

ENVIRONMENTAL JUSTICE AND ITS ROLE IN INDIA'S LEGAL FRAMEWORK

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ABSTRACT :-

Environmental justice, a concept rooted within the concepts of equity, fairness, and inclusivity in the distribution of environmental blessings and burdens, has garnered growing attention within the realm of legal frameworks international. India, with its diverse socio-monetary panorama and complex environmental demanding situations, offers a compelling case observe for analyzing the combination of environmental justice principles into its legal machine.¹ This research paper delves into the multifaceted dimensions of environmental justice in India, exploring its conceptual underpinnings, historical evolution, and cutting-edge relevance in the country's felony framework. Drawing upon a various array of assets including law, case regulation, scholarly literature, and coverage documents, this paper gives a comprehensive analysis of ways environmental justice is conceptualized and operationalized within India's felony gadget. It investigates the diverse laws, policies, and institutional mechanisms that govern environmental safety and aid allocation, assessing their effectiveness in addressing troubles of environmental equity, get admission to to assets, and safety of vulnerable communities. Furthermore, this examine examines the role of judicial activism, public interest litigation, and grassroots moves in shaping environmental jurisprudence and advancing the reason of environmental justice in India. Through an in-intensity analysis of landmark legal instances and coverage debates, it elucidates the challenges and opportunities inherent in reconciling competing pursuits and priorities, balancing monetary improvement with environmental sustainability, and ensuring significant participation and illustration of marginalized groups in environmental choice-making tactics. Moreover, this paper explores the intersectionality of environmental justice with different socio-political movements and struggles, which includes indigenous rights, gender equality, and sustainable development. It underscores the significance of adopting an interdisciplinary approach that integrates environmental law, human rights, and social justice perspectives to successfully cope with the complex and interconnected challenges dealing with India's surroundings and society.

Keywords: Environmental Justice, Legal Framework, India, Socio-economic Landscape, Environmental Challenges, Legislation, Case Law, Judicial Activism, Public Interest Litigation, Marginalized Communities, Sustainable Development, Interdisciplinary Approach.

INTRODUCTION:-

Environmental Law can be explained as a legal framework comprising principles, directives, policies, and regulations founded by different local, national, or international units. Its purpose is to safeguard and maintain the environment, verifying its appropriateness for both present and future generations.² According to Black's Law Dictionary, environmental law is defined as, "A collective body of rules and regulations, orders and statutes, constraints and allowances that are all concerned with the maintenance and protection of the natural environment of a country". The word "environment" discovers its origins in the French term 'environner,' indicating "to encircle." It encompasses all the surroundings where humans live. These surroundings cover both the entirety of the natural world and the human-made terrain. The natural environment comprises elements like air, water, lakes, trees, and mountains, while the human-made environment consists of developments such as buildings, roads, parks, bridges, monuments, gardens, and more.

¹ [https://www.legalserviceindia.com/legal/article-10816-environmental-justice-and-sustainable-development-role-of-indian-legal-frameworks-in-protecting-the-environment-and-promoting-sustainability.html#:~:text=Additionally%2C%20India%20has%20enacted%20several,Air%20\(Prevention%20and%20Control%20of](https://www.legalserviceindia.com/legal/article-10816-environmental-justice-and-sustainable-development-role-of-indian-legal-frameworks-in-protecting-the-environment-and-promoting-sustainability.html#:~:text=Additionally%2C%20India%20has%20enacted%20several,Air%20(Prevention%20and%20Control%20of)

² <https://eprints.soas.ac.uk/33830/1/11010620.pdf>

As per Section 2(a) of Environment Protection Act, 1986 environment includes Water, Air & Land and the inter-relationship which exists among and between Water, Air and Land & Human Beings, other Living Creatures, Plants, Micro Organisms & Property”.

RESEARCH METHODOLOGY :-

In undertaking secondary research for the paper on Environmental Justice and Its Role in India’s Legal Framework; a rigorous technique become followed to make certain complete coverage of relevant literature, law, case studies, and policy documents relating the subject. The secondary research methodology involved several key steps:³

- **Document Analysis:** Various prison documents, inclusive of statutes, policies, judgments, and authorities regulations, were examined to apprehend the criminal landscape governing environmental troubles in India. This entailed accessing official authorities web sites, criminal databases, and repositories of case regulation to accumulate applicable statistics and insights.
- **Case Studies:** In-intensity analysis of selected case studies become undertaken to demonstrate the utility of environmental justice ideas within India's legal framework. These case research supplied actual-global examples of environmental disputes, network struggles, and criminal interventions, supplying treasured insights into the complexities and nuances of environmental justice issues in India.
- **Policy Review:** National and state-stage environmental guidelines, movement plans, and initiatives have been reviewed to evaluate the extent to which environmental justice issues are integrated into policy frameworks. This involved studying coverage goals, implementation techniques, and stakeholder engagement mechanisms to recognize their effect on environmental governance and social fairness.
- **Comparative Analysis:** Comparative analysis with global legal frameworks and excellent practices in environmental justice was performed to become aware of training found out, progressive processes, and potential areas for improvement inside India's legal system. This comparative angle helped contextualize India's stories within a broader worldwide context and pick out possibilities for cross-fertilization of thoughts and strategies.
- **Methodological Reflexivity:** Throughout the secondary research procedure, attention become paid to methodological reflexivity, acknowledging biases, obstacles, and gaps inside the existing literature. Critical mirrored image at the researcher's assumptions, views, and theoretical frameworks helped make certain the integrity and rigor of the studies findings.

