

An In-Depth Analysis of Environmental Protection through Judicial Activism: Examining the Role of Indian Courts in Safeguarding Environmental Rights and Promoting Sustainable Development

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Abstract

The judiciary, regarded as the guardian of justice, has played a significant role in protecting the environment in India. Judicial intervention has often shielded vulnerable communities from the harmful impacts of environmental degradation. However, the legislative process of creating and amending environmental laws remains intricate, influenced by industrial growth, urbanization, and cultural values. Environmental rights, classified as "third-generation" rights, are now acknowledged alongside political and socio-economic rights. These rights emphasize collective environmental protection for the greater good.

In a rapidly evolving society, adaptive legal responses are essential. While earlier movements focused on social justice, modern challenges have led to the neglect of public issues like environmental conservation. Public Interest Litigation (PIL) has become a crucial tool, enabling the judiciary to act proactively in safeguarding environmental rights. Through PILs, courts have upheld the constitutional right to a clean and healthy environment under Article 21. The landmark *Subhash Kumar v. State of Bihar* case exemplifies this commitment. Despite criticisms of judicial activism, the judiciary's dedication to ensuring environmental welfare and holding both governmental and private entities accountable remains evident. Its efforts continue to set precedents for sustainable development and environmental protection.

Keywords: Environment, Justice, Protection, Judicial Activism

Development vs. Inclusion

The judiciary serves as a guiding force in environmental litigation, ensuring decisions prioritize public welfare. While critics of industrialization and urbanization may advocate for halting development, the judiciary's role is to strike a balance between economic growth and environmental conservation. Recognizing the detrimental effects of unchecked industrialization, courts ensure that development proceeds responsibly, adopting what can be termed as "environmental fortification justice."

In cases of environmental pollution, such as noise pollution caused by loudspeakers in religious gatherings, judicial intervention has effectively enforced legal provisions. A notable example is the 1995

AIHC 4168 case, where the High Court mandated adherence to pollution control norms, reflecting the judiciary's dedication to environmental protection.

Additionally, the judiciary has integrated international environmental principles into its rulings, reinforcing global environmental standards. The practice of awarding compensation based on the severity of harm and the financial capacity of the offender has gained prominence, showcasing a pro bono public judicial approach. This exemplifies the courts' commitment to environmental justice.

Free from political pressures, judges are empowered to make impartial decisions that prioritize public welfare. Judicial scrutiny often leads to stricter environmental impact assessments and enhanced pollution abatement measures. While courts can only adjudicate cases brought before them, their interventions have created influential precedents in environmental conservation. The Ganga Pollution Case stands as a significant example, where judicial activism played a vital role in directing efforts to clean the river. Through such interventions, the judiciary has established itself as a vigilant protector of environmental integrity.

Messengers to Justice Providers

Public Interest Litigation (PIL) has become a vital instrument for marginalized and oppressed communities to seek judicial intervention. A simple postcard, symbolizing a humble plea, can now effectively draw the court's attention to matters of public concern. The Rural Litigation case marked the beginning of a series of PILs addressing environmental issues. However, the judiciary's decision to entertain these petitions often hinges on the judges' mindset and judicial conscience.

Environmental degradation cases frequently highlight government inaction or regulatory failures. Courts have consistently held authorities accountable for neglecting their statutory duties under the Environmental Protection Act, 1986. Instances like the Supreme Court's intervention to restrict hazardous mining operations and regulate water pollution from industrial waste underscore the judiciary's active role. Landmark cases addressing the Ganges River pollution, the Taj Mahal's degradation, and Delhi's urban pollution further demonstrate judicial commitment to environmental protection.

The principle of "polluter pays" has been firmly enforced, often placing the burden of proof on those proposing environmental alterations. As India progresses towards a welfare-oriented state, the judiciary's proactive role through PILs remains indispensable in ensuring ecological justice.

Judicial Oversight through Articles 226 and 32

Articles 226 and 32 of the Indian Constitution empower the judiciary to exercise comprehensive oversight. These provisions facilitate the delivery of swift justice, circumventing the delays of conventional litigation. The Bhopal Gas Tragedy case exemplified this, where the Supreme Court introduced the doctrine of absolute liability, ensuring accountability for hazardous industrial operations. By formulating innovative remedies, the judiciary continues to safeguard ecological integrity and prevent future environmental disasters.

Legal Remedies through Writs for Environmental Protection

Environmental grievances can be effectively addressed through various legal mechanisms. Individuals and communities often seek redressal through:

- **Individual Petitions:** Filed by affected parties to protect their environmental rights.

- **Public Interest Litigations (PILs):** Initiated on behalf of the public to address broader environmental concerns.

Additionally, the **Civil Procedure Code (CPC)** offers specific provisions to tackle public wrongs:

- **Section 91:** Enables legal action in cases involving public nuisances or environmental harm.
- **Section 92:** Provides remedies for breaches of public trusts, particularly when environmental interests are at stake.

