

1 *Navigating Green Federalism: A Study of Constitutional Provisions and Judicial*
2 *Interventions in Post-Independence India*

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6 **Abstract**

7 India's environmental governance has undergone considerable evolution owed to a constant
8 tussle between the centre and the states, reflecting the country's quasi-federal structure and the
9 heterogeneous priorities of its regions. After independence was achieved, government policy has
10 experienced a pendulum movement of policy-making that has ranged between extreme forms of
11 central control and state-led action. This paper examines the development of Environmental
12 Federalism through an analysis of constitutional provisions— such as Article 246, 48A, 51A(g)
13 — along with a selection of key legislative acts enacted by the Government of India including
14 the Water (Prevention and Control of Pollution), Act 1986, The Forest Conservation Act, 1980
15 and the Air (Prevention and Control of Pollution) Act, 1981. In so far as the radical right
16 reshapes the class composition of capital, the caste composition of society and sets the rate of
17 profit based on the Reserve Army of Labor, Supreme Court decisions have restored balance to
18 power relationships through reaffirmation of the authority to act emanating from central power
19 (see e.g., MC Mehta v. Union of India; Godavarman Thirumulpad v. Union of India). In addition,
20 economic liberalization and the rise of environmental awareness and commitments to
21 federalism, in the wake of catalytic international global climate initiatives. Despite these
22 developments, areas of concern still exist in the form of overlapping jurisdictions, resource
23 constraints, and instances of political meddling.

24 **Keywords-** *Environmental governance, liberalization, Quasi-federal structure, Judicial*
25 *interventions.*

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28 **Introduction**

29 Since gaining independence in 1947, India has moved rapidly to establish an industrialized
30 economy. This process of developing its economy has taken place through a combination of

31 rapid industrialization and modernization. However, this push for economic growth has usually
32 come at the expense of the environment, resulting in large-scale damage to ecosystems,
33 destruction of forests, pollution of the atmosphere and water bodies, and loss of biodiversity. In
34 response to these impacts on the natural world, the Government of India has developed over time
35 a highly complex legal and administrative system for managing the environment. The central
36 element in this system is India's unique federal structure of government that divides power and
37 responsibility between the central government (the Centre) and the governments of individual
38 states (Swenden & Saxena, 2019)

39 Environmental Governance in India is inherently tied to the Federal Structure. Central
40 Government typically makes the laws & regulations and the policies regarding the Environment.
41 While State Governments are responsible for implementing these policies as well as enforcing
42 them (as well as ensuring compliance). This can create an ongoing battle between state
43 Autonomy and the authority of the Center; which will always have some degree of
44 Collaboration, Disagreement or Negotiation influencing where policy goes Over time, this
45 system has evolved via both bottom-up interventions, such as local biodiversity management and
46 state-level initiatives like Delhi's odd-even scheme, green Tamilnadu mission, and top-down
47 interventions, including centrally enacted legislations like the Environment (Protection) Act
48 ,1986. (Gupta, 2014; Lele et al., 2010)

49 This study explores the effect of India's federal system on environmental governance and
50 effectiveness. It specifically looks at how the constitution, various laws, court judgments and
51 institutional frameworks including both central and state level entities, including pollution
52 control boards, permit authorities, forest departments, wildlife sanctuaries and wildlife national
53 parks, and environmental impact assessment institutions, shape out environmental rights under
54 Article 21. The study examines federalism's benefits with respect to coordination, collaboration,
55 and decentralization and how these translate to environmental benefits. (Dubash, 2012)

56 The growing environmental challenges stemming from climate change, urbanisation and the
57 limitations of natural resources make it critical to explore ways in which governance systems in
58 large and diverse federations such as India can become more responsive, inclusive and
59 sustainable. This article explores some of the institutional conflicts, gaps in policy and
60 innovation in environmental governance within India's federal system, to contribute to the

61 evolving discourse on environmental federalism and sustainable development. (Lele & Sahu,
62 2017)

63 **Objectives**

64 Understanding federal dynamics of India's environmental governance allows us to appreciate
65 how the centre and states interact and resolve differing priorities through a combination of
66 constitutional provisions, laws and judicial monitoring. This study attempts to highlight upon the
67 dynamics of cooperative federalism that can help uniform national standards in the field of
68 environment, being flexible and providing region specific action by meeting varying socio-
69 economic conditions of the regions as well international commitments in the area of
70 environmental protection. Ultimately, it highlights the importance of sustainable development
71 through integrated, multi-level governance and strong environmental protection throughout
72 India's diverse landscape.

