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PUBLIC INTEREST LITIGATION AND ENVIRONMENTAL JUSTICE IN INDIA: LEGAL PATHWAYS TO SUSTAINABLE DEVELOPMENT

Shambhavi Chaturvedi

INTRODUCTION

The development of India since independence has been a constant tussle between economic growth and sustainable use of resources and the protection of the environment.¹ The rapid industrialisation, growing infrastructure to meet developmental goals and growing population demand, and mining has resulted in severe degradation and exploitation of the environment directly affecting the entire nation and to be precise the marginalized and underprivileged section of the society.² Environment justice addresses this very problem and is a movement aimed at addressing the injustices and atrocities related to environmental issues happening to marginalized communities³ it holds the notion that everyone regardless of race, colour, income, and national origin has the right to the same environmental protection and benefits as well as meaningful involvement in policies that shape their communities.⁴

Since the late 1970s Public Interest Litigation (PIL) has allowed judicial intervention in issues ranging from fundamental rights to environmental justice. The Supreme Court has invoked fundamental rights like the right to life in shaping environmental justice in India. This article argues that public interest litigation has functioned as a crucial legal pathway for achieving environmental justice and to achieve the broader goal of sustainable development by also throwing light on structural and implementation-based limitations.

PIL, ENVIRONMENTAL JUSTICE AND SUSTAINABLE DEVELOPMENT

invented by judges such as Justice P.N. Bhagwati and Justice V.R. Krishna Rao, allowed for socially aware and concerned individuals or organizations to approach courts in behalf of the affected disadvantaged group⁵. This shift from traditional judicial intervention to public interest

¹Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* 3–7 (2d ed. 2001).

²Amita Baviskar, *Environmentalism of the Poor*, 36 *Econ. & Pol. Wkly.* 3123 (2001).

³Julian Agyeman et al., *Introducing Environmental Justice*, in *Just Sustainabilities: Development in an Unequal World* 1 (Julian Agyeman et al. eds., 2003).

⁴U.S. Env'tl. Prot. Agency, *Environmental Justice* (2023).

⁵S.P. Sathe, *Judicial Activism in India* 67–69 (2d ed. 2002).

litigation has changed the role of courts as true guardian of constitution from mere dispute mediators.⁶

Environmental justice is a movement that emphasizes the unequal distribution of environmental harms and benefits procedural inclusion in environmental decision making and recognition of marginalized vulnerable groups.

Sustainable development gained popularity by the Brundtland commission report⁷ is the conscious use of resources and environment so that current needs are met in a way that future generation needs are not compromised with. The Indian judiciary has constitutionalized it by associating it with article 21 right to life⁸.

PIL thus is at the door of intersection of constitutional rights environmental justice and sustainable development.

CONSTITUTIONAL AND LEGAL BASIS

The constitutional basis for PIL on environmental justice has derived basis from article 21 which guarantees right to life. Judicial interpretation has expanded this right to include right to clean and healthy environment.⁹ complementing this is the DPSP article 48a that directs the state to protect and improve the environment and along side the fundamental duty under article 51A(g) on citizens to safeguard natural resources.¹⁰

Environmental governance in India is supported by various acts such as wildlife protection act 1972, forest conservation act 1980, air act 1981 and the umbrella environmental protection act 1986¹¹. The establishment of the National Green Tribunal (NGT) under the NGT Act, 2010, further institutionalised environmental adjudication by providing a specialised forum for speedy disposal of environmental cases.¹²

Through PILs the court also developed key doctrines on environmental protection the precautionary principle public trust doctrine and polluter pay doctrine and intergenerational equity¹³. These development aim to align Indian environmental jurisprudence with international environmental doctrines while grounding in to Indian constitutional morality and circumstances.

EVOLUTION OF ENVIRONMENTAL PIL JURISPRUDENCE

Three phases of environmental jurisprudence can be identified in Indian context. The first phase being during the 1980s to 1990s when the environmental degradation was recognized as a violation of fundamental rights. All humans deserve a clean healthy environment and this is

⁶ Upendra Baxi, Taking Suffering Seriously, 4 Third World Legal Stud. 107 (1985).

⁷ World Comm'n on Env't & Dev., Our Common Future (1987).

⁸ Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 S.C.C. 647 (India).

⁹ Subhash Kumar v. State of Bihar, (1991) 1 S.C.C. 598 (India)

¹⁰ INDIA CONST. arts. 48A, 51A(g).

¹¹ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (2d ed. 2001).

¹² National Green Tribunal Act, No. 19 of 2010, INDIA CODE.

¹³ Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 S.C.C. 212 (India).

a natural right.¹⁴ In *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, the Supreme Court ordered the closure of limestone quarries to protect ecological balance, even at the cost of economic activity.¹⁵ A landmark series of PILs on environmental justice were filed by the environmental lawyer M.C Mehta on oleum gas leak case in Delhi the ganga pollution case and played a crucial role in expanding the right to life (article 21) to right to clean and healthy environment.¹⁶

The second phase involved nationalization of judicial oversight. Court appointed expert committees for looking into environment protection and performed quasi administrative role¹⁷.

The current phase is based on scientific rigour and the active role of NGT. But still PIL remain a vital tool in addressing environmental challenges where governance fails.¹⁸

PIL AS A TOOL FOR ENVIRONMENTAL JUSTICE

PIL plays a crucial step in addressing expanding access to environmental justice particularly for communities lacking resources and awareness to move court. by recognizing environmental harm as a global issue which will toady affect one community but in the long run will affect the entire globe. PIL has also let to environmental democracy leading to more transparent and accountable decision making relation to environmental policies, however critics argue that this wave of PILs has affected only idle class and still leaves the marginalized underprivileged behind the curtains.

