

AIR POLLUTION AND THE CONSTITUTION OF INDIA: A CRITICAL ANALYSIS OF THE RIGHT TO CLEAN AND HEALTHY ENVIRONMENT

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1. INTRODUCTION

"There can be no greater need for any of us than a clean environment - clean air, clean water, clean soil and food" – David Suzuki¹

Our country India is one of the largest democratic nations in the world and also the first country to insert an amendment into its constitution allowing the state to protect and improve the environment for safeguarding the public health, forests and wild life. Previously there were articles (39², 42³, 47⁴, 48⁵ and 49⁶)⁷ indirectly dealing with the subject of environmental pollution and protection in the former constitutional law of India. Keeping at pace with the world, in the year 1976, 42nd constitutional amendment⁸ was adopted in response to the Stockholm International Conference on Human Environment in 1972⁹ and came into effect on 3rd January, 1977. The Directive principles of State Policy (Article 48-A) and Fundamental Duties (Article 51-Ag)¹⁰ under the Constitution of India explicitly announced the national commitment to protect and improve environment and preserve air quality. Nowadays through judicial interpretations, the right to clean air has been identified as element of right to life under Article 21 of the Constitution.¹¹ The language of the Directive Principles of State Policy¹² requires not only a protectionist stance by the state but also compels the State to look for the improvement of the polluted environment. Policy statement for the abatement of pollution (1992)¹³ declares the objective of the government to integrate environmental considerations into decision makings at all levels.

The Stockholm Conference held in the year 1972¹⁴ highlights in its first principle; *"Man had the fundamental right to adequate condition of life, in an environment of a quality that permitted a life of dignity and well-being."* After a great deal of deliberation, judicial activism and intervention, the right to live in a pollution free environment has been recognised as a fundamental right under Article 21¹⁵ of the Indian Constitution. Thereafter a lot of legislations made by the legislature to provide clean environment to the citizens are working towards conserving the environment. Specifically, the role of NGOs also has special mention in protection and in proving the rich quality of clean and pollution free environment, irrespective of all the efforts made by the legislature and the judiciary and others many people do not have access to clean air and pure drinking water due to degradation of environment, and the inability of the government to control such widespread polluting activities. Thus, before we can comment on the future of clean air as a write, we need to thoroughly analyse the existing legislations and the impact they have made since they were implemented.

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¹ Staff, *About Us*, The David Suzuki Foundation (May 22, 2020 11:42 AM), <https://davidsuzuki.org/about/>.

² INDIA CONST. art. 39.

³ INDIA CONST. art. 42.

⁴ INDIA CONST. art. 47.

⁵ INDIA CONST. art. 48.

⁶ INDIA CONST. art. 49.

⁷ D.D. BASSU, INTRODUCTION TO THE CONSTITUTION OF INDIA, Prentice-Hall of India Pvt. Ltd., (1994).

⁸ Legislative Department, The Constitution (Forty-Second Amendment) Act, 1976, Ministry of Law and Justice (May 22, 2020 11:51 AM), <http://legislative.gov.in/constitution-forty-second-amendment-act-1976>.

⁹ A. Brisman, *Stockholm Conference*, 1972, Encyclopaedia of Global Justice, Springer (2011).

¹⁰ INDIA CONST. art. 51-A, cl. g.

¹¹ The Editorial Board, *Clean Air is a Fundamental Right, Integral to the Idea of Citizenship*, Telegraph India (May 22, 2020 12:23 PM), <https://www.telegraphindia.com/opinion/clean-air-is-a-fundamental-right-integral-to-the-idea-of-citizenship/cid/1717099>.

¹² *Id* at 4.

¹³ MoEF, *Policy Statement for the Abatement of Pollution*, Government of India (May 22, 2020 01:03 PM), https://www.iitr.ac.in/wfw/web_ua_water_for_welfare/environment/Pollution_Policy_Statement_1992.pdf.

¹⁴ Richard Black, *Stockholm: Birth of the Green Generation*, BBC (May 22, 2020 01:51 PM), <https://www.bbc.com/news/science-environment-18315205>.

¹⁵ INDIA CONST. art. 21.

