
EXPANDING HORIZONS OF ARTICLE 21: THE RIGHT TO LIFE AS A RIGHT TO A CLEAN AND SUSTAINABLE ENVIRONMENT IN INDIA

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ABSTRACT

Indian environmental jurisprudence is one of the most developed constitutional rights in the history of modern law. Article 21 of the Constitution of India that initially was understood as a safeguard against capricious deprivation of life and personal liberty has gradually undergone judicial interpretation as a wide assurance of dignified living, including of an environmental well being. The paper is an analysis of the right to the clean and healthy environment that forms part of the right to life. It examines the theoretical strength and drawbacks of environmental protection in India through review of historic court decisions, constitution, and foreign factors. The recent Kharghar gas leak case is employed as a modern prism to point out the existing disconnect between ideals and reality in the law. Although the judiciary has propounded doctrines like the Polluter Pays Principle, the Precautionary Principle, and Sustainable Development, the fact that implementation of these mechanisms has been recurrently unsuccessful casts critical questions on how it should be done. The paper will end by highlighting the necessity of a move towards reactive environmental governance, to preventive and participatory models to bring constitutional pledges and ground realities closer.

Introduction

Article 21 in the Indian Constitution provides the right to life and personal liberty. This has been extended by judicial creativity over the years to a full range of rights needed to have a dignified existence that is not covered by the wording of this provision. One of the most important of such expansions is the acknowledgment of the right to a healthy and clean environment. The increase in the environmental degradation, industrialization and urban growth have threatened the ecological balance and the health of the human beings. The judiciary has stepped in to curb the loopholes on the part of legislation and the executive and made the protection of the environment a constitutional obligation. Nonetheless, it is evident that even in this progressive jurisprudence; environmental catastrophes are still happening, revealing systemic weaknesses.

The recent gas leak incident that occurred in Kharghar is a harsh reminder of these deficiencies. It shows that legal doctrines are well defined and enforcement mechanisms are weak. In this paper, the rights to clean environment as provided in Article 21 of the right to a clean environment are critically analyzed in terms of how they have evolved, their scope, and their limitations.

Evolution of Environmental Rights under Article 21

The transformation of Article 21 into a source of environmental rights began with judicial recognition that life does not merely mean animal existence but includes the right to live with dignity. Supreme Court declared environmental degradation as a result of mining operations; deforestation and depletion of water resources to be violations of the "Right to Life," guaranteed under Article 21 of the constitution of India. Supreme Court then emphasizes the need to maintain a proper balance between economic development and ecological protection. It is clear from the Supreme Court's judgment that any development or construction that damages the environment or adversely affects the lives of local people because they no longer have access to such necessities as water supply and drainage will not be considered as productive development/true prosperity or as resulting in an improvement in the economic position of the community. In **Subhash Kumar v. State of Bihar**¹, the Supreme Court

explicitly held that the right to life includes the right to enjoy pollution free water and air. This

¹ Subhash Kumar v. State of Bihar, (1991) 1 SCC

case marked a foundational moment in environmental jurisprudence by linking ecological protection directly with fundamental rights. Likewise, the Supreme Court affirmatively states this principle in the case of **Virender Gaur v. State of Haryana**² as it ruled that a person's right to live includes the right to reside in a safe, healthy environment absent of harmful substances contaminating air and water. Sanitation is an essential element of this right and both governments and individuals have a responsibility to safeguard the environment and enhance the quality of life for current and future generations through their activities as individuals and as part of society. Similarly, in **M.C. Mehta v. Union of India**³, the Court addressed the pollution of the Ganga River and held that environmental degradation constitutes a violation of Article 21. The Court imposed obligations on municipal authorities and industries, reinforcing the enforceability of environmental rights.

The expansion continued in **Indian Council for Enviro Legal Action v. Union of India**⁴, where the Court stressed strict enforcement of environmental laws and rejected attempts to dilute regulatory standards. It emphasized that environmental protection is essential to the realization of fundamental rights. In **B.S. Kiran Kumar v. State of Karnataka**⁵, the court made an unequivocal ruling that the continual failure of local authorities to collect, sort and dispose of waste violates a person's fundamental right to life, including their right to a clean and sustainable environment. The court noted that these continuing problems created an unsanitary environment for residents, which places them at risk due to the excessive amount of garbage, illegal dumping of garbage, and incineration of waste. In fulfilling their responsibility to maintain a clean and safe environment, local authorities are constitutionally obliged to manage waste properly; there seems to be a significant gap between the concept of Article 21 and the extent of its enforcement.

