

PROTECTION OF ENVIRONMENT THROUGH HUMAN RIGHTS JURISPRUDENCE: JUDICIAL ENDEAVOR

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ABSTRACT

Environmental degradation poses a serious and escalating threat to the realization of fundamental human rights across the globe. Pollution, climate change, deforestation, and loss of biodiversity directly undermine the rights to life, health, livelihood, and human dignity. In response to these challenges, courts have increasingly adopted a human rights-based approach to environmental protection. This research paper examines the evolution of environmental protection through human rights jurisprudence, emphasizing the crucial role played by the judiciary at both national and international levels. Special focus is placed on the Supreme Court of India, which has developed a rich body of environmental jurisprudence by interpreting constitutional rights expansively. The study also analyzes international human rights instruments, regional judicial decisions, and emerging principles such as sustainable development, the precautionary principle, and the polluter pays principle. It argues that judicial intervention has been instrumental in bridging legislative gaps and advancing environmental justice, while also identifying persistent challenges related to enforcement, institutional capacity, and global coordination.

RESEARCH PROBLEMS

Despite significant judicial intervention at both national and international levels, environmental degradation continues to pose serious threats to human rights. While courts have increasingly relied on human rights jurisprudence to address environmental harm, several unresolved legal and institutional challenges persist. This research is structured around the following core problems:

1. Absence of Explicit Recognition of Environmental Rights

One of the primary research problems is the lack of an expressly codified and universally binding human right to a clean and healthy environment. Although courts have interpreted existing rights—such as the right to life and health—to include environmental protection, the absence of explicit constitutional or treaty-based recognition creates uncertainty and inconsistency in enforcement.

2. Implementation and Enforcement Gaps

A significant problem lies in the gap between judicial pronouncements and their effective implementation. Despite progressive judgments by the Supreme Court of India and international courts, enforcement often remains weak due to administrative inefficiency, lack of political will, and economic pressures favoring development over environmental protection.

3. Balancing Development and Environmental Rights

Another critical research problem is the tension between economic development and environmental protection. Courts frequently face the challenge of reconciling developmental needs with the protection of human rights affected by environmental degradation, raising questions about the practical application of sustainable development principles.

4. Limited Global Uniformity in Environmental Human Rights Jurisprudence

While some regional human rights systems explicitly recognize environmental rights, others rely on implied interpretations. This lack of uniformity leads to fragmented global standards and weakens collective international efforts to address transboundary environmental harm.

5. Accessibility of Environmental Justice

Although public interest litigation has expanded access to environmental justice in India, marginalized and vulnerable communities still face obstacles in effectively asserting their environmental rights. Procedural complexities, limited awareness, and resource constraints continue to restrict meaningful participation.

INTRODUCTION

The growing environmental crisis has emerged as one of the most significant challenges confronting humanity in the contemporary era. Environmental degradation—manifested through air and water pollution, deforestation, climate change, and ecological imbalance—has far-reaching consequences for human existence and social stability.¹ These challenges are no longer confined to environmental policy debates; they now occupy a central position in human rights discourse.

Traditionally, environmental protection was perceived as a matter of administrative regulation or state policy, with limited judicial involvement.² Human rights law, on the other hand, focused primarily on civil and political liberties. However, the increasing realization that environmental harm directly affects human survival and dignity has led to a conceptual convergence of these two fields.

In this context, the judiciary has emerged as a key actor in environmental governance. Courts have interpreted existing human rights norms to address environmental harms, particularly in jurisdictions where legislative and executive responses have been inadequate.³ The Indian judiciary, through public interest litigation and expansive constitutional interpretation, has played a pioneering role in this transformation.

II. ENVIRONMENT AND HUMAN RIGHTS: CONCEPTUAL FRAMEWORK

A clean, healthy, and sustainable environment constitutes a foundational prerequisite for the effective enjoyment of basic human rights. Environmental quality directly influences the realization of the right to life, health, food, water, housing, livelihood, and human dignity.⁴ Environmental degradation—whether through air and water pollution, deforestation, climate change, or biodiversity loss—undermines the physical survival and social well-being of individuals and communities.