2. POLLUTION CONTROL LEGISLATIONS IN INDIA: PRE AND POST-INDEPENDENCE

Chanakya,¹⁶ also known as Kautilya; the prime minister of Magadh, during the regime of Chandra Gupta Maurya¹⁷, has mentioned in his work 'Arthshastra'¹⁸ the question of environment protection and the need for laws to govern the same. Inspired by his treatise, the Mauryan King Ashoka¹⁹, and the Maratha Emperor Shivaji have depicted compassion for environment, which can be seen from the laws which protected the environment during their rule.²⁰ However, the modern man has not undermined the importance of environment, which is evident from the fact that even pre- Independence there were colonial laws dealing with environment protection. These included the following Acts and Statutes:

- The Oriental Gas Company Act, 1857²¹
- Indian Penal Code, 1860²²
- Indian Explosive Act, 1884²³
- The Bengal Smoke Nuisance Act, 1905²⁴
- The Bombay Smoke Nuisance Act, 1905²⁵
- The Indian Boilers Act, 1923²⁶
- Indian Petroleum Act, 1934²⁷
- The Motor Vehicles Act, 1939²⁸

After Independence, the government of free India also understood the need for a cleaner and greener environment and implemented various laws for the same. The acts range from 1948 to the present year 2020. To better understand them it's pertinent to briefly analyse them and grasp their objective.

- 2.1. The Factories Act, 1948:²⁹ This is the first act of independent India indirectly focusing on air pollution. Chapter III, Sec. 13, 14 and 15 of this act focuses on proper ventilation, dust, fumes and humidity related to the health of labour. This act is seen as the torchbearer for the other acts that followed, defining the scope and limits of exposing humans to pollutants and other harmful substances.
- 2.2. The Mines Act, 1952:³⁰ This act is majorly criticized for limiting air pollution within the circumscribing boundaries of ventilation, actions to be taken in respect of dust fire and inflammable and noxious gases including precautions against spontaneous combustion, underground fire and coal dust. This act cannot be considered as a major step owing to the fact that it was limited to only coal mines and other related mines in India.
- 2.3. The Air (Prevention and Control of Pollution) Act, 1981³¹: For the first time, an act was formulated with the sole motive to provide for the prevention, control and abatement of air pollution and its growing issues in India. It was implemented with an objective to carry out the purposes, of boards, for conferring on and assigning to such boards powers and functions relating to the matters concerned. This act was a compilation of all decisions that were taken at the United Nations Conference on the Human Environment held in Stockholm in June, 1972,³² in which India participated, to take appropriate steps for the preservation of

¹⁶ Christian Violati, *Chanakya*, Ancient History Encyclopedia (May 22, 2020 02:11 PM) <https://www.ancient.eu/Kautilya/>.

¹⁷ Avantika Lal, *Chandragupta Maurya*, Ancient History Encyclopedia (May 22, 2020 02:21 PM), https://www.ancient.eu/Chandragupta_Maurya/.

¹⁸ L.N. RANGARAJAN, *THE ARTHASHASTRA*, Penguin Books India (1992).

¹⁹ Christina Violati, *Ashoka the Great*, Ancient History Encyclopedia (May 22, 2020 02:33 PM), https://www.ancient.eu/Ashoka_the_Great/.

²⁰ The Energy and Resources Institute, *Environmental justice: scope and access workshop on sustainable development for the subordinate judiciary* (19th–21st Aug 2006). (The Energy and Resources Institute, New Delhi, 2006)

²¹ Oriental Gas Company Act, 1857 (5 of 1857).

²² The Indian Penal Code, 1860 (45 of 1860).

²³ The Explosives Act, 1884 (4 of 1884).

²⁴ The Bengal Smoke Nuisances Act, 1905 (Ben. 3 of 1905).

²⁵ The Bombay Smoke Nuisances Act, 1912 (Bom. 7 of 1912).

²⁶ The Indian Boilers Act, 1923 (5 of 1923).

²⁷ The Indian Petroleum Act, 1934 (30 of 1934).

²⁸ The Motor Vehicles Act, 1939 (4 of 1939).

²⁹ The Factories Act, 1948 (63 of 1948).

³⁰ The Mines Act, 1952 (35 of 1952).

³¹ The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981).

³² *Id* at 14.

natural resources of the earth which specifically included the preservation of the quality of air and control of air pollution due to day to day activities.

