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# **RIGHT TO INDUSTRIAL DEVELOPMENT AS A FUNDAMENTAL RIGHT UNDER THE INDIAN CONSTITUTION: A CRITICAL LEGAL ANALYSIS**

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## **ABSTRACT**

This research paper is a critical examination of the concept of the right to industrial development as one of the fundamental rights listed under the Indian Constitution. Against the background of India's changing socio-economic landscape, industrial development is turning out to be the main driver of both national progress and individual welfare. The paper studies constitutional provisions, mainly Articles 14, 19(1)(g), and 21, as well as the Directive Principles that deal with economic development, to gauge their significance in defining industrial growth as a constitutional mandate.

By employing doctrinal legal research methods and analysing case law, the study delves into the court interpretations of the right to development and the subsequent industrialization, environmental sustainability, and social justice issues. It reveals that, within the fundamental rights framework, the industrial development is recognized in a complex manner, depending on whether there is a proper balance between economic interests, on the one hand, and environmental and human rights obligations, on the other.

The research points out that the judiciary is instrumental in resolving these opposing interests and at the same time, it is calling for clearer legislative provisions that would make the industrial development an enforceable fundamental right. This paper argues that industrial development, though not explicitly guaranteed, can be constitutionally derived as a conditional fundamental right subject to sustainability and human rights safeguards.

## Introduction

Industrial development constitutes a foundational pillar of economic progress, technological advancement, and employment. It results from industrial activities by, for example, launching new industrial units, making old ones bigger, or upgrading their technology. However, the law Industry (Development and Regulation) Act, 1951 defines an industrial undertaking as any factory producing items of scheduled industries list. Besides that, this effectively confirms the government's leading role in promoting industrialisation.<sup>1</sup> This paper critically examines whether industrial development can be constitutionally derived as a fundamental right under Articles 14, 19(1)(g) and 21. of the Indian Constitution which respectively guarantee equality, freedom of trade, and right to life.<sup>2</sup>

The courts, with the reference of *Auroville Foundation v. Navroz Kersasp Mody*, have recognised the right to development as being a part of human dignity. At the same time, it is necessary to maintain a balance with environmental and social needs. This research paper covers several areas such as the legal framework under Indian Constitutional law for the right to industrial development, whether it is a fundamental growth with both the fundamental rights and the Directive Principles, the limits of the constitution in terms of the state's role in promoting industry while at the same time ensuring environmental and social rights, the impact of international human rights agreements, conflicts with livelihood, environmental and property rights, and the need for changes in the policy and legislative framework to achieve a balance.<sup>3</sup>

### **I. Constitutional Framework: Whether Industrial Development Can Be Derived as a Fundamental Right Under the Indian Constitution.**

The Constitution of India does not, in its explicit terms, include the right to industrial development as one of the fundamental rights. However, upon a detailed examination of the different constitutional provisions, it appears that the Constitution, by implication, recognizes the individual and collective right to industrial development as part of the right to development. *Article 14*<sup>4</sup> guarantees equality before the law and, thus, prohibits the law from arbitrarily

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<sup>1</sup> Industries (Development and Regulation) Act, 1951, § 2(i), No. 65, Acts of Parliament, 1951 (India).

<sup>2</sup> INDIA CONST. arts. 14, 19(1)(g), 21.

<sup>3</sup> *Auroville Found. v. Navroz Kersasp Mody & Ors.*, Civ. App. Nos. 5781-5782 of 2022 (Supreme Ct. India 2025).

<sup>4</sup> INDIA CONST. art. 14.

depriving the person of his chances, among other things economic ones. *Article 19(1)(g)*<sup>5</sup> protects the citizen's right to select an occupation or carry on a trade, thereby industrial enterprises getting a legal standing. With the help of judicial precedent, Article 21<sup>6</sup>, as expansively interpreted by the judiciary, encompasses the right to livelihood, dignity, and meaningful existence and hence grounds industrial development as one of the fundamental rights that make human survival and progress possible.<sup>7</sup>

*The Directive Principles of State Policy*<sup>8</sup>, thus, realign the State's obligation to not only take care of economic welfare but also to ensure justice in resource distribution and planned industrial development thereby setting a normative foundation for legislative and executive action towards industrial development. Nevertheless, these principles are non-justiciable and they function as directives to the State rather than rights that can be enforced.

