

# RIGHT TO ENVIRONMENT

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**ABSTRACT:** *Among the rest, the new rights in the domain of international as well as national human rights law and international and national environmental legislation is environmental rights. As it enables an individual to develop biologically, mentally and scientifically healthy, a healthful atmosphere is essential to human life. It is also essential that, as aspect of the fundamental right, a safe environment achieves legal backing. International law broadly recognizes the value of the setting for the compliance of human rights. What is rarely well-accepted is the suggestion that we, as humans, have environmental rights above what is required to meet our fundamental human needs. It is indeed necessary for a government to integrate into its legal structure an effective and complex legal principles and constitutional structure. This paper discusses all the aspects concerning environment law.*

**KEYWORDS:** *Environment, Environmental Health, Right to Health, Right to Environment.*

## INTRODUCTION

It's fundamental to the freedom to have clean environment. It depends on a range of other human rights, including legal, political, economic, social, and cultural rights, and is a prerequisite for them. For example, for the peaceful appreciation of the rights to food, health, and a dignified life, protection, conservation, and environmental preservation are important. The right to a secure environment is not really a right reserved for individuals. But, collectively, these societies, reflecting on the climate for their life and even on continuance, apply equally to certain communities for coming generations and native communities.

Out of all existing one in the world, specific environmental protection provisions are mentioned in the Indian Constitution. The Directive Principle of State Policy and the essential obligations section clearly regulate domestic commitment to the defense and development of the environment.<sup>1</sup> The Indian judiciary, in expressing these steps, has generated a theological network to preserve human rights and to advance the problems concerning environmental justice, and to reassure citizens with their constitutional duty to protect the environment by ensuring that fundamental rights and fundamental obligations are secured, as set out in the Constitution of the Republic of India.<sup>2</sup>

As we know, the founding principle of the Preamble of the Republic India is based on socio-economic justice approach. Fundamental rights such as the right to equality, the right to freedom, the right against exploitation, the right to freedom of worship, cultural and educational rights and the right to constitutional remedies are discussed in Section 3 of the Indian Constitution. In order

<sup>1</sup> Aayush Akar and Hitesh Gangwani, *Article 21: Right to Healthy Environment - An Interpretation*

<sup>2</sup> *Ibid.*

to promote environmental justice, judiciary of India has now expanded the reach of these Fundamental Rights.<sup>3</sup>

The issues of the atmosphere are no prolonged fully addressed from the point of view of the emissions impacting the developed world, and instead treated as a global hazard-threatening the planet and thus the entire population, still as future generations.

## DISCUSSION

### *Right to Environment*

Our constitution of India is regarded as the father of all other Acts that are governing the citizens staying in the country. Constitution includes various rights like right to freedom, right to equality, etc. Article 21 reads that no individual can be deprived from his life along with personal liberty. It can only be done by way of the provision as laid down through various legislations. Constitution of India has tagged the right to live life with dignity and right to livelihood as constitutional right in India. Right to have clean environment has also been included in the sphere of Article 21 and also its scope has been widened.

In the instance of the dumping of industrial waste into a river in *Subhash Kumar v. State of Bihar*, the Supreme Court noted in this case that Article 21 requires the right to life and the availability of contamination-free air and water for the complete life and happiness. If something threatens the standard of living, a person can file a lawsuit under Art. 32 to remove contamination of water or air that may be result as life-threatening.

A new definition was set up by the Supreme Court in the case of *M.C Mehta v. Union of India*,<sup>4</sup> in the event of vehicle pollution in Delhi, whereby it was established that it is the government's responsibility that air must not impugn due to vehicle emissions, the Supreme Court instructed that large, moderate or light-goods automobiles that do not comply with Euro II standards or do not use low sulphur, low benzene fuel and travel on Inter-State pathways must not be allowed to move across Delhi.

In this case, the Supreme Court developed the new principle that the responsibility of the companies for the damage resulting from the handling or use of hazardous materials from their factories is 'total and cannot be delegated,' the companies would be kept responsible irrespective of whether or not they have taken due care.

### *National Green Tribunal*

Under Article 21 of the Indian Constitution, the National Green Tribunal was constituted in 2010, which ensures Indian people the right to enjoy healthy environment. India is the third nation to have such a scheme. The tribunal is a special quasi-judicial fast-track organization containing judges and environmental experts that will ensure that cases are disposed of quickly.

