

## Original Article

### Over -Tourism in India: Legal Responses and the Role of the Indian Judiciary

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#### Abstract

*Over-tourism — the phenomenon where visitor numbers exceed a destination's social, ecological and infrastructural carrying capacity — is an increasing challenge for many Indian destinations (hill stations, coasts, heritage sites and pilgrimage centres). The problem produces environmental degradation, damage to cultural heritage, loss of resident quality of life and stresses on public services. India's statutory framework for environment, heritage and land-use control provides tools to manage tourism impacts, but regulatory fragmentation and implementation gaps persist. The judiciary — from the Supreme Court to the National Green Tribunal (NGT) and High Courts — has become an important corrective institution: enforcing environmental safeguards, applying public trust principles, and ordering remedial measures and expert studies (for example in relation to the Taj Mahal and congested Himalayan hill stations). This paper analyses causes and impacts of over-tourism in India, examines relevant laws and case-law, critiques judicial and administrative responses, and offers recommendations for an integrated legal-policy approach centered on sustainability, participatory governance and adaptive management.*

**Keywords:** Over-tourism, India, judiciary, Taj Mahal, carrying capacity, public trust doctrine, environmental law, short-term rentals, National Green Tribunal.

#### Introduction

Tourism is a major driver of regional economies in India — creating employment, stimulating allied industries, and supporting cultural exchange. Yet rapid, poorly planned tourism growth has produced severe local problems: traffic congestion, housing displacement, pollution, erosion of heritage fabric and frequent resource shortages (water, waste management). These manifestations of over-tourism are particularly visible at world-heritage and cultural sites such as the Taj Mahal, coastal strips in Goa, Himalayan hill stations (Manali, Kasol, Sangla) and pilgrimage towns (Varanasi, Rishikesh). Because tourism governance in India spans municipal, state and central competencies and involves environmental, heritage and planning laws, legal responses are often fragmented. As a result, courts have been called upon to fill regulatory gaps and to enforce rights and norms meant to protect both people and place.

#### What is over-tourism?

Over-tourism occurs when tourist visitation (in total, seasonally or spatially concentrated) exceeds the destination's capacity to absorb visitors without significant loss to environmental quality, resident life, or the authenticity of cultural resources. The term emphasises thresholds — ecological, infrastructural and social — and highlights that problems arise not solely from absolute numbers but from concentration, seasonality and governance failure.

#### Principal drivers in India

Several interrelated forces amplify over-tourism in India:

1. Rising domestic travel and low-cost connectivity. Expanding low-cost aviation, improved road links and rising disposable income have multiplied domestic tourist flows.



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2. Digital platforms and social media. Online short-term rental platforms, booking apps and viral social media content rapidly focus visitor attention on previously low-density sites.
3. Seasonal and spatial concentration. Pilgrimage timings, festival peaks and the seasonality of hill stations concentrate visitors into short windows, multiplying stress.
4. Inadequate planning and weak enforcement. Fragmented planning across municipal, state and central agencies leaves enforcement gaps, permitting unplanned construction and illegal commercialisation.
5. Short-term rentals and housing conversion. The conversion of long-term housing into vacation rentals reduces local housing supply and alters neighbourhood dynamics. Many Indian cities currently lack unified regulatory frameworks for these rentals, producing externalities for residents.

## **The Problem: Causes and Local Impacts**

Over-tourism in India stems from multiple interacting factors: growing domestic travel fueled by rising incomes and low-cost aviation, the popularity of social media and digital booking platforms, concentration at iconic attractions, and the rapid growth of short-term rental platforms that shift housing supply toward transient visitors. These drivers produce concentrated seasonal peaks that stress fragile ecosystems and historic fabric. For example, the Taj Mahal routinely receives tens of thousands of visitors on busy days, placing pressure on both the monument's environs and local services. Monitoring and visitor-management around such sites remain on-going administrative challenges.

Environmental and social impacts are well documented: accelerated erosion and waste accumulation in sensitive coastal or mountain zones; water shortages and septic stress in hill towns; commercialization and loss of intangible heritage in historic quarters; and resident displacement and rent inflation in neighbourhoods heavily converted into visitor accommodation. These localized harms eventually undermine the long-term attractiveness and sustainability of tourism itself.

## **Impacts: environmental, socio-cultural and economic**

The concrete effects are pervasive:

**Environmental:** soil erosion on mountain trails, waste accumulation on beaches and in historic precincts, pollution and water stress in fragile hill towns.

