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ENVIRONMENTAL JUSTICE AND TRADE POLICY: BRIDGING THE GAP BETWEEN ECONOMIC GROWTH AND INCLUSIVITY – AN INDIAN CONTEXT

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ABSTRACT

This study explores the critical relationship between trade policy and environmental justice in the context of sustainable development in India, particularly in the age of globalization. While trade liberalization has stimulated economic growth and increased market access, it has often come at the cost of environmental degradation and rising social inequality—issues especially prevalent in developing nations like India. Over recent decades, India’s trade policies have prioritized industrialization, liberalization, and global market integration. However, these economic reforms have also led to serious environmental consequences, including biodiversity loss, ecological damage, and the displacement of marginalized communities. Environmental justice, which upholds the right of all individuals—regardless of caste, class, or gender—to a healthy and safe environment, has often been overlooked in the pursuit of economic objectives. Focusing on sectors such as mining, agriculture, textiles, and manufacturing, the study identifies gaps in India’s trade strategies that contribute to environmental injustice. It examines how trade agreements, tariffs, and subsidies—designed to promote exports—can unintentionally harm ecosystems and exclude vulnerable populations. It also considers how

India aligns with international environmental standards and how WTO regulations and regional trade blocs influence domestic environmental governance.

*The **research problem** aims to answer that, whether can India's trade policy be in line with environmental justice principles to support sustainable and inclusive development? Disparity between trade-driven growth and environmental justice and Challenges faced by marginalized communities due to trade-induced environmental degradation. The seeming disparity between the nation's pro-growth trade policies and the inadequate incorporation of social and environmental protections is the core cause of this issue. The opinions of communities affected by trade policy are frequently left out, and enforcement of environmental legislation (such as the Environment Protection Act, 1986) and constitutional duties (such as Article 21 and Article 48A) is nevertheless lax. The research methodology used in this work is both doctrinal and Empirical methodology. The doctrinal approach entails a thorough examination of Indian environmental legislation, trade policies (including FTA negotiations and WTO requirements), constitutional provisions, and pertinent court rulings. In order to document the lived experiences of environmental injustice connected to trade-driven development, the empirical component uses qualitative case studies observations, experiences, and data collected from various parts of India. The study adopts a framework based on distributive, procedural, and corrective justice, assessing India's trade policy through legal analysis, policy review, and landmark case studies like POSCO in Odisha and Vedanta in Niyamgiri Hills. It identifies systemic issues, including the lack of environmental assessments, weak enforcement mechanisms, and insufficient community participation. Ultimately, the paper calls for a rights-based, inclusive trade policy, advocating reforms such as stronger regulatory institutions, greater transparency, and policy alignment with SDGs and the Paris Agreement. It argues for a paradigm shift where economic growth and environmental protection are not mutually exclusive, but mutually reinforcing for India's equitable and sustainable future.*

Keywords:

Environmental Justice, Trade Policy, Sustainable Development, Economic Inclusivity and Globalization in India

INTRODUCTION

In the twenty-first century, there has been a substantial shift in the discourse surrounding development. It is no longer possible to view economic expansion in isolation from its effects on society and the environment. Research on the connection between trade policy and

environmental justice has grown significantly in rapidly developing nations like India. Due to its expanding population, increasing resource demands, and desire to become a significant player in global trade, India faces the difficult task of striking a balance between the competing goals of environmental sustainability and economic inclusiveness. India's economic liberalization in 1991 was a significant turning point in its development. Since then, the country's economic trajectory has been greatly influenced by trade policy. Through bilateral and international trade agreements, export-promotion initiatives, and foreign direct investment (FDI), India has integrated into the global economy. In addition to increasing industrial capacity, creating jobs, and accelerating GDP growth, these policies have sparked serious worries about environmental degradation, biodiversity loss, and the social marginalization of those who are most vulnerable. With its foundations in ecological integrity and human rights, the concept of environmental justice challenges traditional development paradigms that prioritize profit over the needs of people and the environment. It highlights that everyone, regardless of caste, class, gender, or geography, has the right to live in a clean and safe environment. This right is not merely moral; it is constitutional. Court decisions and Articles 21 and 48A of the Indian Constitution have recognized environmental conservation as an essential part of the right to life. Despite these protections, economic strategies often marginalize the communities most affected by environmental decisions, such as farmers affected by soil depletion from cash crop exports, tribal people displaced by mining, and workers exposed to dangerous industrial waste.

The contradiction is obvious: trade policies that were meant to strengthen the economy have often undermined environmental and social welfare. For instance, the Special Economic Zones (SEZs) have attracted foreign investment and enhanced export capabilities, but at what cost? In states like Odisha and Chhattisgarh, the proliferation of SEZs has led to forced land acquisition, the loss of forest cover, and the disenfranchisement of indigenous populations. In a similar vein, India's textile and leather industries, which bring in large sums of money from exports, are among the main contributors to water contamination. This raises questions about the sustainability and inclusivity of India's trade policy. Globalization has facilitated economic interconnectedness, but it has also led to a "race to the bottom" in environmental standards. In their quest for competitiveness, developing countries often erode their regulatory frameworks to attract international investment. India is no exception. Delays in completing Environmental Impact Assessments (EIAs), gaps in environmental clearance processes, and lax enforcement of pollution control laws have all become systemic issues. These challenges are exacerbated

by the imbalance in international trade regimes, where market access is usually prioritized over environmental protections under WTO laws and free trade agreements.

RESEARCH OBJECTIVE & ISSUE:

This study's main goal is to critically analyze the dynamic interplay between trade policy and environmental justice in the Indian context and investigate ways that India might strike a balance between the needs of economic growth and the values of inclusiveness, sustainability, and equality. The study aims to determine if environmental factors have been adequately taken into account in India's trade and economic policies, whether these policies are inclusive in character, and whether they have unintentionally contributed to socioeconomic and environmental inequality. In order to determine how well existing laws protect the rights of disadvantaged and vulnerable populations, the research will examine the legal, economic, and social aspects of trade-induced environmental consequences. Additionally, the purpose is to offer helpful policy suggestions that might direct India toward a trading model that is in line with both domestic objectives and global sustainability commitments, and that is both economically and environmentally sustainable.

The Research issue is on that whether India's trade policies effectively uphold environmental justice principles in the pursuit of economic growth or if they contribute to the marginalization of certain communities through environmental degradation and unequal access to resources and decision-making is the main question this study attempts to answer. Questions are raised regarding the environmental consequences of India's aspiration to become a global economic giant and if weaker and underrepresented groups are bearing an unfair share of those costs. Therefore, the task of developing a trade and development model that guarantees economic advancement without sacrificing social inclusion and environmental sustainability is at the heart of the research topic. In addition, it calls into question whether current frameworks are sufficient to safeguard vulnerable populations and the environment against the harsh effects of industrial development and trade liberalization.

SCOPE OF THE STUDY:

The Indian setting is the main focus of this study, especially during the post-liberalization era starting in 1991, which saw a dramatic change in the nation's trade and economic policy. The study looks at a number of industries where trade policies interact with environmental issues

and have an impact on local communities, including mining, infrastructure development, industrial manufacturing, and agriculture. It looks into how globalization, trade agreements, and economic reforms have affected social justice and environmental governance in India. Although India is the study's primary focus, it also uses comparative foreign experiences—particularly those of other developing nations—to highlight best practices and important lessons. Analysis of trade laws, constitutional and statutory environmental safeguards, and pertinent international treaties including the Paris Agreement, WTO agreements, and the UN Sustainable Development Goals (SDGs) are all part of the research's multidisciplinary methodology. In order to evaluate their practical implementation within India's framework for trade and development, the thematic scope covers ideas like environmental justice, sustainable development, and inclusive policy-making.

