

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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JUDICIAL GOVERNANCE VS ADMINISTRATIVE FAILURE: RECONSIDERING ENVIRONMENTAL ACCOUNTABILITY IN DELHI

AUTHORED BY - RANVEER LOHIA

ABSTRACT

The ongoing environment crisis in Delhi is a paradox in itself: the legal framework on environmental protection is both very broad and progressive but its execution is very poor. In this paper, the increasing use of judicial intervention as an alternative to administrative enforcement in the context of pollution in Delhi will be discussed. The study suggests that environmental governance in India has progressively moved towards what can be referred to as judicial governance.

Although a transformative role of courts in extending the scope of Article 21 to encompass the right to a clean and healthy environment is welcome, there are indications that courts have moved beyond their limits and are becoming increasingly activist in their approach to the administrative domain. As the paper illustrates, judicial activism, though a successful approach in the short run, cannot substitute a sustained system of governance. It also indicates a structural imbalance in accountability whereby the private actors will incur strict liability, whilst the state actors will often avoid responsibility when it comes to regulatory failure.

The study takes a socio-legal approach to examine the shortcomings of litigation-based forms of environmental governance, and to highlight the necessity of institutional reform, administrative accountability and proactive implementation of policy. It concludes that to close the gap between law and reality it is necessary to shift the focus of judicial control to effective administrative governance that is based on accountability and coordination.

JUDICIAL GOVERNANCE VS ADMINISTRATIVE FAILURE: RECONSIDERING ENVIRONMENTAL ACCOUNTABILITY IN DELHI

The phenomenon of environmental degradation in India, especially in the cities such as Delhi, is a vivid contradiction between the promise and the realization of the law. India has over the past few decades come up with a comprehensive constitutional, statutory and judicial framework that is geared towards environmental protection. The inclusion in the Constitution

of Article 21 of the Constitution to incorporate the right to a clean and healthy environment, this interpretation was firmly established in *Subhash Kumar v. State of Bihar*, where the Supreme Court recognized the right to pollution-free water and air as part of Article 21.¹ The extensive legislation that follows such as the Environment (Protection) Act, 1986² and the Air (Prevention and Control of Pollution) Act, 1981³, is indicative of a strong normative commitment to environmental protection. However, with this complex legal structure, the city of Delhi still remains one of the most polluted cities in the world, which begs critical questions about the effectiveness of law as a tool of governance.

This chronic disconnect between law and reality is not only a question of poor legislation. Quite on the contrary, the legal structure in India is not only strong but also conceptually advanced as it is shown in the dissertation on the state responsibility and legal accountability of pollution in Delhi. The problem is that implementation fails, there is a lack of institutional coordination as well as the lack of an effective accountability mechanism. The environmental regulation in Delhi has been typified with fragmented rule systems, overlapping jurisdictions and inconsistent enforcement that has led to a situation where the law is well established on paper. To fill this governance gap the judiciary has been increasingly playing an active role in protecting the environment. Courts have interfered in issues as diverse as industrial contamination or even car emission. Not only have landmark decisions, like those in the *M.C. Mehta* series⁴, been interpreted as an enforcement of the existing laws but have also been used to shape the environmental policy by providing detailed administrative directions. The *M.C. Mehta v. Union of India* line of cases laid the foundation of modern environmental jurisprudence in India by expanding liability principles and enforcing regulatory compliance. This movement represents a shift to what may be termed as a shift towards what may be described as a shift towards a judicial governance in the environmental arena.

Although judicial intervention has brought about tremendous short term benefits, especially in the response to acute environmental crises, it has deeper structural implications. The increased dependency on courts in order to achieve environmental compliance underscores the inability of administrative institutions to fulfill their statutory and constitutional roles. In addition, judicial structures, as such, are reactive and case specific. They do not have the institutional ability to offer continuous supervision or to adopt long-term regulatory approaches. This leads

¹ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

² Environment (Protection) Act, 1986.

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

⁴ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

to environmental governance being reliant on litigation as opposed to continued administrative action.

