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Environmental Crimes and Green Justice under India's Bharatiya Nyaya Sanhita and BNSS

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ABSTRACT

The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) represents a significant transformation in India's criminal justice system. Although environmental protection in India has traditionally been governed by specialized environmental statutes, the newly enacted criminal laws also contain provisions capable of addressing environmental crimes and ecological harm. This article examines the role of the BNS and BNSS in promoting environmental accountability and strengthening green justice within India's legal framework. The study adopts a doctrinal and analytical legal research methodology based on statutory interpretation, constitutional analysis, and judicial precedents. The research finds that provisions relating to public nuisance, water pollution, atmospheric contamination, hazardous substances, and acts likely to spread disease collectively establish a broader criminal law framework for environmental protection. Judicial interpretation of Article 21 of the Constitution, together with principles such as the polluter pays principle, precautionary principle, and sustainable development, has further strengthened environmental jurisprudence in India. The article argues that the BNS and BNSS contribute toward mainstreaming environmental protection within criminal law, but effective enforcement, institutional coordination, and stronger implementation mechanisms remain necessary for achieving sustainable environmental justice.

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INTRODUCTION

Environmental degradation has become one of the most serious global concerns of the modern era. Rapid industrialization, urban expansion, deforestation, hazardous waste disposal, and

excessive exploitation of natural resources have significantly affected ecological balance across the world. Environmental deterioration not only threatens biodiversity and ecological sustainability but also directly affects human health and public welfare. Increasing levels of air pollution, water contamination, and climate-related disasters have compelled governments and legal institutions to strengthen environmental governance mechanisms. Consequently, environmental protection has emerged as an essential component of contemporary legal and policy frameworks.

In the Indian context, this shift is marked by the enactment of the Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita, which aim to overhaul the nation's criminal justice architecture. These new statutes offer a critical opportunity to redefine the state's approach to accountability for environmental harm, moving beyond mere administrative sanctions toward a more robust criminal justice paradigm (Harini & Jinesh, 2026). By transitioning from colonial-era legal frameworks to these contemporary codes, India aims to address the systemic enforcement gaps that have historically undermined environmental accountability (Sri et al., 2026). However, the efficacy of this new criminal jurisprudence depends on its integration with established principles of green criminology, which emphasize the necessity of addressing the broader socioeconomic impacts of ecological offenses beyond traditional human-centric legal definitions (Sahu & Sethi, 2024; Sanjeevi & Dhanya, 2026).

India has experienced substantial environmental challenges during the last few decades due to industrial growth, population expansion, and urban development. Large-scale industrial activities have contributed to toxic emissions, contamination of water bodies, and degradation of natural ecosystems. Environmental violations frequently affect vulnerable communities that depend on clean air, water, and land for survival and livelihood. In many cases, industrial negligence and weak enforcement mechanisms have aggravated ecological harm and public health crises. As a result, environmental protection has increasingly become a matter of constitutional concern and public interest litigation in India. While these legal interventions have historically been essential for redressing ecological grievances, the persistence of offenses like illegal mining and wildlife trafficking continues to undermine India's broader climate agenda (Shery, 2025).

The Indian legal system has historically addressed environmental issues through specialized statutes such as the Environment Protection Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974, and the Air (Prevention and Control of Pollution) Act, 1981. These legislations establish regulatory frameworks for pollution control, environmental monitoring, and industrial accountability. Despite the existence of these laws, environmental crimes continue to occur due to inadequate enforcement and institutional weaknesses. Regulatory authorities often face difficulties in monitoring industrial compliance and prosecuting environmental offenders effectively. Consequently, environmental violations frequently remain underreported, under-investigated, and inadequately punished. This persistent regulatory failure highlights the necessity of incorporating green criminological perspectives into the Bharatiya Nyaya Sanhita, as traditional enforcement often lacks the mechanisms to hold powerful economic and political actors accountable for systemic ecological exploitation (Pelengkahu, 2025).

