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Environment and Human Rights are the two Sides of the Same Coin

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ABSTRACT

The subject of this paper seeks to shed light on how environmental exploitation and degradation negatively impact human rights. Human rights and ecological preservation are intrinsically linked. The maintenance of ecological equilibrium and advancing human rights go hand in hand

Both of the objectives mentioned above concern human welfare. The practical implementation of fundamental rights presupposes a safe and healthy environment. About two-thirds of constitutional rights now address health; other formulations include rights to a clean, safe, favorable, or wholesome environment. Many national constitutions and regional writings recognize the right to a healthy environment. Although there is a clear connection between the two, governments and scholars have historically viewed environmental degradation and human rights violations as distinct problems. The exploitation of the environment, both natural and artificial, has a detrimental effect on human rights. A state of natural imbalance has been exacerbated by numerous human-centered undertakings like industrialization, urbanization, and the overuse of natural resources that compromise the environment, which has resulted in significant repercussions on a huge scale, including global warming, drought, floods, and ozone depletion. In the last 20 years, concerns have been associated with the rising level of pollution in our environment. Additionally, it is a constant wonder how the safeguards put in place by humans can effectively protect those affected by environmental deterioration. Therefore, it is advised that an international standard be established for lowering the amount of potentially harmful components in industrial effluent. By knowing specifics about the pollutant concentration and measuring Biological Oxygen Demand (B.O.D.), environmental pollution hazards can also be managed. In other words, sound ecological principles must be taken into account while managing resources. In a nutshell, damage to the environment also causes harm to human health, which impairs human rights.

Keywords: Sustainable development, Constitutional rights, Natural imbalances, Hazards, Ecological principles.

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I. INTRODUCTION

“The destruction of the earth’s environment is the human rights challenge of our time.”
Desmond Tutu

The Earth, on which we live, is a unique planet in the Solar System. Its distinctiveness comes from the fact that habitation serves as an ideal for the evolution and survival of many forms of life. This is a result of the Earth's optimal geographical distance from the sun. On Earth, the temperature is neither abnormally elevated, as it is for mercury, nor too low, as it is for Neptune and Pluto. The environment has been divided into two parts:

1. The physical environment, which includes water, air, and soil
2. The biological environment, which comprises all types of living things

Thus, the Biosphere is an exclusive layer on Earth that nurtures life. Humans and the natural world are interconnected and reliant on one another. Mankind in prehistoric times firmly believed the environment was dominant, which is why they idolized various aspects of nature, such as trees, forests, and mountains, and were profoundly afraid of thunder and lightning. This is a nature deity or a divinity in control of the forces of nature or the elements. This kind of worship can be found worldwide, from Greek mythology to African, American, and Asian legends. However, many religious practices today harm the environment due to industrialization, growth in urbanization, insufficient waste management systems, water contamination, poor sanitation, carbon emissions from vehicles, and domestic uses. The use of pesticides and water treatment methods is another factor that has an impact on people and other forms of life. The Constitution of India came into effect on January 26, 1950. The essence of the Constitution is such that it protects the health, life, and fundamental rights of every citizen of India. In doing so, the Constitution of India provides measures for protecting the environment in Article 21, Article 48(A), and Article 51A(g)³ of the Constitution of India. These are the three specific Articles that are focused on environmental protection. This paper focuses on how human rights and environmental rights are interlinked.

II. ARTICLE 21, 48(A), AND 51(G)

The protection of the environment is directly impacted by these provisions. In the Supreme Court case known as the Dehradun Quarrying Case, it is also known as the *Rural Litigation and Entitlement Kendra & Ors. vs. State of UP & Ors.* The court interpreted Article 21 as meaning that the right to life must include the right to live in a healthy environment with

³ The Constitution of India, 1950,

minimal ecological disruption that does not adversely affect humans and livestock. Additionally, Article 48A deals with the preservation and improvement of wildlife, while Article 51A(g) states that everyone has a moral obligation to preserve and enhance the environment. In our country, there are several instances where fundamental rights are being protected, but is it equally important and valuable to uphold fundamental duties? Under specific enactments, there are penalties listed for particular offenses. There is still uncertainty about whether these regulations are successfully enforced and monitored. The link between human rights and the environment is fragmented and implemented in pieces through the decisions of national courts, regional human rights bodies, international conventions, and conferences. Numerous principles have been established and are followed. Sustainable development is one of the realm's most significant concepts. The goal of sustainable development is to satisfy current needs without sacrificing those of subsequent generations.

