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The Judicial Construction of Environmental Rights in India: A Doctrinal Review of Constitutional Jurisprudence and Institutional Enforcement

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Abstract

In the absence of an express constitutional right to a healthy environment, the Indian judiciary constructed one over four decades through progressive interpretation of Article 21 of the Constitution, supplemented by an original body of common-law doctrine tailored to the country's developmental and industrial context. This paper offers a systematic doctrinal review of that jurisprudence, tracing its development from the expansion of the right to life in the Doon Valley litigation, through the absolute liability doctrine forged in the aftermath of the 1985 Oleum gas leak, the sustainable development framework and its constituent Polluter Pays and Precautionary Principles articulated in Vellore Citizens' Welfare Forum v. Union of India, the public trust doctrine recognised in M.C. Mehta v. Kamal Nath, and the institutionalisation of specialised environmental adjudication through the National Green Tribunal Act, 2010. The review situates this jurisprudence within the wider literature on judicial activism, environmental constitutionalism, and corporate accountability, drawing on David Boyd's comparative global study of constitutional environmental rights and on recent institutional assessments of the National Green Tribunal's disposal efficiency and enforcement capacity. The review finds that Indian courts have been unusually successful in supplying substantive doctrinal content to environmental protection through rights-based reasoning, but that this judicial achievement has consistently outpaced institutional capacity for implementation: enforcement gaps, compensation-calculation ambiguity, and an absence of centralised monitoring mechanisms recur across independent assessments of the National Green Tribunal, echoing the compensation and accountability shortfalls that marked the Bhopal litigation itself. The paper concludes that consolidating India's environmental rule of law now depends less on further doctrinal innovation than on closing this implementation gap through stronger monitoring institutions and clearer coordination between judicial and statutory mechanisms of environmental governance.

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1. Introduction

1.1 Background

The Constitution of India, adopted in 1950, contains no express fundamental right to a clean or healthy environment. Environmental protection appears only in the non-justiciable Directive Principles of State Policy, added by the Forty-second Amendment of 1976, which direct the State to protect and improve the environment (Article 48A) and impose a corresponding duty on citizens (Article 51A(g)). Despite this textual silence, India is today counted among the jurisdictions

with the most developed judicial environmental rights jurisprudence in the world, a development achieved almost entirely through interpretation rather than amendment. Beginning in the early 1980s, the Supreme Court read the guarantee of 'life' in Article 21 expansively to encompass a life of dignity, and from there to encompass the environmental conditions a life of dignity requires—a trajectory documented in comparative terms by Boyd's global study of environmental constitutionalism, which identifies India among a small cohort of states that adopted environmental

provisions in national law as early as the 1970s (Boyd). This judicial construction did not occur in a vacuum. It was driven by the liberalisation of standing rules that enabled public interest litigation, by the advocacy of a small number of individual litigants-most consequentially the lawyer M.C. Mehta, whose name attaches to the majority of the doctrines discussed in this review-and by a series of industrial disasters, most notably the 1984 Bhopal gas leak, that exposed the inadequacy of the ordinary law of tort to address harm on an industrial scale. The result is a body of doctrine that is distinctively Indian in its rights-based architecture even as it engages with, and in places surpasses, comparable common-law developments elsewhere.

1.2 Purpose and Scope of the Review

This paper undertakes a systematic doctrinal review of the constitutional and judge-made environmental jurisprudence of the Supreme Court of India, tracing five interlocking doctrinal strands:

1. The expansion of Article 21 to encompass environmental rights;
2. The absolute liability principle for hazardous industry;
3. The sustainable development framework and its constituent Polluter Pays and Precautionary Principles;
4. The public trust doctrine governing natural resources; and
5. The institutional response represented by the National Green Tribunal. The review further situates Indian doctrine comparatively, drawing on the wider literature on global environmental constitutionalism, and critically synthesises recurring findings in the institutional-effectiveness literature regarding the persistent gap between doctrinal ambition and enforcement capacity.

