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# CONSTITUTIONAL FRAMEWORK AND ENVIRONMENT PROTECTION IN INDIA

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## ABSTRACT

The Indian constitution, which has evolved and changed dramatically throughout time, is regarded as one of the most modified ones to date. In the Indian context, environmental preservation has not only been made a fundamental law of the nation, but it has also just been acknowledged as a long-standing essential human right of all Indian inhabitants. India's constitution has evolved throughout time, as has environmental conservation. The notion of environmental protection has grown in importance throughout time, and as a result of revisions, the constitutional structures governing it have also evolved. As per the essential responsibilities delineated in our constitution, everyone must preserve the environment for everyone to live in a hygienic, respectable, and peaceful setting. The welfare state's guiding principles unmistakably influence state policy's Directive Principles, and as our Constitution makes plain, a healthy environment is deemed essential to the welfare state. As to Article 47, the primary duties of the State encompass enhancing the quality of life and nutrition of its populace, along with public health, which encompasses environmental preservation and improvement. Article 48-A of the constitution states that the state must endeavor to improve and maintain the environment, and that the nation's woodlands and wildlife shall be conserved. Part III's provision of fundamental rights is essential to an individual's development. The Indian Penal Code of 1860 marked the beginning of legislative history. In Section 268 the term "public annoyance" was defined. Sections 133 to 144 of the I.P.C. also deal with public nuisance abatement. These are only restricted clauses. Sections 269 to 278 of the Indian Penal Code are penal provisions, which means that violators may be subject to legal action and penalties. Ensuring its preservation was the main objective of the constitutional mandate for environmental protection since it was a serious issue. Although there have been conversations regarding environmental conservation since antiquity, official actions were taken in response to the Stockholm Conference in 1972. Based on the Stockholm conference, the Indian parliament changed the constitution in 1976 (the 42nd Amendment). The language was expanded to include two paragraphs in

especially on environmental protection and improvement. These articles indicate that the Indian Constitution requires both the "State" and the "Citizens" to "Protect and Improve" the environment.<sup>1</sup>

## **THE ENVIRONMENT AND ITS IMPACT ON CITIZENS**

On January 26, 1950, the Indian Constitution went into effect, with provisions pertaining to the environment. This demonstrates a fervent dedication to sustainable development. The State and the people have a joint responsibility to preserve and safeguard the environment under the two key provisions of the constitution. It is emphasized in the first article that everyone has a basic obligation to actively contribute to environmental conservation. This declaration recognizes that the actions of individual residents have a significant influence on the overall environmental health of the country. The concept implies that environmental stewardship is not the exclusive province of the government, but rather one that all members of society must do.<sup>2</sup> The second clause requires the State to actively preserve and improve the environment. This obligation represents the government's proactive involvement in formulating and enforcing legislation that prioritizes environmental protection. It emphasizes how important it is to take action to ensure the long-term sustainability of ecosystems, promote sustainable lifestyles, and stop environmental degradation. These constitutional duties demonstrate how broadly acknowledged environmental protection is becoming. Climate change, pollution, and biodiversity loss are pressing global challenges, and governments everywhere must see environmental conservation as a fundamental duty. The growing global trend toward sustainable living is consistent with people taking personal responsibility for the environment. It suggests that environmental consciousness should permeate every aspect of daily life and have an impact on decisions regarding waste management, consumerism, and lifestyle. "Managing how they live their natural lives" refers to a complete approach to sustainable living that includes choices on mobility, dietary preferences, energy and resource use, and waste management. When examined within the wider context of a research project, these constitutional provisions and the associated call for personal accountability offer illuminating information on the evolving discourse on environmental governance. The progressive view of sustainable development is demonstrated by the inclusion of such ideas in a nation's

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<sup>1</sup> (p) ECOLOGY/ENVIRONMENT (lexis.com)

<sup>2</sup> E. POST MANEKA GANDHI : ARTICLE 21 (lexis.com)

foundational laws. By recognizing the link between human activities and the environment, it highlights the need for collaborative efforts to overcome global environmental concerns. Knowledge advancement and the adoption of more sustainable practices by individuals can lead to the realization of the dream of a civilization that coexists happily with the environment.