For instance, prolonged exposure to polluted air leads to respiratory and cardiovascular diseases, thereby impairing the right to health. Contaminated water sources threaten survival and violate the right to safe drinking water, while climate change disrupts agricultural productivity, endangering food security and livelihoods. These impacts disproportionately affect vulnerable and marginalized populations, including indigenous communities, children, and economically disadvantaged groups, thereby raising concerns of environmental justice and equality.⁴¹

International institutions have increasingly recognized the intrinsic link between environmental protection and human rights. The United Nations has consistently emphasized that environmental harm directly interferes with the enjoyment of internationally recognized human rights.⁵ Reports of the UN Environment Programme and statements of the UN Human Rights Council underscore that environmental protection is not merely a policy objective but a legal and moral obligation grounded in human dignity. This recognition reflects a paradigm shift—from treating environmental concerns as peripheral issues to acknowledging them as central to human rights discourse.

Human rights jurisprudence has correspondingly evolved beyond its traditional confines. Initially focused primarily on civil and political rights, human rights law has progressively expanded to include

economic, social, cultural, and environmental dimensions.⁶ Courts and human rights bodies have justified this expansion by emphasizing that human rights are dynamic and must be interpreted in light of contemporary social, economic, and environmental realities.

Judicial bodies have increasingly adopted a purposive and evolutionary interpretation of human rights instruments, recognizing that rights cannot be meaningfully enjoyed in an ecologically degraded environment. Environmental degradation, which poses existential threats to humanity and future generations, thus warrants judicial protection within the human rights framework. This approach reflects an understanding that environmental protection is not an independent or competing interest, but an essential condition for the realization of all human rights.

II. INTERNATIONAL LEGAL FRAMEWORK

A. Human Rights Instruments and Environmental Protection

While early international human rights instruments did not explicitly recognize a right to a healthy environment, several provisions implicitly incorporate environmental concerns.

The **Universal Declaration of Human Rights, 1948** guarantees the right to life and an adequate standard of living, which necessarily depend on environmental conditions.⁷ The **International Covenant on Civil and Political Rights, 1966**, under Article 6, protects the right to life. The Human Rights Committee has clarified that this right includes protection against environmental threats that jeopardize life and health.⁸

Similarly, the **International Covenant on Economic, Social and Cultural Rights, 1966** recognizes the right to the highest attainable standard of health and an adequate standard of living. These rights encompass access to clean water, sanitation, and healthy environmental conditions.⁹

Regional instruments have advanced this recognition further. Article 24 of the **African Charter on Human and Peoples' Rights** explicitly guarantees the right to a satisfactory environment favorable to development.¹⁰ The **Aarhus Convention, 1998** strengthens environmental democracy by ensuring access to information, public participation, and access to justice in environmental matters.¹¹

B. UN Declarations and Soft Law Developments

Soft law instruments have played a significant role in shaping environmental human rights jurisprudence. The **Stockholm Declaration, 1972** was the first international document to recognize that environmental quality is essential to human well-being.¹² The **Rio Declaration, 1992** reinforced this approach by introducing principles such as sustainable development, public participation, and inter-generational equity.¹³

A landmark development occurred in 2021 when the **UN Human Rights Council** formally recognized the right to a clean, healthy, and sustainable environment as a human right.¹⁴ Although not legally binding, this resolution reflects growing global consensus and influences judicial interpretation.

III. INDIAN CONSTITUTIONAL AND LEGAL FRAMEWORK

A. Constitutional Provisions

The Constitution of India provides a comprehensive and dynamic foundation for environmental protection, reflecting a constitutional commitment to human dignity, social justice, and sustainable development. Although the Constitution does not explicitly recognize an independent right to a healthy environment, judicial interpretation—particularly of Article 21—has transformed environmental protection into a constitutionally enforceable human right. Article 21, which guarantees the right to life

and personal liberty, has been expansively interpreted by the Supreme Court to include the right to live in a clean, healthy, and pollution-free environment.¹⁵ This judicial interpretation reflects the Court's purposive approach to constitutional rights and its emphasis on substantive justice over formalistic readings of the Constitution.

The Supreme Court has consistently held that the right to life is not confined to mere animal existence but encompasses the right to live with dignity, health, and well-being. Environmental quality, therefore, is considered an essential component of the right to life. By integrating environmental protection into Article 21, the judiciary has effectively constitutionalized environmental rights, enabling citizens to seek judicial remedies against environmental harm through writ petitions and public interest litigation.

In addition to fundamental rights, the Directive Principles of State Policy reinforce the constitutional mandate for environmental protection. Article 48A expressly directs the State to protect and improve the environment and to safeguard forests and wildlife. This provision reflects the constitutional vision of environmental stewardship and sustainable governance. Furthermore, Article 51A(g) imposes a fundamental duty on every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife.¹⁶ Although Directive Principles and Fundamental Duties are non-justiciable, the Supreme Court has consistently relied upon them to interpret fundamental rights and to guide legislative and executive action. Together, these provisions create a cohesive constitutional framework that balances rights, duties, and state obligations in environmental governance.