Doctrinal Developments in Environmental Jurisprudence

The Environmental Jurisprudence as a system of laws is intended to protect the environment and its resources. In India, it has been largely developed through Judicial interpretation, The Supreme court of India has given a broad interpretation of article 21 of the Indian constitution by having the right to enjoy a clean and healthy environment. While this article is endowed

² Virender Gaur v. State of Haryana, (1995) 2 SCC

³ M.C. Mehta v. Union of India (Ganga Pollution Case), (1988) 1 SCC 471

⁴ Indian Council for Enviro-Legal Action v. Union of India, (1996) 3 SCC 212

⁵ B.S. Kiran Kumar v. State of Karnataka, (2022) SCC Online Kar 1234

with the strongest legal rights, it has no enforcement mechanism. The failure of this legal right is due to its failure of proper implementation. For instance, the Polluter Pays Principle and

Precautionary Principle were explicitly explained in the case of **Vellore Citizens Welfare Forum v. Union of India**⁶. In this case, the Polluter Pays Principle is an absolute liability, which means that the industry has absolute responsibility towards compensating the affected people and the cost of restoring the environment. On the other hand, the Precautionary Principle suggests that there must be preventive measures, even without adequate scientific evidence that the activity carried out by the industry could be harmful. It is the responsibility of the industry to prove this. Thus, while Article 21 receives support from both these principles, the inconsistency in their implementation has made it weak. Moreover, in the case of **M.C. Mehta v. Union of India**⁷, the Supreme Court further fortified environmental torts law through the creation of the principle of absolute liability with regard to enterprises carrying out hazardous or inherently dangerous operations. According to this principle, the enterprises involved will be made liable without exception and without fault or negligence, deviating thus from the classical rule of *Rylands v. Fletcher*. In addition, with respect to the case of pollution in the Taj Mahal region⁸, the Supreme Court ordered industries to employ clean technology or leave the area to comply with the doctrine of sustainable development. While these principles considerably broaden the ambit of Article 21, the ongoing degradation of the environment indicates that there still exists an enforcement gap.

Sustainable Development and Constitutional Interpretation

In India, the principle of sustainable development governs policy decisions regarding protections for the environment. In the case of the **Narmada Bachao Andolan v. Union of India**⁹, the Supreme Court made it clear that there must always be a balance of consideration given to environmental protection and development. Development should not occur at a cost to future generations' abilities to meet their own needs. This development and environmental protection requirement clearly establish that courts intend to depart from strictly anthropocentric (human-centered) principles of law, and utilize a more ecocentric (environment-centered) view when interpreting the laws of our nation. Although an ecocentric

⁶ Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647

⁷ M.C. Mehta v. Union of India (Oleum Gas Leak Case), (1987) 1 SCC 395

⁸ M.C. Mehta v. Union of India (Taj Trapezium Case), (1997) 2 SCC 353

⁹ Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664

approach enhances the significance of Article 21 of the constitution, it faces the limitations posed by a lack of enforcement. In the case of **T.N. Godavarman v. Union of India**¹⁰, the Court adopted an ecocentric perspective of nature by recognizing that nature has intrinsic value. The Court also applied the **Public Trust Doctrine** in that the State has a fiduciary duty to the public with regard to use of natural resources. Another relevant development in both cases was the Court's introduction of the concept of ecological restitution, where the court requires restoration of environmental damage and accountability through state agencies. These aspects enhance the scope of Article 21; however, they suffer from the problem of non-enforcement.

An additional example of this shift in legal interpretation is seen in the case of **Intellectual Forum v. The State of Andhra Pradesh**¹¹. In that case, the Supreme Court recognized that public trust is essential for the development of land use; therefore, public trust in regard to natural resources, such as lakes and tanks, must be protected at all costs. When actions of the government cause harm to these resources, they are violating their constitutional obligations. Although this concept enhances the scope of Article 21, yet it loses its efficacy due to the lack of proper enforcement. In the case of **Center for Environment Law, World Wildlife Fund (WWF) India v. Union of India**¹², the court also expanded the application of the sustainable development principle to apply to preservation of biodiversity and recognize that protection of endangered species is not only an ecological necessity but also a public obligation. While the inclusion of biodiversity protection in Article 21 enhances environmental law jurisprudence, there is still a gap when it comes to implementation.