Environmental crimes, often referred to as green-collar crimes, involve unlawful acts that damage ecosystems, natural resources, and public health. These crimes include water pollution, illegal disposal of hazardous waste, toxic gas emissions, negligent handling of dangerous substances, and activities that create public nuisance or ecological destruction.

Environmental crimes differ from ordinary offenses because their consequences are often widespread, long-term, and difficult to reverse. In addition to harming the environment, such offenses threaten human dignity, economic stability, and sustainable development. Therefore, criminal law increasingly plays a vital role in ensuring environmental accountability and ecological justice. The global discourse on ecocide conceptualizes severe environmental damage as a serious criminal offense, representing a paradigm shift towards criminal environmental justice (Harini & Jinesh, 2026). This aligns with ongoing reforms within India's legal framework for environmental crimes (Kunal, 2026),(Shery, 2025).

The relationship between environmental protection and criminal law has gained increasing importance in modern legal systems. Criminal law serves not only as a punitive mechanism but also as a deterrent against environmentally harmful conduct. By imposing liability on industries, corporations, and individuals responsible for ecological damage, criminal law contributes to public welfare and environmental sustainability. The criminalization of environmental harm reflects society's recognition that environmental degradation affects collective rights and public interests. Consequently, many jurisdictions have incorporated environmental protection within mainstream criminal justice systems. Furthermore, this integration requires moving beyond an anthropocentric focus to include an ecocentric approach that acknowledges the intrinsic value of non-human species and the broader ecological balance (Barbosa & Bilotta, 2025).

India recently introduced major reforms in its criminal justice system through the enactment of the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023. These legislations replaced the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 respectively. The reforms aim to modernize criminal law by addressing emerging forms of crime and improving procedural efficiency. Although the BNS and BNSS primarily focus on general criminal law reforms, several provisions indirectly address environmental crimes and public ecological harm. These provisions demonstrate an evolving recognition of environmental accountability within India's criminal justice framework. Nevertheless, the current framework necessitates a more robust integration of specific environmental sentencing guidelines to effectively transition from a legacy-bound system toward a truly reformative and justice-oriented jurisprudence.

The Bharatiya Nyaya Sanhita contains provisions relating to public nuisance, contamination of water resources, atmospheric pollution, negligent handling of poisonous substances, and acts likely to spread infectious diseases. Similarly, the Bharatiya Nagarik Suraksha Sanhita provides procedural mechanisms enabling authorities to prevent and control public nuisances affecting environmental and public health. Together, these provisions create a supplementary framework for addressing environmental harm through criminal law. While specialized environmental statutes remain the primary legal instruments governing environmental regulation, the BNS and BNSS strengthen criminal liability relating to ecological damage. This integration reflects an important shift toward mainstreaming environmental justice within India's broader legal system.

Indian courts have also played a crucial role in expanding environmental jurisprudence through constitutional interpretation and judicial activism. The Supreme Court has repeatedly interpreted Article 21 of the Constitution of India to include the right to a clean and healthy environment. Landmark judgments relating to air pollution, water contamination, industrial hazards, and environmental degradation have transformed environmental protection into a constitutional right. Principles such as sustainable development, polluter pays principle, and precautionary principle have become central

components of Indian environmental jurisprudence. Judicial intervention has therefore significantly influenced the interpretation and enforcement of environmental laws in India.

Therefore, this study seeks to examine the relationship between criminal law reform and environmental protection within contemporary India. This article aims to analyze the environmental protection mechanisms embedded in the Bharatiya Nyaya Sanhita and Bharatiya Nagarik Suraksha Sanhita and evaluate their role in promoting environmental justice. The study further examines how constitutional principles and judicial precedents strengthen the interpretation of environmental provisions under these criminal laws. In addition, the article explores the challenges associated with enforcement and implementation of environmental criminal liability. The research contributes to contemporary discourse on environmental jurisprudence, sustainable governance, and criminal law reform in India. Ultimately, the study argues that integrating environmental protection within mainstream criminal law represents a significant step toward achieving sustainable environmental justice.

