Rraj V Ssingh

January 24th, 2026

को हि भार: समर्थानाम् किं दूरं व्यवसायिनाम्।
को विदेश: सविद्यानाम् क: पर: प्रिय वादिनाम्॥

— Chanakya Neeti

"What is a burden to the capable? How far is a place for the Industrious? Where is a foreign land for the learned? Who is a stranger to those who speak kindly?"

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ENVIRONMENTAL LAWS & THEIR EXIGENY

Environmental Laws, their importance in the present context, Background Framework and the way forward



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Environmental Laws



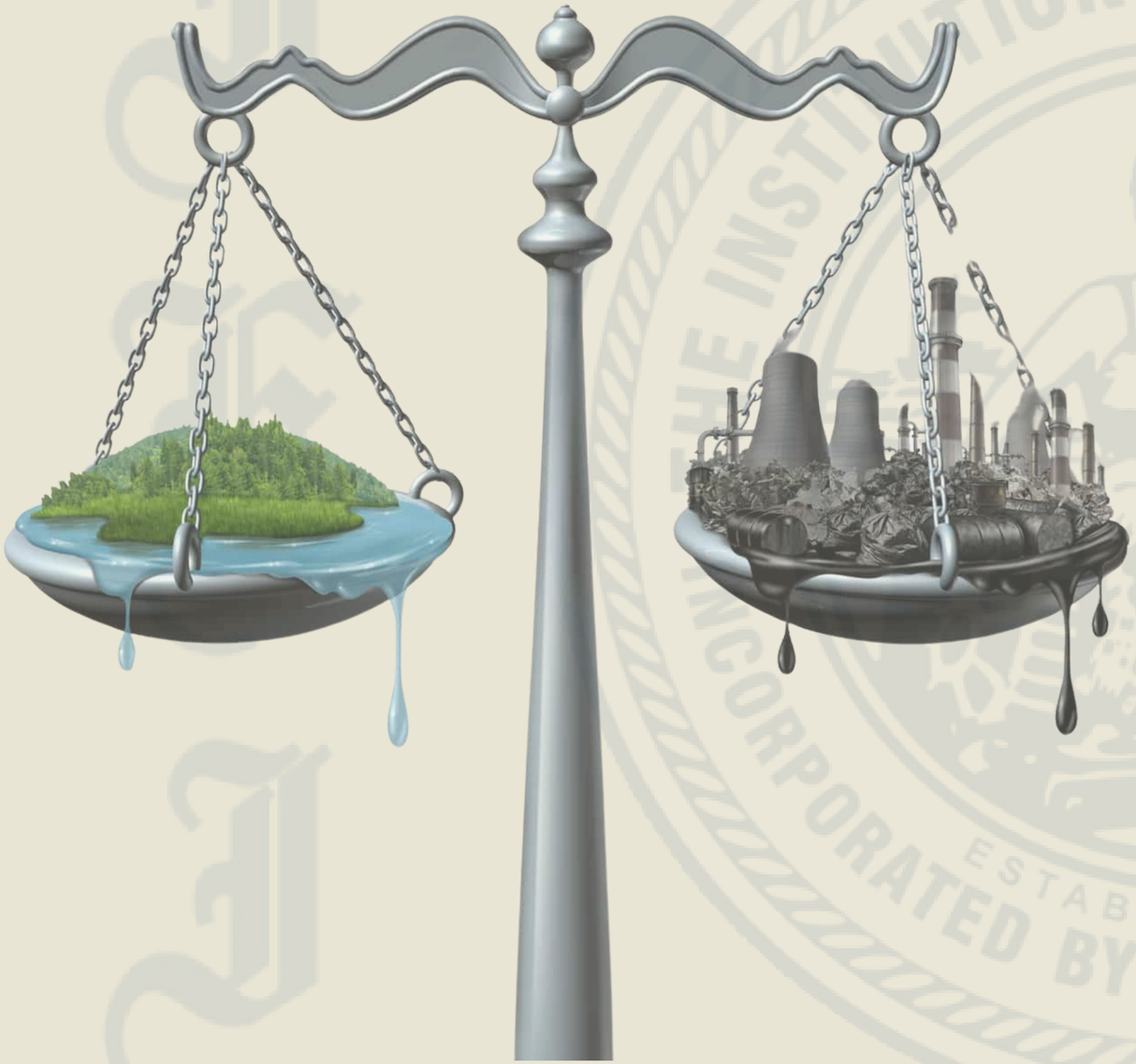


Definition

Legal frameworks, legislations, rules and regulations intended to manage environmental problems and adjudicate upon the contentious issues thereoff in as just and fair way as possible

Key Points

- It’s Not a magic wand.
- It’s technically very complex.
- Require lots of legal imagination and expansion.
- Should be commited to make the societies more just, fair and democratic.







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The Excegency

The nation ranks 23rd in CCPI ranking- Medium performing.



Climate Change

- Hothouse Earth. (temperature of earth stablizing at 4 to 5 degree celcius than pre- industrial level).
- 0.9 Degree Celcius increase (2014- 2025).
- Decreased snow cover, affecting snow-fed rivers and glacial systems- 70% of the summer flow of Ganga comes from snowmelt.
- Erratic monsoons

Pollution of All Kind

- National averae AQI - 100 to 150 (moderate to poor). During 2025, at the extremes the NCR saw AQI levels in the Hazardous category i.e 700 to 800 or even more.
- Soil pollution, water pollution and noise pollution- exponential increase.

Economic, Social, and Health Concerns

- Decline in wheat production by 4-5 million tonnes with as little as a 1°C rise in temperature
- Climate refugees.
- sporadic spread in climate related health issues



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Presentation

The Aravalli Concern



The Core Legal Conflict: Definition vs. Ecology

The Definitional Battle over the 100m Benchmark.

The Mining & "Strategic" Exemptions

