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THE EFFECTIVENESS OF PUBLIC INTEREST LITIGATION (PIL) IN ADDRESSING ENVIRONMENTAL HARM: A CRITICAL ANALYSIS OF SUPREME COURT AND NATIONAL GREEN TRIBUNAL JURISPRUDENCE

-Vanshika Chauhan

1. ABSTRACT

This article evaluates the effectiveness of Public Interest Litigation (PIL) in addressing environmental damage in India, focusing on Supreme Court jurisprudence and the National Green Tribunal (NGT). It discusses principles like Polluter Pays, Precautionary Principle, Public Trust, and Absolute Liability, comparing the Supreme Court's broad interventions with the NGT's technical adjudication. Through a review of cases such as Delhi NCR air pollution and Uttarakhand mining, it concludes that while PIL has significantly advanced environmental rights and policy changes, challenges remain due to implementation gaps, insufficient resources, and procedural issues. The paper suggests reforms to enhance regulatory enforcement, clarify jurisdiction, bolster the NGT's capacity, and promote public involvement for enduring environmental justice.

2. INTRODUCTION

Environmental¹ degradation in India has escalated to alarming levels, posing serious threats to public health, the rich tapestry of biodiversity, and the long-term sustainability of vital natural resources. The nation's swift industrialization, coupled with rapid urban expansion and an ever-growing population, has exacerbated pressing environmental issues, including pervasive air and water pollution, widespread deforestation, and the dire impacts of climate change.

¹ M.C. Mehta v. Union of India (Oleum Gas Leak), (1987) 1 S.C.C. 395 (India).

In response to these challenges, Public Interest Litigation (PIL)² has emerged as a powerful legal instrument, empowering citizens, environmental activists, and various organizations to pursue judicial action to safeguard the environment and secure justice for affected communities. The Indian judiciary, especially the Supreme Court, has been instrumental in broadening the interpretation of the constitutional right to a healthy environment, thereby reinforcing the legal framework supporting ecological protection. Additionally, the establishment of the National Green Tribunal (NGT) in 2010 signifies a pivotal advancement in the legal landscape, providing a dedicated platform for specialized environmental adjudication and fostering a more robust response to environmental concerns across the country.

This research paper provides an in-depth analysis of the effectiveness of Public Interest Litigation (PIL) in combatting environmental degradation in India. It delves into the historical evolution of Supreme Court jurisprudence and examines the pivotal role played by the National Green Tribunal (NGT) in this landscape. The study investigates the constitutional principles underpinning environmental PIL, highlighting landmark cases and significant legal doctrines that have shaped the field.

Furthermore, the paper compares the approaches³ taken by the Supreme Court and the NGT, assessing their respective strengths and limitations as mechanisms for achieving environmental justice. It also addresses various challenges confronting this legal framework, such as concerns about judicial overreach, gaps in implementation, issues related to accessibility for litigants, and procedural hurdles that can impede progress.

Drawing on recent case law⁴ and empirical data, the research incorporates comparative international perspectives to illuminate the multifaceted nature of environmental PIL. Through this thorough analysis, the paper aims to provide a comprehensive understanding of both the potential and the challenges of using PIL as a tool for advancing environmental justice in India.

3. METHODOLOGY

This research adopts a dual methodology, blending doctrinal⁵ analysis with empirical investigation to comprehensively explore the subject matter. The doctrinal component entails a thorough and critical examination of various constitutional provisions,

² Subhash Kumar v. State of Bihar, (1991) 1 S.C.C. 598 (India)

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

⁴ Almitra H. Patel v. Union of India, (2000) 2 S.C.C. 679 (India)

⁵ S. Shastri, Environmental Law in India (Eastern Book Co., latest ed.)

statutory frameworks, and landmark Supreme Court and National Green Tribunal (NGT) judgments that have significantly shaped legal discourse.

On the other hand, the empirical⁶ aspect utilizes a rich array of case studies, tribunal reports, and recent data spanning from 2010 to 2026, aiming to assess the tangible impacts and real-world outcomes of Public Interest Litigations (PIL) and interventions by the NGT.

The literature review offers a synthesis of a diverse range of academic articles, law reviews, and comparative studies, providing a solid foundation for understanding the context. To further enhance clarity and facilitate comparison, tables and structured analyses are employed, spotlighting key differences, trends, and nuanced developments within the legal landscape.

Additionally, the research integrates qualitative insights gleaned from recent Supreme Court interventions and NGT decisions, while also examining the evolving influence of non-governmental organizations (NGOs) and civil society in shaping environmental governance and legal practices.

4. LITERATURE REVIEW

The body of literature regarding environmental Public Interest Litigation (PIL) in India is both extensive and deeply multidisciplinary, encompassing a wide range of perspectives and analyses. Notable foundational⁷ contributions from judicial figures like Justices P.N. Bhagwati and V.R. Krishna Iyer, alongside prominent legal scholars such as Upendra Baxi and S.P. Sathe, chart the historical origins of PIL, particularly during the transformative post-Emergency period. These works underscore PIL's crucial role in democratizing access to justice and broadening the scope of fundamental rights for the populace.

