

# ENVIRONMENTAL ACTIVISM: THE DYNAMIC INTERPLAY BETWEEN LAW, JUDICIARY AND SOCIAL MOVEMENTS IN INDIA

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## Abstract

The environmental activism in India has played a major role in shaping the environmental law and judicial practice. Following the evolution of Indian environmentalism since ancient practice of community level opposition like the Bishnoi sacrifice and the Chipko Movement to modern digital activism, the paper has shown that alternative involvement of the people has served as both a trigger of legislative action and judicial creativity. Based on Articles 21, 48A and 51A(g) of the Constitution of India, the paper will examine significant environmental laws and some of the most outstanding court cases including M.C. Mehtav. Union of India, Vellore Citizens Welfare Forum v. Union of India which broadened the right to life to incorporate protection of the environment. It also contends that the Indian judiciary has played an institutional role of connecting social movements with the State by incorporating international environmental values in local legislation. Although there is a progressive framework, there are still obstacles to implementation which requires changes to enhance environmental democracy and ecological justice in India.

***Keywords:** Environmental Activism, Environmental Law, Judicial Activism, Public Interest Litigation, Article 21, Sustainable Development, Social Movements, Environmental Governance, Ecological Justice, Climate Change, National Green Tribunal, Participatory Democracy*

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## I. Introduction

THE INTRICATE relationship between environment activism and law reform in India is an indicator of a strong story of social transformation, civil society and constitutional practice.

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The ecological protection in a country such as India, which is engaging in a brisk industrialization and where the growth of the economy is mostly incompatible with the preservation of the environment, has been transformed into both a legal and an ethical necessity. Sustainability and justice are so debated by climate change, deforestation, pollution of the air and the water, and the loss of the natural resources.<sup>1</sup> In this regard, the concept of environmental activism, which is represented, in a way, by grassroots movements, public interest litigations, and international partnerships, has turned out to be a significant instrument of responsibility and reform.<sup>2</sup> The judiciary has been the best institutional vehicle of environmental activism in the Indian context. Courts especially the Supreme Court of India and the National Green Tribunal have become important platforms through which environmental issues raised by the social movements are converted into constitutional right and binding legal duties. This court intervention has made the environmental governance in India stand out among most other jurisdictions as it incorporates environmental protection into the constitutional democracy.

The environmental activism in India is not a protest movement but the continuing dialogue between law, policy and people. It indicates the lived experiences of the marginalized communities, whose livelihood relies on the natural ecosystems, and the concerns of an ever-increasingly-conscious civil society regarding ecological frailty. Since the forest satyagrahas of the 1970s all the way to the judicial fights of the 1990s and beyond, activism has served as an engine of legislative and judicial creativity: it has given life to the provisions of the major environmental legislation, including the Water (Prevention and Control of Pollution) Act, 1974,<sup>3</sup> the Air (Prevention and Control of Pollution) Act, 1981,<sup>4</sup> the Environment (Protection) Act, 1986,<sup>5</sup> and has inspired constitutional acknowledgment of the right to a clean environment.<sup>6</sup>

The judiciary, especially under Public Interest Litigations (PILs), has entrenched environmental activism into the Indian constitutionalism by transforming the grassroots ecological issues into enforceable rights in Article 21 of the Constitution. Court interferences

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<sup>1</sup>United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, 1992.

<sup>2</sup>Ramachandra Guha, *Environmentalism: A Global History* 115 (Oxford University Press, New Delhi, 2000).

<sup>3</sup> The Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974).

<sup>4</sup> The Air (Prevention and Control of Pollution) Act, 1981 (Act 14 of 1981).

<sup>5</sup> The Environment (Protection) Act, 1986 (Act 29 of 1986).

<sup>6</sup> The Constitution of India, arts. 21, 48A, 51A(g).

in a case such as *M.C. Mehta v. Union of India*<sup>7</sup> and *Vellore Citizens Welfare Forum v. Union of India*<sup>8</sup> broadened the definition of the right to life to cover environmental rights, thus coming up with the “polluter pays principle”, “precautionary principle”, and “principles of intergenerational equity”.<sup>9</sup> The courts have played not only the role of adjudicator but as constitutional facilitator of the environmental democracy in response to the pressure of the social movements where both legislative and executive action was found to be insufficient.

Nevertheless, legal reform and activism have not developed independently. The global conferences like the Stockholm conference (1972),<sup>10</sup> Rio (1992)<sup>11</sup> and Paris (2015)<sup>12</sup> have had a significant impact on environmental policies in India and have brought in a global mandate and local realities in uniting the policies. The interaction of national social movements and the global environmental law highlights a special model of participatory governance that consists in the negotiation of the balance between development and the environment by citizens, courts and policy-makers.

In this paper, the issue of environmental activism in India and the ways in which it has influenced legal reform are addressed through the sustained judicial participation. It states that the dynamic interaction of law, judicial system, and social movement is the core of the changing environmental jurisprudence in India and the main element in the realization of ecological justice and sustainable development.

## II. Environmental Activism in India: History

The history of environmental activism in India has a unique history, which is a combination of native ecological philosophy and Gandhian non-violence and post-independence justice and sustainability movements. In contrast to the Western environmental movements, largely due to the conservational and scientific issues, the Indian environmental awareness developed based on the practical experience of communities, who rely on forests, water, and land. It is based on the philosophy of the understanding that environment is not only a resource, but a

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<sup>7</sup>*M.C. Mehta v. Union of India*, AIR 1987 SC 965.

