

INDIA'S HUMAN RIGHTS AND ENVIRONMENTAL LAW INTERSECTION SCENARIO

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ABSTRACT

The global concern to protect the environment has grown in recent years, and it is now widely recognized that human rights and a healthy environment are interdependent. To achieve sustainability, it is crucial to study the relationship between these two concepts. This essay aims to explore the intersection of human rights and environmental law, with a focus on health-related aspects. Since the Stockholm conference, international agreements and conventions have been established to safeguard human rights and the environment, but poverty and the neglect of fundamental human rights continue to put pressure on the environment. The essay will investigate how the judicial system has contributed to the development of environmental jurisprudence, and will analyze various initiatives and treaties undertaken by governments and organizations to protect human rights and the environment. Finally, the paper will review the government's actions and court interpretations of international laws and conventions.

Keywords: Human rights, environmental laws, public health, sustainable development, environment

INTRODUCTION

The relationship between environmental law and human rights is not only close, but also interdependent. Both have the same goal of promoting human rights and improving people's lives. They share a common focus on promoting human well-being. Governments, international and national organisations have acknowledged the interconnected nature of environmental law and human rights. The protection of human rights and the environment is essential to improve the quality of life. Courts have recognised the right to live in a clean environment as part of the fundamental right to life. International conferences and tribunal decisions have shown that human rights can be used to protect the environment. However, these intertwined concerns are often approached as if they are unrelated. Environmental problems, such as climate change, loss of biodiversity and depletion of the ozone layer, are not only environmental but also economic, political, and social issues. A rights-based strategy has been developed to address environmental issues. A consensus on appropriate policies needs

to be reached by representatives from various levels of government, business, and civil society, as well as other stakeholders. The preservation of the environment is not only necessary for human survival, but also for socio-economic growth. The Stockholm environment conference in 1972 prioritized the preservation of the environment. The proclamation emphasizes the need for appropriate environmental legislation, which is essential for peaceful coexistence between humans and nature. The protection and conservation of the environment are crucial for the exercise of fundamental human rights, including the right to life.

INTERNATIONAL CONVENTIONS, TREATIES AND LAWS

The conservation of nature and the environment was first not taken seriously by any governments or international or national organisations. All the time, this was the situation. There have been continual efforts to protect the environment from 1972 and up until the present day. The following section will discuss a few of the worldwide agreements, treaties, and laws that have been established to safeguard the environment.

- **Stockholm Declaration (1972)**

The United Nations conference on the human environment, which took place in Stockholm (Sweden) in 1972, brought mankind closer to the environment. At this meeting, a declaration on the human environment was adopted. The year 1972 is seen as the beginning of the environmental movement in many parts of the world and is a watershed year in the history of environmental laws. The interconnected nature of human rights and environmental law was formally acknowledged in Principle 1 of the Stockholm Declaration. Following the adoption of this proclamation, the United Nations Environment Programme (UNEP), an institution devoted to the defence of human rights and the environment, was established.¹

- **Rio Declaration (1992)**

The 1992 United Nations Conference on Environment and Development reaffirmed the 1972 Stockholm declaration, which was first drafted. The Rio Declaration creates a link between upholding environmental laws and defending human rights. The values that were embraced as part of the Declaration's framework for sustainable development define both the right of people to live in a healthy environment and their duty to preserve the environment. This declaration emphasises the connection between all human rights and environmental preservation, connecting the right to development with the right to live in a peaceful, healthy environment free from noise. A turning point in the transition to sustainable development was the Rio Declaration.

¹ "Man has the fundamental right to freedom, equality, and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations"

- Word Summit on Sustainable Development (2002)

The goal of the recent world summit on sustainable development, held in Johannesburg, was to raise awareness among the general public about the importance of sustainable growth for improving the future without jeopardising the needs of the present. Its main focus is on implementation rather than the creation of new agreements and objectives. Gender equality, democratic societies, good governance, and expanding international cooperation for environmental protection were the main issues raised during the conversation.