## **PROTECTION OF THE ENVIRONMENT AND THE 42ND AMENDMENT**

The 42nd Amendment, which was introduced in 1976, entirely altered the situation when significant decisions regarding environmental protection began to be made. It also spoke about environmental protection in a way that was more expressive because it was a very serious issue that needed to be addressed. The Indian constitution underwent abrupt and significant modifications as a result, focusing more on environmental preservation.

### **1) Socialism (from the Indian Constitution's Preamble)**

The 42nd Amendment Act's amendment to the Preamble provided a clear definition of socialism. The state prioritizes treating societal concerns above individual ones within the socialistic structure of society, and pollution is no different. Once the state is allowed to tip the scales in favor of societal interest, vested interests may not throw up any barriers to the country's progress toward its professed purpose of a just social order.

### **2) The Directive Principle**

The 42nd Amendment Act has incorporated new directive concepts, one of which is environmental promotion and protection. Article 47 lists improving public health as one of the state's primary duties. Article 48A reads that "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country." The term "environment" refers to the entirety of external conditions and elements that affect an organism's capacity to live and grow organs in plants, animals, and humans. A variety of environmental factors can affect an organism's capacity for survival and growth, such as air, soil, water, noise, culture, light, and temperature. This provision permits the state to enact protectionist laws while also making improvements to the poisoned environment. In the first case, the state may outlaw the use of drugs that have a

detrimental effect on the ability of a plant, animal, or person to live and grow; in the second case, the state might take steps to improve the environment.

Regarding the second, it will be difficult, if not impossible, for the state to carry out that obligation in the modern industrialized society, considering how much man has given up control over his natural surrounds to technological innovations that have contaminated the environment today.<sup>3</sup>

### **Article 51A (Fundamental Duties)**

The remaining environmental laws are included in the Chapter on Fundamental Duties. The 42nd Amendment Act comes after Part IV of the Indian Constitution, which enumerates the fundamental duties of its citizens. Article 51A(g) in particular discusses the fundamental duty to safeguard the environment. It declares. Every Indian citizen must protect and improve the nation's natural environment, which includes its rivers, lakes, forests, and animals, in addition to having compassion for all living creatures.

Socialist state constitutions embrace the idea of a basic obligation. Improvement and protection of the environment are mandated under Article 51A, clause (g). Its reference to rivers, lakes, forests, and other natural regions highlights the importance of pollution of the air and water. While "environment" is referenced in Article 48-A, Article 51-A(g) refers to the "natural environment," which includes forests, lakes, rivers, and wildlife. While Article 48 deals with cows, calves, and other mulch and draught animals, Article 51-A(g) states that care for all living beings is a basic civic duty. This encompasses the group of cattle specifically mentioned in Article 48. ***In Rural Litigation and Entitlement Kendra v. State of UP 1985 AIR 652, 1985 SCR (3) 169***<sup>4</sup> Justice R.N. Mishra said that "every citizen, as well as the government, must undertake the task of preserving the environment and keeping the ecological balance unaffected." As per Article 51-A(g) of the Constitution, let us remind all Indian people that this is their fundamental responsibility and also a social obligation., Justice R.N. Mishra said that "every citizen, as well as the government, must undertake the task of preserving the environment and keeping the ecological balance unaffected."

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<sup>3</sup> (w) PROTECTION OF ENVIRONMENT (lexis.com)

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As per Article 51-A(g) of the Constitution, let us remind all Indian people that this is their fundamental responsibility and also a social obligation.

In the case of *Kinkari Devi v. State, Justice P.D. Desai*<sup>5</sup> (AIR 1988 HP 4) said that "The citizens have a constitutional duty to preserve and safeguard the country's water resources, including the forests, flora, and fauna, as well as to protect and improve the environment." It would be tantamount to treachery to ignore or dismiss the fundamental law that the state, and by extension, all Indians, are obligated to preserve and uphold.

## STATE AND ITS RESPONSIBILITY

Article 47 mandates that the state keep an eye on the growing food consumption and quality of life of its people. The primary duty of the state also includes improving public health. Unless approved for medical purposes, the state must prohibit the use of alcohol and drugs since they may be dangerous to people's health or even cause death.