LIMITATIONS OF THE STUDY:

The goal of this study is to provide a thorough knowledge of how environmental justice and trade policy intersect in India, its specified scope results in certain limitations. The focus on India limits in- depth analysis of foreign models limiting International comparisons. Early historical changes are not thoroughly examined by the temporal scope, which is focused on the post-1991 liberalization era. The report does not cover all industries impacted by trade; instead, it concentrates on high-impact areas including manufacturing, infrastructure, and mining. Furthermore, the analysis lacks primary fieldwork that may provide grassroots viewpoints, instead relying mostly on secondary sources and doctrinal approaches. There are interpretation difficulties as well because environmental justice is a dynamic and context-dependent concept. The study offers a strong basis for policy thought and reform in the Indian context, notwithstanding these drawbacks.

LITERATURE REVIEW

The relationship between trade liberalization and environmental justice has been the subject of extensive scholarly debate, especially in light of globalization and rising economies. Scholars have sought to address the tension between economic expansion and environmental preservation, questioning whether liberalized trade policies truly help vulnerable people. As India juggles its aspirations to become an economic giant with its constitutional and international environmental obligations, this discussion has taken center stage in the nation.

The literature on trade policy, environmental justice, and inclusive development in both international and Indian contexts is critically examined in this section.

1. In his groundbreaking book *Beyond expansion: The Economics of Sustainable Development*, Herman E. Daly (1996) challenges the conventional wisdom of unrestricted economic expansion and makes the case for a paradigm change in favor of a steady-state economy that respects environmental boundaries. Daly's idea of "uneconomic growth," in which expansion does more harm than good, is especially pertinent to India's post-liberalization trajectory, where trade-driven prosperity has frequently come at the price of equality and environmental sustainability.¹

2. In their work *Fair Trade and Harmonization*, Jagdish Bhagwati and T.N. Srinivasan (1996) make the case from a neoclassical economic standpoint that environmental variety and free trade ideals are not inherently incompatible. They contend that if trade liberalization is backed by suitable regulatory structures, it may improve environmental results.² Their perspective, however, downplays systemic injustices and ignores how vulnerable groups in nations like India are disproportionately affected by pollution-intensive businesses that are promoted by export-oriented growth.

3. In their *Journal of Economic Literature* study, L. Alan Winters et al. (2004) empirically investigate the relationship between trade liberalization and poverty alleviation.³ Although they admit that trade openness might have advantages, they also point out that these advantages are not always present and rely on domestic policy conditions, such as institutional preparedness and labor mobility, which are frequently lacking in India's peripheral areas. Communities impacted by environmental degradation brought on by trade-related industrialization are frequently left out of the unequal distribution of these benefits.

4. In their 2005 book *Paths to a Green World*, Jennifer Clapp and Peter Dauvergne outline a political economics paradigm that highlights the conflicts between environmental

¹ Herman E. Daly, *Beyond Growth: The Economics of Sustainable Development* 112–18 (Beacon Press 1996).

² Jagdish Bhagwati & T.N. Srinivasan, *Trade and the Environment: Does Environmental Diversity Detract from the Case for Free Trade?*, in *Fair Trade and Harmonization* 159 (Jagdish Bhagwati & Robert E. Hudec eds., MIT Press 1996).

³ L. Alan Winters et al., *Trade Liberalization and Poverty: The Evidence So Far*, 20 *J. Econ. Lit.* 72, 78 (2004).

sustainability and international trade organizations.⁴ They contend that pressure on poor nations, like India, to put foreign investment and market access ahead of ecological health at home reinforces environmental injustice. The idea of ecological shadows—how wealthy nations use international trade networks to outsource pollution to less regulated areas—is also introduced in their work.

5. In their seminal work *Principles of International Environmental Law*, Philippe Sands and Jacqueline Peel (2018) offer comprehensive insights into the legal frameworks that oversee international environmental law.⁵ Their research is crucial to comprehending the interplay between environmental protection requirements and trade agreements and international legal commitments. This paper aids in framing the difficulties India confronts in balancing its obligations under local environmental protection legislation and the WTO with its obligations under the country's constitution and statutes.

6. In *Structural Adjustment, Global Trade and the New Political Economy of Development* (2002), Biplab Dasgupta provides a structural analysis.⁶ He attributes the deterioration of social and environmental safeguards in emerging nations such as India to structural adjustment initiatives. Dasgupta contends that trade liberalization under IMF-World Bank guidelines resulted in a policy orientation that prioritized quick industrialization without sufficient protections for community rights or environmental justice.

7. In a 2014 article published in the *Indian Journal of Environmental Law*, Ruma Sengupta examines India's environmental laws from a sustainability perspective.⁷ Her study draws attention to the legal loopholes and absence of enforcement tools that affect environmentally sensitive areas affected by industrial developments made possible by trade. She emphasizes that although there are laws, they are glaringly insufficiently inclusive in their creation and application.

⁴ Jennifer Clapp & Peter Dauvergne, *Paths to a Green World: The Political Economy of the Global Environment* 94–97 (MIT Press 2005).

⁵ Philippe Sands & Jacqueline Peel, *Principles of International Environmental Law* 853 (4th ed. 2018).

⁶ Biplab Dasgupta, *Structural Adjustment, Global Trade and the New Political Economy of Development* 201 (Zed Books 2002).

⁷ Ruma Sengupta, Sustainability in Indian Environmental Law: A Critical Review, 23(3) *Indian J. Env'tl. L.* 234, 245 (2014).

8. Public interest environmental litigation (PIEL) in India is examined by Lavanya Rajamani (2011) in her paper published in the *Journal of Environmental Law*.⁸ Although she highlights the judiciary's contribution to the expansion of environmental rights, she also criticizes its shortcomings in addressing concerns of fairness and access. Her research is essential to comprehending how communities impacted by environmental degradation brought on by trade can—or cannot—seek remedies under current legal systems.

9. In their *Down to Earth* study, Sunita Narain and Bijoy P.K. (2018) examine the politics of mining and how it affects Indian tribal tribes.⁹ They draw attention to the ways that the demand for minerals driven by trade has uprooted native communities and devastated ecosystems, highlighting the profound conflict between environmental justice and economic gain in India's trade policy environment.

10. Although it is set in the United States, Robert D. Bullard's 1990 book *Dumping in Dixie* establishes the theoretical framework for environmental justice as a civil rights problem.¹⁰ His claim that class and race influence exposure to environmental risks is consistent with caste and class-based disparities in India, where trade-facilitated industrial zones disproportionately burden vulnerable populations with environmental costs.

11. The Indian Supreme Court acknowledged the right to a clean environment as a component of the fundamental right to life under Article 21 of the Constitution in the case of *Subhash Kumar v. State of Bihar*.¹¹ The foundation of India's environmental jurisprudence is this seminal decision, which also serves as a judicial check on policies that put commerce ahead of environmental health.

12. In his article on judicial activism in *Fifty Years of the Supreme Court of India* (2000), Upendra Baxi explores the ways in which the court has historically addressed environmental and social inequalities.¹² His critical perspective highlights the advantages and disadvantages

⁸ Lavanya Rajamani, *Public Interest Environmental Litigation in India: Exploring Issues of Access, Participation, Equity, Effectiveness and Sustainability*, 19(3) *J. Env'tl. L.* 293 (2011).

⁹ Sunita Narain & Bijoy P.K., *People First: Tribal Rights and the Politics of Mining in India, Down to Earth* (Mar. 2018).

¹⁰ Robert D. Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* 10–15 (Westview Press 1990).

¹¹ *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India).

¹² Upendra Baxi, *The Avatars of Indian Judicial Activism: Explorations in the Geographies of Injustice*, in *Fifty Years of the Supreme Court of India* 156 (Oxford Univ. Press 2000).

of depending on legal processes to mitigate the negative effects of trade policies on marginalized groups.