RESEARCH METHOD

This study employs a doctrinal and analytical legal research methodology to investigate the environmental dimensions of the Bharatiya Nyaya Sanhita, 2023, and the Bharatiya Nagarik Suraksha Sanhita, 2023. Doctrinal legal research centers on the analysis of legal principles, statutory provisions, and judicial interpretations pertinent to specific legal issues. Accordingly, this research explores how environmental crimes and ecological harms are addressed under India's newly enacted criminal laws. The doctrinal approach is particularly suitable, as the study requires the interpretation of statutory provisions and constitutional principles related to environmental protection. Furthermore, the analytical method facilitates a critical evaluation of the effectiveness and limitations of these provisions in advancing environmental justice. Additionally, the research incorporates a comparative analysis of global environmental governance trends to assess whether India's current reformative path aligns with international standards for ecological accountability (Matharani, 2023).

The study draws on both primary and secondary legal materials to ensure a comprehensive analysis. Primary sources encompass the Bharatiya Nyaya Sanhita (BNS), 2023, the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the Constitution of India, and key environmental statutes including the Environment Protection Act, 1986, the Water Act, 1974, and the Air Act, 1981. Additionally, judicial decisions from the Supreme Court of India and various High Courts have been extensively reviewed. Secondary sources comprise books, journal articles, research papers, legal commentaries, and scholarly writings on environmental law and criminal justice reform, offering conceptual clarity and supporting critical analysis of environmental jurisprudence in India. By synthesizing these materials, the research provides a critical assessment of whether these legislative shifts sufficiently address the challenges of corporate accountability and the inherent limitations of current regulatory enforcement (Dube & Rahim, 2025).

The collected legal materials were examined through statutory interpretation, case law analysis, and comparative legal reasoning. Special emphasis was placed on provisions concerning public nuisance, water pollution, toxic emissions, hazardous substances, and preventive environmental justice. Judicial precedents were analyzed to elucidate how Indian courts have expanded environmental rights under constitutional law. The study further assesses the interplay between specialized environmental legislation and the general criminal law provisions in the BNS and BNSS. Ultimately, this methodology aims to evaluate the

contribution of India's criminal law reforms to enhancing environmental accountability and sustainable legal governance.

RESULT AND DISCUSSION

Environmental Crimes under the Bharatiya Nyaya Sanhita

The Bharatiya Nyaya Sanhita, 2023, represents a significant reform in India's criminal justice system. It introduces several provisions that indirectly address environmental crimes. Although the statute does not specifically define environmental offenses as a separate category, various provisions criminalize conduct that harms public health and ecological balance. These include public nuisance, contamination of water resources, atmospheric pollution, negligent handling of poisonous substances, and acts likely to spread infectious diseases. Collectively, these provisions create a broader framework for addressing environmental harm within mainstream criminal law. The integration of environmental concerns into general criminal legislation reflects an evolving recognition of environmental protection as a matter of public justice and legal accountability. However, the efficacy of these general provisions remains a subject of critical debate, particularly when juxtaposed against recent policy shifts toward the decriminalization of sector-specific statutes like the Environment Protection Act and the Water Act (Kumar & Dharshini, 2025).

Environmental crimes are often described as green-collar crimes because they involve unlawful activities that damage ecosystems and threaten public welfare (Chattopadhyay & Bhattacharjee, 2024). Such offenses differ from conventional crimes because their consequences frequently extend beyond individual victims and affect entire communities. Environmental harm may continue for several years and create irreversible ecological damage if not adequately controlled. Industrial pollution, hazardous waste disposal, and toxic emissions can severely affect public health and environmental sustainability. Consequently, criminal law increasingly functions as an important mechanism for preventing ecological destruction and ensuring corporate accountability. Given this evolving legal landscape, the systemic prosecution of industrial entities for environmental infractions remains essential to addressing ecological damage caused by hazardous waste and corporate negligence (Chattopadhyay & Bhattacharjee, 2024).