<sup>8</sup>*Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>9</sup>*Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212; see also *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, (1999) 2 SCC 718.

<sup>10</sup> United Nations Conference on the Human Environment, *Stockholm Declaration*, 1972.

<sup>11</sup> United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, 1992.

<sup>12</sup> United Nations Framework Convention on Climate Change, *Paris Agreement*, 2015.

common heritage that supports cultural identity and human dignity.<sup>13</sup> Though the initial opposition in India to the environment was mostly moral and community based, the movement slowly changed to legal and constitutional participation. The judiciary system overtime became the institutional platform through which the values expressed by the environmental movements were converted into the rights-based claims and the social protest consequently turned into a legal action.

One can, however, extend Indian environmentalism roots to pre-colonial traditions, including the Bishnoi community of Rajasthan whose environmentalism of defending the trees and wildlife dates back to the 15th century. In 1730, Amrita Devi Bishnoi and 363 of her disciples died to protest the cutting of Khejri trees ordered by the local king and thus creating one of the first known eco-centric martyrdom in the history of the world.<sup>14</sup> Such a moral and spiritual tradition would eventually be used to influence the modern environmental movements with the focus on the harmony with nature as a responsibility that emerged out of morality and not laws.

Traditional community rights were disrupted by colonial exploitation of natural resources by enclosing forests, mining, and large irrigation projects, which created resistance against the peasants and forest dwellers. Anti-colonial and environmental ideals were embodied in such movements as the Forest Satyagrahas of the 1920s-1930s. To a large extent, the criticism of industrial civilization by Mahatma Gandhi in *Hind swaraj* (1909) foreshadowed most of the issues of modern environmental justice, in connecting human avarice and inequality to ecological destruction.<sup>15</sup> The green awareness of India is even more ancient than independence, and it is also a part of the Indian civilizational ethos. These were the earliest practices of environmental sacrifice and restraint which were later employed in judicial interpretation of environmental protection as a moral and constitutional obligation and not a regulatory obligation.

It embraced a development strategy that was based on an emphasis on industrialization, huge dams and blistering urbanization during independence. The strategy resulted in environmental displacement, dislocation and degradation in addition to economic growth. During the initial years following 1947, there was minimal regulation of the environment since the state prioritized modernization and not sustainability. Ecological disasters such as

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<sup>13</sup>RamachandraGuha, *The Unquiet Woods: Ecological Change and Peasant Resistance in the Himalaya* 17 (Oxford University Press, New Delhi, 1989).

<sup>14</sup>MadhavGadgil and RamachandraGuha, *Ecology and Equity: The Use and Abuse of Nature in Contemporary India* 31 (Routledge, New Delhi, 1995).

<sup>15</sup> M.K. Gandhi, *Hind Swaraj or Indian Home Rule* 52 (Navjivan Publishing House, Ahmedabad, 1938).

the deforestation of the Himalayas and industrial pollution, as well as the pollution of rivers, caught the eyes of the people in the late 1960s and 1970s. Chipko Movement in Uttarakhand 1973-80 was therefore a turning point in the history of Indian environmental movement. The aspect of gender intersection with social justice is that villagers, primarily women, embraced trees to avoid commercial logging. The rhetoric offered by such leaders as Sunderlal Bahuguna and Gaura Devi gave to the movement a moral and political aspect that linked conservation of forests with the rural livelihood and environmental democracy. The unprecedented popularity of Chipko led to similar movements throughout the country and turned the injustices on the local to the national discussion of the rights of the environment.<sup>16</sup> Even though Chipko was not initiated as a legal movement, its focus on community rights and ecological conservation had tremendous impacts on future judicial logic in the conservation of forests and participation-based environmental management.

The Silent Valley Movement, Kerala, 1978 to 1985 was an opposition to building a hydrodam on the Silent Valley which was one of the few remaining tropical rainforest in India.<sup>17</sup> It had a wide array of support by scientists, students and conservationists and focused on knowledge based activism. This led to the Silent Valley being proclaimed a national park in 1985. The campaign had significance in terms of the synchronization of environmental activism to scientific rationale and conservation of the biodiversity.

Similarly, the Narmada Bachao Andolan that began in the 1980s under the direction of Medha Patkar, drew our attention to the socio-ecological costs of dams of this type such as the Sardar Sarovar.<sup>18</sup> Its tactic- the one that was a blend of protests, open hearings and litigation- made this intersection of social movements and legal changes work. In its appeal to the Supreme Court in the case *Narmada Bachao Andolan v. Union of India* the movement also gave environmentalism a new meaning. Union of India made environmentalism a fight against ecological conservation and against human rights and rights of the displaced and indigenous people. The large scale involvement of the movement in the Supreme Court was a turning point in the Indian environmentalism, as social movements started to use litigation as a strategy in the fight against environmental destruction caused by development.<sup>19</sup>

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<sup>16</sup>SunderlalBahuguna, "The Chipko Movement: A People's History" 18 *Environmental Conservation* 327 (1983).

<sup>17</sup>MadhavGadgil, "Silent Valley Movement and the Emergence of Environmental Awareness in India" 9 *Journal of Environmental Studies* 112 (1985).