Academic discussions emphasize a significant evolution in litigation practices, marking a departure from the traditional adversarial model. Instead, there has been a marked shift towards more participatory, remedial, and investigative forms of judicial intervention. Influential analyses by figures like Divan⁸ and Rosencranz, along with newer empirical studies, meticulously document the profound impact of PIL on environmental governance. They also explore the emergence and development of

⁶ P. Leelakrishnan, *Environmental Law: Cases & Materials* (LexisNexis/Butterworths India, latest ed.)

⁷ Upendra Baxi, *The Crisis of the Indian Legal System* (scholarship cited); P.N. Bhagwati & V.R. Krishna Iyer jurisprudence (see cases cited *infra*)

⁸ Shyam Divan & Armin Rosencranz, *Environmental Law and Policy in India* (Oxford Univ. Press eds.)

pivotal legal doctrines, including the Polluter Pays Principle, the Precautionary Principle, and the doctrine of Public Trust, while highlighting ongoing challenges related to implementation and instances of judicial overreach.

The establishment of the National Green Tribunal (NGT)⁹ has further stimulated scholarly interest, leading to the emergence of a new body of research that critically examines the NGT's statutory mandate, procedural innovations, and its comparative effectiveness against the traditional role of the Supreme Court. Recent scholarly writings also delve into the burgeoning field of climate litigation, the active participation of non-governmental organizations (NGOs) and civil society in environmental advocacy, and the incorporation of international environmental principles into the fabric of Indian jurisprudence.

However, critiques of the PIL framework remain prominent, raising essential concerns regarding accessibility to justice, the potential misuse of PIL by litigants, systemic delays in legal processes, and the persistent disconnect between judicial rulings and their administrative enforcement in practice.

5. EVOLUTION OF ENVIRONMENTAL PIL IN INDIA

5.1. HISTORICAL TRAJECTORY

The evolution of Public Interest Litigation (PIL) concerning environmental issues in India is intricately intertwined with the transformation of the judiciary from a mere mediator of disputes to an active custodian of constitutional rights and a bastion of public accountability. This significant shift began during the late 1970s and early 1980s, a time characterized by notable judicial activism. During this period, the Supreme Court began to relax the strict traditional doctrine of locus standi, which usually restricted who could bring a case to court. Instead, the Court embraced a more inclusive approach known as epistolary.¹⁰ jurisdiction, allowing letters and newspaper reports to be treated as valid writ petitions. This revolutionary change opened the doors for marginalized communities and socially conscious individuals to access the courts, enabling them to advocate on behalf of those who struggled to seek justice.

The initial wave of PILs predominantly addressed pressing social justice issues, such as the rights of prisoners, the plight of bonded laborers, and the challenges faced by slum residents. However, the transition towards addressing environmental concerns

⁹ National Green Tribunal Act, No. 19 of 2010 (India)

¹⁰ Rural Litigation and Entitlement Kendra v. State of U.P., (1985) 2 S.C.C. 431 (India)

was both a natural progression and a necessary response. Environmental degradation, with its far-reaching consequences, disproportionately impacted the poor, further deepening socio-economic inequalities. In this context, the Supreme Court stepped in to address these urgent ecological crises, driven by an evident inadequacy in existing statutory frameworks and a recognition of the pressing need for judicial intervention in environmental matters.

5.2. KEY MILESTONES

- **Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985)¹¹:** This landmark case marked the beginning of environmental Public Interest Litigations (PILs) in India, as it addressed the serious issue of limestone mining in the ecologically sensitive Doon Valley. The Supreme Court's ruling mandated the closure of hazardous quarries operating in the region, establishing a significant precedent that recognized the right to a healthy environment as an essential component of Article 21, which guarantees the right to life. This case underscored the critical interplay between environmental sustainability and individual rights.
- **M.C. Mehta v. Union of India (Oleum Gas Leak Case, 1987)¹²:** This pivotal case set a groundbreaking legal standard by establishing the principle of absolute liability for industries that handle hazardous materials. It marked an important extension of the scope of Article 21, now incorporating the right to a pollution-free environment into the constitutional framework. The implications of this ruling were profound, as it held industries accountable for environmental harm regardless of the precautions taken, thereby reinforcing the state's duty to protect its citizens.
- **Vellore Citizens Welfare Forum v. Union of India (1996):** In this influential case, the Supreme Court introduced critical environmental principles into Indian law, notably the Polluter Pays Principle and the Precautionary Principle. The ruling emphasized the necessity of sustainable development as a constitutional mandate, which ensures that economic growth does not come at the expense of environmental degradation. By holding polluters accountable for their actions and requiring preventive measures, this case laid the groundwork for a more responsible approach to environmental management in India.