The inclusion of environmental provisions within the BNS demonstrates that criminal law reform in India is gradually responding to modern environmental challenges. Earlier criminal laws primarily focused on traditional offenses against persons and property without adequately recognizing ecological harm. However, increasing environmental degradation and public health concerns have compelled lawmakers to broaden the scope of criminal liability. The BNS, therefore, reflects an effort to align criminal law with contemporary social and environmental realities. This development is significant because environmental violations are no longer viewed solely as regulatory infractions but as matters affecting collective rights and social welfare.

The concept of public welfare occupies a central position within environmental criminal law. Environmental degradation often affects economically weaker sections of society who rely heavily upon natural resources for livelihood and survival. Water contamination, industrial pollution, and toxic emissions disproportionately harm vulnerable communities with limited access to healthcare and legal remedies. Criminalizing environmentally harmful conduct, therefore, contributes toward social justice and protection of public interests. The BNS indirectly strengthens this objective by imposing liability upon activities that create

danger, annoyance, or harm to the public. Moreover, by contextualizing these harms within the BNS framework, the legislature reinforces the principle that industrial entities must be held strictly accountable for actions that jeopardize long-term ecological stability.

The environmental provisions contained in the BNS also reinforce the constitutional framework relating to environmental protection in India. The Supreme Court has consistently interpreted Article 21 of the Constitution to include the right to a clean and healthy environment. As a result, environmental harm is increasingly treated as a violation of fundamental rights rather than merely an administrative issue. By criminalizing conduct that endangers public health and ecological balance, the BNS complements constitutional principles relating to environmental justice. This constitutional dimension strengthens the legitimacy and significance of environmental criminal liability. Furthermore, this alignment suggests a paradigm shift where the BNS serves as an instrument to operationalize the state's moral authority in protecting collective ecological interests against systemic neglect (Malik, 2025).

Another important feature of the BNS is its preventive function in relation to environmental harm. Criminal law does not merely punish offenders after damage occurs but also seeks to deter environmentally harmful conduct before irreversible harm is caused. The existence of criminal sanctions encourages industries, corporations, and individuals to adopt safer environmental practices and comply with regulatory standards. This deterrent effect is particularly important in cases involving hazardous substances and industrial pollution. Consequently, the BNS contributes toward preventive environmental governance in addition to punitive enforcement. By shifting the focus toward strict liability for certain regulatory infractions, the legislature aims to mitigate the evidentiary burdens inherent in proving intentional culpability (Ali et al., 2022).

Despite these developments, challenges remain regarding the effectiveness of environmental provisions under the BNS. Many environmental offenses continue to be underreported and inadequately investigated due to administrative inefficiency and lack of institutional coordination. The relatively low penalties prescribed under certain provisions may also reduce the deterrent impact of environmental criminal liability. In addition, environmental crimes often involve complex scientific and technical issues that require specialized expertise during investigation and prosecution. Therefore, while the BNS represents an important step toward environmental accountability, effective implementation remains essential for achieving meaningful environmental justice.

Public Nuisance and Environmental Protection

Section 270 of the Bharatiya Nyaya Sanhita addresses the offense of public nuisance and provides an important legal basis for environmental protection. The provision broadly defines public nuisance as any act or omission causing common injury, danger, annoyance, or inconvenience to the public. This broad language allows environmental harms such as noise pollution, industrial emissions, improper waste disposal, and contamination of public spaces to fall within its scope. Because environmental degradation frequently affects public comfort, safety, and health, public nuisance serves as an important tool for environmental regulation. Consequently, Section 270 contributes significantly toward addressing ecological harms within criminal law. Complementing these substantive provisions, the Bharatiya Nagarik Suraksha Sanhita aims to enhance the procedural mechanisms necessary for gathering

forensic evidence in complex environmental cases, thereby facilitating more robust investigations into industrial non-compliance.

