

Role of Indian Judiciary in Strengthening Environmental Laws and Rights

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ABSTRACT

In India, environmental legislation has evolved significantly throughout the past 20 years. During this time, the majority of the guiding concepts for environmental law in India were established. The Indian judiciary, especially the High Courts and the Supreme Court, has been instrumental in shaping the legislation in this field. The Indian parliament has, without a doubt, passed a slew of environmental protection and preservation statutes. The concerns of environmental contamination, however, were not regulated since the constitutional and legislative restrictions were not applied or implemented effectively. As a result, the judicial branch had to take decisive action to prevent further environmental degradation.

Keywords: Judiciary, Constitution, Environment, Legislative, Pollution.

I. INTRODUCTION

"This cosmos was made by a higher power and is here for everyone's benefit. So, every species needs to understand that they are interdependent and contribute to the whole, and that no one species has the right to infringe on the rights of another." Upanishad Isho

The Constitution of India is a dynamic social constitution that went into effect on January 26, 1950. Despite the fact that the word "environment" did not appear anywhere in our founding document, it did include provisions that directly affected environmental protection, such as those pertaining to public health, the modernization and scientific organization of agriculture and animal husbandry, and the preservation of natural monuments from spoliation and disfigurement.

The environmental deterioration and eco-imbalances were expressed by the then-prime minister, Mrs. Indira Gandhi, during the 1972 Stockholm Conference. There needs to be an integrated strategy to address pollution, population, and poverty, she added, because they are interconnected issues. Among the nations that joined the Stockholm Declaration—also called the Magna Carta on Human Ecology—was India. Following the recommendations made at the Stockholm conference, the Indian parliament approved the 42nd amendment to the constitution in 1976, which included two articles specifically dealing with environmental protection and improvement.

Under this amendment, both the "State" and the "Citizens" of India are obligated to "Protect and Improve" the environment. Swachh Bharat Abhiyan, Clean Ganga Mission, National Air Quality Index (NAQI), Toilets before Temples, Mount Everest Ascent, and Water Conservation are just a few of the initiatives that our present prime minister, Mr. Narendra Modi, has launched to preserve India's verdant landscape.

Before the 42nd Amendment

No particular provision addressing the environment was included in the grundnorm at that time. It was only Article 47 of the Directive Principles of State Policy, which aimed to improve people's diet and living conditions that had any real impact. In the preamble, which serves as a window into the thinking of the framers, we can see that environmental protection was a fundamental issue for them throughout the time they were writing the constitution. An individual's dignity is guaranteed under a socialist democratic republic, among other things. According to the preamble of our Constitution, our nation is founded on a "Socialistic" form of society, in which the state prioritizes societal issues over personal ones. One of the most pressing issues facing modern society is pollution, which has the potential to degrade the quality of life for all citizens. As a result, the state has a responsibility to address this pressing matter in order to achieve socialism's fundamental goal. Government policies are crucial to the effectiveness of environmental programs, and individuals should be able to access and know about them.

After the 42nd Amendment

The State Government is obligated to preserve and develop the environment, as well as the country's forests and animals, according to the 42nd Amendment to the Constitution, which was passed in 1974. The second part, which is part of the Fundamental Duties, states that every person has an inherent responsibility to preserve and enhance the natural environment, which includes woods, lakes, rivers, and animals, and to show kindness to all forms of life. When a matter involving ecology is presented before the court for decision-making, it is required to have Article 51A (g) in mind, according to the Supreme Court's ruling in *Sachidanand Pandey v. State of West Bengal*.

The right to life and individual liberty is guaranteed under Article 21 of the Indian constitution. Here it is: "no person shall be deprived of his life or personal liberty except according to procedure established by law." There is no explicit guarantee of a clean, healthy, and pollution-free environment in the Constitution. However, judicial activism has filled this gap, and it is now a basic right under Article 21 of the Constitution. Article 21 of the Constitution does not limit the definition of life to the physiological process of breathing. It is not a metaphor for life as an animal. Its scope is far broader, encompassing not only the right to an environment free of pollution but also the right to a dignified life, a means of subsistence, good health, etc. It stands alone among the Constitutional provisions that have been broadly construed. There are several seminal decisions in judicial history that established environmental jurisprudence and dealt with the fact that the right to life encompasses more than just the ability to breathe and move. When it comes to protecting the environment, the judiciary is crucial. Public interest litigation, sometimes known as social interest litigation or contemporary or new jurisprudence, or the "Jurisprudence of Masses," is one of the most important

innovations in India's judicial system. Article 20, Article 47, Article 32 (Right to Constitutional Remedies), and Article 226 (Power of High Courts to issue certain writs) of the Indian Constitution provide for the High Courts to entertain writ petitions in the form of PILs. The 42nd Constitution Amendment Act of 1974, which established Article 39-A to provide free and equal legal assistance and equal justice in India, gave PILs constitutional backing.

II. ENVIRONMENTAL LAWS IN INDIA

There are a number of constitutional provisions, legislative measures, and judicial interventions in India that assist environmental preservation. Environmental ideals are enshrined in the Indian Constitution, which lays the groundwork for environmental legislation and provides a framework for governance and individual accountability.

