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# **RIGHT TO ENVIRONMENT AS A FUNDAMENTAL RIGHT: A CRITICAL AND ANALYTICAL STUDY**

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## **Abstract**

The right to a clean and healthy environment has emerged as a vital component of human rights jurisprudence in India, particularly in the context of increasing environmental degradation and its direct impact on human life. Although the Constitution of India does not expressly recognize the “right to environment” as a fundamental right, the judiciary has adopted a dynamic and progressive approach by interpreting Article 21 in an expansive manner. Through a series of landmark judgments, the Supreme Court has held that the right to life is not limited to mere animal existence but includes the right to live with dignity, which necessarily encompasses access to a clean, safe, and pollution-free environment.

This research paper seeks to critically examine the evolution, scope and enforcement of environmental rights under Article 21. It explores the constitutional framework including Directive Principles of State Policy and Fundamental Duties which collectively support environmental protection. The paper further analyzes significant judicial pronouncements that have transformed environmental protection into an enforceable fundamental right. Special emphasis is placed on the role of Public Interest Litigation as an effective instrument for environmental justice enabling courts to intervene in matters affecting public health and ecological balance.

In addition, the study evaluates the existing environmental legislations in India and the principles developed by the judiciary, such as sustainable development, the precautionary principle and the polluter pays principle. Despite a strong legal framework the implementation of environmental laws continues to face several challenges including rapid industrialization,

urbanization, lack of public awareness, administrative inefficiency and weak enforcement mechanisms.

The paper concludes by suggesting practical reforms aimed at strengthening environmental governance, enhancing public participation and ensuring stricter compliance with environmental norms. It emphasizes that the realization of the right to a clean environment is essential not only for protecting present generations but also for ensuring intergenerational equity and sustainable development in India.

### **Introduction**

The environment forms the very foundation of human existence and is indispensable for the survival and well-being of all living beings. It encompasses air, water, land, flora, fauna, and the complex ecological relationships that sustain life on Earth.

Clean air to breathe, safe water to drink and a balanced ecosystem are not merely desirable conditions but essential prerequisites for a healthy and dignified human life. Any disturbance in environmental equilibrium directly affects human health, livelihood and overall quality of life.

In recent decades, however, the world has witnessed unprecedented environmental degradation due to rapid industrialization, urbanization, technological advancement and population growth. While these developments have contributed significantly to economic progress they have also resulted in serious environmental problems such as air and water pollution, deforestation, climate change, loss of biodiversity and depletion of natural resources. In India, these challenges are particularly severe due to high population density, unplanned urban expansion, and increasing industrial activities. The adverse effects of environmental degradation are visible in the form of rising health issues, declining agricultural productivity, and frequent ecological imbalances.

Against this backdrop, the importance of environmental protection has gained global as well as national recognition. In India, although the framers of the Constitution did not explicitly include environmental rights as fundamental rights at the time of its adoption in 1950, the Constitution was designed to be a living document capable of evolving with changing societal needs. Over time, the Indian judiciary has played a transformative role in interpreting

constitutional provisions to address emerging challenges, including environmental concerns. One of the most significant developments in this regard has been the judicial expansion of Article 21 of the Constitution, which guarantees the right to life and personal liberty. Initially interpreted in a narrow sense, Article 21 has gradually been given a broad and liberal interpretation by the Supreme Court. The Court has held that the “right to life” does not mean mere animal existence but includes the right to live with human dignity, which encompasses a range of rights necessary for a meaningful life. Within this expanded interpretation, the right to a clean and healthy environment has been recognized as an integral part of the right to life.

Through a series of landmark judgments, the Supreme Court has firmly established that environmental protection is not only a legal obligation but also a constitutional duty. The Court has emphasized that a polluted environment adversely affects the quality of life and thus violates the fundamental right guaranteed under Article 21. It has also linked environmental protection with other constitutional provisions, such as Directive Principles of State Policy and Fundamental Duties, thereby creating a comprehensive constitutional framework for environmental governance.