- 2.4.** The Environment (Protection) act, 1986:³³ The act came into force on 23rd May, 1986 to provide for the protection and improvement of environment and for any other matters that may arise out of the same. This act is serving as a parent act for many other rules and laws dealing with the issue of pollution, which also includes air pollution. E.g. Notification on lead free petrol and catalytic convertors for vehicles in metropolitan cities, 1995, Introduction of BS-6 Vehicles in India, etc.³⁴
- 2.5.** The Ozone Depleting Substances (Regulation and Control) Rules, 2000: India is categorized as operating under Article 5 paragraph 1 of the Montreal Protocol Regulation of production and consumption of ozone depleting substances.³⁵ This act has provisions which deal with prohibition on new investments with ozone depleting substances, Regulation of import, export and sale of products made with or containing ozone depleting substances along with Monitoring and reporting requirements for the same. The Ozone Cell established by MoEF³⁶ which has been given the responsibility for carrying out all tasks relating to phase out of ozone depleting substances. The MoEF has also directed to develop or find greener alternatives to the ozone depleting products.

3. CLEAN ENVIRONMENT AND DIRECTIVE PRINCIPLES OF STATE POLICY

A global adaption consciousness for the protection of the environment in the seventies prompted the Indian Government to enact the 42nd Amendment (1976) to the Constitution. The said amendment added Art. 48A³⁷ to the Directive Principles of State Policy. It Declares: *“the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country”*. A similar responsibility imposed upon every citizen in the form of Fundamental Duty – *“to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures”*. The amendments also introduced certain changes in the Seventh Schedule of the Constitution.³⁸ ‘Forest’ and ‘Wildlife’ were transferred from the State list to the Concurrent List. This shows the concern of Indian parliamentarian to give priority to environment protection by bringing it out the national agenda. Although unenforceable by a court, the Directive Principles are increasingly being cited by judges as complementary to the fundamental rights. In several environmental cases, the courts have guided by the language of Art. 48A³⁹, and interpret it as imposing “an obligation” on the government, including courts, to protect the environment.

In *L.K. Koolwal v. State of Rajasthan*,⁴⁰ a simple writ petition by citizens of Jaipur compelled the municipal authorities to provide adequate sanitation. The court observes that when every citizen owes a constitutional duty to protect the environment⁴¹, the citizen must be also entitled to enlist the court's aid in enforcing that duty against recalcitrant State agencies. The Court gave the administration six months to clean up the entire city, and dismissed the plea of lack of funds and staff. The Public Trust Doctrine, evolved in *M.C. Mehta v. Kamal Nath*⁴², states that certain common properties such as rivers, forests, seashores and the air were held by Government in Trusteeship for the free and unimpeded use of the general public. Granting lease to a motel located at the bank of the River Beas would interfere with the natural flow of the water and that the State Government had breached the public trust doctrine.

³³ The Environment (Protection) Act, 1986 (29 of 1986).

³⁴ Shubhadra Menon, Switchover to Unleaded Petrol Gains Momentum but is the Hyped Fuel Really Clean?, India Today (May 23, 2020 10:22 AM), <https://www.indiatoday.in/magazine/environment/story/19980914-switchover-to-unleaded-petrol-gains-momentum-but-is-the-hyped-fuel-really-clean-827052-1998-09-14>.

³⁵ DoAWE, *Montreal Protocol on Substances that Deplete the Ozone Layer*, Australian Government (May 23, 2020 10:52 AM), <https://www.environment.gov.au/protection/ozone/montreal-protocol>.

³⁶ Ministry of Environment and Forest, Government of India.

³⁷ INDIA CONST. art. 48A.

³⁸ INDIA CONST. sch. 7.

³⁹ *Id* at 37.

⁴⁰ *L.K. Koolwal vs State Of Rajasthan And Ors.*, AIR 1988 Raj 2.

⁴¹ INDIA CONST. art. 51A.

⁴² *M.C. Mehta vs Kamal Nath & Ors.* (2000) INSC 334.

A matter regarding the vehicular pollution in Delhi city, in the context of Art 47 and 48 of the Constitution came up for consideration in *M.C. Mehta v. Union of India*⁴³ (aka Vehicular Pollution Case). It was held to be the duty of the Government to see that the air did not become contaminated due to vehicular pollution. The Apex court again confirming the right to healthy environment as a basic human right stated that the right to clean air also stemmed from Art 21 which referred to right to life. This case has served to be a major landmark because of which lead-free petrol supply was introduced in Delhi. There was a complete phasing out of old commercial vehicles more than 5 years old as directed by the courts. Delhi owes its present climatic conditions to the attempt made to maintain clean air.

