

**INTERNATIONAL JOURNAL OF LAW**  
**MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

---

**Volume 4 | Issue 3**

---

**2021**

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

---

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Constitutional Mandate for Environment Protection in India

---

SUMANTH H M<sup>1</sup>

## ABSTRACT

*This article analyzes in detail the various provisions of the Constitution that deal with environmental protection. This article examines in detail how Article 21 of the Indian Constitution provides a person with an inherent guarantee of the right to live in human dignity and how it includes the right to an environmentally friendly environment. Article 21 of the Constitution, which deals with the right to life and personal freedom, was initially not very helpful as it was given a very restricted and narrow meaning. After several incidents, Article 21 was interpreted broadly under Article 21. Strictly speaking, no constitution deals with an issue such as environmental protection. Because basically every constitution only contains the legal rules with regard to the power structure, the division and the manner of exercise. Furthermore, the Constitution of India is already a long document, and brevity is the character of an ideal constitution. Principles of constitutional law, as well as throughout the constitution.*

**Keywords:** *Constitution, Environment, Right.*

## I. INTRODUCTION

Environment and existence are interrelated. The life of existence on this planet relies upon at the harmonious courting among surroundings and surroundings. Especially homo-sapiens have very near interplay with nature. Human beings are on the centre of concerns for sustainable improvement and that they're entitled to a wholesome and effective existence in concord with nature.

In the lengthy evolution of the human race in this planet, a degree has been reached when, thru the speedy acceleration of technology and technology, we've received the energy to convert our surroundings in infinite approaches and on an exceptional scale. Humanity's potential to convert its surroundings, if used accurately and with recognize to the approaches of nature, can deliver to all groups the possibility to beautify the high-satisfactory of existence. Wrongly or heedlessly implemented, or implemented in iniquitous approaches, the equal energy can do

---

<sup>1</sup> Author is an Asst Professor of Law at Government Law College, Ramanagara, India.

incalculable damage to human beings and their surroundings.<sup>2</sup> We see round us developing proof of human-induced damage in lots of areas of the earth the damaging degrees of pollutants in water, air, earth and residing beings; destruction and depletion of irreplaceable existence bureaucracy and herbal assets; foremost and unwanted disturbances within side the earths weather and protecting layers; gross deficiencies, dangerous to physical, intellectual and social health, within side the residing and operating environments of humans, particularly in towns and business complexes. It is crucial to understand our dependence at the earths herbal assets. Natural assets which include air, water, and land are essential to all existence bureaucracy: they're, plenty extra than cash and monetary infrastructure, the bottom of our survival. To massive numbers of humanity, particularly groups which have been termed.

## **II. LIFE AND ENVIRONMENT**

Life, livelihoods, culture and society, are fundamental aspects of human existence - hence their maintenance and enhancement is a fundamental human right. Destruction of environment and thereby of the natural resources, is therefore, a violation or leads to the violation of human rights - directly by undermining the above aspects of human existence, or indirectly by leading to other violations of human rights, for example through social disruption, conflicts and even war. Conversely, human rights violations of other kinds can lead to environmental destruction, for instance, displacement by social strife/war can cause environmental damage in areas of relocation; or breakdown in sustainable common property management. The manifestations of such violations present themselves through a loss of access to clean air and water; loss of access to productive land; loss of energy sources and biomass; loss of food and health security; social and economic marginalization; and physical displacement. Several hundred million people have been increasingly forced to live far below the minimum levels required for a decent human existence, deprived of adequate water, food, clothing, shelter and education, health and sanitation. Development, which was supposed to alleviate such problems, has often increased them, especially by allowing the powerful sections of society to appropriate the natural resources of poor and resource-dependent people.<sup>3</sup>

## **III. ENVIRONMENT AND INDIAN CONSTITUTION**

The backbone of these is relevant provisions in India's Constitution. The Constitution of India, 1950, did not include any specific provision relating to environment protection or nature

---

<sup>2</sup> Mohanty, S.K., *Environment and Pollution Laws*, Universals Legal Manual,(2010).

<sup>3</sup> Ashish Kothari, Anuprita Patel, *Environment and Human Rights An Introductory Essay and Essential Readings* NATIONAL HUMAN RIGHTS COMMISSION Faridkot House, Copernicus Marg, New Delhi 110 001, India

conservation. Presumably, the acute environmental problems being faced now in the country were not visualized by the framers of the Constitution. However, the past five decades have witnessed two major developments in this connection. The first development took place when the Constitution (Forty-second Amendment) Act, 1976, was adopted in the mid-seventies. Specific provisions relating to certain aspects of the environment, more especially for the protection of the forests and wildlife in the country, were incorporated in Part IV- Directive Principles of the State Policy - and List III - The Concurrent List - of the Seventh Schedule of the Constitution. As a result, the Constitution has now the following provisions specifically relating to environment protection and nature conservation: Part IV: Directive Principles of State Policy (Article 48A): Protection and improvement and safeguarding of forests and wild life: The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. Part IV-A: Fundamental Duties (Article 51-A): It shall be the duty of every citizen of India - (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures. Seventh Schedule (Article 246) List III - Concurrent List Item no. 17 Prevention of cruelty to animals, Item no. 17A Forests, Item no. 17B Protection of wild animals and birds.<sup>4</sup>

Environmental degradation could ultimately endanger the lives of present and future generations. Hence, the right to life in India has been used in a variety of ways. These include the right to survive as a species, the quality of life, the right to live in dignity, the right to a good environment and the right to livelihood. In India, these rights were implicitly recognized as constitutional rights. The environment has been incorporated directly or indirectly into the judgments of the Court of Justice, so it is evident that Article 21 is interpreted in a multidimensional way. Any arbitrary, capricious and imaginative act by a state that deprives life or personal freedom would violate Article 21 of the Indian Constitution.

