

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

ENVIRONMENTAL JURISPRUDENCE IN INDIA AND THE RIGHTS, VIOLATIONS, AND REMEDIES WHICH HELP IN SUSTAINING IT.

AUTHORED BY - AVANI GARGAVA
Gujarat National Law University, Gandhinagar

ABSTRACT

Environment includes all the living creatures and our surroundings including air, water, land, etc. since time immemorial environment has been regarded as a living entity by the people of our country. We pray to nature and respect it as much as we respect gods and other human beings. From this ideology itself has developed the concept of Right of Environment. Right of Environment consists of substantive and procedural rights which help in preservation and protection of Environment. ART 21 of the constitution provides rights to the environment and its components as a separate legal entity and the judicial remedies allow the people of interest to represent environment related grievances in front of the court. The paper will examine the comprehensive legal architecture of the Environmental Law in India with references to adapting the international law principles and instruments like the Precautionary Principle, Polluter Pays Principle, and Public Trust Doctrine into domestic jurisprudence as well as, the localisation of Rio Declaration and Sustainable Development Goals. Furthermore, it scrutinizes the remedial landscape, highlighting the specialized role of the National Green Tribunal (NGT). And towards the end the research will address the "paradox of governance," where progressive judicial decisions often contradict the regressive legislative actions and industrial exemptions aimed at "Ease of Doing Business" and whether the market-based mechanisms of 2025 can successfully internalize the true cost of pollution without diluting the fundamental right to a healthy life.

INTRODUCTION

Environmental protection in India finds its earliest expressions in the religious and philosophical traditions that perceive human existence intertwined with the natural world. The ancient Indians were deeply concerned about the environment and worshipped various natural things and manifestations with the utmost earnestness and devotion¹. Environmental aspects have had a significant impact on the history of nations as well as the development of culture and civilisation since, like all living things, human society seeks to adapt to its natural surroundings.²

In 1972 for the first time multiple countries came to the international platform for addressing the issue of environmental problems because the environment was being polluted by the developed nation. Stockholm Conference was held in Sweden to discuss the human environment in. It was influenced by discussion about the environmental situation, mainly in the US and in Europe.³ Later on, the increased cooperation between governments, non-governmental organizations, multinational corporations, and the growth of transnational environmental networks have also significantly influenced the development of environmental law and regulation⁴. This led to creation of a set of principles referred to as the “International Environmental Law”.

The modern legal framework for the environment in India took place after dynamic interpretation of Constitution, particularly after the 42nd Amendment of 1976. This amendment introduced Article 48A, directing the State to protect and improve the environment, and Article 51A(g), imposing a fundamental duty on citizens to safeguard nature.³ While these were initially considered non-enforceable directive principles and duties, the judiciary transformed them into enforceable rights by reading them into the guarantee of life and personal liberty under Article 21.⁵ The Supreme Court’s recognition of the "Right to Environment" evolved

¹ S. S. Anuja & D. Vinoba Gladis, *History of Environmental Conservation in the Ancient and Middle Ages*, 40(1) Indian J. Applied & Pure Bio. 439, 439-445 (2025). <https://www.biology-journal.org/fulltext/v40i1/ijapb40-1-54.pdf>

² S. S. Anuja & D. Vinoba Gladis, *History of Environmental Conservation in the Ancient and Middle Ages*, 40(1) Indian J. Applied & Pure Bio. 439, 439-445 (2025). <https://www.biology-journal.org/fulltext/v40i1/ijapb40-1-54.pdf>

³ Anshu Singh, *Principles and Development of International Environmental Law*, 10 Pen Acclaims 1 (2020). <https://www.penacclaims.com/wp-content/uploads/2020/06/Anshu-Singh.pdf>

⁴ Ibid

⁵ Pooja P. Vardhan, *Environment Protection under Constitutional Framework of India*, Press Info. Bureau, Gov’t of India (June 4, 2014, 12:25 IST), <https://www.pib.gov.in/newsite/printrelease.aspx?relid=105411>

through a series of landmark cases that expanded the definition of "life" from mere animal existence to a life of dignity in a healthy environment.⁶

Environmental jurisprudence in India represents a complex synthesis of these ancient ethics with contemporary constitutional mandates, international environmental norms, and a specialized remedial framework led by the National Green Tribunal, along with other mandates issued by the government. These mandates sometimes clash or support the ease of doing business, which may or may not result in protecting the rights of the Environment.

