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PIL AND ENVIRONMENTAL ISSUES

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Abstract:

With the increasing use of PILs for environmental matters, the judiciary in India has played an important role in shaping environmental jurisprudence in the country, emerging as a guardian of environmental protection. While discussing the constitutional provisions, the Court has expanded the right to a clean environment as a fundamental right, enforceable under the Indian Constitution. The judiciary's interventions have not only led to the enforcement regulations but have also contributed to the development of new legal principles that prioritize environmental sustainability. This paper examines the Supreme Court's contributions to environmental protection through Public Interest Litigation (PIL), its interpretation of constitutional provisions, and the establishment of doctrines that balance development with ecological sustainability. It also discusses the challenges of enforcement, judicial overreach, and the need for comprehensive environmental legislation. The paper underscores the Court's role in fostering sustainable development while highlighting the gaps between judicial pronouncements and their practical implementation.

Keywords: Activism Activism, Public interest litigation, Pollution , Climate, Role

Introduction:

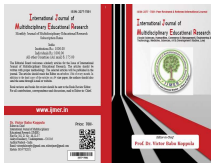
The judiciary, particularly the Supreme Court of India, has stepped into this arena, addressing environmental issues through proactive judicial activism. The Court has interpreted the Constitution expansively, recognizing the right to a clean environment as an integral part of the fundamental right to life under Article 21. This paper explores judiciary's role especially the Supreme Court's role in environmental protection, focusing on its landmark judgments, the development of environmental principles, and the use of Public Interest Litigation (PIL) as a tool for environmental justice. It also evaluates the Supreme Court's efforts to balance economic development with environmental sustainability, the challenges of enforcement, and the need for legislative support to complement judicial efforts. The Indian Constitution provides a robust framework for environmental protection, primarily through the following provisions:¹

Art-14: Ensures equality before the law, which the Court has extended to address environmental inequalities, such as disproportionate pollution impacts on marginalized communities.

Art-21: Guarantees the right to life and personal liberty, which the Supreme Court has interpreted to include the right to a clean and healthy environment.

Art-48A: A Directive Principle of State Policy, directing the State to protect and improve the environment and safeguard forests and wildlife.

Art-51A(g): Imposes a fundamental duty on citizens to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures. Although Articles 48A and 51A(g) are not directly enforceable, the Supreme Court has creatively read them in conjunction with fundamental rights to create enforceable environmental obligations. This harmonious interpretation has been instrumental in recognizing environmental rights as justiciable.



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PIL and Environmental Protection:

The liberalization of the *locus-standi* principle through PIL has been a game-changer in environmental jurisprudence. By allowing public-spirited individuals, NGOs, and organizations to file petitions on behalf of affected communities, the Supreme Court has democratized access to justice. PIL has enabled the Court to address systemic environmental issues, such as industrial pollution, deforestation, and urban mismanagement, which might otherwise have gone unaddressed due to the lack of direct stakeholders with the resources to litigate.

In *Rural Litigation and Entitlement Kendra Vs State of Uttar Pradesh* case² known as the Dehradun Valley Litigation, this was one of the first environmental PILs in India. The Court addressed illegal limestone quarrying in the Mussoorie hills, which caused ecological damage and health hazards. It ordered the closure of several mines and established a monitoring committee to ensure compliance, emphasizing the need to balance mining activities with ecological preservation. A series of cases filed by environmentalist M.C. Mehta addressed issues such as Ganga River pollution, vehicular emissions in Delhi, and industrial hazards. The Court's interventions led to stricter pollution control measures and the establishment of Green Benches for expeditious resolution of environmental cases.

PIL has empowered marginalized communities, who often bear the brunt of environmental degradation, to seek judicial remedies. However, the Court has cautioned against the misuse of PIL, emphasizing that petitions must be bona fide and not motivated by personal or vested interests.

Landmark Judgments:

The Supreme Court has developed several key principles and doctrines through its judgments, significantly shaping India's environmental jurisprudence. Below are some landmark cases and the principles they established:

1. Absolute Liability Doctrine:

In *M.C. Mehta Vs Union of India (1987)* (Shriram Gas Leak Case),³ the Supreme Court introduced the doctrine of Absolute Liability, holding that enterprises engaged in hazardous or inherently dangerous activities are strictly liable for any harm caused, without exceptions. This was a departure from the strict liability principle laid down in *Rylands Vs Fletcher (1868)*, which allowed certain defenses. The Court ruled that such enterprises must compensate all affected parties, regardless of fault, to ensure accountability for environmental harm.

2. Polluter Pays Principle:

In *Vellore Citizens Welfare Forum Vs Union of India (1996)*,⁴ the Supreme Court recognized the Polluter Pays Principle as an essential feature of sustainable development. The case involved pollution of the Palar River by tanneries in Tamil Nadu, rendering agricultural land unfit and contaminating drinking water. The Court ordered the tanneries to pay for environmental restoration and imposed a fine, reinforcing that polluters must bear the cost of remedying environmental damage.

3. Precautionary Principle:

The same case (Vellore Citizens Welfare Forum) also articulated the Precautionary Principle, which mandates that:

(a) Environmental measures must anticipate, prevent, and address the causes of environmental degradation.

(b) Lack of scientific certainty should not delay preventive measures.

(c) The burden of proof lies with the entity proposing an action to demonstrate its environmental benignity.



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(d) This principle has guided subsequent judicial decisions, ensuring proactive measures to prevent irreversible environmental harm.