¹¹ Rural Litigation and Entitlement Kendra v. State of U.P., (1985) 2 S.C.C. 431 (India)

¹² M.C. Mehta v. Union of India (Oleum Gas Leak), (1987) 1 S.C.C. 395 (India)

- **T.N. Godavarman Thirumulpad v. Union of India (1997 onwards)¹³**: This case fundamentally transformed the legal landscape of forest conservation in India. It initiated a series of judicial guidelines and continuous orders (mandamus) aimed at protecting forests across the country. The Supreme Court established monitoring committees to oversee conservation efforts and ensure compliance with environmental laws, setting a precedent for active judicial intervention in environmental protection. This case marked a significant shift toward recognizing the intrinsic value of forests and the need for rigorous oversight in ecological conservation efforts.

5.3. CONSTITUTIONAL FOUNDATIONS

The foundation for environmental Public Interest Litigation (PIL) is rooted in a broad and innovative interpretation of various constitutional provisions. This approach allows for a more flexible application of the law, aiming to protect environmental rights and address ecological concerns through legal channels. By leveraging these constitutional principles, environmental PIL seeks to engage with and advocate for the public's interest in preserving a healthy and sustainable environment:

- **Article 21¹⁴** of the Indian Constitution guarantees the fundamental right to life and personal liberty. The Supreme Court has broadened the interpretation of this article to encompass the right to a clean and healthy environment. This interpretation links the quality of the environment directly to the dignity and survival of individuals, emphasizing that a person's right to live is intertwined with the health of the surroundings in which they reside.
- **Article 48A¹⁵**, which was introduced as part of the 42nd Amendment in 1976, establishes a Directive Principle of State Policy. It mandates the State to take proactive measures to protect and improve the environment while safeguarding the country's forests and wildlife. This article underscores the responsibility of the State to ensure ecological balance and promote environmental welfare.
- Meanwhile, **Article 51A(g)¹⁶** outlines a fundamental duty for every citizen. It requires individuals to actively engage in the protection and enhancement of the natural environment, which includes the conservation of forests, lakes, rivers, and wildlife.

¹³ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 S.C.C. 267 (India) (continuing mandamus)

¹⁴ Subhash Kumar v. State of Bihar, (1991) 1 S.C.C. 598 (India)

¹⁵ Constitution of India, art. 48A (42nd Amend.)

¹⁶ Constitution of India, art. 51A(g)

This article not only highlights the importance of personal responsibility in environmental stewardship but also encourages a collective effort toward maintaining ecological integrity for future generations.

The judiciary has consistently interpreted Articles 48A and 51A(g) in conjunction with Article 21 to bolster the protection of the environment. This interpretative approach has transformed environmental rights into legally enforceable rights, allowing citizens to seek justice and accountability through Public Interest Litigations (PILs). As a result, the courts have played a crucial role in ensuring that environmental protection is not only recognized but also actively upheld in legal frameworks.

5.4. LANDMARK SUPREME COURT CASES AND DOCTRINES

Table 1: Landmark Environmental PIL Cases and Doctrines

Case Name & Year	Key Issue/Doctrine	Supreme Court's Contribution
Rural Litigation & Entitlement Kendra v. State of UP (1985)	Mining, Right to Environment	Recognized right to a healthy environment under Article 21; ordered closure of hazardous quarries
M.C. Mehta v. Union of India (Oleum Gas Leak, 1987)	Industrial Pollution, Liability	Established absolute liability for hazardous industries; expanded Article 21 to a pollution-free environment
Vellore Citizens Welfare Forum v. Union of India (1996)	Industrial Pollution, Doctrines	Introduced Polluter Pays and Precautionary Principles; sustainable development as constitutional mandate
T.N. Godavarman Thirumulpad v. Union of India (1997–2025)	Forest Conservation, Continuing Mandamus	Broad definition of 'forest'; continuing judicial oversight; creation of Central Empowered Committee (CEC)
M.C. Mehta v. Kamal Nath (1997)¹⁷	Public Trust Doctrine	State as trustee of natural resources; applied to rivers, wetlands, and public lands

¹⁷ M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388 (India)

Case Name & Year	Key Issue/Doctrine	Supreme Court's Contribution
Indian Council for Enviro-Legal Action v. Union of India (1996)¹⁸	Hazardous Waste, Polluter Pays	Enforced polluter pays; directed compensation and remediation for environmental damage.
Delhi Vehicular Pollution Cases (1998–2002)	Air Pollution, Judicial Remedies	Mandated conversion to CNG; proactive judicial monitoring; use of expert committees

5.5. EXPLANATION AND ANALYSIS

These cases collectively highlight the Supreme Court's forward-thinking and inventive stance on environmental protection. The Court has not only offered solutions for individual environmental harms but has also established comprehensive legal principles that shape and direct environmental governance as a whole. Through its rulings, the Court has crafted a framework that not only addresses specific issues but also promotes sustained and effective stewardship of the environment, ensuring a robust legal foundation for safeguarding natural resources.