The paper aims to critically analyze this changing dynamic between judicial intervention and administrative failure in the light of the pollution crisis in Delhi. It contends that although the judicial system has been an important corrective mechanism, its growing centrality is indicative of a deeper accountability crisis within the governance system. The research paper is concerned with a structural imbalance of environmental responsibility whereby the strict liability of private actors is in contrast with the lack of responsibility by state actors to regulatory failures. This paper will adopt a socio-legal⁵ perspective, where the constitutional framework, statutory provisions and judicial developments that govern environmental protection in India with specific reference to Delhi. It sets out to show that the continuance of pollution is not an effect of legal inefficiency but of institutional malfunction. Finally, this paper argues that sustainable environmental governance must involve a transition to proactive, responsible and coordinated administrative systems rather than reactive judicial control.

LEGAL AND CONSTITUTIONAL FRAMEWORK THAT GOVERNS ENVIRONMENTAL PROTECTION

The legal system in India that regulates environmental protection is comprehensive and progressive, which demonstrates a great constitutional and statutory interest in ensuring the protection of ecological integrity. On the constitutional plane, the interpretation of the right to life under Article 21 is the basis of environmental jurisprudence. Judicial expansion has resulted in this right being extended to the right to a clean and healthy environment, the judiciary further reinforced this position in *Virender Gaur v. State of Haryana*, emphasizing that environmental protection is integral to the right to life.³ Thus bringing the status of environmental protection to that of a fundamental right.⁶

This constitutional development is also justified with the help of Directive Principles of State Policy and Fundamental Duties. The requirements regarding the protection and enhancement of the environment and the preservation of forests and wildlife place an incumbent on the state to take proactive steps. Also the obligation imposed upon citizens to conserve and maintain the natural environment reflects a collective responsibility structure and includes environmental protection as a part of the greater constitutional ethos.

⁵ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing, 1982).

⁶ *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577.

In the statutory arena, India has passed a number of important laws which are meant to control environmental pollution. The Environment (Protection) Act, 1986 is an umbrella law, which provides extensive powers to the central government to initiate measures towards environmental protection and to coordinate the efforts of different regulatory bodies. To supplement this, there are sector specific laws, like the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974⁷, which provide mechanisms of monitoring and controlling environmental standards and the establishment of pollution control boards at the central and state levels.

These statutory frameworks are backed by a network of regulatory agencies that include the Central Pollution Control Board, State Pollution Control Boards which have the responsibility of implementing environmental laws, setting standards and enforcing compliance. Moreover, the introduction of specialized forums including the National Green Tribunal⁸ have attempted to offer an effective mechanism of adjudication of environmental disputes and enforcement of environmental rights.

Although such a complex legal framework is in place, the efficiency of environmental governance is still low. The issue with the dispersion of regulatory power is one of the main challenges. Various agencies with overlapping jurisdictions are common, which in most cases results in coordination failures and diffusion of responsibility. This institutional complexity erodes the steady application of environmental standards and introduces gaps in responsibility. The other important constraint is the laxity in implementing the existing laws. The regulatory agencies often have a lack of sufficient resources, expertise and institutional independence to adequately oversee compliance and ensure corrective action. Where violations have been found, rather than enforcing the rules, the deterrent effect of environmental regulations can be reduced by delaying or failing to enforce the rules.

Moreover, the legal framework is inclined towards rule-making rather than implementation. Whereas standards and guidelines are widely established, systems of compliance effectiveness are relatively weak. This asymmetry leads to a scenario in which environmental protection is strong in theory and weak in practice.

The constitutional and legal provisions of environmental protection in India is therefore a two sided reality. On the one hand, it represents the progressive vision which incorporates environmental rights into the extended framework of fundamental rights and governance.

⁷ Water (Prevention and Control of Pollution) Act, 1974.

⁸ National Green Tribunal Act, 2010.

Conversely, its impact is limited due to structural and institutional inadequacies that restrict its practical influence.

This disjuncture between normative strength and operational weakness gives the framing of the growing role of the judiciary in the governance of the environment. The next section discusses how judicial intervention has changed in response to the inadequacies of the administration and has led to the emergence of the phenomenon of judicial governance in environmental law.

