



## Strengthening Environmental Governance in India : Legal Frameworks for Sustainable Development

Prof. Shazia Akhtar

Professor and Head, Department of Political Science, KKPG College, Etawah, Uttar Pradesh, India

### Article Info

Accepted : 01 April 2025

Published : 12 April 2025

### Publication Issue :

March-April-2025

Volume 8, Issue 2

Page Number : 72-77

**ABSTRACT :** Environmental governance is pivotal to achieving sustainable development, particularly in countries like India where ecological degradation, climate change, and biodiversity loss are rapidly intensifying. This paper examines India's environmental governance framework through a legal lens, analysing how existing constitutional provisions, statutory instruments, and institutional mechanisms contribute to—or fall short of—sustainable environmental protection. It highlights the judiciary's role, the National Green Tribunal (NGT), and participatory mechanisms in shaping compliance and accountability. By analyzing key case studies and comparing global best practices, the study underscores the urgent need for adaptive, integrated, and enforceable legal strategies. The paper concludes with policy recommendations that align environmental law with developmental realities while promoting equity, resilience, and long-term sustainability.

**Keywords :** Environmental Governance, India, Legal Frameworks, Sustainable Development, Environmental Law, National Green Tribunal, Policy, Climate Change

### 1) Introduction

Environmental degradation remains one of the most pressing challenges of the 21st century. In India, the effects of rapid industrialization, urban expansion, deforestation, and climate change have significantly impacted ecosystems, human health, and the economy. Sustainable development, which seeks to balance economic progress with environmental protection and social equity, requires robust environmental governance structures. Legal frameworks form the cornerstone of such governance, providing the rules, norms, and enforcement mechanisms necessary to manage

natural resources and address environmental harms effectively.

India's approach to environmental governance has evolved significantly since the 1970s, spurred by global environmental movements and domestic ecological crises. The legal system—anchored in constitutional mandates, statutory legislation, and judicial activism—has played a central role in shaping environmental policy and practice. However, challenges related to enforcement, coordination among agencies, public participation, and politics will continue to hinder its effectiveness.

This paper explores how India's legal frameworks contribute to environmental governance, assessing their strengths, gaps, and opportunities for reform. Through a combination of doctrinal analysis, policy review, and case studies, it aims to offer actionable insights for strengthening India's capacity to achieve environmental sustainability.

## 2) Theoretical Framework and Literature Review

Environmental governance refers to the processes, institutions, and legal instruments through which societies manage their environmental affairs. According to Lemos and Agrawal (2006), it encompasses the interactions among state, market, and civil society actors in developing and implementing environmental policy. Legal scholars argue that effective governance must rest on a foundation of enforceable laws, public accountability, and participatory decision-making (Boyd, 2010).

The Indian context presents a unique intersection of democratic governance, environmental diversity, and socio-economic inequality. As Agarwal and Narain (1999) emphasize, governance in India must account for the livelihoods of marginalized communities that are most dependent on natural resources. The Environmental Kuznets Curve hypothesis (Grossman & Krueger, 1995), often cited in this discourse, suggests that environmental degradation initially increases with economic growth but eventually decreases as societies become wealthier and invest in cleaner technologies and regulations. However, critics argue that without legal enforcement and institutional capacity, this transition does not occur automatically (Dasgupta et al., 2002).

The role of legal frameworks in India's environmental governance has been widely discussed. The 42nd Amendment to the Constitution in 1976 introduced Articles 48A and 51A(g), making environmental protection a directive principle and a fundamental duty. Statutes such as the Environment (Protection) Act, 1986 and the Forest (Conservation) Act, 1980 provide legislative authority for regulatory intervention. The judiciary, particularly through Public Interest

Litigations (PILs), has emerged as an active agent of environmental governance (Divan & Rosencranz, 2001).

However, scholars point to significant implementation gaps. Bandyopadhyay (2020) critiques the over-centralization of environmental decision-making, while Khosla (2018) highlights issues of overlapping jurisdictions and regulatory fragmentation. Moreover, global indices such as the Environmental Performance Index (2022) continue to rank India low, citing weak enforcement and air quality concerns.

This paper builds upon these foundational studies by integrating doctrinal legal analysis with recent policy developments and institutional performance, offering a comprehensive evaluation of India's environmental governance landscape.