RIGHTS OF THE ENVIRONMENT UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA

The right to life encompasses the protection and preservation of the environment and ecological balance free from pollution. This was held in the case of *Virendra Gaur v. State of Haryana*⁷. In Dehradun Quarry's case (*Rural Litigation and Entitlement Kendra vs. State of U.P.*)⁸ the Supreme Court considered complaints from the rural litigation and entitlement Kendra, Dehradun alleges the operations of limestone quarries in the Mussoorie- Dehradun area resulted in deprivation of the environment affecting the easily broken ecosystems in the area. In this case the Supreme Court moving under Article 32 ordered the closure of some of these quarries on the ground that these were disturbing the ecological stability. Similarly, in the Niyamgiri Case, which is known as "India's first Environment Referendum"⁹, the court decided to put a stop on the Bauxite mining in the hills of Niyamgiri, Odisha, thus upholding the Forest Rights Act and the Rights of the Environment¹⁰.

Along with these cases, Indian law has also adopted certain English law principles and moulded it in our legal system to address the situation in a more sincere manner. One of the most important cases which laid the principle of Absolute Liability in Environment law was the case of *M.C Mehta v Union of India*¹¹, "which created a precedent for corporations to comply with

⁶ Right to Clean Environment | Article 21 of Constitution - Delhi Law Academy, accessed December 19, 2025, <https://www.delhilawacademy.com/art-21-right-to-clean-environment/>

⁷ *Virendra Gaur v. State of Haryana*, (1995) 2 S.C.C. 577 (India).

⁸ *Rural Litigation and Entitlement Kendra vs. State of U.P.*, AIR 1988 SC 2187

⁹ Kirti Sharma, *Niyamgiri: 10 Years Since India's First Environmental Referendum*, {\text{DOWN TO EARTH}} (Apr. 19, 2023), <https://www.downtoearth.org.in/governance/niyamgiri-10-years-since-india-s-first-environmental-referendum-88850>.

¹⁰ *Orissa Mining Corporation Ltd vs Ministry Of Environment & Forest & Ors.* 2013

¹¹ *M.C. Mehta and Anr. v. Union of India & Ors. & Shriram Foods and Fertiliser Industries* 1986

stringent safety measures. Second, it eliminated corporations' ability to hide behind defences such as "act of God" by substituting strict liability with absolute liability. It strengthened mechanisms for corporate accountability by also making the amount of compensation owed proportionate to the size and magnitude of the corporation"¹². The principle was also further discussed in the case of *Indian Council for Enviro-Legal Action v. Union of India*¹³, also known as the "Bicchari Village case where underground water and soil was damaged and declared unfit for use, because the factories nearby the river was discharging harmful chemical remains of the Hyaluronic Acid. The Court ordered closure of factories and also ordered them to pay damages up to the tune of Rs. 4 Crores for reversal of ecology of the area"¹⁴.

Another case filed by M.C Mehta, which precedes and led to the development of doctrine of Absolute liability, was the case of Bhopal Gas Tragedy, also known as *M. C. MEHTA v. Union Carbide Commission*¹⁵, "which is termed as one of the world's biggest industrial disasters, after the leak of the deadly Methyl Isocyanate gas which claimed lives of thousands of peoples and the aftereffects still persists. The Supreme Court ordered for the UCC to pay for a compensation of 750 crores to the aggrieved families"¹⁶.