Noise pollution represents one of the most common forms of public nuisance addressed under environmental criminal law. Excessive use of loudspeakers, construction activities, industrial machinery, and vehicular honking can seriously affect public health and psychological well-being. Prolonged exposure to high levels of noise may cause stress, sleep disorders, and hearing-related problems among affected individuals. Educational institutions, hospitals, and residential areas are particularly vulnerable to harmful noise pollution. Therefore, criminal liability relating to public nuisance plays an important role in protecting public health and maintaining social order. However, the efficacy of prosecuting such infractions relies heavily on the procedural efficiency introduced by the Bharatiya Nagarik Suraksha Sanhita, particularly concerning the collection of reliable forensic data during investigations (Kowshikaa, 2024).

Improper disposal of garbage and hazardous waste also constitutes a serious environmental nuisance affecting communities and ecosystems. Waste dumped into public places, roadsides, lakes, and water bodies creates unsanitary conditions and increases risks of disease transmission. In many urban areas, ineffective waste management systems have contributed to environmental pollution and public health crises. Public nuisance provisions therefore serve as a legal mechanism for controlling irresponsible waste disposal practices. By criminalizing conduct that endangers public hygiene and environmental safety, the BNS strengthens environmental accountability at the community level. Moreover, the integration of these provisions addresses the critical need to classify acts such as the contamination of public reservoirs or the release of toxic atmospheric emissions as punishable public offenses (Konoorayar, 2021).

Industrial pollution frequently falls within the ambit of public nuisance when toxic emissions and hazardous activities affect nearby populations. Factories releasing smoke, chemicals, and harmful gases into residential areas can severely damage air quality and public health. Industrial activities often generate environmental hazards that interfere with the ordinary comfort and safety of local communities. Criminal liability under public nuisance provisions enables authorities to intervene against environmentally harmful industrial operations. This approach demonstrates how criminal law supplements specialized environmental regulations in controlling industrial pollution. Furthermore, the Bharatiya Nagarik Suraksha Sanhita's authorization of audio-video recording during investigative procedures provides a critical evidentiary tool for documenting non-compliance (K & M.B, 2026).

Judicial decisions have significantly expanded the interpretation of public nuisance in environmental matters. In Municipal Council, Ratlam v. Vardhichand, the Supreme Court directed municipal authorities to eliminate public nuisance caused by poor sanitation and environmental degradation. The Court emphasized that public authorities cannot avoid their statutory duties by citing financial or administrative difficulties. This judgment established that environmental protection is closely connected with public welfare and constitutional governance. The decision therefore strengthened the role of criminal law in addressing environmental and public health concerns. Building upon this judicial precedent, contemporary discourse now emphasizes the interplay between these general penal provisions and specialized statutes, such as the Water Act of 1974 and the Air Act of 1981, to ensure a comprehensive deterrent framework (Thakker, 2026).

Similarly, Indian courts have repeatedly recognized that environmental pollution violates the constitutional right to life under Article 21. In Subhash Kumar v. State of Bihar, the Supreme Court held that the right to life includes the right to pollution-free water and air. This constitutional interpretation transformed environmental protection into a fundamental rights issue. Public nuisance provisions under criminal law therefore operate alongside constitutional guarantees relating to environmental justice. The judiciary has thus played a vital role in expanding environmental accountability through constitutional interpretation and judicial activism. By leveraging the polluter pays and public trust doctrines, courts have effectively promoted environmental protection (Nisha, 2025).

Despite these legal protections, enforcement of public nuisance provisions continues to face several practical challenges. Many environmental nuisances persist due to administrative inaction, lack of public awareness, and weak monitoring mechanisms. Urbanization and industrial expansion have further increased environmental pressures upon local authorities and regulatory institutions. In several cases, enforcement agencies lack sufficient resources and technical expertise to address complex environmental problems effectively. Consequently, stronger implementation mechanisms and institutional coordination remain necessary for ensuring effective environmental protection under public nuisance laws.