The judiciary exercises strict scrutiny to prevent the misuse of PILs. In **Subash Kumar v. State of Bihar**, the Supreme Court emphasized that only genuine PILs filed in the public interest, without personal or ulterior motives, would be entertained. This ruling ensures that PILs remain a powerful tool for promoting environmental justice rather than being misused for personal gain.

Moreover, judicial activism has played a significant role in addressing environmental issues. Through innovative judgments and proactive interventions, the judiciary has expanded the scope of environmental rights. Courts have enforced the **"polluter pays" principle** and established doctrines like **absolute liability** to hold industries accountable for environmental damage.

In conclusion, the judiciary's evolving role in environmental protection through PILs and judicial activism is indispensable. By maintaining vigilant oversight and ensuring timely intervention, the courts continue to uphold environmental rights and safeguard ecological integrity. The effective application of writs and legal provisions reflects the judiciary's commitment to balancing development with environmental sustainability.

Role of the Bench and Bar in Environmental Protection

The role of the Bar in environmental protection is often underestimated, yet it plays a pivotal role alongside the judiciary. While judicial decisions carry immense importance, lawyers contribute significantly by presenting facts coherently, eliminating ambiguities, and ensuring effective litigation. Acting as intermediaries between the public and the judiciary, lawyers are instrumental in addressing environmental concerns.

A prominent example is M.C. Mehta, a dedicated environmental lawyer whose legal activism has set benchmarks in environmental jurisprudence. Through landmark cases like *M.C. Mehta vs. Union of India* (Oleum Gas Leak Case) and the Ganga Pollution Case, he successfully brought environmental issues to the forefront. The Supreme Court's imposition of absolute liability on the hazardous industry in the Oleum Gas Leak Case and the closure of polluting tanneries in the Ganga Pollution Case exemplify the impact of legal advocacy.

While some PILs face criticism for lacking genuine intent, vigilant judicial oversight ensures that only legitimate cases promoting environmental welfare are entertained.

Global and National Initiatives for Environmental Protection

Environmental protection remains a significant concern at both national and international levels. The 1972 Stockholm Conference served as a landmark in shaping environmental jurisprudence, introducing 26 principles for safeguarding the human environment. As a signatory, India incorporated these principles through the 42nd Amendment to the Constitution in 1976, embedding Articles 48A and 51A(g) to emphasize state responsibility and citizen duty towards environmental preservation.

Internationally, several treaties and conventions have strengthened the framework for environmental protection:

- **Agenda 21:** A global action plan promoting sustainable development.
- **Rio Declaration on Environment and Development:** Establishing principles of state responsibility in ecological conservation.
- **Statement of Forest Principles:** Encouraging sustainable forest management practices.
On the national front, India has introduced comprehensive legislation to regulate environmental issues:
- **Water (Prevention and Control of Pollution) Act, 1974**
- **Air (Prevention and Control of Pollution) Act, 1981**
- **Environment Protection Act, 1986**
- **Forest Conservation Act, 1980**
- **Wildlife Protection Act, 1972**

These laws have been instrumental in promoting environmental governance. Additionally, judicial activism in India has played a crucial role in ensuring compliance with environmental laws. Courts have often intervened through public interest litigations (PILs) to uphold environmental rights, demonstrating their commitment to ecological justice. This collaborative effort between legal institutions and policy frameworks continues to strengthen environmental protection at both national and global levels.

Legal Challenges in Balancing Environmental Protection and Human Rights

While India has established comprehensive environmental laws, their implementation often creates tension between ecological preservation and human rights. Legislation like the Forest Conservation Act, 1980, grants the government authority over forest lands, frequently resulting in the displacement of indigenous communities who rely on these resources for their livelihood. Such conflicts highlight the need for a balanced approach that safeguards both environmental interests and human rights.

Judicial intervention has played a significant role in resolving these conflicts. In *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, the Supreme Court affirmed the right to a clean and healthy environment as a fundamental aspect of the right to life under Article 21 of the Constitution. This landmark judgment set a precedent for recognizing environmental rights within the broader framework of human rights.

The judiciary has also addressed challenges related to industrial pollution, groundwater depletion, and deforestation, ensuring that development projects comply with environmental regulations. By holding corporations and government bodies accountable, the courts have promoted responsible environmental governance. Through a proactive approach, the judiciary continues to play a critical role in balancing ecological concerns with the protection of human dignity and livelihoods.

Conclusion

The Indian judiciary has been instrumental in protecting environmental rights, recognizing the right to a clean and healthy environment as a fundamental aspect of the right to life under Article 21. Through proactive legal interventions, the courts have ensured environmental justice and held violators accountable. However, achieving long-term sustainability requires collective efforts. Collaborative action from the judiciary, legal professionals, government bodies, and the public is crucial in maintaining ecological balance. Strengthening legal frameworks, enhancing public awareness, and fostering international cooperation will further advance the vision of a greener, healthier environment.

With a unified approach, environmental preservation can be effectively integrated into the nation's developmental goals.

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