

Evolution of Environ-Human Rights in India: Role of Judiciary

Rashi Sharma

Research Scholar

Department of Legal Studies & Research,

Barkatullah University,

Bhopal (M.P.)

Abstract

Environ-Human rights are those human rights that are straightforwardly influenced by the condition of the environment, consist but are not limited to the following: The right to life, the right to an adequate standard of living and the right to health. Human rights and Environmental Rights have generally been envisaged as two particular, free circles of rights. Both eventually look to accomplish the highest caliber of practical life for mankind inside the current worldwide biological system. Where Human Rights law ensures individual and group alive today inside a given society, the motivation behind Environmental law is to support all life and biological procedures by adjusting the requirements and limits of present ages with those of the future. Both are complementary to each other. The relation being a pre-requisite for the existence of each other, far from simple or straightforward. The importance of the environment to the fulfillment of human rights is widely accepted at international law. The relationship between human rights and the environment was first recognized by the UN General Assembly in the late 1960s. In 1972, the direct relationship between the environment and the right to life was recognized by the United Nations Conference on the Human Environment where it was stated that "Man is both creature and molder of his environment". Numerous laws exist to protect our environment and human rights in India yet examination into the viability of these laws is rare. Indian judiciary through the constitutional provisions has played an astounding role in maintaining eco-humanity balance with its landmark decisions. Article 32 and 226 of the Indian constitution have been provided as weapons in the hands of citizens to directly strike the courts for having their right to use the environment for their purpose and on the same side, courts making them realize their duty to work for it as well. This research paper discusses the concept of Environ-Human rights, their evolution and to date developments in the role of the Indian judiciary in protecting the same.

Keywords: Environment, Human Rights, Judiciary, Public Interest Litigation (PIL)

I. Introduction to the Environ-Human Rights

All people depend on the environment in which we live. A safe, clean, healthy and sustainable environment is an integral part of the full enjoyment of a wide range of human rights, including the right to life, health, food, water and sanitation. Without a healthy environment we cannot achieve our ambitions or even live at a level that meets the minimum standards of human dignity. At the same time, the protection of human rights helps to protect the environment.¹ The protection of the environment and human rights are interconnected, and responsive to each other, as both strive for the well-being of humanity. More specifically, a decent physical

¹United Nations Human Rights Office of the High Commissioner, "Special Rapporteur On Human Rights And Environment", Available at: <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx> (Last accessed on December 20, 2019).

environment has to do with protection against, for example, noise, air pollution, surface water pollution and the dumping of toxic substances.² Despite the clear link between the two, human rights violations and environmental degradation are treated as unrelated issues by most associations, governments and even the scientific community. International concerns regarding environmental human rights have increased considerably in recent decades. In response, the international community has created a wide range of international legal instruments, specialized bodies and agencies worldwide and regional levels to respond to the problems identified in each of these areas.³ Environmental problems include the reduction of biodiversity, the reduction of available land for agriculture and other human uses and the loss of cultural heritage. Human rights issues include the loss of traditional livelihoods, food security problems due to the reduction of available agricultural land and the loss of fish production.⁴ This article discusses the evolution of environ-human rights in the Indian perspective, the role of the Indian judiciary in building the idea and the likelihood of another human right to a good environment.

"Environmental rights" occur primarily in environmental legislation and include the rights of individuals and communities to be fully informed of environmental impacts and to participate in decisions that affect their environment.⁵ They also extend to the right to reparation or compensation for environmental damage. When defining the scope of 'environmental human rights', a distinction must be made between this category of substantive rights that offer environmental guarantees or have environmental dimensions, and a separate set of rights, sometimes referred to as '*Environmental Rights*', that are more procedural in nature. Many human rights recognized in international, regional or national laws have environmental dimensions. The rights to food, water and health, for example, are clearly dependent on environmental conditions and in several cases environmental damage or degradation has been considered as a violation of specific human rights.⁶ In addition to identifying the environmental dimensions of other rights, some jurisdictions recognize a separate and independent right to an environment of a certain quality. The constitution of India on the basis of part III guarantees the fundamental rights that are essential for the development of every individual and to which a person is inherently entitled on the grounds that he is only human. Articles 21, 14 and 19 of this section have been used for environmental protection.⁷ Public Interest Litigation (PIL) under Articles 32 and 226 of the Constitution of India have led to a stream of environmental disputes. The role of the Indian judiciary has been amazing in establishing the "human right to live in a pollution-free environment" through the various key judgments discussed later in this article. However, it is argued that while the environment and human rights are clearly interconnected, there are significant difficulties in building a good environment as something that is an appropriate subject for a new independent human rights law.

