

Environmental Jurisprudence and the Legality of Ex-post Facto Clearances: A Sustainability Assessment

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Abstract

“Ex-post facto environmental clearances” represent a significant challenge within the realm of environmental law. This paper examines the legality and sustainability of such clearances, emphasizing the potential conflicts between economic development and environmental protection. Ex-post facto clearances are often justified as necessary for rapid development; however, they undermine foundational principles of environmental assessment and regulatory compliance. This study begins by defining ex-post facto clearances, detailing their legal frameworks, and exploring the rationale behind their use. A critical analysis of relevant case law reveals the tensions between judicial interpretations and legislative intent. The environmental implications of these practices are substantial, leading to increased degradation of ecosystems, adverse public health outcomes, and negative socio-economic impacts on vulnerable communities. The paper further investigates the challenges of balancing development and conservation, emphasizing the importance of stakeholder engagement and sustainable practices. Recommendations for legal reform are proposed, advocating for stricter regulatory measures, enhanced transparency, and the integration of sustainability principles into project planning. By fostering a more robust legal framework, it is possible to promote environmental integrity while accommodating necessary economic growth. Ultimately, this paper argues for a re-evaluation of ex-post facto clearances with respect to sustainable

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development, calling for a legal paradigm that prioritizes ecological health alongside economic aspirations.

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1. Introduction

Environmental clearances (ECs) are legal permissions that industries, infrastructure projects, and other significant ventures must obtain before starting any project that has an impact on the environment. These clearances ensure that projects are aligned with environmental policies and do not lead to significant degradation. However, a legal grey area has emerged in the form of “*ex-post facto* environmental clearances.” These are clearances granted retrospectively to projects that have already started or even completed their activities without obtaining the necessary ECs.¹

The concept of “*ex-post facto* environmental clearance” raises several questions about its legality and sustainability. How can a project that potentially violates environmental norms be legalized after the fact? Does this undermine the entire purpose of environmental laws? Moreover, how does it affect sustainability efforts, considering the environmental damage that may have already occurred before the clearance was granted?

This paper aims to assess the legality and sustainability of *ex-post facto* environmental clearances within environmental law, focusing on legal precedents, sustainability impacts, and potential reforms to the existing framework.

1.1 Understanding Environmental Clearances

The purpose of environmental clearances is to ensure a harmonious coexistence of economic growth and environmental conservation within the bounds of the law. Globally, environmental clearances are regulated by national and international laws, protocols, and guidelines, such as “the Rio Declaration on Environment and Development and the Paris Agreement.” In many countries, clearances are mandatory for projects that

1 S Ghosh, “Demystifying the environmental clearance process in India”, 6 NUJSLR 433.

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may have a significant impact on ecosystems, air quality, and water resources.

In India, the legal foundation for environmental clearances is found in “*Environment (Protection) Act, 1986*”, along with subsequent rules and guidelines issued by “the Ministry of Environment, Forest, and Climate Change (MoEFCC).”² Projects requiring ECs include mining operations, industrial plants, and infrastructure projects like highways, ports, and airports. The “Environmental Impact Assessment” (EIA) process forms the core of obtaining such clearances, involving public consultations, expert assessments, and detailed project reports on how the development would affect local ecosystems, biodiversity, and communities.³

However, the rising trend of ex-post facto clearances brings significant legal ambiguity to this process. Projects that should have undergone stringent scrutiny before initiation are granted permissions retrospectively, potentially bypassing the rigorous EIA process.⁴

1.2 Ex-post Facto Environmental Clearances: Definitions and Context

“Ex-post facto environmental clearance” means the granting of environmental permission to a project that has already commenced or even completed without prior approval. This practice has been used in various countries, often justified by governments on the grounds of economic necessity or the need to regularize ongoing projects that, if halted, could cause job losses or disruptions in essential services.

In India, this issue became prominent with the 2020 Supreme Court ruling in *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati & Ors*⁵, where the Court held that “ex-post facto clearances” were contrary to environmental law, yet instances of such clearances continue to emerge. Similar issues have been raised in other countries, notably in developing economies, where environmental regulations may not be as rigorously

2 S Singh, “Environmental and Social Safeguards in India-A Critical Assessment” *EVALUATION 2030 FOR*, 219.

3 AK Rathour, “Environment impact assessment (EIA) studies for developmental activities in India in context with EIA 2020”, 9(1) *Oct.JER* 21-45.