Aside from these conferences, there have been some advancements in the form of resolutions and discussions by international organisations, human rights bodies, and specific agencies seeking to better the globe and the environment. The preservation of the environment is crucial for the enjoyment of fundamental human rights, the UN General Assembly stated in a resolution from 1990. The special rapporteur focused on environmental consciousness as a requirement for the state to ensure environmental protection in his 2012 report on human rights and the environment.

INTERPRETATION OF RIGHT TO LIVE IN CLEAN ENVIRONMENT IN INTERNATIONAL FORUM

The right to live in a clean and healthy environment is a fundamental human right that has been interpreted in various ways by various international fora. The notion that the right to life should encompass the right to live in a healthy environment is supported by the rulings of several international tribunals. The three fundamental rights included in Article 11 of the Additional Protocol to the Inter-American Convention on Human Rights are the duty to respect and safeguard others' rights and fundamental freedoms, the right to receive essential public services, and the right to live in a healthy environment (1994). "Man has a fundamental right to freedom, equality, and appropriate living conditions, in a setting of a standard that allows for a life of dignity and well-being, and he carries a grave responsibility to safeguard and enhance the environment for both the present and the generations to come." (Basic human rights include those to freedom, equality, and decent living conditions.) the state government to protect and improve the environment. Article 24(2)(C) of the Convention on the Rights of the Child discusses the preservation of children's health (1989). This is carried out to stop the spread of illness, starvation, and damage brought on by environmental contaminants. The right to sanitization and the right to good health both play significant roles, and their importance can be understood in relation to the right to life. Individuals have a right to a setting that is acceptable, suitable, and supportive of their development, according to Article 24 of the African Charter on Human and People's Rights, which was established in 1981. The topic of sustainable development and environmental conservation are both covered in this article. The issue of whether or not to combine environmental protection with human rights came up at the European convention on human rights in 1950. Unfortunately, nothing was done to connect the two ideas, thus this is unfortunate. Rarely are the issues and concerns related to the environment directly discussed. The European Court of Human Rights declared in the landmark decision of Lopez-Ostra v. Spain that environmental concerns might undermine one's right to privacy even if they do not also affect that person's right to health. The scope of the right to a

clean, healthy environment was expanded by this ruling, which also safeguarded human rights against any environmental issues.²

In *Diego Cali & Figli SrL v. Servizi Ecologici Porto di Genova Spa (SEPG)*, the European court of justice held that protection of environment and prevention of pollution helps in sustainable development and refers to principle 3 of Rio declaration.³

PROVISIONS OF HUMAN RIGHTS AND ENVIRONMENTAL LAW IN INDIA

Each individual's right to a life, which includes the right to a secure and healthy environment, is protected by Article 21 of the Indian Constitution. Every person has the fundamental right to live in a spotless environment, according to the Indian Constitution. The United States Constitution makes it plainly clear how crucial human and environmental rights are to one another. The Directive Principle of State Policy discusses the importance of environmental law in Article 48a. The state is bound under Article 48a to exert significant efforts to protect and preserve the environment. The Indian constitution strongly emphasises both the interrelationship between human rights and environmental issues as well as the need for both the state and the populace to take action in order to protect and maintain the nation's original animals and flora. The Indian Constitution states that everyone has a basic right to a clean environment as well as a fundamental responsibility to protect that environment. Each Indian citizen has a duty to protect the nation's natural environment, including its forests and waterways, and to refrain from harming the nation's wildlife, as stated in Article 51(g) of the Indian Constitution. The complicated connection between environmental law and human rights is outlined in the Indian Constitution in a way that is both clear-cut and profound. In the case *Sachidanand Pandey v. State of West Bengal*, the Supreme Court of India made the observation that if issues concerning the environment are brought before a court, the court is required to have in mind articles 48(A) and 51A of the Constitution (g).⁴