**Heritage:** structural and aesthetic damage to monuments, commodification of living heritage and overuse of protected precincts (the Taj Mahal's environs being emblematic).

**Social:** deterioration in resident quality of life, displacement due to rising rents and the loss of community spaces to tourist commerce.

**Economic:** short-term gains but longer-term risk to livelihoods as the resource base degrades and destination attractiveness falls.

The cumulative result is a classic "tragedy of the commons" exacerbated by market incentives, political pressures to maximize tourist receipts and insufficient legal guardrails.

## **The Indian Legal Framework: Tools and Gaps**

India possesses a patchwork of statutory instruments relevant to managing over-tourism:

Environmental laws and regulatory tools (Environment Protection Act; Environmental Impact Assessment (EIA) requirements; the National Green Tribunal for speedy environmental adjudication) provide mechanisms to stop or condition projects that harm ecosystems. The NGT and courts have used these powers to restrain unregulated construction and to mandate environmental mitigation. Heritage protection statutes and administrative regimes (Archaeological Survey of India supervision under the Ancient Monuments and Archaeological Sites and Remains Act and related rules) enable tighter controls in protected zones around monuments, including restrictions on construction, advertising and vehicular movement. Judicial monitoring of the Taj Mahal's environmental context (the "Taj Trapezium" litigation lineage) shows how heritage law interacts with environment law in practice. Forest, wildlife and coastal regulation laws (Forest Conservation Act, Wildlife Protection Act, Coastal Regulation Zone rules) restrict commercial exploitation in ecologically sensitive areas and have been invoked to curb tourist infrastructure in protected or fragile ecosystems. Local municipal and planning laws govern land use, licensing, waste management and by-laws (including limits on street vending and market activity near heritage precincts), but enforcement capacity varies widely across states and municipalities. Regulation of short-term rentals (homestays/B&Bs) remains nascent and uneven. While some states and cities have moved to require registration and safety compliance for homestays, enforcement is inconsistent and many platform listings operate without formal permits — contributing to housing market pressures and neighbourhood conflict. Recent local enforcement actions (e.g., crackdowns on unregistered B&Bs in Noida) reflect this regulatory gap. Together, these instruments are capable in principle of managing tourism impacts, but institutional fragmentation, poor data on carrying capacity, short political time horizons and economic incentives to maximize visitor numbers often frustrate coherent implementation.

## **The Judiciary's Role: Enforcement, Remedy and Limits**

Courts and tribunals have played an active role in contesting and containing over-tourism's harms. Their interventions reveal both the potential and limits of judicial action.

## Doctrinal tools used by Indian courts

Indian courts routinely draw upon environmental jurisprudence (precautionary principle, polluter-pays, sustainable development) and constitutional mandates (Article 21 — right to life includes a healthy environment). The public trust doctrine — although not codified — has been applied in spirit to protect commons (coastlines, rivers, public monuments) from privatization and commercial conversion that would exclude public access. In the Indian context, the judiciary acts across several complementary functions when confronted with over-tourism-related disputes:

### 1 Enforcing environmental and heritage safeguards

Courts have repeatedly required that administrative approvals be subject to rigorous environmental appraisal. Where EIA, clearances or statutory protections were bypassed, judicial review has produced stay orders, cancellations or conditional permits subject to mitigation. The long judicial engagement with the Taj Mahal's pollution and surrounding development—originating from environmental PILs—illustrates this corrective role.

### 2 Invoking public trust and constitutional rights

Indian courts have applied principles akin to the public trust doctrine (treating certain natural and cultural resources as held for public benefit) and protected rights under Article 21 (right to life and a healthy environment). Through public interest litigation, courts have ordered restoration, imposed restrictions on private or commercial use of public spaces, and directed compensatory measures where residents' living conditions are impaired by tourism pressures.

### 3 Directing management studies and expert intervention

Recognizing their institutional limitations in technical policymaking, courts have often appointed expert committees to study carrying capacity, visitor management and cumulative impacts — and then directed governments to act on those recommendations. In 2023–24 the Supreme Court moved to set up expert panels to examine the carrying capacity of overcrowded Himalayan hill stations, signalling judicial willingness to catalyse evidence-based policy in tourism management.

### 4 Limits and institutional concerns

Judicial interventions, though often necessary to correct administrative failure, have limits. Courts lack the on-going administrative apparatus to implement complex dynamic management (time-slot booking systems, differential pricing, real-time caps) and must avoid overreach into legislative and executive policy-making. Remedies that are not matched by administrative capacity or stakeholder buy-in risk non-compliance. The judiciary therefore performs best when it enforces procedural standards, mandates transparent data-driven planning, and orders time-bound remedial action while deferring detailed policy design to accountable bodies.