## Environmental Legal Frameworks in India

India's environmental governance structure is underpinned by a comprehensive legal framework that encompasses constitutional mandates, statutory laws, and institutional mechanisms. These legal provisions are not only instrumental in guiding environmental policies but also critical for ensuring accountability, enforcement, and justice. This section outlines the major components of India's environmental legal framework, focusing on constitutional provisions, key statutes, and the role of judicial and quasi-judicial institutions.

### 3) Constitutional Provisions

The Constitution of India does not explicitly mention the environment in its original text. However, the 42nd Constitutional Amendment Act of 1976 marked a turning point by incorporating environmental protection as a directive principle of state policy and a fundamental duty of citizens.

- **Article 48A** (Directive Principles of State Policy) states: "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country."
- **Article 51A(g)** (Fundamental Duties) imposes a duty on every citizen "to protect and improve the natural environment including forests,

lakes, rivers, and wildlife, and to have compassion for living creatures.”

While directive principles are not enforceable by courts, their inclusion has influenced both legislation and judicial interpretations that uphold environmental protection as a constitutional imperative.

#### 4) Key Environmental Laws and Statutes

Several statutes form the backbone of India's environmental legal regime. Prominent among them are:

##### **Environment (Protection) Act, 1986**

Enacted in the wake of the Bhopal gas tragedy, this umbrella legislation provides wide-ranging powers to the central government to take all necessary measures to protect the environment. It allows for the setting of standards for emissions and discharges, regulation of industrial locations, and enforcement through penalties.

##### **Air (Prevention and Control of Pollution) Act, 1981**

This act empowers the central and state pollution control boards to regulate air quality and emissions from industrial and vehicular sources.

##### **Water (Prevention and Control of Pollution) Act, 1974**

One of the earliest environmental laws in India, it establishes mechanisms for monitoring and preventing water pollution through permits, standards, and the establishment of pollution control boards.

##### **Forest (Conservation) Act, 1980**

The act restricts the de-reservation of forests and the use of forest land for non-forest purposes without central government approval.

##### **Biological Diversity Act, 2002**

Enacted in line with the Convention on Biological Diversity (CBD), this act governs the conservation of biological resources, access to genetic resources, and fair benefit-sharing with local communities.

Each of these laws has created institutional bodies—such as the Central Pollution Control Board (CPCB), State Pollution Control Boards (SPCBs), and the National Biodiversity Authority—to monitor and enforce compliance.

#### 5) Role of the Judiciary

The Indian judiciary has played an instrumental role in interpreting environmental laws and expanding the scope of constitutional provisions related to the environment. Through **Public Interest Litigations (PILs)**, the courts have recognized the **right to a clean and healthy environment** as part of the **Right to Life under Article 21**.

Notable judgments include:

- **M.C. Mehta v. Union of India (1987):** Introduced the concept of absolute liability in environmental law following the Oleum Gas Leak case.
- **Vellore Citizens' Welfare Forum v. Union of India (1996):** Introduced the precautionary principle and polluter pays principle into Indian environmental jurisprudence.
- **T.N. Godavarman Thirumulpad v. Union of India (1997–present):** A continuing mandamus case on forest conservation, showing the judiciary's proactive stance.

The courts have also issued structural directives to state agencies, mandated environmental impact assessments, and ensured compliance with international obligations.

#### 6) The National Green Tribunal (NGT)

Established under the **National Green Tribunal Act, 2010**, the NGT is a specialized body to handle environmental disputes with a mandate for speedy and effective adjudication. It has jurisdiction over all civil cases involving a substantial question relating to the environment and linked to the statutes mentioned above.

The NGT has delivered significant judgments on issues such as:

- Illegal mining in Aravallis,
- Air pollution in Delhi (e.g., banning diesel vehicles over 10 years old),
- River pollution and solid waste management.

While the NGT has been applauded for proactive decisions and fast-tracking environmental justice, concerns remain about its enforcement capacity,

resource constraints, and political pushback (Kothari, 2020).

### **Challenges in Implementation of Environmental Governance in India**

Despite having a comprehensive legal and institutional framework, the implementation of environmental governance in India faces numerous challenges. These issues are multifaceted, involving administrative, political, economic, and social dimensions that undermine the effectiveness of environmental laws and policies.