Constitutionalization of Environmental Rights in India

The development of environmental jurisprudence in India has been closely associated with constitutional interpretation and judicial activism. Indian courts have significantly expanded the scope of Article 21 by recognizing that the right to life includes the right to a clean and healthy environment. As a result, environmental protection is no longer viewed merely as a regulatory concern but as a constitutional obligation essential for human dignity and public welfare. This constitutionalization of environmental rights has strengthened judicial intervention in cases involving pollution, ecological degradation, and industrial hazards. Consequently, environmental governance in India has increasingly evolved through judicial interpretation alongside statutory regulation.

However, this reliance on the judiciary to define environmental safeguards highlights a legislative gap, as these rights have emerged through jurisprudential innovation rather than explicit constitutional text (Rajendra, 2023). Such reliance underscores a systemic dependency on judicial activism to bridge the divide between formal constitutional aspirations and the recurring failures in statutory enforcement (Sakthi & Arthiya, 2026). This fragmented legislative landscape often results in regulatory overlap and inconsistent coordination, which further complicates the transition from conceptual rights to tangible environmental outcomes. Such structural limitations necessitate a shift toward more robust legislative frameworks that codify these judicial principles, thereby providing a clear, non-discretionary mandate for environmental protection (Rajendra, 2023).

Articles 48A and 51A of the Constitution further reinforce the constitutional framework for environmental protection. Specifically, Article 48A directs the State to protect and improve the environment, while Article 51A imposes a fundamental duty upon citizens to safeguard natural resources. Although these provisions are not directly enforceable in courts, they provide important constitutional guidance for environmental governance and legislative interpretation. Indian courts have frequently relied upon these constitutional principles while adjudicating environmental disputes and public interest litigations. Thus, the interaction

between constitutional rights and environmental protection has become a defining feature of Indian environmental jurisprudence.

Public Interest Litigations have also played a transformative role in strengthening environmental justice in India. Through PILs, courts have addressed issues relating to industrial pollution, deforestation, hazardous waste disposal, and environmental degradation affecting vulnerable communities. Often, judicial intervention has compensated for administrative failures and weak enforcement by regulatory authorities. Landmark cases involving the Ganga pollution issue, vehicular emissions, and industrial hazards have significantly influenced environmental policy and governance. Therefore, the judiciary has emerged as an important institution for advancing environmental accountability and ecological justice. Nonetheless, the transition toward the Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita indicates a shift in the criminal justice architecture.

The BNS and BNSS indirectly reinforce these constitutional principles by integrating environmental concerns into mainstream criminal law. By criminalizing activities that harm public health and ecological balance, these laws strengthen the constitutional obligation to protect the environment. Environmental criminal liability also reflects the broader constitutional vision of social welfare and sustainable development. By supplementing specialized environmental statutes, the new criminal laws contribute to a more comprehensive framework for environmental governance.

This integration represents an important step toward strengthening environmental protection through criminal justice reform. Furthermore, by establishing clear penalties for ecological offenses, these codes empower the judiciary to move beyond the reactive nature of Public Interest Litigation toward a proactive model of environmental enforcement (Sawalkar & Pareek, 2026). Specifically, by codifying specific harms against the natural habitat within the Bharatiya Nyaya Sanhita, the state provides a statutory basis that transcends the ad hoc nature of judicial interventions (Singh & Sharma, 2025; Li & Song, 2024), thereby fostering a more consistent and predictable deterrent against systemic ecological destruction (Reddy, 2026). This transition towards statutory codification aligns with the broader paradigm shift observed in India's specialized adjudicatory systems, which have increasingly prioritized long-term ecological sustainability over fragmented developmental imperatives (Anisha et al., 2025).

Nevertheless, constitutional recognition alone cannot guarantee effective environmental justice without strong implementation mechanisms. Many environmental problems continue to persist due to institutional inefficiency, political influence, and inadequate enforcement capacity. Judicial directions are sometimes difficult to implement because of administrative delays and regulatory challenges. In addition, environmental litigation often requires technical expertise and long-term monitoring to ensure compliance with court orders. Therefore, strengthening environmental governance requires not only constitutional protection but also effective institutional coordination and regulatory enforcement.