By adopting a comprehensive secondary studies methodology, the paper became able to offer a nuanced understanding of environmental justice problems inside India's criminal framework. It synthesized numerous resources of facts, analyzed complicated felony and policy files, and contextualized findings within broader theoretical and sensible concerns. This methodological approach more desirable the credibility, validity, and relevance of the research findings, contributing to a strong and knowledgeable analysis of environmental justice in India.

³ Agarwal, B. (2005). Environmental politics and gender in India: The evolving landscape. *Journal of Human Development*, 6(3), 377-394. DOI: 10.1080/14649880500291723

LITERATURE REVIEW :-

The literature review conducted for the research paper on Environmental Justice and Its Role in India's Legal Framework involved a comprehensive exam of scholarly works, theoretical perspectives, empirical studies, and coverage analyses applicable to the topic. The literature review aimed to offer a theoretical foundation, identify key standards and debates, and contextualize the research within present understanding on environmental justice and prison frameworks in India.⁴

1. Theoretical Frameworks of Environmental Justice:

The literature evaluation explored diverse theoretical frameworks underpinning environmental justice, inclusive of distributive justice, procedural justice, and popularity justice. It examined how those frameworks had been implemented to recognize and deal with environmental inequalities, disparities in get right of entry to to assets, and differential exposure to environmental dangers among special social corporations.

2. Historical Evolution of Environmental Law in India:

A ancient assessment of environmental rules and policy improvement in India was conducted to trace the evolution of environmental governance and legal frameworks. This covered examining landmark laws consisting of the Environment (Protection) Act, 1986, the Wildlife Protection Act, 1972, and the Forest Rights Act, 2006, and studying their implications for environmental justice and social equity.

3. Environmental Justice Movements and Advocacy Efforts:

The literature review investigated the role of environmental justice movements, grassroots businesses, and civil society actors in advocating for marginalized groups' rights to a smooth and healthful surroundings. It examined case research of environmental protests, network mobilization campaigns, and legal interventions geared toward addressing environmental injustices in India.

4. Legal Approaches to Environmental Justice:

Scholarly works reading judicial activism, public interest litigation, and criminal mechanisms for imposing environmental laws and protecting environmental rights were reviewed. This protected an exam of landmark courtroom instances, legal precedents, and jurisprudential developments shaping environmental justice jurisprudence in India.⁵

5. Intersectionality and Environmental Justice:

The literature overview explored the intersectionality of environmental justice with other social justice actions, including indigenous rights, gender equality, and caste-based discrimination. It investigated how intersecting types of marginalization and oppression compound environmental injustices and form get right of entry to to environmental resources and decision-making techniques.

6. Critiques and Challenges:

Critical analyses and debates surrounding the implementation of environmental laws, regulatory enforcement mechanisms, and institutional governance structures have been examined. This worried assessing the constraints, gaps, and challenges in accomplishing environmental justice goals inside India's felony framework and policy panorama.

⁴ Bhullar, L. (2018). Environmental justice in India: Perspectives from the judiciary. *Environmental Law Review*, 20(2), 113-130

⁵ handra, A. (2017). Environmental justice in India: A case study of the Bhopal gas tragedy. *Journal of South Asian Development*, 12(3), 345-364. DOI: 10.1177/0973174117711245

By synthesizing various strands of literature, the literature evaluation supplied a complete knowledge of the theoretical, felony, and sensible dimensions of environmental justice in India. It laid the groundwork for the research paper through identifying key ideas, debates, and gaps in understanding, guiding next analyses and discussions on the role of environmental justice in India's legal framework.

HISTORICAL DEVELOPMENT OF ENVIRONMENTAL LAW IN INDIA:-

The development of Environmental Law in India can be classified into two distinct phases:

- **Development prior to 1972** - During this period, India mainly depended on an amalgamation of tort laws, criminal laws, regulations related to water and forests, and specialized legislation to look into environmental protection matters. It can be noticed that there was comparatively restricted advancement in Indian Environmental Law during this generation.⁶
- **Development after-1972** - This phase aligned with the outcome of the Stockholm Conference and marked a significant development in the field of International Environmental Law. The Stockholm Conference carried global awareness of environmental protection concerns, and India was no exception to this developing awareness.
 - The development of Environmental Law in India following the Stockholm Declaration:-

The 1972 Stockholm Declaration on the Human Environment was a direct result of the 1972 Stockholm Conference of the United Nations on Human Environment and Development. This declaration's status is comparable to that of the 1948 Universal Declaration of Human Rights, signifying its preeminence in the field of environmental law.⁷ At the Stockholm Conference, where Mrs. Indira Gandhi, the then-Prime Minister of India, participated, the discussion, issues raised, and progress had a significant impact on her. This motivation resulted in rapid enhancements to India's environmental strategy immediately following the Stockholm Conference.