#### **7) Institutional Fragmentation and Overlaps**

One of the foremost challenges is the lack of coordination among various agencies responsible for environmental management. Multiple ministries and departments—such as the Ministry of Environment, Forest and Climate Change (MoEFCC), Ministry of Water Resources, and state-level pollution control boards—often operate in silos. This institutional fragmentation leads to overlapping functions, delays in decision-making, and inefficiencies in enforcement.

#### **8) Weak Enforcement and Regulatory Capacity**

Although the laws are in place, enforcement remains weak. State Pollution Control Boards (SPCBs) are often under-resourced and lack the technical capacity to monitor and enforce compliance. Industries, especially in pollution-intensive sectors, frequently violate norms with minimal penalties, highlighting the gap between legislation and implementation (Kohli & Menon, 2021).

#### **9) Corruption and Political Interference**

Corruption within regulatory institutions compromises the integrity of environmental governance. Political patronage and vested interests can weaken environmental regulations, allowing polluting industries to operate unchecked. Environmental clearances are sometimes granted without rigorous scrutiny, undermining the effectiveness of Environmental Impact Assessments (EIAs).

#### **10) Inadequate Public Participation and Awareness**

While participatory governance is emphasized in policy discourse, in practice, local communities and

marginalized groups often lack meaningful opportunities to engage in environmental decision-making. This results in policies that are misaligned with ground realities and perpetuate environmental injustices.

#### **11) Economic Growth vs. Environmental Protection**

The pursuit of rapid economic development has often come at the expense of environmental sustainability. Infrastructure projects such as dams, highways, and mining are frequently prioritized without adequate environmental safeguards. The trade-off between growth and ecological preservation remains a central tension in Indian policymaking.

#### **Case Studies: Successes and Limitations in Environmental Governance**

Examining case studies helps contextualize theoretical frameworks within real-world experiences, illustrating both the successes and shortcomings of India's environmental governance.

#### **12) The Western Ghats Conservation**

The Western Ghats, a UNESCO World Heritage site, is a biodiversity hotspot. The Madhav Gadgil Committee (2011) and the subsequent Kasturirangan Report (2013) proposed zoning strategies to regulate development. However, political resistance and lack of public consultation led to diluted implementation. The case highlights the difficulties in balancing conservation with local livelihoods and development agendas.

#### **13) Ganga River Rejuvenation: Namami Gange**

Launched in 2014, the Namami Gange programme aims to clean the Ganges through a multi-pronged approach, including sewage treatment, industrial effluent management, and riverfront development. While significant funds have been allocated and some progress made, systemic issues such as coordination failures, land acquisition delays, and insufficient sewage infrastructure continue to hamper outcomes (CSE, 2022).

#### **14) Aravalli Hills Protection and the Role of NGT**

Illegal mining in the Aravalli Hills prompted the National Green Tribunal (NGT) to intervene and ban certain operations. The case underscores the NGT's proactive role in environmental adjudication.

However, enforcement on the ground remains patchy due to local resistance and weak monitoring mechanisms.

#### **15) Community Forest Governance in Odisha**

Odisha has seen successful examples of community-based forest management, where local groups take collective responsibility for protecting forests. Supported by NGOs and policy incentives, these initiatives have improved forest cover and biodiversity. This case reflects the potential of participatory governance when adequately supported.

#### **Adaptive and Inclusive Governance Models**

##### **The Need for Adaptive Governance**

Environmental challenges such as climate change and biodiversity loss are dynamic and complex, requiring policies that can evolve with new scientific knowledge and changing socio-political realities. Adaptive governance refers to the flexible and learning-based approach that adjusts policies and institutions in response to environmental feedback and emerging risks (Folke et al., 2005).

In India, examples of adaptive governance can be seen in climate action plans such as the State Action Plans on Climate Change (SAPCCs), which are tailored to specific regional contexts. However, the implementation often suffers from weak institutional capacity and lack of inter-sectoral coordination.

#### **16) Importance of Inclusivity and Equity**

Inclusive governance ensures that the voices of all stakeholders—especially marginalized communities, women, indigenous peoples, and youth—are integrated into environmental policymaking. In India, Scheduled Tribes and forest dwellers have historically played a key role in environmental stewardship, yet their rights are frequently overlooked in formal governance processes.