EMERGING JUDICIAL GOVERNANCE IN ENVIRONMENT LAW

The inefficiency of administrative enforcement of environmental regulations has caused a major increase in judicial intervention in India. With time, the judiciary has no longer been a passive participant in the judicial system as it has now actively been involved in the governance of the environment. This transformation, commonly termed as judicial governance, is an effort by the courts to put up with the vacuum that had been created by ineffective regulatory systems and institutional passivity.

One of the major contributors to this shift has been the development of Public Interest Litigation (PIL)⁹ that has facilitated much easier access to justice in environmental cases. The judiciary has permitted individuals and civil society organizations to come to the courts in place of the affected communities by relaxing procedural requirements, such as locus standi. This has played a crucial role in environmental cases where the damage is usually diffuse and covers large portions of the population. PIL has therefore turned out to be an effective means of dealing with environmental issues that would otherwise not be dealt with at all because of the administrative inertia.

The active mode of judiciary is most evidently portrayed in the series of cases prosecuted under the headship of M.C. Mehta¹⁰, which has immensely influenced the Indian environmental jurisprudence. In *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, the Supreme Court evolved the doctrine of absolute liability, holding industries strictly liable for hazardous activities. These cases dealt with a large number of issues such as industrial pollution, vehicular emissions and the preservation of natural resources. By these rulings, the Supreme Court was not only enforcing the already existing laws but also introducing new principles like absolute

⁹ S.P. Gupta v. Union of India, 1981 Supp SCC 87.

¹⁰ M.C. Mehta v. Union of India, (1987) 1 SCC 395.

liability¹¹, polluter pays principle¹², the polluter pays principle was firmly established in *Indian Council for Enviro-Legal Action v. Union of India*, where industries were directed to bear the cost of environmental remediation, and precautionary principle¹³. Similarly, in *Vellore Citizens Welfare Forum v. Union of India*, the Court recognized the precautionary principle as a core component of environmental law in India. These principles have now been made central to the environmental law in India and enhanced the legal framework in holding polluters responsible. The courts, besides formulating principles of law, have also given elaborate administrative guidelines effectively intruding into the field of policy-making. As an example, the courts have ordered the removal of pollutant industries, introduction of cleaner fuels like compressed natural gas (CNG) in the transport sector and the regulating the construction activities in the environmentally sensitive areas. Judicial intervention in Delhi's pollution crisis was most visible in *M.C. Mehta v. Union of India (Delhi Vehicular Pollution Case)*, where the Court mandated the conversion of public transport to CNG.¹⁴ The measures have had a physical effect on the environmental situation, especially in Delhi, where the judicial decisions have become a key factor in resolving acute crisis situations of pollution.

Nevertheless, this increase of judicial power leaves some significant questions concerning the nature and scope of judicial government. Although the long-term effectiveness of court-led interventions has been dubious, this intervention is inherently reactive and it relies on litigation. The judiciary does not have an institutional capability to check compliance on an on-going basis or to engage in long-term regulatory strategies. Consequently, environmental governance has become episodic and in particular cases as opposed to long term administrative planning. Additionally, the growing dependence on judicial action may unwillingly dilute the responsibility of the administration. By courts taking the initiative of enforcing environmental standards, regulatory agencies can be passive in that they rely on the directives of the courts instead of taking the initiative to fulfil their statutory obligations. This gives rise to a cycle of dependency where governance ceases to be run through elected and accountable institutions but rather through the judiciary which is not designed or mandated to operate as a regulatory body.

The other issue is the validity of judicial intervention in matters of policy-making. Although the judiciary is given the mandate of interpreting and applying the law, the wide range of

¹¹ *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, (1987) 1 SCC 395.

¹² *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

¹³ *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

¹⁴ *M.C. Mehta v. Union of India (Delhi Vehicular Pollution Case)*, (1998) 6 SCC 60.

interference in the administrative and policy areas, brings questions on the separation of powers. Even though such intervention can be well-grounded in cases of administrative failure, its further extension will lead to the blurred institutional boundaries and the lack of democratic accountability.

The emergence of judicial rule of the environmental law therefore has both the need and the constraint. On the one hand, it shows that the judiciary is able to react to the urgent environmental issues and preserve constitutional values. Conversely, it also indicates the structural gaps in administrative institutions which require such intervention.