<sup>18</sup>AmitaBaviskar, *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley* 65 (Oxford University Press, New Delhi, 1995).

<sup>19</sup>*Narmada BachaoAndolan v. Union of India*, (2000) 10 SCC 664.

This shift in street-level environmentalism to institutional involvement came in the 80s and 90s when the judiciary came out as one of the key intermediaries between social movements and the State. Disaster incidents like the Bhopal Gas Tragedy in the year 1984 revealed the regulatory failure and spurred calls to ensure a complete legislation on the environment.<sup>20</sup> It was followed by the legislation of Environment (Protection) Act, 1986 that granted broad powers to the central government to harmonize the environmental protection.<sup>21</sup> Concurrently, judicial activism via PILs transformed environmental petitions into constitutional ones under Article 21 and spawned such doctrines as the polluter pays principle and the precautionary principle.

There was a greater resort to legal avenues by movements- using NGOs such as the Indian Council of Enviro-Legal Action, Centre for Science and Environment and the Legal Initiative of Forest and Environment to impose accountability.<sup>22</sup> As developed by the end of the twentieth century, the environmental activism in India had therefore become an organised exchange between social movements and legal reforms and judicial innovation which established the basis of a particular, court-based environmental jurisprudence development.

### **III. Legal and Judicial Framework of Environmental Governance in India**

The environmental protection in India operates in a compound of constitutional provisions, statutory, judicial, and institutional provisions. The Indian system of the law has thereby developed a holistic environmental regime, which combines the methods of prevention, punitive and participation. However, it has been a non-linear type of evolution, but, rather, it represents a dialectic, which is dynamic, of the State, the judiciary and the mobilized citizens via environmental activism.

The origin of environmental jurisprudence in India can be traced back to the Constitution. Though the environment was not specifically stated in the original text, Article 48A to the Directive Principles of State Policy was added by the 42nd Constitutional Amendment Act, 1976 that required the State to conserve and get better the environment and to save the forests and wildlife of the country.<sup>23</sup> At the same time, Article 51A(g) in the Fundamental Duties provided the duty of every citizen to conserve and enhance the natural environment such as the forest, lakes, rivers and wildlife. Even though these provisions are not justiciable, they

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<sup>20</sup> *Union Carbide Corporation v. Union of India*, AIR 1990 SC 273.

<sup>21</sup> The Environment (Protection) Act, 1986 (Act 29 of 1986).

<sup>22</sup> Ritwick Dutta, *Taking the Law to the People: Public Interest Litigation and Environmental Justice in India* 89 (Human Rights Law Network, New Delhi, 2007).

<sup>23</sup> The Constitution of India, arts. 21, 48A, 51A(g).

serve as principles of governance and social policy. They have been interpreted judicially as belonging to the right to life in Article 21 and this has transformed the moral obligations to enforceable conflicts. The judiciary through progressive constitutional interpretation has turned these directive principles and duties into enforceable rights thus making it the main institutional tool by which environmental issues voiced by citizens and social movements can be given some legal recognition.

Environmental legislation in India is highly influenced by the mass movements and foreign pressures. The previous measures undertaken, such as Indian Forest Act of 1927 and the Wildlife (Protection) Act of 1972 were geared toward conservation through preservation of state resources. Nevertheless, the ecological catastrophes of the late twentieth century, especially the Bhopal Gas Tragedy of 1984, and the involvement of India in the Stockholm Conference in 1972 were the impetus to a series of inclusive environmental laws.

The central and state pollution control boards were established in the Water (Prevention and Control of Pollution) Act, 1974 and this was the first legislative action by India in response to pollute water by industry and city. The Air (Prevention and Control of Pollution) Act, 1981, that attempted to address the worsening air quality in the industrial regions, followed it. The act led to the adoption of legislation titled Environment (Protection) Act, 1986 (EPA) as envisaged in Article 253 to actualize the commitments which India made during the Stockholm Declaration. The Central Government was granted extensive powers over any form of pollution by the EPA and became the basis of the Hazardous Waste (Management and Handling) Rules, 1989, and the E-Waste (Management) Rules, 2016.<sup>24</sup> One new piece of legislation has been the establishment of the National Green Tribunal under the NGT Act 2010, which thus provides a specialized court where environmental adjudication can occur promptly.<sup>25</sup> As compared to the conventional court, NGT embraces both the judicial and scientific expertise, a common practice in environmental courts in Australia and New Zealand.<sup>26</sup>

Nevertheless, even though these laws provide a robust framework, researchers like Lavanya Rajamani and Shibani Ghosh have contended that the environmental law in India commonly has an issue of institutional fatigue, lacks of strength in implementation though it

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<sup>24</sup> The Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974).

<sup>25</sup> The National Green Tribunal Act, 2010 (Act 19 of 2010).

<sup>26</sup> George Pring and Catherine Pring, *Greening Justice: Creating and Improving Environmental Courts and Tribunals* (World Resources Institute, Washington D.C., 2009).

is robust in terms of provisions.<sup>27</sup> This gap of implementation is one of the most urgent issues in the sphere. The innovation of judicial rule making and environmental issues has been stimulated mostly due to the long-term social agitation and the failure of the regulation. Public interest litigation has allowed environmental grievances to be presented as constitutional claims, which has transformed collective environmental issues to be legally binding rights by extending access to justice in Indian courts. The courts have also broadened the scope of Article 21 that allows them to fit into the Article 21 the right to a clean and healthy environment. Actually, this “judicial green activism” was developed during 1980s and it has been shaping the environmental governance.