The Forest Rights Act (2006) is a landmark legislation that aims to correct historical injustices by recognizing the land and forest rights of traditional forest-dwelling communities. However, implementation remains uneven, with frequent legal and administrative hurdles delaying claims.

#### **17) Science-Policy Interface**

Strengthening the science-policy interface is crucial for adaptive governance. Environmental decision-making must be informed by robust scientific evidence, environmental monitoring, and impact assessments. For instance, India's National Biodiversity Action Plan integrates ecological data with local conservation priorities. Yet, gaps remain in data transparency and accessibility, which hinders effective policy formulation.

#### **18) Decentralization and Local Governance**

Decentralized governance, through institutions like Panchayati Raj Institutions (PRIs), plays a vital role in enabling local-level environmental action. Local bodies can implement context-specific solutions, mobilize community participation, and monitor compliance more effectively. However, they often face constraints such as inadequate funding, training, and political interference.

### **Conclusion and Policy Recommendations**

#### **19) Conclusion**

Strengthening environmental governance in India is imperative for achieving long-term sustainable development. While the country has made strides in developing comprehensive legal frameworks and engaging with global environmental protocols, implementation remains a critical bottleneck. Challenges such as weak institutional capacity, fragmented governance, and inadequate stakeholder participation continue to hamper progress.

This paper underscores the importance of an integrated policy approach that combines regulatory enforcement, economic incentives, and participatory mechanisms. Adaptive and inclusive governance models, informed by science and rooted in equity, are essential to address the complexities of environmental challenges in the Indian context.

#### **20) Policy Recommendations**

Based on the analysis, the following recommendations are proposed to improve environmental governance in India:

##### **1. Strengthen Institutional Coordination:**

- Promote integrated policy planning across ministries and departments to avoid duplication and improve efficiency.



- Establish clear mandates and accountability mechanisms for each environmental authority.
  - 2. **Enhance Legal Enforcement Capacity:**
    - Equip pollution control boards with adequate financial, human, and technological resources.
    - Increase penalties for non-compliance and ensure timely legal proceedings.
  - 3. **Mainstream Participatory Governance:**
    - Institutionalize community engagement in environmental assessments and planning.
    - Empower local governance structures with decision-making authority and capacity-building support.
  - 4. **Expand Market-Based Instruments:**
    - Broaden the use of carbon markets, green bonds, and environmental taxes to align economic incentives with sustainability goals.
    - Support small and medium enterprises in transitioning to green technologies.
  - 5. **Promote Inclusive and Equitable Policies:**
    - Recognize and safeguard the rights of indigenous peoples and vulnerable communities in environmental laws.
    - Integrate gender-sensitive and youth-centred approaches into environmental governance.
  - 6. **Invest in Data and Research Infrastructure:**
    - Strengthen environmental monitoring networks and ensure open access to environmental data.
    - Promote interdisciplinary research to inform policy decisions.
  - 7. **Foster International Cooperation:**
    - Enhance cross-border collaboration on climate action, biodiversity, and pollution control.
    - Leverage global financial and technical support for national sustainability initiatives.
- Mining and Dispossession in India. Orient Blackswan.
2. Centre for Science and Environment. (2022). State of India's Environment Report 2022. New Delhi: CSE.
  3. Ministry of Environment, Forest and Climate Change (MoEFCC). (2013). Report of the High-Level Working Group on Western Ghats (Kasturirangan Committee).
  4. UNDP India. (2019). Forest Governance in Odisha: A Community Perspective.
  5. Bandyopadhyay, J. (2020). Environmental Governance in India: State, Class and Corporate Capitalism. Routledge.
  6. Divan, S., & Rosencranz, A. (2001). Environmental Law and Policy in India. Oxford University Press.
  7. Khosla, R. (2018). Legal Challenges in India's Environmental Governance. Indian Journal of Environmental Law, 3(1), 23–45.
  8. Lemos, M. C., & Agrawal, A. (2006). Environmental governance. Annual Review of Environment and Resources, 31, 297–325.

## References :

1. Kohli, K., & Menon, M. (2021). Development and Environmental Justice: The Politics of