

# Safeguarding Human Rights Through Environmental Protection: An Analysis of Article 21 of the Constitution of India

Bhupal Bhattacharya<sup>1,\*</sup>

## Abstract

*Environmental protection is crucial for safeguarding human rights, particularly in the face of growing environmental degradation and climate change. Article 21 of the Indian Constitution guarantees the right to life and personal liberty, which courts have interpreted to include the right to a clean and healthy environment. This research paper analyzes the role of Article 21 in safeguarding human rights through environmental protection in India. It examines the constitutional provisions, judicial decisions, and legal frameworks related to environmental protection, and human rights in India. The paper highlights the challenges faced in implementing environmental laws and policies in India and suggests measures to ensure effective enforcement and protection of human rights. The study concludes that Article 21 plays a critical role in protecting human rights through environmental protection and that greater efforts are needed to promote environmental justice and sustainable development in India.*

**Keywords:** Article 21, constitution of India, climate change, environmental justice, environmental protection, human rights, judicial decisions, sustainable development

## INTRODUCTION

Environmental protection and human rights are two critical issues that have gained significant attention from policymakers, academics, and the public in recent years [1]. The Constitution of India, with its emphasis on social justice and fundamental rights, has recognized the importance of protecting the environment for the betterment of human life. The Indian judiciary has interpreted Article 21 of the Constitution, which enshrines the right to life and personal liberty, to include the right to a clean and healthy environment. This interpretation has led to a growing body of case law that recognizes the interdependence between human rights and environmental protection.

This research paper aims to analyze the impact of Article 21 of the Constitution of India on the protection of human rights through environmental protection. The paper will begin with an overview of the constitutional and legal framework governing environmental protection in India, including various laws, policies, and institutions responsible for its enforcement. The paper will then examine the development of the jurisprudence surrounding Article 21 and its interpretation to include the right to a clean and healthy environment.

### \*Author for Correspondence

Bhupal Bhattacharya  
E-mail: [bhupalbhattacharya@gmail.com](mailto:bhupalbhattacharya@gmail.com)

<sup>1</sup>Assistant Professor, Department of Law, Raiganj University,  
Raiganj, West Bengal, India

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The paper will also analyze the practical implications of this interpretation, including its impact on policy-making, legal frameworks, and environmental governance. Furthermore, it will explore the challenges and limitations of implementing environmental protection measures that safeguard human rights, including the difficulties in balancing economic development and environmental conservation.

The paper will conclude by providing recommendations for policymakers and practitioners in India to strengthen the linkages between environmental protection and human rights. By doing so, the paper seeks to contribute to the ongoing discourse on how to promote sustainable development that protects both the environment and the fundamental rights of citizens.

### **OBJECTIVES OF THE STUDY**

- i. To examine the relationship between human rights and environmental protection, and to explore the ways in which environmental degradation can lead to violations of human rights.
- ii. To analyze the case law on Article 21 and environmental protection, including landmark judgments of the Supreme Court of India, and to assess their impact on human rights and environmental protection in India.
- iii. To identify the challenges and limitations of using Article 21 as a tool for safeguarding human rights through environmental protection, including issues related to implementation, enforcement, and coordination among various government agencies.

### **SIGNIFICANCE OF THE STUDY**

The study of how environmental protection can safeguard human rights is of great significance in today's world. India is a country with a diverse population and numerous environmental issues, which can have a significant impact on human rights. The analysis of Article 21 of the Constitution of India in relation to environmental protection can provide insight into how India's legal framework can ensure the protection of human rights in the face of environmental challenges. Additionally, the study can contribute to a broader understanding of how environmental protection can be used as a tool to promote and safeguard human rights in other countries facing similar issues. This study is also important for policymakers, lawyers, and environmentalists, as it can offer recommendations for effective legal and policy frameworks that can balance environmental protection with the protection of human rights.