Judicial pronouncements have increasingly interpreted these articles in a holistic manner to include industrial development under the gamut of '*right to development*'. The Supreme Court in *The Auroville Foundation v. Navroz Kersasp Mody (2025)*<sup>9</sup> mandated a balanced approach, affirming that the right to development through industrialization holds parity with environmental protection rights, underscoring sustainable development as a constitutional imperative. This '*golden balance*' doctrine reaffirms that industrial growth, while essential, must accord with environmental safeguards, reflecting the constitutional ethos of harmonizing competing rights.

## II. Judicial Precedents and Interpretations on Right to Development and Industrial Growth

Through the reinterpretation of the basic rights in the Indian Constitution to include their economic and social aspects, the Indian judiciary has been instrumental in the recognition of development as a human right, albeit a faint and indirect one, in the early stages of the concept. The judicial journey is in line with the idea of the state as a provider of welfare which not only guarantees civil liberties but also socioeconomic rights of a substantive nature.

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<sup>5</sup> INDIA CONST. art. 19(1)(g).

<sup>6</sup> INDIA CONST. art. 21.

<sup>7</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 (India).

<sup>8</sup> INDIA CONST. arts. 38, 39, 41–43.

<sup>9</sup> *The Auroville Found.*, supra note 4.

The Supreme Court's decision in *Maneka Gandhi v. Union of India*<sup>10</sup> was a significant turning point in this journey, when the Court declared that the right to life under *Article 21*<sup>11</sup> is the source of the right to livelihood. The Court's acknowledgment basically ties the social-economic rights in the process of industrial development to the constitutionally guaranteed rights of man. The Court pointed out that loss of livelihood affects life rights and therefore, the Court has laid down a legal basis that accepts the law as a bridge between industrial participation and economic growth as the different faces of fundamental rights.

After that, the Supreme Court's verdict in *Auroville Foundation v. Navroz Kersasp Mody*<sup>12</sup> is a reflection of the judicial branch's consistent push to recognize development rights, including those related to industrial growth, as the core of the Constitution rather than a mere political aspiration. Here, the Court highlighted the interdependence of the right to development and the right to a clean environment and thus, industrial progress can only be acceptable if it is sustainable. The ruling, in fact, went beyond the immediate concern and stated that economic growth through industrialization is the way to solve poverty and raise the standard of living which is, in fact, the direct realization of constitutional values of justice, equality, and dignity.

Along with the economic rights court decisions, the judiciary has been equally assertive in broadening the scope of the environmental rights, identifying the right to a clean and healthy environment as a necessary corollary of the right to life under *Article 21*. The landmark cases of *Rural Litigation and Entitlement Kendra v. State of U.P.*<sup>13</sup> and *Vellore Citizens Welfare Forum v. Union of India*<sup>14</sup> have, inter alia, evolved legal principles that weigh up the need for developmental activities against the requirement to preserve nature, thus the court showing empathy towards the problems of the eco-friendly progressive industrialization. In sum, these cases formulate a single constitutional system which recognizes that the right to industrial development, being subordinate to environmental sustainability and social justice, still has to coexist with it.

Through this jurisprudence, the Court has established as one of the complicated, deeply-rooted rights, vulnerable to contextual restrictions but nonetheless crucial for the socioeconomic change that India is anticipating. Consequently, the courts have acknowledged the right to

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<sup>10</sup> *Maneka Gandhi*, supra note 8.

<sup>11</sup> INDIA CONST. art. 21.

<sup>12</sup> *The Auroville Found.*, supra note 4.

<sup>13</sup> *Rural Litig. & Entitlement Kendra v. State of U.P.*, AIR 1985 SC 652 (India).

<sup>14</sup> *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715 (India).

industrial expansion as a corollary of the wider right to development, thus requiring a *"golden balance"* that would harmonize industrial progress with environmental and human rights obligations.