B. Statutory Framework

To operationalize constitutional mandates, India has enacted an extensive body of environmental legislation aimed at preventing pollution, conserving natural resources, and ensuring sustainable development. The **Water (Prevention and Control of Pollution) Act, 1974** was the first comprehensive legislation to address water pollution and established Pollution Control Boards at the central and state levels. Similarly, the **Air (Prevention and Control of Pollution) Act, 1981** seeks to prevent, control, and abate air pollution through regulatory mechanisms and emission standards. The **Environment (Protection) Act, 1986**, enacted in the aftermath of the Bhopal Gas Tragedy, serves as an umbrella legislation empowering the central government to take all necessary measures for environmental protection.¹⁷

These statutes collectively provide a regulatory framework for environmental governance by authorizing environmental standards, monitoring mechanisms, and penalties for non-compliance. They also reflect India's commitment to international environmental obligations and principles of sustainable development.

A significant institutional advancement in environmental adjudication occurred with the establishment of the **National Green Tribunal (NGT)** under the **National Green Tribunal Act, 2010**.¹⁸ The NGT was created to ensure the effective and expeditious disposal of cases relating to environmental protection and conservation of natural resources. By incorporating scientific expertise alongside judicial decision-making, the Tribunal enhances the quality of environmental adjudication and strengthens access to environmental justice. The establishment of the NGT represents a shift towards specialized environmental governance and complements the role of constitutional courts in enforcing environmental rights..

IV. JUDICIAL ENDEAVOR: SUPREME COURT OF INDIA

A. Landmark Judgments

1. Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985)

In this landmark case, the Supreme Court ordered the closure of limestone quarries operating in the Mussoorie Hills after finding that unregulated mining had caused severe ecological imbalance.¹⁹ The Court emphasized that environmental preservation is indispensable for human survival and held that environmental degradation constitutes a direct violation of the right to life guaranteed under Article 21 of the Constitution. This judgment marked a turning point by prioritizing environmental protection over economic interests and laid the foundation for environmental human rights jurisprudence in India.

2. Subhash Kumar v. State of Bihar (1991)

The Supreme Court unequivocally held that the right to life under Article 21 includes the right to enjoy pollution-free water and air.²⁰ The Court further clarified that any activity causing environmental pollution which adversely affects public health would amount to a violation of fundamental rights. This judgment firmly established environmental quality as an integral component of the right to life and strengthened the use of public interest litigation in environmental matters.

3. Vellore Citizens Welfare Forum v. Union of India (1996)

Addressing large-scale pollution caused by tanneries in Tamil Nadu, the Supreme Court formally introduced the **Precautionary Principle** and the **Polluter Pays Principle** into Indian environmental law.²¹ The Court held that sustainable development must be the guiding principle for all economic activities and emphasized that development cannot proceed at the cost of environmental degradation and human health. This case significantly aligned Indian environmental jurisprudence with international environmental law principles.

4. Indian Council for Enviro-Legal Action v. Union of India (1996)

In this case, the Supreme Court dealt with environmental damage caused by chemical industries manufacturing hazardous substances. The Court imposed **absolute liability** on polluting industries and directed them to compensate affected communities and restore degraded land.²² The judgment reinforced the principle that environmental harm carries strict legal responsibility and strengthened accountability mechanisms within environmental human rights jurisprudence.

5. M.C. Mehta Series of Cases

Through a series of public interest litigations filed by environmental activist M.C. Mehta, the Supreme Court addressed critical environmental issues such as pollution of the River Ganga, vehicular emissions in Delhi, industrial hazards, and environmental safety standards.²³ The Court issued wide-ranging directions, including closure of polluting industries, introduction of cleaner fuels, and formulation of environmental policies. These cases exemplify judicial activism and demonstrate the judiciary's proactive role in protecting environmental and public health through human rights interpretation.

6. M.C. Mehta v. Union of India (Oleum Gas Leak Case) (1987)

Following the leakage of oleum gas from a chemical plant in Delhi, the Supreme Court evolved the doctrine of **absolute liability** for hazardous industries.²⁴ The Court held that enterprises engaged in inherently dangerous activities owe an absolute and non-delegable duty to the community to ensure safety. This case strengthened environmental protection by expanding liability principles beyond traditional negligence doctrines.