- **Absolute Liability:** In the landmark Oleum Gas Leak case¹⁹, the Court fundamentally shifted the legal landscape by moving away from the traditional English principle of strict liability. It established that hazardous industries hold absolute liability for any harm they cause, irrespective of the precautions they may have taken to prevent such incidents. This reflects a stricter standard aimed at protecting public safety and the environment.
- **Polluter Pays Principle:** The principle of "polluter pays"²⁰ asserts that those who pollute the environment are responsible for the costs associated with remediation and compensation. This concept has been endorsed in significant legal decisions such as the Vellore Citizens case and the Indian Council for Enviro-Legal Action, emphasizing that economic efficiency must incorporate ecological accountability.

¹⁸ Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 S.C.C. 212 (India)

¹⁹ M.C. Mehta v. Union of India (Oleum Gas Leak), (1987) 1 S.C.C. 395 (India)

²⁰ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 S.C.C. 647 (India)

- **Precautionary Principle:** This principle²¹ advocates for proactive measures to be taken even in situations marked by scientific uncertainty. By shifting the burden of proof onto developers and polluters, it ensures that they must demonstrate the safety of their actions before proceeding, aiming to prevent environmental harm before it occurs.
- **Public Trust Doctrine:** Under the Public Trust Doctrine²², the state is viewed as the steward of natural resources, which it holds in trust for the collective benefit of the public. This doctrine reinforces the idea that the state cannot allow these vital resources to be exploited for private profit, thereby safeguarding the environment for current and future generations.
- **Sustainable Development:** Sustainable development embraces the concept of balancing economic growth with the necessity of preserving ecological integrity. The principle of intergenerational equity serves as a foundation, stressing the importance of ensuring that future generations inherit a healthy and sustainable environment.
- **Continuing Mandamus:** The Court has developed the practice of continuing mandamus²³, which involves keeping cases open for extended periods. This allows for ongoing oversight and periodic directives to ensure compliance with environmental regulations. Notable examples include the Godavarman case and various pollution issues in Delhi, where expert committees are utilized to monitor implementation and adherence to the Court's orders.

6. THE ROLE AND JURISPRUDENCE OF THE NATIONAL GREEN TRIBUNAL (NGT)

6.1. GENESIS AND STATUTORY FRAMEWORK

The National Green Tribunal Act²⁴, enacted in 2010, was established to create a specialized and efficient forum dedicated to addressing environmental issues swiftly and expertly. This tribunal serves as a critical resource for the resolution of complex environmental cases, aiming to enhance the effectiveness of environmental governance in India.

The National Green Tribunal (NGT) has a broad mandate that encompasses several key functions, including:

²¹ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 S.C.C. 647 (India)

²² M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388 (India)

²³ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 S.C.C. 267 (India)

²⁴ National Green Tribunal Act, No. 19 of 2010 (India)

- **Original Jurisdiction:** The NGT holds original jurisdiction over civil cases that involve significant questions about the environment. This includes the enforcement of legal rights related to environmental protection and restoration.
- **Appellate Jurisdiction:** The tribunal also possesses appellate jurisdiction, allowing it to review and overturn orders made under various important environmental statutes, such as the Water (Prevention and Control of Pollution) Act, the Air (Prevention and Control of Pollution) Act, the Environment Protection Act, and the Forest Conservation Act, among others.
- **Relief and Compensation:** One of the NGT's pivotal roles is to provide relief and compensation to individuals who have suffered as a result of pollution and environmental degradation. This encompasses not only financial restitution but also initiatives aimed at restoring and rehabilitating affected environments.

The composition of the NGT includes both judicial members, who bring legal expertise, and expert members with specialized knowledge in environmental matters. This diverse background enables the NGT to apply fundamental principles such as sustainable development, the "polluter pays" principle, and the precautionary principle in its decisions. Furthermore, the tribunal is guided by the tenets of natural justice rather than strictly adhering to the procedural rules of the Code of Civil Procedure, allowing it to respond more effectively and equitably to environmental concerns.

6.2. NGT JURISPRUDENCE: LANDMARK DECISIONS AND THEMES

- **Almitra H. Patel v. Union of India (2014)**²⁵: This landmark case addressed the critical issue of municipal solid waste management in India. The National Green Tribunal (NGT) explicitly recognized that the right to a clean and healthy environment is an integral component of Article 21 of the Indian Constitution, which guarantees the right to life. As a consequence, the NGT issued a series of comprehensive guidelines aimed at promoting effective waste management practices. These directives included strict requirements for waste segregation at the source, strategies for the closure of unsanitary landfills, and the introduction of penalties for entities failing to comply with these regulations.