4. CONSTITUTIONAL RIGHT TO CLEAN AND HEALTHY ENVIRONMENT

In the realm of the basic rights the foremost essential right is that the right of life secured by Article 21⁴⁴ of the Indian Constitution, that the article says that can't be removed settle for consistent with procedure established by law. To safeguard this right and alternative basic rights we tend to do have a awfully special feature within the Constitution of India called right to constitutional remedies. Article 32⁴⁵ of the constitution empowers the supreme court in an applicable continuing to issue not solely legal document of writ of mandamus⁴⁶, certiorari,⁴⁷ prohibition⁴⁸ or quo warranto⁴⁹ however conjointly the other direction, order or legal document for the social control of elementary rights. An equivalent power is unconditional within the High Courts below Article 226⁵⁰ of the Constitution. it's upon the exercise of this power of review the Courts area unit referred to as upon to come to a decision whether or not any instrumentality, agency or organs of the state has transgressed or exceeded the boundaries of power bestowed upon it and to confirm that the state and therefore the public officers fulfill the duty of the Constitution and therefore the law below that they exist and performance.

The six fundamental rights of Indian citizens are specified in Articles 14-32 of the Indian Constitution such as right to equality (Articles 14-18), right to freedom (Articles 19-22), right against exploitation (Articles 23-24), right to freedom of religion (Articles 25-28), cultural and educational rights (Articles 29-31) and right to Constitutional remedies (Article 32). There are four Constitutional provisions that are directly relevant to protect the fundamental rights of citizens. Under Article 13, the Court is granted power to judicially review legislation, so that the laws inconsistent with the fundamental rights may be held void. In addition, Article 32 confers on every citizen the Court's original jurisdiction for the enforcement of his or her fundamental rights. Through this provision, individuals can approach the Court to seek the protection of their fundamental rights. Under Article 136⁵¹, the Supreme Court has discretionary power to grant special leave to appeal from any judicial order, judgment, or decree in the land thereby providing another route for judicial review. The earliest understanding of these provisions had been a narrow procedural one where fundamental rights and other Constitutional provisions were interpreted as procedure established by law. Moreover, inconvenient Court decisions on the Constitutionality of state action were simply overturned by amending the Constitution until the basic structure of the Constitution was declared unalterable.⁵²

Further, to chapter on primary rights, the charter of India incorporates a chapter on directive concepts of state coverage, that emphasize in amplification of the preamble, that the intention of Indian polity isn't always laissez faire, however state, anywhere the country has advantageous duty to affirm to its citizens social and financial justice and dignity of the person.⁵³ According to Article 48A of the Directive Principles, the State ought to try to safeguard and improve the surroundings and to safeguard forests and life. Article 51A (g) of part IV-A of basic Duties states that it shall be the duty of each national of India to safeguard and improve the natural surroundings. Life suggests that to measure with human dignity however if one cannot breathe clean air, have safe potable or food, the all human rights civil, political, social or economic square measure unmeaning. because of appalling state of affairs of the environmental pollution in our country the supreme court sharpened its tools and methods throughout

⁴³ *M.C. Mehta v. Union of India*, 1991 SCC (2) 353.

⁴⁴ *Id* at 15.

⁴⁵ INDIA CONST. art. 32.

⁴⁶ INDIA CONST. art. 32 cl. 2.

⁴⁷ *Ibid*.

⁴⁸ *Ibid*.

⁴⁹ *Ibid*.

⁵⁰ INDIA CONST. art. 226.

⁵¹ INDIA CONST. art. 136.

⁵² *Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr.*, (1973) 4 SCC 225.

⁵³ INDIAN CONST. Preamble.

mid-80's and 90's by keeping aside all technical rules of procedure and liberalised the rule of 'locus standi'⁵⁴ so as to alleviate the sufferings of the victims of environmental pollution below the banner of Public Interest Litigation (PIL). The courts have given expanded interpretation to Article twenty one regarding the proper to life to incorporate all those rights that square measure essential and basic for the enjoyment of the standard of life free from environmental pollution and alternative health and shopper hazards.

5. ENVIRONMENTAL ISSUES AS MAJOR SUBJECTS OF PUBLIC INTEREST LITIGATIONS (PIL)

Judgments relating to air pollution issues have provided a great deal of momentum to improve air quality.

