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ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS: COMPARATIVE STUDY OF INDIA AND EU

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ABSTRACT

Introduction: In environmental governance, access to justice is crucial to ensure accountability, public contribution and safeguards of rights. Both India and Europe have established legal systems to uphold environmental justice, but they do so within very different legal, cultural and constitutional frameworks. The Aarhus Convention dominates the European framework, although “Articles 21, 32 and 226 of the Indian Constitution” are based on judicial activism and constitutional foundations. This study examines the similarities, differences and lessons for improving access to justice between the judicial systems of India and Europe.

Method: The study adopts comparative legal analysis referring to international instrument’s constitutional provisions and judicial decisions. Decisions of the “Indian Supreme Court and the National Green Tribunal (NGT)” are analyzed alongside decisions of the “European Court of Justice (ECJ) and European domestic courts.”

Result: The Indian judiciary has given a wide interpretation to the right to a healthy environment under Article 21, thereby expanding “access to justice via PILs (PILs).” A special place for environmental disputes has also been bestowed by the NGT. On the other hand, Aarhus Convention guarantees that people and NGOs can challenge environmental decisions in Europe. Although the ECJ has upheld these rights, member countries continue to impose practical barriers such as cost and permanency requirements.

Discussion: While both countries support the right to access to justice, Europe places greater emphasis on procedural safeguards and conformity to international standards, while India relies more on “fundamental rights and judicial innovation.” Europe offers organized but sometimes limited procedural channels, while India’s PIL mechanism offers a comprehensive approach but risks overburdening the courts. Collectively, these models demonstrate different but complementary perspectives on environmental justice.

Keywords: Environmental justice, PIL, Access to justice, Aarhus Convention

INTRODUCTION

“A collective body of rules and regulations, orders and statutes, constraints and allowances that are all concerned with the maintenance and protection of the natural environment of a country”

Black’s Law Dictionary

In environmental matters, access to justice mentions to the public’s right to fair and legitimate inquiry of decisions, actions, and omissions related to environmental matters. While this notion focuses on evaluating government officials’ environmental decision-making, it also applies to opposing the actions and inactions of private individuals and business entities. (Ebbesson 2002) Environmental decision-making gives yield to considerations of distributive justice because it directly influences how several burdens and benefits are distributed among the individuals concerned, such as *“prioritizing access to natural resources over enduring the negative influence”* of harmful exploitation. However, in environmental issues, access to justice is not ponder to guarantee or mandate particular distributive outcomes in decision-making. Instead, it focuses on *“procedural arrangements and opportunities”*, that is, on access to institutions and mechanisms that, in principle, guarantee just distribution, just outcomes, and the rectification of unfair outcomes. In addition to these procedural and distributive *“facets of access to justice, it”* also bestows a means of correcting wrongs, that is, of wanting redress for unlawful acts and omissions. While such evolution and remedies are usually carried out by courts or other independent, fair legal bodies, administrative procedures may be enough in some circumstances, depending on the situation and the remedies required. (Access to Justice in Environmental Matters European e-Justice Portal,” n.d.) Access to environmental justice and access to environmental information are closely connected notion in the *“framework and terminology of international law and policy.”* Public involvement in environmental issues and the availability of information on them are key. Access to justice is a means of correcting decisions, decision-making procedure, and mistake, while access to information is important for sufficient public involvement in environmental decision-making. (*“Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters”* 1998) This should be seen as a way to encourage environmental democracy, ensuring public involvement, *“transparency, governance, and control over environmental concerns.”* International law is thus encroaching on issues that were once pondered domestic state concerns. During the 1970s, *“access to justice was broadly discussed in a number of national and comparative references”*, including environmental issues. It wasn’t until the early 1990s that access to justice in environmental matters-previously outside the purview of human rights law-became a subject of international law.

Albeit *“Principle 23 of the 1982 United Nations Charter”* for Nature states that everybody has the right to pursue relief when their environment is harmed or degraded, the *“1992 United Nations Conference on Environment and Development (or “UNCED”)”* was to show a more vital character in the progress of this area of law. In the *“Rio Declaration on Environment and Development,”* over 150 states agreed on Principle 10. (Milieu Law & Policy Consulting 2024) The Rio Declaration shows the on large scale recognition that public involvement in environmental governance and access to information are directly connected to access to justice. *“Principle 10 of the Rio Declaration”* was not codified in any universally applicable treaty as a result of the 1992 UNCED. Ahead, it cannot be claimed that this principle shows universal international law. However, Principle 10 of the Rio Declaration has played a critical part in *“shaping political and legal debate in general,”* and has influenced

both international law and state laws and policies. In 2020, Europe will face environmental issues of unprecedented magnitude and intensity. Europe has been a leader in industrialization and plays an important role in influencing world events. Worldwide tendencies such as shifting population patterns and the worsening effects of climate alteration and it got worse various European problems today, and the rapid growth of technology is creating new threats and uncertainties. (“Note From the Editors: World Health Organization Declares Novel Coronavirus (2019-nCoV) Sixth Public Health Emergency of International Concern” 2020)