National Interest at the logger Head- Development or Conservation.

Landmark Judicial Precedents

The Big two of India's Environmental Jurisprudence. MC Mehta andT .N. Godavarman.

Implications

Environmental.
Legal .
Policy.

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The Core Legal Conflict: Definition vs. Ecology



The 100 Metre Rule (Nov 2025)

The Supreme Court initially accepted a government recommendation defining the "Aravali Hill" as any landform with an elevation of 100 metres or more from the local relief

The Exclusion Risk

Environmentalists argue this is a "death warrant." Forensic satellite audits (Jan 2026) suggest that nearly 31.8% of the range—including vital water recharge zones and low-elevation ridges—falls below this 100m threshold, effectively stripping them of legal protection

The Stay (Dec 2025 - Jan 2026)

The SC (under CJI Surya Kant) has put this definition in abeyance (on hold) to seek "impartial expert opinion" on whether this elevation-based metric undermines ecological integrity.

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Landmark Judicial Precedents

M.C. Mehta v. Union of India (1985/2004/2009): The foundation for mining bans in Haryana (Faridabad, Gurugram, Mewat).

Established key principles like "absolute liability" and the "polluter pays" principle.

T.N. Godavarman v. Union of India (1995/2024): The "Forest Case" that expanded the definition of forests and currently serves as the vehicle for the Aravali suo motu proceedings.

The famous “forest case”- massive, ongoing Supreme Court oversight on forest conservation, including the protection of "deemed forests" and the creation of the compensatory afforestation fund (CAMPA).



Public Trust Doctrine



A recurring legal theme where the court asserts that the Aravalis are a national asset held in trust by the state, not a resource to be liquidated for mining revenue.

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The Current Status

The Moratorium

Currently, there is a ban on fresh mining leases until a Management Plan for Sustainable Mining (MPSM) is finalized by the Indian Council of Forestry Research and Education (ICFRE).