- **Taj Trapezium Case, Agra: Taj pollution matter:** ⁵⁵This writ Petition was filed by Mr. M.C.Mehta, regarding pollution caused to the Taj Mahal in Agra. The sources of air pollution were particularly iron foundries, ferro-alloys industries, rubber processing, lime processing, engineering, chemical industries, brick kilns, refractory units and automobiles especially the Mathura Refinery and Ferozabad bangles and glass industries. Acid rain in this area has a corroding effect on the gleaming white marble. The Honorable Supreme Court after examining the reports from National Environmental Engineering Research Institute, Varadarajan committee, Central Pollution Control Board (CPCB) and Uttar Pradesh (U.P.) Board, on 31.12.1996 directed that the industries in the Taj Trapezium Zone (TTZ) were the active contributors of air pollution. All the 292 industries had to approach either to the GAIL for grant of industrial gas-connection or to the U.P. Government for allotment of alternative plots outside TTZ or stop functioning using coke/coal. The Honorable Supreme Court on 30.8.1996 directed the Mahajan Committee to inspect the progress of the green belt development and the Taj Trapezium Zone Pollution (Prevention and Control) Authority⁵⁶ to monitor progress of the implementation of various schemes.
- **Delhi air pollution case: Vehicular pollution in Delhi:**⁵⁷ This writ petition was filed in the year of 1985 under Article 21⁵⁸ of the Constitution of India regarding air pollution in Delhi. The Petitioner challenged the inaction on the part of the Union of India, Delhi Administration (Government of National Capital Territory of Delhi) and other Authorities whereby smoke, highly toxic and other corrosive gases were allowed to pass into the air due to which the people of Delhi were put to high risk. During the pendency of this Writ Petition, the Honorable Supreme Court passed several orders/ directions to deal with the situations arising from time-to-time and impressed upon the concerned authorities to take urgent steps to tackle the acute problem of vehicular pollution in Delhi on 26.7.1998 which include elimination of leaded petrol, replacement of old autos, taxis and buses, construction of new Interstate Bus Terminus at entry points, along with strengthening the air quality monitoring.
- **Pollution by industries in Delhi:**⁵⁹ This Writ Petition was filed by Mr. M.C.Mehta in 1985 regarding the pollution in Delhi by the Industries located in residential areas of Delhi. The Honorable Supreme Court after considering the reports submitted by the CPCB and the Delhi Pollution Control Committee, finally ordered vide its various orders, dated 8.7.1996, 6.9.1996, 10.10.1996, 26.11.1996 and 19.12.1996. These orders include: 168 industries falling in 'Ha' and 'Hb' categories which were hazardous/noxious/heavy and large industries, 513 industries falling under 'H' category 43 Hot Mix Plants, 246 brick kilns falling under category 'H', 21 arc/induction furnaces falling under 'H' category industries under the Master Plan of Delhi (MPD-2001) were directed to close down and stop functioning and operating in Union Territory of Delhi. However, those industries could relocate to any other industrial estate in the NCR or may change their technology to cleaner one.
- **Air pollution from Chembur, Mumbai, India** Chembur was identified as 'critically polluted area' in 1990 with air pollution being the dominant problem. The major industries in this area are oil refineries, fertilizer, chemical and large power generating units; The four major industries in this

⁵⁴ Hussainara Khatoon & Ors v. Home Secretary, State Of Bihar, 1979 AIR 1369.

⁵⁵ M.C.Mehta v. UOI and Ors. W.P.(C) No.13381/1984.

⁵⁶ Staff, NGT notice to ASI on pollution near Taj Mahal, The Outlook Scroll (May 24, 2020 04:22 PM), <https://www.outlookindia.com/newscroll/ngt-notice-to-asi-on-pollution-near-taj-mahal/1247577>.

⁵⁷ M.C.Mehta v. UOI and Ors, Writ Petition (civil) no.13029/1985.

⁵⁸ *Id* at 15.

⁵⁹ M.C.Mehta Vs Union of India and Ors. Writ Petition (Civil) No.4677/1985.

area are BPCL, HPCL, RCF & Oswal Petrochemicals for which action plans were prepared for monitoring the status of pollution control measures in these industries

- M/s Navin Chemical Manufacturing & Trading Co. Ltd. initially against two respondents namely Okhla Industrial Development Authority and M/s Detchem Mineral Corporation In Navin Chemical Manufacturing & Trading Co. Ltd. vs. New Okhla Industrial Development Authority the Supreme Court directed the Uttar Pradesh Pollution Control Board to inspect the site of alleged air pollution industries and take necessary action against the industries that were causing pollution by grinding stones.
- In *Murli Deora vs. Union of India*⁶⁰ and others, while prohibiting smoking in public places the Supreme Court stated that “fundamental right under Article 21⁶¹ of the Constitution of India provides that no one shall be deprived of his life without due process of law. In any case there is no reason to compel non-smokers to be the helpless victims of air pollution. Realizing the gravity of the situation the Honorable Supreme Court directed and prohibited the smoking in public places and issue directions to the Union of India, State governments as well as the union territory to take effective steps.