This dual nature of judicial governance is key to seeing the greater crisis of environmental responsibility in India. It is the judiciary that has become one of the main actors not due to its institutional mandate but because of the failure of other institutions to successfully discharge their responsibilities. The Supreme Court has itself acknowledged such administrative lapses in *T.N. Godavarman Thirumulpad v. Union of India*, where continuous monitoring was required due to executive inaction.¹⁵ The following section thus looks at what and how much administrative failure exists in environmental governance and how this relates to the pollution crisis in Delhi.

ADMINISTRATIVE BREAKDOWN AND INSTITUTIONAL BREAKDOWN

The growth in judicial intervention in environmental cases cannot be interpreted in isolation; it is essentially the reaction to chronic administrative ineffectiveness. Although there is an elaborate legal and institutional framework, environmental governance in India and especially in Delhi is characterized by inefficiency, fragmentation and lack of accountability. The failure of administrative authorities to successfully enforce environmental legislations has generated a vacuum in governance which has been increasingly filled by courts.

The disintegration of regulatory powers is one of the most important problems in this respect. The governance of the environment in Delhi comprises various agencies working on different levels, such as central ministries, state departments, municipal bodies and pollution control boards. The institutions tend to operate with overlapping jurisdictions and undefined lines of responsibility. This has led to diffused accountability with each of the agencies passing the blame on to others due to regulatory failures. This complexity of institutions compromises the ability to act in a coordinated manner and time-consumes in responding effectively to

¹⁵ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267.

environmental issues.

Besides fragmentation, there are other mechanisms of weak enforcement that contributed to the intensification of the problem. The regulatory agencies like the pollution control boards are mandated to enforce compliance and permits as well as dealing with those who do not comply. Nevertheless, they are often not well endowed with resources, technical know-how and independence to carry out their functions effectively. Inspections can be haphazard, they may not be reported and enforcement measures may be delayed or diluted. This undermines the authority of the regulatory framework and the deterrent impact of the regulatory framework.

Lack of accountability mechanisms is another important aspect of administrative failure. Although laws set both individual actors and the regulatory authorities and obligations, the enforcement is frequently applied selectively. The punishment that may be faced by the non-compliance of the law is usually imposed on the individual who breached it. This creates a responsibility asymmetry with the burden of compliance resting mostly with regulated parties and oversight institutions acting with little accountability.

The issue of institutional inertia is also important in compromising environmental governance. Despite the presence of policies and regulations, they are usually not implemented in a timely and consistent way. Procedural complications, bureaucratic delays and deficiency of inter-agencies coordination impede quick action. Within the framework of the pollution crisis in Delhi, it has led to a lack of responsiveness towards the repetitive nature of the problem of vehicular emissions and construction dust, as well as industrial pollution and allowed the issue of environmental degradation to persist.

Moreover, environmental governance tends to be responsive and not proactive. Administrative action is more likely to be precipitated by the occurrence of a crisis or judicial order rather than planning in advance. Such a reactive strategy restricts the success of environmental protection measures and does not allow addressing the actual causes of environmental degradation. Long-term measures aimed at controlling pollution, planning and developing sustainable cities are often lost within a crowd of short-term solutions to immediate needs.

There is also the political and economic factor that affects the decision-making process in administration. Environmental regulation can be subjected to the balance between economic development and ecological protection and in most cases, economic considerations prevail. This may result in regulatory concessions, lax enforcement or slow implementation of environmental standards. This type of dynamics also undermines the effectiveness of administrative institutions and aids in the continuation of pollution.

These factors have a compounded outcome, a systemic failure in environmental governance.

The legal framework is not well translated to practice because of institutional weaknesses and lack of accountability. This breakdown of administrative processes is not just accidental but structural and indicates a deeper malfunction of the system of governance.

It is here that the judiciary has become more active. Judicial intervention is a situation whereby administrative institutions are unable to execute their duties. This dependence on the judiciary, however, also indicates the shortcomings of the current system of governance. The judicial system may offer remedial action but not to replace the proper management.

The inability to end environmental degradation in Delhi is therefore not because of the lack of legal provisions but rather it is due to the failure of institutions mandated to enforce them. The result of this failure is that there is an imbalance of structure in environmental governance that is also manifested in the unequal distribution of accountability between the state and the private players.