Furthermore, the Indian judiciary has adopted innovative approaches, such as the use of Public Interest Litigation (PIL), to make environmental justice accessible to the public. This has enabled individuals and organizations to approach the courts for the protection of environmental rights, even in cases where they are not directly affected. As a result, environmental protection in India has moved beyond being merely a policy concern to becoming a matter of enforceable fundamental rights.

Thus, the evolution of environmental jurisprudence in India reflects a significant shift from traditional legal approaches to a more proactive and rights-based framework.

Environmental protection is no longer seen as an optional goal but as a constitutional mandate essential for ensuring the dignity, health, and well-being of present and future generations.

### **Research Methodology**

The present research is primarily based on a doctrinal and analytical approach, which is commonly used in legal studies to examine, interpret, and evaluate existing laws, judicial decisions, and legal principles. This method involves a systematic study of legal texts and

authoritative sources in order to understand the development and application of the law relating to the right to a clean environment under Article 21 of the Indian Constitution.

The research relies extensively on secondary sources of data, as the subject matter is theoretical and jurisprudential in nature. The key sources consulted include:

- **The Constitution of India**, particularly Article 21, Directive Principles of State Policy (such as Article 48A), and Fundamental Duties (Article 51A(g)), which collectively provide the constitutional basis for environmental protection.
- **Environmental legislations**, including major statutes such as the Environment Protection Act, 1986; the Water (Prevention and Control of Pollution) Act, 1974; and the Air (Prevention and Control of Pollution) Act, 1981, which establish the regulatory framework for environmental governance in India.
- **Judicial pronouncements**, especially landmark judgments delivered by the Supreme Court and various High Courts, which have played a crucial role in expanding the scope of Article 21 to include environmental rights. These decisions have been critically analyzed to understand the evolution of environmental jurisprudence in India.
- **Books and scholarly articles**, written by eminent jurists and legal scholars, which provide theoretical insights and critical perspectives on constitutional law and environmental protection.
- **Government reports and policy documents**, including publications by environmental agencies and law commissions, which offer practical insights into the functioning and challenges of environmental regulation in India.

The analytical component of the research involves examining how the judiciary has interpreted constitutional provisions in response to environmental challenges. It also evaluates the effectiveness of existing legal mechanisms and identifies gaps in implementation.

This study adopts an interdisciplinary perspective, recognizing that environmental issues are not only legal but also social, economic, and ecological in nature.

Therefore, the research attempts to connect legal principles with real-world environmental concerns, such as pollution, climate change, and sustainable development.

The primary objective of this methodology is to provide a comprehensive understanding of

how the right to a clean environment has evolved as a fundamental right under Article 21, and to assess the role of law in ensuring environmental protection and human well-being.

### **Concept of Right to Clean Environment**

The concept of the right to a clean environment has gained significant importance in modern legal and human rights discourse. It refers to the fundamental right of every individual to live in an environment that is free from pollution, ecological degradation, and health hazards. This right is essential for ensuring not only physical survival but also the overall quality of life and human dignity.

A clean environment encompasses multiple elements that are necessary for sustaining life. These include:

- **Right to clean air:** Air pollution, caused by industrial emissions, vehicular exhaust, and other human activities, poses serious health risks such as respiratory diseases, heart problems, and reduced life expectancy. The right to clean air ensures that individuals are protected from harmful pollutants and can breathe safely.
- **Right to safe and clean drinking water:** Access to uncontaminated water is a basic necessity for life. Water pollution due to industrial waste, sewage discharge, and chemical contamination leads to serious health issues such as waterborne diseases. The right to clean water is therefore an essential component of environmental rights.
- **Right to pollution-free surroundings:** This includes protection from noise pollution, soil contamination, hazardous waste, and other environmental hazards that negatively affect human health and well-being. A healthy environment ensures safe living conditions and promotes mental and physical health.
- **Right to ecological balance:** Ecological balance refers to the harmonious coexistence of humans with nature, including forests, wildlife, and natural resources. The destruction of ecosystems, deforestation, and loss of biodiversity disrupt this balance and threaten long-term sustainability.