III. WHEN THE ENVIRONMENT IS AFFECTED, HUMAN RIGHTS ARE VIOLATED

There are pollutants in the environment that have the potential to harm both living and non-living things. The majority of pollutants are produced by humans as a result of home, industrial, and recreational activities. However, natural pollution is also produced. Following the disintegration of radioactive elements in the earth's crust, radon is produced.⁴ Arsenic is released into groundwater sources from natural rock sources. Sulfur dioxide is a typical type of pollution released by natural processes, including forest fires and volcanic eruptions. Stroke, lung infections, tumors, and brain impairment are the most prevalent diseases associated with pollution. The best approaches to lessening this are to raise awareness and have scientists and researchers make multidisciplinary efforts. and efficient application of laws by authorities in society. It is expected that global temperatures will rise by 4% to 20% on average.

At the end of the twenty-first century, one-third of the world's population was suffering from insufficient water. A surge in global warming causes an increase in ocean water, of which only 1 percent of the earth's fresh water is available for human use. Every year, approximately 1500 people worldwide pass away from illnesses prompted by contaminated water sources. This is consistent with data from the World Health Organization (WHO), which shows that air pollution results in 7 million premature deaths per year. 91–99% of people reside in areas⁵ where

⁴ David Briggs, *Environmental pollution and the global burden of disease*, PubMed <https://pubmed.ncbi.nlm.nih.gov/14757707/>

⁵ *New WHO Global Air Quality Guidelines aim to save millions of lives from air pollution*, (Sept. 22, 2021), <https://www.who.int/news/item/22-09-2021-new-who-global-air-quality-guidelines-aim-to-save-millions-of-lives-from-air-pollution>

the air quality is worse than the level that the WHO recommends.

IV. THE MAIN ACTS FOR ENVIRONMENTAL PROTECTION IN INDIA

1. The Forest Conservation Act, 1980
2. The Prevention of Air and Water Pollution Act and 1974, 1981 (The Central Pollution Control Board) (CPCB) was constituted under this act.
3. The Air: Prevention and Control of Pollution, 198.
4. The Atomic Energy Act, 1982
5. The Environmental Protection Act, 1986(It came into force soon after the Bhopal Gas Tragedy.
6. The Environmental Conservation Act, 1989.
7. The National Environmental Tribunal, 1995.
8. National Environmental Appellate Authority Act, 1997.
9. National Environment Management Act (NEMA), 1998.
10. Handling and Management of Hazardous Waste Rule in 1989.
11. The Public Liability Insurance Act (Rules and Amendment), 1992.
12. The Biomedical Waste Management and Handling Rules, 1998.
13. The Environment (Siting for Industrial Projects) Rules, 1999.
14. The Municipal Solid Waste (Management and Handling) Rules, 2000.
15. The Ozone Depleting Substance (Regulation and Control) Rules, 2000.
16. The Biological Diversity Act, 2002.

India has a number of laws and rules in place to safeguard the environment and encourage sustainable growth. In India, some of the most important environmental legislation are as follows:

- The Water (Prevention and Control of Pollution) Act of 1974 - This law restricts the discharge of contaminants into water bodies in an effort to prevent and control water pollution.
- The Air (Prevention and Control of Pollution) Act of 1981 is a law that restricts the emissions of pollutants from transportation and industry in order to prevent

and control air pollution.

- The Environment (Protection) Act of 1986 - This law addresses environmental protection, enhancement, and the avoidance of risks to people, other animals, plants, and property.
- The Wildlife conservation Act of 1972 - This law governs hunting, wildlife commerce, and the conservation of species and their ecosystems.
- The Forest (Conservation) Act of 1980 - This law restricts the use of forest land for non-forest purposes in order to protect forests and wildlife.
- The Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016, control the transboundary movement of hazardous and other wastes while also ensuring their safe management and disposal.
- The National Green Tribunal Act of 2010: This law establishes the National Green Tribunal as a specialized court to hear and decide issues involving environmental protection and conservation.

