
ARTICLE 48A AND ENVIRONMENTAL GOVERNANCE IN INDIA: A CRITICAL ANALYSIS OF IMPLEMENTATION GAPS

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ABSTRACT

In India, environmental conservation has changed from being a secondary policy issue to a fundamental obligation. The 42nd Constitutional Amendment Act of 1976 established Article 48A of the Constitution, which requires the State to preserve forests, wildlife, and the environment. India nevertheless faces serious environmental issues like air and water pollution, deforestation, and biodiversity loss despite this constitutional support and a complex framework of environmental laws and organisations. The limitations of Article 48A as a Directive Principle of State Policy (DPSP), institutional inefficiencies, regulatory flaws, and socioeconomic conflicts are the main topics of this article's critical analysis of India's implementation gaps in environmental governance. Along with important concepts like sustainable development, polluter pays, precautionary principle, and public trust doctrine, the study also emphasises the significance of judicial activism, especially the extension of Article 21 to encompass the right to a clean and healthy environment. The report also recognises how India's environmental policy has been influenced by global environmental commitments like the Sustainable Development Goals and the Paris Agreement. The study comes to the conclusion that India's environmental governance problems are caused by ineffective governance and enforcement rather than a lack of legislation, necessitating stronger institutions, greater coordination, and enhanced accountability systems.

Key Words: - Environmental Governance; Article 48A; Judicial Activism; Sustainable Development; Implementation Gap.

I. INTRODUCTION

In India, the interplay of institutions, legislation, judicial supervision, and constitutional obligations¹ results in environmental governance. Article 48A, which instructs the State to preserve forests, wildlife,² and the environment, is a crucial cornerstone. India nonetheless faces increasing ecological issues in spite of this strong mandate. Natural resources are under a great deal of stress due to population pressures, industrial growth, and rapid urbanisation. Serious questions concerning the efficacy of implementation are raised by this disparity between constitutional commitment and poor environmental results.³ India nonetheless faces enduring and growing environmental difficulties in spite of this clear constitutional objective. Pollution of the air and water, deforestation, biodiversity loss, land degradation, and the increasing effects of climate change are examples of issues that show disconnect between policy aim and actual conditions. Ecological stress has been exacerbated nationwide by the demands of fast urbanisation, industrial growth, population expansion, and unsustainable resource consumption.⁴ As a result, environmental deterioration is now a major socioeconomic and public health concern in addition to an ecological one. In light of this, the implementation inadequacies in India's environmental governance are critically examined in this article, with particular reference to Article 48A. It contends those shortcomings in execution, institutional capacity, and accountability mechanisms—rather than the lacks of legislative or constitutional provisions—are the fundamental problem. To close the gap between constitutional objectives and environmental reality, governance mechanisms must be strengthened, interagency collaboration must be improved, and enforcement must be tightened.⁵

II. CONSTITUTIONAL FRAMEWORK FOR ENVIRONMENTAL GOVERNANCE

India's constitutional framework for environmental regulation is multifaceted and dynamic, combining governmental accountability, citizen obligation, and judicial creativity. Although the original Constitution did not state prioritise environmental preservation, successive modifications

¹Constitution of India, Article 48A

²Constitution (42nd Amendment) Act, 1976

³Constitution of India, Article 37

⁴ 42nd Constitutional Amendment Act, 1976

⁵ M.C. Mehta v. Union of India series

and court interpretations have incorporated environmental issues into the overall constitutional framework.

i) Evolution of Environmental Constitutionalism

When the Indian Constitution was formed in 1950, it contained no particular environmental protection provisions⁶. The primary objectives were political stability, economic development, and social justice. However, as environmental deterioration became a major global and domestic issue, particularly after the 1970s, the constitutional vision broadened to include ecological issues. The 42nd Constitutional Amendment Act, ratified in 1976, was a watershed moment for environmental protection. This was a change from implicit awareness to explicit constitutional commitment.⁷