The "Strategic" Loophole

The 2025 rulings carved out exceptions for atomic, critical, and strategic minerals (e.g., uranium, lithium). Lawyers and activists are debating whether this allows private entities to bypass environmental clearances under the guise of "national security."



Current Status of the Aravali Case

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The "Pause" and Judicial Re-calibration

- Verdict Abeyance: On December 29, 2025, the Supreme Court (SC) stayed its own November 20 verdict that had established a restrictive 100-metre elevation definition for the Aravalis.
- Stay Extended (Jan 21, 2026): In the most recent hearing, a three-judge bench led by CJI Surya Kant extended this stay, maintaining the status quo on all mining and construction activities.

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Genesis of Environmental Laws in India



Indian forest Act 1865

first British law in India to assert state control over forests, enabling the government to declare any forested area as "State Forest" for resource extraction, especially timber for railways

Wild birds & Animal Protection Act 1912

Law to protect specific wild birds and animals by restricting their capture, killing, and trade, allowing local governments to declare "close times" and protect scheduled species

Shore nuisance Act 1853

aw designed to clear obstructions and pollution below the high-water mark in the harbours of Bombay (Mumbai) and Kolaba for safe shipping, empowering Collectors to order removal and abate nuisances, though it's now obsolete, superseded by modern environmental laws like the Water Act, 1974

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The Pivotal Point-The Stockholm Declaration, 1972- magna carta of Environmental Law

- UN Conference on human environment & Development in 1972.
- 26 principles related to environment & development were laid down in this conference.
- linked human rights, development, and environmental protection, recognizing humanity's role in shaping its environment, and leading to the creation of the United Nations Environment Programme (UNEP)
- After the conference, India made 42nd amendment in the constitution, & incorporated article 4 8 A & Article 51A (g).





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Constitutional Provisions for Environment Protection:



Article 21

The 'Right to Life' – The constitution of India provides us – The right to live in a clean & healthy environment.

Article 38

Social order for the welfare of people through unpolluted & clean environment.

Article 51 A (g)

It shall be the duty of every citizen of India to Protect and improve the natural environment – forests, lakes, rivers, wild life, and have compassion for living creatures.
It is fundamental duty of citizen but not enforceable as Law.

Article 48A

Protectionist Policy:
Improvinistic Policy.

A Glimpse -Environment Protection Laws



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The Water (Prevention & Control of Pollution) Act - 1974



The first law passed in India to prevent diposing domestic & Industrial pollutants without teatment into rivers.

For the prevention & control of water pollution & for maintaining or restoration of wholesomeness of water in the country.

CPCB & SPCB were established under the act.

Coordination: SPCBs implement CPCB guidelines and national laws at the local level.

Dual Compliance: Most industries need both SPCB consent (for local operations) and CPCB certification/compliance (for national waste/EPR rules) for full legal operation.



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THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT -1981

The Air Act (1981) was enacted following the 1972 Stockholm Conference to ensure the preservation of the earth's natural resources, specifically the air. Primary Mandate: To provide for the prevention, control, and abatement of air pollution.

Key Definitions (Section 2):

Air Pollutant: Any solid, liquid, or gaseous substance (including noise, added via 1987 amendment) that is injurious to humans, living creatures, plants, or property.

Air Pollution: The presence of any air pollutant in the atmosphere.

Regulatory Framework:

Established the Central Pollution Control Board (CPCB) at the national level.
Established State Pollution Control Boards (SPCBs) at the regional level to monitor and enforce standards.

Scope: Extends to the whole of India, empowering the state to declare any area as an "Air Pollution Control Area" where emissions can be strictly regulated.



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THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT -1981

Powers, Functions, and Enforcement

The Act provides regulatory bodies with significant teeth to enforce environmental standards and penalize violators.

Functions of the Boards:

CPCB: Advises the Central Government, coordinates activities of State Boards, and sets National Ambient Air Quality Standards (NAAQS).