The recognition of these elements highlights that environmental rights are not limited to physical aspects but extend to maintaining the overall integrity of the ecosystem. A degraded environment directly impacts human life by causing diseases, reducing productivity, and affecting the availability of natural resources necessary for survival.

From a legal perspective, the right to a clean environment is closely linked with the right to life and personal liberty under Article 21 of the Indian Constitution. The Supreme Court has repeatedly emphasized that the right to life includes the right to live with dignity, and such dignity cannot be achieved in a polluted or unhealthy environment. Therefore, environmental protection becomes an essential precondition for the realization of fundamental rights.

Moreover, the concept of environmental rights is also connected with the idea of sustainable development, which seeks to balance economic growth with environmental protection. It recognizes that natural resources must be used in a manner that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

In addition, environmental rights reflect the principle of intergenerational equity, which emphasizes the responsibility of the present generation to preserve the environment for future generations. This principle highlights the moral and legal obligation to protect natural resources and prevent environmental degradation.

Thus, the right to a clean environment is not merely a theoretical concept but a practical necessity for ensuring human survival, dignity, and sustainable development. It has evolved into a fundamental human right, deeply embedded within the constitutional framework and judicial interpretation in India.

### **Constitutional Framework**

The Constitution of India, though originally silent on environmental rights as a specific fundamental right, provides a strong foundation for environmental protection through a combination of Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties. Over time, these provisions have been harmoniously interpreted by the judiciary to establish a comprehensive constitutional framework for environmental governance.

#### **1. Article 21 – Right to Life and Personal Liberty**

Article 21 of the Constitution guarantees that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Initially, this provision was interpreted narrowly, focusing only on physical survival. However, through judicial activism and progressive interpretation, the Supreme Court has significantly expanded its scope.

The Court has held that the “right to life” includes not merely the right to exist but the right to

live with human dignity. This expanded interpretation includes various rights such as the right to health, clean water, and a pollution-free environment. The judiciary has consistently emphasized that a polluted and degraded environment directly affects human life and health, thereby violating Article 21.

Thus, environmental protection has become an integral part of the fundamental right to life, making it enforceable through courts.

## **2. Article 48A – Directive Principles of State Policy**

Article 48A, introduced by the 42nd Constitutional Amendment Act, 1976. Although Directive Principles are not directly enforceable by courts, they play a crucial role in guiding the State in policy-making and governance. Article 48A reflects the constitutional commitment towards environmental protection and sustainable development.

The judiciary often relies on Directive Principles while interpreting Fundamental Rights. In environmental cases, Article 48A has been used to strengthen the interpretation of Article 21, thereby bridging the gap between non-justiciable principles and enforceable rights.

## **3. Article 51A (g) – Fundamental Duties**

Article 51A (g), also added by the 42nd Amendment.

This provision highlights that environmental protection is not only the responsibility of the State but also a collective duty of citizens. It promotes environmental awareness and encourages individuals to actively participate in conservation efforts.

Although Fundamental Duties are not enforceable by law, courts have increasingly referred to them to promote responsible environmental behavior and to justify legal measures aimed at environmental protection.

## **Combined Constitutional Vision**

Together, Articles 21, 48A, and 51A (g) create a holistic constitutional framework that:

- Recognizes environmental protection as part of the right to life
- Imposes obligations on the State to protect the environment
- Encourages citizens to participate in environmental conservation

This integrated approach reflects the vision of the Constitution as a living document that adapts to modern challenges such as environmental degradation.

## **Judicial Interpretation and Expansion of Article 21**

The Indian judiciary, particularly the Supreme Court, has played a transformative role in developing environmental jurisprudence. Through innovative interpretations and landmark judgments, the Court has expanded Article 21 to include environmental rights, thereby converting environmental protection into an enforceable fundamental right.

Some of the most important cases are discussed below:

### **1. M.C. Mehta v. Union of India**

This is a series of landmark cases dealing with environmental issues such as industrial pollution, Ganga river pollution, and vehicular emissions.