1.3 Review Methodology

The review follows a doctrinal legal research methodology supplemented by a structured survey of the secondary academic literature. Primary sources comprise the reported judgments of the Supreme Court of India and the National Green Tribunal identified as foundational in the secondary literature; secondary sources comprise peer-reviewed articles, law review commentary, and comparative legal scholarship identified through systematic search of legal databases and academic search engines. Sources were selected for inclusion where they (a) directly analysed one of the five doctrinal strands identified above, (b) offered an empirical or critical assessment of the National Green Tribunal's institutional performance, or (c) provided comparative or theoretical context for environmental constitutionalism. Priority was given to peer-reviewed journal articles and case commentary published in recognised law reviews; case law is cited to official or widely used neutral citations.

2. Constitutional Foundations: Article 21 and the Right to a Healthy Environment

2.1 From the Right to Life to the Right to Environment

The doctrinal starting point for Indian environmental jurisprudence is not an environmental case at all but *Maneka Gandhi v. Union of India*, in which the Supreme Court held that the right to life under Article 21 is not confined to mere animal existence but encompasses the right to live with human dignity, and that any procedure depriving a person of that right must be fair, just, and reasonable. This reading of Article 21 as an open-textured guarantee, capable of absorbing unenumerated rights, supplied the interpretive tool that later benches used to read environmental protection into

the provision. The first explicit environmental application came in *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh-the Doon Valley case*-in which the Court ordered the closure of limestone quarries causing large-scale ecological degradation in the Mussoorie hills, treating the case as one of first impression in balancing industrial activity against ecological preservation. The right was made explicit shortly after in *Subhash Kumar v. State of Bihar*, where the Court held directly that the right to life guaranteed by Article 21 includes the right to enjoyment of pollution-free water and air. A parallel foundation is *Municipal Council, Ratlam v. Vardhichand*, in which the Court held that a local authority's statutory duty to abate a public nuisance arising from open drains and sanitation failures was enforceable notwithstanding the authority's plea of financial incapacity, establishing early on that budgetary constraints do not excuse environmental and public health obligations (Article 21 and Environmental Rights in India: The Judicial Journey).

2.2 Directive Principles as Interpretive Reinforcement

Articles 48A and 51A(g), though not independently enforceable, have been consistently invoked by the Supreme Court as interpretive aids reinforcing the environmental content of Article 21, on the reasoning that a Directive Principle and a Fundamental Right should be read harmoniously rather than as isolated provisions. This interpretive technique-using non-justiciable directive principles to inform the substantive content of a justiciable fundamental right-recurs throughout the doctrines discussed below, and is a distinguishing structural feature of Indian environmental constitutionalism relative to jurisdictions that rely on a freestanding constitutional environmental right of the kind catalogued in Boyd's comparative study of over 100 national constitutions (Boyd).

3. The Absolute Liability Doctrine: M.C. Mehta and the Oleum Gas Leak

3.1 Facts and Holding

M.C. Mehta v. Union of India arose from a 1985 leak of oleum gas from a caustic chlorine plant operated by *Shriram Foods and Fertilizer Industries* in Delhi, which caused one death and injury to a number of residents in the surrounding area, and occurred while a related public interest petition concerning the same plant's environmental hazards was already pending before the Court. Rather than deciding the case on the pre-existing English rule of strict liability derived from *Rylands v. Fletcher*, Chief Justice Bhagwati, writing for a Constitution Bench, held that Indian courts were not bound to follow nineteenth-century English precedent that had developed for a substantially less hazardous industrial economy, and that the law had to evolve a new rule suited to India's own industrial and constitutional conditions (*Absolute Liability in India (M.C. Mehta vs. Union of India)*).

