



## ENVIRONMENTAL LAW AND THE PROVISIONS OF THE INDIAN CONSTITUTION: A LEGAL STUDY

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### Abstract

The Indian Constitution is not static, but has developed and evolved over time. Environmental protection has not only become a fundamental right in India, but it has also grown linked with human rights and is now regarded an integral component of human rights. Assist everyone in living in a dignified and pollution-free environment. The preamble of our country's constitution stipulates building a socialist society and promoting environmental protection. Fundamental responsibility once again emphasizes the responsibility of all citizens to protect the environment. The principles of the guidelines are extended to the ideal of creating a healthy state. A healthy environment is an important part of a healthy situation. Article 47 states that the state shall, as part of its fundamental responsibilities, improve the food and living standards of the people and improve public health (including preventing and improving the environment). The state shall seek to conserve and improve the environment, as well as protect the country's forests and animals, according to Article 48-A of the Constitution. Part III covers fundamental rights that are important for personal development. Citizens will not participate in businesses that pose a danger to people or public health. The document explains the remedies under Articles 32 and 226 and makes the reader aware of the need to understand these provisions in order to increase public participation and raise awareness of the population about their environment.

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### Introduction

Environmental ethics has always been a part of Indian religious principles and ideas. Protecting forests and the environment has always been a part of Dharma (Joshi 2007). Worshiping the Nature (sun, moon, earth, air and water) was not an ancient man's response to fear of the unknown, but rather a respect for the heavens. . This respect for depth is based on the belief that life is one, continuous and interconnected, and that even small changes in one part of the ecosystem can have profound effects. Guru Nanak (Founder of Sikhism, 1469-1539) said: "Pawan Guru, Pani Pita Mata Dhart Mahat, Divis Raat Doi Daia, Khele Sagal Jagat" (Air is like God, water is the father and earth is the mother (Jaspal Singh 2009). The entire cosmos is supported by the harmonious interaction of all three fundamental elements). However, increased industrialization and urbanization, combined with diminishing social values, have contributed to global environmental deterioration, and India has both witnessed and contributed to this (Manoj Kumar 2010).

**In independent India**, the legislative campaign against pollution persisted. In India, there is now a slew of legislation aimed at safeguarding the environment from pollution and preserving ecological equilibrium. The Environment (Protection) Act of 1986 is a key environmental law. The Indian government has developed a number of programs and is utilizing audiovisual media to educate and raise awareness about environmental conservation.

The University Grants Commission (India) and other organizations held a meeting to advance environmental science at Indian universities in February 1971. At the meeting, participants agreed that teaching on environmental and ecological issues should be mandatory.

The development of an environment that meets people's needs is the goal of modern health policy for them. Many laws passed by the Turkish Grand National Assembly and many statements in the Constitution regarding environmental protection and sustainable development show the seriousness of the government on this issue. We take great pride in our Constitution, one of the world's longest written laws, which supports environmental preservation and long-term economic growth. Regarding environmental preservation and sustainable development, Articles 14, 19(1) (g), 21, 26, 32, 47, 48-A, 51(A)(g), 226, 253, Schedule, and Tenth of the Indian Constitution are impacted. While many Indians want to see their country succeed, they also have more immediate concerns, such as access to safe drinking water, adequate healthcare, and a pristine natural setting. The government of India is making efforts toward many ends in order to make this hope a reality.

India's commitment to preserving a pristine natural setting is reaffirmed by the country's ultimate law, the Constitution. It protects one's right to life and liberty. Parmanand Katara v. Union of India provides more judicial commentary supporting these points. The Indian Constitution places equal obligation on the government and

its inhabitants to safeguard and sustain the country's natural resources so that these goals can be realized. Environmental protection law is grounded in these provisions (M.C. Mehta v. State of Orissa,). These provisions also serve as the foundation of our democratic structure. In addition, India has been a frontrunner in upholding the concepts of environmental protection and sustainable development, as seen by its participation in every major international environmental agreement since the 1972 Stockholm Declaration, including the Rio +20 Declarations and the 2014 BRICS Summit.