It feels like that this progress will continue to exert greater pressure on the environment in the future. Understanding the current state, trends, and possibilities of the European environment needs a combined outlook recognizes the complicated drivers and impacts of ecological variation. Systemic solutions are needed to address immediate sustainability challenges and hurdles, yet current systems are characterized by path-dependence, which is related “to the fact that system components” (knowledge, technologies, infrastructures, etc.) have often evolved together over decades. (“European Environment Agency,” n.d.) When the Commission publishes its annual report on the implementation of the “*Charter of Fundamental Rights*” in December 2023, it decided to highlight the significance of access to impartiality and actual legal safeguard, which are secured by “*Articles 19 TEU and 47 of the Charter*.” (“2023 Report on Application of the Charter of Fundamental Rights in the EU,” n.d.) This decision is relied on the significance of these rights, which the Commission itself states are crucial to guarantee the full “*implementation of the Charter and of the EU regulations*” that uphold and defend the rights enshrined in the Charter. (Neframi 2012) Access to justice in environmental issues is shielded by “*Article 9 of the Aarhus Convention*,” a varied contract to which the EU and its Member States are parties. In turn, this Convention binds “*the EU institutions and Member States*” as EU law. (Sharman 2023) In an era of fast financial feast, cumulative industrialization, and urbanization, environmental justice issues may become secondary. Access to environmental justice is a critical component in ensuring fair and fair consequences for sustainable development in India. To address the procedural dimension of environmental justice, public policy measures have been developed “in India, where average annual GDP growth between 2008 and 2018 was 7%” (International Monetary Fund 2019). These measures include PIL, the National Green Tribunal (NGT), and “green benches” in state high courts (Government of India 2010). In keeping with its July forecast, the “*International Monetary Fund (IMF)*” has kept India’s growth projection for FY2025 at 7%, and stressed that “pent-up demand” caused by the pandemic is easing as the economy becomes more efficient. (Sawhney 2024) Ahead, the government has had an official legislative need for environmental impact assessments (EIAs) since 1994, a method for anticipating, preventing, or mitigating the negative impacts of new development projects. (Paliwal 2006) Environmental Impact Assessment (EIA) can lead to solid progress when done properly, but if done hastily or inadequately, it can create friction between project proponents, influenced communities, and regulators. Referring to “*Section 2(a) of the Environment Protection Act 1986*”, the environment comprises water, air and land, as well as the interactions that exist amid these elements and other alive things, including human beings, plants, microorganisms and property.

PROBLEM STATEMENT

In environmental governance, access to justice is important because it bestows individuals and communities with the opportunity to protest infringement of environmental rights and hold public and private actors accountable. Despite the creation of innovative mechanisms such as the National Green Tribunal (NGT), India still faces problems such as “access, delays, procedural intricacies,” and low awareness among affected populations. On

the other hand, via the Aarhus Convention, “*the European Union (EU)*” has established a systematic structure for judicial review, public involvement, and access to information on environmental issues. However, even within the EU, there are still inequalities in how it is implemented at member states and issues of representation for individuals and non-governmental organizations. This absurdity raises a crucial issue: despite our shared international commitments to environmental safeguard, the legal systems of India and the EU differ enough, affecting both environmental outcomes and the exercise of rights. Comparative research is essential to identify areas of convergence, best practices, and shortcomings to improve legal measures and advance “*environmental justice in both countries.*”

OBJECTIVE

The purpose of this study is to equivalently and judgmentally analyze the institutional structure, judicial procedures, and legal frameworks governing “*access to justice in environmental concerns*” in the European Union and India. The study focuses on how well citizens, civil society groups, and influenced communities are capable to access remedies for environmental damage, evaluate how well principles of international environmental law—such as the Aarhus Convention—are being followed, “*identifies best practices, weaknesses, and strengths.*” The ultimate aim is to gain knowledge that can guide judicial innovations and policy changes, thereby reform participatory environmental governance and guarantee more skilled enforcement of environmental rights in both jurisdictions.

SIGNIFICANCE

In order to understand how various institutional, legal, and cultural references influence the implementation of environmental rights, it is crucial to compare India and the EU when examining “*access to justice in environmental matters*”. Through judicial innovations such as “*PIL (Public Interest Litigation) and the recognition of the right to a healthy environment as part of Article 21 of the Constitution,*” access to justice has expanded in India, permitting individuals and communities—specially marginalized groups—to challenge actions that harm the environment.

The European Union, on the other hand, has established a more organized framework based on Aarhus Convention and stress technical rights, including access to information, public involvement, and legal remedies. This is assisted by strong regulatory institutions. An analysis of the advantages and disadvantages of both strategies reveals that, while India is adaptable and proactive in “*encouraging environmental justice, the EU*” bestows a standardized, rules-based framework that reform legal certainty and compliance. In addition to encouraging inter-jurisdictional learning, this study helps create stronger international norms to safeguard environmental rights and increase “*democratic accountability in environmental governance.*”

LITERATURE REVIEW

For this research study on Access To Justice In Environmental Matters: Comparative Study, thorough analysis of relevant scholarly works, theoretical perspectives, empirical investigations, and coverage assessments were part of the literature review process. The objectives of the literature review were to present a theoretical framework, highlight important paradigms and debates, and place the research in the context of current knowledge about environmental justice.

In article “*Environmental Justice And Its Role In India’s Legal Framework written by Sreyasa Dey, Disha Tiwari & Sagnik Roy Choudhury*” they discuss and draw awareness to several facets of Indian environmental justice studies. It examines theoretical frameworks such as “*distributive, procedural, and recognition justice*” and shows how these

perspectives are helpful in analyzing environmental inequalities. This assessment explores the growth of India's environmental laws over time, thrown light on main facets of such as the “Forest Rights Act 2006, Environment Protection Act 1986, and the Wildlife Protection Act 1972,” as well as their influence on sustainability and equity. It also checks how civil society, grassroots movements, and judicial interference—specifically, judicial activism and PIL, or PIL—have contributed to the expansion of environmental rights.

