

# Environment Protection under Constitutional Framework of India

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The constitution of India is not an inert but a living document which evolves and grows with time. The specific provisions on environment protection in the constitution are also result of this evolving nature and growth potential of the fundamental law of the land. The preamble to our constitution ensures socialist pattern of the society and dignity of the individual. Decent standard of living and pollution free environment is inherent in this. The Environment (Protection) Act, 1986 defines environment as “environment includes water, air and land and the interrelationship which exists among and between air, water and land and human beings, other living creatures, plants, micro-organism and property”.

The chapter on fundamental duties of the Indian Constitution clearly imposes duty on every citizen to protect environment. Article 51-A (g), says that “It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures.”

The Directive principles under the Indian constitution directed towards ideals of building welfare state. Healthy environment is also one of the elements of welfare state. Article 47 provides that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. The improvement of public health also includes the protection and improvement of environment without which public health cannot be assured. Article 48 deals with organization of agriculture and animal husbandry. It directs the State to take steps to organize agriculture and animal husbandry on modern and scientific lines. In particular, it should take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle. Article 48 -A of the constitution says that “the state shall endeavor to protect and improve the environment and to safeguard the forests and wild life of the country”.

The Constitution of India under part III guarantees fundamental rights which are essential for the development of every individual and to which a person is inherently entitled by virtue of being human alone. Right to environment is also a right without which development of individual and realisation of his or her full potential shall not be possible. Articles 21, 14 and 19 of this part have been used for environmental protection.

According to Article 21 of the constitution, “no person shall be deprived of his life or personal liberty except according to procedure established by law”. Article 21 has received liberal interpretation from time to time after the decision of the Supreme Court in *Maneka Gandhi vs. Union of India*, (AIR 1978 SC 597). Article 21 guarantees fundamental right to life. Right to environment, free of danger of disease and infection is inherent in it. Right to healthy environment is important attribute of right to live with human dignity. The right to live in a healthy environment as part of Article 21 of the Constitution was first recognized in the case of *Rural Litigation and Entitlement Kendra vs. State*, AIR 1988 SC 2187 (Popularly known as *Dehradun Quarrying Case*). It is the first case of this kind in India, involving issues relating to environment and ecological balance in which Supreme Court directed to stop the excavation (illegal mining) under the Environment (Protection) Act, 1986. In *M.C. Mehta vs. Union of India*, AIR 1987 SC 1086 the Supreme Court treated the right to live in pollution free environment as a part of fundamental right to life under Article 21 of the Constitution.

Excessive noise creates pollution in the society. The constitution of India under Article 19 (1) (a) read with Article 21 of the constitution guarantees right to decent environment and right to live

peacefully. In *PA Jacob vs. The Superintendent of Police Kottayam*, AIR 1993 Ker 1, the Kerala High Court held that freedom of speech under article 19 (1)(a) does not include freedom to use loud speakers or sound amplifiers. Thus, noise pollution caused by the loud speakers can be controlled under article 19 (1) (a) of the constitution.

Article 19 (1) (g) of the Indian constitution confers fundamental right on every citizen to practice any profession or to carry on any occupation, trade or business. This is subject to reasonable restrictions. A citizen cannot carry on business activity, if it is health hazards to the society or general public. Thus safeguards for environment protection are inherent in this. The Supreme Court, while deciding the matter relating to carrying on trade of liquor in *Cooverjee B. Bharucha Vs Excise commissioner, Ajmer* (1954, SC 220) observed that, if there is clash between environmental protection and right to freedom of trade and occupation, the courts have to balance environmental interests with the fundamental rights to carry on any occupations.

Public Interest Litigation under Article 32 and 226 of the constitution of India resulted in a wave of environmental litigation. The leading environmental cases decided by the Supreme Court includes case of closure of limestone quarries in the Dehradun region (*Dehradun Quarrying case*, AIR 1985 SC 652), the installation of safeguard at a chlorine plant in Delhi (*M.C. Mehta V. Union of India*, AIR 1988 SC 1037) etc. In *Vellore Citizens Welfare Forum vs. Union of India* (1996) 5 SCC 647, the Court observed that “the Precautionary Principle” and “the Polluter Pays Principle” are essential features of “Sustainable Development.”

At local and village level also, Panchayats have been empowered under the constitution to take measures such as soil conservation, water management, forestry and protection of the environment and promotion of ecological aspect.

Environment protection is part of our cultural values and traditions. In *Atharvaveda*, it has been said that “Man’s paradise is on earth; this living world is the beloved place of all; It has the blessings of nature’s bounties; live in a lovely spirit”. Earth is our paradise and it is our duty to protect our paradise. The constitution of India embodies the framework of protection and preservation of nature without which life cannot be enjoyed. The knowledge of constitutional provisions regarding environment protection is need of the day to bring greater public participation, environmental awareness, environmental education and sensitize the people to preserve ecology and environment.

(Source: PIB)