²Icelandic Human Rights Centre, "Human Rights And The Environment", Available at : <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/human-rights-in-relation-to-other-topics/human-rights-and-the-environment> (last accessed on: December 20, 2019)

³"Human Rights, Health And Environmental Protection: Linkages In Law And Practice", A Background Paper for the WHO Available at: https://www.who.int/hhr/information/Human_Rights_Health_and_Environmental_Protection.pdf (Last accessed on December 20, 2019).

⁴Ben Boer, Environmental Law and Human Rights in the Asia-Pacific.

⁵ See for example international and regional treaties, including the Antarctic Treaty, the Convention on Biological Diversity (1992), the United Nations Framework Convention on Climate Change (1992) and the Aarhus Convention (2001), as well as in soft law instruments like the Rio Declaration (1992) and domestic environmental law.

⁶ In addition to the European cases listed at footnote 1 above, see also the Ogoniland decision of the African Commission for Human and People's Rights (2002); the United Nations Human Rights Committee's decision in the Port Hope Environmental Group v Canada complaint (1982) and the Inter-American Court of Human Rights' ruling in Yakyé Axa Indigenous Community v Paraguay (2005).

⁷ Press Information Bureau, Government of India, Special Service and Features, "Environment Protection under Constitutional Framework of India", Available at: <https://pib.gov.in/newsite/PrintRelease.aspx?relid=105411> (Last accessed on January 2, 2020)

II. Environmental Dimensions Of Human Rights

There are many well-identified human rights that have an environmental dimension because of their theme and purpose. The impact of the environment on human rights can be direct, because a polluted or damaged environment immediately affects a person's ability to enjoy his or her rights, or indirectly, in awful environmental situations that impede the government's ability to protect the rights of its nationals to protect and enforce. These rights can form the basis of a legal claim in which an individual or a community claims that environmental degradation, or the failure of the government to address it, is a violation of their human rights, guaranteed by law. The set of environmental human rights laws includes a set of specific rights and obligations with regard to the environment. They can be found in various regional human rights treaties and national constitutions. The environmental dimensions of human rights can be direct or indirect: directly in the sense that a poor environment directly limits the ability of an individual or a community to enjoy a certain right, or indirectly in the sense that a poor environment affects the overall ability of affects an individual or a community to realize their human rights, or impedes a government's ability to protect and enforce the rights of its citizens. Therefore, a good environment can be seen as a condition for enjoying human rights, either because it is essential for enjoying a certain right or because a good environment is enjoying and realizing human rights promotes in general.

In India, the interdependencies between environment and human rights are largely understood through legal interpretations of constitutional provisions.

- **The Right To Health:** the environmental dimensions of the right to health are easy to understand: good environmental conditions, including clean air and water, safe and nutritious food, and adequate sanitation, are essential for a wide range of health outcomes, while a polluted environment has significant health problems can have.⁸ Under Indian constitution this right forms the part of some Articles.⁹
- **The Right to An Adequate Standard of Living:** together with the right to health, is perhaps most clearly susceptible to interference from environmental factors. This right guarantees all persons the right to an adequate standard of living, including adequate food, clothing and housing, and the continuous

⁸ Atapattu S (2004) The public health impact of global environmental problems and the role of international law. Am J Law Med 30(2/3):283

⁹

ARTICLES	PROVISIONS
21	No person shall be deprived of his life or personal liberty except according to procedure established by law.
23 (1)	Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
24	No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
38	State to secure a social order for the promotion of welfare of the people.
39 (e)	The State shall, in particular, direct its policy towards securing—that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
41	The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.
42	The State shall make provision for securing just and humane conditions of work and for maternity relief.
47	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 and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

improvement of living standards. Articles¹⁰ dealing such provision are enshrined in the Indian constitution.