In article **“Access to Justice in Environmental Matters in the EU Legal Order: The ‘Sectoral’ Turn in Legislation and Its Pitfalls Mariolina Eliantonio and Justine Richelle”** It focuses on how the Aarhus Convention safeguards the rights to contribution, knowledge, and legal recourse. It puts attention to scholarly discussions on the EU's incompatible and frequently confined application of its Aarhus responsibilities, especially with regard to the legal status of individuals and NGOs in EU courts. Researchers show clash between the Convention's participatory principles and EU institutional frameworks, and highlight weaknesses in judicial supervision and implementation. The review also includes comparative observations of Member States' practices, showing convertible levels of transparency in bestowing “access to environmental justice.”

In article **“Environmental justice in India: a case study of environmental impact assessment, community engagement and PIL Ariane Dilay, Alan P. Diduck & Kirit Patel”** Discusses specially from the purview of PIL community involvement, and “environmental impact assessment (EIA).” It highlights how research has praised the “EIA framework as crucial regulatory tool, but also criticized its lax enforcement and limited capability to engage influenced populations.” PIL is a fateful means of accessing justice for underrepresented groups, and previous studies have emphasized the necessity of judicial activism and grassroots mobilization in shaping environmental governance. Researchers have also identified systemic disadvantages, such as lengthy procedures, a lack of openness, and a failure to in abundance ponder social justice issues when making environmental decisions.

In article **“Access To Environmental Justice In India With Special Reference To National Green Tribunal: A Step In The Right Direction Gitanjali Nain Gill”** Investigate the history of PIL (PIL) after the “Bhopal tragedy, which expanded and unified rights under Article 21,” but also suffered from disadvantages such as delays, inconsistencies, and judicial overreach, this article examines access to environmental justice in India. It pulls attention to how international agreements (such as the Rio Declaration and the Aarhus Convention) have influenced India's judicial reforms, especially the character of PIL in maintaining sustainable development notion such as “polluter pays and precautionary measures.” The 2010 founding of the National Green Tribunal (NGT) has characterized as reformist step because it bestows specialized, speedy decisions for environmental cases, has broad jurisdiction, and has benches with various expertise.

GAPS IN KNOWLEDGE

Albeit the work of **“Shreyasa Dey, Disha Tiwari, and Sagnik Roy Chowdhury”** propose a detailed analysis of environmental justice in India, it centered mainly on descriptive accounts of legislation, judicial activism, and civil society interference. It also detects the growth of crucial environmental laws and analyzes theoretical frameworks such as distributive, procedural, and recognition justice. Empirical research evaluating the actual impact of these laws and judicial actions in decreasing environmental inequalities on the ground is still required. There is also a lack of research assessing how existing legal frameworks adapt to changing environmental crises, as there has been little study of how environmental justice intersects with new problem such as urbanization, industrialization, and climate change.

Albeit **“Eliantonio and Richelle”** examine how the EU has implemented the Aarhus Convention and point out the clash between *“participatory principles and EU institutional frameworks,”* less is known about how sectoral laws influence the actual enforcement of rights to knowledge, involvement, and legal recourse as well as how judicial monitoring assist to resolve these clashes. This inequality signal that more exhaustive, international research is need to decide how EU-level dedication are translated into practical *“environmental justice on the ground.”*

Although, **“Ariane Dilay, Alan P. Diduck & Kirit Patel”** PIL and environmental impact assessment (EIA) are crucial tools for moving forward *“environmental justice in India,”* but little is known about how EIA processes successfully unified social justice and community involvement, or how PIL result directly impact environmental governance at the local level. While existing research identifies procedural and regulatory lack, it does not properly examine how to address this shortage to obtain more just and inclusive environmental decision-making.

“Geetanjali Nain Gill” stress how PIL and the establishment of the NGT have move forward environmental justice in India, but there is little data available on how well the NGT has worked to trace the *“judicial overreach, delays, and inconsistencies”* that with traditional PIL. Because of the limited study of the association *“between international environmental standards and the operation”* of the NGT, there is also a shortage of information on how global principles are translated into practical environmental justice in India.

RESEARCH METHODOLOGY

When while doing secondary research for the paper **“Access to Justice in Environmental Matters: A Comparative Study,”** a rigorous methodology was used to ensure in-depth coverage of *“relevant case studies, policy documents, legislation, and literature.”* The methodology adopted for the secondary research included several key tasks.

DOCUMENT ANALYSIS: To perceive the criminal environment governing environmental issues in India, a diversity of *“prison documents, including laws, policies, rules, and authority regulations, were analyzed.”* Obtaining relevant data and information need reviewing the websites of official authorities, criminal databases, and case law repositories.

CASE ANALYSIS: The selected case studies have been detailed researched to show how environmental justice notion can be executed within the legal frameworks of India and the UK. These case studies show real-life instances of environmental clatters, network fights, and illegal actions, bestowing priceless visions into the shades and complications of environmental fairness concerns in the UK and India.

POLICY REVIEW: To evaluate the degree of unification of environmental justice concerns into *“policy frameworks, national and state-level environmental guidelines, movement scheme, and steps have been examined.”* In order to perceive how coverage objectives, implementation strategies, and stakeholder engagement methods influence social justice and environmental governance, this needs research.

