

Analysing the Scope of Right to Life: Global and Indian Landscape

Charvi Devprakash*

Abstract

Right to Life is an intrinsic and an indispensable natural, human and a fundamental right, provided not only in our Constitution, but also in various other international conventions such as the Stockholm Declaration, Universal Declaration of Human Rights among others. When discussed, one may realise, that the concept of Right to Life is merely a very broad spectrum with many such auxiliary rights- one of them being the Right to Healthy Environment. The ironic dichotomy of this however is that the very environment which is considered an innate human right is being abused and sabotaged by the very humans who depend on it. The researcher through this article aims to trace back in time and outline the evolution of environmental law in light of human rights and then narrows down the discussion to Right to life as an inalienable and innate right, irrespective of its statutory backing. The article upon introducing the topic, transitions to giving a global and a local perspective by highlighting the precedents laid in the past with the respect to Right to Environment as a part of Article 21 of the Constitution.

Keywords: Right to Life, Article 21, UDHR, Right to Environment

INTRODUCTION

The issue of Environment and Right to Life is neither novel nor unknown. It has elicited quite a traction and debate in the recent past. The right to life and the environment go hand in hand and yet in the opposite direction. Both are incomparable and non-fungible. One may even call this debate a double-edged sword. As the right to life emphasizes on the right to a quality of life, which can be achieved through economic development. Economic development comes with an enormous opportunity cost called the 'Environment'. So how does one find a midway between these two juxtaposed to one another? This gives rise to the recently popular concept of 'Sustainable Development'. However, before delving into recent concepts such as the Sustainable Development, one must look at the chronology of events in the past.

SETTING A GLOBAL BACKGROUND

The inclusion of the Right to healthy environment as a human right can be dated back to the Universal Declaration of Human Rights, 1948 [1]. Article 25 of this Declaration states that

"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control [2]."

*Author for Correspondence

Charvi Devprakash
E-mail: charvidev01@gmail.com

Student, Faculty of Law, PES University, Dwaraka Nagar,
Banashankari, Bengaluru, Karnataka, India

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Through this Article, one may infer, that such standards of living can be achieved through an environment healthy and conducive to such growth.

While this hasn't been explicitly mentioned under this convention, many conventions since, have highlighted the need for healthy environment as a human right.

The Stockholm Declaration, commonly known as the United Nations Conference on the Human Environment, was one of the major pieces of environmental law that was approved. Environmental degradation and human rights were first brought to international attention in 1972 by the United Nations Conference on the Human Environment [3]. Man has a "fundamental right to freedom, equality, and adequate living conditions, in a quality environment 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," according to Principle 1 of the "Stockholm Declaration on the Human Environment. Because of the 1972 Conference, the United Nations Environment Programme (UNEP) was created.

Following the first global environmental conference, the United Nations Summit on Environment and Development (UNCED), also referred to as the Earth Summit, was held in Rio de Janeiro from June 3 to 14, 1992. The Conference's goal was to assist nations in "rethinking economic development and finding measures to stem the annihilation of scarce natural resources and contamination of the earth," as environmental deterioration had progressed at an alarming rate despite international efforts.

The sessions were attended by delegates from 178 countries, leaders of state from 108 countries, and representatives from over 1,000 non-governmental organisations. Three key agreements were signed at Rio, the most important of which was the Rio Declaration on Environment and Development in the framework of human rights and the environment. "*Human people are at the heart of concerns for long-term development,*" says Principle 1. They are entitled to a respectable and happy life in the natural world. According to Principle 4, in order to achieve sustainable development, "environmental protection must be recognised as an intrinsic part of the development process and cannot be considered in isolation from it."

Principle 10 of the 1992 Rio Declaration had a significant impact on the circumstances that led to the Aarhus Convention, which became effective in 2001. The three subjects mentioned in the title are covered under the Aarhus Convention. Rather than using rights-oriented terminology, the Treaty requires states to "guarantee" that citizens have access to knowledge, are able to participate, and have recourse to judicial review. Although the term "right" is often avoided, the Aarhus Convention's objectives, structure, and context are rights-based, drawing on concepts from international human rights law. The purpose of the Convention is to guarantee participatory, informational, and procedural freedoms in environmental issues.

