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# **ANALYSIS OF THE JUDICIAL TRENDS ON THE RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT IN INDIA**

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Lakshya Kaushish, Bennett University

## **ABSTRACT**

The article provides a comprehensive analysis of environmental rights in relation to human rights. The first principle of the Stockholm Conference, which emphasises the value of living in a healthy and clean environment, is referenced in the article. In a lengthy debate of Article 21 and its interpretation by the Indian judiciary, it was emphasised that the right to live in a clean and healthy environment is a crucial component of the right to life.

The United Nations Human Rights Council has already proclaimed this ideal of a clean and healthy environment. Numerous treaties, charters, and conventions have taken into account everyone's right to live in a sanitary and healthy environment. The judiciary in India is doing a commendable job.

*"Cleanliness in the environment begins with each individual's desire to be clean."*

-Lailah Gifty Akita

## INTRODUCTION

The planet Earth was created to meet the basic needs of all living organisms that call it home. Animals, birds, worms, hydras, diverse plants, creepers, grass, and the vast forest are all examples of living organisms that thrive in clean air, clean water, and sacred soil.

These are the elements that life on this planet requires to survive. The welfare state must ensure that clean air, pure drinking water, rich soil, and healthy ecosystems are among the most fundamental building elements of human health. The environment has an impact on one's quality of life. When the ecology is harmed, all organisms' futures are compromised. As a result, **the right to live in a clean and healthy environment is seen as a basic fundamental or human right.**

The **Stockholm Conference**, which took place in **1972**, established its first premise as follows: *"The fundamental right of man was to live in a healthy environment with an adequate quality of living that permitted him to lead a life of honour and fulfilment.."*

The Indian judiciary has similarly expanded the **scope of Article 21 of the constitution's fundamental right to life and personal liberty**, declaring that the right to life includes the right to a clean and healthy environment.

Because the environment encompasses all life, the **right to a clean environment** is an all-encompassing right that is necessary for the fulfilment of other rights. When the ecology is destroyed, the future of all organisms is compromised. As a result, **it is critical to recognise and preserve the right to a clean environment.**

## HUMAN'S RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT

An independent, distinct human right to a healthy environment is one that is not reliant on other protected rights recognised by international treaties. In the past, the idea of a human right to a healthy environment was considered novel, if not subversive. It is currently supported by a significant number of countries and extensively recognised in international law.

The human right to a clean environment was a topic of discussion during the **1972 United Nations Conference on the Human Environment**. For the first time, international law recognised the idea of a human right to the environment. In their report, the World Commission on Environment and Development also advocated for the recognition of environmental rights as human rights.

In a separate ruling in the case involving the **Gabcikovo-Nagymaros Project**, **Justice Weeramantry of the International Court of Justice** not only acknowledged the connection between environmental protection and human rights but also incorporated environmental protection into the human rights framework. He observed, "*Since it is a requirement for many human rights, such as the right to health and the right to life itself, environmental preservation is... an important component of contemporary human rights theory, according to the author. It is hardly necessary to go into depth here because environmental degradation may jeopardise and restrict all of the human rights stated in the **Universal Declaration and other human rights accords.***"

Professor Alan Boyle has also stated that looking at the right to a clean environment through the lens of human rights offers three advantages:

- it focuses on the effects of environmental challenges on people rather than states;
- it holds governments responsible for environmental governance and execution; and
- A broader interpretation of economic and social rights that include environmental protection aspects recognises the existence of a right to a healthy environment.

Though the terms "*right to a clean environment*," "*environmental rights*," and "*right to a safe and adequate environment*" have been used to discuss environmental rights from a human rights perspective, these rights have emphasised the anthropogenic dimension, with a healthy environment serving as a prerequisite for a healthy life.

## **GLOBAL ACKNOWLEDGEMENT FOR THE ESSENTIAL RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT**

The right to a clean and healthy environment has been promoted through a number of initiatives by the international community and non-governmental organisations. The right to live in a safe

and healthy environment is expressly guaranteed by numerous international and national treaties.