COMPARITIVE ANALYSIS: To identify training findings, forward-thinking procedures, and possible areas for growth within India’s legal system, a comparative comparison with international legal frameworks and *“best practices in environmental justice were conducted.”* This comparative perspective identified chances for cross-fertilization of ideas and perspective and helped place India’s story in a larger global affair.

HISTORICAL DEVELOPMENT OF ENVIRONMENT LAW IN INDIA

Two distinct phases can be seen in the advancement of Indian environmental law:

- **Prior to 1972**, India's progress was mostly based on a mixture of illegal and tort laws, water and forest regulations, and specific legislation to tackle environmental safeguards issues. Continuous this generation, it is observable that Indian environmental law made relatively little growth. (Boutabouna and Achour 2025)
- **The period after 1972** saw valuable “*growth in international environmental law*”, consistent with the conclusions of the Stockholm Conference. Next the Stockholm Conference, environmental protection care attracted international attention, and India was no exception.

The 1972 Stockholm Conference on Human Environment and Development at the UN directly encourage the creation of “*Stockholm Declaration on the Human Environment. The 1948 Universal Declaration of Human Rights*” also has equal status with this Declaration, reflecting its preponderance in the field of environmental law. When the then Indian Prime Minister, Mrs. Indira Gandhi, attended the Stockholm Conference, she was profoundly impressed by the debates, the concerns raised, and the growth made. This spur led to quick reforms in India's environmental policy immediately following the Stockholm Conference. (The Lawway With Lawyers Journal 2025)

THE 42ND AMENDMENT ACT TO CONSTITUTION OF INDIA

The 42nd Amendment introduced serious changes to the Constitution of India, especially with regard to environmental law. It “*placed a sodality accountability*” on the state and its citizens for environmental safeguards and conservation. “*Article 48A, supplementary to the Directive Principles of State Policy*” of the Constitution of Indian, required the state to safeguard the country's forests and animals, as well as to improve the environment. The addition of Article 51A of the Constitution of India it imposed ten mandatory liabilities on citizens. These duties were made in recognition of the fact that citizens are entitled to numerous fundamental rights along with their citizenship. “*These fundamental duties continuously remind citizens*” though the Constitution give them clear fundamental rights, it also enforces precise duties on them to fulfill in order to be receptive citizens. This recognizes the fundamental relationship between rights and duty. “*Article 51A(g) needs citizens to show grace towards all living creatures*” and to defend and upsurge the natural environment, as well as “*forests, lakes, rivers, and wildlife*”. Article 21 of the Constitution of India bestows the fundamental right to live in a “*pollution-free environment and to have access to clean water and air.*” Albeit the right to personal liberty and life were guaranteed by the Constitution, their numerous amplitudes slowly became clear as a result of court decisions and research. (Razzaque et al. (2015))

THE INDIAN JUDICIARY AND PIL

India has purpose to create its laws and policies more exhaustive and rigid, particularly after the 1984 Bhopal industrial disaster. (Divan and Rosencranz 2022) Albeit, ineffective enforcement of environmental regulations has been caused by inconsistencies and weaknesses in institutional procedure. This failure can be held responsible to numerous factors, including “*personal gain, multi-level corruption, political intervention or indifference, and negligence or poor performance of enforcement officials.*” As a result, in the 1980s, the Indian judiciary's responsibility to “*ascertain the enforcement of rights ahead the scope of constitutional rights*” led to the origin of PIL(PIL).(Gill 2012) PIL was a valuable addition to traditional common law remedies, With procedures and remedies fixed by judges, it is a people-centered, detailed perspective that encourage access to justice. The

idea was that people who have historically been denied “access to the courts due to caste, poverty, ignorance, isolation, or fear” would be able to use the law to safeguard their fundamental human rights, either directly or via a court-recognized friend. (Sathe, S.P. 2002). The use of PIL in the “*explanation of three constitutional provisions of the Indian Constitution: Articles 48A, 51A(g), and 21*” has enough transformed India’s environmental landscape. Article 48A, a “*Directive Principle of State Policy*,” needs the State to conserve the nation’s forests and wildlife, as well as to secure and advance the environment. Article 51A(g) needs every citizen to have grace for all alive creatures and to defend and advance the natural environment, including forests, lakes, rivers, and wildlife. The right to life is definite as a fundamental right by Article 21. “*Article 21 of the Indian Constitution*” bestows the rationale for the integration of environmental protection and human rights. (T Damodar Rao v The Special Officer, Municipal Corporation of Hyderabad AIR 1987 AP 171, 181) Justice Bhagwati said in **Francis Corley v. Delhi**: “*We hold that the right to human dignity involves the right to the basic necessities of life, such as adequate food, clothing and a roof over one’s head, as well as the ability to read, write and express oneself in various ways.*” (Francis Corley v. Delhi, AIR 1981 SC 746)

In **Virendra Gaur v. State of Haryana**, “*the Court held that a healthy environment is one free from environmental pollution and declared that the right to life is safeguarded as a fundamental right under Article 21.*” The enjoyment of life, which involves the “*right to live with human dignity*,” includes, among other things, ecological balance, cleanliness, and safeguarded and security of the environment, free from air and water pollution, which are necessary for the enjoyment of life. Environmental pollution results from any adverse activities or actions. Pollution of air, water, environment, etc., is pondered “*an infringement of Article 21.*” (Virendra Gaur v. State of Haryana (1995) 2 SCC 577)