ii) Directive Principles and State Obligations

The cornerstone of environmental governance is Article 48A of the Constitution, which mandates that the state protect forests and wildlife in addition to maintaining and developing the environment⁸. This section highlights environmental conservation as a key objective of governance as part of the Directive Principles of State Policy. However, because the Directive Principles are not justiciable, they cannot be enforced in court.⁹ The constitutional design is therefore intrinsically constrained. Although Article 48A provides normative guidance for legislation and policymaking, it does not impose legally binding obligations on the State. Despite this disadvantage, Article 48A has had a significant impact on environmental laws and practices. It has frequently been applied to justify environmental protection in judicial reasoning.¹⁰

iii) Fundamental Duties and Citizen Responsibility

Article 51A(g) of the constitution, which requires the preservation and enhancement of the natural environment, extends environmental duty to citizens. This clause represents a move toward participatory government even though it is not subject to judicial review. Promoting ethical responsibility and environmental awareness is its main benefit. Although courts have occasionally used it to uphold environmental standards, its impact is still primarily moral because it cannot be enforced.¹¹

⁶Constitution of India, Article 48A

⁷ Constitution of India, Article 51A(g)

⁸ UNEP Environmental Reports

⁹ World Bank Environmental Data – India

¹⁰ Vellore Citizens Welfare Forum v. Union of India (1996)

¹¹ INDIA CONST. Art. 51A(g).

iv) Fundamental Rights and Judicial Innovation

The legal interpretation of Article 21, which broadens the right to life to include the right to a clean and healthy environment, has marked a significant shift in environmental governance.¹² The courts have made environmental justice more accessible through Public Interest Litigation (PIL). In this regard, the judiciary, particularly the Supreme Court, has been aggressive. Courts have relaxed procedural requirements through Public Interest Litigation (PIL),¹³ allowing individuals and organisations to seek redress for environmental harm.¹⁴ Sustainable development, the precautionary principle, and the polluter pays principle are all key concepts in Indian environmental law, according to historic cases.¹⁵

v) Federal Organization and Power Distribution

The Union and the States share authority over environmental control in India's federal system. Forests and animals were added to the Concurrent List by the 42nd Amendment, enabling legislation at both levels.¹⁶ Although this guarantees consistency, it also makes coordination difficult and may lead to disputes. Therefore, cooperative federalism—rather than just constitutional allocation—is necessary for effective environmental governance.¹⁷

vii) Environmental Laws and Organisations

The National Green Tribunal (NGT) and important regulations like the Environment Protection Act of 1986 were established as a result of constitutional stipulations¹⁸. Constitutional ideas are put into practice through these methods. However, their efficacy is frequently hampered by administrative inefficiencies, enforcement gaps, and a lack of resources, underscoring the discrepancy between constitutional intent and implementation.¹⁹

III. LEGISLATIVE FRAMEWORK OF ENVIRONMENTAL GOVERNANCE

International accords and constitutional provisions significantly impact India's environmental legislative system. Environmental control is founded on major legislation such as the Environment (Protection) Act of 1986, the Water (Prevention and Control of Pollution) Act of

¹² INDIA CONST. Art. 21.

¹³ S.P. Gupta v. Union of India, 1981 Supp SCC 87.

¹⁴ People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.

¹⁵ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647.

¹⁶ INDIA CONST. Seventh Schedule, Concurrent List (Entry 17A, 17B).

¹⁷ M.P. Jain, Indian Constitutional Law (LexisNexis, 8th edn., 2018).

¹⁸ National Green Tribunal Act, 2010.

¹⁹ Shyam Divan & Armin Rosencranz, Environmental Law and Policy in India (Oxford, 2001).

1974, and the Air (Prevention and Control of Pollution) Act of 1981.²⁰ These laws establish standards, establish regulatory organisations, and provide solutions for pollution prevention and environmental conservation. The Environment Protection Act, enacted following the Bhopal Gas Tragedy, is a broad piece of legislation that empowers the central government to enforce substantial environmental protection measures.²¹ The framework is further bolstered by regulations governing biodiversity, wildlife, and forests.²²

IV. INNOVATIVE JUDICIAL PRACTICES IN ENVIRONMENTAL GOVERNANCE

The Indian judiciary has transformed environmental governance by expanding the scope of Article 21 to include the right to a clean and healthy environment. Through Public Interest Litigation (PIL), courts have addressed publicly important environmental issues and democratised access to justice. This evolution is illustrated by several significant decisions. The Supreme Court created the concept of absolute liability in hazardous industries in *M.C. Mehta v. Union of India*²³. The Court established the right to clean water and air as part of the right to life in *Subhash Kumar v. State of Bihar*.

