

THE PUBLIC TRUST DOCTRINE IN INDIAN ENVIRONMENTAL JURISPRUDENCE: EVOLUTION, INTEGRATION & CRITICAL ANALYSIS

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BEST CITATION – SRISHTI YADAV, THE PUBLIC TRUST DOCTRINE IN INDIAN ENVIRONMENTAL JURISPRUDENCE: EVOLUTION, INTEGRATION & CRITICAL ANALYSIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (8) OF 2026, PG. 84-90, APIS – 3920 – 0001 & ISSN – 2583-2344.

Abstract

The Public Trust Doctrine has fundamentally reshaped environmental jurisprudence in India by shifting the state's role from being an absolute owner to a fiduciary steward of natural resources which are reserved for the collective benefit of the public. The doctrine was formally integrated into India's legal system by originating from ancient Roman concepts of *res communes* and refined in English common law. This paper helps in understanding the doctrine's evolution, highlighting its constitutionalisation through Article 21. The scope of the public trust doctrine has been expanded gradually from protecting parks in urban areas to artificial waterbodies via several landmark cases.

However, despite its success, this doctrine faces scholarly criticism regarding its lack of predictability and potential for judicial overreach. This study thoroughly provides a critical analysis of these challenges faced, arguing for clear integration of stewardship principles into administrative policy to safeguard equity.

Keywords: Public trust doctrine, Article 21, Stewardship

INTRODUCTION

The conceptual transformation of environmental law in India has been transformed through judicial transformation and activism over the last three decades and eventually its transformation has given rise to the Doctrine of Public Trust with respect to the natural resources. Before the introduction and implementation of this doctrine, one should know the value of the mother Earth's resources. There has always been a situation of debate and question on these resources, belong to whom? Some use these resources for their own personal use while on the other hand some utilise these resources to meet their basic human need. With time, this doctrine had evolved and there came a point for this doctrine for wise utilization of the natural resources. This doctrine represents a fundamental shift and crucial aspect in the relationship between State, Citizens and natural

environment, by moving away from a traditional proprietorial model of governance towards a fiduciary framework of stewardship and responsibility. Under this paradigm of framework, the state is no longer viewed as an absolute owner of these natural resources with an unfettered right to alienate or exploit them; instead, the State is designated and hold a responsibility as a trustee holding these resources in a sacred trust for the collective benefit of the public at large.

HISTORICAL FOUNDATIONS AND GLOBAL LINEAGE

The seeds of communal resources management were first sown during the ancient Roman Empire; the intellectual and legal ancestry of the public trust doctrine is frequently traced back to that time. Roman jurists, thought to regulate the use of essential resources through the classification of property, specifically during the reign of the Emperor Justinian. He classified

these resources as, “the air, the water, and the sea are all common to public and is entitled to be used by anyone due to the law of nature.”¹⁰⁹

The *Corpus Juris Civilis*, promulgated in the sixth century, has formulated the concept of *res communes omnibus* which means that things which are common to all by the law of nature. This category included resources like the air, running water, sea and the seashore, implying that these resources were intrinsically reserved for public and incapable of exclusive private appropriation. Certain areas, such as the coastline, were maritime domains under the special protection of the state as recognised by the Roman law, ensuring that the public has a right to use these spaces for the navigation and fishing.

These principles were absorbed and refined within English common law as Roman legal influence transitioned into the medieval period. In England, the legal theory of the public trust was articulated through a dualistic understanding of the sovereign’s rights: *jus privatum* and *jus publicum*.

The *jus privatum* represented the private property rights of the Crown which could be transferred or sold while *the jus publicum* pertained to the public rights held by the King as a trustee for the benefit of his subjects. In 1215, the Magna Carta further solidified these protections by limiting the ability of Monarch to grant exclusive rights over navigable waters, ensuring that the “commons” remained easily accessible for the general welfare of the population. This historical evolution established a precedent where the sovereign’s authority was burdened by an inherent responsibility to safeguard resources which are vital for the societal functioning and survival.

Prof. Joseph L. Sax introduced this doctrine of public trust in American jurisprudence. According to him, there are “three types of restriction on the governmental authority which

are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for the public purpose, but it must be held available for the use by the general public: second, the property may not be sold, even for a fair cash equivalent; and third, the property must be maintained for the particular types of uses.”¹¹⁰ The last claim is expressed in two ways. Either it is urged that the resources must be held available for certain traditional uses, such as navigation, recreation or fishery, or it is said that the uses which are made of the property must be in some sense related to the natural uses’ peculiar to those resources.

