



HOW ENVIRONMENTALLY FRIENDLY ARE INDIAN COURTS

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Abstract

The presence, growth, and improvement of mankind and all of its activities are determined by the environment, which includes water, air, and soil. Environmental preservation and conservation are not brand-new concepts. For numerous ancient civilizations, it was essential. The phrase "nature" refers to the land, the water, the trees, and the animals, all of which are essential to humanity, and which are all emphasized in ancient Indian literature as being each member of society's dharma to protect. In the "Atharva Veda," the ancient Hindu Scepters proclaimed, "What of thee I dig out, let it soon grow over."

New technologies that lack sufficient natural safeguards, such as thermal and atomic power, provide a further threat to the situation, leading to issues like acid rain, global warming, and other related issues. Further, the Indian legislature's propensity to enact a number of laws rather than deal with the underlying causes of failure and disappointment, as well as its ongoing adoption of new laws, can be compared to "old wine in a new bottle." As a result, environmental protection needs to be thoroughly reviewed.

Keywords: Environment Protection, Policy, Indian Judiciary

Introduction

The role of higher courts in developing and overseeing the implementation of regulations for pollution control, forest conservation, and animal protection has received constant attention in recent years. Inconsistencies in policy and a lack of

capacity building within executive agencies have been the main causes of many of these court interventions. Environmental issues have frequently been addressed through Public Interest Litigation (PIL), which has both supporters and critics.

The Role of the Indian Judiciary in the Development of Environmental Jurisprudence

The "Supreme Court of India" has repeatedly transformed into the "Supreme Court for Indians," according to Professor Upendra Baxi, who routinely praises Indian judicial activism. The judiciary has actively helped to strengthen the fundamental rights protected by the Constitution via the exercise of its authority and actions. Furthermore, the Stockholm Conference on Human Environment in 1972 sparked the enactment of the 42nd Constitutional Amendment Act in 1972 and contributed to the development of India's environmental legal system. With this modification, the state (Article 48A) and residents (Article 51A(g)) both had particular environmental obligations.

Articles 51(A)(g) and 48A have enabling rather than binding legal status under the constitutional system, although Indian courts have commonly interpreted these articles as having bound legal status. Additionally, as part of the right to life under Article 21, the courts have used these sections to support and establish a fundamental environmental right that is legally binding. The ILO Asbestos Convention of 1986, the Universal

Declaration of Human Rights of 1948, and the International Covenant on Economic, Social, and Cultural Rights of 1966 were among the international legislation that the Supreme Court frequently referred to in the Asbestos Industries Case. The court in this case addressed concerns about the risks to workers' occupational health posed by the asbestos industry. The court issued specific directives to the authorities after ruling that these employees' right to health falls under article 21's definition of a fundamental right. India is required to promote the protection of wetlands as a signatory to the Ramsar Convention on Wetlands, 1971, the Calcutta High Court ruled in the Calcutta Wetland Case.

Do Indian Courts Practice Sustainable Development?

This question is exceedingly difficult to answer because there are "N" numbers of tribunals and benches of various High Courts in India, in addition to the total of 672 District courts, 25 High Courts, and 1 Supreme Court. It mainly depends on the judge or the presiding offices of the courts on how they implement this concept of sustainability, as each court in India practices its own set of laws and regulations and each court's stance on getting environmentally friendly. Take "The Delhi High Court" as an example of

one court. The Delhi High Court will eventually become the first paperless e-court in the nation in order to improve the speed at which justice is delivered. A panel made up of Justices Badar Durez Ahmed, S. Murlidhar, Anil Kumar, and Rajiv Sahai Endlaw carried out the recommendation.

The group claimed that it would have positive effects on the environment as well as speed up the delivery of justice.

Although this only applies to one court, the majority of Indian courts will soon follow suit. When I was completing my internship in one of the High Courts in India, I discovered that the Advocates, Judges, and the Court Master are in the habit of using paper for printing a document that contains a single word!!! The main issue with going paperless is the habit of using/reading and convenience of the paper itself. According to a study by Mr. Chaitanya Mallapur, the High Court of India is currently dealing with the sustainability issue.

Which states that Printing Paper on Both Sides in SC Cases = Saving 2,000 Trees, 24,000 Tankers of Water

How Printing on both side of the paper will save paper or resources? In Context of Supreme Court of India?

In her 2010 paper, *Conserving the Canvas: Reducing the Environmental Footprint of Legal Briefs by Re-imagining Court Rules and Document Design Strategies*, Ruth Anne Robbins found that while a piece of paper only requires 10 liters (2.6 gallons) of water to produce, a tree can produce 8,333 sheets of virgin, non-recycled paper.

Eight sets of files would be needed in a Supreme Court case with only two parties—four for the court and one for each party and their attorney. There would be a total of 49.2 million papers needed if each petition were 100 pages long.

In order to generate 49.2 million sheets of paper, 5,906 trees had to be cut down. 246 million liters of water and 2,953 trees would have been spared if double-sided paper had been used.

The amount of water saved could provide the 20 liters of water needed daily for drinking and cooking for 12 million people, or the population of Bengaluru, a city that may run out of water in 12 years.

Only 20 liters of Bengaluru's daily allotment of 100 liters of water per person are used for drinking, cooking, and bathing. The remaining 80 gallons are used for non-potable tasks like washing cars, mopping floors, and flushing toilets.

A 2010 Asian Development Bank analysis predicts that by 2030, India's fresh water needs will fall 50% short of what is needed.

According to the petitions, "paper goods constitute the majority of municipal solid trash."

One lakh metric tons of waste paper are produced daily in India, one of the world's top producers of garbage. Only 27% of waste paper in India gets recycled, which means that 73% of it is thrown away.