13. The conflict between domestic policy space and trade liberalization requirements is highlighted by the 1999 WTO Appellate Body ruling in India - Quantitative Restrictions.¹³ This case is essential to comprehending how international economic governance organizations have influenced India's trade policy and the limitations they place on regional environmental control.

14. Lastly, the writings of B.S. Chimni and M. Sornarajah explore international investment law and how it relates to environmental justice.¹⁴ They contend that investor rights are frequently given precedence over sovereign environmental regulations in bilateral and international trade and investment accords. Their criticism is particularly pertinent to India, where investor-state conflicts have made it more difficult for the government to enforce environmental regulations against international firms.

The literature review highlights the challenges of striking a balance between trade liberalization and environmental justice, especially in a developing country such as India. Despite the fact that the legal and economic sides of trade policy have been extensively studied, more work has to be done to make environmental justice a basic evaluation factor. This study contributes to this evolving discussion by applying a justice- based paradigm to India's trade ambitions.

INDIA'S TRADE POLICY AND ENVIRONMENTAL IMPACTS

An important turning point in India's integration into the global economy was the country's economic liberalization in 1991. Trade policy reforms emphasizing deregulation, privatization, and export promotion were heralded as the path to rapid industrialization and economic independence. These changes were implemented through the establishment of Special Economic Zones (SEZs), the liberalization of import tariffs, participation in international trade organizations such as the World Trade Organization (WTO), and structural adjustment programs (SAPs). These policies have revolutionized the economy, but they have also

¹³ *India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products*, WT/DS90/AB/R (WTO Appellate Body 1999).

¹⁴ M. Sornarajah, *The International Law on Foreign Investment* 423–25 (4th ed. 2017); B.S. Chimni, *International Law and World Order* 338–43 (Cambridge Univ. Press 2017).

increased environmental degradation, stressed natural ecosystems, and worsened social inequality. This section evaluates how important facets of India's trade policy affect the environment, particularly in sectors like manufacturing, mining, and agriculture.

1. Evolution of India's Trade Policy

India's trade policy has experienced a significant transition since economic liberalization in 1991, which denoted a clear departure from the protectionist and inward-looking import-substitution model in favor of a globally linked, export-oriented economic framework. The World Bank and International Monetary Fund-endorsed structural adjustment and macroeconomic stabilization initiatives strengthened this shift, which was codified under the Foreign Trade Policy (FTP).¹⁵

With the demolition of the License Raj, significant reductions in customs tariffs, and the removal of quantitative import limits, the liberalization process got underway. Subsequent FTPs promoted private entrepreneurship, opened up areas for FDI, and gave market efficiency precedence over governmental regulation.¹⁶

Enhancing India's export competitiveness, streamlining trade processes, and advancing vital industries including textiles, information technology (IT), pharmaceuticals, agriculture, and extractive industries were the main goals of the FTPs from 1991 to 2023. Furthermore, through tax breaks and loosened labor and environmental regulations, Export Processing Zones (EPZs) and Special Economic Zones (SEZs) were created to draw in foreign investment and increase exports.¹⁷

Through bilateral and multilateral trade agreements, including the Regional Comprehensive Economic Partnership (RCEP) negotiations, the India-ASEAN Free Trade Agreement, and the India-Korea Comprehensive Economic Partnership Agreement (CEPA), India also increased its involvement in the global trading system. These accords frequently overlooked the local environmental effects of rising trade and investment flows in their pursuit of improving market access and integrating India into global value chains.

However, environmental protections were little included into this economic shift.¹⁸ Early on in the liberalization process, trade liberalization was frequently sought at the expense of

¹⁵ Dasgupta, *supra* note 6, at 201.

¹⁶ Bhagwati, *supra* note 2, at 159.

¹⁷ Sengupta, *supra* note 7, at 248.

¹⁸ Jennifer Clapp & Peter Dauvergne, *Paths to a Green World: The Political Economy of the Global Environment* 94–97 (MIT Press 2005).

environmental protection, with a focus on cost-effective production and quick industrial expansion. To entice investment, environmental restrictions were either selectively enforced, circumvented, or weakened.¹⁹ The SEZ Act of 2005, for example, made it possible to quickly turn agricultural and forest territory into industrial centers with little regard for the environment. For projects considered to be of "strategic economic importance," environmental impact assessments (EIAs) were frequently either performed superficially or excluded completely.²⁰

Additionally, large-scale ecological damage and the uprooting of tribal groups were linked to sectors like mining and resource extraction, which experienced substantial FDI inflows.

A weaker environmental clearance procedure was frequently the result of the emphasis on "ease of doing business."²¹ Instead of a proactive, preventative framework, this has resulted in reactive environmental governance, where legislative measures only surfaced after substantial ecological harm had occurred.

One major gap that still exists is the absence of a logical framework for incorporating sustainability measures into trade policy planning. For example, whereas agro-export promotion increased foreign exchange profits, it frequently promoted monoculture and water-intensive cultivation, which had a negative impact on soil health and biodiversity. Similarly, industrial clusters for export have been linked to inadequate internalization of environmental costs and high levels of air and water pollution. Initial attempts to match trade policy with environmental objectives have been made in recent years. Green technology exports and the necessity of climate-resilient trade practices have been mentioned in the draft Foreign Trade Policy 2023 and previous FTPs since 2015. Furthermore, there is considerable normative demand for a trade-environment nexus as a result of India's international obligations under the Paris Agreement and the Sustainable Development Goals (SDGs). However, enforcement mechanisms are still lacking and these improvements have not yet been firmly institutionalized.²² All things considered, it is indisputable that India's trade liberalization since 1991 have accelerated economic expansion and international integration. However, they have

¹⁹ Herman E. Daly, *Beyond Growth: The Economics of Sustainable Development* 112–18 (Beacon Press 1996).

²⁰ Philippe Sands & Jacqueline Peel, *Principles of International Environmental Law* 853 (4th ed. 2018).

²¹ Robert D. Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* 10–15 (Westview Press 1990).

²² M. Sornarajah, *The International Law on Foreign Investment* 423–25 (4th ed. 2017); B.S. Chimni, *International Law and World Order* 338–43 (Cambridge Univ. Press 2017).

also brought attention to significant shortcomings in distributive justice and environmental governance.

Marginalized groups that depend on natural resources for their livelihood, especially Adivasi and rural people, have been disproportionately impacted by the inability to proactively incorporate environmental and social protections into trade policy. This calls for a paradigm change in trade policy, one that respects the values of environmental justice and inclusion, internalizes environmental costs, and gives ecological sustainability first priority.

2. Sector-Wise Environmental Impacts

a. Mining and Resource Extraction

Under trade liberalization and FDI support, India's mining industry has grown rapidly, especially in the areas of coal, bauxite, and iron ore. Tribal-dominated and environmentally delicate areas like Odisha, Jharkhand, and Chhattisgarh have been disproportionately impacted by this growth. The POSCO steel plant in Odisha and Vedanta's mining venture in the Niyamgiri Hills are two examples of how export-oriented growth has often trumped indigenous rights and environmental concerns. The Comptroller and Auditor General (CAG) found that more than 90% of mining permits issued between 2006 and 2016 did not adhere to environmental clearance requirements. Furthermore, while approving mining projects, important clauses of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006—specifically, the need for Gram Sabha consent—have frequently been disregarded.²³

b. Agriculture and Agro-Exports

Indian agriculture has shifted toward cash commodities like cotton, sugarcane, tea, and basmati rice, particularly for export, thanks to trade policy incentives. Monoculture techniques, backed by trade-linked incentives, have been embraced by states like Punjab and Maharashtra, resulting in ecosystem stress, groundwater depletion, and soil degradation. Regions like Vidarbha and Marathwada, which also have high rates of farmer suicides due to ecological collapse and economic hardship, are where these patterns are most noticeable. Despite being intended to assist farmers, government assistance in the form of minimum support prices (MSPs) and subsidies frequently encourages