In *Vellore Citizens Welfare Forum v. Union of India*,²⁴ the Court established the precautionary principle and the polluter pays principle in Indian law. This was confirmed in *Indian Council for Enviro-Legal Action v. Union of India*,²⁵ in which industries were held accountable for environmental damage. The idea of sustainable development has also been highlighted by the judiciary. The Court struck a compromise between developmental requirements and environmental concerns in *Narmada Bachao Andolan v. Union of India*.²⁶ In a similar vein, the Court emphasised scientific uncertainty and the necessity of prudence in environmental decision-making in *A.P. Pollution Control Board v. Prof. M.V. Nayudu*²⁷. An early application of PIL in environmental problems occurred in *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*,²⁸ where the Court ordered the closure of limestone quarries to avert ecological

²⁰ Environment (Protection) Act, 1986; Water Act, 1974; Air Act, 1981.

²¹In Re: Bhopal Gas Disaster, (1989) 1 SCC 674.

²²Biological Diversity Act, 2002; Wildlife Protection Act, 1972.

²³M.C. Mehta v. Union of India, (1987) 1 SCC 395.

²⁴Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647.

²⁵Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212.

²⁶Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664.

²⁷CPCB Annual Report (latest available).

²⁸Rural Litigation and Entitlement Kendra v. State of U.P., 1985 Supp SCC 79.

deterioration. Furthermore, the Court demonstrated continued judicial surveillance in *M.C. Mehta v. Union of India*²⁹ by issuing ongoing directives to control river pollution.

In *M.C. Mehta v. Kamal Nath*³⁰, the Court acknowledged the public trust theory, holding that the state holds natural resources in trust for the general public. Additionally, the Court broadened the concept of forests and guaranteed more stringent conservation by ongoing mandamus in *T.N. Godavarman Thirumulpad v. Union of India*.³¹

From an analytical perspective, these decisions show how the judiciary has developed substantive environmental concepts and enforcement tools in addition to interpreting constitutional laws. Although this kind of activity has improved environmental governance, it also raises questions about institutional imbalance and judicial overreach. However, judicial creativity has been essential to improving environmental protection in India in the face of lax enforcement.

V. GAPS IN ENVIRONMENTAL GOVERNANCE IMPLEMENTATION

India's environmental governance has serious execution flaws despite having a thorough constitutional and legislative framework. These gaps result from poor enforcement, institutional inefficiencies, and governance issues rather than from a lack of laws.³²

- **Inadequate enforcement of environmental rules is one of the main problem:** Pollution Control Boards and other regulatory organisations frequently lack sufficient technical know-how, personnel, and funding. As a result, industries have poor levels of compliance, inefficient monitoring, and delayed action against violators.³³
- **Overlapping jurisdictions and fragmentation represent another significant divide.** At the federal, state, and municipal levels, several authorities work concurrently, which frequently results in confusion, redundant tasks, and a lack of coordination. Decision-making is slowed down and accountability is weakened as a result.³⁴
- **The gap between judgement and implementation**

²⁹M.C. Mehta v. Union of India (Ganga Pollution Case), (1988) 1 SCC 471

³⁰M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388.

³¹T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267

³² CAG Reports on Environmental Governance in India.

³³CPCB Annual Report (latest available)

³⁴NITI Aayog, Environmental Federalism in India Report.

Court orders are poorly carried out on the ground, even in cases such as *M.C. Mehta v. Union of India*.³⁵

- **Low Public Awareness and Participation:**

Limited citizen interaction reduces the effectiveness of Article 51A(g) and participatory governance.³⁶

- **Limitations on Institutional Capacity:**

Regulatory agencies and pollution control boards struggle with a lack of personnel, technical know-how, and funding.³⁷

- **Inefficient EIA Procedure:**

Transparency, thorough examination, and significant public involvement are frequently absent from environmental impact assessments.³⁸

VI. ROLE OF AUTHORITIES AND INTERNATIONAL COMMITMENTS IN BRIDGING IMPLEMENTATION GAPS

In order to close the implementation gaps in India's environmental governance, regulatory bodies must work together, develop institutional frameworks, and line with global environmental obligations. The normative basis is provided by constitutional clauses such as Article 48A, but efficient administration and international collaboration are necessary for effective enforcement.