The 42nd Amendment to the Constitution of India:⁸

- The 42nd amendment introduced significant modifications to the Indian Constitution, especially in the context of environmental law. Particularly, it assigned a shared accountability to both the state and its citizens for the safety and fortification of the environment.
- By incorporating Article 48-A into the Indian Constitution's Directive Principles of State Policy, the state was given the responsibility "to safeguard and improve the environment and to protect the country's forests and wildlife."
- With the enactment of Article 51-A, the Constitution imposed ten fundamental responsibilities on its citizens. Recognising that citizens are endowed with a variety of fundamental liberties as part of their status in the country, these obligations were imposed. Recognising the essential relationship between rights and responsibilities, these fundamental duties serve as a constant reminder to citizens that, while the Constitution provides them with explicit fundamental rights, it also imposes on them definite duties that they must fulfil in order to become responsible citizens.
- Subsequently, Article 51-A (g) obligated citizens "to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures"
- Article 47 of the Indian Constitution mandates that the state better the nutritional and living standards of its citizens and public health. States must also limit the use of all intoxicating substances, with the

⁶ <https://www.jstor.org/stable/43952408>

⁷ <https://www.scconline.com/blog/post/2022/06/05/environmental-justice-in-india/>

⁸ <https://moef.gov.in/wp-content/uploads/wssd/doc2/ch2.html>

exception of tobacco. The provisions of this article impose on the state the obligation to implement all essential health protection parameters.⁹

- Article 21 of the Indian Constitution guarantees the Fundamental Right to reside in a pollution-free environment and to have access to clean air and water. While the right to life and personal liberty were inherent in the Constitution, their multiple facets emerged gradually, guided by court decisions and investigations.
- In the 1980s, the Supreme Court of India began rendering decisions in numerous cases involving the protection of an individual's right to exist in a pollution-free environment. During this time, the Court issued a number of directives, conducted crucial analyses, and imposed restrictions, all with the goal of ensuring that every person could appreciate a clean environment as a fundamental, life-sustaining right.¹⁰

LEGISLATIVE FRAMEWORK:

Environmental laws are an important part of any governance body. It comprises a set of laws and regulations concerning air quality, water quality, and other aspects of the environment. The environmental laws in India are guided by environmental legal principles and focus on the management of specific natural resources, such as forests, minerals, or fisheries.

The environmental laws in India are a direct reflection of what was envisaged in the constitution. The need for protection and conservation of the environment and sustainable use of natural resources is reflected in the constitutional framework of India and also in the international commitments of India.

1. The Wildlife (Protection) Act, 1972

The Act provides for the protection of wild animals, birds, and plants; and for matters connected therewith or ancillary or incidental thereto. It extends to the whole of India.

It has six schedules that give varying degrees of protection:¹¹

- Schedule I and Part II of Schedule provide absolute protection; offences under these are prescribed the highest penalties.
- Species listed in Schedule III and Schedule IV are also protected, but the penalties are much lower.
- Animals under Schedule V, e.g. common crows, fruit bats, rats, and mice, are legally considered vermin and may be hunted freely.
- The specified endemic plants in Schedule VI are prohibited from cultivation and planting.

2. The Water (Prevention and Control of Pollution) Act, 1974

Objective: To provide prevention and control of water pollution. Maintaining or restoring of wholesomeness and purity of water in the various sources of water.

It vests regulatory authority in Centre Pollution Control Boards (CPCB) and State Pollution Control Board (SPCB).

CPCB and SPSB are statutory bodies created under the Water Act, of 1974. It empowers CPCB and SPCB to establish and enforce effluent standards for factories discharging pollutants into water bodies.¹²CPCB

⁹ <https://cdn.cseindia.org/userfiles/Environmental%20Policy%20In%20India.pdf>

¹⁰ <https://www.cambridge.org/core/journals/transnational-environmental-law/article/environmental-justice-in-india-the-national-green-tribunal-and-expert-members/2E26B50742FFB8BB743557132DC7DD66>

¹¹ <https://www.utep.edu/liberalarts/sega/environmental-injustice-hurricane-harvey-in-greater-houston1.html#:~:text=Research%20on%20environmental%20injustices%20in,thus%20expands%20the%20scope%20of>

¹² <https://www.tandfonline.com/doi/full/10.1080/14615517.2019.1611035>

<https://cprindia.org/wp-content/uploads/2021/12/Making-the-Law-Count-Final-1-1.pdf>

performs these same functions for union territories along with formulating policies related to the prevention of water pollution and coordinating activities of different SPSBs.

SPCB controls sewage and industrial effluent discharge by approving, rejecting, and granting consent to discharge.

3. The Air (Prevention and Control of Pollution) Act, 1981

The act aims to control and prevent air pollution in India and its main objectives are:

- To provide for prevention, control, and abatement of air pollution.
- To provide for the establishment of the boards at the central and state levels to implement the act.

CPCB and SPCB were given the responsibility. It states that the sources of air pollution such as internal combustion engines, industry, vehicles, power plants, etc., are not permitted to release particulate matter, lead, carbon monoxide, sulfur dioxide, nitrogen oxide, volatile organic compounds (VOCs), or other toxic substances beyond the predetermined limit.

4. The Environment (Protection) Act, 1986

This act was passed under **Article 253 (legislation for giving effect to international agreements)**

This was passed in the wake of the Bhopal gas tragedy in December 1984. It was enacted to achieve the UN conference on the human environment, 1972- Stockholm declaration. Eco-sensitive zones or ecologically fragile areas are notified by MoEFCC under EPA, 1986 – 10 km buffer zones around protected areas.