SPCB: Inspects industrial plants and control equipment, collects air samples, and grants "Consent to Operate" (CTO) to industries.

Major Powers of SPCBs:

Power of Entry: To enter and inspect any place for compliance.
Power to Sample: To take samples of air or emissions for analysis.
Direction of Closure: (Under Section 31A) Power to order the closure of an industry or cut off its electricity/water supply if it violates norms.

Penalties:
Failure to comply with directions can lead to imprisonment (up to 7 years) and heavy fines.
The "Polluter Pays Principle" is implicitly integrated into the enforcement mechanism.



National Green Tribunal

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The Jurisdictional Matrix & Statutory Scope

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The NGT is not an "omnipresent" environmental court; its power is strictly defined by **Schedule I** of the NGT Act, 2010.

- **Subject Matter Jurisdiction:** It can only adjudicate civil cases involving a "substantial question relating to the environment" arising from seven specific acts:
    1. Water Act (1974) & Water Cess Act (1977)
    2. Forest (Conservation) Act (1980)
    3. Air Act (1981)
    4. Environment (Protection) Act (1986)
    5. Public Liability Insurance Act (1991)
    6. Biological Diversity Act (2002)
- **The "Omissions" Strategy:** Critically, the NGT lacks jurisdiction over the **Wildlife (Protection) Act, 1972** and the **Forest Rights Act, 2006**. This remains a major point of legal contention in 2026.
- **Standing (Locus Standi):** Unlike traditional civil courts, the NGT follows a liberalized approach, allowing "any person aggrieved" to approach the tribunal, including those representing a public interest.

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Procedural Innovation & Natural Justice

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The NGT's strength lies in its ability to bypass the "procedural traps" of traditional litigation.

- **Section 19: Procedural Autonomy:** The Tribunal is **not bound** by the Code of Civil Procedure (CPC), 1908, or the Indian Evidence Act, 1872. It is guided solely by the **Principles of Natural Justice**.
- **The Merits Review:** Unlike High Courts (which usually look at the *process* of decision-making), the NGT can conduct a **"Merits Review."** It can re-examine the scientific and technical validity of environmental clearances (EC).
- **Time-Bound Justice:** Section 18 mandates the tribunal to "endeavour" to dispose of cases within **6 months**.
- **Composite Bench:** Every bench must consist of at least one **Judicial Member** (Judge) and one **Expert Member** (Scientist/Technocrat), ensuring that "legal decree meets scientific reality."

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Suo Motu Powers & Investigative Jurisprudence

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A watershed moment in NGT history occurred in October 2021 when the Supreme Court formally recognized the NGT's **Suo Motu** (on its own motion) powers.

- **The "Sentinel on the Qui Vive":** The NGT can initiate proceedings based on media reports, letters, or even social media posts regarding environmental destruction.
- **Joint Committees:** The NGT frequently uses its powers to appoint "Joint Committees" (comprising CPCB, SPCB, and independent experts) to conduct ground-level "factual and action taken" audits.
- **Continuing Mandamus:** The tribunal often keeps cases "alive" by demanding periodic progress reports from government agencies, ensuring that orders aren't just given but executed.

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Remedial Powers & The "Green" Penalties

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The NGT acts as a quasi-civil court with specific powers to grant relief, compensation, and restitution.

- **Three-Pronged Relief (Section 15):**
  1. Relief and compensation to victims of pollution.
  2. Restitution of property damaged.
  3. **Restitution of the environment** for such areas as the Tribunal may think fit.
- **Penal Liability (Section 26):** Failure to comply with an NGT order can lead to:
  - Imprisonment up to 3 years.
  - Fines up to **₹10 Crores** (for individuals) and **₹25 Crores** (for companies).
- **The Environmental Compensation (EC) Fund:** Fines collected are often directed into a dedicated fund used exclusively for eco-restoration projects (e.g., the 2026 mandates for Himalayan muck disposal).