3.2 A Departure from *Rylands v. Fletcher*

The resulting doctrine of absolute liability holds that an enterprise engaged in a hazardous or inherently dangerous activity owes an absolute and non-delegable duty to the community to ensure that no harm results, and is absolutely liable for any harm that does result, without benefit of any of the exceptions available under the traditional strict liability rule-including the defences of an act of a third party, an act of God, or the claimant's own default. The doctrine's severity was deliberate: the Court reasoned that an enterprise profiting from a hazardous activity for its own commercial ends must

bear the social cost of that activity as an appurtenant of carrying it on, and that the measure of compensation must be correlated to the magnitude and capacity of the enterprise, so that it acts as a deterrent proportionate to the risk created (ENVIRONMENTAL JURISPRUDENCE UNVEILED: A CRITICAL ANALYSIS OF M.C. MEHTA V UNION OF INDIA). The judgment also grounded this liability constitutionally, treating the case not merely as a question of tort but as engaging the Article 21 rights of affected residents, thereby fusing private-law remedy with constitutional obligation in a manner without close parallel in comparable common-law jurisdictions (Absolute Liability in India (M.C. Mehta vs. Union of India)).

3.3 Reaffirmation and Consolidation

The absolute liability principle was reaffirmed in Indian Council for Enviro-Legal Action v. Union of India, concerning groundwater and soil contamination caused by chemical industries in Rajasthan, where the Court again applied the rule without qualification and directed the polluting industries to bear the cost of remedial measures. Contemporary commentary treats the Oleum Gas Leak case as the foundation of modern Indian environmental jurisprudence, credited with transforming environmental protection from a matter of ordinary tort and regulatory law into a constitutional obligation directly enforceable through Article 32 (MC Mehta Cases » Under Stand UPSC; MC Mehta Vs Union Of India: A Landmark In Environmental Jurisprudence). At the same time, commentators note that the doctrine's continuing relevance sits alongside a persistent implementation challenge: judicial articulation of a strict standard has not, on its own, been sufficient to prevent subsequent large-scale industrial harm, underscoring that doctrinal severity and institutional enforcement capacity are analytically distinct achievements (MC Mehta Cases » Under Stand UPSC).

4. Bhopal: The Limits of Corporate Accountability

4.1 The Disaster and the Litigation

On the night of 2–3 December 1984, a leak of approximately 40 tonnes of methyl isocyanate gas from a pesticide plant operated by Union Carbide India Limited, a subsidiary of the United States-based Union Carbide Corporation, killed several thousand residents of Bhopal in the immediate aftermath and caused chronic injury to several hundred thousand more, making it the world's worst industrial disaster (Bhopal Gas Tragedy: A Catastrophe That Changed the Face of Industrial Accountability; The Bhopal Gas Leak Case: Implications Of Absolute Liability And Corporate Accountability). The Government of India, acting under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, assumed the exclusive right to represent victims and pursued litigation against Union Carbide Corporation in both United States and Indian courts; the American courts declined jurisdiction on forum non conveniens grounds, returning the litigation to India (The Bhopal gas tragedy: a case study in industrial disaster and corporate accountability).

4.2 The Settlement and Its Critics

In Union Carbide Corporation v. Union of India, the Supreme Court approved an overall settlement of USD 470 million, terminating both the civil and criminal proceedings pending against the company. The settlement remains one of the most heavily criticised outcomes in Indian environmental law: victims and civil society groups were largely excluded from the negotiation, the compensation ultimately received by

individual claimants amounted to a few hundred dollars per person, and the site itself remains only partially remediated decades later, with subsequent efforts to hold Union Carbide's acquirer, Dow Chemical, accountable for residual contamination obstructed by arguments of corporate separateness (IHRB-Bhopal 40 years on: lessons for corporate accountability). Criminal proceedings against Union Carbide Corporation and its then chairman were never concluded because company officials did not appear before the Indian courts to answer the charges, and a domestic prosecution of former Union Carbide India Limited executives for criminal negligence, decided by a Bhopal magistrate only in 2010, was itself criticised as disproportionately lenient relative to the scale of harm (Union Carbide/Dow lawsuit; Bhopal Gas Tragedy: Unveiling Legal Complexities And Corporate Accountability).