To enhance public awareness of environmental preservation and to improve everyone's health and standard of life, the state must enact policies that are important, adequate, and effective. The word "responsibility" alone lends itself to this meaning. Programs for environmental development are not open to participation by those who hurt society as a whole. Consequently, the government needs to keep a careful watch on these projects and actions. The continuous pollution levels in the environment are caused by several things. For instance, the common cause of water pollution is the removal of dirty water from rivers, endangering the public's health in addition to contaminating the country's natural resources. This made it necessary to enact legislation mandating that the state preserve and safeguard the environment.

In the *Hamid Khan vs State of M.P. and Ors* (AIR 1997 MP 191, 1997(1) MPL J587)<sup>6</sup>, the state was careless in providing water from the handpumps, causing enormous harm to the populace that had a major negative impact on their health. Because of the state's egregious negligence, it was decided that the state had disregarded its fundamental obligation.

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<sup>5</sup> Kinkani Devi vs State, Justice P.D. Desai, AIR 1988 HP 4

<sup>6</sup> Hamid Khan vs State of M.P. and Ors , AIR 1997 MP 191, 1997(1) MPL J587

## CONSTITUTIONAL PROVISIONS FOR THE PROTECTION OF THE ENVIRONMENT

Our Constitution is said to be one of the most changeable in history, having undergone significant expansion and alteration throughout time. Environmental protection in India has lately been linked to human rights and has been elevated to the status of fundamental legislation. It is now widely accepted that environmental protection is a fundamental human right that belongs to every Indian. The Supreme Court of India ordered the closure of tanneries that were contaminating water in the case of *M.C. Mehta v. Union of India* (2003) 5 SCC 376: AIR 2003 SC 3469 <sup>7</sup>The Supreme Court of India issued several instructions and directives in the case of *M.C. Mehta v. Union of India*, to safeguard the ancient landmark known as the Taj Mahal against environmental damage.

According to our constitution, everyone has a responsibility to protect the environment to provide a clean environment, a life of dignity, and peace for all people. Our Constitution makes it quite clear that the Directive Principles of State Policy are focused on the ideas of the Welfare State, and that one of the most important aspects of the Welfare State is a healthy environment. According to Article 47, the state's top priorities include raising the standard of life and nourishment for its citizens as well as promoting public health, which includes environmental preservation and enhancement. Article 48-A of the constitution states that the state shall endeavor to protect and enhance the environment, as well as to preserve the nation's forests and wildlife. The essential rights required for an individual's development are safeguarded in Part III. The Indian Penal Code of 1860 marked the beginning of legislative history. In Section 268 the definition of a public nuisance is given. The I.P.C. also addresses the eradication of public nuisances in sections 133 to 144. These are only limitations. The Indian Punitive Code's Sections 269 to 278 are punitive provisions, meaning that anybody found in violation of them faces legal action and penalty. Many Acts, such as the Wildlife Act of 1972, the Water Act of 1974, the Air Act of 1981, and others, were passed after the Stockholm Conference. The Indian Constitution was amended to include environmental conservation and enhancement as a basic need within five years after the Stockholm Declaration 1976 Constitution Act now makes environmental protection and improvement a fundamental duty. The National Committee on Environmental Planning and Coordination has been created by the Indian government. One of the environmental initiatives of the Indian government

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<sup>7</sup> M.C. Mehta v. Union of India  
(2003) 5 SCC 376: AIR 2003 SC 3469

was a plan to clean up the Ganga and Yamuna rivers. The Central Ganga Authority was founded by Prime Minister Shri Rajiv Gandhi to lessen Ganga pollution. The immediate outcome of this work was the Environment (Protection) Act of 1986.

## **ENVIRONMENT AND IT'S RELATION WITH CITIZENS**

The direction to the state, which mandates an active involvement in the conservation and promotion of the environment, highlights a comprehensive and proactive approach rooted in the legislative framework. In addition, every person has a responsibility to support environmental preservation. The administration's keen awareness of the pressing environmental issues facing the globe is demonstrated by its legislative stance.

