paradigm, the term "sustainable development" will be used more frequently to describe climate change issues that are presented before Indian Courts.

#### Conclusion and Recommendations

In India, the story of environmental constitutionalism is essentially one of judicial activism effectively filling legislative gaps. By interpreting Article 21 broadly and applying the guiding principles of Article 48 A and 51A(g), the judiciary has created a powerful legal framework that is backed by ideas like Absolute Liability and the Public Trust Doctrine. Additionally, the NGT offers a crucial institutional framework for restorative and procedural justice. The path to total environmental justice is yet unfinished, though. There are still systematic shortcomings in distributive and recognitional justice, especially for India's underprivileged people.

The way to total environmental justice has not been achieved yet, though. Particularly for India's vulnerable people, systematic shortcomings in distributive and recognitional justice still exist. A crucial paradox is highlighted by the going on legal struggle to strike a balance between centralised conservation regimes and the recognised rights under the Forest Rights Act: the celebration of expanded constitutional rights frequently collapse at the

intersectional level, sometimes inadvertently creating new forms of injustice for those most dependent on natural habitats.

In the light of this analysis, the following recommendations are essential for advancing environmental justice and governance in India:

- I. **Need for Comprehensive Climate Law:** Although the judgement given in *M.K. Ranjitsinh v. Union of India* 2024 INSC 280 provides an essential constitutional basis, its execution calls for committed legislative backing. In order to achieve national climate targets, such as net-zero by 2070, comprehensive climate law is necessary to ensure certainty, clear policy paths, and a strong regulatory framework.
- II. **Prioritizing Recognition and Intersectional Justice:** The judicial and executive branches need to take the initiative to implement a "decolonial intersectional environmental justice" strategy. This necessitates actively appreciating marginalised groups' traditional, place-based knowledge and shielding Adivasi and forest-dwelling tribes from conservation tactics that disregard them. Future court decisions must actually balance the communal rights protected under the Forest Rights Act with the preservation of the environment.
- III. **Strengthening Institutional Capacity:** The National Green Tribunal's crucial function requires continuing operational support, which includes sufficient financing, full judicial capacity, and the nomination of knowledgeable members to all regional benches. In period of complicated environmental litigation, maintaining the NGT'S operational effectiveness is critical to guaranteeing prompt, scientifically informed justice.

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