### **Constitutional Provisions for Ecological Preservation and Balanced Development:**

During the legislative process, there was no provision made to ensure environmental safety. The environment was not given much attention back then. However, the strength of the judicial system is another matter. Governments and the general public have gained a better grasp of sustainable development thanks to the judiciary's familiarity with the delicate balancing act between environmental protection and development. The environmental renaissance has also been helped forward by the national environmental movement in India. The nature of the development model followed in India at the time is without a doubt the primary reason for these movements' rise and success. Often considered a continuation of the Chipko movement (Shri Sunder Lal Bahugana, 1970), the Appiko movement is one of India's forest-based environmental movements. This sport is popular in the Western Ghats region of Karnataka, known as Uttara Kannada. This is done so that logging doesn't harm the forest. Furthermore, the Kerala Sastra Sahitya Parishad (KSSP)-led Silent Valley Movement has asked the government to halt construction on the project because of its negative effects on the local ecosystem. It is home to rare and endangered species thanks to its 8,950 acres of rainforest, one of India's few remaining rainforests. In 1973, the government of Kerala made the decision to construct a dam across the Kutupuzha River as it flows through the Silent Valley. The project is meant to provide the foundation for the growth of the regional economy by producing 200 MW of electricity. This idea is flawed because it would result in catastrophic flooding of the valley's important forest, putting countless plant and animal species at risk. This led to a legal protest against the proposal beginning in 1979 from students, rural instructors, scientific conferences, journalists, residents, and non-profit groups. The modern Indian nation state supports a development strategy focused on social development, as seen by the successes of movements like the Chilika Bachao Andolan, Baliapal movement, Tehri Dam protest, and Narmada Bachao Andolan. When it comes to gender and racial equality, India is quickly becoming a global role model. His act is witnessed by millions of people around the globe. Events and declarations at the international level include the 1972 Stockholm Declaration (commonly called the Magna Carta of the Environment), the 1992 Rio Declaration (commonly called the Earth Summit), the Kyoto Protocol, the 2009 Cancun Conference in Copenhagen, the 2010 Durban Declaration, the 2011 Rio+20, the 2012 and 2014 BRICS Summits, the 2014 G20 Leaders Summit, and many others. He assured them that preserving the natural world is a priority for the Indian government.

Constitution of India and Environmental Protection: Constitution of India has created an important concept for India. This is an important law that not only reassures freedom fighters by stating fundamental rights but also lays down the principles of national law that legislators must keep in mind while making laws. Chapter 11 of the Constitution deals with social law and provides detailed information on federal and state law. In this section, environmental laws located in various parts of the constitution are discussed.

The Indian judicial system has long shown concern for environmental issues, and its judges have taken a practical, effective approach to interpreting environmental regulations. Article 21 guarantees a person the right to a safe and sanitary living environment, as well as the right to life and freedom. With the judiciary's resistance to the law's execution, as mentioned in Chapter 21, duties that were largely superfluous during the A.K. Gopalan era have been brought back into play. Industrialization and urbanization have led to an increase in pollution. Even though they contributed to the problem at times, the wealthy and the educated were staunch opponents of pollution. People living in poverty and slums don't speak out about this. Severe water pollution consequences have resulted from wastewater discharge, a sewage system in the streets, and a lack of sewage treatment. Millions of people's health is badly impacted by the suffocating air and increased air pollution caused by smoke and odors from traffic, industry, and stubble burning. Many legislation have been introduced by the legislature to curb pollution, but they have had little effect. The Supreme Court of India should intervene to protect the lives of Indians by interpreting the anti-pollution statute as a component of the right to life guaranteed by Article 21 and thereby ensuring that the increase in funding goes toward relieving the injury and suffering of the poor. weight. polluting the environment, oppression.

**Responsibility and the idea of long-term growth:** All environmental infractions (ecological rights are included in the right to life in Article 21) are likewise violations of all commitments, as Hohfeld put it. Article IV, Part A was inserted into the Indian Constitution in the 42nd Amendment. The National Constitutional Review Commission places great emphasis on citizens' roles. If people are not willing to take part in government, accept responsibility, do their civic duty, and make a positive contribution to society, then democratic governance will never be established. In addition, he emphasized that it is the government's responsibility to raise public consciousness about its role in the lives of its citizens.

Article 51 A(G) imposes a duty to safeguard the environment. An essential obligation to -A was written into the Constitution in 1976. There are ten distinct parts described here. Social obligations are the foundation of responsibility. Article 51-A(g) states that citizens have a responsibility to preserve and improve ecological systems like woods, lakes, rivers, and wildlife, as well as to be tolerant of all forms of life. The World Charter for Nature, established in 1982, is related to this type of civic duty. All those who are vulnerable to environmental harm are guaranteed protections under Article 23 of the Charter. This includes both individuals and non-governmental organizations.

Different Charter Safeguards for the Environment and Long-Term Progress: Parliament has the authority to enact laws to carry out treaties, accords, or agreements with another country or nations, as well as international gatherings, per Article 253 of the Constitution. Each and every determination made by groups or governments. This power is temporary and is only applicable to carrying out the decision. When Article 253 is read in conjunction with Article 13, Parliament is given the explicit authority to pass laws pertaining to any item on the National List. The Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, and the Environment (Prevention of Pollution) Act of 1981 were all enacted by Parliament in exercise of their powers under Clause 253 of Part 13 of the Schedule. According to the declaration, these rules became legislation following a vote at the 1972 Stockholm United Nations Conference on the Human Environment.

The broad text of Article 253 states that after the 1972 Stockholm Conference, Parliament has the authority to legislate for everything connected to the conservation of natural resources. This interpretation comes from the Tiwari Committee, which was chaired by Shri ND Tiwari in 1980. So, under Article 253, the Indian Parliament enacted a new statute.

Local zoning, planning, and zoning rules are also matters for the state. As a result, the coast and its development are subject to specific municipal rules and land laws in coastal states. In 1991, however, the federal government enacted national coastal laws because it had become clear that municipal regulations were insufficient to protect coastal environment. A 500-meter-wide strip of land along the whole coast of India is subject to these regulations, which together encompass more than 3,000 square kilometers. Some state governments' displeasure with the Ministry's expansive authority is understandable, especially given the Ministry's backing for the commission's Environmental Protection Act through the Coastal Norms Act. Originally known as the Environment (Protection) Rules of 1986, this legislation was enacted to better protect the environment.