In *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, the Supreme Court ordered the closure of limestone quarries in the Mussoorie hills, acknowledging the ecological imbalance caused by mining.<sup>28</sup> The ruling was the first case of judicial intervention of the environment in India. In *M.C. Mehta v. Union of India*, the Court established the principle of absolute liability in Union of India (*Oleum Gas Leak Case*) which provided that industries are purely liable in case they cause harm to people due to dangerous operations.<sup>29</sup> In *Vellore Citizens Welfare Forum v. Union of India* later, the Court used the precautionary and polluter pays principles and incorporated them into the Indian law and harmonized its domestic jurisprudence with international environmental norms.<sup>30</sup> These rulings demonstrate how the reasoning of the judiciary has been imbibed with the normative expectations of environmental movements and international values, and how this serves to solidify the position of the judiciary as a third party between society and the State. The judges were more creative in cases such as *Subhash Kumar v. State of Bihar* where court specifically declared the right to a pollution-free environment as a fundamental right under the Article 21.<sup>31</sup> In *Indian Council for Enviro-Legal Action v. Union of India*, the Court declared that payment to victims by the polluters was insufficient instead it must be environmental restoration and therefore institutionalized the environmental restitution.<sup>32</sup>

The judiciary has recently stated the concept of intergenerational equity- that the current generation is in trust to the future generation regarding the environment. *T.N. Godavarman Thirumulpadv. Union of India*, the Court sustained mandamus resulted in a metamorphosis of

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<sup>27</sup>LavanyaRajamani and Shibani Ghosh, “From Stockholm to Paris: India’s Environmental Law and Policy” 8 *Indian Journal of Environmental Law* (2018).

<sup>28</sup>*Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, AIR 1985 SC 652.

<sup>29</sup>*M.C. Mehta v. Union of India*, AIR 1987 SC 965.

<sup>30</sup>*Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>31</sup>*Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

<sup>32</sup>*Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

the system of forest governance in India in the form of the Compensatory Afforestation Fund Management and Planning Authority (CAMPA).<sup>33</sup> The other contemporary and important change in Indian environmental law is the case of *M.K. Ranjitsinhv. Union of India* decree by the Supreme Court. Union of India, in which the Court clearly saw the negative effect of climate change on the fundamental rights under Article 21. In dealing with the endangered bird, the Great Indian Bustard, the Court stated that environmental and climate factors should be used to guide infrastructure and energy policies. It is interesting that the judgment incorporates biodiversity conservation, mitigation of climate change, and sustainable development into the constitution. Despite the fact that the Court subsequently revised its guidelines in order to balance the renewable energy needs with the ecological ones, the case exemplifies the changing character of judicial environmentalism, one that acts in response to the scientific evidence and activism issues but remains aware of the constraints of judicial governance.<sup>34</sup>

The judicial activism in the environment has also encouraged the setting up of environmental courts and green benches in several High Courts. Nevertheless, critics such as Upendra Baxi oppose judicial activism by claiming that although legislative gaps may be addressed through activism, it should not be used as an alternative to democratic deliberation.<sup>35</sup> Though there is progressive jurisprudence, several challenges still exist that facilitate the effective implementation of environmental laws. The decentralization of power among the different agencies such as MoEFCC, CPCB, and the State Boards, frequently leads to overlapping jurisdictions as well as inefficiency in regulation. Bureaucratic inertia, political interference and corruption has also been other factors that discourages good environmental governance.

Recent cases of the NGT like *Sterlite industries (Tamil Nadu) Ltd. v. Tamil Nadu pollution control board*, show that the courts tend to find a balance between the interests of industries and the health of people but also reveal a conflict between industrialization and environmental sustainability.<sup>36</sup> On the same note, such cases as *Pahwa Plastics Pvt. Ltd. v. Dastak*<sup>37</sup> NGO confirm that environmental norms should be followed before industrial growth. The changing legal jurisprudence in India on environment is taking dimensions of

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<sup>33</sup>*T.N. GodavarmanThirumulpadv. Union of India*, (2002) 10 SCC 606.

<sup>34</sup>*M.K. Ranjitsinhv. Union of India*, W.P. (C) No. 838 of 2019 (Supreme Court of India, decided on April 30, 2024).

<sup>35</sup>UpendraBaxi, “The Avatars of Judicial Activism: Explorations in the Geography of (In)Justice”, in B.N. Kirpal et al. (eds.), *Fifty Years of the Supreme Court of India* (Oxford University Press, New Delhi, 2000).

<sup>36</sup>*Sterlite Industries (Tamil Nadu) Ltd. v. Tamil Nadu Pollution Control Board*, (2019) 20 SCC 739.