²³ Comptroller & Auditor Gen. of India, *Performance Audit on Environmental Clearance and Post Clearance Monitoring*, Report No. 39 of 2016, Ministry of Env't, Forests & Climate Change (2016).

unsustainable agricultural practices that are aimed at meeting the demands of the global market. The inability of trade-linked agriculture policy to absorb long-term ecological repercussions is shown by this divergence.²⁴

c. Textile and Manufacturing Sectors

A sizeable amount of India's export economy is derived from the textile, leather, and tannery sectors. They do, however, also disproportionately contribute to industrial waste and water pollution, particularly in centers like Tiruppur (Tamil Nadu) and Kanpur (Uttar Pradesh). When it was discovered that effluents were contaminating the Noyyal River, the Madras High Court ordered the closure of multiple dyeing facilities in Tiruppur in 2011, alleging breaches of the Water (Prevention and Control of Pollution) Act, 1974. Lax environmental compliance persists in many industries due to the dominance of global supply networks and export objectives, even in the face of court intervention.²⁵

3. Trade Policy Instruments and Environmental Consequences

a. Export Promotion and Externalities

Important trade incentives offered by India, such the Export Promotion Capital Goods (EPCG) program and the Merchandise Exports from India Scheme (MEIS), have significantly increased exports. However, environmental compliance standards are rarely enforced by these mechanisms. Exporters are encouraged to reduce expenses, frequently by eschewing legal compliance and environmental protections.

b. Special Economic Zones (SEZs)

Over 250 SEZs are already in operation in India; they are regulated by the SEZ Act of 2005 and are intended to draw foreign direct investment (FDI) by offering tax breaks and regulatory leniencies. SEZ growth, however, has caused extensive environmental damage, including the loss of mangroves and wetlands, as well as the uprooting of indigenous populations.

Under the Environment (Protection) Act of 1986, SEZs are excluded from a number of

²⁴ P. Sainath, *Everybody Loves a Good Drought: Stories from India's Poorest Districts* 248–55 (Penguin India 2000).

²⁵ *In Re: Tirupur Dyeing Factory Owners Ass'n*, W.P. No. 29791 of 2010 (Madras High Ct.).

environmental restrictions and frequently obtain expedited licenses without conducting comprehensive impact studies. The Centre for Policy Research (CPR) reported in 2017 that SEZs frequently violated Coastal Regulation Zone (CRZ) regulations.²⁶

c. Free Trade Agreements (FTAs) and Environmental Provisions

While market access and tariff reductions have been given top priority in India's free trade agreements (FTAs) and Comprehensive Economic Partnership Agreements (CEPAs), including those with South Korea, Japan, and ASEAN, these agreements lack legally binding environmental clauses. Sustainability safeguards are rarely required in India's free trade agreements, in contrast to the European Union, which has legally binding labor and environmental provisions. Environmental issues are marginalized in trade governance and policies become fragmented as a result of the Ministry of Environment, Forests, and Climate Change (MoEFCC) not being regularly consulted during trade talks.

4. Role of Environmental Institutions in Trade Decisions

In high-impact areas like SEZs, mining regions, and clusters of industries focused on exports, regulatory agencies like as the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) have little authority and capability to enforce environmental compliance. These institutions are often undermined by fiscal constraints, political interference, and a lack of proper staffing. Furthermore, environmental clearance organizations frequently serve as facilitators rather than watchdogs. More than 98% of projects evaluated between 2007 and 2012 were approved, according to a 2014 report, underscoring the superficiality of environmental evaluation.²⁷

5. Trade and Environmental Justice: A Missing Link

India's trade policy lacks clear environmental justice principles, despite the country's constitutional commitment to inclusive growth and environmental conservation. Despite suffering the ecological costs of trade, marginalized groups such as Adivasis, forest dwellers, smallholder farmers, and workers in the unorganized sector are frequently left out

²⁶ Centre for Policy Research, *Environmental Concerns in Special Economic Zones: Mapping the Legal Landscape*, CPR Pol'y Brief No. 21 (2017).

²⁷ Kanchi Kohli & Manju Menon, Developmental Blindspots in India's Environmental Clearance Process, *Econ. & Pol. Wkly.*, Vol. 49, No. 11 (Mar. 2014).

of the process of developing trade policies. There is a dearth of procedural fairness, which necessitates substantial involvement and openness. Similar to this, while being upheld in seminal rulings such as *Vellore Citizens Welfare Forum v. Union of India*, the precautionary principle—a pillar of Indian environmental jurisprudence—is rarely used in trade-related project approvals.

India has benefited economically from its post-liberalization trade policy, but it has also exacerbated social injustice and environmental damage. Trade liberalization has the risk of escalating socioeconomic divides and sustaining ecological injustice in the absence of structural changes. India must incorporate environmental and social impact evaluations into trade decision-making as it negotiates new free trade agreements with the EU, UK, and Canada. Achieving fair and sustainable trade development requires bolstering interministerial collaboration, guaranteeing community involvement, and upholding environmental accountability.

ENVIRONMENTAL JUSTICE IN INDIAN LEGAL FRAMEWORK

India's legal system, statutes, and constitution all have strong ties to environmental justice. But even with this strong legal framework, environmental rights have frequently been weakly or exclusionary enforced in practice, especially where trade-led development is involved. This section discusses regulatory loopholes that impede equitable environmental governance and examines the ways in which Indian laws, constitutional principles, and judicial activism have influenced the environmental justice conversation.

1. Constitutional Provisions

The **Constitution of India**, though silent on environmental protection in its original text, has evolved significantly through judicial interpretation and legislative additions.

a. Article 21 – Right to Life

The right to a pollution-free environment was added to the scope of Article 21 by the historic ruling in *Subhash Kumar v. State of Bihar*, which acknowledged environmental health as essential to the right to life. One The court has repeatedly ruled that environmental degradation violates basic rights.²⁸

²⁸ *Subhash Kumar v. State of Bihar*, (1991) 1 S.C.C. 598 (India).

The Supreme Court established the polluter pays and precautionary principles in Indian law in *M.C. Mehta v. Union of India* by using Article 21 to impose environmental obligations on polluting enterprises.²⁹

b. Article 48A – Directive Principle

The 42nd Constitutional Amendment of 1976 added Article 48A, which requires the State to safeguard and enhance the environment. It is commonly used in environmental rulings to emphasize the constitutional requirement for ecological preservation, despite the fact that it is not subject to judicial review.

c. The Fundamental Duty of Article 51A(g)

Every citizen is obligated by this clause to preserve and enhance the environment. Article 51A(g) encourages a participatory approach to environmental governance, where community involvement is crucial—particularly in circumstances of land acquisition and displacement related to trade—even though it is not legally binding.

2. Environmental Legislation

Numerous statutes that govern different facets of resource management and environmental quality make up India's environmental legal system. The laws listed below are essential to comprehending how commerce and environmental justice interact.

a. The 1986 Environmental Protection Act

The federal government is empowered to take action to safeguard and enhance the environment thanks to the umbrella legislation passed in the wake of the Bhopal gas tragedy. It permits rulemaking for sector-specific environmental protection, sanctions non-compliance, and permits the issuance of Environmental Impact Assessments (EIAs).

Critics counter that EIAs are now merely a formality that are frequently rigged to support infrastructure and industrial projects. Procedural justice is undermined when public hearings are routinely avoided or held in languages that local communities do not understand.

b. The Forest Conservation Act, 1980

²⁹ *M.C. Mehta v. Union of India*, A.I.R. 1987 S.C. 1086 (India).