#### **IV. JUDICIAL INTERPRETATION TO RIGHT TO LIFE AND ENVIRONMENT**

The right to healthy environment has been incorporated, directly or indirectly, into the judgments of the court. Link between environmental quality and the right to life was first addressed by a constitutional bench of the Supreme Court in the Charan Lal Sahu Case<sup>5</sup> In 1991, the Supreme Court interpreted the right to life guaranteed by article 21 of the Constitution to include the right to a wholesome environment.

---

<sup>4</sup> See Shyam Divan and Armin Rosencrantz, *Environmental Law and Policy in India: Cases, Materials and Statutes*.

<sup>5</sup> *Subhash Kumar v. State of Bihar* (AIR 1991 SC 420/ 1991 (1) SCC 598).

In *Subash Kumar*,<sup>6</sup> the Court observed that 'right to life guaranteed by article 21 includes the right of enjoyment of pollution-free water and air for full enjoyment of life.' Through this case, the court recognized the right to a wholesome environment as part of the fundamental right to life. This case also indicated that the municipalities and a large number of other concerned governmental agencies could no longer rest content with unimplemented measures for the abatement and prevention of pollution. They may be compelled to take positive measures to improve the environment. This was reaffirmed in *M.C. Mehta v. Union of India*.<sup>7</sup> The case concerned the deterioration of the world environment and the duty of the state government, under article 21, to ensure a better quality of environment. The Supreme Court has held that life, public health and ecology have priority over unemployment and loss of revenue. The Supreme Court ordered the Central government to show the steps they have taken to achieve this goal through national policy and to restore the quality of environment. In another case,<sup>8</sup> the Supreme Court dealt with the problem of air pollution caused by motor vehicle operating in Delhi.

It was a public interest petition and the court made several directions towards the Ministry of Environment and Forests. Decisions such as this indicate a new trend of the Supreme Court to fashion novel remedies to reach a given result, although these new remedies seem to encroach on the domain of the executive.<sup>9</sup>

The terrible and dis privileged classes of people and the opposite non-human species sadly need to endure the main brunt of those environmental problems. Ironically, the disaster is rooted deep in social, financial and political structures, extra mainly in members of the family of inequity of 3 sorts Intra-generational inequity, Intra-generational inequity, and Inter-species inequity. Inequities within side the members of the family between humans and nations have additionally allowed the imposition of unsustainable and negative fashions of improvement. The manner of improvement has been characterized with the aid of using the big enlargement of power and useful resource-in depth commercial and concrete activity, and main tasks like huge dams, commercial forestry, and mining and chemical-in depth agriculture. The useful

---

<sup>6</sup> (1998) 9 SCC 589. In *K. Ramakrishnan v. State of Kerala* [AIR 1999 Kerala 385] the court held that smoking in public places causes positive nuisance.

<sup>7</sup> *M.C. Mehta v. Union of India* (1991) AIR SC 813 (Vehicular Pollution Case); (1992) Supp. (2) SCC 85; (1992) Supp. (2) SCC 86; (1992) 3 SCC 25.

<sup>8</sup> Armin Rosencrantz et al, in 'Region/country report: South Asia: India' (1993) Yearbook of International Environmental Law, vol. 4. 415-419.

<sup>9</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180: In the Court's view, 'Deprive a person of his right to livelihood and you shall deprive him of his life.....Any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by article 21.'

resource demand for the financial development of a minority of humans has led to the narrowing of the herbal useful resource base for the survival of the economically terrible and powerless. This has occurred both with the aid of using direct switch of sources into towns and commercial complexes, or with the aid of using the destruction of life-aid structures for rural groups everywhere.

## **V. CONCLUSION**

Such huge interpretations of Article 21 via way of means of the Supreme Court have through the years grow to be the bedrock of environmental jurisprudence, and feature served the reason of safety of Indias surroundings (and to a lesser extent, of livelihoods primarily based totally at the herbal surroundings). Adding to that is a massive quantity of legal guidelines regarding surroundings, enacted over the previous few a long time However, some of agencies have additionally talked about that the Constitution is poor in that it does now no longer explicitly offer for the residents proper to a smooth and secure surroundings. In a current submission to the committee installation to study the Constitution, those agencies have proposed a quantity of amendments to the Constitution, for making sure surroundings safety and nature conservation. These include: Recognition and incorporation of Environmental Rights as separate and impartial Fundamental Rights within side the Constitution of India. These comply with from the above-cited interpretation to the term Right to Life, as given via way of means of the Supreme Court.

In order to better understand these different ecosystems and what they mean for humanity, they must be preserved. As part of the basic responsibilities, assume the responsibility of panchayats and communities to give due consideration to environmental issues and to protect the environment, including the life that sustains natural ecosystems such as forests. , Rivers and lakes, and wildlife in drawing up plans for economic development and social justice. This would also require the inclusion of an article in the eleventh program on the Panchayats to protect the environment and to promote ecological aspects.

\*\*\*\*\*