The modern revitalization of the public trust doctrine occurred in the United States during the nineteenth century, most notably through the landmark case of *Illinois Central Railroad Co. v. Illinois*¹¹¹. In this instance the Illinois state legislature has granted a massive 1000-acre section of the submerged land in Lake Michigan to a private railroad company, effectively ceding control over the Chicago harbour. A subsequent legislature, prompted by public outcry, sought to repeal the grant. The U.S. Supreme Court upheld the repeal with Justice Stephen J. Field famously ruling that the state holds title to submerged lands under navigable waters in trust for the people. The Court strongly established that a state cannot divest itself for the authority over such lands in a manner that affects the public interest, as doing so would be violation of its sovereign duty. This decision transformed the doctrine from a shallow and minimal rule about fishing and navigation into a potent constitutional check on the state’s power to alienate public resources for private gain.

THE EVOLUTION OF DOCTRINE IN INDIA

The introduction of this Public Trust Doctrine into Indian environmental jurisprudence was a product of judicial innovation and activism during the 1980’s and 1990’s, a period characterised by the rise of Public Interest

¹⁰⁹ Mark Dowie, In Law We Trust (2005)

¹¹⁰ Joseph L. Sax, ‘The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention (1970)’ 68 Michigan Law Rev. 477 (1970)

¹¹¹ *Illinois Central Railroad Co. V. Illinois*, 146 U.S. 387 (1892)

Litigation (PIL) and the expansion of the judiciary's role as a social auditor. Unlike its application in the United States, where it was often used by the states as a defense, in India, the doctrine emerged as a "sword" wielded by the judiciary to challenge the state's neglect or misuse of natural resources. The doctrine was first explicitly recognised and applied in the watershed case of *M.C. Mehta v. Kamalnath*¹¹².

In the Kamalnath case, also known as Span Motel case, the hon'ble Supreme Court took *suo moto* cognizance of a news article in Indian Express alleging that a private motel, Span motel had links to a prominent political figure had encroached upon forest land and diverted the natural flow of the river Beas in Himachal Pradesh to protect its property from the soil erosion. The Court led by Justice Kuldip Singh, relied extensively on the public trust doctrine to invalidate the government's grant of a lease over the ecologically fragile riparian land. The Bench observed that as the Indian legal system is based on English common law, the doctrine is already an intrinsic part of the Indian jurisprudence. The Court declared that the state is the trustee of all natural resources which are meant for public use and enjoyment and that any alienation of such resources for purely commercial purposes constitutes a patent breach of trust.

CONSTITUTIONAL INTEGRATION AND THE RIGHT TO LIFE

Following its introduction through common law, the public trust doctrine was quickly anchored within the constitutional framework of India. This constitutionalising has provided this doctrine a higher degree of legitimacy and enforceability that it possessed in other jurisdictions. The most significant linkage is with Article 21¹¹³; it guarantees right to life and personal liberty. Through a series of expansive interpretations, the Supreme Court has ruled that the right to a clean and healthy environment is an integral

component of the right to a dignified life. Under this paradigm, the state's failure to act as a diligent trustee of natural resources is seen as a direct violation of the fundamental rights of its citizens.

The doctrine also draws substantive strength from the Directive Principles of State Policy and Fundamental Duties introduced by the 42nd Amendment in 1976. Article 48A¹¹⁴ mandates that the State shall endeavour to protect and improve the environment and safeguard the forests and wildlife of the country. Complementarily, Article 51A(g)¹¹⁵ imposes a fundamental duty on every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife. The convergence of these provisions has created a holistic framework where the state's fiduciary obligation as a trustee of these resources is reinforced by both a mandate for a civic duty for public stewardship and an executive action.