The Supreme Court held that:

- The right to live in a pollution-free environment is a part of Article 21.
- Industries causing environmental harm can be held strictly liable.

The case also led to the development of the absolute liability principle, which holds industries fully responsible for environmental damage without any exceptions.

### **2. Subhash Kumar v. State of Bihar (1991)**

In this case, the petitioner complained about pollution caused by industrial waste. The Supreme Court held that:

- The right to life includes the right to enjoyment of pollution-free water and air.
- Any activity that harms the environment and affects public health violates Article 21.

This case clearly established environmental quality as a fundamental right.

### **3. Rural Litigation and Entitlement Kendra v. State of UP**

This case dealt with illegal limestone quarrying in the Dehradun region.

The Supreme Court ordered the closure of quarries to protect the environment and ecological balance. It emphasized that economic development cannot come at the cost of environmental destruction.

This case marked the beginning of environmental PIL in India.

### **4. Indian Council for Enviro-Legal Action v. Union of India**

In this case, industries were found responsible for causing severe environmental damage.

The Court held that:

- Industries must bear the cost of cleaning up pollution.
- Strict liability applies to hazardous industries.

This judgment reinforced accountability and strengthened environmental enforcement.

### **Impact of Judicial Activism**

Through these landmark decisions, the judiciary has:

- Expanded Article 21 to include environmental rights
- Developed key environmental principles
- Ensured accountability of industries and authorities
- Made environmental protection a justiciable fundamental right

### **Role of Public Interest Litigation (PIL)**

Public Interest Litigation (PIL) has emerged as one of the most effective tools for environmental protection in India. It allows any public-spirited individual or organization to approach the court on behalf of affected persons or for the protection of public interest.

### **Importance of PIL in Environmental Protection**

PIL has significantly contributed to:

- Controlling industrial pollution by bringing attention to harmful industrial practices
- Protecting forests and wildlife through judicial intervention
- Preventing environmental degradation caused by illegal activities
- Ensuring accountability of government authorities
- Raising public awareness about environmental issues

### **Accessibility and Inclusiveness**

One of the most important features of PIL is that it removes procedural barriers such as locus standi. Even a person not directly affected can file a case in the interest of society.

This has made environmental justice:

- More accessible to marginalized communities
- Faster and more responsive
- A powerful mechanism for social change

Thus, PIL has transformed environmental protection from a private concern into a matter of public responsibility and constitutional enforcement.

## **Environmental Legislations in India**

In addition to constitutional provisions and judicial decisions, India has enacted several laws to regulate environmental protection and prevent pollution. These legislations provide a structured legal framework for environmental governance.

### **1. Environment Protection Act, 1986**

This is a comprehensive legislation enacted after the Bhopal Gas Tragedy.

- It empowers the Central Government to take measures to protect and improve the environment.
- It covers air, water, and land pollution.
- It provides authority to set environmental standards and regulate industrial activities.

This Act serves as an umbrella legislation for environmental protection in India.

### **2. Water (Prevention and Control of Pollution) Act, 1974**

- Aims to prevent and control water pollution
- Establishes Central and State Pollution Control Boards
- Regulates discharge of pollutants into water bodies

It ensures the maintenance of water quality and protects public health.

### **3. Air (Prevention and Control of Pollution) Act, 1981**

- Focuses on preventing and controlling air pollution
- Regulates emissions from industries and vehicles
- Provides powers to Pollution Control Boards

This Act plays a crucial role in controlling air quality.

### **4. Forest Conservation Act, 1980**

- Aims to prevent deforestation
- Regulates the use of forest land for non-forest purposes
- Ensures conservation of forest resources

It helps maintain ecological balance and biodiversity.

### **5. Wildlife Protection Act, 1972**

- Protects wildlife and endangered species

- Establishes national parks and wildlife sanctuaries
- Prevents illegal hunting and trade

It plays a vital role in preserving biodiversity.

## **Principles of Environmental Law**

Indian environmental jurisprudence is guided by certain fundamental principles that have been developed mainly through judicial decisions and international environmental law. These principles help in balancing environmental protection with economic development.