Along with such cases the Supreme Court has also time and again laid the importance of clean water as a right under Article 21. Clean water for both the people who consume it, as well as the waterbody which often becomes neglected due to the industrial activities. Cases like *Subhash Kumar v. State of Bihar*¹⁷ "where the writ petition was filed because of the pollution of Bokaro river water from the discharge of sludge or slurry from the washeries of the Tata Iron and Steel Co. Ltd (TISCO). The court in this case observed that environmental protection is not merely a governmental responsibility but a shared duty of citizens. This broadened the scope of environmental law, emphasizing the collective responsibility of society in preserving ecological balance"¹⁸.

¹² M.C. Mehta and Anr. v. Union of India & Ors. & Shriram Foods and Fertiliser Industries, ESCR-NET (Dec. 19, 2025), <https://www.escri-net.org/caselaw/2024/m-c-mehta-and-anr-v-union-of-india-ors-shriram-foods-and-fertiliser-industries/>.

¹³ Indian Council for Enviro-Legal Action v. Union of India AIR 1996 SC 1446: (1996) 3 SCC 212

¹⁴ ELAW: Environmental Law Alliance Worldwide ICELA v. Union of India, WP 967/1989 (1996.02.13) (Bichhri Industrial Pollution Case) <https://elaw.org/resource/india-icela-v-union-india-wp-9671989-19960213-bichhri-industrial-pollution-case>

¹⁵ M. C. MEHTA v. Union Carbide Commission (1991) 4 SCC 584

¹⁶ Broughton E. The Bhopal disaster and its aftermath: a review. Environ Health. 6(2005) <https://pmc.ncbi.nlm.nih.gov/articles/PMC1142333/>

¹⁷ AIR 1991 SC 420

¹⁸ Aditi Sinha & Tahmina Naz, Case Analysis of Subhash Kumar Versus State of Bihar and Others, 6(3){INT'L J. LEGAL SCI.& INNOVATION1 (2024).

The case of *M.C Mehta v UOI*¹⁹ also known as the Ganga River case was filed because of “nuisance caused by the pollution of the River Ganga by tanneries and soap factories on the banks of the river, at Kanpur. The court held that it was a PIL filed by an interested person whose right to clean environment was being affected by such public nuisance. The Supreme Court issued several directives to the Kanpur Municipal Corporation to prevent and control pollution of the River Ganga at Kanpur”²⁰.

*The Taj Trapezium case*²¹ is one of the biggest cases concerning air pollution in India. This writ Petition was filed by Mr. M.C.Mehta, regarding pollution caused to the Taj Mahal in Agra. “The sources of air pollution were particularly iron foundries, ferro-alloys industries, rubber processing, lime processing, engineering, chemical industries, brick kilns, refractory units and automobiles especially the Mathura Refinery and Ferozabad bangles and glass industries. Acid rain in this area has a corroding effect on the gleaming white marble. The court in this case directed for re-allotment of the industries present in the Taj Trapezium area as they were the major contributors of air pollution”²².

These cases along with many others have time and again established the principle the Right to Environment is a fundamental right under article 21 of the Constitution of India.

LOCALISATION OF THE RIO DECLARATION PRINCIPLES AS WELL AS PROCEDURAL ENVIRONMENTAL RIGHTS

“The 1992 Earth Summit in Rio de Janeiro was a landmark global meeting where 179 countries agreed that economic progress must be balanced with environmental protection, a concept known as sustainable development. It moved beyond just discussing nature to showing how social, economic, and environmental issues are interconnected, requiring a total shift in how humans live, work, and consume. The summit’s major legacy includes Agenda 21, a comprehensive action plan for the 21st century, and the creation of vital international treaties regarding climate change and biodiversity that still guide global policy today. It led to adaption

<https://ijlsi.com/wp-content/uploads/Case-Analysis-of-Subhash-Kumar-Versus-State-of-Bihar-and-Others.pdf>

¹⁹ MC Mehta v UOI 1997

²⁰ M.C. Mehta (Petitioner) v. Union of India and others (Respondents),INFORMEA (Dec. 19, 2025), <https://www.informea.org/en/court-decision/mc-mehta-petitioner-v-union-india-and-others-respondents>.