Advanced Challenges & 2026 Outlook

- **Enforcement Paralysis:** The NGT depends on state machinery (SPCBs/District Collectors) for enforcement. If the state is the polluter, a conflict of interest arises.
- **Jurisdictional Overlap:** Decisions are frequently challenged in High Courts under **Article 226** (Writ Jurisdiction), leading to delays that defeat the "6-month" mandate.
- **The 100m Aravali Crisis:** The NGT's role in 2026 is critical in providing the "Expert Opinion" that the Supreme Court has requested regarding the redefinition of hills and forests.
- **Conclusion:** The NGT has evolved from a mere tribunal into a **"Specialized Environmental Court"** that balances the *Right to Development* with the *Right to a Healthy Environment* (Article 21).

Latest trends in Indian Pollution Control Legal Landscape

In recent times, Indian pollution laws have transitioned from purely "command-and-control" regulations to a sophisticated, market-linked, and technology-driven framework. The latest legal trends emphasize fiscal accountability, the "Right against Climate Change," and the professionalization of environmental compliance.

The Fiscal Revolution – Environmental (Protection) Fund Rules, 2026

Notified on **January 15, 2026**, these rules represent a paradigm shift in how environmental penalties are handled.

- **From Revenue to Restoration:** Penalties collected under the Air, Water, and Environment Protection Acts are no longer general government revenue. They are now directed to a **Non-Lapsable Fund**.
- **The 75:25 Formula:** 75% of the penalty amount is remitted to the respective State/UT for local remediation, while 25% is retained by the Centre for national projects.
- **Restricted Utilization:** The fund **cannot** be used for administrative luxuries (medical bills, office buildings, or vehicles). It is strictly for:
  - Upgrading monitoring networks (Air/Water/Noise).
  - Remediating contaminated sites.
  - Sponsoring R&D for clean technologies.
- **Audit & Transparency:** Mandatory oversight by the **CAG** and a dedicated digital portal for real-time tracking of every rupee.

Judicial Milestone – The Right Against Climate Change

A landmark 2024-25 Supreme Court ruling (*M.K. Ranjitsinh v. Union of India*) has now matured into a core legal doctrine in 2026.

- **Article 21 & 14 Expansion:** The SC recognized that the "Right to Life" and "Right to Equality" are incomplete without a **Right to be free from the adverse effects of climate change**.
- **Impact on Litigation:** This has triggered a wave of "Climate Litigation" where citizens challenge projects not just on local pollution, but on their cumulative carbon footprint.
- **The Aravali Precedent (2026):** In January 2026, the SC stayed its own height-based definition of the Aravali hills, ruling that **ecological contiguity** is more important than arbitrary metrics (like the 100m rule), prioritizing the range's role as a barrier against desertification.

Mandatory Environment Audit Rules, 2025

1. Core Objective

To institutionalize a proactive, expert-led audit mechanism that ensures industries comply with legal safeguards, supporting India's **ESG goals**, **Green Credit Rules**, and **Climate Action** commitments.

2. Institutional Framework

- **Environment Audit Designated Agency (EADA):** A central body responsible for certifying auditors, maintaining a public register, and monitoring audit performance.
- **Certified Environment Auditors (CEA):** Individuals qualified via a **National Certification Examination (NCE)** or **Recognition of Prior Learning (RPL)**.
- **Registered Environment Auditors (REA):** Certified professionals or firms authorized to conduct official audits.

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Environment Audit Rules, 2025: Key Regulatory Framework

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3. Key Compliance Requirements

- **Mandatory Audits:** Required for sectors involving **Environmental Clearance (EC)**, Coastal Regulation Zone (CRZ) compliance, and Extended Producer Responsibility (EPR).
- **Randomized Assignment:** To prevent collusion, the EADA utilizes a **digital system for random allocation** of auditors to projects.
- **Data-Driven Reporting:** Auditors conduct sampling of emissions, effluents, and waste, and verify self-compliance reports submitted by industries.
- **Public Disclosure:** Audit findings must be submitted to MoEFCC and made **publicly available** to enhance transparency.