V. RESULT OF FINDING

As there are many instances of environmental deterioration in India, religion too plays a significant role in this problem. As a secular nation, India must strike a balance between safeguarding the environment and people's religious and philosophical views. There are several celebrations connected, including those where people burn crackers, throw their cremated remains into rivers, or use toxic chemicals for Holi. Alternative ways should be used for festivities rather than the customary ones because they will considerably contribute to bettering the environment. The primary problem with implementing policies from other countries in India is the sheer number of people who live below the poverty line. This can be solved by raising awareness and conducting studies. Consequently, enacting environmental policies eventually has an impact on people's economic status. Therefore, both must be preserved for a better future. Pollution is equally generated by all classes of people. Yet the most affected people would be those with low incomes compared with people in high society. is due to a lack of understanding. Thus, poverty plays a crucial role in environmental protection. When it comes to poverty and crime, there are crimes associated with them. It impacts people's safety and health. The quality of the air around us is affected by illicit, hazardous chemicals when it comes to its purity. India is quite far down the list. As emerging nations continue to struggle to keep the economy and nature in balance. Industrial and mining waste that is dumped illegally is harming aquatic life

and putting the ecosystem and water supply in peril. The balance between the economy and the environment is still illegal. Illegal dumping of industrial and mining waste is affecting aquatic life and endangering the ecosystem and water supplies, and illegal dumping on land affects agriculture and food. As a consequence, pollution crimes threaten ecological sustainability, public health, and safety. Consequently, it is indispensable to apply legislation efficiently to control irregularities, and there have been many initiatives taken so far, like the National Clean Air Program, a comprehensive action plan, a graded response action plan, the launching of apps, creating awareness, and establishing separate pages on social media to improve Air quality.⁶

VI. LANDMARK JUDGEMENTS

- **The A.P. Pollution Control Board v. Prof. M.V. Nayudu⁷**

Case had a big impact on the way hazardous waste in India was handled. It emphasized the necessity of the public's involvement in environmental decision-making as well as the significance of strict adherence to environmental legislation. It also highlighted the idea of "polluter pays," which states that people who cause environmental harm must pay for the necessary repairs.

- **M.C. Mehta v. Union of India⁸ (1986):**

This is a significant case for environmental law in India. It is often referred to as the "Oleum Gas Leak Case." An environmental activist named M.C. Mehta brought the lawsuit after a manufacturing facility in Delhi suffered a gas leak that caused numerous fatalities and injuries.

In its 1987 ruling, the Supreme Court directed the government to take harsh action against businesses that break pollution control regulations and ordered the closing down of dangerous companies with residential locations. The central and state governments were also ordered by the court to take action to stop further workplace accidents.

The judgment also established the idea of "absolute liability," which states that businesses in hazardous industries that participate in activities that are inherently judgmental must be held accountable for any damage they cause, regardless of whether negligence was involved or not. The judgment further ruled that under Article 21 of the Indian Constitution, which protects the right to life and personal liberty, the right to a pollution-free environment is a basic right.

The Oleum Gas Leak case is notable because it resulted in India's environmental laws being

⁶ *Various Initiatives Undertaken by Government for Mitigation of Air Pollution*, <https://pib.gov.in/newsite/PrintRelease.aspx?relid=194865>.

⁷ *The A.P. Pollution Control Board v. Prof. M.V. Nayudu* 1994 (3) SCC 1

⁸ *M.C. Mehta v. Union of India (UOI) and Ors.* 1987 SCR (1) 819; AIR 1987 965

strengthened and the establishment of the concept of "absolute liability." The case established a standard for environmental litigation in India in the public interest.

- **T.N. Godavarman Thirumulpad v. Union of India⁹ (1996):**

This is a significant case for India's efforts to protect the environment. An environmental activist named T.N. Godavarman Thirumulpad filed a writ petition in this matter with the Supreme Court of India, asking for a ban on cutting down trees in all of India's forested areas.

The Court acknowledged the value of forests as a national ecological resource and natural heritage in its ruling. It instructed the federal and state governments to safeguard forests and to form a commission to monitor the execution of its directives. The Court further ruled that forest land may not be diverted for uses other than forestry, such as mining or industrial development, without the Forest Advisory Board's prior approval. The "Public Trust Doctrine" was formed in India as a result of this case, according to which the state is obligated to defend the public's rights to natural resources like air, water, and forests. It also emphasized the necessity of judicial intervention in environmental protection, particularly when adequate action has not been taken by government bodies.