M C Mehta v Union of India it is vital that, the Supreme Court has applied Articles 48A, 51A(g), and 21 as supplement to each other and, where suitable, has issued important directions on environmental issues. Albeit termed a “*duty*,” the “*duty imposed on the State under Article 48A*” must be interpreted as a right similar to that granted to citizens under Article 51A(g). as a result, the right granted under “*Article 21 must be interpreted to fall within its scope.*” (M C Mehta v Union of India (1998) 9 SCC 589)

In the case of **Mumbai Kamgar Sabha v. Abulbhai Faizullabhai**. “*The Court held that procedural rules are slaves of justice, not its mistresses, and that lack of fair play is the spirit in which the courts should view (procedural) deviations.*” (Mumbai Kamgar Sabha v. Abulbhai Faizullabhai AIR 1976 SC 1455)

Two mechanisms have been used to change locus standi: “*representative and civil standing.*” With representative standing, any person acting in good faith can file a claim against human rights infringement on behalf of victims who, “*due to poverty, disability, or social or economic impairment,*” are unable to “*reach to a court for judicial enforcement of their fundamental rights.*” Civil standing permits for the solving of a public grievance; it influences society as a whole, rather than just one individual.

Both **A.P. Pollution Control Board v. Prof. M.V. Naidu and S. Jagannath v. Union of India** agreed on the necessity of these expert panels in advising the Court on the “*course of action when examining scientific issues.*” (A.P. Pollution Control Board v. Prof. M.V. Naidu AIR 1999 SC 812 and S. Jagannath v. Union of India 1997 (2) SCC 87)

The lax procedural norms of PIL are remunerative for ascertaining environmental justice but they are not liberated to external criticism. Critics believe that the courts are deemed the same duties that have historically been exhibited by the government and Parliament. (Narmada Bachao Andolan v Union of India (2000) 10 SCC 664) The Supreme Court of India, which “*has been accused of being an excessively active legislative body*” via PIL, is a key example of the broader jurisprudential doubt of the legitimacy of

judicial lawmaking. The Court is now open to forum shopping, permitting for more personal justice under the law rather than institutional adjudication, due to the “*relaxation of the standing rule*.” Some judges, seeking public attention, favor PIL in their courts, while others have earned the nickname “*green judges, advocates for the poor, or progressives*.” (Baxi, U. 1983).

NATIONAL GREEN TRIBAL NEW FORUM

“*The Law Commission of India’s recommendations*,” together with the previously listed matters of pendency and delays in PIL, led to the establishment of the National Green Tribunal. The Law Commission of India firmly supported the establishment of environmental courts in its “**186th Report (2003) on the proposal for the establishment of environmental courts.**” (*Law Commission of India 2003*) The Supreme Court of India’s judgment helping the establishment of environmental courts had an influence on the “*Law Commission of India*.” In its verdict in the “**A.P. Pollution Control Board v. M.V. Naidu case**” the Supreme Court of India stated that the Law Commission could examine the matter because it was crucial to establish environmental courts that would gain from the expert opinions of environmental scientists and other technically deserving individuals as part of the legal system. (*A.P. Pollution Control Board v. M.V. Naidu case* 1999(2) SCC 718 and 2001(2) SCC 62) The Supreme Court of India, in “**M.C. Mehta v. Union of India**,” stated that given the expertise need for such adjudication, it may be desired to establish regional environmental courts which includes of a professional judge and two experts. This is because of the adjudication procedure for cases involving environmental pollution, ecological destruction, and “*clash over national resources is speedily rapid and involves the analysis and growth of scientific and technical data*.” Appeals against the Environmental Court’s verdict will be permitted in this court. (*M.C. Mehta v. Union of India* AIR 1987 SC 965) Experience has depicted that cases started in regular criminal courts under the Water Act, Air Act, and Environment Act are never concluded, either due to the courts heavy workload or because those handling these cases do not fully understand the necessity of environmental issues. Ahead, companies immediately challenge any orders issued by “*authorities under the Water, Air, or Environment Acts in court*,” These cases frequently take years to resolve. Interim orders are frequent issued mid-stream, leaving officials unable to ascertain that their instruction is being followed. All of this points to the exigency to establish environmental courts, which should be empowered to “*try any civil or criminal case connected to the environment*.” These courts should be employed by judicial officers and legally deserving individuals, and should have the power to conduct summary proceedings. Of course, before taking any action, the matter should be detailed researched and analyzed from every angle.

THE AARHUS CONVENTION IN EU LAW

More than two decennary after its ratification in 1998, the Aarhus Convention continues to work as a leading model for executing the idea of environmental democracy, incarnated in “*Principle 10 of the Rio Declaration on Environment and Development*.” When the Aarhus Convention entered into force in 2001, former UN Secretary-General Kofi Annan stated it as the most progressive environmental democracy step ever undertaken under UN sponsorship. States and regional economic integration organizations had the option of ratifying “*(admitting, approving, or acceding to) the Convention*.” (Odermatt 2017) The progress of environmental rights reached a turning point with the ratification of the Aarhus Convention. This event tagged a historic turning point and an unprecedented example of the global community’s attempts to reform environmental protection. The Convention does not establish a “*substantive right to a clean and/or safe environment*.” Rather, it concentrates on the procedural outlook of claiming the right to a habitable environment appropriate for one’s health and well-being.