**Seventh Schedule of the Indian Constitution:** The Seventh Schedule gives the Centre full powers to make agreements with other countries and make laws to achieve the same. The powers of the Parliament are: It is strengthened by Article 253 which gives laws passed as regulations for the whole country or part of the country, including the implementation of international agreements. M.P. Professor Jain in his book

## References

- Joshi, P.C. and Dr. Amit K. Pant. "Fighting Forest Fire : An Enviro-Socio-Legal Study in Kumaon Himalaya", M.D.U., Law Journal, Vol. XII, Part-I (2007) : 165-179
- Singh, Jaspal. "Legislative and Judicial Control of Environmental Pollution in India : An Appraisal", Law Journal, Guru Nanak Dev University, Amritsar, Volume XVII (2009) : 37-54
- Kumar Manoj, "Judicial Control of Environmental Pollution in India", Chotanagpur Law Journal, 2009-10, Vol. 2, No. 2

"The Legal Constitution of India" states that the International responsibility of the Central Government There is, Parliament has the right to make laws to discharge this responsibility even if the matter falls within the purview of the state. Furthermore, the Constitution of India, whether intentionally or unintentionally, details the laws related to environmental laws. Additionally, the 42nd Amendment added a new 20-A entry to Schedule III for the first time. This includes population control and family planning. In fact, the rapid increase in population is the cause of environmental pollution. The State Legislative Assembly has the power to make laws regarding public health and hygiene under Article 6 of July 7.

From an environmental perspective, the problems on the state list include some environmental problems such as cleaning and disposal. The best local garbage disposal. Issues such as wildlife protection, water pollution and air pollution need to be addressed in the country.

## Conclusion:

In light of the foregoing, it should come as no surprise that Indian judges have used translation techniques to derive various rights not stated in the Constitution of India. In addition to recognizing clean air and water as a basic human right, the Supreme Court crafted environmental protections based on principles including polluter liability, preventative regulation, and public trust. However, environmental contamination issues persist despite the judiciary's vital function. In addition, the pressure to comply with the law must be increased if people are to adequately defend and ensure their moral, ethical, social, and legal rights. It is evident from a review of a number of cases that the Indian court has made use of the robust provisions of the Constitution to enhance the "legal environment" in the country. The courts have served to both raise the profile of environmental concerns and desensitize government officials to specific types of environmental litigation.

Those who intentionally cause harm to the natural environment should be punished as severely as those who commit crimes against humanity. Indeed, health appears to be a topic that links environmental conservation with human rights. Human rights in the environmental context, such as anti-discrimination laws, require societal involvement and the protection of vulnerable groups, which can be ensured through promoting the connection between human rights and the environment.

- Parmanand Katara v. Union of India. AIR 1989 SC 2039, Kharak Singh v. State of U.P. AIR 1963 SC 1295; Pashchim Bang Khet Mazdoor Samiti v. State of West Bengal AIR 1996 SC 2426; Consumer Education and Research Centre v. Union of India (1995) 3 SCC 42; Kirloskar Brothers v. Employees State Insurance Corporation (1996) 2 SCC 682; State of Punjab v. Mohinder Singh Chawla AIR 1997 SC 1225; N.D. Jayal v. Union of India, (2004) 9 SCC 362
- Article 48-A and 51(A)(g) of the Constitution of India. M.C. Mehta v. State of Orissa, AIR 1992 ORI 225.

- Padam Nepal, *Environmental Movements in India- Politics of Dynamism and Transformations*, Ed. 1<sup>st</sup>, Authors Press, 2009, p. 105-06
- Padam Nepal, *Environmental Movements in India- Politics of Dynamism and Transformations*, Ed. 1<sup>st</sup>, Authors Press, 2009, p. 108.
- Baliapal movement is an agitation against the establishment of the National Testing Range (NTR), India's first missile testing project in the Balaipal and Bhogra Blocks of Orissa's Balasore district.
- Shukla V. N., *Constitution of India*, 12th edition, 2016.
- Bansal V.K., *Right to Life and Personal Liberty in India*, New Delhi: Deep & Deep, (1987) : 56
- The inclusion of Fundamental Duties in our Constitution brings it in line with Article 29(1) of Universal Declaration of Human Rights, which says
- “Everyone has the duty to the community in which alone free and full development of the personality possible”.
- Article 23, World Charter for Nature, Doc.A/Res/37/7, November, 1982.
- According to the Entry 13 of List-I: Participation in international conferences, associations and other bodies and implementing of decision made in the treaties.
- Coastal Zone Rules be Amended Soon, *Economic Times*, New Delhi, 13 November, 1996.
- Chipko Andolan was initiated under the leadership of Shri Sunder Lal Bahugana (a noted environmentalist) in early 1970s in protection against indiscriminate cutting of trees and deforestation.

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