According to the WSSD implementation plan, the World Summit on Sustainable Development (WSSD) [4], which was held in Johannesburg in September 2002, highlighted the importance of respecting fundamental freedoms and human rights in order to achieve sustainable development. The plan emphasized the necessity of national effort in achieving successful development. The plan's core components include effective governance, the rule of law, gender equality, and a general dedication to a just and democratic society. For the implementation of sound national policy, transparency, accountability, and fair administrative and judicial institutions are all viewed as essential. The plan also emphasizes the need of encouraging public engagement in environmental decision-making by implementing measures such as providing public access to information on legislation, rules, activities, policies, and programmes. Women must be fully and equitably included in all aspects of the environmental and development process, including policy formulation and decision-making, according to the plan.

For instance, the human right to a healthy environment is debatable because it has both societal and individual components. If, after a span of foreign dominance, it is discovered that the dominated people's physical environment has been severely harmed, it is normally regarded perfectly reasonable

to allow for a claim to environmental protection (i.e., restoration) not only by individuals but also by the affected community. Article 55 of Protocol I to the 1949 Geneva Convention [5] can be used in this manner as it states the following:

“Care shall be taken in warfare to protect the natural environment against widespread, long term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.”

Despite the lack of adequate environmental provisions, human rights complaints involving the environment are being filed before regional and international supervisory agencies. The Human Rights Committee has handled several situations in which the environment has been a factor. In *Bordes and Temeharo v. France* [6] it was argued that upcoming nuclear tests would violate the applicants' right to life and family. The right to life was allegedly violated in *H.P. et al. v. Canada* [7] due to the environmental impact of nuclear stocks located near residences. Having discussed its background globally, it is now of paramount importance to look at this issue from a local perspective.

LOCAL PERSPECTIVE

The Indian Constitution [8] is not a static text; it is a living document that changes and evolves through time. The constitution's special provisions on environmental protection are also a product of the fundamental law of the land's dynamic nature and potential for growth. Our constitution's preamble guarantees a socialist social structure and individual dignity. This entails a decent level of living and a pollution-free environment.

The fundamental rights that are vital for a person's development and to which a person is essentially entitled by virtue of his birth are protected in Part III of the Indian Constitution. Without the right to a clean environment, it is impossible for a person to grow and reach their full potential. Articles 14, 19 and 21 of this portion have been used to protect the environment.

The jurisprudence resulting from some notable judicial rulings in recent years, particularly in relation to Article 21 of the Constitution, which deals with "the right to life," has been a major development. India is guided by Article 21, which provides that no one shall be deprived of their life or freedom. The rest of the Articles are secondary to this one. To put it another way, all Articles have been written to uphold the Indian Constitution's theme song of 'life and liberty,' which states that no one in India, not even a citizen, shall be deprived of life and liberty.

It is not included as a simple platitude since, through time, this throbbing Article, which was the most energetic of all Articles, grew flesh, and with the support of Article 21, individuals' life and liberty are preserved. Article 21 of the Indian Constitution is a well-known section that serves as a fundamental right for Indian citizens. It safeguards people's lives and freedoms. It envisions and seeks to ensure that no one's life or personal liberty is taken away without first following a legal procedure. Right to life refers to a person's health, nourishment, and access to a clean environment, among other things. Article 21 is a built-in guarantee, to put it another way.

“No person should be deprived of his life or personal liberty except according to procedures established by law,” says Article 21 of the Indian Constitution. All other essential rights are centred on Article 21. It covers a wide range and crams a ton of data into a tiny area. As a result, the judiciary has interpreted constitutional provisions, including fundamental rights, and in particular Article 21, broadly. By judicial construction, the court aimed to broaden the scope and reach of Article 21 rather than highlighting its meaning and content.

As a result, the judiciary stretched the concept of life and expanded the scope of personal liberty to encompass all the rights that contribute to man's personal liberties. Basic principles were prepared to

help people comprehend the legal procedure. The judiciary has resolved the majority of environmental issues in which the right to a healthy environment was deemed essential for life and upheld as a basic right. As a result, Article 21 might be viewed as a mandate for a life-saving environment. The right to life and the right to a clean environment are two of the most significant cases discussed in this Article.