4. Penalties & Enforcement

- **Fines:** Penalties for non-compliance range from **₹10,000 to ₹15 Lakhs** under the Environment (Protection) Act.
- **Fund Allocation:** 75% of penalties go to the Consolidated Fund of the State; 25% is retained by the Centre for environmental remediation.
- **Auditor Accountability:** Misconduct can lead to debarment, license revocation, or legal proceedings.

Strategic Impact: These rules transition environmental monitoring from a "reactive inspection" model to a "continuous verification" model, similar to how Chartered Accountants handle financial transparency.

Decarbonization & The Carbon Credit Trading Scheme (CCTS)

In 2026, the **Draft Greenhouse Gases Emission Intensity Target Rules (2025)** have begun operationalizing India's carbon market.

- **Sector-Specific Targets:** Industries in energy-intensive sectors (Steel, Cement, Chemicals) now have baseline emission intensity targets.
- **Credit Trading:** Entities that outperform their targets generate **Carbon Credit Certificates**, which can be sold on the national exchange to those who fail to meet their goals.
- **Net Zero 2070 Roadmap:** This legal framework provides the statutory "teeth" needed to meet India's updated NDC targets (45% reduction in emission intensity by 2030).
- **Eco-Mark Rules (2024-26):** Replaced the 1991 scheme to prevent **greenwashing** and mandate accurate labeling for eco-friendly products.

Circular Economy & Extended Producer Responsibility (EPR)

The "Circular Economy" is no longer just a buzzword; it is a strict legal requirement for producers and brand owners.

- **Expansion of EPR:** By 2026, EPR rules cover **Plastics, E-waste, Batteries, Tyres, Used Oil,** and now **Non-ferrous metals**.
- **Plastic Waste (2nd Amendment) 2025:**
  - Introduced mandatory **Recycled Plastic Content** targets (e.g., 30% for rigid packaging in 2025-26).
  - Established a **Credit Trading Marketplace** for EPR certificates.
- **The "Jan Vishwas" Effect:** Under the Jan Vishwas Act 2023, minor environmental offenses are **decriminalized** (replacing jail time with heavy, compoundable fines) to improve "Ease of Doing Business" while maintaining high deterrence.

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Conclusion

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The Paradigm Shift

- **From Regulation to Exigency:** Environmental law is no longer just about "permits and procedures." It is now a **reactive shield** against climate-induced disasters and ecological tipping points.
- **The "Triple Threat" Mandate:** Modern legal frameworks must simultaneously address:
  - **Pollution Abatement:** Immediate cleanup and prevention (Air/Water Acts).
  - **Climate Resilience:** Legal adaptation to heatwaves, floods, and water scarcity.
  - **Ecological Integrity:** Protecting critical buffers like the Aravalis to prevent desertification.
- **Judicial Stewardship:** The courts have moved from being "referees" to "guardians," recognizing the **Right to be free from Climate Change** as a fundamental human right under Article 21.

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Conclusion

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The Path Forward (2026 & Beyond)

- **Scientific Jurisprudence:** The future of law is data-driven. As seen in the 2026 Aravali case, courts are moving away from arbitrary metrics toward **expert-led, GIS-mapped conservation**.
- **Fiscal Accountability:** The shift toward "Non-Lapsable Restoration Funds" ensures that pollution penalties are actually used to heal the environment, not just fill government coffers.
- **Decentralized Enforcement:** Strengthening the role of local bodies and "Registered Environment Auditors" to move beyond the capacity limitations of Central and State Boards.

"The exigency of the environment is the exigency of survival. Our laws must not only be written for the present but must safeguard the 'Intergenerational Equity' of the future."



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Thank You