4.3 Legacy for Corporate Liability Doctrine

Bhopal functions in the secondary literature less as an independent doctrinal source than as the empirical backdrop against which the absolute liability principle developed and continues to be assessed: the Oleum Gas Leak judgment itself was decided against the backdrop of Bhopal and is frequently read as the Court's doctrinal response to it (Paper published Bhopal gas case AMUCM LAW REVIEW 2025). Recent scholarship marking the fortieth anniversary of the disaster observes that while India has not since experienced an industrial accident of comparable scale—a fact plausibly connected, if not straightforwardly attributable, to the deterrent severity of absolute liability—the compensation and accountability failures of Bhopal itself were never fully cured, leaving a residual credibility gap between the ambition of Indian environmental doctrine and the lived experience of its most consequential test case (IHRB-Bhopal 40 years on: lessons for corporate accountability).

5. Sustainable Development as Balancing Doctrine: Vellore Citizens' Welfare Forum

5.1 Facts

Vellore Citizens' Welfare Forum v. Union of India concerned the discharge of untreated effluent by several hundred tanneries and other industries in Tamil Nadu into the Palar river and surrounding agricultural land, rendering local water supplies unfit for use and severely degrading soil quality in a region where leather processing was nonetheless a major source of export earnings and employment (Case Analysis: Vellore Citizens Welfare Forum v. Union of India-Legal Service India). The petition, filed as a public interest litigation under Article 32, squarely presented the Court with the tension between industrial development and environmental protection that later became the organising theme of the judgment.

5.2 The Polluter Pays Principle

The Court held that the Polluter Pays Principle, as it applies under Indian law, means that the absolute liability for harm to the environment extends not only to compensating the victims of pollution but also to bearing the cost of restoring the damaged environment, so that remediation of ecological degradation is itself treated as part of the process of sustainable development (Vellore Citizens Welfare Forum vs Union Of India-Indian Kanoon). The Court accordingly directed the constitution of authorities empowered to compute and collect compensation from the offending industries, to be deposited in an Environment Protection Fund used both to

compensate individual sufferers and to fund ecological restoration, with a specific monetary fine imposed on each tannery found to be in default (VELLORE CITIZENS WELFARE FORUM v. UNION OF INDIA, Supreme Court Registry document).

5.3 The Precautionary Principle

The Court further held that the Precautionary Principle requires that environmental measures anticipate, prevent, and address the causes of environmental degradation, and that where there is a threat of serious or irreversible damage, the absence of full scientific certainty must not be used as a reason to postpone preventive measures—reversing, in effect, the ordinary evidentiary presumption by placing the burden on the industry to show that its activity is environmentally benign rather than on the claimant to prove harm (Vellore Citizens Welfare Forum vs Union Of India-Indian Kanoon). Both principles were held to be part of the environmental law of the land and of customary international law, drawing explicitly on the Brundtland Report and the Rio Declaration on Environment and Development, and were derived as necessary incidents of the right to life under Article 21 read with Articles 47, 48A, and 51A (g) (VELLORE CITIZENS WELFARE FORUM VS UNION OF INDIA: CASE SUMMARY).

5.4 Reception in Subsequent Jurisprudence

Vellore is treated in the secondary literature as the doctrinal capstone of the sustainable development framework in Indian law, reconciling the developmental and preservationist strands of earlier case law by holding that economic development divorced from environmental protection cannot properly be called sustainable, and that the two goals must instead be pursued as a single balancing exercise rather than as competing priorities (Case Analysis: Vellore Citizens Welfare Forum v. Union of India-Legal Bites). Subsequent Supreme Court decisions addressing the same Palar river pollution, and a wide range of unrelated environmental litigation since 1996, routinely invoke Vellore as the source of the Polluter Pays and Precautionary Principles, cementing its place as one of the two or three most-cited judgments in Indian environmental law (Vellore Citizens' Welfare Forum v. Union of India-Law Article).