ROLE OF JUDICIARY ON PROTECTING ENVIRONMENT

The judiciary plays a crucial role in protecting the environment by interpreting and enforcing environmental laws, holding governments and industries accountable for their actions, and providing legal recourse for citizens and organizations seeking to protect the environment. In many countries, including India, the judiciary has been at the forefront of environmental protection efforts. For example, in India, the judiciary has used its powers to mandate the closure of industries that do not comply with environmental regulations, to order the cleanup of polluted water bodies, and to grant compensation to victims of environmental harm. Judges have also been instrumental in interpreting and expanding the scope of environmental rights and protections. In some cases,

² Application No. 16798/90; (1995) 20 EHRR 277; [1994] ECHR 46; (1994) 303-C Eur. Ct. H.R. (ser A)

³ Case C-343/95. European Court Reports 1997 I-01547 ECLI identifier: ECLI:EU:C: 1997:160

⁴ 1987 AIR 1109, 1987 SCR (2) 223

judges have recognized the right to a clean and healthy environment as a fundamental human right and have interpreted the right to life to include the right to a clean environment. This has led to the development of new legal theories and frameworks for environmental protection. Furthermore, the judiciary has also played a role in holding governments and industries accountable for their actions that harm the environment. Through public interest litigation and other legal actions, the judiciary has compelled governments and industries to take corrective measures and to pay damages to affected communities. Overall, the judiciary's role in protecting the environment is critical, as it ensures that environmental laws are enforced and that the rights of citizens and the environment are protected.

Even if there have been a number of legislative initiatives made to preserve the environment and basic human rights, the courts and tribunals still play an important role in the interpretation of the legislation and the development of environmental jurisprudence. The Indian judiciary is extremely important to the process of protecting fundamental rights. In a number of different rulings, the role of the court in the protection of the environment has been brought into obvious focus. In the case *Francis Coralie Mullin vs. Union Territory*, the Indian Supreme Court ruled that a person has the right to live with human dignity as part of their right to life under article 21 of the Indian Constitution.⁵

In the case of *M. C. Mehta vs. UOI*, the Supreme Court of India ruled that life, health, and the environment take precedence over unemployment and that environmental issues are given greater weight. The verdict handed down by the Supreme Court in the *Charan Lal Sahu* case included the right to a wholesome environment as part of the right to life in article 21. In the seminal case of *Subhash Kumar vs. State of Bihar*, the Supreme Court of India ruled that the fundamental right to life guaranteed by article 21 of the Indian Constitution includes the right to live in a pollution-free and clean environment as well as the right to enjoy pollution-free water and air in order to get the most out of one's life. This decision was a game-changer.⁶

The Indian judiciary did an outstanding job of bringing attention to the environmental issue and protecting the rights of citizens by including the right to a clean and healthy environment within the framework of fundamental rights. This allowed for the provision of remedies to those who had been wronged by environmental law. There is a long series of instances in which the Supreme Court acknowledged that the right to a healthy and sound environment is an essential component of human rights and provided redress to those who were wronged by environmental law.⁷

⁵ 1981 AIR 746, 1981 SCR (2) 516

⁶ 1987 AIR 1086, 1987 SCR (1) 819

⁷ 1991 AIR 420, 1991 SCR (1) 5

CONCLUSION

India's legal system recognizes the crucial link between human rights and environmental protection. The failure to protect a healthy environment affects the ability to fully enjoy human rights, and therefore, protecting the environment is necessary to safeguarding human rights. The judicial system in India is attempting to combine human rights with environmental regulations in order to bridge the gap and protect both. Despite the existence of various laws and legislation, environmental issues persist, and the careful execution of legislation and routine inspections are necessary for sustainable development. The proposal for the constitution of an environment court with a special judge to deal with environmental cases is a step in the right direction to strengthen the hands of the judiciary in this regard. It is crucial to acknowledge that harming the environment is not only damaging to the ecosystem but also a violation of human rights. Thus, India's legal system must continue to prioritize the protection of both human rights and the environment to ensure a sustainable and equitable future for all.

REFERENCES

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