"Attempt to protect and improve the environment and to safeguard the forests and wildlife of the country" is what the state is directed to do according to Article 48-A of the 1976 Constitution, which was included as part of the Directive Principles of State Policy. In addition, Article 51-A(g) establishes that every person has an inherent responsibility "to preserve and enhance the natural environment, including woodlands, lakes, rivers, and wildlife.". Both the government and citizens have an obligation to make environmental protection a top priority, and these regulations make that clear.

One major piece of legislation passed in the wake of the Bhopal Gas Tragedy was the Environment Protection Act of 1986. By setting regulations for emissions and discharges, managing hazardous chemicals, and coordinating environmental programs, this Act gives the federal government the authority to do everything that is needed to safeguard and enhance the environment. The Act lays up the groundwork for regulating pollution, creating pollution control authorities, and protecting the environment in different industries.

A pioneering statute in India's effort to reduce water pollution was the Water (Prevention and Control of Pollution) Act, 1974. To oversee, prevent, and regulate water contamination, this Act authorizes the creation of Pollution Control Boards at the federal and state levels. In response, in 1981, lawmakers passed the Air (Prevention and Control of Pollution) Act to rein in air pollution. The law included measures to establish minimum standards for air quality and punish those responsible for lowering them. When taken as a whole, these Acts represent a giant leap forward in India's fight against pollution.

Afforestation and the restriction of destruction of forest lands are the goals of the Forest Conservation Act, 1980. The law ensures that deforestation is carefully considered before being authorized by prohibiting the diversion of forest land for non-forest uses without the prior consent of the central government. In a similar vein, the Wildlife Protection Act of 1972 seeks to preserve ecosystems and endangered species by providing extensive safeguards for wildlife, including the creation of protected areas like national parks and wildlife sanctuaries.

In addition to these fundamental statutes, India's environmental framework is being strengthened by further legislative initiatives and changes. To give just two examples, the Hazardous Waste Management Rules establish guidelines for the safe handling and disposal of hazardous materials, and the National Green Tribunal Act, 2010 was amended to strengthen the role of the court in resolving environmental litigation. In light of the difficulties posed by economic growth and urbanization, these laws demonstrate India's will to protect its natural resources.

III. CONSTITUTIONAL PERSPECTIVE OF ENVIRONMENTAL PROTECTION

Among the world's constitutions, the Indian one is unusual in that it includes environmental protection measures. Environmental protection and improvement are responsibilities of both the "State" and "Citizens" according to this law. A safe and healthy environment is now a cornerstone of human rights, according to the language of interpretation in the courts. The right to exist, as outlined in Article 21 of the Constitution, now includes this as a fundamental component. Environmental protection-related instructions, orders, or writs may be issued by either the Supreme Court (Article 32) or the High Courts (Article 226).

Using these constitutional provisions extensively, the Indian judiciary has established a new body of law known as "environmental jurisprudence" of India. Importantly, the majority of environmental cases have been brought to the attention of the judiciary through "Public Interest Litigation." As part of its efforts to establish new environmental law, the Supreme Court has ruled that its powers under Article 32 are unrestricted, meaning that it can grant damages in public interest litigation or writ petitions in cases where pollution has caused harm to the environment. The offender may be required to pay exemplary damages in addition to damages in order to discourage others from engaging in polluting behavior. The Supreme Court's "Polluter Pays Principle" approach has led to exemplary damages being levied against multinational corporations like Pepsi and Coca-Cola for their role in polluting the ecosystem in Himachal Pradesh and Jammu & Kashmir through the application of rock-painting advertisements. The court has also ordered the companies to remove the ads without adding to the pollution.

IV. INTERNATIONAL PERSPECTIVES OF ENVIRONMENTAL PROTECTION

International efforts to safeguard the environment and promote sustainable development were formally codified in the 1972 United Nations Conference on Human Environment and Development in Stockholm. For the first time ever, people from all around the globe gathered to discuss environmental preservation and long-term sustainability in a formal setting. The "Stockholm Declaration on the Human Environment" was a product of this meeting. Global economic growth and human prosperity are both impacted by the pressing need to preserve and enhance the human environment. The 1987 report of the World Commission on Environment and Development did double duty: it gave a boost to sustainable development and highlighted universal human concerns, global challenges, and the necessity of collective action to achieve environmental, social, and security goals. The Earth Summit in Rio de Janeiro in 1992 solidified the idea of sustainable development and environmental preservation through the Rio Declaration and Agenda 21. The industrialized world, in particular, has a disproportionate share of the world's greenhouse gas emissions, yet all participating nations, at the 1997 World Climate Conference in Kyoto, Japan, signed a historic pact committing them to reduce their emissions.

In 2002, the World Summit on Sustainable Development took place in Johannesburg, South Africa, once again reiterating their dedication to sustainable development and the need of creating a global community that is compassionate, fair, and understanding of the importance of every person's dignity. At its third international meeting, the United Nations meeting on Sustainable Development (UNCSD) sought to bring together economic and environmental objectives from across the world. It was also known as Rio 2012 or Earth Summit 2012.