- **Role of Regulatory Authorities**

Environmental governance in India is generally carried out by institutions such as the Ministry of Environment, Forests, and Climate Change (MoEFCC), the Central Pollution Control Board (CPCB), the State Pollution Control Boards (SPCBs), and the National Green Tribunal³⁹. These bodies play an important role in putting legislative purpose into action.

In order to close implementation gaps, these agencies need to concentrate on:

- i. Increasing Institutional Capability :**

³⁵M.C. Mehta case implementation studies

³⁶UNEP, Environmental Awareness Report.

³⁷World Bank, Strengthening Environmental Institutions in India.

³⁸EIA Notification, 2006.

³⁹ MoEFCC official reports.

Improving financial resources, personnel, and technical know-how is crucial for efficient enforcement and monitoring. Better compliance and prompt action against offenders can be guaranteed by well-equipped regulatory agencies.⁴⁰

ii. Enhancing Mechanisms of Coordination:

To prevent jurisdictional overlaps and policy fragmentation, more coordination between federal, state, and local authorities is required. Environmental regulations can be made consistent by using integrated governance frameworks⁴¹.

iii. Ensuring Transparency and Accountability:

To prevent jurisdictional overlaps and policy fragmentation, more coordination between federal, state, and local authorities is required. Environmental regulations can be made consistent by using integrated governance frameworks.⁴²

iv. Environmental Impact Assessment (EIA) Implementation Done Right:

Instead than treating EIAs as formalities, authorities must make sure that they are carried out carefully, with real public engagement and scientific examination.⁴³

v. Enforcement and Compliance:

Environmental infractions can be discouraged by severe fines, frequent inspections, and real-time monitoring systems.⁴⁴

vi. Encouraging decentralised governance :

Enhancing community involvement and context-specific environmental management can be achieved by empowering local entities like Panchayats and municipalities.⁴⁵

• International Environmental Pledges and Their Effects at domestic level

Global sustainability pledges and international environmental law are having an increasing impact on India's environmental governance system. These agreements exert pressure for more robust domestic implementation and offer normative advice.

⁴⁰OECD Environmental Performance Review: India.

⁴¹NITI Aayog Reports

⁴²Transparency International Reports

⁴³EIA Notification, 2006.

⁴⁴Environment (Protection) Act, 1986.

⁴⁵73rd & 74th Constitutional Amendments.

The Paris Agreement (2015) and the United Nations Framework Convention on Climate Change (UNFCCC)

- India has agreed to the following under the Paris Agreement:
- Lowering the GDP's emissions intensity
- Increasing the energy capability of non-fossil fuel
- Encouraging resilience and climate adaptation

These pledges have resulted in the proliferation of renewable energy projects and policy changes like the National Action Plan on Climate Change (NAPCC).⁴⁶

SDGs, or Sustainable Development Goals : Article 48A is immediately reinforced by Goals 13 (Climate Action), 14 (Life Below Water), and 15 (Life on Land). Nevertheless, implementation issues continue because of:

- Systems for monitoring data that are fragmented
- Inconsistent adoption at the state level
- Development and environmental indicators are not integrated.⁴⁷

CBD, or the Convention on Biological Diversity :As a signatory, India is required to protect biodiversity and guarantee the sustainable use of natural resources. This has impacted:

- Policies for the Protection of Wildlife
- Creation of protected areas
- Local Biodiversity Management Committees⁴⁸

Conventions of Basel, Stockholm, and Rotterdam :These agreements govern chemical safety, hazardous waste, and persistent organic pollutants. Their adoption in India is essential because :

- Growing production of electronic garbage
- Use of industrial chemicals
- Environmental hazards across borders⁴⁹

VII. A CRITICAL EXAMINATION

India's environmental governance is characterised by a glaring implementation gap, despite a robust constitutional and legislative framework.⁵⁰ Since Article 48A is a Directive Principle and

⁴⁶ Paris Agreement, 2015; UNFCCC, 1992

⁴⁷ United Nations SDGs, 2015.