73 **Methodology**

74 This study follows a qualitative research approach, using literature and document reviews. It
75 mainly relies on secondary sources including constitutional provisions, key environmental laws,
76 and major court judgments, as well as scholarly articles, books, and government reports. Using
77 content analysis, the study examines how centrally framed environmental policies are interpreted
78 and implemented at the state level along with the specific measures taken by the various state
79 governments. By comparing and cross-checking information from multiple sources, the research
80 provides a better understanding of India's evolving federal approach to environmental
81 governance.

82 **Historical Evolution of Environmental Governance in India**

83 In ancient India, the tradition of environment conservation also became a part of its culture and
84 religion. In addition to the sacred animal tradition, there existed also another tradition of
85 conservation of nature – sacred groves. These were tracts of forest dedicated to different gods
86 and goddesses. The ancient texts such as Arthashastra (300 BCE) dealt with conservation of
87 forests and wild life. (Rangarajan, 2012)

88 During colonial period, forests and people of India underwent a significant transformation. The
89 first legislation relating to forests in India, The Indian Forest Act of 1865, was enacted to enable

90 the systematic extraction of forest resources for commerce. This legislation was superseded by
91 The Forest Act of 1927 that consolidated the State's grip on forests by creating reserved forests
92 and regulating other forest uses. Local people were thus alienated from their customary use of
93 forests and their knowledge systems on forest management were neglected. (Rangarajan, 2012;
94 Ghosh, 2019)

95 In 1947, when India became independent, it was all set to be the economic super power of the
96 world in near future, especially in terms of energy requirements. Scientists and engineers were
97 working furiously to invent solutions to meet these future needs. At the same time India's ancient
98 philosophies, its cultures and traditions have always motivated people to live in harmony with
99 nature, seeking a holistic growth, which includes spirit as well as materiality. (Meena &
100 Maikhuri, 2023)

101 Industrialization is always the primary goal of post-independence India and environment has
102 always taken a secondary seat. However, a number of factors changed the focus in the 70s. The
103 Stockholm Conference on environment and development held in 1972 was a wakeup call for
104 India's environment. This conference resulted in the 42nd Constitutional Amendment in 1976,
105 which made protecting the environment a fundamental duty of a citizen. The Directive Principles
106 of State Policy were also amended to include the protection of environment. (Meena & Maikhuri,
107 2023; Divan & Rosencranz, 2022)

108 As India grew, there was a corresponding rise in the number of important environmental
109 legislation enacted in the 1970s and 1980s. The Water (Prevention and Control of Pollution) Act
110 1974 and the Air (Prevention and Control of Pollution) Act 1981 laid down the mechanism for
111 pollution control. The Environment (Protection) Act 1986 was enacted to give effect to the
112 resolution of Stockholm Conference and to provide for control and improvement of environment
113 and safeguarding of forests and preventing release of materials and substances hazardous to
114 environment and human life. The Forest (Conservation) Act 1980 was enacted to control
115 deforestation. Most of these laws have been framed at the level of Central Government and had
116 to be enforced through the State Governments and local bodies in the Federal set up of the
117 country, which gave rise to initial conflicts. (Divan & Rosencranz, 2022; Ghosh, 2019)

118 **The Federal Structure and Its Impact on Environmental Governance**

119 Environment is not specifically enumerated in the Constitution. Therefore, all issues relating to
120 environment are listed under the Union, State and Concurrent Lists. As a result, while the central
121 government can promulgate national-level environment policies and legislation, these are to be
122 implemented by the states. However, effective management of the environment demands
123 cooperative federalism and not the present rivalries, delays and fragmentation resulting from
124 Centre's policies and State's implementation. (Gupta, 2014; Mandal & Rao, 2005)