²¹ M.C.Mehta v. UOI and Ors. W.P.(C) No.13381/1984.

²² ibid

of 27 principles known as UNFCCC, CBD, and Commission on Sustainable Development”²³. “Environmental rights mean any proclamation of a human right to environmental conditions of a specified quality. right to a healthy environment is enshrined in over 100 constitutions. There are several established human rights related to the environment. Environmental rights are composed of substantive rights (fundamental rights) and procedural rights (tools used to achieve substantial rights). Procedural rights prescribe formal steps to be taken in enforcing legal rights. Procedural rights include 3 fundamental access rights”²⁴: “access to information, public participation, and access to justice”²⁵. “These are taken from Principle 10 of the Rio Declaration”²⁶.

“The localization of these procedural rights in India is manifested in several statutes and judicial practices. Access to information is facilitated by the Right to Information Act, 2005, which allows citizens to scrutinize environmental data held by public authorities”²⁷. “Public participation is embedded in the Environmental Impact Assessment (EIA)²⁸ process, which historically mandated public hearings for major projects, and in the Forest Rights Act, 2006²⁹, which recognizes the authority of *Gram Sabhas* over community forest resources”³⁰. Access to justice has been significantly expanded through the liberalization of *Locus Standi*, allowing Public Interest Litigation (PIL) to be filed on behalf of the environment by concerned citizens and organizations.

“India has also sought to align its domestic policies with the Sustainable Development Goals (SDGs), particularly Goal 6 (Clean Water and Sanitation), Goal 13 (Climate Action), and Goal 15 (Life on Land). The "Rio+20" outcome document, "The Future We Want," reinforced the

²³ Rio Declaration on Environment and Development, in *Report of the United Nations Conference on Environment and Development*, U.N. Doc. A/CONF.151/26 (Vol. I), annex I (Aug. 12, 1992).

²⁴ What are environmental rights? UNEP <https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/what>

²⁵ Gururaj Devarhubli & Alaukik Shrivastava, *The Advancement of Environmental Procedural Rights in India: An Analysis of Issues, Problems and Prospects*, 10(1)COGENT SOC. SCI.2312949 (2024).⁹ <https://www.tandfonline.com/doi/full/10.1080/23311886.2024.2312949>

²⁶ Principle 10 | UNEP - UN Environment Programme, accessed December 19, 2025, <https://www.unep.org/civil-society-engagement/partnerships/principle-10>

²⁷ Shibani Ghosh, *Procedural Environmental Rights in Indian Law*, in INDIAN ENVIRONMENTAL LAW: KEY CONCEPTS AND PRINCIPLES 19, 25 (Shibani Ghosh ed., 2019).

²⁸ Ministry of Environment and Forests, Environment Impact Assessment Notification, S.O. 1533(E) (Sept. 14, 2006) (India).

²⁹ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, No. 2, Acts of Parliament, 2007 (India).

³⁰ Shibani Ghosh, *Procedural Environmental Rights in Indian Law*, in INDIAN ENVIRONMENTAL LAW: KEY CONCEPTS AND PRINCIPLES 19, 26 (Shibani Ghosh ed., 2019).

need for just and equitable governance, a commitment mirrored in judicial decisions that prioritize the rights of forest dwellers over industrial expansion”³¹. However, the procedural integrity of these rights has come under pressure as the government introduces rules that allow projects to bypass *Gram Sabha* consent or obtain retrospective clearances, creating a tension between international commitments and domestic development agendas.

Along with these, the core principles of the Rio Declaration which are adapted by the Indian Judiciary are-

The Precautionary Principle

The Precautionary Principle mandates that when there are threats of serious or irreversible damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation. The Supreme Court in *Vellore Citizens Welfare Forum v. Union of India (1996)*³² ruled that this principle is an essential feature of sustainable development. By shifting the burden of proof to the industry, the Court ensures that developers must prove their project is environmentally benign before proceeding. In a recent 2024 decision regarding Genetically Modified (GM) mustard, Justice Nagarathna emphasized that the release of GM crops without consulting health experts or state governments violated the precautionary principle, potentially leading to the loss of indigenous species.