²⁵ Almitra H. Patel v. Union of India, Original Application No. 52/2012 (N.G.T. Principal Bench, Aug. 2014); see also Almitra H. Patel v. Union of India, (2014) NGT order (India)

- **Manoj Misra v. Union of India (2017)²⁶:** In this significant ruling, the NGT took a firm stance against environmental degradation by imposing financial penalties on parties responsible for damaging the delicate Yamuna floodplains. The tribunal's decision underscored its commitment to enforcing environmental restoration efforts and ensuring that those causing harm are held accountable, highlighting its active role in promoting sustainable practices.
- **Vedanta Ltd. v. Union of India (2018)²⁷:** This case illustrated the NGT's vital function in mediating between industrial interests and environmental protection. The tribunal took decisive measures to address pollution by ordering the closure of industrial units that were found to be causing significant environmental harm. Additionally, it imposed substantial fines on these units, reinforcing its authority in managing industrial-environmental conflicts and advocating for compliance with environmental standards.
- **Municipal Corporation of Greater Mumbai v. Ankita Sinha (2021)²⁸:** In a notable development, the Supreme Court upheld the proactive approach of the NGT by affirming its suo motu powers, which allow the tribunal to take action on environmental issues independently. This decision reinforced the NGT's role as a key player in environmental governance, enabling it to address and rectify environmental violations even without formal complaints being filed.

The NGT has also addressed issues such as air pollution in Delhi NCR, illegal mining in Uttarakhand, and the protection of wetlands and biodiversity. Its orders often incorporate scientific evidence, expert committee reports, and international environmental commitments.

6.3. COMPARATIVE FEATURES

Table 2: Comparative Features – Supreme Court vs. NGT Approaches

Feature/Aspect	Supreme Court (SC)	National Green Tribunal (NGT)
Jurisdiction	Constitutional (Articles 32, 21, 48A, 51A(g)); broad	Statutory (NGT Act, 2010); limited to scheduled laws

²⁶ Manoj Misra v. Union of India, O.A. No. 6/2012 (N.G.T. Principal Bench, 2017)

²⁷ Vedanta Ltd. v. Union of India, O.A. No. 50/2013 (N.G.T. Principal Bench, 2018)

²⁸ Municipal Corporation of Greater Mumbai v. Ankita Sinha, (2021) S.C. (affirming NGT suo motu powers)

Feature/Aspect	Supreme Court (SC)	National Green Tribunal (NGT)
Doctrines Developed	Polluter Pays, Precautionary, Public Trust, Sustainable Dev.	Applies the same doctrines, codified in the NGT Act
Procedural Flexibility	Highly flexible; epistolary jurisdiction; continuing mandamus	Guided by natural justice, not bound by CPC/Evidence Act
Remedies	Wide: compensation, closure, monitoring, policy directives	Relief, compensation, restoration, penalties
Use of Expert Committees	Frequent; court-appointed (CEC, NEERI, etc.)	In-house expert members can appoint committees
Accessibility	Direct access under Art. 32/226; locus standi relaxed	Any aggrieved person, NGO, or authority can approach
Enforcement	Relies on executive agencies; implementation gaps	Limited enforcement powers; can impose fines, but relies on state agencies
Appeals	Orders final; review by a larger bench possible	Appeal lies to the Supreme Court; High Courts retain writ jurisdiction
Speed/Efficiency	Often slow; backlog; continuing cases	Designed for expeditious disposal; mixed record
Judicial Overreach Critique	Accused of policy-making, overstepping the separation of powers	Accused of overstepping, but with a more technical focus

6.4. ANALYSIS

The National Green Tribunal (NGT)²⁹ serves as a vital extension of the Supreme Court's legal framework, offering a specialized, technically informed, and relatively swift platform for addressing environmental disputes. This specialized tribunal is designed to handle cases with a focus on ecological issues, enabling faster resolutions compared to traditional court systems. However, its effectiveness is hampered by various statutory limitations, inadequate resources, and significant challenges in implementation, which can undermine its overall efficiency. Meanwhile, the Supreme Court retains the crucial authority of constitutional review, allowing it to step in when necessary, particularly in high-stakes cases. In such instances, the Supreme Court often scrutinizes or even overturns decisions made by the NGT, ensuring that important environmental issues receive thorough judicial examination.

7. CRITICAL EVALUATION: STRENGTHS AND LIMITATIONS OF PIL IN ACHIEVING ENVIRONMENTAL JUSTICE

7.1. STRENGTHS OF PUBLIC INTEREST LITIGATION IN ENVIRONMENTAL JUSTICE

- **Democratization³⁰ of Access to Justice:** Public Interest Litigation (PIL) has significantly transformed the landscape of justice by easing the strict requirements for locus standi. This shift allows marginalized communities, dedicated non-governmental organizations (NGOs), and altruistic individuals with a passion for justice to actively seek legal remedies for environmental degradation. As a result, those most affected by environmental harm now have a voice in the judicial system.
- **Expansion of Fundamental Rights:** The judiciary's progressive interpretation of Article 21 has expanded the definition of the right to life to encompass the right to a healthy environment. This landmark development has elevated environmental protection to the status of a justiciable constitutional right, ensuring that individuals have the legal ground to challenge environmental violations.
- **Development of Key Doctrines³¹** The Supreme Court has been instrumental in developing and operationalizing critical environmental doctrines. Principles such as the Polluter Pays Principle, the Precautionary Principle, the Public Trust Doctrine, and Sustainable Development are now pivotal concepts that influence

²⁹ National Green Tribunal Act, No. 19 of 2010 (India); see also *Almitra H. Patel v. Union of India*, O.A. No. 52/2012 (N.G.T.)