The de-reservation of forests for non-forest uses is prohibited by law without the consent of the central government. It is especially important for tribal tribes, whose lands are frequently the target of development initiatives related to commerce, such as SEZs, dam construction, or mining.

Even with this legal protection, forest land is frequently taken without complete compliance. In the POSCO case, both statutory and constitutional provisions were broken by disregarding the Gram Sabha's approval under the Forest Rights Act.³⁰

c. The 2002 Biological Diversity Act

With the help of this law, India's rich biodiversity will be preserved, and the advantages of biological resources would be shared fairly. The Act requires the participation of local biodiversity management committees in export-oriented agriculture and bioprospecting. But there is a lack of regulation, and traditional knowledge is frequently traded without sufficient benefit-sharing.

3. Judicial Contributions to Environmental Justice

The development of environmental justice jurisprudence has been greatly aided by Indian courts. The judiciary has prioritized community rights, offered remedies for environmental harm, and held both public and private actors accountable through Public Interest Litigation (PIL).

a. Precautionary principles and polluter pays

The Supreme Court of India specifically embraced the polluter pays and precautionary principles as a component of Indian environmental law in the case of *Vellore Citizens Welfare Forum v. Union of India*. This ruling established legal responsibility for businesses that harm the environment.³¹

b. Equity Across Generations

The concept of intergenerational equity was incorporated into environmental governance when the court in *T.N. Godavarman v. Union of India* highlighted the importance of protecting forests for future generations.³²

³⁰ Ministry of Env't & Forests, *Review Report on POSCO India Pvt. Ltd. Project* (2010).

³¹ *Vellore Citizens Welfare Forum v. Union of India*, A.I.R. 1996 S.C. 2715 (India).

³² *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 S.C.C. 267 (India).

c. Community Participation

Particularly in situations involving indigenous populations and forest dwellers, the court has acknowledged the importance of prior informed consent. The Supreme Court upheld communities' procedural rights in *Orissa Mining Corporation v. Ministry of Environment & Forests* by ruling that the Gram Sabha's approval was necessary before permitting mining in tribal regions.³³

4. The National Green Tribunal (NGT)

The NGT was created as a specialist body to decide environmental issues by the National Green Tribunal Act of 2010. Under the main environmental legislation, such as the Air Act, Water Act, and Environment (Protection) Act, it has jurisdiction over civil proceedings.

In addition to penalizing polluting enterprises and ordering the closure of unlawful mining activities, the NGT has rendered a number of important rulings, including the cancellation of environmental clearances for projects with irregular procedures.

However, political opposition, underfunding, and jurisdictional gaps restrict the NGT's impact. Executive agencies frequently veto or weaken its decisions, particularly when trade or investment interests are at stake.

5. Gaps and Challenges in Implementation

Environmental justice is nevertheless elusive in many trade-linked development scenarios, even with a progressive legal framework.

a. Ineffective Enforcement Systems

Regulatory bodies and pollution control boards are underfunded, understaffed, and lack autonomy. Environmental infractions rarely result in severe penalties that serve as a deterrent.

b. Public Participation Through Tokens

Without adequate consultation, legal requirements for social impact evaluations and public hearings are frequently reduced to procedural compliance. Trade policy decisions fundamentally exclude affected communities, particularly women, Dalits, and Adivasis.

³³ *Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests*, (2013) 6 S.C.C. 476 (India).

c. Conflicts Between the Ministries of the Economy and the Environment

The environment ministry is frequently marginalized while trade and industry ministries place a higher priority on export promotion and foreign investment. Diluted environmental standards and contradictory policy outcomes are the results of this lack of interministerial coordination.

d. Corporate Influence and Regulatory Capture

Environmental clearances and policy creation are disproportionately influenced by major industrial entities. Examples like the Tamil Nadu Sterlite Copper facility show how regulatory bodies may collude to ignore persistent infractions in order to gain financial gain.

6. Comparative Perspective: Lessons from Global Best Practices

Nations like Norway, Ecuador, and Costa Rica have included environmental justice into their trade and constitutional systems. While Costa Rica links trade policy to ecological preservation through thorough EIAs and eco-certification in agriculture, Ecuador's constitution expressly guarantees rights to nature (Pachamama). Additionally, the European Union's Green Deal requires that trade agreements contain legally binding labor and environmental provisions. India can enhance the environmental justice component of its economic interactions by learning from these models.

Environmental justice has a solid basis thanks to India's environmental law system. However, its effectiveness is diminished by the gap between the law and reality, particularly when trade-induced development is involved. Constitutional and statutory rights are undermined by policy silos, poor enforcement, and the marginalization of impacted populations. Integrating environmental justice into trade policy requires immediate institutional cooperation, legislative reform, and sincere public involvement. In order to comprehend how these legal principles manifest in actual situations, we will examine case studies in the following section, focusing on the POSCO and Vedanta projects.

CRITICAL SCRUTINY OF THE JUDICIAL APPROACHES**Case Study 1: Vedanta Mining and the Niyamgiri Hills – Adivasi Rights vs. Trade-Driven****a. Background**

The underlying tension between environmental justice and trade-driven prosperity is best exemplified by the Vedanta mining project in Odisha's Niyamgiri Hills. The Dongria Kondh tribal clan lives in the environmentally delicate and culturally significant Niyamgiri Hills, which the UK-based Vedanta Resources intended to mine for bauxite. In addition to supporting the indigenous Adivasis' spiritual and sustenance requirements, the area is rich in wildlife. In line with post-1991 trade liberalization objectives, the initiative was marketed as part of India's plan to increase its mineral export capabilities and draw FDI to the resource extraction industry. But the initiative quickly became the focal point of a human rights and environmental movement on a national and worldwide scale.

The project was opposed by the local community, who claimed that it harmed their environment and infringed upon their cultural rights. The case reached a climax when the Supreme Court affirmed the terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the historic ruling in *Orissa Mining Corporation Ltd. v. Ministry of Environment & Forests*. It instructed the Dongria Kondh's gram sabhas, or village assemblies, to decide whether the mining project could move forward. It was overwhelmingly rejected by the gram sabhas.

b. Environmental Concerns

Over 660 hectares of virgin forest were in danger of being deforested; rivers and hydrological systems would be disrupted; biodiversity standards set by the Wildlife Protection Act and the Forest Rights Act would be broken; and indigenous cultural identity and livelihoods would be lost as a result of the proposed open-cast mining. The MoEF first gave the project environmental approval in 2004, but environmentalists and civil society objected strongly.

c. Judicial Intervention and Community Rights

Invoking the Forest Rights Act, the Supreme Court mandated that the Gram Sabha of each impacted village determine whether the project could move forward in the historic 2013 case *Orissa Mining Corporation v. Ministry of Environment & Forests*.²

Twelve Gram Sabhas overwhelmingly rejected the project, claiming their rights under the Forest Rights Act of 2006 and the PESA Act of 1996 in an extraordinary demonstration of procedural justice.

After this democratic process, the project was essentially cancelled when the Ministry of Environment and Forests refused final forest permission.

This ruling upheld the rule that indigenous communities' fundamental rights cannot be sacrificed for economic prosperity brought about by commerce and foreign direct investment. It changed the focus of environmental governance from state-led development to community-led environmental custodianship and placed a strong emphasis on procedural fairness, particularly the right to prior informed consent.³⁴

d. Environmental Justice Achieved

The Vedanta case stands as a rare example where **legal, procedural, and distributive justice** converged:

1. Local communities asserted their **constitutional and statutory rights**;
2. The Supreme Court affirmed **environmental democracy** by placing power in the hands of indigenous Gram Sabhas;
3. International human rights and environmental groups recognized the case as a **victory for indigenous self-determination**.

However, the battle came at a cost years of protests, police repression, and socio-political tensions in the region.