The Polluter Pays Principle

“The Polluter Pays Principle (PPP) requires the polluter to bear the cost of pollution prevention, control, and remediation, as well as compensation for victims of environmental harm. This principle has evolved from the strict liability rule in *Rylands v. Fletcher*³³ to the uniquely Indian doctrine of Absolute Liability established in the *M.C. Mehta (1986)* case”³⁴. Under absolute liability, an enterprise engaged in a hazardous activity is liable without any defenses for harm caused by an accident. In 2025, this principle continues to be the primary tool for the National Green Tribunal to impose environmental compensation (EC) on both private industries and government bodies.

³¹ G.A. Res. 66/288, Annex, The Future We Want (July 27, 2012).

³² *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647.

³³ *Rylands v. Fletcher*, (1868) L.R. 3 H.L. 330.

³⁴ Lovleen Bhullar, The Polluter Pays Principle: Scope and Limits of Judicial Decisions, in *INDIAN ENVIRONMENTAL LAW: KEY CONCEPTS AND PRINCIPLES* 89, 94 (Shibani Ghosh ed., 2019).

The Public Trust Doctrine

The Public Trust Doctrine, introduced in *M.C. Mehta v. Kamal Nath (1997)*³⁵, asserts that the State is the trustee of natural resources meant for public use, such as running water, air, and forests. “This doctrine forbids the State from converting these fragile ecological lands into private ownership or for commercial gain. The *Kamal Nath* judgment set a precedent where the leasing of land on the Beas riverbed to a private motel was cancelled, and the motel was ordered to pay for environmental restoration”³⁶. Subsequent cases, such as *Jitendra Singh v. Ministry of Environment (2019)*³⁷, have reinforced this by preventing the transfer of common village resources like ponds to private industrialists.

THE ROLE OF NGT IN PROTECTION OF ENVIRONMENTAL RIGHTS

“The National Green Tribunal, established in 2010, as per the National Green Tribunal Act is a specialised judicial body equipped with expertise solely for the purpose of adjudicating environmental cases in the country.”³⁸ “The Tribunal is tasked with providing effective and expeditious remedy in cases relating to environmental protection, conservation of forests and other natural resources and enforcement of any legal right relating to environment. The Tribunal’s orders are binding and it has power to grant relief in the form of compensation and damages to affected persons.”³⁹

An important component of the National Green Tribunal's (NGT) corrective authority involves determining Environmental Compensation. “To satisfy judicial mandates, the Central Pollution Control Board (CPCB) has developed standardized mathematical models to compute these penalties. These formulas use variables such as the industrial pollution index, the length of time the violation persisted, and the overall size of the industrial facility”⁴⁰

NGT has time and again addressed matters of grave environmental importance. Some cases in

³⁵ M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388.

³⁶ *ibid*

³⁷ Jitendra Singh v. Ministry of Environment, (2019) 20 S.C.C. 1.

³⁸ NATIONAL GREEN TRIBUNAL, <http://www.greentribunal.gov.in>

³⁹ *ibid*

⁴⁰ CENT. POLLUTION CONTROL BD., REPORT OF THE CONSTITUTION OF EXPERT COMMITTEE ON METHODOLOGY FOR ASSESSING ENVIRONMENTAL COMPENSATION AND ACTION PLAN TO UTILIZE THE FUND (2019).

which NGT has taken cognizance are-

*Almitra H Patel v Union of India*⁴¹, in which a PIL was filed highlighting the sad state of waste management in Delhi. The Court rejected the common defence of "financial inability,"⁴² asserting that municipalities are legally obligated to maintain public health and cleanliness regardless of budget constraints. This case was instrumental in the notification of the Municipal Solid Wastes (Management and Handling) Rules, 2000⁴³, which mandated scientific waste processing, banned the open burning of garbage, and promoted waste segregation at the source. In *Save Mon Federation Vs Union of India case (2013)*⁴⁴, the NGT suspended a hydro project, to save the habitat of a bird. "The National Green Tribunal (NGT) suspended the environmental clearance (EC) for the ₹6,400 crore Nyamjang Chhu hydroelectric project in the Tawang district of Arunachal Pradesh"⁴⁵.