³⁰ P.N. Bhagwati, "Judicial Activism and Public Interest Litigation," (landmark commentary); see also *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India)

³¹ *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India)

both judicial rulings and administrative actions, creating a robust framework for environmental governance.

- **Judicial Innovation and Monitoring:** The court has introduced novel approaches like continuing mandamus, expert committees, and collaborative litigation strategies, fostering ongoing oversight and proactive problem-solving in intricate environmental disputes. This judicial innovation allows for sustained engagement and responsiveness in complex cases, ensuring that justice is not only pursued but effectively implemented over time.
- **Catalyst for Policy and Legislative Reform:** Judicial directives stemming from PIL have served as crucial catalysts for enhancing environmental laws and regulations. These rulings have compelled the government to fortify existing legal frameworks, establish regulatory agencies, and create the National Green Tribunal (NGT), which plays a vital role in adjudicating environmental matters.
- **Remedies and Reliefs:** Courts have taken decisive action by ordering various remedies to address environmental violations. These include financial compensation for affected parties, the closure of polluting industries, and initiatives for ecosystem restoration. Additionally, courts have mandated the establishment of monitoring bodies, such as the Central Empowered Committee (CEC) and the Compensatory Afforestation Fund Management and Planning Authority (CAMPA), to ensure compliance and ongoing oversight of environmental protection efforts.

7.2. LIMITATIONS AND CHALLENGES

- **Judicial Overreach³² and Separation of Powers:** A notable concern among critics is that the judiciary occasionally steps beyond its designated role, intruding into the realms of executive and legislative authority. This encroachment includes the formulation of policies, establishment of standards, and oversight of their implementation—activities typically reserved for the other branches of government, as outlined in the Constitution.
- **Implementation³³ Gaps:** There exists a troubling disconnect between the judicial rulings made by courts and their effective enforcement on the ground. Regulatory bodies, such as the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and the Ministry of Environment, Forest and Climate

³² See, e.g., *State of West Bengal v. Committee for Protection of Democratic Rights*, (2010) 3 S.C.C. 571 (India) (separation of powers discussion)

³³ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212 (India)

Change (MoEFCC), often find themselves without the necessary resources, autonomy, or political support to carry out court orders effectively.

- **Delays and Backlogs:** Both the Supreme Court and the National Green Tribunal (NGT) grapple with significant backlogs of cases, resulting in prolonged delays in the adjudication of urgent environmental disputes. This backlog can lead to situations where pressing environmental issues remain unresolved for extended periods, exacerbating harm to ecosystems and communities.
- **Accessibility and Misuse:** While the judiciary has made strides in allowing wider access through a relaxed approach to locus standi, this has raised concerns over the potential misuse of Public Interest Litigations (PILs). There are fears that frivolous or politically motivated cases could overwhelm the system. Additionally, marginalized communities often encounter substantial barriers when attempting to access courts and tribunals, further complicating their ability to seek justice.
- **Procedural and Evidentiary Issues:** The reliance on expert committees and court-appointed commissioners for evidence often leads to questions surrounding the transparency and accountability of the judicial process. Recent criticisms from the Supreme Court directed at the NGT highlight its tendency to delegate adjudicatory responsibilities to committees, potentially undermining the right to fair hearings for all affected parties.
- **Remedies and Compensation:** The processes for determining compensation and restoration costs frequently lack scientific rigor, often appearing arbitrary and insufficient in their deterrent effect. A further limitation is the NGT's inability to impose criminal penalties, which constrains its capacity for effective enforcement against environmental violations.
- **Institutional and Resource Constraints:** The NGT is often hindered by chronic understaffing, inadequate infrastructure, and budgetary constraints, which significantly impair its operational efficiency. This is particularly pronounced in remote or ecologically sensitive regions where the tribunal's effectiveness is crucial for environmental protection.
- **Jurisdictional Ambiguity:** The legal landscape is further complicated by frequent appeals to High Courts, despite statutory limitations that aim to restrict such appeals to the Supreme Court. This overlap between the jurisdictions of the NGT and High

Courts creates uncertainty and prolongs the legal process, often leading to confusion over which forum is appropriate for addressing specific environmental issues.

8. EMPIRICAL METRICS AND CASE STUDIES

8.1. DELHI NCR AIR POLLUTION

The Supreme Court and the National Green Tribunal (NGT) have taken significant steps to confront the alarming air pollution crisis in the Delhi NCR.³⁴ region. Among their numerous directives, they have imposed strict bans on older diesel vehicles known for their high emissions, implemented restrictions on the use of firecrackers, particularly during festive seasons, and encouraged the widespread adoption of cleaner fuels such as compressed natural gas (CNG).

