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# Right to Wholesome Environment

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RITUL NANDA<sup>1</sup> AND RISHABH OJHA<sup>2</sup>

## ABSTRACT

*As we're advancing towards a better and developed future, we are leaving behind the most important thing that started all of this in the first place- "The Environment". Right to a wholesome environment is a very basic right and a very important right. Everything is just meaningless without life, and the environment preserves life. Our reason for choosing this topic was, in our everyday life we come across many problems, and we work on them, but we forget about the air we breathe, and how it is degraded every day as deforestation rates rise, we forget about the sky we see and the ozone hole caused by the CFC's from our refrigerators and air conditioners. It is human tendency to overlook something unless it becomes a blunder. The same is happening with the environment. However, there are steps taken by the Government like the "Swacch Bharat Abhiyaan" or the Mines and Minerals Development and Regulation Act, 1957 and the Environment(Protection) Act, 1986, which made river sand mining illegal. Still, the environment is harmed every day.*

## I. INTRODUCTION

Environment and life are interrelated. The existence of life on earth depends on the harmonious relationship between the ecosystem and the environment. Human beings are entitled to a healthy and productive life in harmony with nature. We can't deny that life has been granted to every living organism in a healthy environment. Without a healthy environment, life on earth cannot be possible. It is important to recognise our dependence on the earth's natural resources. Natural resources such as air, water, and land are fundamental to all life forms. They are much more than money and economic infrastructure and the base of our survival. Natural resources are the things upon which the life of every living organism on earth has been dependent. So it is our duty to protect our natural resources on earth. But the development in lifestyle has resulted in the destruction of the environment in some cases. This has led to some serious violations of Human Rights also. Environmental deterioration could eventually endanger the life of present and future generations. Since the lucrative mindset of several individuals has surpassed their environmental stewardship, the Indian constitution has mandated environmental preservation with the essence of fundamental rights and obligations. A person,

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<sup>1</sup> Author is a student at Sai Nath University, India.

<sup>2</sup> Author is a student at Sai Nath University, India.

who is believed to lead a healthy lifestyle, has not been deprived of any of the fundamental rights and has not been denied healthy means of livelihood. To ensure the same, the Indian constitution is one among the few global constitutions which have separate provisions to address nature conservancy. It is quite clear that the lawmakers have not given any importance to the concept of environmental protection, pollution control and rights relating to a healthy environment while drafting the constitution. But later, when the society demanded it, the same was included by the amendment of 1976(42<sup>nd</sup> amendment). At present, the Indian Constitution has explicit provisions for environmental protection and preservation under the DPSP (Directive Principles of State Policy), Fundamental Rights and Fundamental Duties. It is a well-known fact that Fundamental Rights is the foundation on which the Indian Constitution was framed. The broader judicial interpretations on Part III of the constitution have contributed to the notion of the right to a wholesome environment. Indeed, the former environment union minister Jayanthi Natrajan in the year 2012 has recommended considering the right to a wholesome environment as a Fundamental Right and its protection. The judicial act of identifying the right to a wholesome environment as a fundamental right is the reflection of socio-economic justice promised in the preamble of the Indian constitution.

## **II. ENVIRONMENT AND INDIAN CONSTITUTION**

There is a relationship between the right to a clean environment and the right to life as guaranteed under Article 21 of the Indian Constitution. A healthy lifestyle of a human being is possible only if he/she is living in a healthy environment and the surroundings are clean.

Specific provisions relating to certain aspects of the environment, especially for the protection of the forests and the wildlife in the country, were incorporated in Part IV of the Directive Principles of State Policy and listed three- the concurrent list of the seventh schedule of the constitution. As a result, the constitution has now the following provisions, especially relating to environmental protection and nature conservation.

Part IV: Directive Principles of State Policy (Article 48A) protection and improvement and safeguarding of forests and wildlife. The state shall endeavour to protect and improve the environment and safeguard the forests and wildlife of the country.