In India, subordinate courts received 1,391,426 cases between July 4 and August 4 of this year, and high courts received 113,102 cases. Six sets of 50 pages each on one-sided paper would have required about 451 million pages, or 54,165 trees. A total of 27,083 trees and 2,257 million liters of water—nearly 58% of Mumbai's daily water consumption needs (3,900 million liters per day)—could have been saved by using double-sided paper.

On July 25, 2018, P P Chaudhary, the minister of state for law, justice, and corporate affairs, responded to a question from the Lok Sabha (the lower house of parliament), stating that the Supreme Court was considering going paperless gradually.

"In 2013, the Supreme Court introduced an e-office and started a paperless work

environment." The Supreme Court of India established the Integrated Case Management Information System (ICMIS) in 2017 in response to the acceptance of digital filing.

Digital case records from the high courts can now be sent to the Supreme Court thanks to the deployment of the ICMIS. However, the ministry claims that digitalization efforts are still ongoing and include the scanning of case data, including fresh petitions.

Although the Supreme Court began accepting electronic filings in May 2017, the PIL before the SC states that "the process could not materialize due to non-digitisation of documents in high courts."

According to CASC general secretary Gaurav Pathak, "it was recommended that one may submit an appeal in the Supreme Court by merely filling out the grounds of the appeal, and the Supreme Court would obtain the whole preceding record straight from the high court's employing digital technologies.

Since many cases, particularly older ones, involve thousands of pages that are challenging to scan and upload, the high courts have not been able to digitize all of their records/case materials.

The ideas of sustainable development have been embraced by the Indian Supreme Court.

The idea of sustainable development is not new; throughout history, numerous nations have understood the significance of striking a balance between the economy, society, and the environment. This idea of a worldwide informational and industrial civilization in the twenty-first century is innovative. To different people, the term "sustainable development" might signify many different things, but the Brundtland Report.

"Sustainable Development is a development that satisfies present needs without compromising the capacity of future generations to satisfy their own needs," according to the World Resources Institute.

It requires an understanding that actions have consequences and that we must find novel ways to change institutional structures and individual behaviour. In other words, it's about taking action, changing policy and practice at all levels. Sustainable development focuses on raising the living standards of all people on the planet without endangering the

environment's ability to provide them with resources indefinitely.

The United Nations Conference on Human Environment, according to the Supreme Court of India, increased environmental awareness. At the Stockholm Conference in 1972, the concept of "sustainable development" was also introduced for the first time; it is now acknowledged as a component of customary international law.

The Supreme Court of India acknowledges the following concepts of sustainable development, which is an initiative or plan for long-term economic and social advancement without endangering the natural resources and environment that are essential to ongoing activity and growth.

1. The components of inter-generational equity are: The Rio de Janeiro Declaration's Principle 3 states that "Right development must be achieved so that equality meets developmental and environmental demands to current generations." The Supreme Court of India backed this strategy in the case of *Bombay Dyeing & Mfg. Co. Ltd. vs. Bombay Environmental Action Group*. The main objective of the idea is to prevent current generations from abusing non-renewable resources in order to

- deny them of their benefits in the future.
2. The following is the Precautionary Principle: The Rio de Janeiro Declaration's Principle 15 states that "States shall widely adopt the precautionary approach in accordance with their capacities in order to conserve the environment." When there is a risk of catastrophic or irreparable harm, "lack of full scientific certainty shall not be used as an excuse to postpone cost-effective measures to avoid environmental degradation." The Indian Supreme Court welcomed this strategy in a modified form, stating that it has led to the burden of evidence concept in environmental problems, where those wanting to change the status quo face the responsibility of establishing that the proposed actions don't have any negative impacts.
 3. The Rio Declaration's Principle 16 reads as follows: "National authorities should endeavour to promote the internationalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due

regard for the public interest and without distorting international trade and investment." The aim of the aforementioned concept is to hold polluters accountable for the expenses of ecosystem restoration in addition to victim compensation, as is clear from the note that comes before it.

The critical function of the Indian court in adapting the law to the sustainable development ideology.

The Supreme Court of India and the High Courts have been crucial in defending the Sustainable Development Doctrine. In India, numerous laws have been passed to prevent environmental degradation. In this instance, the higher court's interpretation of those statutes in light of the Sustainable Development Doctrine was crucial.

In order to safeguard the planet's and India's healthy flora and fauna, the Indian judiciary has played a crucial role in developing public and private business and promoting sustainable growth while minimizing the risk of permanent environmental damage. It should be noted that under Article 32 or Article 226 of the Indian Constitution, Public Interest Litigation (PIL) has been used to bring before the court any disputes addressing environmental issues.

The Indian Supreme Court has significantly aided in the preservation of the environment and the ecological system, as well as the preservation of forest animals. Despite having a narrow scope of authority, the court has been significant in this area. Yes, there are enough environmental standards in place, but it is up to administrative authorities to carry them out. In this sense, good governance without corruption is the most crucial condition for environmental protection.

Conclusion

What Can We Do About It?

Naturally, printing on both sides would be the initial stage. Digitalizing court papers is the alternative, longer-term solution.

This will have various benefits, such as:

- increasing the openness of judicial processes.
- avoiding the loss of court documents.
- Court records will be available simultaneously to lower courts, higher courts, and the Supreme Court.
- Cases will be handled by courts more rapidly.

In fact, the Supreme Court began accepting electronic filings in 2017, but the practice was suspended. Why? since

records from the supreme court were not being digitalized.

Why? because they lacked the staff to scan and upload case documents that numbered in the thousands of pages!

Over the past ten years, several judges have asked that the papers from their courtrooms be recycled, but this has been the exception rather than the rule.

In conclusion, our courts use a lot of paper and ought to be more considerate of our trees and water resources.

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