4 *Ibid.*

5 *AIRONLINE* 2020 SC 445.

enforced, and economic imperatives often lead to leniency toward non-compliant projects.

The practice raises several ethical, legal, and environmental concerns. Legally, it undermines the preventive nature of environmental law, which is designed to assess and mitigate damage before it occurs. From an environmental standpoint, it may sanction irreversible ecological harm, as any remedial action is often insufficient to fully reverse the impact.

1.3 Legality of Ex-post Facto Environmental Clearances

Ex-post facto clearances occupy a contentious legal space, as they retroactively approve projects that should have undergone prior environmental scrutiny. National and international laws vary, with some outright condemning the practice and others allowing it under limited circumstances.

2. Legal Frameworks Across Jurisdictions

2.1 India

- The “*Environment (Protection) Act of 1986*” and “the *Environmental Impact Assessment (EIA) Notification of 2006*” require prior environmental clearance. Ex-post facto clearances challenge this preventive approach. Preventive approach.⁶

- The landmark case, *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati*⁷ The Supreme Court held that retroactive clearances undermine the purpose of environmental laws and cannot justify economic expediency over environmental protection.

- Despite the ruling, large industries in mining, real estate, and infrastructure continue to seek ex-post facto clearances to avoid economic disruption.

2.2. United States

- under the National Environmental Policy Act (NEPA) of 1969 , Environmental Impact Statements (EISs) are mandatory for projects significantly affecting the environment. Retroactive clearances are generally not recognized.

6 S Jolly and S Singh, “Environmental impact assessment draft notification 2020, India: A critique”, 5(1) CJEL 11-36.

7 Supra note 5.

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○ The Friends of the Earth, Inc. v. Laidlaw Environmental Services (2000)⁸ Courts imposed penalties for non-compliance rather than allowing ex-post facto approvals, reinforcing preventive compliance.

2.3. European Union

○ The Environmental Impact Assessment Directive mandates assessments before project approval.

○ Commission v. Ireland⁹. In this case, the ECJ held that Ireland had violated EU law by allowing certain projects to proceed without an EIA.

○ Ex-post facto clearances in the EU are extremely limited and allowed with rare exceptions granted only under extraordinary circumstances.¹⁰

2.4. Latin America

○ Countries like Brazil and Argentina often grant retroactive approvals due to economic pressures in mining, agriculture, and hydroelectric projects.

○ Case Study : Belo Monte Dam, Brazil: Ex-post facto clearance was granted despite opposition from environmental groups and indigenous communities, justified by national energy needs. Critics argue it sets a risky precedent for environmental governance.¹¹

3. Judicial Precedents and Legal Challenges

The legality of “ex-post facto environmental clearances” has been challenged in several jurisdictions, leading to judicial precedents that shape the interpretation of environmental laws.

3.1 India: Alembic Pharmaceuticals Ltd. v. Rohit Prajapati¹²

○ The Supreme Court ruled that post-facto environmental clearances violated the “principle of sustainable development.” The Court emphasized that the environment is held in public trust, and any

8 528 U.S. 167 (2000).

9 (1982) Case 249/81.

10 J Krommendijk and K Van der Pas, “To intervene or not to intervene: intervention before the court of justice of the European Union in environmental and migration law” 26 IJHR 1394-1417.

11 Sara Diamond and Christian Poirier, “Brazil’s Native Peoples and the Belo Monte Dam: A Case Study”, Nacla (September 2, 2010) <https://nacla.org/article/brazil-%E2%80%99s-native-peoples-and-belo-monte-dam-case-study> (08 October, 2024)

12 Supra 5.

derogation from established procedures can result in irreversible environmental damage.

- The Court stated: “If industries are allowed to carry on operations without complying with the requisite regulatory mechanism, it would lead to irreparable damage to the environment.”

- The judgment laid down that any project that commences without environmental clearance should face immediate cessation and penalty, indicating the illegality of ex-post facto clearances in Indian environmental law.

3.2 United States: *Sierra Club v. Morton* (1972)¹³

- This case emphasized the role of public participation in environmental decision-making, a principle undermined by ex-post facto clearances. While the case did not directly address retroactive approvals, it highlighted the necessity of environmental assessments to prevent harm.

- Courts in the U.S. have consistently ruled that retroactive approvals of projects do not satisfy NEPA requirements, reflecting the country’s preventive stance on environmental governance.