6. The Public Trust Doctrine: M.C. Mehta v. Kamal Nath and Beyond

6.1 Origins and Adoption in India

M.C. Mehta v. Kamal Nath concerned a motel built on the bank of the River Beas in Himachal Pradesh whose management, with the involvement of a company linked to the family of the sitting Union Minister of Environment and Forests, diverted the course of the river using earthmovers to protect and expand the property, a diversion that contributed to severe flood damage in the area (Public Trust Doctrine: M.C. Mehta v. Kamal Nath (1997)-Law Article). Justice Kuldeep Singh's judgment imported into Indian law the public trust doctrine associated with the American legal scholar Joseph L. Sax, holding that certain natural resources—air, sea, waters, and forests—are of such fundamental importance to the community as a whole that they cannot be the subject of private ownership, and that the State holds them in trust for the general public rather than for commercial exploitation (M. C. Mehta v. Kamal Nath-case summary). The doctrine was subsequently tied explicitly to Article 21 and to Articles 48A and 51A(g), and was reinforced in Th. Majra Singh v. Indian

Oil Corporation and M.I. Builders v. Radhey Shyam Sahu, the latter ordering demolition of a shopping complex unlawfully constructed on public parkland in Lucknow (Public trust doctrine in India-iPleaders).

6.2 Application in Natural Resource and Forest Litigation

The public trust doctrine's most extensive application has come through the long-running T.N. Godavarman Thirumulpad v. Union of India litigation, an omnibus proceeding on forest conservation that began in 1995 and has generated hundreds of interlocutory orders over three decades, including a 2025 judgment directing the nationwide transfer of revenue-held forest land and explicitly re-anchoring its reasoning in the public trust doctrine established by Kamal Nath (Godavarman 2025: Supreme Court Orders Nationwide Transfer of Revenue-Held Forests). Comparative legal scholarship situates the Indian public trust doctrine within a wider transnational lineage tracing to Roman and English law, while noting its distinctively expansive Indian application to encompass not merely tidal and navigable waters, as in much of its American and English usage, but forests and other ecologically significant land more broadly (Judicial Guardianship Of Natural Resources: A Comparative Study Of The Public Trust Doctrine In India And Beyond).

7. Institutionalising Environmental Justice: The National Green Tribunal

7.1 Legislative History and Institutional Design

The doctrinal achievements traced above were, for their first three decades, enforced almost entirely through the ordinary superior courts, which lacked specialised environmental or scientific expertise and were increasingly overwhelmed by the volume of environmental litigation generated by the very rights-expansion the courts themselves had driven. Two earlier legislative attempts at a specialised forum—the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997—proved largely ineffective and were eventually superseded by the National Green Tribunal Act, 2010, which established the National Green Tribunal (NGT) as a dedicated quasi-judicial body with original jurisdiction over substantial questions relating to the environment, empowered to apply the Polluter Pays and Precautionary Principles directly in adjudicating disputes ((PDF) National Green Tribunal and Environmental Justice in India). Commentators describe the NGT as only the third specialised environmental court of its kind in the world (Efficacy of the National Green Tribunal in Environmental Adjudication).

7.2 Documented Achievements

Empirical assessments of the NGT's early case law found that it settled a substantial volume of environmental disputes relatively efficiently by comparison with the ordinary court system, with particular impact in coastal zone management and forest conservation matters, and that its jurisprudence extended and applied the doctrines developed by the Supreme Court—including the precautionary principle, the polluter pays principle, and the public trust doctrine—to a wider range of everyday environmental disputes than the Supreme Court's own docket could accommodate ((PDF) National Green Tribunal and Environmental Justice in India). A 2025 mixed-methods evaluation combining quantitative analysis of case disposal rates with qualitative review of landmark NGT judgments similarly found significant achievements in disposal efficiency, innovative application of environmental

principles, and enhanced access to environmental justice relative to the ordinary court system (Efficacy of the National Green Tribunal in Environmental Adjudication).