- **The Right To Privacy:** although projected matter is primarily of national importance, there is a violation of the right that has been met. In the light of judicial decisions, the right to privacy is protected as an intrinsic part of life and personal freedom as laid down in Article 21¹¹ of the Indian Constitution. Privacy is a fundamental human right recognized in the UN Declaration of Human Rights, the International Covenant on Civil and Political Rights and in many other international and regional treaties. Privacy supports human dignity and other key values such as freedom of association and freedom of expression. It has become one of the most important human rights issues of modern times. In decisions of *Kharak Singh V. State of Uttar Pradesh*¹² and *M.P.Sharma V. Sathish Chandra*¹³ it was decided that privacy does not prevail in the context of fundamental rights. It was rejected in the recent judgment on privacy by Apex Court. In *Justice K.S. Puttuswamy (Retd.) & Anr. v. Union of India & Ors*¹⁴ The unique identity arrangement was discussed together with the right to privacy. The question before the court was whether such a right is guaranteed by the constitution. The Attorney General of India argued that privacy is not a fundamental right guaranteed to Indian citizens, but was then overturned and given the right to privacy as part of fundamental law.
- **The Right To Life:** In the event of serious damage to the environment, the right to life may be threatened. A healthy environment is an essential aspect of the right to life, not only for humans, but also for other animals on the planet. Environmental degradation can ultimately endanger the lives of current and future generations. It includes the right to survive as a species, quality of life, the right to live with dignity and the right to livelihood. In India this is explicitly recognized as a constitutional right under Article 21 of the Indian Constitution.¹⁵

10

ARTICLES	PROVISIONS
14	The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
15(1)	The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
19 (1) (d)	All citizens shall have the right— to move freely throughout the territory of India;
19 (1) (e)	All citizens shall have the right— to reside and settle in any part of the territory of India;
19 (1) (g)	All citizens shall have the right— to practise any profession, or to carry on any occupation, trade or business.
39 (a)	The State shall, in particular, direct its policy towards securing— that the citizens, men and women equally, have the right to an adequate means of livelihood;
42	The State shall make provision for securing just and humane conditions of work and for maternity relief.
47	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 and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

¹¹ Article 21 provides that No one may be deprived of their life or personal freedom, except according to the legally established procedure.

¹² *Kharak Singh V. State of Uttar Pradesh* 1963 AIR 1295, 1964 SCR (1) 332

¹³ *M.P.Sharma V. Sathish Chandra* AIR 1954 SC 300

¹⁴ *Justice K.S. Puttuswamy (Retd.) & Anr. v. Union of India & Ors* (2017) 10 SCC 1.

¹⁵ Aditi singh, "Right to Clean Environment: A basic Human Right", available at: <http://www.legalservicesindia.com/article/1509/Right-to-Clean-Environment:-A-basic-Human-Right.html> (last accessed on January 20, 2020)

These rights have been defined and applied to give them an environmental dimension and they help to establish and articulate a strong link between the environment and human rights. This process of interpretation and articulation of the environmental aspects of existing rights is called the 'greening' of human rights.¹⁶

III. Evolution Of Environ-Human Rights in India

Human rights and environmental problems are a source of concern for all civilizations, as far as human rights are concerned, the roots of human rights and fundamental freedoms of individuals can be traced to humanitarian traditions, unlocking in all parts of the world and the historical statements of philosophers, political leaders and statesmen in different centuries, in general and the twentieth century in particular. Basic human rights and freedoms were recognized by all major religions of the world. However, human rights really emerged as a subject of international relations in the United Nations that were established in 1945.¹⁷