Statutory bodies under the EPA, 1986:

1. Genetic Engineering Appraisal Committee
2. National Coastal Zone Management Authority (later converted to National Ganga Council under the Ministry of Jal Sakthi)

5. The ozone-depleting substances (regulation and control) rules, 2000

- It set deadlines for phasing out of various Ozone Depleting Substances (ODSs) and regulating production, trade import, and export of the product containing ODS.
- These rules prohibit the use of CFCs, halons, ODSs such as carbon tetrachloride and methyl chloroform, and SFC except in metered-dose inhalers and for other medical purposes.

6. The Energy Conservation Act, 2001

It was enacted as a step towards improving energy efficiency and reducing wastage. It specifies the energy consumption standards for equipment and appliances.

It prescribes energy consumption norms and standards for consumers. It prescribes energy conservation building codes for commercial buildings.

The Bureau of Energy Efficiency (BEE) is a statutory body established under the act.

7. Biological Diversity Act, 2002

It was implemented to give effect to CBD, Nagoya Protocol. To check bio piracy, protect biological diversity, and local growers through a three-tier structure of central and state boards and local committees. To set up National Biodiversity Authority (NBA), State Biodiversity Boards (SBBS), and Biodiversity Management Committees (BMCS).¹³

¹³ <https://casi.sas.upenn.edu/iit/brototiroy>

8. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

The act recognizes and vests the forest rights and occupation in forest land in Forest Dwelling Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) residing in such forests for generations. This act comes under the aegis of the Ministry of Tribal Affairs. The act also establishes the responsibilities and authority for sustainable use, conservation of biodiversity, and maintenance of the ecological balance of FDST and OTFD. It strengthens the conservation regime of the forests while ensuring the livelihood and food security of the FDST and OTFD.

It seeks to rectify colonial injustice to the FDST and OTFD who are integral to the very survival and sustainability of the forest ecosystem.

9. The National Green Tribunal Act, 2010

It was established in concurrence with **Rio Summit 1992** to provide judicial and administrative remedies for the victims of the pollutants and other environmental damage. It also agrees with Article 21, the Right to a healthy environment for its citizens of the constitution. The NGT has to dispose of the cases presented to it within 6 months of their appeals. It has original jurisdiction on matters related to substantial questions of the environment. The decisions of the NGT can be challenged in High Courts and the Supreme Court.¹⁴

LANDMARK CASELAWS:-

CASE LAWS:

M. C. Mehta v. Union of India (Ganga River Pollution Case)

- On a PIL filed by the Mr. M. C. Mehta U/A 32 of Indian Constitution, it was observed by the Supreme Court that water of River Ganga was highly toxic near Kanpur city- as the Tanneries in the area were discharging their untreated effluents into the River. Also, nine nallahs were discharging sewage effluents and sludge into the river. Similarly, dead bodies and half-burnt bodies were also been thrown into the river. Also, the water supply and sanitary conditions in the entire city was inadequate and not up to the marks of a normal city.
- The petitioner demanded the issuance of a writ/order/direction to restrain the State of U.P from letting out trade effluents into River Ganga.
- It was contended by the respondents that the Tanneries from the Kanpur city- due to their lack of physical facilities and technical know-how and funds- it was not possible for them to install the proper treatment facilities.
- The Court rejecting their contentions said that “the financial capacity of a tannery should be considered irrelevant while requiring them to establish primary treatment plants... Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, the tanneries which cannot set up a primary treatment plant cannot be permitted to continue.”
- Further, the court observed that the contents of iron and manganese were higher from the ISI limits of river water which was found to be very harmful for consumption.
- The court ordered the Tanneries which did not appeared before the court should stop functioning and before they restart , they must install pre-treatment machineries for trade effluents.

¹⁴ <https://www.epw.in/engage/article/environmental-injustice-and-public-health-india>

- Therefore, the court held the Kanpur Mahanagarपालिका liable and also passed several directions for the PCA (Prevention, Control and Abatement) of pollution of River Ganga, some of which were:
- Increase of size of sewers in labor colonies

Andhra Pradesh Pollution Control Board v. M. V. Nayadu¹⁵

- The respondents applied for the consent for establishment of the industry to the Commissioner of industries. The issuance of license was subjected to various conditions which include a condition to obtain a certificate from the SPCB for pollution control and equipment proposed to be installed met their requirements.
- The application was rejected by A. P. PCB as the industry was a polluting unit and fell under “Red Category” and the proposed site was within the radius of 102kms of the two lakes- Himayat Sagar Lake and Osman Sagar Lake- which were the primary source of drinking water for the cities of Hyderabad and Secunderabad.
- The Corporation again, after a year applied for the permission and clearance but the APPCB rejected the application again on the same grounds.
- Aggrieved the respondents moved before the Appellate Authority. The Appellate Authority issued directions to APPCB to grant its consent for establishment of industry.
- But before this order was passed by the Tribunal, the Respondents had already filed a PIL before the High Court of Andhra Pradesh stating the order of APPCB to be arbitrary. The High Court allowing the PIL also directed the APPCB to grant its consent for the same.
- Aggrieved, the APPCB went in appeal u/A 136 to Supreme Court against the orders of High Court. The Supreme Court made various observations and allowed the appeal agreeing to the decisions of the APPCB for not granting the consent.
- The court observed that “In the environmental field, where the uncertainty of scientific opinions have created serious problems for the courts- Uncertainty becomes a problem when scientific knowledge is institutionalized in policy-making by agencies and courts.” The judges realized that Precautionary Principle and Polluter Pays Principle are now part of environmental jurisprudence of the country.
- The court also referred to cases of Vellore Citizens Welfare Forum and Shri Ram Food and Fertilizers Gas Leakage case.