<sup>37</sup>*Pahwa Plastics Pvt. Ltd. v. Dastak NGO*, (2021) 9 SCC 48.

climate change. The new finding by the Supreme Court in *In Re T.N. Godavarman Thirumulpad* was that the environmental clearances would have an element of climate consideration which shows that the judiciary is appreciating their responsibility towards climate globally.<sup>38</sup>

It is time that India ceases to engage in reactive governance of the environment and embark on anticipatory and participatory legislation to address the challenges. It is obviously rational that the thorough Climate Change Act should be developed after the pattern of the UK Climate Change Act, 2008, which makes the emission targets legally binding and the strategies towards adaptation.<sup>39</sup> Likewise, the creation of Environmental Courts that have the appellate powers in every state will make access to environmental justice easier. It is also suggested by some scholars that the EIAs should be supplemented with social impact and gender-sensitive models as women and the least privileged groups tend to be affected more by ecological degradation.<sup>40</sup> The other useful tool would consist of citizen suits where the individuals and the NGOs can directly enforce environmental commitments in order to democratize environmental governance in the same way models in Latin America and the Philippines were established.<sup>41</sup> In the end, it can be said that the legislative and judicial history of India is the history of the gradual synthesis of activism, law and ecological ethics. However, although the current framework provides a strong start, the real-life environmental justice needs institutional responsibility, community involvement and new changes which are in line with the requirement both to the Constitution and the sustainability demands on a global level.

#### **IV. Interplay between National Movements and International Conferences**

The environmental policy and legal reform of India has hence been formulated in a consistent dialogue between the grass root activism and the international environmental discourse. The domestic movements have been interrelated to the international environmental conferences and vice versa as both the global norms have influenced the Indian law-making and the international position adopted by India has been influenced by the Indian environmental

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<sup>38</sup> In *Re T.N. Godavarman Thirumulpad*, 2022 SCC OnLine SC 453.

<sup>39</sup> The Climate Change Act, 2008 (UK), c. 27.

<sup>40</sup> Sunita Narain, "Women, Environment and Development: Towards a Gendered Environmental Jurisprudence" *Centre for Science and Environment Journal* (2019).

<sup>41</sup> Maria Antonia Tigre, *Regional Environmental Law: Transnational Judicial Dialogues in Latin America* (Cambridge University Press, Cambridge, 2017).

movements themselves and has therefore provided moral legitimacy of the commitments made by India at the international level.

### **Stockholm Conference to Rio Declaration: The Birth of Environmental Consciousness**

India first engaged in the international environmental diplomacy at the United Nations Conference on the Human Environment (Stockholm, 1972) where Prime Minister, Indira Gandhi received the famous quote that poverty is the biggest polluter.<sup>42</sup> This assertion summarized the dilemma of development in India- whether to prioritize ecological conservation or to promote social and economic justice-and is until this day the foundation of the Indian environmental policy. Stockholm declaration did not only promote formation of the National Committee on Environmental Planning and Coordination (NCEPC) in 1972 but also led to the Water Act, 1974, the first comprehensive environmental law in India.<sup>43</sup> These international obligations subsequently received a constitutional codification in the judicial interpretation, especially where the juristical concerns utilized world environmental principles to broaden the Article 21 application.

### **The Rio Earth Summit and the Institutionalization of Sustainable Development**

The Earth Summit at Rio de Janeiro (1992) marked the shift of conservation to sustainable development. Based on the domestic experiences of the Silent Valley Movement and the Narmada Bachao Andolan among others, India delegation on the summit presented the case of a model of development where environmental justice will be used as a subset of the human rights. The policy architecture in India was to a large degree influenced by Rio Declaration and Agenda 21 that led to the creation of the Ministry of Environment and Forests (MoEF) and later policies on biodiversity, forest conservation, and environmental impact assessment.<sup>44</sup>

India later ratified the two conventions which were adopted at Rio i.e. the Convention on Biological Diversity and the UN Framework Convention on Climate Change. These agreements enhanced the use of domestic legislation in India resulting in the Biological Diversity Act, 2002, and the National Action Plan on Climate Change (NAPCC), 2008.<sup>45</sup>

### **Global Commitments and Domestic Translation**

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<sup>42</sup> United Nations Conference on the Human Environment, *Stockholm Declaration*, 1972, Principle 1.

<sup>43</sup> The Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974).

<sup>44</sup> United Nations Conference on Environment and Development, *Rio Declaration on Environment and Development*, 1992, Principle 10.

<sup>45</sup> Ministry of Environment and Forests, *National Action Plan on Climate Change* (Government of India, 2008).

Conferences that followed, such as Kyoto Protocol (1997) and Paris Agreement (2015) continued enabling the shaping of India legislative and policy priorities. There is an internal influence of the domestic movements that advocated distributive justice in environmental governance on the governmental adherence to the principles of CBDR and climate equity.<sup>46</sup>

As an example, the Narmada Bachao Andolan exposed India to the needless international attention over the development of mega-projects that caused displacement and environmental degradation, and this would later be replicated in the UN Declaration on the Rights of Indigenous Peoples (2007).<sup>47</sup> Equally, although the CRZ notification was based on international conventions of marine biodiversity conservation, it was also a reaction to the local opposition resistance to uncontrolled industrialization along the coasts in Kerala and Tamil Nadu.<sup>48</sup>

Such interaction exemplifies one aspect of Indian environmentalism: local activism may at once serve as a guide and a tool of politics in the negotiations at the international level. In fact, the climate diplomacy of India, particularly at the Conference in Paris, was powerfully based on the grassroots movements with the claims of the climate justice and the financial equity.