7.3 Persistent Institutional Limitations

Against these achievements, a consistent body of independent scholarship identifies structural limitations that constrain the NGT's real-world environmental impact. Enforcement is repeatedly identified as the most significant weakness: the Tribunal's orders frequently go unimplemented because it lacks its own mechanism to compel compliance and must rely on executive agencies whose incentives are not always aligned with environmental enforcement, producing what one 2025 study terms a disconnect between judicial decision-making and implementation that limits the Tribunal's capacity to translate legal victories into actual environmental improvement (Efficacy of the National Green Tribunal in Environmental Adjudication). A related institutional assessment identifies the absence of a centralised monitoring mechanism for NGT orders, inconsistent and unclear methods for calculating environmental compensation, selective

enforcement action against violators, and inefficient utilisation of collected fines as recurring defects across recent environmental cases (Assessing Environmental Jurisprudence in India: An Analysis of the National Green Tribunal's Judicial Structure and Institutional Effectiveness). A further institutional review situates these enforcement gaps within a broader critique of India's environmental legislative framework, arguing that the NGT's effectiveness is limited not only by resource and design constraints internal to the Tribunal but by weaknesses in the underlying statutes it is charged with applying, overlapping jurisdiction among regulatory bodies, and fragmented coordination between the executive and the judiciary (Gaps in India's Environmental Legislative Framework).

8. Doctrinal Summary

Table 1 consolidates the five doctrinal strands reviewed above, mapping each landmark judgment to its year, its central holding, and the constitutional or statutory provision through which it was anchored.

Table 1: Landmark Doctrinal Developments in Indian Environmental Jurisprudence. Source: Compiled by the author from the case law and secondary sources cited in Sections 2–7.

Case/Instrument	Year	Doctrine Established	Constitutional Anchor
Maneka Gandhi v. Union of India	1978	Article 21 read as guaranteeing a life of dignity, not mere animal existence; opened Article 21 to unenumerated rights	Art. 21
Municipal Council, Ratlam v. Vardhichand	1980	Statutory sanitation duties enforceable despite municipal budgetary constraints	Art. 21 (indirect)
Rural Litigation & Entitlement Kendra v. State of U.P. (Doon Valley)	1985	First explicit balancing of industrial activity against ecological preservation; quarry closure ordered	Art. 21, 32
M.C. Mehta v. Union of India (Oleum Gas Leak)	1987	Absolute liability doctrine for hazardous industry; departure from Rylands v. Fletcher	Art. 21, 32
Subhash Kumar v. State of Bihar	1991	Explicit recognition of the right to pollution-free water and air under Art. 21	Art. 21
Indian Council for Enviro-Legal Action v. Union of India	1996	Reaffirmation of absolute liability; polluter directed to fund remediation	Art. 21, 32
M.C. Mehta v. Kamal Nath	1997	Public trust doctrine adopted; natural resources held in trust, not for private/commercial use	Art. 21, 48A, 51A(g)
Vellore Citizens' Welfare Forum v. Union of India	1996	Sustainable development framework; Polluter Pays and Precautionary Principles held part of Indian law	Art. 21, 47, 48A, 51A(g)
Union Carbide Corp. v. Union of India (Bhopal settlement)	1989/1991	Approved USD 470m settlement; exposed limits of compensation and corporate accountability mechanisms	Bhopal Gas Leak Disaster Act, 1985
T.N. Godavarman Thirumulpad v. Union of India	1995–ongoing	Public trust doctrine extended to forest land; nationwide monitoring of forest diversion	Art. 21, 48A
National Green Tribunal Act	2010	Specialised environmental tribunal empowered to apply Polluter Pays and Precautionary Principles directly	Statutory (Art. 21 principles applied)

Table 2 summarises the recurring findings of independent institutional assessments of the National Green Tribunal published between 2015 and 2025, illustrating the consistency

with which the enforcement gap identified in Section 7.3 recurs across methodologically distinct studies conducted a decade apart.