Consequently, the success of the BNS and BNSS hinges on the establishment of specialized enforcement agencies capable of integrating forensic environmental science with procedural criminal law to bridge the persistent gap between legislative intent and ecological outcomes. Furthermore, achieving sustained improvement necessitates a broader strategy that includes increased capacity for law enforcement agencies, proactive community engagement, and rapid adaptation to emerging environmental challenges (Insani & Karimullah, 2023). Ultimately, the effectiveness of these codes will be determined by whether

they can transition India's legal culture from a reactive posture toward a restorative justice model that prioritizes the health of the ecosystem alongside human rights (Shetty & Saxena, 2025).

Environmental Jurisprudence and Green Justice

Indian environmental jurisprudence has developed several important legal principles that strengthen environmental accountability and sustainable governance. One of the most significant is the Polluter Pays Principle, which requires polluting industries and individuals to bear the costs of environmental remediation and compensation. This principle ensures that environmental harm is not treated merely as a private dispute but as a matter affecting public welfare and ecological sustainability. Indian courts have repeatedly applied this principle in cases involving industrial pollution and environmental degradation. Consequently, environmental liability increasingly extends beyond criminal punishment to include restoration and compensation obligations. Moreover, the adoption of the Precautionary Principle operates alongside this mandate to shift the burden of proof onto industrial actors, compelling them to demonstrate the safety of their operations before initiating potentially hazardous activities (Jamwal, 2025; Mahajan, 2025).

This principle, which emphasizes preventive action in situations involving environmental risks and scientific uncertainty. It requires authorities and industries to adopt preventive measures even when complete scientific evidence regarding environmental harm is unavailable. This approach is particularly relevant in cases involving hazardous substances, toxic emissions, and industrial activities with potentially irreversible environmental consequences. Indian courts have recognized the precautionary principle as an essential component of environmental governance and sustainable development. Preventive environmental justice therefore occupies an increasingly important place within contemporary environmental law.

The doctrine of intergenerational equity is a cornerstone of Indian environmental jurisprudence (Agrawal & Singh, 2025). The National Green Tribunal has been instrumental in operationalizing these foundational doctrines, consistently utilizing scientific evidence and remedial creativity to resolve climate-related disputes (Pohare & Kumar, 2025). However, the practical application of the Polluter Pays Principle remains challenged by the complexities in defining pollution and identifying polluters, and calculating appropriate environmental compensation (Bag et al., 2024). To address these limitations, the transition toward a formalized statutory framework under the BNS and BNSS must integrate these judicial doctrines into a structured evidentiary standard (Gurugopinath & Venugopal, 2024; Patel, 2026).

The doctrine of sustainable development also plays a central role in balancing economic growth with environmental protection. While industrialization and economic expansion are necessary for national development, such growth cannot occur at the expense of ecological destruction and public health. Indian courts have repeatedly emphasized that development projects must comply with environmental safeguards and sustainability requirements. Sustainable development therefore seeks to ensure intergenerational equity and long-term environmental preservation. This principle reinforces the need for integrating environmental accountability within criminal law and public governance. By codifying these normative standards, the Bharatiya Nyaya Sanhita seeks to mitigate the institutional constraints that

have historically hindered the enforcement of criminal liability in environmental matters (Shrimali et al., 2025).

This legislative shift aligns with the judiciary's broader movement toward an ecocentric legal framework, effectively transitioning from a narrow focus on traditional pollution control to a comprehensive system of climate accountability (RC, 2026). This paradigm shift mandates that future judicial interventions leverage existing progressive jurisprudence—such as the precedents established in the Niyamgiri case—to safeguard the rights of forest-dwellers against exclusionary conservation practices (Kodiveri, 2022). By formalizing these protections within the BNS and BNSS, the legislature can address the persistent "implementation gap" that often leaves sophisticated environmental norms confined to theoretical discourse without being translated into tangible compliance or remedial outcomes (Rajendra, 2026).