3.3 European Union: *Commission v. Ireland*¹⁴

This case established that EU Member States cannot permit projects without first conducting an EIA. The European Court of Justice ruled that retroactive approvals violated EU environmental directives, affirming the illegality of ex-post facto clearances within the European legal system.

4. Arguments For and Against Ex-post Facto Clearances

4.1 Arguments For Legalizing Ex-post Facto Clearances:

- **Economic Imperatives:** Halting large projects can cause job losses, financial instability, and delays in infrastructure. Retroactive approvals regularize ongoing projects without economic disruption.

- **Administrative Bottlenecks:** In countries with slow clearance processes, projects may start without approval. Ex-post facto clearances offer a practical solution to bureaucratic delays.

- **Legalizing Non-compliant Projects:** Rather than penalizing non-compliant projects, retroactive clearances allow regulation to ensure environmental standards are met.

¹³ 405 U.S. 727 (1972).

¹⁴ C-215/06.

4.2 Arguments Against Ex-post Facto Clearances:¹⁵

- Erosion of Environmental Law: Retroactive approvals undermine the preventive purpose of environmental law and allow potentially irreversible damage.
- Lack of Accountability: Such clearances reduce developer accountability and create a loophole incentivizing regulatory bypass.
- Violation of the Precautionary Principle: Environmental law requires preventive action; ex-post facto clearances permit harmful activities to continue unchecked until after damage occurs.

5. Environmental Impact Assessment (EIA) and Ex post facto Environment Clearance (EC)

- Environmental issues are a global, national, and local concern. While natural resources have improved living standards, human activities such as deforestation, industrial effluents, resource mismanagement, overgrazing, and urbanisation have caused ecological imbalance and widespread pollution, threatening biological, chemical, physical, psychological, and social well-being.
- Environmental Impact Assessment (EIA) ensures that development and environmental protection progress together by evaluating a project's positive and negative impacts. It helps planners design sustainable projects and provides decision-makers with information to minimise environmental harm.
- Environmental Clearance (EC) is the regulatory approval process for projects likely to affect the environment, with authorities accepting or rejecting proposals based on EIA compliance.
- Instances of non-compliance highlight major flaws. The IIT Madras expansion (2013) felled over 8,000 trees without prior clearance, later receiving post-facto approval. The Char Dham Highway Project was split into 53 segments to bypass EIA procedures, causing significant environmental damage. The Koodankulam Nuclear Power Plant also began construction without mandatory Coastal Regulation Zone clearances.

15 SN Upadhyay and M Singh, "Environmental clearance and sustainable development: changing paradigm of environmental constitutionalism in India", JMR 8-18 (2024).

- In 2020, the Supreme Court rejected MoEFCC's allowance of ex-post facto clearances, affirming that such approvals violate core environmental law principles and cannot legitimize retroactive regularisation of environmental harm.

6. Sustainability of Ex-post Facto Clearances: Environmental, Economic, and Social Aspects

The sustainability of ex-post facto clearances is crucial to determining whether they can be justified within the broader goals of environmental governance. Sustainability encompasses three key pillars: environmental, economic, and social aspects, all of which are interrelated when evaluating the impacts of post-facto approvals.¹⁶

6.1 Environmental Sustainability

Environmental sustainability means maintaining ecosystem productivity and balance over time. Ex-post facto clearances often conflict with these goals by legitimizing activities that have already caused harm, leaving little room for mitigation.

- **Irreversible Damage:** Once deforestation, biodiversity loss, or water pollution occur, restoration is often costly, slow, and sometimes impossible. Industrial clearances leading to forest destruction also worsen climate change.

- **Compensatory Measures:** Governments may impose afforestation or pollution control requirements as compensation, but these rarely offset actual damage. Poor monitoring and enforcement further reduce their effectiveness.

- **Case Study:** Mining in Odisha: Several mining projects in Odisha received retroactive approvals despite deforestation, pollution, and community displacement. Satellite data revealed poor implementation of compensatory afforestation, leaving environmental damage largely unaddressed.

6.2 Economic Sustainability

Economic sustainability supports growth without harming environmental or social systems. While ex-post facto clearances may

16 Ibid.

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protect short-term economic interests, they often undermine long-term prosperity.