The first international body to define a right to a clean environment was the **United Nations Conference on Human Environment**, which took place in **1972**. The conference, which was possibly the first significant international effort to **safeguard and conserve the human environment, emphasised the importance of expanded government participation in environmental preservation and conservation to stop environmental degradation**. It states that "*Man has a fundamental right to freedom, equality, and suitable living conditions in a good environment that enable him to live a life of honour and well-being. He also has a serious obligation to protect and improve the environment for both present and future generations.*"

Similarly, the **United Nations Conference on Environment and Development (UNCED)'s Rio Declaration** underscores that humans have a right to a healthy and productive life in harmony with nature. The **International Covenant on Economic, Social, and Cultural Rights**, which was signed in **1966**, recognises "*Everyone has the right to the best possible physical and mental health.*" It assigns states corresponding obligations, including the requirement to make the necessary measures to improve all aspects of environmental hygiene.

The **African Charter on Human and People's Rights** was the first regional pact to incorporate environmental health as a component of the right to health. In 1986, the majority of African nations, as well as certain non-governmental organisations, ratified it, arguing for the right to a clean environment. "*All individuals shall have the right to a basically satisfactory environment fit for their growth,*" says **Article 24 of the Charter**.

The right to live in a safe and healthy environment was included in the Protocol on Economic, Social, and Cultural Rights to the American Convention on Human Rights of 1988. It reads, "*It is everyone's right to live in a healthy environment.*"

State parties are required to promote environmental protection, preservation, and enhancement.

**The Hague Declaration on the Environment of 1989** guarantees **the right to live in dignity in a sustainable global environment**. It also pushes for the global economy's preservation and promotes a **stronger authority inside the UN** system to protect the planet's atmosphere. The **1989 Convention on the Rights of the Child** tackles both the **availability of safe drinking**

**water and pollution's dangers and risks.** A kid has the right to the best achievable standard of health, according to Article 24 of the aforementioned treaty.

The **UN General Assembly reaffirmed** the wording of the **Stockholm Declaration in Resolution 45/94**, almost two decades after the Stockholm Conference, stating that it recognises all persons have the right to live in an environment sufficient for their health and well-being.

**In July 2010, the United Nations General Assembly enacted a groundbreaking resolution recognising the right to safe and clean drinking water and sanitation as a fundamental human right** essential to the full enjoyment of life and all human rights. Everyone has access to sufficient quantities of safe, physically accessible, and cheap drinking water and sanitation under the human right to water and sanitation.

The **UN Human Rights Council adopted a resolution on October 8, 2021**, recognising the right to a clean, healthy, and sustainable environment as a human right. All of these worldwide declarations and agreements show how important it is for everyone to live in a healthy environment.

## **APPLICATION OF THE RIGHT TO A CLEAN AND HEALTHY ENVIRONMENT IN JUDICIAL ACTION**

Indian courts have been crucial in interpreting legislation in ways that have assisted not only environmental protection but also long-term growth. The Indian judiciary has developed into the custodian and protector of people's fundamental rights, and by its proactive approach, it has secured a number of other fundamental rights that are implicit but not expressly specified in the constitution.

The right to an environment free from pollution is established in the fundamental laws of the nation. According to Article 21 of the Indian Constitution, the right to life is guaranteed as a fundamental freedom. The Supreme Court has interpreted Article 21's basic rights to life and personal liberty to also include the protection of the environment. It took the Supreme Court a long time to definitively rule that Article 21 of the Indian constitution includes the right to live in a healthy environment.

In a progressive expansion of environmental jurisprudence, the Supreme Court elevated the right to a clean and healthy environment to the rank of a fundamental human right under Article 21 of the constitution. As a result of active judicial activism, India's environmental governance has benefited from the expansion of such a constitutional protection to cover environmental issues. The supreme court has changed the definition of life from merely existing to meaningful living through a number of judicial decisions.

The right to life has been broadened in scope and application in a number of situations. The Supreme Court ruled in *Francis Coralie Mullin v. Union territory of Delhi*<sup>1</sup> that Article 21's right to life cannot be limited to animal life. It entails far more than just physical survival.

Furthermore, the court declared in *Maneka Gandhi v. Union of India*<sup>2</sup>, that any legislation affecting a person's life and liberty must satisfy constitutional scrutiny under articles 14 and 19, and that the legal method for restricting a person's liberty must be reasonable, fair, and just.