Table 2: Independent Institutional Assessments of the National Green Tribunal, 2015–2025. Source: Compiled by the author from the studies cited in Section 7.3.

Study	Method	Key Achievement Identified	Key Limitation Identified
National Green Tribunal and Environmental Justice in India	Qualitative case-law/document review, judgments 2010–2013	Efficient early settlement of disputes; extended precautionary and polluter-pays doctrine to routine cases	Institutional tensions; reliance on executive for implementation; jurisdictional overlap with constitutional courts
National Green Tribunal of India—an observation from environmental judgements	Review of statutes and landmark judgments	Reduced burden on ordinary courts; contribution to speedy environmental justice	Delays; resource limitations constraining Tribunal capacity
Efficacy of the National Green Tribunal in Environmental Adjudication (2025)	Mixed-methods: case disposal-rate analysis + qualitative review	High case disposal efficiency; innovative doctrinal application; improved access to justice	Enforcement challenges; jurisdictional ambiguities; disconnect between judgment and implementation

Assessing Environmental Jurisprudence in India: NGT Judicial Structure and Institutional Effectiveness (2023)	Analysis of recent environmental case outcomes	Doctrinal continuity with Supreme Court precedent	No centralised order-monitoring mechanism; unclear compensation calculation; selective enforcement; inefficient use of collected fines
Gaps in India's Environmental Legislative Framework (2025)	Doctrinal review of statutes and NGT decisions	Specialised forum for environmental disputes	Weaknesses in underlying statutes; overlapping regulatory mandates; fragmented executive-judiciary coordination

9. Comparative Perspective: India in Global Environmental Constitutionalism

Boyd's systematic comparative study of 193 national constitutions, together with the implementing laws and court decisions of more than one hundred countries, found that no national constitution contained an environmental rights provision as of 1972, and that India was among a small first wave of states-alongside Switzerland, Panama, Greece, Papua New Guinea, and Portugal-to introduce constitutional environmental duties between 1971 and 1976, a wave that in India's case took the form of the Forty-second Amendment's insertion of Articles 48A and 51A(g) (The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment-review). Boyd's broader empirical finding-that nations with constitutional environmental protection tend to exhibit stronger environmental laws, more robust enforcement, and greater government accountability than nations without such provisions-offers a useful external benchmark against which to assess the Indian trajectory (The Environmental Rights Revolution-UBC Press).

India's experience both confirms and complicates Boyd's general finding. On the confirming side, India's early constitutional gesture toward environmental protection catalysed, over the following decades, one of the most doctrinally rich bodies of environmental jurisprudence anywhere in the common-law world, achieved not through the direct application of Articles 48A and 51A(g)-which remain non-justiciable-but through their interpretive fusion with the justiciable guarantee of Article 21, a distinctively Indian technique for converting non-binding directive principles into substantive judicial doctrine. On the complicating side, the persistent enforcement gap documented in Section 7.3 suggests that Boyd's correlation between constitutional protection and stronger enforcement operates unevenly even within a single jurisdiction: India's courts have supplied doctrine of a sophistication that a purely rights-based constitutional text does not guarantee, while institutional enforcement of that doctrine-the dimension on which Boyd's cross-national data show the strongest correlation with constitutional protection-has lagged conspicuously behind, as the NGT literature surveyed in Table 2 consistently shows.