- **Short-term vs. Long-term Gains:** Such clearances may avert immediate disruptions but cause future losses through soil degradation, water scarcity, and reduced productivity in resource-based sectors.

- **Cost of Environmental Degradation:** Loss of ecosystem services like clean water, fertile soil, and clean air leads to health costs and food insecurity, outweighing short-term gains. Global estimates place the cost of degradation in trillions of dollars.

- **Case Study:** Belo Monte Dam, Brazil: Granted post-facto approval, the dam boosted energy supply but disrupted ecosystems, reduced fish stocks, and hurt tourism. Long-term economic losses now exceed initial benefits.

6.3 Social Sustainability

Social sustainability promotes equity, resource access, and resilience for present and future generations. Ex-post facto clearances often disregard these principles, especially harming marginalized groups.

- **Impact on Indigenous Communities:** Projects near indigenous lands destroy livelihoods, cultural heritage, and access to natural resources, causing severe displacement.

- **Social Inequity:** Vulnerable rural populations suffer pollution, water scarcity, and land loss, while affluent groups reap project benefits.

- **Public Participation and Social Justice:** The EIA framework mandates public consultation, but ex-post facto approvals bypass this process, silencing affected communities.

- **Case Study:** Indigenous Protests in Latin America: In Ecuador and Peru, post-facto mining approvals caused land degradation and displacement. Despite consultation laws, indigenous protests highlight persistent exclusion and inadequate remediation.

7. International Case Studies and Comparative Analysis

To fully grasp the complexity of ex-post facto environmental clearances, it's crucial to examine how different countries approach the issue. This section will analyze case studies from both developed and developing countries, illustrating the diversity in legal, environmental, and socio-economic outcomes. We will also explore the role of

international environmental treaties in influencing national practices regarding ex-post facto clearances.¹⁷

7.1. Ex-post Facto Clearances in Developing Countries

Developing nations often face unique challenges in balancing economic development with environmental protection. The pressure to boost industrial growth, create jobs, and improve infrastructure frequently results in projects being initiated before environmental clearances are obtained, especially in sectors like mining, agriculture, and energy. This has led to a rise in ex-post facto clearances, which are often justified on the grounds of economic necessity.

7.1.1 India

India offers one of the most prominent examples of the struggle between economic development and environmental governance. Despite a clear legal framework requiring environmental clearances before projects begin, the practice of granting ex-post facto clearances has been common, particularly in sectors such as real estate, mining, and energy.

• Case Study: Sterlite Copper Plant, Tamil Nadu¹⁸

The Sterlite Copper plant in Tamil Nadu, owned by Vedanta Resources, was allowed to operate for several years despite ongoing environmental violations. In 2013, the plant was temporarily shut down following protests over pollution and public health concerns. However, the company applied for ex-post facto environmental clearance, which was granted retrospectively by state authorities. The clearance led to widespread protests, culminating in violent clashes in 2018 when the plant was ordered to be shut permanently after failing to comply with environmental norms. The case highlights the tension between economic interests and public health, as well as the weaknesses in the enforcement of environmental laws.

• Case Study: Coal Mining in Odisha¹⁹

Odisha, a mineral-rich state in India, has witnessed numerous instances

17 L Rengan and A Sreekumar, "Critical appraisal of Environmental impact Assessment; International and National perspective" (2021).

18 Pandi-Perumal, S. R. (2022). "Sterlite Copper: Much Ado About Nothing, all the while Ignoring the Elephant in the Room?". Available at SSRN 4106810."

19 S Banerjee, "Mining and Jurisprudence: Observations for India's mining

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where coal mining projects began operations without obtaining prior environmental clearances. In some cases, ex-post facto clearances were granted after the fact, despite the significant environmental impact of deforestation and displacement of indigenous communities. While these projects were economically important, the lack of compliance with environmental standards exacerbated land degradation, pollution, and social conflict, particularly among the Adivasi (tribal) populations.

7.1.2 Brazil

Brazil, home to the Amazon rainforest, struggles to balance economic growth with the protection of one of the world's most vital ecosystems. Despite commitments under international treaties like the Paris Agreement, ex-post facto clearances have been granted for various agriculture and energy projects, raising concerns about environmental accountability.