A significant paradigm change is represented by the focus on shared responsibility between the government and the people as well as the raising of environmental protection to the status of a fundamental duty for all citizens. This legal requirement implies that everyone must preserve the sustainable well-being of the environment.<sup>8</sup> Given the link between human conduct and the condition of the natural world, it makes sense for everyone to make environmental preservation their mission. This shift toward individual responsibility calls for a reassessment of lives and a concerted effort to modify habits in Favor of more sustainable ones. Individuals are pressured to align their behavior with the principles of environmental stewardship, whether it is about transportation, energy use, waste management, or consumption. The emphasis is on cultivating a mindset that views protecting the environment as an integral part of one's ethos as opposed to merely a societal obligation. All that is needed of each individual within this ethical and legal framework is the development of a strong distaste for pollution. This implies a shift in cultural norms away from practices that contaminate the land, water, or air and toward disapproval of activities that do not worsen the state of the environment. By promoting a general dislike of pollution, individuals may contribute to the greater goal of creating a society that values and actively protects the environment, ensuring a sustainable and healthy future for future generations.

## **LEGISLATIVE MATTERS AND ENVIRONMENT PROTECTION**

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<sup>8</sup> (w) PROTECTION OF ENVIRONMENT (lexis.com)

Since in Indian Constitution, there are three lists:

1. Union List
2. State List
3. Concurrent List

It is common knowledge that the federal and state governments share the ability to address matters on the concurrent list (list III). It covers a variety of topics, including population control, protection of mines, and the preservation of forests and wildlife. In the event of a dispute, the central government's decision will be final. The legislative and administrative links between the federal and state governments are expressly covered in Part XI of the Constitution. State governments have the authority to enact laws for their respective states, while the national parliament has the authority to establish national rules. Whenever state legislation is passed after federal legislation, the President's assent must be obtained first as stated in Article 254 of the Indian Constitution. Parliament also has the right to legislate on matters of state during a national emergency. Enacting laws that deal with environmental concerns requires the division of these legislative powers.<sup>9</sup>

## **INTERNATIONAL ENVIRONMENTAL AGREEMENTS**

India is a signatory to several international agreements that have been created about environmental protection. because the world was declared to have a single ecology in the 1972 Stockholm Declaration. India is required to interpret and carry out the provisions of several international treaties inside its borders as a signatory. The Indian constitution's Article 51(c) mentions this when it says that the government would grow to respect international law and its obligations under treaties. India is a signatory to several international environmental accords that have been drafted because the world was deemed to have a common environment in the 1972 Stockholm Declaration. India is required by the international treaties it has ratified to interpret and carry out their terms domestically. The Indian constitution's Article 51(c) makes it clear that the government shall uphold its obligations under treaties and international law. Article 253 of the Constitution, on the

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<sup>9</sup> ENVIORNMENTAL CHALLENGES IN THE 21ST CENTURY: UN'S ROLE UN'S ROLE on JSTOR

other hand, is another significant clause about environmental protection. It grants our nation's Parliament the authority to enact laws that apply to all or part of the nation to carry out any conventions or agreements that our nation has signed with another nation or nations. Any international conference's decisions may later be put into effect by-laws approved by parliament. A rule about environmental preservation that is enacted by Article 253 read with Articles 13 and 14 cannot be contested in court because it lacks legislative authority. Notably, to exercise this authority, Parliament passed the Environment Protection Act of 1986 and the Air (Prevention and Control of Pollution) Act of 1981. The enactment of this law had as its primary objective putting into effect the decisions reached at the 1972 United Nations Conference on the Human Environment in Stockholm, as stated clearly in the Preamble.

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## **CONCLUSION**

In summary, there have been substantial modifications made to the Indian constitution, mostly aimed at acknowledging environmental preservation as an essential legal framework and human entitlement. Environmental protection is a shared state and citizen duty, as highlighted by amendments such as the 42nd Amendment Act. Article 47, Article 48-A, and Article 51A(g) of the Constitution all emphasize how important environmental health is. The dedication to environmental stewardship is further demonstrated by court interventions, international agreements, and legislative actions. All things considered, the constitution shows a vibrant commitment to guaranteeing a sustainable and healthy environment for all.