This disequilibrium is discussed in the next section and this time in more detail, specifically addressing the accountability gap that typifies environmental regulation in India and what this gap means to effective governance.

GAP IN ACCOUNTABILITY: PRIVATE LIABILITY VS STATE IMMUNITY

One of the key aspects of the environmental governance system in India is the asymmetry of accountability imposition and enforcement. Although the legal system has worked out strict principles to implicate private actors in causing environmental damage, an equivalent framework to guarantee responsibility of state authorities is not yet well developed. This lack of balance results in what can be termed as an accountability gap where the polluters are being punished whilst the government officials are often getting away with not taking any action to prevent and/or control the environmental damage.

This imbalance is evident in cases such as *Municipal Council, Ratlam v. Vardhichand*, where the Court compelled local authorities to fulfill their statutory obligations, highlighting the reluctance of administrative bodies to act without judicial pressure.¹⁶ Judicial innovation has been a hallmark of the development of environmental liability in India. In some of their landmark decisions, the courts have brought doctrines like the absolute liability, the polluter pays principle and the precautionary principle, all of which place strict obligations on industries and the individual persons. These values mirror the highly committed obligation to see to it

¹⁶ *Municipal Council, Ratlam v. Vardhichand*, (1980) 4 SCC 162.

that the perpetrators of the harm to the environment pay the cost in the form of remediation and compensation. In principle, this structure offers a strong tool of discouraging environmental offenses and encouraging responsible behavior.

But such a stern treatment of the subject of personal liability does not find an equivalent treatment in a no less stringent treatment of the subject of the responsibility of the public authorities. Enforcement of environmental legislation, checking adherence and ensuring non-compliance is the role assigned to regulatory bodies, such as pollution control boards and administrative agencies. However, when these institutions fail to discharge their responsibilities in an efficient manner, there are few mechanisms through which they can be held legally or institutionally accountable.

Among the most important problems of this kind, is the lack of direct liability against regulatory inaction. Even as the statutes hold responsibilities on an administrative body, there are no clear consequences of failure to perform its responsibilities in line with the statutes. Consequently, regulatory organizations might be left to work without appropriate checks even when their lack of action leads to environmental damage. This irresponsibility lacks the overall effectiveness of the legal system and erodes the confidence of the population in regulatory bodies.

This imbalance has at times been recognized by the judiciary especially in cases where the administrative negligence has resulted in environmental degradation. But judicial reactions have been more in the form of giving instructions as to future compliance than in imposing sanctions on regulatory authorities. Although corrective, this approach does not deal with the structural problem of accountability and leaves institutional failures unaddressed.

The second aspect of the accountability gap is that the responsibility is distributed among several agencies. As noted above, environmental governance entails a multi-layered system of institutions whose jurisdictions overlap. Under this type of system, it is hard to hold someone in charge of regulatory failures responsible. It is not only difficult to enforce because of this diffusion but it also allows the agencies to escape the responsibility by blaming each other.

The skewness between individual responsibility and state responsibility goes beyond environmental governance. In cases where the regulatory authorities are not subject to strict liability but the private actors are, then compliance will be loaded on the shoulders of the latter. This may create a scenario in which enforcement will seem to be selective between visible breaches by industries and systemic failures within governance frameworks.

Additionally, the lack of responsibility on the regulatory authorities is another factor contributing to a circle of inefficiency. With no evident repercussions of inaction, there is no reason as to why institutions would want to better their performance or to take proactive steps.

This continues to perpetuate a reactive approach to governance whereby intervention takes place after the environmental damage has already been caused.

The accountability gap also makes some important normative issues. Protecting the environment is not the prerogative of the private actors; it is a collective responsibility that the state is a major regulator. The failure of the state to perform this role successfully jeopardizes the legitimacy of the legal framework and the greater goal of attaining sustainable development. To correct this unequal situation, there is a need to reconsider environmental responsibility in India. The reforms in law should not only focus on polluters but also include measures of holding the regulatory authorities to account over their actions and omissions. This may involve more explicit statutory obligations, performance audits and the potential of legal penalties on administrative failure.