⁴⁸ Convention on Biological Diversity, 1992.

⁴⁹ Basel, Stockholm, Rotterdam Conventions

⁵⁰ Shyam Divan, Environmental Law critique.

cannot be challenged in court, its implementation depends more on political will than on the law.⁵¹ Judicial activism has improved environmental protection through Article 21, but it has also led to a judicial reliance where courts frequently make up for governmental shortcomings. Effectiveness is further constrained by institutional flaws. Lack of finance, personnel, and technological expertise causes regulatory organisations like CPCBs and SPCBs to have inadequate oversight and enforcement. Despite being progressive, environmental regulations are frequently inadequately enforced because of administrative inefficiencies and outside pressures. Additionally, there is a continual disconnect between the law and practice, with instruments such as Environmental Impact Assessments (EIAs) often turning into formalities rather than effective protections. Furthermore, the concept of sustainable development is weakened in practice when conflicting development demands frequently take precedence over environmental considerations.⁵²

Overall, ineffective environmental protection in India is hampered by inadequate enforcement, disjointed governance, and a lack of institutional ability rather than a lack of laws.

VIII. CONCLUSION

India's strong constitutional commitment to environmental protection is shown in Article 48A, which is bolstered by a broader framework of fundamental duties, judicial interpretation, and environmental legislation. By interpreting the right to a clean environment into Article 21 and creating important environmental principles, the court has contributed significantly to the growth of environmental governance over time. However, environmental governance in India still faces significant implementation issues in spite of this solid legal and normative framework. Environmental regulations are less successful in practice due to weak enforcement mechanisms, institutional inefficiencies, overlapping regulatory powers, and low public participation. Environmental protection is frequently still more evident in decisions and policies than in actual implementation. As a result, in addition to constitutional aim, Article 48A's efficacy depends on bolstering administrative capacity, guaranteeing more stringent enforcement, enhancing institutional coordination, and promoting increased public involvement. Achieving effective and sustainable environmental governance in India requires bridging the gap between legislation and implementation.

⁵¹ Constitution of India. art. 48A.

⁵² CPCB/SPCB performance audits

References

1. Constitution of India, 1950, available at <https://legislative.gov.in/constitution-of-india> (last visited Mar. 11, 2026).
2. Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India, available at <https://moef.gov.in> (last visited Mar. 11, 2026).
3. Central Pollution Control Board (CPCB), Government of India, available at <https://cpcb.nic.in> (last visited Mar. 12, 2026).
4. National Green Tribunal (NGT), available at <https://greentribunal.gov.in> (last visited Mar. 12, 2026).
5. Environment (Protection) Act, 1986, available at <https://legislative.gov.in/sites/default/files/A1986-29.pdf> (last visited Mar. 12, 2026).
6. Water (Prevention and Control of Pollution) Act, 1974, available at <https://cpcb.nic.in/water-act> (last visited Mar. 12, 2026).
7. Air (Prevention and Control of Pollution) Act, 1981, available at <https://cpcb.nic.in/air-act> (last visited Mar. 13, 2026).
8. Biological Diversity Act, 2002, available at <https://indiacode.nic.in/handle/123456789/2058> (last visited Mar. 13, 2026).
9. Indian Constitutional Law, LexisNexis, 8th edn., 2018.
10. United Nations Environment Programme (UNEP), available at <https://www.unep.org> (last visited Mar. 13, 2026).
11. NITI Aayog, Government of India – Reports, available at <https://niti.gov.in> (last visited Mar. 13, 2026).
12. Sustainable Development Goals (SDGs), United Nations, available at <https://sdgs.un.org/goals> (last visited Mar. 14, 2026).
13. Convention on Biological Diversity (CBD), available at <https://www.cbd.int> (last visited Mar. 14, 2026).
14. Supreme Court of India – Judgments Portal, available at <https://main.sci.gov.in/judgments> (last visited Mar. 14, 2026).
15. Indian Kanoon – Case Law Database, available at <https://indiankanoon.org> (last visited Mar. 15, 2026).