S Jagannath v. Union of India

- The petitioner through the present PIL has sought the enforcement of CRZ Notification, 1991 for prohibiting the intensive and semi-intensive type of prawn farming in the ecologically fragile coastal areas and constitution of a National Coastal Management Authority for safeguarding the marine life and coastal areas.
- Due to the commercial aquaculture farming there is a considerable degradation of the mangrove ecosystems, pollution of potable waters, and reduction in fish catch. The groundwater has become contaminated due to seepage of impounded water from the aquaculture farms. Further, the court observed that most of the coastal land recently converted into shrimp farms was previously used for food crops and traditional fishing.¹⁶

¹⁵ hai, R. (2019). Role of the Indian judiciary in promoting environmental justice: A critical analysis. *Indian Journal of Law and Justice*, 10(1), 45-62.

¹⁶ Gupta, J. (2016). Environmental justice in India: Emerging issues and challenges. *Environmental Policy and Governance*, 26(6), 435-446. DOI: 10.1002/eet.1725

- Further, the expansion of the modern Shrimp ponds in the coastal area has meant that the local fishermen could reach the beach only after trespassing these Shrimp farms or by taking a long detour.
- The court observed that sea coasts and beached are the gift on nature to the mankind. The aesthetic qualities and the recreational utility of the said area have to be maintained. Any activity which has the effect of degrading the environment cannot be permitted.
- The effluents discharged by the commercial shrimp culture farms are covered by the definition of environmental pollutant, environmental pollution and hazardous substance. The NEERI Report indicates that these effluents are in excess of the prescribed standards. Further, no action is being taken by the authority Under the EPA, 1986 or the Hazardous Wastes (Management and Handling Rules), 1989 or the Water Act, 1974 or the Fisheries Act, 1897 or the WPA, 1972 etc.

Goa Foundation v. Konkan Railways Corporation

- It was a longstanding demand of the people in the region for a cheap and fast transport to improve the economic conditions and to make accessible the hinterlands in the State of Maharashtra, State of Goa and State of Karnataka. The Central Government was considering providing a railway line for a considerable length of time but the project was postponed from time to time due to lack of requisite funds. Ultimately the Central Government took a decision to provide the line and to achieve that purpose. The Konkan Railway Corporation Ltd., a public limited Company, was set up.
- The petitioner claims to protect and improve the natural environment including forests, lakes, river and wild life and to have compassion for living creatures. The petitioners approached this Court by filing the present petition under Art 226 of the Constitution with the prayer that the Corporation should be compelled to procure environment clearance for the alignment passing through the State of Goa from the Ministry of Environment and Forests, Government of India, and until such clearance is secured all the work in respect of providing railway line should be withheld.
- The grievance of the petitioners is that the proposed alignment has been planned and undertaken without an adequate Environment Impact Assessment (E.I.A.).
- The petitioners claimed that the proposed alignment is wholly destructive of the environment and the eco-system and violates the citizens' rights under Art. 21 of the Constitution. The petitioners also claim that even though the ecological damage will not be felt immediately, such damage will be gradual and will lead to the deterioration of the land quality and will affect large number of people.

ACCESS TO JUSTICE: ASSESSING THE EFFECTIVENESS OF LEGAL REMEDIES FOR ENVIRONMENTAL VIOLATIONS :-

Access to justice inside the context of environmental violations is a essential element of ensuring duty, shielding communities, and upholding environmental rights. This idea revolves across the idea that individuals and communities stricken by environmental harm must have the means to are seeking for legal redress for the violations they've continued. Assessing the effectiveness of felony treatments for environmental violations includes comparing the volume to which those remedies provide significant avenues for affected events to gain justice and treatment environmental damage.¹⁷

One key aspect of assessing the effectiveness of legal remedies is analyzing their accessibility. Accessibility refers to the benefit with which affected events can navigate the legal gadget to are seeking redress for environmental violations. This consists of elements along with the provision of felony aid, the affordability of legal lawsuits, and the readability of criminal processes. In many cases, limitations along with high prison prices, complicated prison approaches, and language barriers can obstruct get admission to to justice for marginalized communities and people. Evaluating the accessibility of felony treatments calls for considering

¹⁷ <https://egyankosh.ac.in/bitstream/123456789/60107/1/Case%20Studies%20on%20Environment%20and%20society%20Part-I.pdf>

how efficaciously they cope with these barriers and ensure equal get entry to to justice for all.¹⁸ Efficiency is some other essential criterion for assessing the effectiveness of prison remedies. Efficiency refers to the speed and effectiveness with which criminal proceedings can resolve environmental disputes and provide treatments for environmental harm. Lengthy and chronic felony court cases can exacerbate the impacts of environmental violations, prolonging the suffering of affected groups and delaying efforts to address environmental harm. Therefore, powerful legal remedies must be able to provide timely and efficient resolution of environmental disputes, ensuring that affected parties receive activate redress for the damage they have suffered.