<sup>3</sup> Shruti Jain, *Concept of Social Justice under Indian Constitution* (Lawyersclubindia)

<sup>4</sup> *M.C. Mehta v. Union of India* (1991) 2 SCC 353

As a consequence of the requirement repeatedly articulated by the Constitutional Courts to provide a specialized judicial authority to cope with complicated environmental issues, the Environmental Court of India is in need of a specialized legal authority. By the Supreme Court of India, which in its judgement outlined the challenges faced by judges in litigating on the environment, the force for the establishment of environmental courts was applied.

All civil proceedings pertaining to environmental issues and issues related to the enforcement of the laws specified in Schedule I of the National Green Tribunal Act have the jurisdiction of the National Green Tribunal to hear them. The Acts relating to environmental laws grants the Tribunal authority over all civil proceedings where a serious environmental issue (including the compliance of any legal right relating to the environment) is concerned and the issue arises from the application of the provisions of Schedule I of the Act. This further allows for a span of six months during which the Tribunal will receive petitions for the proceedings of a dispute pursuant to this provision. It also encourages the Tribunal to enable such proceedings to be lodged over a further duration of no more than sixty days if it is convinced that the petition has been stopped from being lodged within the said duration on a fair basis.

#### *Constitutional Right of Clean Environment*

The primary fundamental right in the domain of basic human rights is that the right to life guaranteed through Article 21 of the Indian Constitution, which states in the article that it could never be revoked, is compatible with the process defined by statute. We appear to have a terribly unique provision in the Constitution of India, entitled the right to constitutional redress, to protect this right and alternative fundamental rights.<sup>5</sup>

The Indian Charter contains a segment on the Directive's Principles of State Policies, which emphasizes in the reinforcement of the preamble that the purpose of Indian politics is not always laissez faire, but state, wherever the nation has a beneficial responsibility to endorse the social and financial fairness and integrity of the individual to its citizens. The State should, in compliance with Article 48A of the Directive Principles, aim to preserve and enhance the environment and to preserve ecosystems and life. Article 51A(g) of Section IV-A of the Basic Duties states that it is the responsibility of individual Indian nationals to preserve and develop the natural environment.

Life indicates that, nevertheless, to evaluate with human dignity if one does not breathe clean air, have healthy drinking or food, all legal, political, social or economic round human rights contains no meaning. The Supreme Court intensified its instruments and strategies in the mid-80s and 90s because of the egregious state of environmental contamination in our nation by holding aside all technical rules of practise and liberalising the 'locus standi' law in order to relieve the miseries of environmental contamination victims far below umbrella of Public Interest Litigation (PIL).

In the Maneka Gandhi case,<sup>6</sup> it was established that the inspection of Articles 14 and 19 of the Constitution must be upheld by a law influencing the life and liberty of an individual. That is, if a

<sup>5</sup> Nimushakavi, —Constitutional policy and environmental jurisprudence in India, Macmillan India Ltd, 2006

<sup>6</sup> Dr. Suresh Mane, —*Constitutional Provision For Environment Protection*

statute is passed by the government that affects and limits a person's life and liberty, then it is necessary that the process developed by it to restrict a person's freedom must be lawful, fair and just.

## CONCLUSION

Both the legal and juristic leaders of India are aware that the notion of environmental conservation was not in the thoughts of the constitution's founding members. When initially drawn up, there are no single clauses of the same in the constitution. India has faced the challenge of environmental pollution for generations, but the need of environmental protection wasn't really felt by the makers of constitution during those times due to little industrialization and not the factor of globalization, but the circumstance has modified so far with the emergence of modernization so that pollution in India has turned so severe.<sup>7</sup>

It is not necessarily controversial to express a right to a fair or secure atmosphere within the framework of economic, social, and cultural rights. Clarifying the presence of such a right could imply providing greater importance to the universal public interest in preserving the ecosystem and supporting sustainable growth, but this could be done without damaging the structure of human rights law in a way that thoroughly acknowledges the broad margin of consideration that governments are supposed to exercise while balancing the economic and environmental balance.<sup>8</sup>

Accordingly, a resolution or convention on human rights and the environment generates significance if it puts together current legal, political, economic and social rights in one consistent framework, and at the same point form a concept of the idea concerning environment as a collective good in the framework of economic and social rights. In other words, it will acknowledge the environment at global level, as an interest of the public that governments has a duty to defend even though they are only increasingly enforcing that duty and to the degree that resources permit.

<sup>7</sup> Arjun Jain, '25 Years of Reforms: Liberalisation Is Significant, but We Still Have an Exit Problem, Says Arun Jaitley - The Economic Times'

<sup>8</sup> <http://www.legalserviceindia.com/legal/article-929-human-rights-and-environment.html>