• Case Study: Belo Monte Dam²⁰

The Belo Monte Dam, one of the world's largest hydroelectric projects in the Amazon, has been highly controversial due to its severe environmental and social impacts. It caused the displacement of indigenous communities and the destruction of vast rainforest areas. Despite legal challenges, the government issued post-facto clearance to continue the project. Critics argue that the environmental assessment was rushed and inadequate, failing to address irreversible biodiversity loss and insufficient compensation to affected populations.

7.1.3 Nigeria

Nigeria, a major oil-producing nation, faces serious environmental challenges, particularly in the Niger Delta, where oil extraction has resulted in pollution and habitat destruction. Ex-post facto clearances have often been used to regularize oil operations initiated without proper environmental oversight.

• Case Study: Oil Spills in the Niger Delta²¹

Oil spills in the Niger Delta have caused extensive damage to water, soil,

20 sector to improve environmental and social performance" (2020).

21 Supra 11.

21 EN Olowokere, "Oil Exploration in the Niger Delta: A Critique of the Legal Framework for Compensation", 49(4-5) EPL 276-287 (2020).

and local livelihoods. Many companies operated without valid environmental clearance and later received retroactive approvals. The legal system has been criticized for its leniency, imposing minimal penalties on polluters despite long-term harm to ecosystems and public health. Weak regulatory enforcement has left affected communities vulnerable and with limited means to challenge these retrospective approvals.

7.2. Ex-post Facto Clearances in Developed Countries

Developed countries tend to have stricter environmental regulations, and the practice of ex-post facto clearances is generally discouraged. However, in some instances, projects have been retroactively approved, often due to political pressure or administrative oversight.

7.2.1 United States

The U.S. enforces strong environmental laws through the National Environmental Policy Act (NEPA) and the Clean Water Act. Although rare, some projects have received retroactive approvals, often prompting legal disputes.

• Case Study: Keystone XL Pipeline²²

The Keystone XL pipeline, intended to transport crude oil from Canada to the U.S., was approved by the Trump administration without a full Environmental Impact Statement (EIS). This led to lawsuits from environmental groups, who argued that proceeding without complete assessment undermined NEPA. While not a direct ex-post facto clearance, the case shows how political pressure can enable retroactive approval of environmentally harmful projects, even under robust legal systems.

7.2.2 European Union

The European Union upholds strict environmental standards under the Environmental Impact Assessment Directive (Directive 2011/92/EU). Ex-post facto clearances are generally prohibited as they contradict the preventive principle, though some member states have tried to bypass these rules.

22 IF Fergusson, “Canada-US relations. Current Politics and Economics of the United States, Canada and Mexico” (2015).

• **Case Study: Spain's Coastal Development Projects²³**

In Spain, several coastal projects proceeded without proper clearances, causing serious environmental degradation along the Mediterranean coast. Local authorities later granted ex-post facto approvals despite opposition from environmental groups and the European Commission. The EU intervened, imposing fines and requiring compliance with its environmental directives. This case underscores the conflict between local economic interests and the EU's rigorous environmental standards.

7.3. The Role of International Environmental Bodies and Treaties

International treaties and organizations strongly influence national environmental policies, including restrictions on ex-post facto clearances. These frameworks promote sustainable development, compliance, and preventive environmental governance.

7.3.1 Rio Declaration on Environment and Development (1992)

Adopted at the 1992 Earth Summit, the Rio Declaration stresses sustainability and the precautionary principle. Principle 15 states that a lack of full scientific certainty should not delay measures to prevent environmental harm. Ex-post facto clearances contradict this principle, as they permit activities without prior assessment.

7.3.2 Paris Agreement (2015)

The Paris Agreement under the UNFCCC commits nations to reduce greenhouse gas emissions and limit global warming. While it does not explicitly address ex-post facto clearances, its requirement for pre-approved national environmental strategies implies full compliance from project inception. Granting clearances retroactively for carbon-intensive projects risks breaching these commitments.²⁴

23 "Peco, B., Suárez, F., Oñate, J. J., Malo, J. E., & Aguirre, J. (2017). Spain: first tentative steps towards an agri-environmental programme. In *Agri-environmental policy in the European Union* (pp. 145-168). Routledge."

24 C Böhlinger and TF Rutherford, "US withdrawal from the Paris Agreement: Economic implications of carbon-tariff conflict", 89 HPCA 89, 1-39 (2017).