7. M.C. Mehta v. Kamal Nath (1997)

In this case, the Supreme Court applied the **Public Trust Doctrine**, holding that the State is the trustee of natural resources and must protect them for public use.²⁵ The Court quashed a lease granted to a private company that altered the natural flow of a river, emphasizing that natural resources cannot be

converted into private ownership. This judgment reinforced the State's obligation to safeguard environmental resources as part of its human rights duty.

8. T.N. Godavarman Thirumulpad v. Union of India (1997 onwards)

This continuing mandamus case addressed large-scale deforestation across India. The Supreme Court expanded the definition of "forest" and imposed strict controls on non-forest activities.²⁶ The Court emphasized inter-generational equity and the need to protect forest ecosystems for present and future generations. The case significantly strengthened forest conservation jurisprudence in India.

9. Narmada Bachao Andolan v. Union of India (2000)

This case examined the environmental and human rights implications of large dam projects. While allowing the construction of the dam, the Supreme Court emphasized the importance of environmental impact assessments, rehabilitation of displaced persons, and sustainable development.²⁷ The judgment highlighted the complex balance between development and environmental rights within human rights jurisprudence.

10. A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999)

The Supreme Court stressed the need for scientific expertise in environmental adjudication and applied the **Precautionary Principle** to prevent potential environmental harm.²⁸ The Court emphasized that environmental decision-making must prioritize public health and ecological safety, reinforcing the preventive approach within environmental human rights protection.

V. INTERNATIONAL JUDICIAL DEVELOPMENTS

International courts have also recognized the human rights implications of environmental harm. The **European Court of Human Rights**, in *Öneryildiz v. Turkey*, held that state failure to prevent environmental hazards violated the right to life.²⁹

The **Inter-American Court of Human Rights** has acknowledged that environmental degradation infringes indigenous and community rights, particularly where livelihoods and cultural identity are affected.³⁰ Similarly, the **African Commission on Human and Peoples' Rights** has enforced Article 24 of the African Charter to protect environmental rights.³¹

VI. ANALYSIS AND CHALLENGES

Judicial protection of environmental rights offers several advantages. Courts provide an accessible forum for marginalized communities, develop innovative legal principles, and ensure governmental accountability.³² Public interest litigation has democratized access to environmental justice in India.

However, challenges remain. Enforcement of judicial orders often depends on executive will and administrative capacity. Economic pressures and developmental priorities may undermine environmental safeguards. Moreover, the absence of a binding global treaty recognizing environmental rights limits uniform implementation.³³

8) SUGGESTIONS

To strengthen the protection of the environment through human rights jurisprudence, several measures are necessary:

1. **Explicit Legal Recognition of Environmental Rights:**
Constitutions and national laws should expressly recognize the right to a healthy environment as a fundamental right, reducing reliance on judicial interpretation alone.
2. **Strengthening Judicial Capacity:**
Judges should receive training in environmental science, climate change law, and human rights to effectively adjudicate complex environmental cases.
3. **Specialized Environmental Courts and Tribunals:**
Expanding the jurisdiction and enforcement powers of environmental tribunals like the National Green Tribunal can enhance accountability and expedite justice.
4. **Public Participation and Access to Justice:**
Legal frameworks should ensure meaningful public participation in environmental decision-making and safeguard access to legal remedies, especially for marginalized and vulnerable communities.
5. **Harmonization with International Norms:**
Domestic courts should increasingly integrate international human rights and environmental norms into their reasoning, promoting consistent global jurisprudence.
6. **Climate Change Governance:**
States should adopt rights-based climate policies with clear, enforceable targets to protect human rights affected by climate impacts.
7. **Education and Awareness:**
Public education on environmental human rights can empower citizens and civil society to demand accountability and sustainable practices.

These suggestions aim to reinforce legal protections and ensure that environmental quality supports the realization of fundamental human rights for current and future generations.

CONCLUSION

The integration of environmental protection within human rights jurisprudence represents a significant evolution in legal thought. Judicial intervention, particularly by the Supreme Court of India, has transformed environmental protection from a policy objective into a legally enforceable human right. By interpreting constitutional and international norms dynamically, courts have addressed legislative gaps and advanced environmental justice.

Nevertheless, judicial activism alone cannot resolve environmental challenges. Effective implementation, institutional strengthening, and international cooperation are essential to ensure sustainable development and protect the rights of present and future generations. Recognizing the right to a healthy environment as a universal human right remains a critical goal for the global community.

FOOTNOTES

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