Finally, the accountability gap demonstrates a fundamental weakness of the current system: it is effective in identifying and imposing penalties on those who harm the environment but it is less effective in holding accountable those who employ methods to cause environmental harm. It is crucial to bridging this gap in the process of developing a more balanced and effective framework of environmental governance.

The fact of such structural imbalance only goes to enhance the constraints of judicial intervention as the main form of environmental regulation. The next section discusses the limitations to judicial governance in more detail, including why judicial governance, notwithstanding its strengths, cannot provide a sustainable solution to environmental challenges.

LIMITS OF JUDICIAL INTERVENTION

Although judicial intervention has been very instrumental in the development of environmental governance within India, there have been other major shortcomings that are revealed with its increasing centrality. Judicial governance, as much as it may be necessary in the scenario of administrative inaction, cannot be viewed as a sustainable or comprehensive answer to environmental problems. It is a critical analysis of its structural and functional limits that indicate why a dependency on the judiciary alone is not sufficient to effective environmental regulation.

The fact that judicial intervention is inherently reactive is one of the main limitations of judicial intervention. The courts are usually responsive to particular disputes presented before them, as opposed to active regulation or constant oversight. However, environmental governance needs

to be monitored, with long-term planning and prevention. Judicial systems have no role to play in these functions which are more appropriated to special administrative entities. Consequently, court-based interventions tend to focus on short-term issues and do not focus on the systemic problems.

The other notable limitation is the institutional inability to enforce. Although the courts can make orders and establish legal principles, they rely on the executive agencies to enforce them. This brings a gap between judicial utterances and on the ground performance. In most cases, even after issuing clear and detailed orders, compliance is partial or delayed due to lack of coordination or administrative inefficiency. The courts, which do not have their own enforcement mechanisms, are restricted in their capacity to see to it that their rulings are followed to the letter.

Judicial intervention is also constrained by the case-specific nature of judicial intervention, further limiting its effect. Problems that are related to the environment are usually systemic and apply to the entire region or population but litigation is often related to specific incidents or sectors. Such a piecemeal strategy can result in the creation of fragmented solutions which fail to tackle the bigger structural factors which may be causing the degradation of the environment. Individual cases may provide crucial precedents; however, they do not always result in wholesome regulatory frameworks.

As well, the growing role of courts in the policymaking process is a cause of concern in terms of separation of powers. The judiciary has the constitutional role of interpreting and applying the law but not of designing or executing policy. But when there is no administrative action at all, the courts have frequently taken the place of the administration, giving elaborate directions which resemble executive ones. Although intervention at this scale might be warranted in extraordinary situations, its further spread can lead to distortion of institutional structures and loss of democratic responsibility.

The other problem is that of sustainability. Judicial intervention is often a venture of litigants especially in Public Interest Litigation. In *Divisional Manager, Aravali Golf Club v. Chander Haas*, the Supreme Court cautioned against excessive judicial activism and emphasized the importance of maintaining institutional boundaries.¹⁷ This implies that the administration of the environment is pegged on the existence of active petitioners as opposed to structured administrative procedures. This type of model is unstable in nature because it is based on litigation intermittently and not of a regular institutional measure.

¹⁷ *Divisional Manager, Aravali Golf Club v. Chander Haas*, (2008) 1 SCC 683.

Additionally, excessive use of judicial processes can unwittingly undermine administrative organizations. When the judiciary takes a higher role in the enforcement process, the regulators may be less aggressive and leave the responsibility to the judicial instructions. This may result in a vicious circle where the lack of action by an administration results in judicial action and this further discourages institutional change.

There are also limitations to the availability of judicial remedies. Although Public Interest Litigation has led to increased access to justice, the legal proceedings can still be complicated, time-consuming and resource-intensive. Not every affected person or community can effectively interact with the legal system. This limits the scope of judicial intervention and restricts its power to deal with the environmental problems on a large scale.

In addition, court remedies are usually aimed at adherence to certain guidelines and orders instead of creating a culture of environmental accountability. Courts can force action but cannot alone inculcate long-term behavior change or institutional change. Environmental governance should be sustainable and therefore not only enforced but also capacity-building, coherence of policies and participation of people and here the judiciary has limited influence.