Part IVA of Fundamental Duties (Article 51A) says that “it shall be the duty of every citizen of India to protect and improve the natural environment, including forests, lakes, rivers and wildlife and to have compassion for living creatures”.

Seventh Schedule (Article 246) lists III- Concurrent List item no-17 prevention of cruelty to animals, Item no-17A Forests, Item no- 17B Protection of wild animals and birds.

Article 21 and the right to a pollution-free environment says no person shall be deprived of his life or personal liberty except according to procedures established by law. It also provides an In-built guarantee to a person for the right to live with human dignity.

The Supreme Court interpreted the right to life and personal liberty to include the right to a wholesome environment and all other rights. The courts have undertaken to explicate the development of the ideology of environment as being part of the right to life.

The judiciary has attempted to expand the reach and ambit of article 21 rather than limiting their meaning and content by judicial construction.

Right to life extended its scope to include the right to a wholesome environment and the right to sustainable development.

### **III. ARTICLE 21**

The Part III of the Indian constitution has dealt with the fundamental rights granted to the citizens, in which the right to a wholesome environment or any environmental-related right is not explicitly guaranteed. But, following up the precedents decided by the apex court and improved scope of the law has extended the ambit of article 21 to a privilege of a wholesome environment.

In general parlance, Article 21 is one of the fundamental rights guaranteed by the constitution of India. Like any other fundamental right, it is also safeguarded by article 32(Right to Constitutional Remedies). To be specific, it has been stated in Article 21 that “No person shall be deprived of his life or personal liberty, except according to the procedure established by law”. It is the central right in the realm of fundamental rights since it deals with the protection of life, and personal liberty can be noted as the Right to Life.

The purview of the mentioned article is hard to define, as it guarantees citizens with their life; it has much extensive application. For instance, in the case of *Meneka Gandhi V Union of India*, it was held that the term right to life does not merely denote living or existence, but it promises the right to lead a dignified life. Furthermore, in the case of *Unni Krishnan V State of Andhra Pradesh*, Article 21 was held to be the heart of the Indian constitution.

While focusing on the relation between Article 21 and the notion of the wholesome environment, importance has been given to the Dicta of preventing the deprivation of life. The life expectancy of an individual depends on the environmental quality and healthy wellbeing; thus, the right to live in a clean environment is an integral part of the Fundamental Right he has bestowed with.

#### **IV. RIGHT TO A WHOLESOME ENVIRONMENT**

The right to a wholesome environment or the right to a clean and healthy environment is a basic human right.

In the year 2012, then union minister of state for environment and forest Jayanthi Natrajan stated that the right to a wholesome environment is a fundamental right and need to be safeguarded.

Section 2 of the environmental (protection) act, 1986 provides that the basic environmental element includes air, water, land, humans and all other creatures. Besides, the term wholesome environment denotes the healthy and harmless standards of human habitat.

In 1985 the first liberal judicial interpretation of article 21 in relation to establishing the right to a wholesome environment as an integral part of the right to life and personal liberty was observed and upheld by the apex court in the case of rural litigation and entitlement Kendra and ors V State of Uttar Pradesh.

Advance clarity of approaching the right to a wholesome environment as a component of Article 21 was elucidated in the case of Subhash Kumar V State of Bihar. In which, the word “life” given in the stated article was interpreted in a broad perspective, and the court held that it would expand its ambit to include environmental protection with it.

There are considerable numbers of cases where the extended numbers of cases and comprehensive scope of Article 21 has been reaffirmed.

#### **V. CASE LAWS**

##### **(A) Rural litigation and environment Kendra, Dehradun V State of Uttar Pradesh**

In this case, the representatives of the rural litigation and entitlement Kendra, Dehradun wrote to the Supreme Court alleging that illegal limestone mining in the Mussorie/Dehradun region was causing damage to the fragile ecosystem in the area. The court appointed a committee for the purpose of inspecting certain limestone quarries, which suggested the closure of certain categories of stone quarries, having regarded the top adverse impact of mining operation therein.