125 Decentralisation is a much-needed paradigm shift in Indian environmental governance. The top-
126 heavy central agencies empowered under Environment (Protection) Act 1986 have set ambitious
127 agenda and guidelines for environmental governance, but administration and conservation of
128 environmental resources and effective enforcement of environmental laws need to be done at
129 state and local levels. While states have grappled with capacities and fiscal transfer related
130 constraints in addressing local environmental issues and implementing environmental policies
131 designed by central agencies, this volume documents environment governance experiences from
132 selected states in India. (Nallathiga, 2011; Lele & Sahu, 2017)

133 In contrast, some efforts have sought to decentralise decision making. Legislation such as the
134 PESA (Panchayats (Extension to Scheduled Areas) Act) has been designed to empower local
135 institutions and Gram Sabhas to claim authority over natural resources in their name. Drawing on
136 local ecological knowledge and customary practices, local people might, in this scenario, govern
137 natural resources sustainably, in line with broader environmental goals. Yet such efforts have
138 been partial and failed to insulate governance of natural resources from central controls and
139 larger political configurations. (Kashwan & Kodhiveri, 2021)

140 **State-Level Innovations in Environmental Governance**

141 Some states have introduced innovative environmental governance models:

142 Sikkim's Organic Farming Initiative: Sikkim became the first fully organic state in India by
143 banning chemical fertilizers and pesticides, epitomizing a successful decentralized environmental
144 policy.

145 Maharashtra's Jalyukt Shivar Abhiyan: A state-led water conservation program that entails local
146 community participation in watershed management has proved to be a successful decentralized
147 water governance mechanism.

148 Karnataka's Decentralized Biodiversity Management: Under the Biological Diversity Act, 2002,
149 the establishment of Biodiversity Management Committees has enabled local institutions to
150 successfully document and manage biodiversity resources.

151 Delhi – Odd-Even Scheme: Implemented to curb vehicular pollution, this scheme allows
152 vehicles on roads based on odd or even number plates on alternate days during periods of high
153 air pollution.

154 Tamil Nadu – Green Tamil Nadu Mission: Aimed at enhancing green cover, this mission targets
155 the plantation of 265 million trees over ten years to combat climate change and support
156 biodiversity.

157 **Challenges in the Federal Environmental Governance Framework:**

158 **Overlapping Jurisdictions and Coordination Issues**

159 Environmental governance in India is complicated further by the intricate sharing of central and
160 state jurisdiction over environmental issues. Many important environmental issues such as water,
161 air, and forests are naturally inter-jurisdictional. The lack of effective mechanisms of cooperation
162 and coordination results in fragmentation of environment policy at the level of government,
163 causing inefficiencies and inordinate delays in their effective implementation. Furthermore, there
164 is always the possibility of a 'race to the bottom' whereby state governments with weaker
165 pollution regulations undermine the potential of even the strongest pollution policies at the
166 central level. (Mandal & Rao, 2005; Gupta, 2014)

167 Although there are many laws and regulations regarding environment in India, there exist certain
168 loopholes in their implementation due to inconsistent implementation. Dilution of Environmental
169 Impact Assessment (EIA) process allows States to grant environmental clearance to projects. An
170 amendment in Environment Impact Assessment (EIA) notification in 2020 granted more powers
171 to States in granting approval for certain aspects but further diluted environment safeguards at
172 the same time. Environment agencies at the State level and State Pollution Control Boards
173 (SPCBs) are finding it very difficult to monitor and implement environment norms mainly due to
174 paucity of funds and lack of staff. Similarly, the apex Central Pollution Control Board (CPCB) is
175 facing problem of inadequate funds and manpower to regulate and enforce environment norms.
176 (Mukherjee & Chakraborty, 2015; Er & Sidhu, 2015)

177 Environmental issues are another cause of inter-state disputes. Disputes over use of river waters,
178 air and forest pollution are increasingly generating tensions between the states. The Yamuna
179 River pollution dispute between Delhi and Haryana/UP is another case in point. The industrial
180 effluents, car exhausts and domestic waste pouring into the Yamuna River in Delhi are polluting
181 the river. In addition, the burning of crop residue in Punjab and Haryana is causing very poor air
182 quality in Delhi. Although there are stringent laws and regulations and penal provisions for
183 environmental pollution, these are pointless because there is no enforcement of these regulations.
184 There is no monitoring mechanism to ensure compliance of environmental norms. State
185 governments are not enforcing these norms against the industries violating environmental norms.

186 Centre and states have to work in tandem to battle against the effects of climate change but there
187 is no coordination in disaster management currently.