### **Modern Synergy and Future directions**

In more modern days, the position of India in the international forums like the Conference of Parties series has been influenced by locally made environmental litigation and young campaigners. Fridays forward Future India movement and the Let India breathe movement has put politicians on the path of more ambitious renewable energy agendas and high-air quality demands. The Indian initiative that is a part of the Paris platform translation of national innovation to global leadership is the International Solar Alliance (ISA, 2015).<sup>49</sup>

In the future, the institutionalization of this interplay could be made by a more formal incorporation of international treaty duties into the domestic law by either a Climate Change Act or a National Environmental Code. According to scholars such as Philippe Sands and LavanyaRajamani, it is such a two-way movement that the inherent nature of good

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<sup>46</sup> The United Nations Framework Convention on Climate Change, 1992, art. 3.

<sup>47</sup> The United Nations Declaration on the Rights of Indigenous Peoples, 2007, art. 26.

<sup>48</sup> Ministry of Environment, Forest and Climate Change, Coastal Regulation Zone Notification (2011, as amended in 2019).

<sup>49</sup> International Solar Alliance, Framework Agreement (Paris, 2015).

environmental governance in a country consists in: national law informed by global norms and local activity made human by international policy.<sup>50</sup>

Thus, the environmental process in India is a perfect example of a so-called glocal environmentalism where the role of the grassroots activism is not only to hold people responsible at home but also to formulate the Indian approach to morality and diplomacy overseas.

## V. Social Movement Theory and the Legal Mobilization

Indian environmental activism, acts as the key to the interplay between grassroots and institutional reform, whereby law and social movement develop a symbiotic relationship. Activism has over the decades developed to legal advocacy as opposed to moral protests, influencing societal awareness into legal enforceable standards of the environment. Nevertheless, the active interaction of the three components, namely activism, legislation, and judiciary also presents the structural constraints and emergent issues that should be further analyzed. The impact of the people movements on the Indian environmental law is historical and structural. Community management of the forests, through Chipko Movement (1973-74), in particular resulted in the enactment of the Forest Conservation Act, 1980, that centralized control in order to curb the indiscriminate deforestation.<sup>51</sup> Similarly the Silent Valley movement in Kerala (1978-85) brought national concern on the conservation of the biodiversity that resulted in the establishment of the Silent Valley National Park and the Wildlife (Protection) Act, 1972 amendment.<sup>52</sup> These examples demonstrate the fact that Indian environmental law is usually reactive-that is, it is produced under societal pressure instead of as a result of a proactive and planned policy. This trend has been termed by scholars as legislation by agitation- through which activism replaces institutional foresight. Though the democratization of law-making is achieved through this, the weakness of environmental governance that is based on crisis or protest as opposed to the long-term vision is revealed. It is worth mentioning that judicial activism has been a key part of this process because courts have seen themselves respond to the activist pressure by interpreting, applying, and augmenting the environmental law, which has not been actively planned out through legislation.

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<sup>50</sup> Philippe Sands and Lavanya Rajamani, *Principles of International Environmental Law* (Cambridge University Press, Cambridge, 2021).

<sup>51</sup> The Forest (Conservation) Act, 1980 (Act 69 of 1980).

<sup>52</sup> The Wildlife (Protection) Act, 1972 (Act 53 of 1972).

Indian environmentalism became a rights-based discourse through judicial activism. The judiciary virtual constitutionalization of environmental protection by expanding Article 21 to encompass under it the right to a clean and healthy environment. PILs made the courts accessible to the citizens and NGOs to practice participatory justice. The *M.C. Mehta v. Union of India* case was a landmark case in this area. Union of India (Taj Trapezium, Ganga Pollution, and Vehicular Emissions series) are examples of how activism may be extended by litigation.<sup>53</sup> Nevertheless, the court path is also something to worry about. Over-judicialization of governance and adjudication has created confusion, as the critics claim that the line between governance and adjudication has been crossed. Shibani Ghosh, an environmental lawyer, explains that even though judicial intervention can seal gaps in the regulation process, it is not always scientifically or long-term policy-coherent.<sup>54</sup> In addition, the judicial directions are not fully enforced-most of the path-breaking judgments have been partially or delayed on account of bureaucratic opposition and lack of inter-agency co-ordination.

Though there is the spirit of participation of environmental law, the burden of ecological responsibilities falls still on the marginalized groups-Adivasis, Dalits, and rural poor-to bear. Displacement of mega-projects like the Sardar Sarovar Dam is not the only example of how the development policy keeps perpetuating environmental injustice.<sup>55</sup> Although the globally recognized Narmada Bachao Andolan pointed on the conflict between national development discourse and localized rights, this was actually a kind of paradox, whereby activism cannot result in the creation of equitable resolutions but needs to be accompanied by structural empowerment of the communities affected. The feminist environmentalism that arose in India after being catalyzed by the protest led by women in Chipko led to the birth of the new notion of eco-feminism in which environmental degradation was attributed to patriarchal oppression. Nevertheless, implementation of gender sensitive legislations in the process of making environmental policies is still in its infancy. This gap would be bridged by incorporating gender and social impact analysis into the process of environmental clearance, which would render environmental governance in India in line with the UN SDGs 5 and 13.<sup>56</sup> Though judicial intervention has in some cases alleviated such injustices, courts are still limited by the access to procedural access, availability of evidence, and structural power imbalances that limit the ability of the marginalized groups to meaningfully intervene in the courts.

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<sup>53</sup>*M.C. Mehta v. Union of India*, AIR 1987 SC 965.