Another very important case in the matter of increasing air pollution which was decided by the NGT was the *Vardhaman Kaushik vs. Union of India (2014)*⁴⁶ in which "the Tribunal banned all diesel vehicles older than 10 years and petrol vehicles older than 15 years from plying on Delhi roads. The Supreme Court later imposed a complete prohibition on the open burning of plastic, agricultural waste, and tree leaves, with a fine of ₹5,000 for violations"⁴⁷. The directions in this case laid the conceptual groundwork for the Graded Response Action Plan (GRAP), which now automatically triggers restrictions when pollution levels hit certain thresholds.

One such case in which the NGT invoked the principle of Polluter Pays was the case of *Manoj Misra v. Delhi Development Authority*⁴⁸, "where it was argued that the construction of ramps, pontoon bridges, and the compaction of the soil would cause "irreversible damage" to the ecologically sensitive floodplains for the purpose of organizing the Art of Living festival. The NGT upheld the ₹5 crore fine and directed that it be used by the Delhi Development Authority

⁴¹ Almitra H. Patel v. Union of India, (2000) 2 S.C.C. 679 (India).

⁴² Municipal Council, Ratlam v. Vardhichand, (1980) 4 S.C.C. 162.

⁴³ Municipal Solid Wastes (Management and Handling) Rules, 2000.

⁴⁴ Save Mon Region Federation v. Union of India, Appeal No. 39 of 2012, N.G.T. (Mar. 14, 2013) (India).

⁴⁵ Shibani Ghosh, *Case Note: Access to Information as Ruled by the Indian Environmental Tribunal: Save Mon Region Federation v. Union of India*, 22 Rev. Eur. Comp. & Int'l Env't L. 202 (2013).

⁴⁶ Vardhaman Kaushik v. Union of India, O.A. No. 21 of 2014, N.G.T. (Apr. 7, 2015) (India).

⁴⁷ Geetanjoy Sahu, *Environmental Jurisprudence of the National Green Tribunal of India*, 44(4) Env'tl. Pol'y & L. 385 (2014).

⁴⁸ Manoj Misra v. Delhi Development Authority, 2016 SCC OnLine NGT 114 (India).

(DDA) for the restoration of the floodplains”⁴⁹.

NGT has the Suo Motto powers of the court to take cognizance of important matters regarding public health and environment as well which was held in the landmark case of *Municipal Corpn. of Greater Mumbai v. Ankita Sinha* in which a report was published in The Quint magazine which highlighted the hazardous state of waste management and disposal at the Deonar dumping ground in Mumbai which was causing fires and health issues. “The Supreme Court held that the Tribunal's role is to safeguard the Right to Life. The Court stated that the NGT cannot be a "mute spectator" to environmental degradation just because a formal petition hasn't been filed.”⁵⁰

However, In 2025, the NGT has faced challenges regarding its authority to impose restitutionary damages. “The Supreme Court recently clarified that while Pollution Control Boards cannot impose "penalties" in the criminal sense without a trial, they are empowered to collect "restitutionary damages" for civil wrongs to the environment under the polluter pays principle. This ensures that the NGT and boards can continue to function as effective deterrents without being bogged down by criminal procedure requirements”⁵¹.