Case Study 2: POSCO Steel Project – Export Ambitions vs. Environmental Governance

a. Background

In order to establish a \$12 billion integrated steel mill in the Jagatsinghpur district, the Odisha government and the South Korean steel behemoth POSCO signed a Memorandum of Understanding (MoU) in 2005. At the time, it was the biggest FDI in India, and the Union Ministry of Commerce backed it as an example of trade-led industrialization.

More than 22,000 people had to be displaced; more than 2,700 acres of coastal forest had to be cleared; 4004 acres of land, including forest land, were needed for the proposed project; and processing zones, a captive port, and iron ore mining all needed environmental approvals.

In the early 2000s, the \$12 billion steel mill proposed by the South Korean multinational POSCO India Pvt. Ltd. was heralded as India's largest single FDI project. The project, which was envisioned in Jagatsinghpur, Odisha, was to build a private port, captive power unit, and integrated steel complex. The project, which was supported by India's pro-liberalization trade

³⁴ *Orissa Mining Corp. Ltd. v. Ministry of Env't & Forests*, (2013) 6 S.C.C. 476 (India).

policy, was anticipated to increase steel exports and make a substantial GDP contribution. Civil society organizations, local communities, and environmentalists fiercely opposed the project despite its economic potential. The purchase of agricultural and forest property, the devastation of coastal ecosystems, and the eviction of thousands of villages were all points of concern.

The Ministry of Environment and Forests (MoEF) conducted a critical examination of the project in 2010 and found several infractions of the Forest Rights Act of 2006 as well as non-compliance with the Environmental Impact Assessment (EIA) Notification of 2006. The lack of gram sabha permissions and the disregard for ecological degradation were pointed up by the MoEF Review Committee. It brought attention to the marginalization of impacted populations, a lack of interministerial collaboration, and procedural errors. Eventually, POSCO pulled out of the project due to ongoing protests and legal challenges. The inadequacies of India's environmental governance systems in the face of strong trade and investment interests are demonstrated by this case. It also serves as an example of how crucial community participation, environmental due diligence, and integrated policymaking are to the growth of sustainable commerce.³⁵

b. Environmental and Social Impacts

Resistance to the POSCO project swiftly escalated. Local communities' livelihoods were under jeopardy, especially those of fishermen and betel vine growers. Gram Sabha permissions were either circumvented or manipulated, apparently violating the Forest Rights Act of 2006 and the Coastal Regulation Zone (CRZ) regulations. According to a study by the Forest Rights Committee of the Ministry of Environment (Meena Gupta Committee, 2010), environmental approvals were issued in a hurry without enough ecological assessment or public consultation¹.

c. Procedural Justice and Legal Challenges

Affected communities and civil society organizations submitted many court petitions. Citing procedural infractions, the National Green Tribunal (NGT) postponed the final forest clearing in 2013. Nonetheless, POSCO was still granted conditional licenses, underscoring the regulatory discrimination against high-investment trade projects.

³⁵ Ministry of Env't & Forests, *Review Report on POSCO India Pvt. Ltd. Project* (2010).

POSCO eventually dropped the project in 2017, claiming delays and regulatory difficulties, as a result of ongoing community opposition, international criticism, and environmental examination.

d. Environmental Justice Achieved

The POSCO case revealed:

1. Ineffective environmental impact assessments (EIA).
2. Disagreements between India's WTO-driven trade liberalization and its constitutional duties under Articles 21, 48A, and the Forest Rights Act.
3. The exclusion of community voices from trade-centric projects.
4. It also illustrated the value of public interest litigation (PIL) and the strength of grassroots opposition in promoting environmental justice.

Case Study 3: Tiruppur Dyeing Units – Export-Oriented Manufacturing and Water Pollution

Known as the "T-shirt capital of India," Tiruppur in Tamil Nadu is a major center for textile industry that makes a substantial contribution to the nation's export revenue. But this export-driven expansion has come at a huge environmental cost. Untreated wastewater from hundreds of Tiruppur dyeing and bleaching facilities was dumped into the Noyyal River, seriously poisoning groundwater and ruining farmland downstream.

The Water (Prevention and Control of Pollution) Act of 1974 established a regulatory framework, although enforcement was still lax. The Madras High Court stepped in in 2011 in response to local farmers' objections and years of environmental devastation. The court ordered the closure of hundreds of dyeing operations that did not comply with wastewater treatment standards in the historic case *In Re: Tiruppur Dyeing Factory Owners Association*.

The ruling demonstrated the court's readiness to uphold environmental rights over financial interests. The State Pollution Control Board's (SPCB) inability to enforce pollution regulations in high-export areas was also brought to light. The case brought up urgent issues regarding the necessity of incorporating environmental compliance into trade policy and the viability of India's industrial exports.³⁶

³⁶ *Tiruppur Dyeing Factory Owners Ass'n*, W.P. No. 29791 of 2010 (Madras High Ct.).

These case studies highlight the ongoing conflict between environmental justice ideals and India's trade liberalization ambition. The Tiruppur instance illustrates the effects of lax environmental regulations in export manufacturing zones, while Vedanta and POSCO draw attention to the tensions in extractive sectors motivated by FDI and export aspirations. Despite being the least represented in trade policy talks, the most vulnerable—Adivasis, farmers, and informal workers—bear the weight of environmental deterioration in each of these situations. In order to attain a fair and sustainable economic future, these examples highlight how vital it is to incorporate social and environmental protections into India's trading frameworks.

INTERNATIONAL COMMITMENTS AND COMPARATIVE INSIGHTS

India's trade policy and environmental governance are closely related to its international commitments and changing international norms. India is required to advance its trade agenda while ensuring that its domestic laws comply with international sustainability standards as a signatory to many multilateral environmental accords (MEAs). India's environmental obligations in the international arena are based on important international agreements including The United Nations Framework Convention on Climate Change (UNFCCC),³⁷ the Convention on Biological Diversity (CBD),³⁸ and the Paris Agreement (2015)³⁹. India has always insisted that environmental norms pertaining to trade must be fair and not serve as covert trade barriers, even in spite of these commitments. Its World Trade Organization (WTO) negotiating tactics have been impacted by this stance. The WTO Appellate Body rejected India's quantitative limits in the historic case of India - Quantitative limits on Imports of Agricultural, Textile, and Industrial Products, highlighting the need for unambiguous environmental evidence to back trade liberalization pledges.⁴⁰

In contrast, the European Union (EU) has been in the forefront of incorporating legally obligatory labor and environmental clauses into trade agreements. Chapters devoted to sustainable development are frequently included in EU Free Trade Agreements (FTAs), which provide binding guidelines for labor rights, environmental control, and biodiversity

³⁷ United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107.

³⁸ Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79.

³⁹ Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104, 55 I.L.M. 740 (2016).

⁴⁰ Appellate Body Report, India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products, WTO Doc. WT/DS90/AB/R (adopted Apr. 22, 1999).

preservation. A specific chapter on trade and sustainable development, for example, is part of the EU-Vietnam Free Trade Agreement (EVFTA) and is overseen by civil society structures.⁴¹

In contrast, there are no legally binding environmental provisions in India's free trade agreements (FTAs) or Comprehensive Economic Partnership Agreements (CEPAs) with South Korea, Japan, or ASEAN. Without requiring environmental responsibility, these agreements place a higher priority on market access and tariff reduction. Furthermore, the Ministry of Environment, Forests, and Climate Change (MoEFCC) is rarely formally consulted in India's trade discussions, which results in inconsistent policies. Additionally, there is a growing connection between environmental justice in commerce and the Sustainable Development Goals (SDGs) of the UN, namely SDG 12 (Responsible Consumption and Production) and SDG 13 (Climate Action).⁴²

India is under increasing pressure to include environmental protections in free trade agreements (FTAs) with the US, UK, and Canada. India has to incorporate sustainability impact assessments (SIAs) into its trade policy framework in order to comply with these changing criteria. These evaluations, which are often employed in the EU, look at how trade agreements affect society and the environment. In order to guarantee interministerial cooperation between trade, environmental, and social justice organizations, India must establish institutional procedures. Trade-driven growth must also be in line with low-carbon development goals, since India has committed to reducing carbon intensity by 45% by 2030 (relative to 2005 levels) under the Paris Agreement. Despite India's active participation in global environmental frameworks, there is still a lack of strong environmental integration in its trade policy. Comparative observations from countries such as the EU show that cross-sectoral governance and legally enforceable environmental regulations are not only feasible but also necessary to achieve equitable and sustainable growth. In order to meet its international obligations and its domestic development aspirations, India must now take on the issue of integrating environmental justice concepts into its trading architecture.