<sup>54</sup>Shibani Ghosh, "Judicial Activism and Environmental Governance in India" 6 *Environmental Law and Policy Review* 1 (2019).

<sup>55</sup>*Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664.

<sup>56</sup> United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development*, 2015, Goals 5 and 13.

The recent few decades have seen environmental activism shift away to the internet, in the form of networked environmentalism. Campaigns such as #LetIndiaBreathe, Fridays for Future India and the opposition to EIA 2020 Draft indicates that social media are more actively used to spread increased environmental dissent and allow pan-Indian participation.<sup>57</sup> The decentralized nature of the protests in the online arena has forced policy-makers to review their projects such as the Dibang Valley Hydropower Project and the Aarey Forest Metro Car Shed in Mumbai.<sup>58</sup> Nevertheless, this digital tsunami has also come with state questioning and limitations. Indeed, the dwindling environmental civil society in India is a question that is raised by many of the sedition charges or FIRs against the young climate activists.<sup>59</sup> Their dilemma, thus, lies in balancing security and Article 19(1)(a) of the constitution on environmental participation in terms of freedom of speech and expression. The judicial reaction to the issue of digital environmental activism will play a key role in resolving whether constitutional safeguards on speech, dissent, and environmental engagement are still relevant in an ever-politicized digital public space.

Further, Indian environmental activism is also undergoing a shift towards climate justice, which is a paradigm that draws a connection between environmental harm and socio-economic inequality. As India is haggling at her position in international climate negotiation tables, homegrown activists are using the CBDR principle to demand equal climate funding and technology transfer.<sup>60</sup> This is a connection between the local and the global which makes Indian activism stand out of Global North activism. Furthermore, initiatives like the International Solar Alliance (ISA) demonstrate how the Indian environmental diplomacy may transition to the defensive involvement to the active leadership.<sup>61</sup> The difficulty, however, is to incorporate these global aspirations into the work of local resilience building, which will not reproduce the inequalities in land and livelihood access using renewable energy transitions. Irrespective of this propagation of law and judgments, environmental protection is typified by the fatigue of implementation, overlapping of these regulations and institutional fragmentation in India. The gains of activism are usually nullified by poor enforcement using the Pollution Control Boards, lack of sufficient environmental data and political pressures.<sup>62</sup>

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<sup>57</sup> Fridays for Future India, "Campaign Statements", available at: <https://fridaysforfutureindia.org> (last visited on 30.12.2025).

<sup>58</sup> Ministry of Environment, Forest and Climate Change, Draft Environmental Impact Assessment Notification, 2020.

<sup>59</sup> "Climate Activists Face Criminal Charges for Online Campaigns" The Wire, 2021.

<sup>60</sup> The United Nations Framework Convention on Climate Change, 1992, art. 3.

<sup>61</sup> International Solar Alliance, 2015.

<sup>62</sup> Lavanya Rajamani, "India's Climate Policy: Challenges of Implementation" 50 Environmental Policy and Law 2 (2020).

To win over this, analysts suggest three radical measures:

1. Institutional Reform: Creation of independent environmental ombudsmen, empowerment of local governance through the 73rd and 74th Constitutional Amendments.
2. Legal Coherence: The proposal of the Law Commission of India to incorporate fragmented laws in one National Environmental Code.<sup>63</sup>
3. Participatory Governance: Making Citizen suits and Community surveillance institutional-inspired by the Latin American constitutional experiments in Colombia and Ecuador.<sup>64</sup>

Such reforms would transform occasional mobilization to institutionalized environmental citizenship whereby there would be democratic accountability as a way of guaranteeing sustainability.

## VI. Recommendations

The discussion of environmental activism and the resultant legal reform in India gives an idea of the emerging system which unites constitutional principles, judicial innovations and civic participation. However, consistent lapses in implementation and structural flaws demand radical reforms as opposed to gradual modification. To this effect, the following recommendation list proposes new legal and policy arrangements that can make sustainability institutionalized and environmental governance democratic and introduce India to the new global climate order.

### Establishing a National Environmental Ombudsman

Regrettably, India lacks an autonomous, quasi-legal institution to help in solving citizen complaints that are related to environmental offenses. A National Environmental Ombudsman, similar to those in Scandinavian states, can offer a time limited, low-cost solution to any person or community that has been the victim of pollution or ecological degradation.<sup>65</sup> This office would be independent of the government, which would further make accountability and transparency in the administration of the environment more effective. The review of the Ombudsman decision by a judiciary would be in line with the constitution in a way that would not limit its functional independence.

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<sup>63</sup> Law Commission of India, "Report on the Need for an Environmental Code for India" (2014).

<sup>64</sup> Maria Antonia Tigre, *Regional Environmental Law: Transnational Judicial Dialogues in Latin America* (Cambridge University Press, Cambridge, 2017).

<sup>65</sup> The Ombudsman for the Environment Act, 1995 (Sweden).

### **Passing of a Comprehensive Climate Change Act**

In contrast to the UK or New Zealand, India lacks a particular Climate Change Act that establishes nationally prescribed emission limits, adaptation obligations, and enforceable laws on the various industries.<sup>66</sup> Such a law must formalize the promises of India in the Paris Agreement 2015 and impose climate budgeting in all ministries.<sup>67</sup> This would enable an inter-ministerial coordination to be made legal and accountable on the climate policies at all governance levels.

