



Environmental Health and the Indian Constitution

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The Indian Constitution recognizes the right to a healthy environment through Article 21 (right to life) and mandates environmental protection through Article 48A (Directive Principles of State Policy) and Article 51A(g) (Fundamental Duties), emphasizing the state's and citizens' responsibility to protect and improve the environment.

Constitutional Framework:

The protect and improve the environment is a constitutional mandate. It is a commitment for a country wedded to the ideas of a welfare State. The Indian Constitution contains specific provisions for environment protection under the chapters of Directive Principles of State Policy and Fundamental Duties. The absence of a specific provision in the Constitution recognizing the fundamental right to clean and wholesome environment has been set off by judicial activism in the recent times.

Article 21: Guarantees the right to life, which has been interpreted by the judiciary to include the right to a healthy and pollution-free environment.

The 42nd Amendment to the Constitution in 1976, prompted by global environmental consciousness, added Article 48A to the Directive Principles of State Policy and Article 51A(g) to the Fundamental Duties.

Article 48A: Under Directive Principles of State Policy, the State is mandated to protect and improve the environment and to safeguard forests and wildlife.

Article 51A(g): Imposes a fundamental duty on every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, and to have compassion for living creatures.

Article 253 of the Indian Constitution enables the enactment of legislation to give effect to international agreements, including those related to environmental protection.

Article 47 states that the State shall regard improving the level of nutrition and the standard of living of its people as one of its primary duties, and that improving public health also includes protecting and improving the environment, without which public health cannot be guaranteed. Article 48 deals with the organization of agriculture and animal husbandry, and it instructs the State to take steps to organize agriculture and animal husbandry on modern and scientific lines. "The Directive principles under the Indian constitution directed

towards ideals of building welfare state. Healthy environment is also one of the elements of welfare state." In particular, it should take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle. Article 48 -A of the constitution says that "the state shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country"¹.

Judicial Precedents:

Article 21 of the constitution states that "no person shall be deprived of his life or personal liberty except according to procedure established by law." Since the Supreme Court's ruling in *Maneka Gandhi vs. Union of India* (AIR 1978 SC 597), Article 21 has been liberally interpreted. It guarantees the fundamental right to life, including the right to a healthy environment free from disease and infection, which is an essential component of the right to live with human dignity. The judiciary has been central to the interpretation and enforcement of these constitutional provisions pertaining to environmental protection.

In the matter of *Rural Litigation and Entitlement Kendra vs. State*, AIR 1988 SC 2187 (often referred to as the Dehradun Quarrying matter), the right to live in a healthy environment as guaranteed by Article 21 of the Constitution was initially acknowledged. The Supreme Court ordered the cessation of excavation (illegal mining) under the Environment (Protection) Act, 1986, in what is the first case of its kind in India that deals with environmental and ecological balance issues. In *M.C. Mehta vs. Union of India*, AIR 1987 SC 1086 the Supreme Court recognized the right to live in pollution free environment as a part of fundamental right to life under Article 21 of the Constitution.

Excessive noise creates pollution in the society. The constitution of India under Article 19 (1) (a) read with Article 21 of the constitution guarantees right to decent environment and right to live peacefully. In *PA Jacob vs. The Superintendent of Police Kottayam*, AIR 1993 Ker 1, the Kerala High Court held that freedom of speech under article 19 (1)(a) does not include freedom to use loud speakers or sound amplifiers. Thus, noise pollution caused by the loud speakers can be controlled under article 19 (1) (a) of the constitution.

Article 19 (1) (g) of the Indian constitution confers fundamental right on every citizen to practice any profession or to carry on any occupation, trade or business. This is subject to reasonable restrictions. A citizen cannot carry on business activity, if it is health hazards to the society or general public. Thus safeguards for environment protection are inherent in this. The Supreme Court, while deciding the matter relating to carrying on trade of liquor in *Cooverjee B. Bharucha Vs Excise commissioner, Ajmer* (1954, SC 220) observed that, if there is clash between environmental protection and right to freedom of trade and occupation, the courts have to balance environmental interests with the fundamental rights to carry on any occupations.

Public Interest Litigation under Article 32 and 226 of the constitution of India resulted in a wave of environmental litigation. The leading environmental cases decided by the Supreme Court includes case of closure of limestone quarries in the Dehradun region (*Dehradun Quarrying case*, AIR 1985 SC 652), the

¹ <https://pib.gov.in/newsite/printrelease.aspx?relid=105411>

installation of safeguard at a chlorine plant in Delhi (M.C. Mehta V. Union of India, AIR 1988 SC 1037) etc. In Vellore Citizens Welfare Forum vs. Union of India (1996) 5 SCC 647, the Court observed that “the Precautionary Principle” and “the Polluter Pays Principle” are essential features of “Sustainable Development.”

Examples of Judgements:

In M.C. Mehta v. Union of India, the Supreme Court stated that the right to life includes living in a pollution-free environment.

In Murali S Deora v Union of India, the court declared that pollution caused by smoking is violative of Article 21.

Environment protection is part of our cultural values and traditions. In Atharvaveda, it has been said that “Man’s paradise is on earth; this living world is the beloved place of all; It has the blessings of nature’s bounties; live in a lovely spirit”. Earth is our paradise and it is our duty to protect our paradise. The constitution of India embodies the framework of protection and preservation of nature without which life cannot be enjoyed. The knowledge of constitutional provisions regarding environment protection is need of the day to bring greater public participation, environmental awareness, environmental education and sensitize the people to preserve ecology and environment.