UNADDRESSED DIMENSIONS IN THE PURSUIT OF INCLUSIVE TRADE AND ENVIRONMENTAL JUSTICE

⁴¹ Free Trade Agreement, Eur. Union–Viet., June 30, 2019, arts. 13.1–13.16, 2020 O.J. (L 186) 3.

⁴² G.A. Res. 70/1, Transforming Our World: The 2030 Agenda for Sustainable Development, U.N. Doc. A/RES/70/1 (Oct. 21, 2015).

1. Integrating Environmental Justice into India's Trade Policy: Strategies for Reform

The study's support the necessity for India to update its framework for trade policy in order to effectively include environmental justice ideals. Directly incorporating social and environmental factors into trade decisions is a crucial first step in this approach. This is more than just adding environmental measures to trade agreements; it also entails developing institutional frameworks that uphold these sections and openly assess trade-offs. The Ministry of Commerce now leads trade talks in India, with the Ministry of Environment, Forests, and Climate Change (MoEFCC) providing only minimal official influence.⁴³

Trade agreements that encourage market access without giving enough consideration to ecological sustainability or environmental concerns are the product of this institutional silos. India's Special Economic Zone (SEZ) growth plan, where ease of doing business frequently takes precedence over adherence to environmental standards, also reflects the absence of interministerial collaboration.⁴⁴

A Trade and Environmental Justice Task Force should be formed in India to close this gap. It should include members from the Ministry of Tribal Affairs, the Ministry of Commerce, the MoEFCC, legal professionals, and grassroots civil society organizations. This organization need to be tasked with carrying out environmental justice assessments of significant industrial and infrastructural projects that are connected to trade. Additionally, it may provide uniform social and environmental risk metrics for every FTA. Sustainability indicators should also be included as qualifying requirements for India's Production Linked Incentive (PLI) scheme⁴⁵ and Export Promotion Capital Goods (EPCG) scheme⁴⁶. Exporters wishing to participate in these programs, for instance, must exhibit efforts to reduce their carbon footprint, recycle water, or use sustainable sourcing methods. India may shift from the present extractive trade

⁴³Ministry of Environment, Forest and Climate Change, Govt. of India, <https://moef.gov.in/> (last visited July 17, 2025); Ministry of Commerce & Industry, Govt. of India, <https://commerce.gov.in/> (last visited July 17, 2025).

⁴⁴Special Economic Zones Act, No. 28 of 2005, INDIA CODE (2005), <https://www.indiacode.nic.in>.

⁴⁵ Ministry of Commerce & Industry, Production Linked Incentive Scheme Guidelines (2020), <https://www.investindia.gov.in/production-linked-incentive-schemes>.

⁴⁶ See Directorate General of Foreign Trade, Handbook of Procedures 2023, ch. 5, <https://dgft.gov.in/> (EPCG Scheme guidelines).

paradigm to one that is more in line with its constitutional and international commitments by implementing such changes on a larger scale.⁴⁷

2. The Role of Data, Transparency, and Civil Society in Trade–Environment Governance

Trade policy must be founded on open, data-driven decision-making in order to be truly inclusive and ecologically sustainable. In India, access to environmental data pertaining to commerce is currently restricted and dispersed. Drafts of trade agreements, social impact assessments (SIAs), and environmental clearance reports are frequently either unavailable to the general public or not translated into regional languages.⁴⁸ This information vacuum may be filled by creating an Open Trade and Environmental Governance Portal, a database that is open to the public and contains environmental approvals connected to trade, environmental impact assessment (EIA) summaries, and community input. Such a site would resemble the Trade and Sustainable Development Monitoring Mechanism of the European Union,⁴⁹ enabling trade unions, environmental specialists, tribal councils, and NGOs to provide input during current discussions.

Additionally, including community monitoring systems and citizen science might enable local communities to monitor environmental degradation linked to commerce in real time. Farmers, fishermen, and forest residents may be able to report cases of unlawful deforestation, effluent discharge, or land acquisition breaches connected to trade infrastructure using mobile-based applications. The efficacy of Public Interest Litigation (PIL), which has been crucial to India's environmental justice conversation, is further enhanced by public access to data.⁵⁰

3. Indigenous Knowledge and Biocultural Rights: Underexplored Pillars of Sustainable Trade

⁴⁷ INDIA CONST. art. 48A; Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104, 55 I.L.M. 740 (2016); United Nations Sustainable Development Goals, Goal 12 & Goal 13, <https://sdgs.un.org/goals> (last visited July 17, 2025).

⁴⁸ Ministry of Environment, Forest and Climate Change, Environmental Clearance Portal, <https://environmentclearance.nic.in/> (last visited July 17, 2025); Ministry of Law & Justice, Manual for Social Impact Assessment under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (2015), available at <https://dolr.gov.in/>.

⁴⁹ See Eur. Comm'n, Trade and Sustainable Development Monitoring Mechanism, <https://policy.trade.ec.europa.eu> (last visited July 17, 2025).

⁵⁰ See *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 S.C.C. 647 (India) (recognizing the role of PIL in enforcing environmental rights); see also S. Muralidhar, *Public Interest Litigation: A Handbook* 12–20 (Oxford Univ. Press 2004).

The acknowledgement of indigenous knowledge systems and biocultural rights is one of the most underused yet effective strategies for balancing commerce and environmental justice. Adivasi and forest-dependent groups with centuries-old customs of sustainable living frequently occupy India's biodiversity-rich areas. However, these groups continue to be excluded from official trade discussions, and their expertise is frequently underappreciated. Section 41 of the Biological Diversity Act of 2002 mandates benefit-sharing from the commercial use of bioresources and permits the establishment of Biodiversity Management Committees (BMCs).⁵¹ But execution is still lacking, particularly in areas with significant bioprospecting potential and agro-export belts. Unauthorized patents on domestic genetic material and instances of biopiracy have been brought about by trade deals with foreign biotech or agricultural companies.⁵²

To address this, India must make sure that impacted communities provide formal Free, Prior, and Informed Consent (FPIC) for any trade-related access to genetic resources⁵³ and make equitable benefit-sharing a requirement for export authorization. Furthermore, biocultural rights need to be acknowledged as a trade governance instrument as well as a conservation strategy. India might, for instance, create Ethical Trade Labels for goods derived from organic farming, community-managed forests, or herbal medicine that adhere to fair production methods and community-led procedures.⁵⁴ Without sacrificing ecological integrity, these labels might boost local economies and command higher prices in export markets. India can safeguard traditional communities and create new types of inclusive, sustainable commerce by acknowledging indigenous ecological knowledge as a type of intellectual property.⁵⁵

⁵¹ Biological Diversity Act, No. 18 of 2003, § 41, INDIA CODE (2003), <https://www.indiacode.nic.in>.

⁵² See Div. of Env't Policy Implementation, Ministry of Env't, Forest & Climate Change, *National Biodiversity Authority v. Monsanto Technology LLC*, Case No. 01/2016 (regarding illegal use of Indian brinjal gene); see also N.S. Gopalraj, *India Fights Biopiracy of Traditional Knowledge*, *The Hindu* (Jan. 11, 2011), <https://www.thehindu.com>.