### **RELATIONSHIP BETWEEN HUMAN RIGHTS AND ENVIRONMENTAL PROTECTION**

Human rights and environmental protection are closely interconnected, as environmental degradation can lead to violations of human rights [2]. Environmental degradation can cause harm to human health, property, and well-being, and can also affect people's access to basic resources such as food, water, and shelter [3]. For instance, air and water pollution can cause respiratory diseases and other health problems, while deforestation can lead to landslides and the loss of fertile soil, affecting agriculture and food security.

The relationship between human rights and the environment is recognized globally, with the United Nations acknowledging that "human rights and the environment are mutually reinforcing and interdependent" [4]. In 1972, the United Nations Conference on the Human Environment adopted the Stockholm Declaration, which recognized that "man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights".

International human rights treaties such as the "International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child" recognize the right to a healthy environment as a fundamental human right [5]. In India, Article 21 of the Constitution guarantees the right to life and personal liberty, which has been interpreted by the Supreme Court to include the right to a clean and healthy environment.

Despite the acknowledgement of the connection between human rights and environmental protection, environmental degradation persists, resulting in violations of human rights. The forced displacement of indigenous communities from their traditional lands due to environmental degradation can lead to violations of their cultural and land rights. Similarly, exposure to toxic chemicals and pollution can result in violations of the right to health.

Therefore, it is essential to examine the relationship between human rights and environmental protection, and explore the ways in which environmental degradation can lead to violations of human rights. This understanding can help policymakers and other stakeholders develop effective strategies for protecting both the environment and human rights.

## **ARTICLE 21 AND ITS RELEVANCE TO ENVIRONMENTAL PROTECTION**

Article 21 of the Constitution of India is considered one of the most fundamental and comprehensive provisions for the protection of human rights [6]. “No individual shall be deprived of his life or personal liberty except in accordance with the procedure established by law”, the statement reads. This provision has been interpreted broadly by the judiciary to include a range of rights, including the right to a clean and healthy environment.

Environmental protection has emerged as a critical issue for India, given the country’s rapidly growing economy and population, and the resulting impact on natural resources and ecosystems [7]. The protection of the environment is not only important for the well-being of the planet but also for the protection of fundamental human rights, such as the right to life, health, and a healthy environment.

Article 21 has been used by the Indian judiciary to enforce environmental protection laws and regulations. The Indian courts have interpreted the right to life and personal liberty guaranteed by the Constitution to include the right to a clean and healthy environment. In several cases, the courts have ordered the closure of industries or operations that cause environmental pollution or pose a threat to public health [8].

In addition to this, the courts have also recognized the importance of sustainable development in balancing environmental protection with economic development. The courts have held that economic development should not come at the cost of environmental degradation and that sustainable development is necessary for the protection of human rights.

## **LANDMARK JUDGMENTS OF THE SUPREME COURT OF INDIA**

Over the years, the Supreme Court of India has interpreted Article 21 of the Constitution of India in a way that extends its protection to a wide range of rights, including the right to a clean and healthy environment. The court has recognized that environmental protection is a fundamental aspect of the right to life and personal liberty, and that environmental degradation can have a severe impact on human health, well-being, and dignity. In a series of landmark judgments, the court has emphasized the importance of environmental protection and laid down guidelines and principles to ensure that environmental concerns are adequately addressed in decision-making processes.

One such landmark judgment is the case of *Subhash Kumar v. State of Bihar* (1991) [9], where the court held that the right to life under Article 21 includes the right to a clean environment. The court further held that the state has a duty to protect and improve the environment, and that this duty extends to all organs of the state, including the judiciary. In *Vellore Citizens Welfare Forum v. Union of India* (1996) [10], the court held that the polluter pays principle must be applied in cases of environmental damage and that the precautionary principle must be followed in cases of uncertainty about the potential impact of a project on the environment.

Another significant judgment is the case of *T. N. Godavarman Thirumulpad v. Union of India* (2006) [11], where the court emphasized the importance of forest conservation for the protection of the environment and the rights of forest-dwelling communities. The court also held that the principle of sustainable development must be followed in all decision-making processes that affect the environment, and that the interests of future generations must be taken into account.