### III. Challenges of Informal Economy and MSMEs in the Context of Industrial Development

The informal sector along with Micro, Small, and Medium Enterprises (MSMEs) are the mainstays of the Indian industrial and economic milieu. They are the major sources of livelihood for more than 400 million people<sup>15</sup> who are jointly employed in these sectors. The two intertwined sectors, however, constitute the biggest structural obstacles that not only retard their expansion and injection, but also their very survival, thus constituting a significant human rights problem of the industrial development right. India could thus be seen to have violated the right to industrial development if the two sectors failed to get access to necessary resources and opportunities, a phenomenon thus termed as a **"Syndemic of structural challenges"**.

One crucial issue is the great difference in the availability of capital (the so-called "capital chasm") that informal enterprises and MSMEs experience. Formal banks serve only **14%** of MSMEs, while the remaining **86%** are either entirely unbanked or poorly banked due to factors such as information asymmetry and lack of collateral.<sup>16</sup> These unbanked and underbanked MSMEs have limited access to cheap loans, which are the most crucial for them to grow their businesses and to acquire technology. As a result, limited funds push inefficiencies and insufficient growth, thus creating a cycle of low profitability that at the same time restricts access to financial resources.<sup>17</sup> The phenomenon of **"dwarfism,"** which among other things entails stagnation and increased susceptibility to economic crises, is the inevitable consequence of this cycle.

Along with the formalization challenge, the regulatory complexities and compliance burdens such as the rollout of Goods and Services Tax (GST) and digital payment mandates exacerbate the situation. These steps, which are taken to bring informal units into the formal economy, usually have the effect of increasing the operational costs of the units and the administrative work considerably, thus forcing a large number of these units to work at a level lower than their

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<sup>15</sup> *India Manufacturer Sector Report*, India Briefing (Oct. 28, 2025).

<sup>16</sup> *India's Informal Manufacturing Sector is Collapsing*, The Wire (Sept. 11, 2025).

<sup>17</sup> McKinsey & Co., *India's MSME Productivity Challenges* (2024).

potential or to quit the formal channels altogether.<sup>18</sup> The government's credit-centric measures, which are not accompanied by demand stimulation and market access facilitation, make the majority of "own account enterprises," i.e., households that are usually single-operator setups without employees, practically invisible in the formal sector.<sup>19</sup>

Besides that, these sectors lack social security due to their complete exclusion from labour protections, social security benefits, and occupational safety nets. The gig economy, which is rapidly growing in the informal sector, is a good example of the difficult situation of workers who are characterized by job insecurity, wage volatility, and skill deficits, and thus their basic rights to a living are compromised, which are closely interlinked with industrial development.<sup>20</sup>

On top of that, there are external macroeconomic factors that influence these sectors, such as trade disruptions and tariff shocks, which disproportionately affect informal clusters that are dependent on exports, thus leading to income losses and unemployment among low-skilled informal workers. The recent US-imposed tariffs on Indian exports are a good example of that.<sup>21</sup>

Dealing with these complex problems needs an integrated policy approach that goes beyond financial inclusion to cover the development of the ecosystem. It involves, among other things, deepening access to markets and technology, streamlining regulatory frameworks, providing an incentive for skill development in line with industrial transformation, and making social security available to informal and gig workers. These far-reaching reforms are fundamental to putting into practice the right to industrial development in a fair way, thus, guaranteeing that the informal economy and MSMEs are not left out in the story of industrial growth in India but, instead, become strong players in the process of sustainable development.

#### **IV. Comparative Perspectives**

The right to development is recognized as a key human right across different regional and international human rights instruments. The most notable recognition is the *United Nations Declaration on the Right to Development (1986)*, which was adopted by the *General Assembly resolution 41/128*. This declaration describes development as a comprehensive economic,

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<sup>18</sup> *Indian Economy: Informal Sector and Its Challenges*, Sleepyclasses.com (Nov. 2024).

<sup>19</sup> *India's Informal Sector*, *supra* note 17.

<sup>20</sup> *India's Informal Sector: Challenges and Solutions*, India Employer Forum (Jan. 28, 2025).