Like its predecessors, “*the EU’s Seventh Environmental Action Programme (7th EAP)*” stresses the necessity of public participation. The foundational stone of the European Union’s environmental policy is the Environmental Action Programme (EAP) participation in environmental issues. “*The Dublin European Council in 1990*” concentrated that Member States must fully adopt and execute Community environmental regulations for them to be emphatic. The European Commission has accepted these lackness and has repeatedly stressed the need of public involvement in the execution of environmental law. (Jans, Vedder, and Europa Law Publishing 2008) EU environmental law wantstosecure the human health as well as to protect and reform the environment. The Aarhus Convention’s goals are compatible with the purpose of the EU’s environmental policy, as said in “*Article 174 of the TFEU. By ratifying the Aarhus Convention,*” the EU has showed its devotion globally to ascertainingwide access rights and appropriate public involvement in environmental issues. “*When these rights and duty are not executed equally across the EU,*” current citizens will not be eligible to take full benefits of EU environmental laws, and advancement towards the EU’s environmental objective may be obstruction caused. (“*Decision- 2005/370–EN–EUR–Lex,*” n.d.)

No doubt that the Convention isa primalingredient of the EU’s legal system and, in congruence with “*Article 216(2) of the TFEU,*” is obligatory on both the EU institutions and its Member States. (Case C-470/16 *North East Pylon Pressure Campaign Limited and Maura Sheehy v An Bord Pleanala and Others* EU:C:2018:185, para. 46) Established jurisprudence holds that, as for as these conditions are within the Union’s jurisdiction, mixed agreements “*concluded by the EU, its Member States and non-Member States*” have the same place in the Union’s legal system as agreements considerably of the EU. (Meryem Demirel v Stadt Schwäbisch Gmünd (C-12/86, EU:C:1987:400, 9)

A detailed laws has already been adopted by the European Union; these laws are continuously changing and enforce to “*public authorities in Member States as well as to the EU’s own organizations and bodies.*” To achieve the promises of Aarhus, not only has judicial safeguard been amended, but information access and involvement procedures have also been improved at the national and EU levels. Some, mostly older, environmental instructions needed to be modified to involve provisions for public participation. “*Directive 2001/42/EC concerning the evaluation of the influence of few plans and programs on the environment and (“EUR-Lex-L:2001:197:TOC- EN-EUR-Lex,*” n.d.) *Directive 2000/60/EC establishing a framework for Community action in the field of water policy were already adopted in congruence with the Aarhus Convention.*” (“*EUR-Lex-L:2000:327:TOC-EN-EUR-Lex.*” N.d.) In addition to reviewing the “*Directives 85/337/EEC and 96/61/EC,*” the Commission offer a new instruction on public participation in the formulation of environmental plans and programmes. (“*Directive-2003/35-EN-EUR-Lex,*” n.d.)

ART. 9(3) OF THE AARHUS CONVENTION AND ACCESS TO JUSTICE

“*Article 9(3) of the Aarhus Convention*” command that public authorities and private individuals have access to scrutinyprocess for their actions and inactions connected to national environmental law. In pursuance to this provision, the general public, those “*grouped as one or more natural or legal persons under Article 2(4) of the Convention,*” as well as their associations, organizations, or groups following national laws or customs, must have access to these scrutiny process. (Eliantonio 2015) So, the national law must determine what formulates a member of the public. Albeit, in pursuance to the “*Aarhus Convention Compliance Committee (ACCC)*”, these norms should not be excessiverigid. (ACCC/C/2005/11Belgium) In pursuance to the ACCC, “*Article 9(3) cannot be used to successfully inhibit*” almost all members of the public from opposing their actions and omissions, even if the parties are not needed to establish an “*actio popularis system.*” The

Convention's general objective is to ascertain wide access to justice, which should guide the parties' discretion about jurisdiction. (ACCC/C/2008/32 (Part I) European Union) Since the existing national rules influence the “*execution of access to justice laws, the role of national legislation*” is elucidated. An administrative body or court may also haul out the scrutiny required by Article 9(3). (UNITED NATIONS 2000) Article 9, which deals with environmental infringement of domestic law, bestows numerous options for scrutiny. In this case, the ACCC has permitted the public to report infringement of environmental law without any reasonable suspicion. (“Case No ACCC/C/2006/18 (Denmark),” n.d.) Ahead, as stated in Article 9(3), the scope of environmental law should “*involve both the procedural and substantive validity*” of a decision, not just procedural rights. Finally, it should be well-known that Article 9(3) covers process for contesting actions taken by both public and private entities.