6. ROLE OF JUDICIARY IN ENVIRONMENTAL POLICIES

The Supreme Court of India in *A.K. Gopalan v. State of Madras*⁶² and *Khark Singh v. State of U.P.*⁶³ held that under Article 21⁶⁴, the right of life does not mean mere animal existence. Further in the *Maneka Gandhi's Case*⁶⁵ laid down that a law affecting life and liberty of a person has to stand the scrutiny of Article 14 and 19 of the Constitution. That is, if a law is enacted by legislature which touches upon the life and liberty of a person and curtails it, then it is mandatory requirement that procedure established by it for curtailing the liberty of a person must be reasonable, fair and just.

The over Court's elucidations in growing the which means of appropriate to life have brought new measurements in the natural statute as well as in the talk on human rights in India. The credit for the formation of a large group of ecological rights and authorizing them as central rights goes to the Permanent Court of India. This is a critical commitment for natural statute in India, on the off chance that one gains from encounters somewhere else. The legitimate framework may ensure a Constitutional appropriate to condition and statutes may accord the privilege to partake in natural assurance for natives. Nonetheless, when no strategies for their support are made accessible, at that point they are on a par with non-existent. This is the involvement in Spain, Portugal, Brazil and Ecuador. Importantly, Indian experience differentiates essentially frame these nations.

There is no immediate verbalization of the privilege to condition any place in the Constitution or, for that issue, in any of the laws concerning ecological administration in India. Be that as it may, this has been seized from beneath, by natural gatherings, propelling the Court to discover and build ecological rights from the accessible lawful material. What the Court has accomplished since 1980, is to see the essential appropriate to life to incorporate diverse strands of natural rights that are at when individual and group in character. In any case, the development of major ideal by the Court perceiving ideal to condition as a section of ideal to life has not been statutorily settled nor has it been perceived in national ecological arrangement programs. It is this interpretation of Article 21⁶⁶ that court has extended additional therefore on embrace the correct to wholesome setting. In alternative words if pollution causes permanent disabilities resulting in run-down or non-functioning of significant organs of the body of someone then such incapacity could cut back him to mere animal existence and thereby deny him right to life.

Later on the question, whether right to a clean environment is part of the right of life was examined by the Supreme Court in the case *Subhash Kumar v. State of Bihar*⁶⁷. Where it declared that the right to a

⁶⁰ *Murli Deora vs. Union of India and others*, 2002 AIR 40.

⁶¹ *Id* at 15.

⁶² *A.K. Gopalan v. State of Madras*, 1950 AIR 27.

⁶³ *Khark Singh v. State of U.P.*, 1963 AIR 1295.

⁶⁴ *Id* at 15.

⁶⁵ *Maneka Gandhi v. Union Of India*, 1978 AIR 597.

⁶⁶ *Id* at 15.

⁶⁷ *Subhash Kumar v. State of Bihar*, 1991 AIR 420.

wholesome environment formed an integral part of the right to life guaranteed by article 21⁶⁸ of the Indian Constitution. Also the Court stated: —The right to life could be a basic right which is guaranteed under article 21⁶⁹ of the Indian constitution and it includes the correct of enjoyment of pollution-free water and air for full enjoyment of life. If something endangers or impairs that quality of life in derogation of laws, a subject has the correct to own recourse to article 32 of the constitution for removing the pollution of water or air which can be prejudicial to the standard of life. One more reference to the famous Dehradun Quarry's case,⁷⁰ where the Supreme Court entertained complaints from Rural Litigation and Entitlement Kendra, Dehradun (a NGO) alleging that the operation of limestone quarries in the Mussoorie Dehradun region has resulted in degradation of the environment affecting the fragile ecosystem in the area. For which the Supreme Court using the Article 32 ordered for the closure of some of these quarries on the ground that these were upsetting the ecological balance. Though the judgment did not make a reference to Article 21 but, it is clear that by involving of jurisdiction by the Court under Article 32 presupposed the violation of right to life guaranteed under Article 21.