CASE STUDY: GANGA RIVER POLLUTION AND ENVIRONMENTAL JUSTICE

The ganga river one of the most scared holy and economically significantly river represents and profound issue in course of environmental justice in India. It provides million with drinking water fishing and agricultural irrigation. it is the lifeline of northern India¹⁹. Industrial waste and ritual waste have led to sever pollution this river.²⁰

Judicial intervention started with *M.C Mehta v union of India* where the supreme court intervened and stated that industrial development can never justify for environmental degradation and ordered relocation of pollution causing industries. it emphasizes the right to clean water under article 21 right to life.²¹

Court ordered municipal corporation to establish sewage treating plants and held the view that financial constraints were not an excuse for environmental degradation.²²

¹⁴ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248 (India).

¹⁵ *Rural Litig. & Entitlement Kendra v. State of U.P.*, (1985) 2 S.C.C. 431 (India).

¹⁶ *M.C. Mehta v. Union of India*, (1987) 1 S.C.C. 395 (India).

¹⁷ *Sathe*, supra note 5.

¹⁸ National Green Tribunal jurisprudence.

¹⁹ *M.C. Mehta v. Union of India*, (1988) 1 S.C.C. 471 (India).

²⁰ *Id*

²¹ *Id*

²² *M.C. Mehta v. Union of India*, (1998) 4 S.C.C. 463 (India).

From the perspective of environmental justice, the Ganga litigation recognized the rights of people dependent on Ganga and framed that pollution was an act of violation of fundamental rights and that every person has a natural right to a clean and healthy environment.²³

Despite sustained judicial oversight over several decades, the Ganga continues to remain heavily polluted, revealing the inherent limits of court-led interventions when they are not matched by adequate administrative capacity and sustained political will. The litigation thus brings into sharp relief both the emancipatory promise of Public Interest Litigation and its structural constraints as an instrument for achieving sustainable development.²⁴

Another significant movement would be the Narmada Bachao Andolan, it showcases the atrocities of development for the displaced people. The construction of dams on the Narmada River under the Sardar Sarovar project was envisioned as a vehicle for hydropower and irrigation, however the ignored consequence was the displacement of Adivasi farmers, forest-dependent communities and this raised serious concerns about sustainable development.²⁵

PIL became a crucial strategy through which NBA challenged the Sardar Sarovar project. In the *Narmada Bachao Andolan v. Union of India* the petitioners argued that the construction violated the right to life under Article 21 due to inadequate rehabilitation, environmental clearances granted without proper assessments, and the absence of informed consent of affected communities but the Supreme Court while accepting the petition did not withhold and allowed the continuation of the project.²⁶ This case highlights the limitation of PIL. It felt short in preventing displacement and ensuring substantive justice for the affected community.²⁷

GOVERNANCE CHALLENGES

Environmental PILs showcase fragmented institutional responsibility.

The Ganga cases reveal how difficult it is to turn judicial directions into real, lasting ecological change on the ground. Even though the courts repeatedly stressed the idea of sustainable development, their orders often ran into practical roadblocks—poor infrastructure, weak coordination among government agencies, and the limited involvement of local communities. As a result, legal interventions, however well-intentioned, struggled to bring about meaningful and sustained improvement in the river's health.²⁸

CRITIQUES

Critiques argue that PIL on environmental issues are a display of judicial overreach, institutional incompetence. Courts may lack the technical expertise required to resolve complex environmental disputes involving scientific uncertainty and socio-economic trade-offs.²⁹

²³ Id.

²⁴ Id.

²⁵ Arundhati Roy, *The Greater Common Good* (1999)

²⁶ *Narmada Bachao Andolan v. Union of India*, (2000) 10 S.C.C. 664 (India).

²⁷ Id.

²⁸ M.C. Mehta, *supra* note 22.

²⁹ Shyam Divan, *Judicial Review and Environment*, 28 *J. Indian L. Inst.* 124 (1986).

WAY FORWARD

For environmental justice to be realized in true sense public interest litigation must be complemented with strong governance and should focus on implementation and community engagement in policy making. Judicial intervention should be corrective mechanism rather than performing quasi administrative function as Upendra baxi has rightly said “Courts can issue directions, but they cannot govern.”³⁰. Strengthening pollution control boards and ensuring environmental assessment before developmental projects is crucial.³¹

CONCLUSION

The Public interest litigation has played a transformative role in connecting environmental justice to constitutionalism. By expanding the scope of article 21 courts have rightly recognized environment justice as integral to human dignity and a natural right. The case studies of Ganga litigation and the Narmada Bachao Andolan both strengths and limitations of PIL in conveying environmental justice in India.³²

Ultimately, while Public Interest Litigation has given voice to environmental justice within India’s constitutional framework, the task of safeguarding nature cannot rest with courts alone. As Justice P.N. Bhagwati reminds us, “the environment is not an abstraction but the very basis of life itself.”³³

³⁰ Upendra Baxi, *supra* note 6.

³¹ Environment (Protection) Act, No. 29 of 1986, INDIA CODE.

³² *M.C. Mehta*, *supra* note 19; *Narmada Bachao Andolan*, *supra* note 26

³³ Justice P.N. Bhagwati, speeches on environmental jurisprudence.