ART. 9(3) AND THE EU LEGAL SYSTEM: A STORY OF UNEASY BEDFELLOWS

When signing the Aarhus Convention, the EU elucidate that it would cover both national public authorities and its own institutions. It also mentioned that Member States would be accountable for ascertaining that the duty arising from Article 9(3) are adherence with, until EU law fitted provisions for their execution is finalized. (“Study on EU Implementation of the Aarhus Convention in the Area of Access to Justice in Environmental Matters” 2018) As of now, to date, no particular legislative instrument has been enacted to relocate Article 9(3) in the same manner as Articles 9(1) and (2) have been relocate with regard to domestic access to justice. Still, it should be known that the “*access to justice provisions found in some EU legal instruments*” tumble within the scope of Article 9(3) may be pondered to have been relocate into those instruments in a de facto means. Following the failure of the “*offer for a Directive on Access to Justice in Environmental Matters*,” the European Commission acknowledged the necessity to successfully and fully incorporate Article 9(3) of the Aarhus Convention into EU law and began pondering the subject. (“Aarhus” 2021b) At that time, a “*Darpo analysis concluded that national measures tumble under Article 9(3)*” were inconsistent and various, this shows a clear exigency for full legislative adaptation of this provision. (Darpo 2013) Nevertheless, this result, the Commission decided to purport a soft law instrument entitled “*Notice on Access to Justice in Environmental Matters*” in 2017. (EUR-Lex-52017XC0818(02)-EN-EUR-Lex,” n.d.) The CJEU has issued numerous crucial judgments over the past few years that have elucidate the scope of application of Article 9(3), and in the LZI case, the Court concluded that albeit litigants before national courts cannot depend directly on Article 9(3), (Lesoochranárske zoskupenie VLK v Ministerstvo životného) they still have a duty to explain procedural rules in a means that is consistent with the objective of Article 9(3). The case led to a number of verdicts, involving one that held that Article 9(3) could provide NGOs the right to make accusation of “*infringement of the Water Framework Directive*,” (Protect Natur-. Arten- und Landschaftsschutz Umweltorganisation v Bezirkshauptmannschaft Gmünd) forcing national authorities to modify action plans designed to decrease nitrate pollution. (“Court of Justice Confirms Standing of Individuals to Challenge Nitrate Action Programmes” 2025).

THE PROPOSAL FOR A NEW DIRECTIVE ON ACCESS TO JUSTICE

Albeit the authors EU Treaties passed both “*Article 19(1) TEU and Article 263(4) TFEU*,” which need national courts to bestow appropriate measures to guarantee an influential judicial remedy, there is currently no more detailed arrangement on access to justice that covers all environmental cases and “*translates the needs of Article 9(3)*.” (Leijon 2020) The European Commission's 2003 motion set out a set of least demand for legal status, permitting for the safeguards of national legal status systems. These basic norms were

intended to inhibit condition of imparity between national authorities and economic operators by encouraging conformity to the “*Aarhus Convention and coordination laws across Member States.*” How be it, this idea did not receive enough help from the legislatures of Member States in the Council. The Commission eventually extracted this motion in 2014. Merely when environmental NGOs meet distinct demand can Member States grant them status under the “*Aarhus Convention and EU law. EU Member*” States have numerous traditions. While some bestows broad access to justice, such as “*actio popularis,*” which permits everyone to act in environmental advocacy, others take a more limited perspective.

Meanwhile the 1990s, national courts have been consulting the Court of law on how to handle numerous “*guarantees of access to justice. In the well-known “Slovak Bears (VLK) case,*” the Court consider that a particular issue, which had not yet come inside the horizon of EU law, tumble within the purview of EU law, bestows it administered by contract among the EU and its Member States and connect to the area usually covered. Ahead, the Court upheld the necessity that national courts enforce the Aarhus Convention when interpreting provisions connected to access to justice. (Lesoochranarske zoskupenie VLK v Ministerstvo zivotneho) A 2012 study investigated four feasible action alternatives. The first alternative was to pass a new instruction that shows the “*EU Court of Justice’s legal framework*” and Member States legal framework about the jurisdiction of environmental NGOs. The second alternative was to reiterate the Commission’s prior proposal. Third, use soft law tools-possibly increased by guidelines-to stimulate collaboration among national courts. Lastly, it was endorsed that the violations process be used as a means to stimulate conformity to the Court’s legal framework. As per the 7th EAP’s examination of “*access to justice in environmental issues*” crucial hurdles still exist in numerous Member States, and onward information propound that more work requires to be done at Member State level. With respect to all areas of EU environmental law, it apparent clear that a new instruction underlining the necessity for emphatic and “*proficient access to national courts would assist over-simplify access to justice*” at the national level and stimulate collaboration and communication between national authorities and courts. (EUROPEAN COMMISSION 2019) “*The Directive on Access to Justice in Environmental issues*” will ascertain a integrated system of access to justice in all Member States and equal rights for all EU citizens.

COMPARITIVE STUDY OF EU’S AND INDIA’S APPROACH

EU’s international baseline is Aarhus convention and EU’s law which creates baseline for parties to bestows access to information, involvement and access to justice in environmental matters. The access to revies procedures governs under article 9. The Aarhus convention was incorporated by EU in its union law and also the regulation enforces some convention rule to institutions of EU. Albeit the EU faced with criticism and results of partial non-compliance with article 9(3) & (4). While on other hand the architecture of India’s access to justice rests on Indian Constitution (Article 21 Right to Life), the broader Doctrine of PIL (PIL) by the Supreme Court of India and also the National Green Tribunal which is statutory specialized body or forum. Which is created by National Green Tribunal Act 2010 which bestows prompt and effective ruling on environmental matters. (Gill 2018)

As per the article 9 of Aarhus convention it requires that the members of public with enough interest or those keep impairment of right be capable to challenge environmental verdict. EU law objective to bestows relatively wide standing, but in practice standing rule distinct across member states and EU institutions, compliance has been questioned, specially regarding the review of administrative omission and private actor related decisions. While in India courts have generous locus standi because of PIL reason. NGOs, Individuals, and even associations, may reach to courts on behalf of public interest. The NGT allow the petition from aggrieved person but use flexibility influenced by Supreme Court Jurisprudence.

The members of EU differ on court fees, trial standing, and evidence rules, and cross border execution and complication of environmental science that can create procedural hurdles. The EU recognizes the disparity in outcomes of access to justice across member states and there is active debate on uniform minimum procedural guarantees. (Halleux et al. 2021) the low cost PIL procedures, statutory assistance for the expert testimony in the NGT, and SUO MOTO power of NGT and courts to remove procedural hurdles all contribute to procedural access in India.