<sup>21</sup> *India's Informal Sector*, *supra* note 17.

social, cultural, and political process, which is aimed at the continuous improvement of the living standards of the whole population and all individuals.<sup>22</sup>It declares that everyone has the absolute right to participate in, contribute to, and benefit from economic, social, cultural, and political development, where all human rights and fundamental freedoms can be realized.<sup>23</sup> The Declaration recognizes the core features of the right in question to be participation, equality, transparency, accountability, and international cooperation.

In constitutional comparison, the right to development has been entrenched in South Africa as a justiciable right. The South African Constitution goes further to directly link socio-economic rights with developmental policies, thus acknowledging state obligations not only to the facilitation of basic civil rights but also through economic empowerment and trickle-down effects to fight poverty via sustainable development.<sup>24</sup> Therefore, this constitutional system opens the way for the people to seek the intervention of the judiciary in the fulfilment of their developmental rights.

Also, Latin American court rulings strongly uphold the right to eco-friendly development that does not compromise environmental integrity but allows the economy to grow. The Inter-American Court of Human Rights has distinguished development rights as rights that depend on protection of the environment, the rights of indigenous peoples, and social fairness. Such patterns instruct Indian constitutional interpretation with the help of examples of how courts can protect industrial development and, at the same time, impose ecological and human rights obligations to ensure that progress is both equitable and sustainable.

These international and comparative experiences unfold the concept of development as a multidimensional and justiciable right that has evolved over time and includes participatory governance and environmental stewardship besides industrial growth. The foreign experiences serve as valuable pointers for the interpretation of the Indian constitutional provisions on the right to industrial development as a fundamental right in line with the global human rights standards.<sup>25</sup>

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<sup>22</sup> G.A. Res. 41/128, U.N. Doc. A/RES/41/128 (Dec. 4, 1986).

<sup>23</sup> *Id.* art. 1(1).

<sup>24</sup> S. AFR. CONST. §§ 24, 26–29.

<sup>25</sup> *Sawhoyamaya Indigenous Cmty. v. Paraguay*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. C) No. 146 (Mar. 29, 2006).

## V. Critical Analysis of Conflicts and Challenges

One of the major issues of constitutionally enshrining industrial development as a fundamental right is the problem of balancing various interests that are in conflict. On the one side, there is economic growth and, on the other, environmental sustainability and social justice. Industrialization is very important for the economic upliftment, job creation, and overall national progress. Nevertheless, it tends to "pit" against environmental conservation in most cases, the result being the displacement of the powerless and violation of the rights of the indigenous people. These disputes demand careful legislative foresight and the work of judiciary to ensure that environmental degradation and social inequity have not been the prices for industrial development.<sup>26</sup>

Conflicts are further exacerbated by ambiguities and gaps in India's legislative provisions and by limited codification of norms regulating environmental and industrial activities. Lack of a clear, dedicated statutory framework for the recognition of the right to industrial development as a fundamental right hampers enforcement and policy implementation. Consequently, courts are frequently turned to as the last resort in resolving developmental rights and environmental protection disputes. The Indian Supreme Court has been trying to remedy these lacunae in the law by construing the right to development as part of the right to life and livelihood under *Article 21* and at the same time, it supports environmental protection through the implementation of the principles evolved in the cases like *Vellore Citizens Welfare Forum v. Union of India*.<sup>27</sup>

Besides that, the Indian manufacturing sector has several issues on the ground, including a maze of regulations, delays in the implementation of decisions by the bureaucracy, insufficient infrastructure, and a lack of skilled labour, which, if combined, not only hamper the growth of the industry but also diminish its potential.<sup>28</sup> Moreover, the industrial sector is exposed to human rights risks such as poor working conditions, issues related to the acquisition of the land, and violations in connection with the displacement and consent of indigenous communities. These challenges demonstrate the importance of integrating human rights due diligence into industrial development frameworks in order to protect the less privileged groups

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<sup>26</sup> Drishti IAS, Right to Development and Clean Environment (2025).