V. ROLE OF INDIAN JUDICIARY IN ENVIRONMENT PROTECTION

The Indian court has been a powerful force in protecting the environment, bringing severe penalties against individuals, organizations, and states that are responsible for environmental degradation and pollution. It is a basic human right for every individual to enjoy good health throughout his or her lifetime. One of the most fundamental human rights is the right to an environment free of pollution, where one may have clean water and air to breathe. Another major body contributing to environmental preservation is the National Green Tribunal. The Indian judiciary has ruled on several matters pertaining to environmental preservation, sustainable development, and new life forms. Following is a quick discussion of a few examples:

At issue in the case of *M.C. Mehta v. Union of India* was a public interest petition that aimed to persuade the government to do the following: make environmental education a mandatory subject in schools and colleges; disseminate relevant and useful information about the environment in national and regional languages through television and radio in both ongoing and one-off programs; and display free environmental informational slides in movie theaters. Recognizing that it is the government's duty to keep the people informed, the Supreme Court granted the petition's preliminary approval and issued directives thus. In the public sphere, environmental consciousness is essential.

The Supreme Court of India ruled in the case of *M.C. Mehta v. Union of India* that conventional gas-powered buses must be replaced by compressed natural gas (CNG) buses in order to safeguard the health of current and future generations as well as the environment. The court ruled that compressed natural gas (CNG) buses should be phased out in favor of cleaner, safer transportation options for future generations.

The Supreme Court ruled in the case of *A.P. Pollution Control Board v. Prof. M.V. Nayudu* that a state cannot create an exception for a particular sector that is already situated in or trying to establish itself in an area where there is a complete ban on industrialization. Additionally, the state cannot instruct the State Pollution Control Board to set requirements for the issuance of No Objection Certificates.

In the case of *Goa Foundation v. State of Goa*, the court ruled that a land lease in a forest area could not be enforced because it would lead to dust and water pollution, the cutting down of neighboring trees, and other negative effects on the local ecology, ecology, and people's right to lives.

According to the court's ruling in *Bihar State Pollution Control Board v. Hhiranand Stone Works*, the Board is not prohibited from using its authority under the Air Act or the Water Act if the federal government has warned specific industries of potential danger but has not named stone crushers among them.

The case of *Ajay Constructions v. Kakateeya Nagar Cooperative Housing Society Ltd* established that anybody working on a building site, especially one with multiple stories, has an absolute responsibility to ensure that their drainage system does not cause any nuisance by releasing effluents.

At issue in the case of *Mathew Lukose v. Kerala State Pollution Control Board* was the operation of Travancore Electro Chemicals Industries inside the respective state. In huge amounts, it was producing calcium carbide and acetylene black. The board said that the industry was damaging the

air quality for the people of Chingavanam, which in turn was creating respiratory illnesses, and that the industry was breaking its own rules and regulations. Because operational units' chimneys released carbon dioxide and sulfur dioxide into the air, the board further claimed that the industry had inadequate controls over emissions. Companies have been given three months by the Supreme Court to meet the standards set by the Board, after interpreting Article 21 as a right to a healthy environment. Furthermore, the Board has ordered the industry's shutdown in the event that it is unable to fulfill these standards.

Manufacturing pharmaceuticals in a residential neighborhood with a boiler that emits smoke is harmful to the public's physical comfort and health, according to *Krishna Gopal v. State of Uttar Pradesh*. Here, the SDM's order to remove the factory was lawful. The medications posed a threat to the public's health and safety since they might easily leak from storage tanks, cylinders, or any other point in the manufacturing process, endangering the lives of those in the vicinity. So as to finally put a stop to it, the Food and Fertilizer Industries were subject to strict requirements that would allow them to continue producing food under such circumstances.

While the Supreme Court in the case of *M.C. Mehta v. Union of India* (1992) Supp 2 SCC 85-86: (1992) 3 SCC 256-257) ordered the Haryana authorities to allot alternate sites in a new crushing zone located at a suitable place from the capital, the Delhi stone-crushing case brought the issue of air pollution back into the spotlight. In accordance with the Supreme Court's directive, the Haryana government moved the site from Delhi to these quarries. In the case of *Ishwar Singh v. State of Haryana*, a public interest litigation petition was filed with the Punjab and Haryana High Court, seeking to relocate stone crushing companies in order to mitigate health risks. In a move that follows the Supreme Court's ruling in *M.C. Mehta v. Union of India*, the court ordered the Haryana state government to shut down certain enterprises and relocate them to certain zones.

VI. CONCLUSION

The right to a safe and healthy environment is a cornerstone of the right to life, as stated in Article 21, and the Indian court has played a significant role in upholding this right. The judicial system has promoted environmental justice and punished those responsible for environmental violations through its proactive interventions in the law. But we must all pull together if we want to see sustainability in the long run. Keeping the environment under check requires concerted effort from the public, government agencies, lawyers, and judges. We may get closer to our goal of a cleaner, healthier environment if we fight to strengthen legislative frameworks, raise public awareness, and encourage international collaboration. Integrating environmental preservation with the nation's developmental aspirations requires a coordinated strategy.

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