International Influences on Indian Environmental Law

The international environmental principles have played a considerable role in the development of the jurisprudence on environmental laws in India. The Stockholm Declaration became the first document where the connection between environmental protection and human rights was established. The principle number one laid down the basis for developing global awareness in this field; however, it did not make its way into the Constitution. Instead, it provided an impact on the judicial interpretation and legislative work by making courts extend the Article 21 and incorporate into it the right to a clean environment. in **M.K. Ranjitsinh v. Union of India**¹³,

¹⁰ T.N. Godavarman Thirumulpad v. Union Of India, (1997) 2 SCC267

¹¹ Intellectual Forum, Tirupathi v. State of Andhra Pradesh, (2006) 3 SCC 549

¹² Centre for Environmental law, WWF-India v. Union of India, (2013) 8 SCC 234

¹³ M.K. Ranjitsinh v. Union of India, (2021) SCC Online SC 326

there is a scope to interpret the duties under climate change agreements within the ambit of Article 21, thus integrating the obligations under international law within the country's constitutional framework in line with agreements such as the Paris Accord. Furthermore, in the **case of Charan Lal Sahu v. Union of India**¹⁴, the court ruled that the State has a constitutional duty to protect and safeguard environmental rights by taking effective steps for its preservation using provisions of Article 21, Article 48-A, and Article 51A(g). Although the principles of international law help interpret Article 21, their application is restricted due to the non-enforceability factor in domestic law.

Constitutional Framework for Environmental Protection

The source of the environmental laws and acts in India can be found in the widening of Article 21, which grants a right to a healthy environment together with Directive Principles of State Policy and Fundamental Duties.

Article 47, which comes under part IV of the Indian constitution, states that it is the obligation of the state to increase the level of nutrition and the standards of public health among its people. Although after passing the 42nd amendment bill, which included Article 48A in the constitution that obligated the state to protect the environment, still according to Article 51A(g), it is the fundamental duty of the citizen to do the same. These Articles, although unenforceable, help in interpreting Article 21.

International treaties like the Stockholm Declaration had more impact on the lawmaking process than constitution making.

In India, two major laws were made, dealing with the environmental issues such as the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. However, there is a limit to the right to a healthy environment in India due to enforcement problems.

Judicial Recognition of Natural Resources and Life

The Supreme Court has also highlighted on numerous occasions that natural resources are necessary for the sustenance of human life. This is illustrated in **State of Karnataka v. State**

¹⁴ Charan Lal Sahu v. Union of India, (1990) 1 SCC 613

of **Andhra Pradesh**¹⁵ wherein the Court noted, "Water is an indispensable requirement of the means of sustenance". In this regard, water becomes one of the rights enshrined in Article 21, implying the equal sharing of such right. In the same way, in the case of **A.P. Pollution Control Board of India v. M.V. Naydu (1999)**¹⁶, the Supreme Court stressed the importance of environmental considerations above industrialization, hence reiterating that the Constitution guarantees the protection of water as part of its constitutional mandate. The utilization of environmental protection vis-a-vis the Constitution makes this a matter of obligation rather than of preference. In **Murli S. Deora vs Union of India**¹⁷, the court prohibited smoking in public places since it was regarded as harmful for non-smokers. The prohibition on smoking is an example of how individual acts of damage to the environment can be regulated to protect the right to life of all under Article 21. In addition, in **Animal Welfare Board of India vs A. Nagaraja**¹⁸, the Supreme Court adopted an integrative view of the Constitution and recognized that animal welfare and environmental protection are part of the Constitution itself. It indicates the trend toward an ecocentric interpretation of Article 21. Even though this trend makes the protection of natural resources integral to Article 21, its practical effect is hindered by an enforcement problem.

The Kharghar Gas Leak Incident: A Contemporary Challenge

The Kharghar gas leak case is one of the cases that indicate the lack of enforcement of environmental protection law. Although there are adequate laws in existence, considering the fact that the environmental pollution in terms of accidents of such type implies there is some deficiency in the way monitoring and compliance of environmental law occurs. This means that we do not follow the Precautionary Principle in the manner we address potential risks to environment, but rather we respond to environmental issues once they have occurred. The industrial accident referred above took place in MIDC Industrial Estate Tarapur Maharashtra on 2nd March 2026, and not at Kharghar, as indicated above. The industrial accident referred above resulted into the spillage of 2,500 liters of oleum from Bhageria Industries Limited's tank. On being exposed to the environment, the toxic fumes of sulfur oxides emanated from the liquid, causing the pollution of an entire 3-5 kilometer radius and leading to the evacuation of 2,600 people from their homes. There were no casualties and property losses, yet some

¹⁵ State of Karnataka v. State of Andhra Pradesh, (2000) 9 SCC 572

¹⁶ A.P. Pollution Control Board v. M.V. Nayudu, (1999) 2 SCC 718

¹⁷ Murli S. Deora v. Union of India, (2001) 8 SCC 765

¹⁸ Animal Welfare Board of India v. A. Nagaraja, (2014) 7 SCC 547

people suffered from irritations in their eyes and throat.