<sup>27</sup> *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715 (India); *Maneka Gandhi*, supra note 8.

<sup>28</sup> *Key Challenges Facing the Indian Industrial Sector*, LinkedIn (Nov. 2024).



and facilitate the growth that is not only sustainable.<sup>29</sup>

On top of that, economic policies sometimes behave like a paradox; protectionist measures that are aimed at domestic industries' safeguarding may eventually lead to competitiveness and economic progress, in general, being hindered. Industrial policies in India need regular reforms to change the business environment for the better, make it easier to invest in research and development, and simplify regulatory requirements at the same time, being environmentally and socially responsible.<sup>30</sup> The government officials are tasked with balancing the fast industrialization process with their constitutional obligations towards environmental protection and social justice, which, among other things, were crystallized by the Supreme Court in its reference to a **“golden balance”** between development and environment.<sup>31</sup>

Essentially, the industrial revolution has the potential to bring about a radical change in the economy, however, its acknowledgment as one of the basic rights by the constitution requires a strategy that considers the development alongside the natural and societal concerns. Resolving the contradictions and difficulties which block the fair and green turn to industrial growth in India needs, among other things, clear legislation, efficient court control and strong policy instruments.

## VI. Policy Recommendations and Conclusion

For the legislator to clearly and effectively define the right of industrial development as a fundamental right, it is highly necessary that the legislature enacts detailed laws which incorporate the economic growth goals together with the environmental and social equity safeguards. The existing legal system, as it is backed by broad constitutional principles, is however fragmented and ambiguous and as such it is difficult to industrial policy execution in a coherent manner. The explicit statutory recognition of industrial development as a fundamental right will signal a strong legal basis that is consistent with India's constitutional vision of socio-economic justice.<sup>32</sup>

It should be the aim of judicial guidelines to focus on the issue of sustainable industrialization while at the same time safeguarding fundamental rights, thus supporting the 'golden balance'

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<sup>29</sup> BSR, *10 Human Rights Priorities for the Industrial Manufacturing Sector* (May 2022).

<sup>30</sup> *India's Industrial Policies 2025*, CFR.org (Jan. 2025).

<sup>31</sup> *The Auroville Found.*, supra note 4.

<sup>32</sup> The Industries (Development and Regulation) Act, 1951, No. 65, Acts of Parliament, 1951 (India).

doctrine put forward by the Supreme Court in *The Auroville Foundation* case.<sup>33</sup> The courts should always be vigilant and carry out rigorous scrutiny of industrial projects to ascertain that such projects are in conformity with the environmental regulations and that the rights of the communities to be affected are respected, at the same time they should be issuing them permits if the projects will bring genuine development opportunities.

Policy focus should not only consider the current aspects but also include the introduction of green industries and the use of sustainable technologies, thus acknowledging the environmental need for a clean industrial growth. Moreover, social welfare policies associated with industrial sectors should ensure that local and indigenous communities are well compensated, rehabilitated, and their active engagement is encouraged, thereby promoting inclusivity and reducing the possibility of conflicts.<sup>34</sup> The establishment of participatory governance mechanisms will thus institutionalize them as tools for transparency and accountability in industrial licensing, environmental clearances, and benefit-sharing frameworks.

India's policy area, in turn, may use globally recognized standards as a source of best practices, including human rights due diligence and corporate accountability frameworks, to facilitate industrial development in harmony with constitutional values. Besides, empowering the bodies in charge of supervising the industry's adherence to regulations and the environmental impact of their activities will surely lead to the conservation of their effectiveness over time.

Recognizing industrial development as a conditional fundamental right reflects an evolved constitutionalism responsive to India's developmental realities, adequately regulated in harmony with environmental and human rights considerations, it will, therefore, be a strong indication of India's pledge to the ideals of justice, liberty, and equality. Responsible industrialization that propels the inclusive and sustainable progress will be the outcome, thus, the standard of living of all citizens will be improved.

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<sup>33</sup> *The Auroville Found.*, supra note 4.

<sup>34</sup> BSR, *10 Human Rights Priorities for the Industrial Manufacturing Sector* (May 2022).