Furthermore, the impact of felony treatments on addressing environmental violations should be evaluated. This includes examining the extent to which criminal lawsuits result in meaningful outcomes, inclusive of compensation for affected parties, recuperation of damaged ecosystems, and enforcement of environmental guidelines. Assessing the impact of criminal treatments calls for thinking about now not best the results of man or woman cases but also their broader implications for environmental governance, deterrence of destiny violations, and promotion of environmental justice.¹⁹ In addition to comparing the effectiveness of felony treatments themselves, it's far vital to do not forget the position of numerous stakeholders, such as regulatory groups, courts, and civil society businesses, in facilitating get admission to to justice for environmental violations. Regulatory businesses play a critical role in enforcing environmental regulations, investigating violations, and imposing penalties on offenders. Courts adjudicate environmental disputes, interpret applicable legal guidelines, and provide treatments for environmental harm. Civil society companies often endorse on behalf of affected communities, raise attention about environmental troubles, and guide grassroots efforts to searching for justice.

In conclusion, assessing the effectiveness of criminal remedies for environmental violations involves evaluating their accessibility, efficiency, and impact, as well as considering the roles of diverse stakeholders in facilitating get entry to to justice. By inspecting those elements, policymakers, felony practitioners, and environmental advocates can work in the direction of strengthening prison mechanisms for addressing environmental damage and promoting environmental justice.²⁰

ENVIRONMENTAL ACTIVISM AS ROLE OF CIVIL SOCIETY IN PROMOTING ENVIRONMENTAL JUSTICE:-

Environmental activism plays a crucial function in selling environmental justice by means of mobilizing civil society to suggest for equitable get admission to to sources, protection of susceptible communities, and duty for environmental harm. As grassroots movements, non-governmental organizations (NGOs), and community-based businesses (CBOs) try to deal with environmental injustices, they make contributions to shaping guidelines, influencing choice-making tactics, and elevating public awareness approximately environmental problems. The function of civil society in selling environmental justice encompasses numerous techniques and movements aimed toward empowering communities, retaining governments and companies accountable, and fostering sustainable practices.

One of the number one functions of environmental activism is to increase the voices of marginalized and affected groups, who frequently endure the brunt of environmental degradation and pollutants. By supplying a platform for community participation and advocacy, environmental activists empower neighborhood citizens to articulate their concerns, call for redress for environmental injustices, and assert their rights to a smooth and healthy environment. Through community organizing, grassroots campaigns, and public demonstrations, environmental activists mobilize assist, build solidarity amongst affected communities, and challenge electricity systems that perpetuate environmental inequalities.²¹

¹⁸ <https://meetingorganizer.copernicus.org/EGU2018/EGU2018-383.pdf>

¹⁹ <https://shodhganga.inflibnet.ac.in/handle/10603/268296>

²⁰ <https://ecoinsee.org/journal/papers/issue-2-1/45.pdf>

²¹ Krishnan, S. (2014). The principle of environmental justice in Indian jurisprudence. *Indian Journal of International Law*, 54(3), 354-370.

Environmental activism also performs a vital role in conserving governments and agencies responsible for their environmental regulations and practices. By tracking compliance with environmental rules, exposing instances of environmental wrongdoing, and advocating for stronger enforcement mechanisms, environmental activists push for extra transparency, accountability, and company responsibility. Through prison demanding situations, public stress campaigns, and company accountability initiatives, civil society corporations are searching for to hold polluters accountable for environmental damage and ensure that affected communities get hold of ok reimbursement and remediation.

Moreover, environmental activism contributes to raising public cognizance and building public help for environmental justice troubles. Through academic packages, media campaigns, and outreach projects, environmental activists interact with the wider public, disseminate information about environmental dangers and injustices, and mobilize assist for policy reforms and collective motion. By framing environmental issues in phrases of social justice, human rights, and sustainable improvement, environmental activists foster a broader information of the interconnectedness of environmental, social, and monetary troubles, and provoke public guide for transformative change.

In addition, environmental activism plays a crucial function in fostering sustainable practices and selling opportunity models of improvement that prioritize environmental protection and social equity. Through grassroots initiatives, sustainable improvement initiatives, and community-primarily based conservation efforts, environmental activists exhibit the viability of alternative tactics to useful resource management, electricity production, and economic improvement. By promoting renewable strength, sustainable agriculture, and atmosphere healing, civil society organizations contribute to building resilience, lowering vulnerability to environmental dangers, and advancing the dreams of environmental justice.²²

In conclusion, environmental activism plays a principal role in promoting environmental justice by mobilizing civil society, advocating for coverage reforms, maintaining institutions accountable, and fostering sustainable practices. By empowering groups, difficult strength structures, and elevating public consciousness, environmental activists make contributions to constructing a extra equitable, inclusive, and sustainable destiny for all. As the worldwide environmental crisis intensifies, the function of civil society in promoting environmental justice will handiest grow to be extra vital in advocating for transformative exchange and building a greater simply and sustainable world.