4. Public Trust Doctrine:

In *M.C. Mehta Vs Kamal Nath (1997)*⁵, the Supreme Court adopted the Public Trust Doctrine, holding that certain natural resources, such as air, water, and forests, are held by the State in trust for the public. The Court ruled that the State cannot permit their exploitation for private gain at the expense of public interest. In this case, a motel diverting the Beas River for commercial purposes was ordered to restore the environment, reinforcing the State's role as a trustee of natural resources.

5. Right to a Healthy Environment:

In *Virender Gaur Vs State of Haryana (1995)*⁶, the Supreme Court explicitly recognized the right to a clean and healthy environment as part of Article 21. The Court held that environmental protection is not only the State's duty but also a citizen's obligation, reinforcing the interplay between fundamental rights and duties.

6. Climate Change as a Fundamental Right:

In *M.K. Ranjitsinh Vs Union of India (2024)*⁷, the Supreme Court made a groundbreaking ruling, recognizing the right to be free from the adverse effects of climate change as a fundamental right under Articles 14 and 21. The case concerned the protection of the Great Indian Bustard (GIB), an endangered species affected by solar power transmission lines. The Court balanced biodiversity conservation with renewable energy development, acknowledging that climate change disproportionately impacts vulnerable communities and linking it to the right to equality and life.

Judicial Activism and Sustainable Development:

The Supreme Court's embrace of sustainable development as a guiding principle reflects its commitment to balancing economic growth with environmental preservation. The concept, rooted in the 1972 Stockholm Declaration and reinforced by the 1992 Rio Declaration, emphasizes meeting present needs without compromising future generations' ability to meet theirs. The Court has integrated sustainable development into its rulings, as seen in cases like *Bombay Dyeing & Mfg. Co. Ltd. Vs Bombay Environmental Action Group (2006)*⁸, where it upheld inter-generational equity, ensuring that current resource use does not deprive future generations.

The Court has also promoted sustainable urban planning. In *Municipal Council, Ratlam Vs Vardichand (1980)*⁹, it ordered the municipality to provide sanitation facilities, holding that a pollution-free environment is integral to the right to life under Article 21. Similarly, in *T.N. Godavarman Thirumulpad Vs Union of India (1996)*¹⁰, the Court expanded the definition of "forest" to include all green expanses, regardless of ownership, to curb deforestation and promote conservation. Recognizing the complexity of environmental cases, the Supreme Court has advocated for specialized environmental courts. In *M.C. Mehta Vs Union of India (1986)*, it recommended the creation of Green Benches in High Courts to handle environmental matters expeditiously. This led to the establishment of the National Green Tribunal (NGT) in 2010 under the National Green Tribunal Act¹¹, which has become a critical forum for resolving environmental disputes. The NGT combines judicial and scientific expertise, addressing technical aspects of environmental issues and complementing the Supreme Court's efforts.

The Supreme Court's recent rulings reflect its evolving approach to environmental challenges, particularly in the context of climate change. In *Gene Campaign Vs Union of India (2024)*¹², the Court delivered a split verdict on the environmental release of genetically modified (GM) mustard (DMH-11). It emphasized the precautionary principle, directing the



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government to consult stakeholders and ensure GM crops do not harm indigenous species or public health. This case underscores the Court's role in addressing emerging environmental issues like biotechnology.

The Court's recognition of the right to be free from climate change's adverse effects in *M.K. Ranjitsinh Vs Union of India* aligns with global trends, such as the European Court of Human Rights' ruling in *Klima Seniorinnen Vs Switzerland (2024)*, which held states accountable for climate inaction. By linking climate change to human rights, the Supreme Court has provided a legal framework for future climate litigation, empowering citizens to hold the State accountable.

Challenges: Despite its significant contributions, the Supreme Court's role in environmental protection faces several challenges:

(a) Enforcement Gaps: While the Court's rulings are progressive, their implementation often lags due to bureaucratic inefficiencies, lack of resources, and resistance from industries. For instance, orders to clean the Ganga River have seen limited success despite decades of judicial oversight.

(b) Judicial Overreach: Critics argue that the Court's activism sometimes encroaches on the executive's domain, such as setting emission standards or directing urban planning. This raises questions about the separation of powers.

(c) Balancing Development and Conservation: Cases like *M.K. Ranjitsinh Vs Union of India* highlight the tension between development (e.g., renewable energy projects) and conservation (e.g., protecting endangered species). The Court's decisions are often criticized for prioritizing one over the other, creating confusion among stakeholders.

(d) Lack of Umbrella Legislation: The Court has noted the absence of comprehensive climate change legislation in India, relying instead on piecemeal laws like the Environment Protection Act, 1986. This limits the judiciary's ability to address systemic environmental issues holistically.

(e) Judicial Delays: The overburdened judicial system can lead to delays in resolving environmental disputes, undermining timely enforcement.

Conclusion:

The Supreme Court of India has been a trailblazer in environmental protection, leveraging constitutional provisions, PIL, and judicial activism to address pressing ecological challenges. Through landmark judgments, it has established principles like Absolute Liability, Polluter Pays, and the Precautionary Principle, embedding sustainable development into India's legal fabric. However, challenges such as enforcement gaps, judicial overreach, and the lack of comprehensive legislation highlight the need for a collaborative approach involving the judiciary, legislature, and executive. As India navigates the complexities of development and climate change, the Supreme Court's role as a custodian of environmental justice remains indispensable. Its proactive stance not only protects the environment but also sets a global precedent for integrating human rights with ecological sustainability.

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