188 Some stakeholder groups are demanding more flexibility within the current data protection
189 regime. However, most governments lack the funding and expertise to bring about greater
190 changes.

191 **Judicial Interventions**

192 The role of the Indian judiciary has been critical in framing environmental governance. Over a
193 series of judgments, and most significantly so by the Supreme Court in matters such as the M.C.
194 Mehta litigation, the courts interpreted Article 21 (the right to life) to also mean the right to a
195 healthy environment. The National Green Tribunal Act (2010) which established a dedicated
196 forum for environmental matters in the form of a National Green Tribunal (NGT) is yet another
197 testament on the part of the judiciary towards addressing environmental issues by way of setting
198 up a specialized forum for expeditious disposal of environmental dispute. Several land mark
199 cases are mentioned below:

200 **MC Mehta v. Union of India**

201 The Supreme Court of India in a series of rulings, starting in the 1980s, took on the dire
202 consequences of industrial pollution. Judgments in MC Mehta v. Union of India required
203 polluting industries to implement state-of-the-art pollution control technologies and comply with
204 environmental laws. These decisions came as a response to several industrial accidents — for
205 example, the Oleum gas leak case — and reiterated that the pursuit of economic development

206 should not come at the expense of health and environmental degradation. This body of case law
207 has led to the establishment of robust guidelines for environmental clearance and has catalyzed
208 stricter enforcement measures across industries. (Sharma, 2008)

209 **Godavarman Thirumulpad v. Union of India**

210 It was a landmark case that dealt with the conservation and sustainable management of forest
211 resources. In Godavarman Thirumulpad vs Union of India, the Supreme Court reinforced the
212 fundamental duties of the state by holding that conservation of forests is a constitutional duty. It
213 ordered the government to adopt sustainable forest management practices, stop illegal logging,
214 halt deforestation and protect biodiversity. How the ruling set the stage for comprehensive forests
215 conservation policies by reaffirming that the right to life encompasses protection of natural
216 resources, the ruling set the foundation for holistic forest conservation policies. (Ghosh, 2019)

217 **Vellore Citizens' Welfare Forum v. Union of India**

218 This landmark case played a pivotal role in establishing the “polluter pays” principle in Indian
219 environmental law. In its ruling, the Supreme Court held that industries responsible for
220 environmental degradation must bear the financial costs of remedial measures. The judgment
221 expanded the interpretation of the constitutional right to life by including the right to a healthy
222 environment. As a result, it has significantly influenced how environmental liabilities are
223 assessed and has imposed greater accountability on industrial polluters. (Divan & Rosencranz,
224 2022)

225 **MC Mehta v. Kamal Nath (Taj Trapezium Case)**

226 Aimed primarily at preserving the Taj Mahal, this case addressed the negative impact of
227 industrial pollution on one of India’s most celebrated heritage sites. In a judicial intervention, the
228 Supreme Court had stepped in to halt the polluting industrial activities being conducted in the
229 vicinity of the Taj Mahal, ordering the shifting of polluting industries, and enforcing measures to
230 ensure stringent air quality controls across a large area surrounding the monument. This victory
231 protected an national monument but precedent for protection of cultural heritage sites from
232 environmental destruction.

233 Collectively, these cases highlight the transformative impact judicial scrutiny can have on
234 environmental governance. They have compelled both governmental agencies and privates to

235 practice the motto of environmental sustainability with their outputs ensuring development even
236 without daducement of the nearby natural habitat. The ramifications of this series of decisions
237 continue to inform policy debates and regulatory reforms in contemporary India.

238 **WAY FORWARD:**

239 **Improved Centre–State Cooperation**

240 India’s federal architecture has long grappled with overlapping jurisdictions and capacity
241 asymmetries. But increasingly, the need for concerted action between the centre and the states
242 are being realised. New reforms—including large national level programs like the National
243 Action Plan on Climate Change (NAPCC) and the increasingly active engagement of the
244 National Green Tribunal (NGT) to expedite justice—showcase steps that can help overcome
245 historical fragmentation. These initiatives, along with the ongoing evolution of fiscal transfers
246 and conditional grants aimed at environmental objectives, could pave the way for a more
247 integrated and efficient governance system. (Kandpal, 2024; Lele & Sahu, 2017)