The BNS and BNSS indirectly strengthen these environmental principles by criminalizing environmentally harmful conduct and empowering authorities to prevent ecological harm. Provisions addressing public nuisance, liability for water contamination, and criminal sanctions relating to hazardous substances collectively support environmental governance objectives. These provisions demonstrate that criminal law can function alongside environmental regulations to ensure compliance and accountability. Environmental criminal liability also serves a deterrent function by discouraging industries and individuals from engaging in environmentally destructive activities. Consequently, the new criminal laws contribute to mainstreaming green justice within India’s broader legal framework.

Furthermore, the integration of these legislative instruments facilitates a shift toward restorative justice, echoing global trends that emphasize communal responsibility and the restoration of ecological integrity over purely punitive measures (Saputra et al., 2026). This transition necessitates a refined understanding of corporate criminal liability, moving beyond traditional retributive models toward mechanisms that enforce accountability for large-scale ecological damage (Maruf, 2025). In this context, the shift toward restorative practices, such as mandating community service or ecological rehabilitation, aligns with a victim-centric philosophy that prioritizes the remediation of environmental harm over mere incarceration (Bhat & K., 2025). By replacing static fines with requirements for comprehensive ecosystem restoration, the Bharatiya Nyaya Sanhita can foster a more robust model of substantive justice that addresses the actual degradation suffered by affected populations (Silalahi, 2025).

However, significant challenges remain in translating environmental jurisprudence into effective environmental governance. Weak enforcement mechanisms, institutional overlap, political interference, and low penalties continue to undermine environmental accountability in many cases. Environmental crimes frequently involve powerful industrial entities possessing substantial financial and political influence. Regulatory agencies often lack adequate technical expertise, personnel, and resources necessary for effective environmental monitoring and prosecution. Therefore, strengthening environmental justice requires not only progressive legal principles but also robust enforcement institutions and coordinated policy implementation. To overcome these systemic barriers, the BNSS must facilitate a more rigorous application of strict and vicarious liability doctrines, ensuring that corporate entities are held accountable for the ecological footprints of their industrial operations.

CONCLUSION

The Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023 represent an important development in India’s criminal justice system by incorporating

provisions capable of addressing environmental crimes and strengthening environmental accountability. Although specialized environmental statutes remain the primary legal framework governing pollution control and ecological protection, the BNS and BNSS supplement these laws by criminalizing conduct that threatens public health and environmental sustainability. Provisions relating to public nuisance, water contamination, atmospheric pollution, and negligent handling of hazardous substances collectively establish a broader criminal law framework for environmental protection. Judicial interpretation of constitutional rights and environmental jurisprudence has further reinforced the relationship between criminal law and environmental justice in India. However, the effectiveness of these provisions ultimately depends upon strong enforcement mechanisms, institutional coordination, regulatory efficiency, and sustained commitment toward sustainable environmental governance.

LIMITATIONS AND FUTURE RESEARCH RECOMMENDATIONS

This study is limited primarily to doctrinal and analytical examination of statutory provisions, constitutional principles, and judicial precedents relating to environmental crimes under the BNS and BNSS. The research does not include empirical investigation involving interviews, field studies, or quantitative analysis concerning environmental enforcement practices in India. Furthermore, the study mainly focuses upon the Indian legal framework and does not provide extensive comparative analysis with environmental criminal law systems in other jurisdictions. The evolving nature of criminal law reforms also means that practical implementation challenges and judicial interpretations may continue to develop over time. Consequently, some aspects of enforcement and institutional effectiveness may require further scholarly examination in the future.

Future research may focus upon empirical assessment of environmental criminal enforcement under the BNS and BNSS, particularly regarding industrial accountability, pollution control, and judicial effectiveness. Comparative studies examining environmental criminal law frameworks in other jurisdictions may also provide valuable insights for strengthening environmental governance in India. Further interdisciplinary research involving environmental science, public policy, and criminology could contribute toward a more comprehensive understanding of environmental crimes and sustainable legal governance. Scholars may additionally examine the relationship between climate change, environmental justice, and criminal law reform in contemporary legal systems. Such research would significantly contribute toward advancing environmental jurisprudence and strengthening green justice at both national and international levels.

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