7.3.3 Convention on Biological Diversity (1992)

The Convention on Biological Diversity (CBD) seeks to protect ecosystems, ensure sustainable use, and promote fair sharing of genetic resources. Ex-post facto approvals for activities like deforestation, mining, or large-scale agriculture threaten biodiversity. The CBD thus requires integrating biodiversity protection into national policies and conducting assessments before project approval.²⁵

7.4. Comparative Analysis of Ex-post Facto Clearances: Lessons Learned

When comparing the use of ex-post facto clearances across different regions, several patterns emerge:

1. Developing Countries

Ex-post facto clearances are common in developing nations due to economic pressures, especially in mining, energy, and agriculture. The key lesson is the need to strengthen institutional capacity and regulatory frameworks to ensure environmental clearances are obtained before projects commence.

2. Developed Countries

In developed nations, retroactive clearances are rare because of strong regulations and judicial oversight. Nonetheless, political and economic pressures can occasionally relax standards. The lesson is that even robust systems require vigilance to prevent erosion of environmental protections.

3. International Influence

Treaties like the Paris Agreement and the Rio Declaration guide national policies and discourage retroactive approvals. However, enforcing these agreements domestically, particularly in developing countries, remains a challenge.

8. Policy and Governance Implications

Ex-post facto environmental clearances pose serious challenges to policymakers, undermining environmental governance and creating loopholes that benefit project developers. Addressing these issues requires

25 UN, I. (1992). Convention on biological diversity. Treaty Collection.

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both legal and governance reforms aimed at strengthening accountability and transparency.

8.1. Legal Reforms Needed for Regulating Ex-post Facto Clearances

Legal reforms are needed to eliminate gaps that permit retroactive approvals by enforcing strict pre-clearance requirements and clear penalties for violations. clear penalties for non-compliance.²⁶

8.1.1 Strengthening Pre-clearance Procedures

Governments should enhance the efficiency and transparency of clearance processes through reduced bureaucratic delays, digitalization, and mandatory public participation. A streamlined system will discourage developers from starting projects without approval.

8.1.2 Penalties for Non-compliance

Stronger sanctions such as higher fines, suspension, or license revocation—should apply to projects that bypass clearance. Laws must clearly state that any project begun without approval faces immediate penalties or shutdown.

8.1.3 Judicial Oversight

The judiciary plays a vital role in enforcing environmental laws and reviewing the legality of ex-post facto clearances. Strengthening judicial capacity and expertise in environmental matters will ensure fair and effective oversight.

8.2 Governance Reforms: Enhancing Institutional Capacity

Weak institutional capacity often allows projects to proceed without clearance. Strengthening environmental authorities is essential for effective monitoring and enforcement.

8.2.1 Capacity Building for Environmental Agencies

Agencies must have adequate staff, funding, and technical training. Improved data systems and inter-agency coordination can enhance environmental governance and regulatory efficiency.

26 “Azanda, I. (2003). From Ex Ante to Ex Post Enforcement of Article 81: Efficiency, Legal Certainty and Community Enlargement. *Eur. JL Reform*, 5, 173.”

8.2.2 Monitoring and Compliance Mechanisms

Investments in technology such as satellite imaging, GIS, and remote sensing—can improve real-time monitoring and help detect violations early, reducing reliance on ex-post facto approvals.

8.3 Role of Civil Society and Public Participation

Active public involvement and strong civil society engagement are key to transparent and accountable environmental governance.

8.3.1 Promoting Public Consultations

Public consultations before project approvals increase transparency and allow affected communities to voice concerns. Strengthened legal provisions for participation can prevent retroactive approvals.

8.3.2 Supporting Legal Challenges

Civil society organisations should be empowered to hold governments and corporations accountable. Legal aid for affected communities can ensure access to justice and support challenges against unlawful ex-post facto clearances.

9. Conclusion

Ex-post facto environmental clearances remain highly controversial for their impact on sustainability, legality, and equity. Though often justified by economic or administrative reasons, their long-term environmental and social costs outweigh short-term gains.

Such clearances weaken preventive environmental law, breach the precautionary principle, and erode public trust. Globally, they have caused degradation, social conflict, and legal disputes, highlighting the urgent need for stronger regulation.

Governments must ensure projects receive prior assessment and approval, supported by legal reform, judicial oversight, and public participation. International frameworks should also guide national policies toward sustainability and justice.

In conclusion, ex-post facto clearances are neither sustainable nor lawful solutions. Future environmental governance must prioritize prevention, transparency, and accountability to protect future generations.