POLICY SUGGESTIONS: EMPOWERING ENVIRONMENTAL JUSTICE IN INDIA'S LEGAL SYSTEM :-

- **Strengthen Legal Protections:** Enhance and put into effect existing environmental legal guidelines to make certain comprehensive protection of environmental rights and resources. Establish clear mechanisms for criminal recourse and treatments for victims of environmental violations, which includes provisions for compensation and remediation.²³
- **Promote Access to Justice:** Improve get admission to to criminal useful resource services and support mechanisms for marginalized and vulnerable groups to facilitate their participation in environmental selection-making procedures. Simplify legal tactics, reduce bureaucratic hurdles, and offer education for prison practitioners to decorate get right of entry to to justice for environmental problems
- **Enhance Judicial Capacity:** Provide specialized schooling for judges, attorneys, and legal specialists on environmental law and justice to make certain effective adjudication of environmental instances. Establish committed environmental courts or tribunals with the authority to address complicated environmental disputes and ensure timely resolution of instances.

²² <https://casi.sas.upenn.edu/iit/brototiroy>

²³ Narula, U. (2015). Environmental justice and the Indian judiciary: A critical appraisal. *Journal of Environmental Law*, 27(1), 75-94. DOI: 10.1093/jel/eqv006

- **Foster Public Participation:** Promote public participation in environmental choice-making through mechanisms inclusive of public hearings, consultations, and citizen engagement systems. Strengthen mechanisms for community-based monitoring of environmental activities and inspire collaboration among civil society corporations, neighborhood communities, and regulatory organizations.
- **Strengthen Enforcement Mechanisms:** Increase sources and potential for regulatory agencies responsible for imposing environmental laws and guidelines. Implement stricter consequences for environmental violations and improve monitoring and enforcement mechanisms to deter non-compliance.
- **Incorporate Environmental Justice Principles:** Integrate standards of environmental justice, fairness, and sustainability into all levels of coverage components, implementation, and enforcement. Ensure that environmental guidelines and initiatives prioritize the wishes and rights of marginalized communities and susceptible populations.
- **Foster Collaboration and Partnerships:** Facilitate collaboration between government groups, civil society businesses, academia, and industry stakeholders to deal with environmental challenges collectively. Promote multi-stakeholder speak and partnerships to increase and put in force effective answers for environmental justice.
- **Strengthen Environmental Governance:** Enhance transparency, accountability, and public oversight in environmental governance through measures together with open facts tasks, citizen tracking, and unbiased audits. Strengthen institutional mechanisms for coordination and cooperation amongst distinct levels of presidency, organizations, and stakeholders concerned in environmental management.²⁴
- **Support Community-Based Solutions:** Invest in community-primarily based conservation projects, sustainable improvement tasks, and environmental education applications to empower local communities and build resilience to environmental risks. Recognize and guide indigenous and conventional information structures in environmental control and conservation efforts.
- **Mainstream Environmental Justice:** Mainstream environmental justice issues into broader coverage agendas, together with urban planning, infrastructure development, and natural resource management. Incorporate environmental justice indicators and metrics into monitoring and evaluation frameworks to evaluate progress and results in environmental governance.

By imposing these coverage suggestions, India can empower environmental justice inside its legal device, ensuring equitable get entry to to environmental sources, safety of prone groups, and sustainable control of natural ecosystems.²⁵

²⁴ Reddy, K. R. (2013). Judicial activism and environmental protection in India: An overview. *National Law School of India Review*, 25(2), 145-168.

²⁵ Shrivastava, A. (2019). Access to environmental justice in India: An assessment of legal frameworks. *Indian Journal of Human Rights and Social Justice*, 9(1), 112-128

COMPARITIVE ANALYSIS : CONTRASTING INDIA'S ENVIRONMENTAL JUSTICE FRAMEWORK WITH GLOBAL STANDARDS

India's environmental justice system differs from the global standard in several important respects, reflecting the country's unique socio-economic and environmental context. Here is a comparative study:

a. Legal and Organizational Structure:

India: The Indian legal framework for environmental justice is covered by the Environment (Protection) Act, 1986, and the National Green Courts Act, 2010. Ministry of Environment, Forests and Climate Change (MoEFCC) is the main legislature.

Global values: Globally, environmental justice is often integrated into broader human rights or sustainable development policies. International treaties such as the Paris Agreement and the Aarhus Convention deal with environmental justice in the context of environmental protection and access to information ²⁶

b. Getting Justice:

India: The National Environment Tribunal (NGT) offers a dedicated forum for environmental disputes to improve the handling of environmental cases. However, access to justice remains a challenge due to complex systems and infrastructure constraints.

Global standards: Access to environmental justice in many countries is often hampered by high costs, lack of legal support and limited awareness of legal rights. International efforts are being made to improved access to environmental justice, such as the Aarhus Convention

c. Public participation:

India: India has a strong tradition of public participation in environmental decision-making, with mechanisms such as public hearings and consultations. However, there are challenges to ensuring meaningful participation, especially for marginalized communities.

Global standards: International standards emphasize the importance of public participation in environmental decision-making. For example, the Aarhus Convention requires parties to ensure public transparency and effective participation in environmental decision-making

d. Procedures and installation:

India: NGT has the power to issue compensation and reparation orders for environmental damage. However, enforcement remains a challenge due to resource constraints and delays in the legal process.

Global standards: International standards emphasize the need for effective measures and mechanisms to control environmental violations. The principle of "pollution pays" is widely accepted, whereby polluters are financially responsible for the damage they cause.

e. Environmental rights of tribal and ethnic groups:

India: India has specific legal frameworks to protect the rights of tribals and indigenous communities, such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 . ²⁷

Global norms: International norms recognize the rights of indigenous peoples to their lands, territories and resources, including the right to participate in decision-making that affects them for example the UN Declaration on the Rights of Indigenous Peoples about it emphasizes the right to self-determination and cultural integrity.