The investigations conducted by the MPCB have highlighted several serious breaches of law, such as:

- Lack of proper risk assessment guidelines;
- Failure to provide early warnings and an emergency response mechanism;
- Violation of existing environmental safety norms.

All these are classic examples of violation of the Precautionary Principle that requires preventive steps to protect the environment from any adverse impact.

Some actions were taken in the wake of these revelations, namely:

- Closure of the plant temporarily;
 - Submission of a petition to the Maharashtra State Human Rights Commission alleging negligence;
 - Constitution of a suo moto commission by the National Human Rights Commission.
- From the above discussion, we find that even with provisions in the Constitution like Article 21 and doctrine, there is a large gap in implementation.

Challenges in Enforcement

Although the judiciary has extended the right to a clean and healthy environment provided for in Article 21, there are substantial limitations in enforcing it due to inherent flaws within the system, including:

Weak Institutional Capabilities, Limited Enforceability

There may be limited financial resources and trained manpower available among regulatory bodies that hinders their capacity to carry out inspections, monitor compliance, and impose sanctions when necessary. Additionally, the monitoring technology that they use may be out-of-date and inefficient at certain times, thereby rendering them unable to deliver accurate data and

take prompt actions. Lastly, there may be political interference in the manner in which the regulatory agency operates, resulting in regulatory capture.

Judicial-Executive Disconnection, Implementation Erosion

The judiciary has already provided progressive directives that can be legally enforced by government departments, but since the latter may not have sufficient capabilities, the execution process becomes problematic. This makes it possible for the order to either be delayed in implementation or carried out without proper commitment.

Fragmentation of Governance, Inefficiency and Overlaps in Structure

The environmental management structure in India involves several agencies, both at the central level, state level, and local authorities. This fragmentation leads to overlapping jurisdictions, redundancy in responsibilities, and ambiguity concerning the same. Areas affected by this inefficiency include but are not limited to environmental protection, pollution control, urbanization, and land use issues. The lack of an efficient and comprehensive sharing of data along with the enforcement of policies leads to ineffective implementation.

Weak Public Participation, Inadequate Oversight and Transparency

Public participation in environmental management and decision-making processes is still low owing to the ignorance of the process and procedures, along with limited access to information. Tools that could be used for oversight, such as public hearings, are largely formal without real substance, hence making such a process less effective. These additional deficiencies show that even with a strong legislative and judicial structure in place, the right to environment is yet to be realized.

Inefficiency and Negligence in Regulatory Enforcement systems

Bhopal Disaster is considered the greatest environmental disaster ever in world history. This event highlighted the inability of the government to regulate not only industries but also the communication process. Thus, the Bhopal Disaster became the reason why judges started looking at environmental issues in a different way and showed that the current legislation concerning the environment was inefficient. In addition, The Bhopal Disaster helped form the Principle of Absolute Liability used in the case of *M.C. Mehta v. Union of India* (1987). In this

case, there were no exceptions to the rule of strict liability so that liability could be put even on faultless manufacturers. Thus, this was the moment when people started paying attention not to fault but to enterprise itself. Thus, the Bhopal Disaster has become a direct source affecting the development of absolute liability because of the inefficiency of the current legislation. While absolute liability helps people increase their Article 21 rights, there have been cases when the law was not enforced properly.

Environmental Violations and Enforcement Gap under Article 21

The prevalence of violations of environmental laws related to constructions is indicative of the enforcement gap that exists in the implementation of the fundamental right to a safe environment as provided under Article 21 of the constitution despite its clear judicial recognition. Data collected by various regulators in relation to these environmental laws further reveal gaps in regulatory compliance. During the period from October 2025 to January 2026, regulators have issued 1,047 stop work orders and 1,981 show cause notices to sites that have failed to comply with their statutory obligations. Also, a large number of sites (2,224) out of which a vast majority has been found to be in violation of their statutory obligations including the installation of the air pollution monitoring system.