The restraints of judicial intervention therefore bring to light an essential paradox. The judiciary has played a significant role in enhancing environmental protection but its growing emergence is a symptom of more fundamental governance failures. The role of courts as a corrective mechanism is not sufficient to substitute the necessity of an effective administrative structure. This discussion supports the main argument of this paper, that judicial governance, although good, is merely a symptom of institutional weakness rather than an alternative to good governance. To tackle the environmental issues in Delhi, the administrative accountability should be enhanced and reliance on reactive judicial control should be minimized.

The last section thus is aimed at finding avenues of reform and the necessity to change the focus of government to being proactive, accountable and integrated.

WAY FORWARD AND CONCLUSION

The discussion conducted in this paper indicates that there is a fundamental paradox at the core of the environmental governance in India. Nevertheless, even with the existence of a strong constitutional and statutory framework, environmental degradation, especially in Delhi, still continues to exist at alarming rates. This paradox highlights one of the most important lessons: it is not a problem of legal inadequacy but of institutional failure. The law gives a detailed system of environmental protection but it is ineffective due to laxity of enforcement, pillar-to-

post governance and lack of accountability.

The growing demand to resort to judicial intervention has been a temporary remedial measure, whereby, in cases of administrative inaction, it has been possible to enforce environmental norms through judicial intervention. The judiciary has broadened the understanding of environmental rights and has responded to pressing ecological issues, through innovative doctrines and proactive directions. Nonetheless, as it has been revealed in this paper, judicial governance is simply not an expansive and sustainable concept. The courts are able to interfere in certain situations, however, it cannot replace sustained, integrated and responsible governance.

One of the major problems that come out of this discussion is the structural lapses in environmental responsibility. Whereas well-established legal principles subject the private actors to strict liability in the event of regulatory failures, the state-based authorities are often left to act without the same scrutiny to regulatory failures. This situation undermines the overall efficiency of environmental law and helps to sustain pollution. To counter this imbalance, the accountability framework necessarily needs to be reoriented fundamentally.

To start with, there is an urgent need to enhance administrative responsibility. The regulatory bodies are to be governed by explicit performance benchmarks and controls. Institutional measures should be added to legal provisions that will make action and inaction accountable. This could involve regular audits, transparency and the systems to repair the liability in the event of failure in regulation.

Second, it is necessary to enhance the cooperation of the institutions. The current problem with environmental governance is that it has been very fragmented with numerous agencies working independently. By creating more effective and timely responses, more effective and timely responses can be established by establishing clearer lines of responsibility and enhancing inter-agency coordination. Integrated governance models that align central, state and local authorities can help address the complexity of environmental challenges in urban settings like Delhi.

Third, there should be increased enforcement mechanisms. Regulatory bodies must have sufficient resources, technical skills as well as independence to carry out their operations. In the absence of these, even the best-designed legal frameworks will not be effective. Compliance can be improved by ensuring that there are timely inspections, severe penalties on violations and consistent monitoring of compliance.

Fourth, it is necessary to transform a reactive to a preventive model. Long-term planning, sustainable urban development and risk assessment should be given priority in environmental

governance. The policies that are to be put in place should not be based on a crisis or a court order but the policies should be proactive. This needs a long term approach which incorporates the environmental factor in the overall development planning.

Fifth, the participation and awareness of the community should be improved. The state does not bear the sole responsibility of protecting the environment; instead it involves the citizens, the civil society and the local communities. A more participatory and accountable governance structure can be established by strengthening mechanisms to engage with the public, enhance transparency and improve access to information.

Lastly, judicial intervention should also not be used as a main form of governance but should be redefined as a supervisory and corrective mechanism. To decrease over-reliance on courts, it is necessary to establish effective administrative bodies that could enforce environmental standards independently.

To sum up, the continued process of environmental deterioration in Delhi is not a lapse in legal principles but lapse in governance. The law has established the groundwork of environmental protection but its potential is yet to be fulfilled because of the institutional weaknesses. To close the law-reality gap, there must be a transition between law-based enforcement and administration-based accountability. It is only with such a transformation that environmental governance in India can shift away from the reactive crisis management mode to a model of sustainable and effective environmental regulation.

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