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Address Inconsistencies in India's Green Jurisprudence



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In the 1980s, India stood at a crossroads. Industrial growth was accelerating; populations were swelling; but regulation was weak, enforcement weaker. Then two major industrial accidents happened. In December 1984, the Bhopal gas tragedy — leakage of methyl isocyanate from Union Carbide's factory — killed thousands. In December 1985, toxic oleum gas leaked from the Shri Ram Food & Fertilizers plant in a densely populated region of Delhi.

These disasters were sharp reminders that industrial development in India had outpaced both safety regulations and legal accountability. MC Mehta filed a Public Interest Litigation (PIL) challenging dangerous industrial practices and weak oversight. He argued that the oleum leak not only endangered lives but violated the right to life enshrined in Article 21.

MC Mehta v. Union of India became a watershed case in Indian environmental jurisprudence.

At that time, Indian law operated under principles inherited from British common law, including strict liability — bedrock of tort law (civil wrongs) — which emanated from the landmark *Rylands v. Fletcher (1868)*. Under this rule, an enterprise could be held liable for harm caused by it only if negligence is proved — and even then, defences were available.

In *MC Mehta 1986*, the Supreme Court bench led by Chief Justice PN Bhagwati, reasoned that industries dealing with hazardous substances have a “non-delegable duty” to ensure safety. If their operations put public health at risk, they must bear the full cost of any accident regardless of negligence. This led to a century-old rule in *Rylands v. Fletcher* being replaced with the rule of “absolute liability” where cases of industrial harm will have to be adjudicated under a more stringent standard of liability.

The onus of precautionary measures falls entirely on the enterprise engaged in hazardous activities. Further, the Court stated that Right to Life must be read expansively to include the right to a clean and safe environment. This transformed Article 21 from a personal protection clause into the backbone of environmental law.

The judgment had ripple effects and laid the foundation for subsequent judicial interventions. In the *Vellore Citizens Welfare* case, the principles in MC Mehta were cited to enforce the “polluter pays” and “precautionary” principles. It also informed the Environment (Protection) Act of 1986, passed shortly after the oleum leak.

The case changed how industries approached risk. Safety audits became more than box-ticking exercises. Liability insurance for hazardous industries became a standard requirement. A range of cases decided by the Supreme Court in 2025 involving environmental conservation, pollution, and regulatory clearance bring back memories of the 1980s.

Vanashakti v. Union of India (May 2025) presented a rigorous rule-based governance framework based on prohibition of *ex post facto* environmental clearance. Restoring *ex ante* risk assessment and legal accountability in adverse environmental impact assessments sent a clear signal — that human and environmental health take primacy over business and profit motives.

The impact of judicial interventions this year itself is staggering.

From enhanced penalties for illegal deforestation in Agra, Uttar Pradesh; to classifying Zudpi lands in Maharashtra as forest land to protect the agriculture and local community. From ordering the Odisha government to seek approval or demolish structures built in Deomali mountains; to halting cutting of trees in Telangana's Kancha Gachibowli forest. From investigating violation of laws protecting wildlife and forests in the Agasthyamala biosphere reserve spread across Kerala and Tamil Nadu to banning plastic products in the fragile Nilgiri region of the Western Ghats.

However, the judiciary's record is not without inconsistencies.

A troubling pattern of approvals for projects that are ecologically damaging and environmentally disastrous is emerging. The Mumbai Coastal Road Project was cleared despite harm flagged to marine biodiversity. Infrastructural expansion was prioritised over protection of the Himalayas in the Char Dham Highway Plan despite warnings of landslides. Studies showing environmental harm and displacement of people were overlooked in the Etalin hydro project (Arunachal Pradesh) and Sardar Sarovar project (Gujarat).

Legitimising activity in ecologically sensitive areas risks undermining decades of conservation efforts. In a sharp reversal of its own stance, the Supreme Court lifted a long-standing ban on construction in Madhya Pradesh's Pachmarhi biosphere.

It also weakens India's stance in international forums. Prioritising economic interests over ecological fragility flies in the face of international norms, contradicting the recent ruling by the International Court of Justice that binds nation States, including India, by international law to prevent environmental harm.

India has robust environmental laws. But, decisions where economic development trumps ecological safeguards reflect a troubling pattern. Without consistency, environmental jurisprudence will remain a promise made too often but kept too rarely.

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