### **Establishing" Environmental Courts with Appellate Powers" every State**

The NGT may be doing its work at a special level, but due to its centralization, it encourages the rural population to have limited access to justice. It would reduce the centralised environmental adjudication by placing environmental courts at the State level (or in the Philippines and Australia) and reduce case congestion. The same courts may incorporate scientific professionals to their ranks so that their decisions are technically viable.<sup>68</sup> These courts would formalize judicial environmental expertise in the state level and lessen overreliance on constitutional courts in the routine adjudication of environmental cases.

### **Introduction of "Citizen Suit Provisions" in the Environmental Law**

Currently, the environmental laws in India are based on administrative law. Environmental justice would be democratized through the inculcation of a citizen suit mechanism in which any person or non-governmental organization would have the right to directly file a case in case of environmental non-compliance.<sup>69</sup> The citizens of other countries like the United States under the Clean Air Act and Clean Water Act and Brazil under the empowerment of the citizens to be the environmental watchdogs. This reform will serve to add the meaning to Article 51A(g) on a constitutional level by altering the status of citizens as active protectors as opposed to passive beneficiaries.

### **Launching a Real-Time Environmental Monitoring "Green Data Mission"**

In India, data that is recent and disjointed is a significant challenge to environmental governance. The artificial intelligence, satellite mapping, and blockchain-based monitoring of

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<sup>66</sup> The Climate Change Act, 2008 (UK), c. 27.

<sup>67</sup> The United Nations Framework Convention on Climate Change, 1992, art. 4.

<sup>68</sup> George Pring and Catherine Pring, *Greening Justice: Creating and Improving Environmental Courts and Tribunals* (World Resources Institute, Washington D.C., 2009).

<sup>69</sup> Clean Air Act, 1970 (United States), s. 7604.

the Green Data Mission would yield to real-time monitoring of pollution indicating ecological indicators publicly.<sup>70</sup> This initiative would be based on the Copernicus Programme of the European Environment Agency which would make data-driven policymaking and citizen-led accountability. Such real time environmental data could enable courts and tribunals to reinforce evidence based adjudication and monitoring of compliance.

### **Introduction of Environmental Mediation and Restorative Justice Mechanism**

Restorative solutions are required instead of punitive sanctions in the cases of environmental disagreements. Environmental Mediation Centre should be developed at NGT and High Courts to promote negotiated settlement, eco-restoration as well as community involvement.<sup>71</sup> The New Zealand model would be in line with the resource management act, 1991, to reduce the burden of litigation and make it easy to have sustainable conflict management founded on reconciliation instead of revenge.

### **Setting up a “National Ecological Security Force”**

Because of increasing cases of illegal mining, deforestation and wild life trafficking, India can have a National Ecological Security Force: a special paramilitary organization trained in environmental law enforcement, forensic ecology, and biodiversity protection.<sup>72</sup> This shall be an original idea which combines both legal, scientific and security skills to help in a quick response of ecological crimes that cannot be addressed by conventional policing.

## **VIII. Conclusion**

In India, environmental activism has passed through the localized opposition tactics to dynamic processes that have molded the law and constitutional provisions in the country which govern environmental protection. This change is a manifestation of a unique pattern of environmental governmental structures where social movements, law, and courts interact with one another to respond to the ecological degradation and developmental related opposition. These three factors have not worked in isolation, but rather they have worked together in bringing about the formation of the importance of environmental protection as a fundamental constitutional issue on the basis of democratic participation and social justice.

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<sup>70</sup> European Environment Agency, “Copernicus Earth Observation Programme” (2019).

<sup>71</sup> Resource Management Act, 1991 (New Zealand).

<sup>72</sup> J. Gupta and L. Lebel, “Security and the Environment: Policy Synergies in the Anthropocene” 20 *Global Environmental Politics* 3 (2020).

The paper has shown that social movements have had a catalytic effect in the expression of environmental complaints and mobilization of the people consciousness and in many cases as a response to displacement, resource exploitation, and environmental degradation. These movements have not just affected the legislative action, they have also brought about judicial action, and in this regard, the courts have viewed the interpretation of environmental protection as part of the right to life as stipulated in Article 21 of the Constitution. Using the principles like sustainable development, the precautionary principle, polluter pays and the intergenerational equity, the judiciary has turned the environmental activism into a legal norm that is enforced, thus, being an institutional intermediary between civil society and the State.

Simultaneously, the Indian experience demonstrates that the court-based environmental governance is limited. Judicial redress has been frequently used to redress the inactivity of the legislature and the ineffectiveness of the administration; nonetheless, long-term environmental protection cannot be based on the episodic judicial activism. Good environmental governance entails consistent laws, functioning institutions, professional knowledge and proper involvement of the interested communities. The inability to close the implementation gaps, the fragmentation of the regulation, and the inequality in the environment highlight the necessity of the reforms that will go beyond the reactive adjudication to the anticipatory and participatory governance.

The environmental experience of India is therefore a wider constitutional experience where environmental protection does not just end up being a policy choice but a constitutional morality and an intergenerational accountability. The merger of law, judiciary and social movements has turned environmentalism into a living practice of democracy one that not only needs to become a stable system of sustainable governance based on equity, accountability and ecological morality. Finally, the future of the environmental justice in India lies in the maintenance of this synergy, so that the conscience of activism will be internalized in the law and be secured by a fair application of the principles of judicial involvement.