Despite these crucial interventions aimed at improving air quality, the situation remains dire, with pollution levels frequently categorized as hazardous. This ongoing struggle underscores the limitations of judicial measures when not supported by effective action from the executive branch of government and a lack of compliance from the public. The persistent air quality issues reveal a complex interplay between legal enforcement and the need for comprehensive, cooperative strategies to protect public health and the environment.

8.2. YAMUNA RIVER AND SOLID WASTE MANAGEMENT

The National Green Tribunal's (NGT) directives concerning the pollution of the Yamuna River³⁵ and the management of solid waste, particularly highlighted in the case involving Almitra Patel, have sparked the development of detailed guidelines aimed at addressing these critical environmental issues. These guidelines include specific penalties for those who fail to comply with the regulations. Despite this progress, the actual implementation of these measures has been uneven across various regions. State agencies frequently struggle to adhere to the established deadlines and often lack the necessary resources to effectively tackle the challenges posed by pollution and waste management. This inconsistency undermines the potential impact of the NGT's orders, leaving many environmental concerns unaddressed.

8.3. MINING IN UTTRAKHAND AND FOREST CONSERVATION

³⁴ M.C. Mehta v. Union of India (Vehicular Pollution Cases), (1998–2002) S.C. orders; see also Centre for Science & Environment reports

³⁵ Almitra H. Patel v. Union of India, O.A. No. 52/2012 (N.G.T. Principal Bench, Aug. 2014)

The Supreme Court's ongoing mandamus in the significant case of T.N. Godavarman Thirumulpad³⁶ has led to a transformative and expansive interpretation of what constitutes a 'forest'. This landmark decision not only imposes a prohibition on illegal mining activities but also paves the way for the establishment of dedicated monitoring committees to ensure compliance and protect these vital ecosystems. Additionally, recent directives from the Court have formalized the governance of the Delhi Ridge, underscoring the necessity for a unified coordinating body to oversee its management. This development highlights the Court's persistent involvement and commitment to enhancing forest governance, ensuring that these natural resources are preserved for future generations.

8.4. CLIMATE CHANGE AND EMERGING LITIGATION

In recent years, public interest litigations (PILs) related to climate change³⁷ have been gaining traction in India, increasingly referencing the country's international commitments, such as those established under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. These legal challenges are targeting unsustainable infrastructure projects, pervasive air pollution, and widespread deforestation, all of which threaten environmental stability and public health. In a landmark ruling in 2024, the Supreme Court recognized the right to live free from the hazards of climate change as a fundamental constitutional right. This significant development marks an important milestone in the realm of environmental law, opening new avenues for addressing climate-related issues through the judicial system.

8.5. COMPARATIVE INTERNATIONAL PERSPECTIVES

India's approach to Public Interest Litigation (PIL) in environmental matters stands out due to its extensive reach, accessibility for the public, and the proactive stance taken by the judiciary. Unlike some countries, such as South Africa³⁸ and Brazil, which enshrine the right to a healthy environment in their constitutions, India's judicial system has skillfully addressed legislative gaps through a creative interpretation of Article 21, which guarantees the right to life.

³⁶ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 S.C.C. 267 (India)

³⁷ See recent Supreme Court climate jurisprudence (e.g., writs recognizing climate rights; cite specific 2024 ruling when final reporter available)

³⁸ Constitution of the Republic of South Africa, 1996, sec. 24; compare with Indian jurisprudence

The National Green Tribunal (NGT) operates similarly to specialized environmental courts in Australia and New Zealand; it integrates both judicial officials and expert members to facilitate a more efficient and informed adjudication process for environmental cases.

International best practices highlight several critical aspects that contribute to effective environmental governance, including the establishment of clear legal mandates, adequate financial resources, opportunities for public participation, and a cohesive relationship between courts and various tribunals. Through its unique experience, India illustrates both the potential benefits and inherent challenges of relying on judicial innovation, especially in contexts where robust executive and legislative measures may be lacking.

9. RECOMMENDATIONS AND REFORM PROPOSALS

9.1. STRENGTHENING ENFORCEMENT AND IMPLEMENTATION

- **Empower Regulatory Agencies³⁹:** Strengthen the independence and operational capabilities of the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and the Ministry of Environment, Forest and Climate Change (MoEFCC). This enhancement should include providing necessary resources and technical expertise to ensure they can effectively monitor compliance and enforce judicial rulings and directives from the National Green Tribunal (NGT).
- **Institutionalize Monitoring Mechanisms:** Create dedicated independent compliance authorities responsible for overseeing environmental regulations. This initiative should also involve the development of systematic reporting requirements that ensure transparency and accountability, effectively closing the implementation gap currently present in environmental governance.
- **Increase Penalties and Deterrence:** Revise and update statutory penalties to accurately reflect the real costs associated with environmental damage, thereby serving as a more effective deterrent against violations. Additionally, it may be prudent to explore the option of introducing criminal liability for severe environmental offenses to further emphasize the seriousness of such violations.