## Illustrative Indian Responses and Recent Developments

The Taj Mahal and the Taj Trapezium legacy

The Taj Mahal has been a recurrent subject of litigation over pollution, land use and preservation of its visual and structural integrity. Courts and expert bodies have imposed restrictions (including zoning and tree-felling controls within defined zones) to limit activities that could harm the monument and to manage visitor impacts. In recent years the Supreme Court has reiterated controls around the Taj, including restrictions on tree felling within a specified distance without judicial permission.

Himalayan hill stations

Himachal Pradesh, Uttarakhand and other Himalayan states have faced intense pressure from unplanned hotel construction, commercial developments and massive seasonal inflows. Courts and tribunals have intervened to restrict illegal constructions, direct restoration of fragile hillsides and to order expert studies to determine carrying capacity. Media and tribunal reporting indicate sustained judicial scrutiny of these regions.

Short-term rentals and urban pressures

Urban over-tourism manifests increasingly through the conversion of residential housing into short-term rentals. Local administrations have begun regulatory crackdowns (registration mandates, safety compliance), but absence of uniform national rules and weak municipal enforcement leave gaps that courts may be asked to address in nuisance, planning or tenancy disputes. Recent municipal actions against unregistered B&Bs illustrate shifting regulatory attention.

Policy and Legal Recommendations

An effective response to over-tourism in India requires legal clarity, better data, institutional capacity and participatory governance. Key recommendations:

**1. Statutory recognition of tourism carrying capacity** — central and state laws should mandate carrying-capacity assessments (ecological, social and infrastructural) for high-use sites and for large tourism projects; cumulative impact assessments should be required where multiple projects or seasonal peaks strain a locality.

**2. Strengthen visitor-management tools** — empower local authorities legally to implement zoning, time-slot bookings, dynamic pricing or peak surcharges, entry caps and pre-paid permits for sensitive sites. Revenues should be ring-fenced for conservation and community benefits.

**3. Uniform short-term rental regulatory framework** — model state rules (registration, safety, taxation and limits in residential buildings) to curb housing displacement and protect residents; platforms should be required to share anonymized occupancy data with local authorities for planning.

**4. Institutionalize community participation** — statutory provisions for stakeholder councils (residents, local businesses, indigenous groups, conservation experts) to participate in tourism planning and to grant or withhold approvals for local projects (akin to FPIC principles in sensitive areas).

**5. Judicial best practice** — courts should continue to enforce procedural compliance (EIA, public consultation), appoint independent expert panels for technical matters and issue time-bound, implementable directives rather than open-ended policy prescriptions.

**6. Data, monitoring and adaptive management** — invest in systematic visitor monitoring (sensors, reservation systems, occupancy reporting), create open dashboards, and mandate periodic plan revisions based on monitoring outcomes.

## Critical Assessment: What Works, What Fails

Where law has succeeded Monument protection through combined legal tools. The Taj/TTZ examples show that integrated use of environmental, heritage and judicial tools can yield protective outcomes. Judicial catalysis of evidence-based policy. Courts have been effective in forcing governments to study carrying capacity and prepare plans. Local enforcement against unregistered rentals. Recent administrative actions in Noida and state homestay policies demonstrate active attempts to reassert municipal control.

## Persistent failures and challenges

Fragmented governance. Tourism cuts across central, state and municipal domains — producing coordination failures. Enforcement gaps. Even where law is strong on paper, implementation is patchy because of limited local capacity and political incentives to maximize short-term tourist receipts.

## Conclusion

Over-tourism in India is a multifaceted governance challenge that tests the interplay between development ambitions and sustainable stewardship of environmental and cultural assets. India's legal framework contains many of the necessary instruments — environmental assessment laws, heritage statutes, municipal powers and judicial remedies — but fragmentation, implementation weakness and inadequate local capacity undermine effectiveness. The Indian judiciary has been an essential corrective, enforcing environmental safeguards, mandating studies and protecting public trust resources; yet courts cannot substitute for comprehensive, participatory policy design and strong local governance. Sustainable tourism in India will require statutory reform to embed carrying-capacity thinking, better regulation of digital platforms and rentals, empowered local institutions with community representation, robust data systems, and a judicial stance that emphasizes enforceable, time-bound remedies and expert-led policy formation. Only such an integrated approach will allow India's places to remain both accessible to visitors and sustainable for residents and ecosystems.

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