
Right to Life and Environmental Protection: Expanding Article 21 in reference to the Indian Constitution

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Abstract

Constitution of India which talks about one of the most important rights amongst others the fundamental right to life discussed under Article 21. Judicial activism was first construed narrowly but it has since gradually broadened to cover a variety of human rights issue. Inclusion of environmental protection within its ambit is one of the most important developments in it. This article covers the judicial interpretation, constitutional framework, and modern significance of environmental rights as part of right to life through Article 21.

Introduction

The close relationship between the Right to Life enshrined in Constitution of India, a keystone of human rights and environmental protection which is the extremely important in current perspective has emerged as a compelling focal point in contemporary legal as well as ethical discussions, which is tending towards a nationwide re-evaluation of jurisprudence of human rights and constitutional law.

Constitution of India in which Article 21 (which is also part of golden triangle i.e. Article 14,19 and 21) is talking about right to life which is being rapidly interpreted to circumscribe the right to healthy and sustainable environment, enshrining an increasing acclaim that degradation of environment poses an imminent and direct threat to human life and ecosystem. Primarily stick to protection against arbitrary and unfair state actions, the judiciary interpreted to expand the area and include several aspects of human rights along with standard, quality of life which include right to clean and good environment. This transformation and development have impacted court system to handle environment issues considering environmental rights and suggesting expanded role of judicial system while hearing environmental matters. Enjoyment of clean environment is associated with quality of life and any damage to natural resources will affect human being.

Legal framework related to Environment

Article 21

One of the most important parts of constitution i.e. Article 21 which talks about right to life and personal liberty is a vital provision that evolved and gave idea about many aspects which is included with life and liberty all this is done through judicial pronouncement. It includes the right to clean air, right to health, right to clean drinking water and pollution free environment, acting as the bedrock of Indian environmental jurisprudence

Article 48 A which is part of directive principle inspires the State to provide protection and work for betterment of environment.

Article 51 A(g) which is part of Fundamental duty puts an obligation upon citizens to save the environment.

Although being unjustifiable above-mentioned Article i.e. 48 A & 51 A(g), courts have cited them to support their interpretation of Article 21.

There are few Acts enacted keeping in mind protection of environment, mainly:

- Environment Protection Act, 1986
- Water (Prevention and Control of Pollution) Act, 1974
- Air (Prevention and Control of Pollution) Act, 1981
- Wildlife Protection Act, 1972
- The Forest (Conservation) Act, 1980

While dealing with matters of environmental issues these laws acted in favor of citizens by providing statutory support to the right to clean environment

Expansion of Article 21 by judiciary

The landmark judgments from past few decades have proved that a strong role is played by judiciary in interpreting the Fundamental right of an individual in context of environmental protection along with other aspects and dimensions. Apart from it introduction of Public Interest Litigation encouraged non-governmental organization, individuals and others to approach court.

As time passed the judiciary evolved and there are many landmark judgments which has expanded dimension of Article 21 which tends to include environment as well. Article 21 has undergone liberal interpretation after Supreme court ruling in Maneka Gandhi's case¹.

The "Maneka Gandhi case" which laid foundation for broader interpretation of Article 21 procedure established by law must be "just, fair, and reasonable. Right to healthy environment is important aspect of right to live with human dignity.

¹ AIR 1978 SC 597

A familiar name for all law professional, students Manesh Chandra Mehta (M.C Mehta) was environmental lawyer who has fought many cases for healthier environment. There are many cases which pressurized polluters to pay for it and some credit goes to Mr. Mehta.

Supreme court in its historic ruling of Subhash Kumar case² took the first step for incorporation of pollution free environment under expandable vision of Article 21. The same decision was extended in M. C Mehta v. UOI³ by asserting that public health and ecology should take precedence over state and rural financial condition.

In case of RLEK vs State (Dehradun Quarrying case)⁴ is first case in India involving issues related to ecological balance and environment. Right to live in healthy environment as part of Article 21 was first recognized in this case

Oleum Gas Leak Case⁵ a landmark judgment which introduced principle of absolute liability is another case of Mr. Mehta. Parliament added an entirely new chapter to Factory act embodying sections from judgment

Ganga Pollution case⁶ which recognized right to clean water as part of the right to life is another landmark contribution to expand Article 21 touching environmental aspect

Taz Trapezium case⁷ in which Supreme court delivered historic judgment in which impact of air pollution on public health and cultural heritage was discussed. Further court gave direction to ban coal and switch to CNG.

In Virendra Gaur case⁸ it was held Right to life is protected as fundamental right under Article 21. Its objective is to preserve and protect environment, ecological balance free from air and water pollution and sanitation without which life cannot be enjoyed.

² AIR 1991 SC 420

³ AIR 1996 SC 1244

⁴ 1985 SCC (2) 431

⁵ 1987 AIR 1086

⁶ 1988 AIR 1115

⁷ AIR 1997 SC 734

⁸ AIR 1995 SCC 577

It also includes achieving goal to live with human dignity. Any illegal activity would pollute environment and pollution of environment shall be considered violation of Article 21

Recent case of *M.K Ranjitsinh & Ors*⁹ regarding protection of Great Indian Bustard and its habitat. Supreme court has used its power to widen the scope of Article 21, Article 14, and Article 19. Court stated right to free from adverse effect of climate change should be recognized by Articles 14 and 21.

Principles Inherent in Article 21 associated with environment

If we go through the landmark judgments and Article 21, we will find few principles which can be seen reflected in Article 21. The principle is:

1. Polluter pays Principle-It simply says those who will harm the environment have to pay financial cost for preventing the damage and to compensate victim of pollution. It is first recognized in *Oleum gas leak case*
2. Precautionary principle which talks about measures for preventing degradation of environment.
3. Public Trust Doctrine which promotes idea that private ownership of natural resource is not acceptable.

Conclusion

An important development in Indian constitutional jurisprudence is extending Article 21 to cover environmental protection. It outlays the dynamic character of Constitution and proactive role of judiciary in preserving human dignity. Cooperation between legislature, judiciary and executive is necessary to fully realize the potential of environmental rights under Article 21

⁹ Writ Petition (Civil) No. 838 of 2019