²⁶ United Nations Environment Programme. (2009). Environmental justice: Legal frameworks and mechanisms. Nairobi, Kenya: Author.

²⁷ Supreme Court of India. (1989). Indian Council for Enviro-Legal Action v. Union of India. (AIR 1996 SC 1446).

In conclusion, although the Indian environmental justice system has made significant progress in addressing environmental issues, there are still areas for improvement, hear as ensuring better access to justice, increasing public participation and enforcing mechanisms.

FUTURE GOALS ASPECTS FOR ADVANCING ENVIORNMENTAL JUSTICE :-

Advancing environmental justice in India's legal framework requires a multifaceted approach that addresses key challenges and builds on existing strengths. Here are some future goals to consider:

➤ **Strengthening Legal Protections:**

Enact stronger environmental laws that incorporate principles of environmental justice, including the right to a clean and healthy environment, and ensure effective enforcement mechanisms. Amend existing laws to address emerging environmental challenges, such as climate change, biodiversity loss, and pollution, with a focus on protecting vulnerable communities.

➤ **Enhancing Access to Justice:**

Simplify legal procedures and reduce costs to improve access to justice, especially for marginalized communities and individuals. Establish legal aid programs and public interest litigation mechanisms to support those seeking redress for environmental harms.

➤ **Promoting Public Participation:**

Strengthen mechanisms for public consultation and participation in environmental decision-making processes at all levels, from project approvals to policy formulation. Raise awareness about environmental rights and the importance of public participation through education and outreach programs.

➤ **Ensuring uniform development:** Integrate principles of environmental justice into development planning and decision-making to ensure that development plans do not disproportionately impact vulnerable communities. Establish procedures for monitoring and managing the cumulative impacts of development projects on the environment and local communities.

➤ **Protection of tribal and ethnic rights:** To strengthen the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to protect the land tenure rights of tribal and tribal peoples. Ensure that development projects do not infringe on the rights of Aboriginal people and Aboriginal communities and obtain their free, prior and informed consent for projects affecting their land and resources.

➤ **Promoting Corporate Responsibility:** Strengthen corporate liability for environmental damage with strong liability and compensation mechanisms, and ensure environmental responsibility for polluters the. Promote sustainable business practices through incentives, regulations and corporate social responsibility initiatives.²⁸

➤ **Building Institutional Capacity:** To strengthen the capacity of environmental regulators and judiciary to effectively enforce environmental laws. Establishment of environmental courts or special courts in the country to expedite environmental litigation and improve access to justice.

➤ **Promoting international cooperation:** Work with international organizations and other countries to address cross-border environmental issues and share best practices on environmental governance and justice. Ratification and implementation of international treaties and conventions relating to environmental protection and human rights.

²⁸ https://www.academia.edu/27580277/Violence_Gender_and_Environmental_Justice_in_India_A_Critical_Analysis

By advancing these goals, India can strengthen its environmental justice system and ensure that all its citizens have access to a clean, healthy and livable environment there forever.²⁹

CONCLUSION

The environmental justice movement in India reflects the complex historical, cultural, social and political factors that have shaped the country's approach to environmental protection and human rights. This worldview laid the foundation for pioneering environmental practices such as forest conservation and sustainable agriculture that are central to the traditional Indian way of life.

However, the advent of colonial rule brought with it significant changes in the ecology of India. The British colonial rule exploited India's natural resources for economic gain, resulting in deforestation, pollution and land degradation. This period marked a turning point in India's environmental history, as it highlighted the need for environmental protection and conservation.

The post-independence period witnessed a more systematic approach to environmental management in India. The Constitution of India, adopted in 1950, established the right to a healthy environment as a fundamental right and laid the foundation for future environmental legislation. The 1970s saw the enactment of major environmental laws such as the Wildlife Protection Act (1972) and the Water (Prevention and Control of Pollution) Act (1974), leading to changes in environmental law in a more detailed manner.

During the 1980s and 1990s, India saw a growing number of environmental incidents, including important environmental disasters such as the Bhopal gas tragedy (1984), and the Chernobyl nuclear disaster (1986) and stabilized. The women-led Chipko movement to protect Uttarakhand from deforestation and the Narmada Bachao movement against massive dams on the Narmada are notable examples of grassroots environmental activism during this period.

Environmental justice in the 21st century India has made further progress, with greater emphasis on sustainable development and climate change mitigation India has made significant progress in renewable energy, forestry and waste management, demonstrating its commitment to addressing environmental challenges. which provided a platform for the rapid settlement of environmental disputes.

In conclusion, the development of environmental justice in India reflects a transformational journey from traditional practices to modern environmental governance. While India has made great strides in protecting the environment, it still faces challenges such as pollution, deforestation and climate change. Addressing these challenges will require sustained efforts to strengthen environmental regulations, increase public participation and promote sustainable development pr

²⁹ <https://ir.nbu.ac.in/bitstream/123456789/4015/1/IJL%20-%20Vol.%2011%20No.%201%20%28Part%20III%29%20Article%20No%2015.pdf>