In *Kendra v. State of Uttar Pradesh*<sup>3</sup>, the Supreme Court decided for the first time that people's right to live in a healthy environment with little disruption to ecological balance should be respected.

## DOCTRINE OF PUBLIC TRUST

According to this doctrine, “*We all have a duty to protect and preserve the natural world's resources for future generations because the sea, water, air, land, flora, and wildlife are in the public domain and cannot be individually held by any individual.*”<sup>4</sup> This doctrine first evolved in *M.C. Mehta v. Kamal Nath*<sup>5</sup> where the Supreme Court's decision indirectly endorses the right to a healthy environment; since then, the doctrine has developed and been emphasized through various judicial pronouncements like *Subhas Kumar v. the State of Bihar*<sup>6</sup>. In order to fully enjoy life, the Supreme Court ruled that everyone has a right to clean water and air. The landmark case also prevented the construction of a retail centre in the location of a public

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<sup>1</sup> 1981 AIR 746, 1981 SCR (2) 516

<sup>2</sup> 1978 AIR 597

<sup>3</sup> 1985 AIR 652

<sup>4</sup> Shailesh R. Shah v. State of Gujarat, (2002) 43 (3) GLR 2295.

<sup>5</sup> 1987 SC 1086

<sup>6</sup> 1991 AIR 420, 1991 SCR (1) 5

garden, which was considered a public resource under this case of *M.I Builders Pvt Ltd v Radhey Shyam Sahu*.<sup>7</sup>

Justice Sabyasachi Mukherjee had previously stated in *Chhetriya Pradushan Mukti sangars Samiti v. State of Uttar Pradesh*<sup>8</sup> that

"As envisioned in Article 21 of the Indian constitution, every citizen has a basic right to enjoy the pleasures of quality of life and livelihood."

While upholding the validity of the Bhopal gas leak tragedy Act of 1985, the Supreme Court declared that Article 21 safeguards residents' right to a pollution-free environment.

In *Virender Gaur v. State of Haryana*<sup>9</sup>, it was said that

"The right to enjoy life, which includes the right to live in dignity, includes environmental protection, ecological harmony free of air, water, and sanitation pollution, all of which are essential for enjoying life."

As a result, a clean environment is a vital part of the right to a healthy life. A humane and healthy environment would be an audit.

In *T. Damodar Rao v. Special Officer, Municipal Corporation of Hyderabad*, the Andhra Pradesh high court stated, "Article 21 of the Constitution guarantees the enjoyment of life, as well as its accomplishments and fulfilment, and this includes preserving and protecting nature's gift, without which life cannot be enjoyed."<sup>10</sup>

The Rajasthan high court decided in *L.K. Koolwal v. State of Rajasthan*<sup>11</sup> that residents had the basic right to seek affirmative action under Article 21 on issues about health, sanitation, and the environment.

In *V. Lakshmipathy v. State of Karnataka*<sup>12</sup>, the Karnataka high court recognised the right to

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<sup>7</sup> AIR 1999 SC 2468

<sup>8</sup> 1990 AIR 2060

<sup>9</sup> Civil Appeal No: 9151 of 1994

<sup>10</sup> AIR 1987 AP 171

<sup>11</sup> AIR 1988 Raj 2

<sup>12</sup> AIR 1988 Raj 2

a clean environment as a fundamental human right<sup>13</sup>. Article 21 contains the right to life, which needs the component of quality of life, which can only be achieved in a healthy environment.

The Kerala high court ruled in *K. Ramakrishnan v. State of Kerala*<sup>14</sup> that the maintenance of health and the environment falls under the purview of Article 21 and that a healthy body is the foundation of all human activities in order to reduce smoking in public places, which has a negative impact on others.

The court stated in *RS Verma v. State of Rajasthan*<sup>15</sup> that “Article 21 guarantees a worthwhile existence while simultaneously defending a person's life and freedoms. It scarcely has to be stated that if you are unhealthy, life is not worth living. Environmental and ecological conservation, preservation, and maintenance are crucial for preserving people's physical and emotional wellbeing.”