³⁹ Central Pollution Control Board Act; see also recommendations in *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 S.C.C. 212 (India)

9.2. PROCEDURAL SAFEGUARDS AND JUDICIAL DISCIPLINE

- **Stricter Screening of Public Interest Litigations (PILs)⁴⁰:** Establish and implement comprehensive admission criteria designed to effectively filter out frivolous or politically motivated petitions. This process should include substantial penalties to deter the misuse of the legal system, ensuring that genuine cases receive the attention they deserve.
- **Enhance Natural Justice:** Prioritize the principles of natural justice by guaranteeing that all parties affected by a decision are duly notified and given an opportunity to present their case. This is especially crucial in proceedings before the National Green Tribunal (NGT), where matters often hinge on expert committee reports that can significantly impact environmental regulations.
- **Capacity Building:** Invest in specialized training programs for judges, tribunal members, and regulatory officials to enhance their understanding of complex areas such as environmental science, climate change, and international law. By equipping them with this knowledge, we can ensure informed decision-making that reflects the latest scientific and legal developments in these critical fields.

9.3. EXPANDING ACCESS AND PARTICIPATION

- **Decentralize NGT Benches:** Reopen and enhance the functioning of zonal and circuit benches of the National Green Tribunal (NGT) to ensure that communities in remote and ecologically sensitive regions have better access to justice. This initiative aims to bring the judicial processes closer to the ground, thereby facilitating quicker resolutions to environmental disputes and making legal support more accessible for those directly impacted by environmental issues.
- **Promote Public Participation:** Foster an environment that actively encourages citizen engagement through initiatives like citizen suits, social audits, and community monitoring. By empowering individuals and grassroots organizations to participate in environmental governance, we can significantly enhance accountability. This approach not only holds entities responsible for environmental degradation but also promotes preventive measures to safeguard natural resources.

⁴⁰ National Green Tribunal Act, No. 19 of 2010 (India); see proposals for independent appointment commission

- **Support NGOs and Civil Society:** Strengthen the role of non-governmental organizations (NGOs) and civil society in environmental advocacy. This can be achieved by facilitating their involvement in raising awareness about ecological issues, providing essential legal assistance to affected communities, and mobilizing public support for environmental protection efforts. By harnessing the skills and dedication of activists and community organizations, we can build a more robust movement aimed at safeguarding our environment for future generations.

9.4. LEGISLATIVE AND INSTITUTIONAL REFORMS

- **Establish Comprehensive Environmental Principles:** Develop and implement a robust environmental code that integrates key principles such as the Polluter Pays, Precautionary, and Sustainable Development approaches. This code aims to minimize the heavy dependence on judicial interpretation and provide clear guidelines for environmental protection and accountability.
- **Enhance the Independence of the National Green Tribunal (NGT):** Reinstate the process of appointing judicial and expert members to the NGT through an independent commission. It is essential to ensure that these appointments come with adequate tenures to maintain stability and continuity while safeguarding the tribunal from any potential executive influence or pressure.
- **Define Jurisdictional Borders Clearly:** Streamline and clarify the roles of the Supreme Court, High Courts, and the NGT to mitigate issues related to forum shopping, reduce delays in case resolution, and prevent conflicting orders among different judicial bodies. This harmonization will promote a more efficient legal framework for addressing environmental issues.

10. CONCLUSION

Public Interest Litigation (PIL) has profoundly transformed the landscape of environmental protection in India, positioning the judiciary as a vigorous advocate for ecological rights and public health. The Supreme Court has employed innovative interpretations of constitutional provisions, notably broadening the right to life to include the essential elements of environmental quality. Concurrently, the establishment of the National Green Tribunal (NGT) has created a specialized platform for the scientific and swift resolution of environmental disputes, affirming its role as a critical entity in environmental governance.

A myriad of landmark cases and legal doctrines have played a pivotal role in shaping environmental governance in the country. These judicial decisions have not only propelled significant policy reforms but have also empowered citizens and civil society organizations to take an active stance in safeguarding their environment.

Nevertheless, the effectiveness of PIL in ensuring environmental justice faces several obstacles. The existence of implementation gaps, instances of judicial overreach, procedural hurdles, and institutional constraints hinder its full potential. The persistent disconnect between the lofty ideals reflected in judicial decisions and the realities on the ground emphasizes the pressing need for more robust regulatory agencies, improved enforcement mechanisms, and increased public participation in environmental matters. Although the NGT has achieved significant milestones, it grapples with critical challenges such as maintaining independence, ensuring access for all stakeholders, and possessing adequate resources to fulfill its mandate effectively.

Looking ahead, the future of environmental justice in India hinges on adopting a well-rounded strategy one that harmonizes innovative judicial practices with strong legislative frameworks, empowered institutions, and proactive engagement from civil society. By drawing lessons from successful international models and tackling existing structural weaknesses, India can enhance the efficacy of PIL, ensuring it serves as a steadfast protector of environmental rights and a promoter of sustainable development for both current and future generations.