A strong connection between human rights and environmental protection has been created in India thanks to Article 21 and environmental protection [12]. The court has recognized that environmental

degradation can have a severe impact on human rights, and has taken a proactive approach to ensure that environmental concerns are adequately addressed in decision-making processes [13].

## CHALLENGES AND LIMITATIONS

Using Article 21 of the Constitution of India as a tool for safeguarding human rights through environmental protection presents several challenges and limitations. One of the primary challenges is related to the implementation of environmental regulations and laws. While there are numerous laws and regulations in place for environmental protection, their implementation is often weak and ineffective due to inadequate resources, capacity, and coordination among various government agencies.

Another issue is the enforcement of environmental laws and regulations. While the Supreme Court of India has taken a strong stance in favor of environmental protection and has passed several landmark judgments to this effect, the actual enforcement of these judgments is often weak and ineffective, leading to continued environmental degradation.

In addition, there is often a lack of coordination among various government agencies responsible for environmental protection, which can lead to a fragmented and ineffective approach to addressing environmental issues. This lack of coordination is often exacerbated by political and bureaucratic factors, which can result in a lack of political will to implement and enforce environmental regulations.

Furthermore, the judiciary's reliance on Article 21 as a tool for environmental protection has limitations. The Supreme Court of India has used Article 21 to protect various environmental rights, such as clean air, clean water, and a healthy environment. The application of Article 21 in environmental situations is subject to restrictions, though. For instance, Article 21 primarily protects the rights of individuals and not the collective rights of communities. Thus, environmental degradation affecting communities may not be addressed by the application of Article 21.

## CONCLUSION

Article 21 of the Constitution of India provides an essential tool for safeguarding human rights through environmental protection, but its application faces several challenges and limitations. To address these challenges and limitations, various stakeholders, including the government, the judiciary, civil society organisations, and the general public, will need to work together.

## REFERENCES

1. Agyeman Julian, Robert D Bullard, Bob Evans. Exploring the nexus: Bringing together sustainability, environmental justice and equity. *Space and Polity*. 2002; 6(1): 77–90.
2. Bhattacharya Bhupal, Priya Roy, Sarmistha Bhattacharya, Biresh Prasad, Amit Kumar Mandal. Nanotechnology and sustainable development: Overcoming the obstacles by adopting ethical practices for future farming. *Engineered Nanomaterials for Sustainable Agricultural Production, Soil Improvement and Stress Management*. Academic Press. 2023. pp. 431–445.
3. Corvalan Carlos, Simon Hales, Anthony J McMichael, Colin Butler. *Ecosystems and human well-being: health synthesis*. Vol. 1. World Health Organization; 2005.
4. Atapattu Sumudu. The right to a healthy life or the right to die polluted: The emergence of a human right to a healthy environment under international law. *Tul. Env'tl. LJ*. 2002; 16: 65.
5. Liebenberg Sandra. The international covenant on economic, social and cultural rights and its implications for South Africa. *South African Journal on Human Rights*. 1995; 11(3): 359–378.
6. Anaya James. Indigenous peoples' participatory rights in relation to decisions about natural resource extraction: The more fundamental issue of what rights indigenous people have in lands and resources. *Ariz. J. Int'l & Comp. L*. 2005; 22(1): 11.
7. Singh RB. Environmental consequences of agricultural development: A case study from the Green Revolution state of Haryana, India. *Agriculture, Ecosystems & Environment*. 2000; 82(1–3): 97–103.

8. Ebeku Kaniye SA. Constitutional right to a healthy environment and human rights approaches to environmental protection in Nigeria: *Gbemre v. Shell* revisited. *Review of European Community & International Environmental Law*. 2007; 16(3): 312–320.
9. AI 1991 SC 420.
10. 1996 5 SCC 647.
11. (1997) 2 SCC 267.
12. Anton Donald K, Dinah L Shelton. *Environmental protection and human rights*. Cambridge University Press; 2011.
13. Atapattu Sumudu. The right to a healthy life or the right to die polluted: The emergence of a human right to a healthy environment under international law. *Tul. Env'tl. LJ*. 2002; 16(1): 65–126.