The integration of the doctrine into the constitutional fabric has allowed the judiciary to exercise a high degree of judicial scrutiny over administrative decisions. In *M.I. Builders Pvt. Ltd. V. Radhey Shyam Sahu*¹¹⁶, Supreme Court applied the doctrine of public trust to stop the construction of an underground shopping complex in a public park in Lucknow, ruling that the municipal corporation had a duty to maintain the park for the public's quality of life. The Court further observed that the park was of historical and environmental importance and could not be converted into private ownership or commercial use without a clear and compelling public purpose. This case was pivotal as it transitioned the doctrine from its traditional maritime roots to the protection of urban open spaces, recognising that the "trust res" (the assets held in trust) must include any resources essential for human well-being in a modern society.

¹¹²M.C. Mehta v. Kamal Nath, (1997) 1 S.C.C. 388

¹¹³ Article 21: protection of life and personal liberty

¹¹⁴ Article 48A: protection and improvement of environment and safeguarding of forest and wildlife

¹¹⁵ Article 51 A(g): to protect and improve the natural environment including forests, lake, rivers and wild life and to have compassion for living creatures

¹¹⁶ M.I. Builders Pvt. Ltd. V. Radhey Shyam Sahu, (1999) 6 S.C.C. 464

SIGNIFICANCE & SCOPE: A DYNAMIC FIDUCIARY MODEL

The significance of the public trust doctrine in the Indian environmental law lies in its ability to impose both substantive and procedural constraints on the state authority. Substantively, it restricts the government's ability to sell or transfer public resources to private entities if such a transfer would impair the public interest or destroy the resource's character which are natural. Procedurally, it mandates that the state must act with transparency and accountability ensuring that any decision regarding trust resources is made in a way that prioritise the collective good over private profit.

The scope of this doctrine is beyond its earlier capacity now it has expanded significantly on navigation of water and seashore. In India, the judiciary has ruled that there is no justifiable reason to exclude any ecosystem from the application of the public trust doctrine. This expansive interpretation has led to the protection of a wide variety of natural and cultural assets.

These are:

- Riparian and forest lands: following the Kamalnath precedent, forest lands and riverbanks are considered quintessential trust assets that must be preserved in their own natural state for the benefit of the community.
- Groundwater and water security: in cases involving water stress, the doctrine has been invoked to regulate the extraction of groundwater by the industrial entities, ensuring that the drinking and irrigation needs of the local population are prioritized.
- Air and atmospheric quality: this public trust doctrine has been extended to include the protection of air quality, with scholars advocating for its use in climate litigation through the "atmospheric trust" theory, which posits that the atmosphere is the global commons that the government is obligated to stabilise it.

- Non-renewable resources: in *Reliance Natural Resources Ltd. v. Reliance Industries Ltd.* the Supreme Court held that natural gas is a scarce resource owned by the Union of India in the trust of the public and its allocation must align with the policy rather than the private entities agreement.
- Artificial and Urban waterbodies: the 2025 ruling in *Swacch Association v. State of Maharashtra* extended the doctrine to include artificial waterbodies like the Nagpur's historic Futala Lake, recognising that man-made ecological assets are equally important for the urban resilience and public welfare.

The doctrine's adaptability is its greatest strength, allowing it to respond to emerging environmental challenges. For better understanding, the inclusion of the artificial waterbodies in the public trust framework has acknowledged that in highly modified urban environments, artificial lakes and wetlands performs critical ecological services such as management of flood mitigation, groundwater recharge and temperature regulation. By recognising these as trust assets, the judiciary imposes a legal obligation on urban authorities to restore and preserve them, bridging the gap between natural ecology and human infrastructure.

KEY CASE LAWS: DEFINING THE CONTOURS OF THE TRUST

The jurisprudence of the public trust doctrine in India is an amalgamation of judicial pronouncements that have progressively and timely refined the state's responsibilities. Each major case has addressed a different dimension and aspect of the trust, be it from the protection of fragile ecosystems to the equitable distribution of national wealth to the public at large.

*Fomento Resorts & Hotels Ltd. v. Minguel Martins (2009)*¹¹⁷

This case is central to the doctrine's application in the context of land acquisition and coastal management. The dispute had arisen in Goa, where a private hotel company attempted to block a traditional public access path to Vainguinim Beach. The Supreme Court ruled that the state, as a trustee, could not allow a private party to obstruct public access to the shore. The Bench reiterated that natural resources are common properties held by the state on behalf of the people, especially future generations and that this trust is an inherent attribute of sovereignty that exists independently of any statute. The judgement was significant for clarifying that even when land is acquired under the Land Acquisition Act, any traditional rights of public access must be maintained as a part of the trust doctrine.