As large scale pollution was caused by limestone quarries, adversely affecting the safety and health of the people living in the area. Therefore, the court ordered the closure of certain limestone quarries on the ground that there were serious deficiencies regarding safety and hazards in them.

**(B) Subhash Kumar vs the State of Bihar**

The concept of the right to a wholesome environment was also recognised in the case of Subhash Kumar V state of Bihar. In this case, the company in Jamshedpur carried on a mining operation against which the suit was filed. The allegations were that the slurry gets settled in the land affecting the fertility of the land polluting the drinking water, thereby risking the health of people living in surrounding areas. The court held that “The right to life includes the right to enjoy unpolluted air and water”. If anything endangers or impairs the quality of life in derogation of laws, a citizen has a right to recourse to Article 322 of the constitution, and also it says that recourse should be by the person genuinely interested in the protection of the society on behalf of the community.

**(C) Virender Gaur V State of Haryana**

Similarly, in the case of Virender Gaur V State of Haryana, there has been a great discussion about the environment within its ambit of “hygienic atmosphere and ecological balance”. The court observed that a “hygienic environment is an integral part of the right to a healthy life, and it would be impossible to live with human dignity without a humane and healthy environment.

In the case of Ratlam Municipality V Shri Vardhichand, where the problem of pollution was due to private polluters and hazardous town planning, it was held by the Supreme Court that a pollution-free environment is an integral part of the right to life and personal liberty under Article 21 of Indian constitution.

**(D) Sher Singh V State of Himachal Pradesh**

In this case, it was established that the citizens of the nation have a principle right to a wholesome, clean and fair environment.

So, the state has the foremost responsibility to take care of the individuals by protecting and improving the environment. But at the same time, every citizen also has to contribute and help the Government in maintaining the hygienic environment. Here, we have seen so many different taken up by the courts where the court has impliedly said that Article 21 of the Indian constitution, which talks about the right to life and personal liberty, also includes the right to a wholesome environment and for every human being to live a dignified life, it is important to have a clean and healthy environment.

**VI. CONCLUSION AND SUGGESTION**

Environmental degradation works hand in hand with development. With all our research, we came to the conclusion that there is no way we can leave out development for the sake of the

environment. The Government has found ways for balancing them both. Although the ways aren't quite effective till now in the near future, today's hard work will surely shine.

Connecting human rights and the environment is a valuable sourcebook that explores the uncharted territory that lies between environmental and human rights legislation. Human beings can ensure fundamental equality and adequate conditions of life in an environment that permits a life of dignity and well being. There is an urgent need to formulate laws keeping in mind the fact that those who pollute or destroy the natural environment are not just committing a crime against nature but are also violating human rights as well. Indeed, health has seemed to be the subject that bridges gaps between the two fields of environmental protection and human rights.

Throughout this piece of writing, the primary discussion was on the concept of the right to a wholesome environment as a fundamental right, but one should not overlook the ramification of the same. The development of an environment and a clean environment are the two sides of the same coin and have an adverse effect on one another. It is a crucial task for the Government to maintain a balance between these two best-owed rights. It is evident that the industries are the major contributors to pollution.

Meanwhile, the Government cannot merely shut down all the industries that jeopardise the surroundings, which will ultimately hinder the countries development as a whole. Since development and advancement are essential for a developing country like India, in order to achieve a healthy environment, a country cannot sacrifice its growth or vice versa. Thus, the right to development and as well the right to a healthy environment should equally be satisfied since both are important to ensure the wellbeing of the future and present generation.

As mentioned earlier, Article 21 is the sole fundamental right that impliedly assures the basic right to a wholesome environment after following up the multiple intensive interpretations made by the Supreme Court.

But, a detailed framework on the said right is a need of the hour, since there are res integrated questions like;-

- i. Whether or not it is possible to achieve a pollution-free environment?
- ii. How is the Government going to balance the fine line between development and a healthy environment?

And so on...

Besides, the govt should educate the general people on the principle that personal economic

interest should fall behind the interest of public health.

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