⁵³ United Nations Declaration on the Rights of Indigenous Peoples art. 32(2), G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Oct. 2, 2007); see also Secretariat of the Convention on Biological Diversity, *Nagoya Protocol on Access and Benefit-Sharing*, Oct. 29, 2010, U.N.T.S. No. 30619.

⁵⁴ Food and Agriculture Organization, *Participatory Guarantee Systems* (2011), <https://www.fao.org>; Forest Stewardship Council, *FSC Certification & Indigenous Rights*, <https://fsc.org/en> (last visited July 17, 2025).

⁵⁵ Convention on Biological Diversity art. 8(j), June 5, 1992, 1760 U.N.T.S. 79; see also Graham Dutfield, *Protecting Traditional Knowledge: Pathways to the Future*, 2 Int'l J. Intell. Prop. Mgmt. 149, 152–53 (2008).

LEGAL AND POLICY SUGGESTIONS ON TRADE POLICY AND ENVIRONMENTAL JUSTICE IN INDIA

As the sections above have shown, India's trade policy has frequently neglected environmental justice, resulting in exclusion, degradation, and conflict, despite being a strong driver of economic expansion. A thorough policy change is clearly required to address this disparity and bring it into line with global best practices. In order to balance trade goals with distributive equity, ecological sustainability, and constitutional values, this section suggests specific legislative and policy changes.

1. Integrating Environmental Justice into Trade Policy

a. Mandating Sustainability Impact Assessments (SIAs)

Sustainability Impact Assessments have to be a standard practice in India for all significant trade agreements and industrial corridors. In contrast to conventional Environmental Impact Assessments (EIAs), SIAs take into account of Examining the effects of trade on the environment, society, and human rights also take into account the effects on gender equality and indigenous populations and Metrics for water use, biodiversity, and carbon impact are included. Before each trade agreement or significant export-oriented project is finalized, these evaluations have to be required by law and open to public review.

b. Legal Recognition of Environmental Justice

India ought to make environmental justice a tenet of its industrial and trade policies. To do this, the Environment (Protection) Act, 1986, should be amended or interpreted more broadly to make environmental justice a statutory goal; the Ministry of Commerce and Industry should issue guidelines on how to incorporate distributive and environmental factors into trade promotion programs; and trade-related laws should support indigenous rights and traditional ecological knowledge.

2. Reforming Environmental Clearance Mechanisms

a. Enhancing the EIA Process

The Environment Protection Act's existing EIA process is beset by procedural shortcuts, poor consultation, and a lack of openness. The following are important reforms: requiring public

hearings and providing adequate notice in local languages; paralleling social impact studies that prioritize underrepresented populations; and forming impartial expert panels for evaluation that are not influenced by the political or business community.

b. Establishing an Interface Unit for Trade and the Environment

The Ministry of Environment's Trade-Environment Interface Unit should Examine all trade proposals and free trade agreements for environmental compliance and Make sure that trade agreements align with India's climate goals also Coordinate during negotiations with the Ministry of Commerce and the Ministry of External Affairs.

3. Strengthening Legal and Institutional Accountability

a. Giving the National Green Tribunal (NGT) more authority

Although the NGT has shown promise in a number of situations, its purview could be broadened to Examine trade-related projects for environmental risk in advance, should keep an eye on adherence to international environmental agreements and incorporate tribal, farming, and fishing communities into advisory positions.

b. Trade governance that is transparent

India ought to enact a Trade Governance Act that would require FTA texts to be disclosed prior to signature, consultations with multiple stakeholders, including labor unions, environmentalists, and community representatives; and parliamentary supervision of trade talks involving delicate industries like mining, agriculture, and forest products.

4. Empowering Marginalized Communities

Free, Prior, and Informed Consent (FPIC) from impacted communities, particularly in tribal areas also Women, SC/ST, and minority groups must be represented on trade project planning boards. Legal aid and environmental literacy programs must be provided to assist communities in participating in policy decisions. The Biological Diversity Act's benefit-sharing provisions for bioprospecting and agro-trade must be enforced, revenue-sharing models must be institutionalized with local communities; and community development funds should be established from trade profits for healthcare, education, and environmental restoration.

5. Revising Export Promotion Schemes

Programs such as the Production Linked Incentive (PLI) and the Remission of Duties and Taxes on Exported Products (RoDTEP) should Prioritize applicants who use clean technologies and ethical sourcing include eco-compliance requirements also should Penalize repeated environmental violations by withholding benefits. Eco-Trade Zones India can experiment with Eco-SEZs or Eco-Trade Zones, where operations are certified for zero carbon, zero effluent discharge, and zero deforestation. Residents enjoy legal protection under the Environmental Justice Charter and Investors are incentivized for circular economy and green R&D.

6. Promoting Climate-Resilient Trade Policies

Trade policies must embrace climate-resilient frameworks in light of the threat posed by climate change to supply chains and production. These laws should include Creating carbon-adjusted tariffs to incentivize low-emission exports, Diversifying export baskets to lessen dependency on climate-sensitive industries like cotton, sugar, and rice and collaborating with trade blocs (such as the EU, EFTA, and ASEAN) on climate-aligned technology transfer.

7. Using International Best Practices

India can work with South-South partners to develop a model free trade agreement (FTA) that prioritizes sustainability and equity and can also Promote UN framework on trade and environmental justice in line with its leadership roles in the G20 and BRICS. Copy Costa Rica's Payment for Ecosystem Services (PES) linked to trade outputs. India is at a turning point in its history when social justice, environmental restrictions, and constitutional obligations must be balanced with trade-led economic aspirations. Despite its focus on growth, the existing trade regime has to change to become one that is fair, inclusive, and environmentally conscious.

The suggested policy and legal changes are revolutionary rather than just remedial. They provide India with a model for leading the world in sustainable commerce without sacrificing the rights of its citizens or the environment. India can fully achieve its constitutional goals of social justice, environmental stewardship, and economic inclusion by including environmental justice into trade policy.

CONCLUSION

Unquestionably, liberalization and globalization have influenced India's trade policy, which has boosted economic expansion, drawn in foreign capital, and incorporated the country into international markets. However, there is a significant ecological and social cost associated with this quick economic growth. As this paper has shown, the drive for industrial growth, especially in export-oriented industries like mining, textiles, and agriculture, has often led to the marginalization of indigenous voices, the uprooting of vulnerable communities, and the destruction of ecosystems.

In India's trade policy debate, the idea of environmental justice—which is based on fair reparation for environmental harm, meaningful involvement in decision-making, and an equal allocation of environmental benefits and burdens—remains underrepresented.

Trade-led development frequently eschews legislative safeguards, community rights, and constitutional guarantees, as demonstrated by case studies like the POSCO and Vedanta projects. Even while the law is very progressive, enforcement is nevertheless lax, and corporate interests' regulatory control still makes egalitarian governance difficult. The Paris Agreement, the Convention on Biological Diversity, and WTO regulations are just a few of the international commitments that force India to reconsider its trade-environment relationship. Comparative examples, such as Ecuador's Rights of Nature, Costa Rica's green trade policies, and the European Union's Green Deal, provide practical advice for changing India's trading strategy toward one that is more equitable and sustainable.

The present gap is intended to be closed by the legal and policy suggestions made here, which range from trade-linked environmental justice laws to institutional changes and required sustainability impact assessments. These changes are not simply idealistic; they are necessary to guarantee that social injustice or environmental deterioration won't be sacrificed for economic expansion. To sum up, India has to adopt a trade strategy that is socially inclusive, environmentally responsible, and based on rights. In a post-globalized society, only then can the objectives of sustainable development and environmental justice be really in line with the hopes of economic expansion.