### **1. Sustainable Development**

The principle of sustainable development means that development should take place in such a way that it meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

It emphasizes a balance between economic growth and environmental protection.

Courts in India have repeatedly held that development projects must consider environmental impact and should not lead to irreversible damage. This principle ensures long-term ecological stability and responsible use of natural resources.

### **2. Precautionary Principle**

The precautionary principle suggests that preventive action should be taken to protect the environment even in cases where there is no complete scientific certainty about the harm.

In simple terms, if an activity has the potential to cause environmental damage, authorities must act in advance to prevent it rather than waiting for actual harm to occur. The burden of proof lies on the person or industry undertaking the activity to show that it is environmentally safe.

### **3. Polluter Pays Principle**

According to this principle, the person or industry responsible for causing pollution must bear the cost of managing and repairing the damage caused to the environment.

This includes not only compensation to affected individuals but also the cost of restoring the environment. It ensures accountability and discourages harmful industrial practices by making pollution economically costly.

### **4. Public Trust Doctrine**

The Public Trust Doctrine states that certain natural resources such as air, water, forests, and

wildlife are held by the State in trust for the public and cannot be used for private ownership or commercial exploitation.

The State acts as a trustee and is responsible for protecting these resources for the benefit of the general public. Any misuse or over-exploitation of these resources is considered a violation of public trust.

### **Challenges in Implementation**

Despite having a strong constitutional framework, progressive judicial decisions, and comprehensive environmental laws, the effective implementation of environmental protection in India faces several challenges:

#### **1. Lack of Awareness among Citizens**

Many people are not aware of their environmental rights and duties. Due to lack of education and awareness, individuals often do not take legal action against environmental violations or fail to adopt eco-friendly practices.

#### **2. Weak Enforcement of Laws**

Although there are strict environmental laws, their enforcement is often weak. Pollution Control Boards and regulatory authorities sometimes lack resources, manpower, and efficiency, which reduces their effectiveness.

#### **3. Industrial Pressure and Economic Interests**

Industries and businesses often prioritize profit over environmental protection. Economic development projects sometimes ignore environmental concerns, leading to pollution and ecological damage.

#### **4. Corruption and Administrative Inefficiency**

Corruption and delays in administrative processes weaken the implementation of environmental laws. In some cases, industries may bypass regulations through illegal means or influence authorities.

#### **5. Rapid Urbanization and Population Growth**

Increasing population and unplanned urban development put heavy pressure on natural resources. This leads to problems such as pollution, waste management issues, and depletion

of resources.

## **Conclusion**

The right to a clean and healthy environment has firmly established itself as an integral part of Article 21 of the Indian Constitution through progressive judicial interpretation. The expansion of the meaning of the right to life to include environmental protection reflects the dynamic and evolving nature of fundamental rights in response to contemporary challenges. It recognizes that a life of dignity is impossible without access to a pollution-free and ecologically balanced environment.

India today possesses a comprehensive constitutional, judicial, and legislative framework for environmental protection. Provisions such as Articles 48A and 51A(g), along with various environmental laws and landmark judicial decisions, demonstrate a strong commitment towards safeguarding the environment. However, despite these advancements, the gap between legal provisions and their actual implementation continues to be a major concern. Issues such as weak enforcement, lack of awareness, administrative inefficiencies, and increasing developmental pressures hinder the effective realization of environmental rights.

Therefore, the protection of the environment requires a collective and coordinated effort. The State must ensure strict implementation of environmental laws and adopt sustainable policies, the judiciary must continue to play a proactive role in safeguarding rights, and citizens must fulfill their fundamental duty to protect and preserve natural resources.

In conclusion, environmental protection is not merely a legal obligation but also a social and moral responsibility. Ensuring a clean and healthy environment is essential for the well-being of present generations as well as for securing the rights of future generations. Only through sustainable development, increased awareness, and active participation can the constitutional vision of a pollution-free and balanced environment be fully realized.

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