*Reliance Natural Resources Ltd. v. Reliance Industries Ltd. (2010)*¹¹⁸

In this landmark case, the Supreme Court addressed the ownership and the allocation of natural gas from the Krishna-Godavari basin. Two corporate entities, led by the Ambani brothers, sought to enforce a private Memorandum of Understanding (MoU) regarding gas supply and pricing. The Court overturned the high court's decision, ruling that natural gas is owned by the Union of India under the Article 297 of the Constitution and is held in public trust. The judgement established that private agreements cannot override governmental regulations on resource allocation as the state has a fiduciary duty to ensure that scarce resources are used for the national interest and social welfare. This case successfully linked the public trust doctrine with the economic federalism and the "resource curse" arguing that the doctrine is a mechanism to protect the country's wealth from being captured by the private interests.

Swacch Association v. State of Maharashtra (2025)

The 2025 judgement concerning Futala Lake in Nagpur represents the contemporary expansion of the doctrine. The court dealt with the deterioration of a historic lake due to encroachments and pollution from construction activities. By extending the scope of this doctrine to artificial waterbodies, the Supreme Court recognised that the value of a resource is determined by its ecological function and public utility rather than its purely natural origin. The judgement imposed a specific responsibility on urban authorities to restore the lake and highlighted the role of citizens participation and public accountability in environmental governance.

LIMITATIONS AND FUTURE CHALLENGES

Despite its potency and efficiency, the public trust doctrine faces significant limitations in its practical and ground level implementation. One of the major challenges is the "institutional inertia" and scattered nature of environmental regulation in India. Even when the Supreme Court or the National Green Tribunal (NGT) issues a clear directive based on this doctrine, the enforcement of these orders is often hindered and lacked by the political will and insufficient capacity within state agencies only. Furthermore, the doctrine faces a continuous challenge from the "development imperative" where priority is given to the large-scale infrastructure projects over the ecological preservation in the name of poverty alleviation and economic growth.

The emergence of ex- post facto environmental clearances represents a significant contemporary challenge to the doctrine. In 2025, a split decision by the Supreme Court has reversed earlier stances, where holding that ex- post facto clearances are not necessarily illegal. Critics argue that this allows projects to begin without prior governmental scrutiny, effectively regularising the violations and undermining the

¹¹⁷ (2009) 3 S.C.C. 571

¹¹⁸ (2010) 7 S.C.C. 1

“preventive” aspects of the public trust stewardship. If the doctrine is to maintain its integrity and importance, it must be shielded from being reduced to a mere “regularisation” tool for industrial projects that have already caused irreversible harm.

Looking ahead to the perspective of 2026 and beyond, the public trust doctrine is likely to be defined by its application to climate change and the “atmospheric trust.” There is an increasing demand for the “evidence based environmental adjudication” as India faces mounting ecological pressures from the water stress to the loss of biodiversity in the Aravalli Hills. This involves the shift towards using scientific expertise to complement judicial authority, ensuring that the legal standards for trust protection are grounded in ecological reality.

CONCLUSION

The public trust doctrine has fundamentally reshaped the landscape of Indian environmental jurisprudence, providing a resilient and effective legal framework for the protection of the nation’s natural wealth. By originating from a common law principle to a constitutional imperative anchored in Article 21 of the Constitution, the doctrine has empowered the judiciary and the citizenry to hold the state accountable for its management of essential resources. From the protection of the Beas River to preservation of the municipal parks and the equitable allocation of natural resources, the doctrine has proven to be a versatile tool for social and ecological justice.

However, the continued effectiveness and implementation depend upon its ability to evolve and address its inherent limitations. To provide true predictability, the doctrine must be more clearly defined and integrated into the administrative and legislative domains, moving beyond a model of reactive judicial intervention. The state must wholeheartedly embrace its role as a fiduciary trustee, and not merely as a response to judicial orders but as a fundamental principle of governance. As India navigates the challenges of the twenty-first century, the public

trust doctrine serves as an important reminder that the environment is not a commodity for unrestricted exploitation but a common heritage that must be curated with wisdom and modern constitutionalism embodied in this doctrine remains one of the India’s most significant contributions to global environmental law.

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