This role of the judiciary can be highlighted from the observation made by Justice Singh in Ganga Pollution Tanneries case ⁷¹as justifying its closure. The Court noted in conclusion: —we are conscious that closure of tanneries may bring unemployment, loss of revenue, but life, health and ecology have greater importance to the people. There are also some High Courts have accorded recognition to this environmental dimension of Article 21 such as, judgment by the Andhra Pradesh High Court in case *T. Damodar Rao v. Special Officer Municipal Corporation Hyderabad*⁷², explicitly recognised an environmental dimension to Article 21 while considering a writ petition to enjoin the Life Insurance Corporation and Income Tax Department from building residential houses in a recreation zone. The court held: —*It would be affordable to carry that the enjoyment of life and its attainment and fulfillment secured by Article 21 of the Constitution embraces the protection and preservation of nature's gifts while not that life can't be enjoyed.* In the Karnataka High Court judgment of the case *Lakshmipathy v.. State of Karnataka*⁷³ made the following observations: The movement for restoration and maintenance of a livable setting needs curb of power of narrowly destined body agencies in appropriation of the dwindling surface area of land and water not already irrevocably appropriate, environment Protection isn't a preoccupation of the educated and affluent. The disposal and therefore the management of waste material and governmental regulation of polluting industries is public interest destined.

The right to life inherent in Article 21 of the Constitution doesn't disappoint of necessities of qualitative life that is feasible solely in associate degree setting of quality. Where, on account of human agencies, the standard of air and therefore the quality of setting area unit vulnerable or affected, the Court wouldn't hesitate to use its innovative power among its jurisdiction to enforce and safeguard the correct to life to push public interest. Although the on top of rulings acknowledge that right to wholesome setting is implicit the Constitutional guarantee of Article 21, but, we have a tendency to should acknowledge that right to life isn't absolute too. If the State guarantees to its voters the safety of life, the voters should owe an obligation to State to take care of its holiness. Man has to not merely live, however to measure well and living well suggests that a living ethical, virtuous and healthy and happy life. My right of living involves my duty to my fellow-men to permit them identical condition of life.

7. CONCLUSION

*"If you want to clean up the environment, start with your mind. It starts there."*⁷⁴

Following a long course of active interpretation of constitutional and legislative clauses by the judiciary and vigorous efforts of some green citizens, the Indian environmental scenario has undergone a positive change. Today, the environmental consciousness imported by the courts, mingled with subsequent legislative efforts in the later years, introduced the right to environment as a fundamental right under Article 21⁷⁵ of the constitution of India. The Courts in India have played a distinguishing role in gradually enlarging the scope of a qualitative living by engaging themselves into, and resolving various issues of

⁶⁸ *Id* at 15.

⁶⁹ *Ibid*.

⁷⁰ *Rural Litigation And Entitlement v. State Of U.P. & Ors*, 1985 AIR 652.

⁷¹ *M.C. Mehta v. Union of India*, [1987] 4 SCC 463.

⁷² *T. Damodar Rao v. Special Officer Municipal Corporation Hyderabad*, AIR 1987 AP 171.

⁷³ *Lakshmipathy v. State of Karnataka*, ILR 1991 KAR 1334.

⁷⁴ Byron Katie, Section Quotes, AZQuotes (May 25, 2020 02:23 PM), <https://www.azquotes.com/quote/855484>.

⁷⁵ *Id* at 15.

environmental protection. Consequently, activities posing a major threat to the environment were curtailed so as to protect the individual's inherent right to wholesome environment as guaranteed under various instruments for protection of legal and human rights.

The attainment of the common purpose therefore depends upon the proper performance by every individual of his function and duties. Every citizen has social obligations to himself, to his family, to his neighbours, and to the society of which he is a unit. The right to life is, therefore, the most fundamental of all rights, as it is the very core of humanity. It means a claim to so live that the existence does not jeopardise the existence of others. It is not only responsibility of individual alone but State is bigger partner in preserving environment and in realisation of right to life with human dignity. It is essential to create a shared international vision of long term goals and to build the international frameworks that will help each country to play its part in meeting these common goals. There should be compatibility between environment and economic development. Living standards beyond basic minimum are sustainable only if consumption standards everywhere have regard for long term sustainability.