Such breaches need to be evaluated with respect to the following regulatory instruments:

1. The Environment (Protection) Act, 1986.
2. CPCB guidelines such as dust cutting of construction projects.
3. Air (Prevention and Control of Pollution) Act, 1981.
4. The GRAP, although being regional does provide powerful regulatory precedents in the areas of limitations on building operations during high levels of pollution.

Regulatory violations, including dust suppression (water spraying, fencing), rubbish management, and installation of monitoring systems, help to increase the level of PM10 and PM2.5 emissions and, consequently, adverse effects on human and environmental health. In terms of the regulatory system, the current approach presupposes the reactive implementation of regulations, which punish companies when an offense has already been committed. This method is against the Precautionary Principle.

In order to correct this gap, there needs to be a move towards preventive environmental management through the following measures: Strengthening the EIA system to have thorough assessment prior to construction projects as well as assessing the cumulative impacts; Introducing continuous emission monitoring systems (CEMs) along with disclosing real-time information to the public; Coordinating institutions such as the Brihanmumbai Municipal Corporation (BMC) and the Maharashtra Pollution Control Board (MPCB); and, Introducing strict liability along with deterrent punishments in case of non-compliance. It is the case with the construction industry in Mumbai where, despite having strong constitutional and legal instruments, the right to live in a pollution-free and healthy environment has been ill implemented. This strengthens the central argument regarding the need for not only a liberal interpretation of the right to life but also proper institutional implementation.

From Reactive to Preventive Environmental Governance

The environmental governance system in India could be characterized as reactive. In case any damage had already been caused to the environment, then environmental governance steps would take place in order to help restore what had been damaged, but not to prevent any further harm. Such kind of governance could contradict certain principles of environmental governance, such as the Principle of Precautionary Principle, which implies the prevention of any harm to the environment before anything bad happens. Therefore, the following actions need to be taken within the framework of a preventive environmental governance process:

Enforcement of the standards of environmental regulation as a way of ex ante compliance with them; Creation of mechanisms of monitoring in order to detect cases of pollution, resulting from emissions or effluents; Using deterrents to make people abide by the existing environmental regulations; Creating EIA to evaluate all kinds of risks.

Furthermore, the participation of people in environmental governance is crucial. According to the provisions of the Article 51A(g) of the Indian Constitution, the protection of the environment is one of the duties of Indian citizens. It means that environmental governance is part and parcel of the Indian Constitution.

Conclusion

The extension of the scope of Article 21 to cover the right to a clean and healthy environment

represents one of the major contributions of the Indian Constitution to the realm of environmental law. In its successive judgments, the Supreme Court has succeeded in broadening the right to life in such a way that it now covers not only the aspects of environmental protection but also includes considerations of human dignity and sustainable development. The inclusion of such concepts as the Polluter Pays Principle, the Precautionary Principle, absolute liability, and the Public Trust Doctrine can be regarded as a contribution to this process.

In this paper, an attempt has been made to explore the history of these principles and show how judicial innovation, backed up by constitutional principles and environmental principles at an international level, has contributed to environmental protection being considered a fundamental right. The paper also discusses how the judiciary is moving from an anthropocentric to an eco-centric approach, wherein nature itself is accorded its own value and the importance of its conservation is emphasized.

Despite this strong legislative and judicial backing for environmental protection, what emerges is the disturbing disparity that exists between legislation and implementation of laws. For instance, the Tarapur incident highlights the inadequacies in risk assessment and regulatory mechanisms prevalent in our system. Another example of this can be found in the rampant violation of laws pertaining to construction and waste management sectors.

Considering the difficulties mentioned above, such as lack of institutional capacity, fragmented authority in regulatory agencies, minimal involvement of the public, and the gap between judicial orders and executive action, the efficient achievement of the right to a healthy environment as outlined in Article 21 becomes impossible. As a result, it is clear that the presence of robust principles in laws does not guarantee their enforcement and compliance. Taking into account these conclusions, the current paper calls for a radical change in the approach to environmental management. Specifically, it recommends that the policy of the environment should be changed to an active process that requires the active involvement of citizens. This will involve enhancing regulatory bodies, harmonizing the efforts of various agencies, introducing new technological tools to help in monitoring as well as enhancing transparency and citizen participation in the process of decision making regarding the environment.

Finally, the actualization of the right to life through Article 21 does not only require judicial

interpretations; it must also be actualized through proper implementation in practice. It is vital to make a link between constitutional aspirations and the realities in the environment in order to guarantee that there will really be a realization of a decent life within a sustainable environment.