248 • New Technologies Adoption

249 Technology has advanced rapidly, as have field monitoring tools like remote sensing, data
250 analytics, and digital monitoring that can help improve enforcement and compliance at scale
251 across multiple geographies. With some states already using technology to monitor
252 environmental impacts or track pollution levels, these innovations can then be scaled up through
253 centralized support and standardized regulatory practices, leading to an improved governance
254 landscape. (Nallathiga, 2011)

255 Integrating policies with the regulatory reforms

256 There is a rising tide of momentum to change environmental laws and policies to bring them in
257 line with international climate goals (such as India’s net zero by 2070 pledge). Integrating
258 environmental objectives with economic and developmental policies, especially in sectors like
259 renewable energy and waste management, can be a way to better create synergies between
260 growth and sustainability.

261 **Vertical Innovations and Role of Civil Society**

262 • Experimentation at the State Level:

263 Despite overall challenges, several states have initiated innovative programs of their own to
264 address local environmental challenges—from air pollution control in Delhi and Punjab to water
265 and forest conservation projects in other regions. This kind of experimentation at the state level,
266 if sufficiently supported by functional federal mechanisms, can produce and test scalable models
267 of environmental governance better able to respond to local conditions.

268 • Civil Society and Public Participation:

269 Increased public awareness and the active participation of non-governmental organizations are
270 driving demands for greater accountability and transparency. This bottom-up pressure can
271 complement top-down reforms, ensuring that governance mechanisms are not only robust on
272 paper but also effective in practice.

273 **International Obligations and Economic Potential**

274 • Consistency with Global Climate Objectives:

275 India's international obligations — especially its pledges under the Paris Agreement and its
276 larger net zero commitments (2070) — are gradually remaking domestic environmental policy.
277 These commitments offer both a framework and an incentive for modernizing and streamlining
278 federal environmental governance structures.

279 • Green and Circular Economy Initiatives:

280 The potential to develop a circular economy emerges with increasing investments in renewable
281 energy and waste management technologies that not only prevent environmental degradation but
282 also generates economic growth and employment. For instance, initiatives repurposing used EV
283 batteries and promoting solar panel recycling show how green technologies can be integrated
284 with sustainable development objectives.

285 **Conclusion**

286 Evolution of Environmental Governance in post-colonial India is a complex story of interaction
287 between economic and social forces and the federal structure of the country, grappling to
288 reconcile the two and deal with environment issues in a multiverse. Each era has had its own
289 legislation and judicial activism beginning from the colonial days when natural resources were
290 extracted and in the 21st century the focus has been on control of industrial pollution,

291 deforestation and water scarcity. There has been legislation in each era that has drawn the
292 judiciary into the fray. Starting from the colonial days through the Water Act, 1974 and Air Act,
293 1981 to Environment (Protection) Act, 1986 and the National Green Tribunal Act, 2010, the
294 legislation has endeavoured to address environmental issues. However, the distribution of
295 environmental responsibilities among Government of India and the States and local bodies has,
296 on many occasions, proved counterproductive. At the Central Level there are multiple agencies
297 and various Ministries are responsible for the implementation of various environmental
298 legislations. There are often (Meena & Maikhuri, 2023; Divan & Rosencranz, 2022) overlapping
299 jurisdictions and a lot of confusion and inconsistencies in application of laws. States have
300 varying capacities to implement the same laws. Often they fail to implement provisions of
301 environment laws at the local level due to institutional, systemic and social challenges.

302 However, the promise of these policies has largely remained unfulfilled as a result of rampant
303 political clearance and a 'growth at all costs' attitude. Yet, courts have increasingly stepped up to
304 interpret environmental laws and impose consequences for non-compliance, highlighting the
305 notion of the "environmental rule of law." By strengthening Gram Sabhas and local
306 communities, efforts to decentralize and implement cooperative federalism are beginning to bear
307 fruit. Future environmental reforms will need to be more inclusive, participative and equitable,
308 ensuring fair fiscal transfers while enhancing the capacity of states and local governments to
309 deliver on environmental objectives, through effective intergovernmental coordination. The goal
310 will be to preserve and utilize India's vast natural capital endowment for future generations.
311 (Dubash, 2012; Kashwan & Kodhiveri, 2021)

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