Following the Supreme Court's decision in *Maneka Gandhi vs. Union of India* [9], occasionally, Article 21 has been read liberally. The right to life is protected under Article 21 as a fundamental right. It also involves the right to a healthy environment free from illness and sickness. An essential component of the right to live in a humane environment is the right to a healthy environment.

The first case to recognise the right to live in a healthy environment as a component of Article 21 of the Constitution was *Kendra v. State*. The Supreme Court of India [10] ordered that illegal mining cease in this case, the first of its sort including environmental and ecological issues, in accordance with the Environment (Protection) Act of 1986 [11]. In *M.C. Mehta v. Union of India* [12], the Supreme Court recognised the right to live in a pollution-free environment as a component of the fundamental right to life under Article 21 of the Constitution.

Moving on, noise pollution is a problem in today's culture. The right to a decent environment and the right to live in peace are both protected under Articles 19 (1) (a) and 21 of the Indian Constitution. In *PA Jacob vs. The Superintendent of Police Kottayam* [13], the Kerala High Court ruled that using loudspeakers or sound amplifiers is not protected by Article 19(1)(a) of the constitution. As a result, Article 19 (1) of the constitution allows for the control of noise pollution brought on by loudspeakers.

A Judicial Interpretation of Right to Life and the Environment Court rulings have, either directly or indirectly, embraced the right to a healthy environment. A Supreme Court constitutional court first discussed the connection between environmental quality and the right to life in the *Charan Lal Sahu Case* [14]. In 1991, the Supreme Court determined that the right to a healthy environment is a part of Article 21 of the Constitution's right to life.

The Court stated in *Subash Kumar* that the right to pollution-free water and air is part of the right to life provided by Article 21. The court acknowledged the right to a healthy environment as a basic right in this case. This case also demonstrated that municipalities and a vast number of other government entities concerned could no longer be satisfied with unimplemented pollution abatement and prevention measures. They might be forced to take positive steps to help the environment. *M.C. Mehta v. Union of India* reiterated this.

The lawsuit concerned the deterioration of the global environment and the state government's obligation under Article 21 to achieve a higher level of environmental quality. According to the Supreme Court, unemployment and financial loss are subordinate to protecting human life, the environment, and public health. The Supreme Court has ordered the federal government to provide evidence of its efforts to improve environmental quality and achieve this goal through national policy.

CONCLUSION

The Supreme Court dealt with the issue of air pollution generated by motor vehicles operating in Delhi in another case. The court issued several orders to the Ministry of Environment and Forests because it was a petition of public interest. Decisions like this show that the Supreme Court is adopting a new trend of devising unique remedies to achieve a desired result, even if these new remedies appear to trespass on the executive's jurisdiction.

The Supreme Court's broad interpretations of Article 21 have established the bedrock of environmental law over time and have aided the cause of environmental protection in India. In addition, throughout the previous few decades, a great number of environmental legislations have been enacted.

However, a number of groups have argued that the Constitution is deficient since it does not expressly establish that people have a right to a healthy and safe environment. These organisations proposed several adjustments to the Constitution in a recent proposal to the committee set up to examine the Constitution, in order to ensure environmental preservation and natural conservation.

Environmental Rights should be recognised and incorporated as separate and independent Fundamental Rights in India's Constitution. These are the results of the Supreme Court's above-mentioned interpretation of the term "Right to Life."

This could be broadened to include the right to clean water to drink and the right to an environment free of pollution. The term 'forest' is replaced by the term 'life-supporting natural ecosystems' in the Directive Principles of State Policy. This suggestion is justified by the fact that courts and other authorities, including forest departments, have understood the term "forest" to refer to territory with trees. As a result, land devoid of trees is not regarded a forest, and there is little interest in preserving other essential natural resources.

There is a need to maintain these different ecosystems as we get a deeper knowledge of their value to humanity. The Fundamental Duties now include the obligation for panchayats and municipalities to take ecological factors into account and protect the environment, including ecosystems that support life, like forests, rivers, and lakes, as well as wildlife, when creating plans for socio-economic development and justice. This would also need the addition of an item for environmental protection and promotion of ecological features to the Eleventh Schedule, which deals with Panchayats.

To summarise, the emergence of the ideology of environment as a component of the right to life in the Indian context has been explained by conducting a chronological examination of the courts' environmental missions. As a result, Article 21 is a requirement for a life-saving environment.

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