In *Sayeed Masood Ali v. State of Madhya Pradesh*<sup>16</sup>, the court found that the right to life includes the right to health, and that health provides a calm and pleasant meaning to existence. Article 21 of the constitution uses the term "life" to express a noble and humanistic way of living.

In *B.L. Wadhwa v. Union of India*<sup>17</sup>, the Supreme Court stated explicitly, " People have a legal and constitutional right to live in clean cities, and it is the obligation of the relevant authorities to remove waste produced by various sources around the city and to collect it."

The Andhra Pradesh high court ruled in *MP. Rambabu v. Divisional forest officer*<sup>18</sup>, that the “right to a decent life, a pleasant environment, and ecological preservation must take precedence over the statutory right to own and enjoy the property of others under Article 21 of the constitution.”

The court determined in *Hinch Lal Tiwari v. Kamala Devi*<sup>19</sup> that the core of Article 21 is the

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<sup>13</sup> ILR 1991 KAR 1334

<sup>14</sup> AIR 1999 Ker 385

<sup>15</sup> AIR 2004 Raj 175

<sup>16</sup> AIR 2001 MP 220

<sup>17</sup> 1996 SCC (2) 594

<sup>18</sup> AIR 1999 Ker 385

<sup>19</sup> AIR 2001 SC 3215



protection of communal material resources, such as woodlands, tanks, ponds, and hillocks, in order to maintain ecological balance and allow people to live in high-quality communities.

In *Andhra Pradesh Pollution Control Board v. MV Nayudu*<sup>20</sup>, the Supreme Court unanimously declared that Article 21 affirms a right to a safe and clean environment, elevating environmental issues to the level of human rights.

In *SK. Garg v. State of UP*<sup>21</sup>, the Allahabad high court stated that the right to water is part of the right to life guaranteed by Article 21, and the Supreme Court of India stated in *Narmada Bachao Andolan v. Union of India*<sup>22</sup> that water is a basic need for human survival and is a part of the right to life and human rights enshrined

In *Milkman colony Vikas Samiti v. State of Rajasthan*<sup>23</sup>, the Supreme Court held that the right to life includes the right to a clean environment, which helps to a healthy body and mind.

In *Arjun Gopal and others v. Union of India and others*<sup>24</sup>, the Supreme Court stated, " *Under the guise of celebration, no one may violate another person's article 21-guaranteed right to health..*"

" *For the sake of a few, we cannot jeopardise the lives of thousands of people,*" remarked **Justice Shah**. " *Our main concern is the innocent people's right to life.*"

## CONCLUSION

Human life depends so heavily on the environment that it is impossible to exist without a healthy environment. Even though we are aware of how important it is, it hurts to see how industries' severe pollution upsets the ecological equilibrium. There is still a long way to go until sustainable development is achieved, despite the government's efforts and many steps to conserve and safeguard the environment. It is remarkable that, despite the difficulties, the Indian judiciary has amply shown, via its historic and ground-breaking rulings, its dedication

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<sup>20</sup> 1994 (3) SCC 1

<sup>21</sup> (1998) 2 UPLBEC 1211

<sup>22</sup> (civil) No. 319 of 1994 (2000)

<sup>23</sup> Appeal (civil) 246 of 2007

<sup>24</sup> Writ Petition (C) NO. 728/2015

to environmental security.

It is admirable that the Supreme Court has taken judicial activism and public interest litigation (PIL) to reduce pollution. Environmental protection worries have been allayed by Article 21 of the Indian Constitution's recognition of the right to a clean and healthy environment as a fundamental right.

Environmental conservation and the struggle against pollution have been fueled in India by judicial activism. Only a small number of judges, nevertheless, have taken an active role in addressing the need to save the environment. In order to convince all judges of the value of judicial activism for environmental preservation, greater efforts are needed. By handling and addressing a wide range of environmental challenges, India's courts have played a unique role in continuously expanding the idea of a decent living. In addition to being a human right, everyone in nature, including humans and nonhuman creatures, has a right to a clean and healthy environment. It has been extremely important in defending the right to a safe and healthy environment enshrined under Article 21 of the Constitution of India.

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