10. Critical Synthesis: Achievements, Tensions, and Unresolved Questions

10.1 Judicial Activism as Doctrinal Substitute for Legislative Design

A recurring theme across the sources reviewed is that Indian environmental doctrine developed substantially ahead of, and in the relative absence of, a comprehensive legislative environmental rights framework. The absolute liability principle, the sustainable development framework, and the public trust doctrine were each judge-made responses to specific factual crises-the Oleum leak, the Palar river tanneries, the Beas riverbank encroachment-rather than the implementation of a pre-existing statutory scheme. This pattern is consistent with the broader literature on judicial

activism in Indian environmental law, which credits Public Interest Litigation and progressive Article 21 interpretation with filling gaps left by weak enforcement of the ordinary environmental statutes (Judicial Activism and Environmental Jurisprudence in India). The doctrinal strength that results is also, however, a source of institutional fragility: doctrine created by courts to address a particular controversy does not automatically generate the administrative capacity-monitoring bodies, technical expertise, enforcement budgets-needed to apply it systematically, a gap the NGT was created specifically to close and which, on the evidence reviewed in Section 7.3, it has only partially closed.

10.2 The Enforcement Gap as the Central Unresolved Problem

The single most consistent finding across the institutional literature reviewed in this paper-spanning studies published in 2015, 2021, 2023, and 2025, and using qualitative, quantitative, and mixed methods-is that Indian environmental jurisprudence's principal weakness lies not in doctrinal content but in implementation. The absence of a centralised mechanism to monitor compliance with NGT orders, ambiguity in the calculation of environmental compensation, and reliance on executive agencies for enforcement recur as findings independent of the particular methodology used to reach them (Efficacy of the National Green Tribunal in Environmental Adjudication; Assessing Environmental Jurisprudence in India). The Bhopal litigation, decades earlier, exhibited the same pattern in an even starker form: a legal process capable of establishing liability in principle but structurally unable to deliver commensurate compensation or accountability in practice (IHRB-Bhopal 40 years on). Read together, these findings suggest that the central unresolved problem in Indian environmental law is not doctrinal but institutional-a conclusion with direct relevance for policy design, since it implies that further judicial innovation is likely to yield diminishing returns relative to investment in monitoring infrastructure, inter-agency coordination, and enforcement capacity.

10.3 Toward Judicial-Statutory Coordination

A further tension identified in the literature concerns jurisdictional overlap between the National Green Tribunal and the constitutional courts, and between the Tribunal and sector-specific regulatory bodies operating under statutes such as the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986 (Gaps in India's Environmental Legislative Framework). Resolving this overlap-through clearer statutory delineation of the NGT's exclusive jurisdiction, strengthened powers of direct enforcement, and formal coordination mechanisms linking the Tribunal to the regulatory agencies whose cooperation its orders currently depend upon-emerges from this review as the most concrete institutional reform implied by the accumulated case-study evidence, distinct from and additional to any further doctrinal development of the underlying constitutional principles.

Conclusion

This review has traced the construction of environmental rights in India through five interlocking judicial doctrines-the expansion of Article 21, absolute liability, the sustainable development framework with its Polluter Pays and Precautionary Principles, the public trust doctrine, and the specialised institutional response of the National Green Tribunal-each developed substantially through judicial interpretation rather than legislative design. Measured against Boyd's comparative finding that constitutional environmental protection correlates with stronger enforcement and greater accountability, India presents a genuinely distinctive case: a jurisdiction whose courts constructed one of the world's more doctrinally elaborate environmental rights frameworks from a constitutional text that does not expressly contain one, while the institutional infrastructure needed to enforce that framework-most visibly the National Green Tribunal-has continued to exhibit, across independent assessments spanning a full decade, the same enforcement, monitoring, and compensation-calculation weaknesses first exposed by the Bhopal litigation of the 1980s. The doctrinal achievement reviewed in Sections 2 through 6 of this paper is real and, in comparative terms, unusual; the implementation gap documented in Section 7 and synthesised in Section 10 is equally real, and on the evidence surveyed here, has proven considerably harder to close. Future reform of Indian environmental governance is therefore likely to depend less on further judicial innovation-the doctrinal architecture is, on the evidence reviewed, already substantially in place-than on strengthening the institutional and administrative capacity required to give that architecture practical effect.

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