PARADOX OF GOVERNANCE AND THE EASE OF DOING BUSINESS

During the past few years, it has been witnessed that although judicial activism and decisions often upheld the Rights of the Environment, but when it comes to applying those principles, there occurs a gap in words and actions. Often large business activities are favoured at the stake of environmental degradation and destruction. Several high-profile instances have emerged where the Indian government’s developmental and strategic objectives have been perceived as superseding environmental safeguards. These cases often involve the streamlining of regulations or the prioritization of "strategic national interests" over ecological conservation. Some of the examples are-

The Great Nicobar Project (2025)- The proposed ₹92,000-crore project in Great Nicobar

⁴⁹ Stuti Brahmhatt, *Determination of Environmental Compensation: The Art of Living Case*, 12(1) NUJS L. Rev. (2019)

⁵⁰ Shibani Ghosh, *The National Green Tribunal: Suo Motu Powers and the Pursuit of Environmental Justice*, 3(1) Ind. L. Rev. 45 (2022)

⁵¹ Delhi Pollution Control Committee v. Lodhi Property Co. Ltd., 2025 INSC 923 (India).

Island involves a transshipment port, an airport, and a township on land that is 95% pristine tropical rainforest. “The project is expected to raze 130 sq km of rainforest, displacing indigenous Shompen and Nicobarese communities. Reports from July 2025 indicate that the statutory approval process was marred by procedural irregularities, including the "denotification" of tribal reserve lands and the "manipulation" of scientific reports regarding the translocation of endemic species.”⁵²

The "Post-Facto" Clearance Rollback (Nov 2024–2025), also known as *Confederation of Real Estate Developers of India (CREDAI) v. Vanashakti* in which “post facto environmental clearance was called back because the Supreme Court observed that stopping these projects would have "devastating effects" on the economy, as thousands of crores of investment would be wasted. This effectively reinstated an "amnesty" window for over 100 violative projects, including mines and factories”⁵³.

And while, the market has introduced mechanisms like the Carbon Credit Trading Scheme⁵⁴, Green Credit⁵⁵, and the establishment of the Environment Protection Fund, their efficacy is hampered by "market fraudulence" inherent in dubious offset projects. “For instance, using tree plantations on lands where communities hold forest rights can lead to social displacement and the "greenwashing" of corporate interests. Furthermore, the implementation of these market schemes occurs alongside massive planned expansions of coal-fired capacity, creating a profound policy contradiction”⁵⁶.

CONCLUSION

The research indicates that while India possesses one of the world's most robust constitutional and judicial frameworks for environmental protection, the "paradox of governance" threatens to undermine these gains. The localization of international principles like the Rio Declaration has been successful in the courts but is increasingly diluted in the legislature through

⁵² Rishika Pardikar, *How Scientists Were Coerced To Toe The Govt Line & Clear The Path To Destroy Great Nicobar's Rainforest*, Article 14 (July 21, 2025), <https://article-14.com/post/how-scientists-were-coerced-to-toe-the-govt-line-clear-the-path-to-destroy-great-nicobar-s-rainforest-687db48738e56>.

⁵³ Confederation of Real Estate Developers of India (CREDAI) v. Vanashakti, 2025 INSC 1326 (India).

⁵⁴ Ministry of Power, Carbon Credit Trading Scheme, 2023, S.O. 2824(E) (Notified on June 28, 2023) (India)

⁵⁵ Ministry of Environment, Forest and Climate Change, Green Credit Rules, 2023, S.O. 4458(E) (Notified on Oct. 12, 2023) (India).

⁵⁶ Komal Mishra & Akshay Kumar, *Navigating Legal Complexities in India's Carbon Credit Market: Issues and Prospects*, 5 (4) Ind. J. Legal Rev. 555 (2025).

decriminalization and industrial exemptions. The market-based mechanisms of 2025, such as the Carbon Credit Trading Scheme, offer a path toward internalizing environmental costs, but only if they are coupled with strict enforcement and absolute emission caps rather than flexible intensity targets.

Ultimately, for environmental jurisprudence in India to sustain the right to a healthy life, it must move beyond token clearances and toward "earth jurisprudence", Wherein Environment is seen as an entity with intrinsic rights to exist and regenerate.