EMPIRICAL STUDY ON IMPLEMENTATION OF ENVIRONMENTAL LAWS

- **2024 ENVIRONMENTAL PERFORMANCE INDEX (EPI) SCORES- TOP EU COUNTRIES AND INDIA**

COUNTRY	GLOBAL RANK	EPI SCORE	10-YEAR CHANGE
ESTONIA	1	75.7	+17.6
LUXEMBOURG	2	75.1	+4.2
GERMANY	3	74.5	+4.6
FINLAND	4	73.8	+8.3
UNITED KINGDOM	5	72.6	+2.1
INDIA	176	27.6	+4.7

TABLE 1 (EPI,2024)

TABLE 1 Shows that India's score of 27.6, which places it at 176th, is in blunt difference to top EU countries, which scored between 72.6 and 75.7 in the “*Environmental Performance Index 2024*.” Since India fights with applying and imposing its laws, analysis proposes that the EU's Aarhus-based procedural outline delivers improved environmental consequences than India's rights-based method.

- **SINCE 2020-2025 PENDING OF CASES IN NATIONAL GREEN TRIBUNAL**

BENCH	PENDINGCASES
PRINCIPAL (DELHI)	1939
WESTERN (PUNE)	1933
SOUTHERN (CHENNAI)	846
EASTERN (KOLKATA)	411
CENTRAL (BHOPAL)	320
TOTAL	5,449

TABLE 2 (Tandon, 2025)

TABLE 2 Shows that By 71% of work still unfinished at the Delhi and Pune court sites, the “*National Green Tribunal of India has over 5,449 pending cases.*” A main inadequacy of the Indian system is that it permits judges to create new legal defenses without bestowing the essential resources. So, the decisions on environmental cases are slower than in the EU Aarhus-based system.

- **ENVIRONMENTAL LAW VIOLATION PROCEEDINGS IN EU TILL 2025**

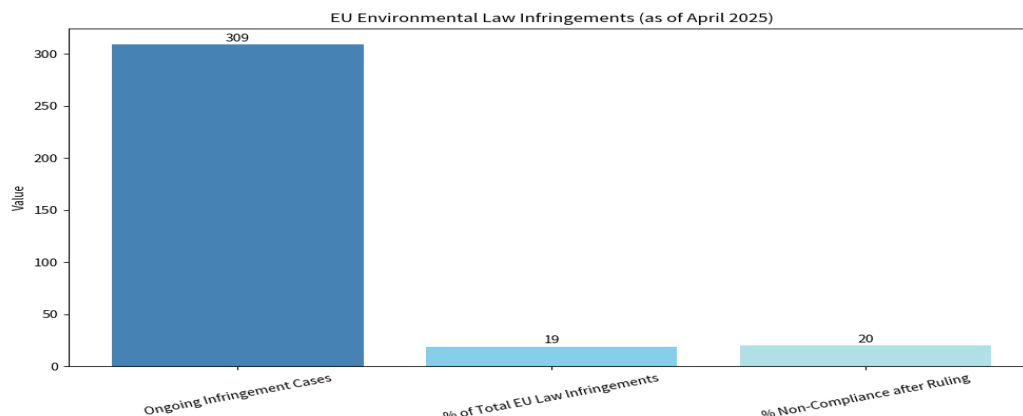


TABLE 3 (ClientEarth, 2025)

TABLE 3 Shows that Owing to the sustained problems confronted by member states in satisfying their environmental promises, the EU has 309 cases of environmental infringement, on behalf of 19% of the total. Compared to India’s domestic framework, the European Commission-CJEU enforcement system bestows better observation and responsibility.

Finally Bestowing to the study, India and the European Union have diverse environmental systems that can use cross-system learning to progress their values for environmental justice and defense.

CONCLUSION

The EU and the Aarhus Convention have advanced and robust each other over time. Various accounts of the connection among “*EU law and the Convention,*” especially the double standards adopted by EU authorities in this regard, have been published in the scholarly literature. The current state of EU law regarding “*access to justice in environmental*” concerns is somewhat complicated. The need arising from “*Article 9(3) of the Convention*” is not fully covered by EU legislative instruments currently in effect. The “*prognosis for the European environment is colorless,*” albeit EU environmental legislation has largely been successful, as SOER 2020 exhibit. When pondering the detailed facets and complementary policy aims of the Seventh EAP, it becomes clear that “*the EU is not doing adequate to address environmental issues.*” To fully advantage from environmental legislation, its execution is necessary. The absence of legal standing of private individuals beforehand the “*Court of Justice remains an ingredient of the EU’s democratic loss.*” This shortfall must be addressed by the Court of Justice, and the execution of a new Instruction on Access to Justice could assist governments raise standards for environmental policies and steps.

The complicated “*historical, cultural, social, and political reasons*” that impacts India’s stand on human rights and environmental safety are depicted in the country’s environmental justice movement. Pioneering environmental technologies crucial to “*traditional Indian lifestyles, such as sustainable agriculture and forest conservation*”, were made possible by this perspective. The advent of environmental justice in India depicts the country’s transition from traditional to present day environmental governance. Albeit India

has made important advancement in environmental safety, issues such as pollution, deforestation, and climate change remain speaking these issues will need continued labors to reform environmental laws, encourage public involvement, and advance sustainable progress. A crucial step in encouraging procedural justice would be to bestows more possibilities for “meaningful public involvement, such as information sharing, early community involvement in decision-making, and opinion of community desires.”

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