The T.N. Godavarman Thirumulpad v. Union of India case, which has been referenced frequently in instances involving environmental protection, played a significant role in establishing India's environmental jurisprudence.

- **Vellore Citizens Welfare Forum v. Union of India¹⁰(1996)** is a landmark case in India.

A non-governmental organization called the Vellore Citizens Welfare Forum filed a writ petition in this case against the Union of India and other government organizations, claiming that the discharge of untreated effluents from several tanneries in Vellore was seriously polluting the area and harming the environment and the general public's health.

The Court ordered the closure of tanneries that violated environmental laws and gave them instructions on how to take action against pollution. The Central Pollution Control Board was also ordered by the Court to regularly inspect the tanneries and the area. The 'polluter pays' principle was developed in India as a result of this case, which states that the polluter is responsible for paying to repair any environmental damage. The Court emphasized that the Vellore Citizens Welfare Forum had a significant role to play in bringing the matter to the

⁹ T.N. Godavarman Thirumulpad v. Union of India & Ors. [(1997) 2 SCC 267],

¹⁰ Vellore Citizens' Welfare Forum and State of Tamil Nadu (joining) v Union of India and ors, Original public interest writ petition, 1996 5 SCR 241, ILDC 443 (IN 1996), 1996 5 SCC 647, 1996 AIR 2715,

Court's attention and in overseeing the execution of its orders, which further highlighted the value of public participation in environmental preservation. Overall, the Vellore Citizens Welfare Forum v. Union of India case significantly influenced Indian environmental law and established a precedent for other environmental protection-related issues.

VII. RIGHT TO HEALTH UNDER INTERNATIONAL LAW

The 1948 Universal Declaration of Human Rights (hence referred to as the Declaration) contained the first mention of the concept of a right to health in international law. The UN General Assembly overwhelmingly declared this to be a universal norm for humanity.

Article 25 of the Declaration provides for the right to health to a “standard of living adequate for the health and well-being of himself and his family, including.....medical care and.....the right to security in the event of.....sickness, disability....or other lack of livelihood in circumstances beyond his control”. As to what constitutes the components of a right to health, it has not been defined by the Declaration, but this provision invariably includes and goes beyond medical care. However, provisions in laws and policies differ from one country to another. The highest attainable standard, as provided by the Declaration, cannot be the same in all countries of the world. Therefore, “the right to health demands, as do all human international assistance and cooperation”¹¹

In addition to the ICESCR, there are several international and regional conventions that concur that health is a matter of rights. It is evident from a review of the international instruments and the interpretive documents that the right to health as it is defined by international law covers not only health care but also the fundamental prerequisites for health, such as access to potable water, sufficient sanitation, and nutritious food.

VIII. RECOMMENDATION

The government can promote forestry by using an economic incentive and punishment system. Join an awareness organization, discuss the effects of environmental degradation with others, buy recycled items, conserve water, don't litter, don't throw trash in the wrong areas, and be an advocate for saving the earth!

- enhance the water's quality;
- stop sloppy use of other prohibited sources
- Boost accessibility and residential supply;

¹¹ Brian, (Apr. 29, 2016), <https://core.ac.uk/download/pdf/328025417.pdf>.

- improve the quality of the water used;
- Improve your hygiene. Pass strict rules to limit water contamination from individuals and other bodies.
- Safety precautions must be put in place to stop oil spills
- Before being discharged into rivers and streams, chemical waste should be transformed into harmless, biodegradable chemicals. Refuse should be burned in an incinerator with built-in mechanisms
- By upgrading machinery so that fuel combustion occurs more effectively. By educating people about the causes and risks of air pollution.
- Control by ventilation entails installing an adequate ventilation system in every home's kitchen so that the gases produced when burning wood, coal, oil, etc. can be quickly expelled. Control by vehicle regulations entails designing a vehicle so that the engine's fuel is completely burned.
- Control by forestation: parks and other public areas should grow trees¹²

¹² (Mar. 11, 2020), <https://www.aesacademy.org/books/edcrs-vol-1/01.pdf>.