Environmental protection and human rights are two of the most important points of attention in modern international law. After the establishment of the UN, the main focus of the international community has been on the protection and promotion of human rights. It was not until 1972 when the vote on environmental protection at national level became the global political agenda. The movement began from the Stockholm Conference and continues to be continued through international conferences in which governments recognized the ecological interdependence of the world and recognized the urgent need to take action to protect the environment. The Stockholm Declaration of 1972, the Nairobi Declaration of 1982, the World Charter for Nature, 1980, the 1992 Earth Summit, the Johannesburg Conference on Sustainable Development, 2002 and the UN Conference on Sustainable Development, 2012 are some of the results of the worrying state of the world community. The central point of all these conferences is that ignoring the environment in the short term can have bad consequences for humanity and the violation of human rights in the long term. The current scenario of unsustainable development is intended for large superstructures, mega-dams and large industrial units by MNC, mining and tourism activities, etc. This is precisely the reason why the voice of the resistance came up in all those places where such projects are proposed and already established. Such unsustainable development leads to the violation of fundamental human rights, i.e. the right to life as a result of polluted air and water, noise pollution and the loss of biodiversity. Linking human rights to the environment creates a rights-based approach to environmental protection with a focus on the people who suffer damage from environmental degradation. In this regard, the contribution of the Indian judiciary to the development of environmental case law and to providing solutions to the victims of environmental damage through the application of the rights-based approach to environmental protection is a clear example of how the human rights framework can contribute for the protection of fauna and flora and the existence of humanity. Human rights and environmental legislation are traditionally considered to be two separate, independent jurisdictions. Due to the many complex problems that arise when these two disciplines interact, it is to be expected that there are different views on how to deal with "human rights and the environment". In this context, there are three approaches to the relationship between human rights and environmental protection:

- The first approach is an approach where environmental protection is described as a possible means of meeting human rights standards. Here is the end of compliance with human rights, and the route is through environmental legislation.

¹⁶ Boyle A (2012) Human rights and the environment: where next? Eur J Int Law 23(3):613

¹⁷ Dr. K.B. Ojha, Human right and Environment Pollution in India & Judiciary Contribution, International Journal of Humanities and Social Science Invention ISSN (Online): 2319 – 7722, ISSN (Print): 2319 – 7714 www.ijhssi.org Volume 2 Issue 11 || November. 2013|| PP.42-47

- The second approach states that "the legal protection of human rights is an effective means of achieving the objectives of conservation and environmental protection." This emphasizes the current existing human rights as a route to environmental protection. The focus is on existing human rights.
- The third approach to the issue of "human rights and the environment" is to deny a formal link between the two. According to this approach, there is no requirement for an "environmental human right."

The argument is that since the Stockholm Conference in 1972, international environmental legislation has developed in such a way that even the domestic environments of states have become international and it is not necessary to have a separate human right to a decent environment. However, there are many people who are opposed to this view. There has been much debate about the theoretical solidity of the idea of a human right or rights to a satisfactory environment.¹⁸ Both the environment and human rights law have some common points. Both disciplines have deep social roots and both are internationalized.¹⁹

IV. International Instruments Dealing With Environ-Human Rights

Initially, the subject of protection of human rights and the environment was dealt with in a fragmentary manner in international law through various international treaties, treaties and laws. The year 1972 was an environmental milestone when the UN Conference on the Human Environment was held in Stockholm (Sweden) from 5 to 16 June, in which the "Declaration on the Human Environment" was adopted. This can be considered as the beginning of environmental movement in the world.²⁰ There is no explicit right to environmental quality in the most important international human rights instruments, namely UDHR²¹, ICCPR²² and ICESCR²³.

In the twenty years between the UN Conference on the Human Environment in 1972 and the UN Conference on the Environment and Development, more and more attention was paid in 1992 to the impact of environmental problems on human rights. Even in 1972, the Stockholm Declaration stated the human right to "adequate living conditions, in an environment of quality that allows a dignified and prosperous life".²⁴ The Rio Declaration on Environment and Development of 1992 contained the concepts of sustainable development and the rights of future generations to a healthy environment.²⁵ It states that people are at the center of care for sustainable development and that they are entitled to a healthy and productive life in harmony with nature. The final document of the Rio + 20 summit also confirmed the importance of human rights, in particular the rights to health, food and safe drinking water. The right to a quality environment has been given substance by regional human rights tribunals and national courts through the integration of environmental case law, legislation, principles and standards. Such bodies increasingly use environmental standards to judge human rights claims relating to the environment and to assess whether or not states have met their legal obligations.²⁶

¹⁸ Boyle & Anserson M. (Eds.). (1996). Human Rights Approach to Environmental Protection. Oxford, Oxford University Press.

¹⁹ Nijhwan, S. (2004). A Human Right to a Clean Environment. Retrieved from, <http://www.subin.de/environment.pdf>

²⁰ Rajeev Kumar, Environmental Law and Human Rights (Indian Perspective), International Journal of Engineering and Management Research, Vol.-2, Issue-3, June 2012 ISSN No.: 2250-0758 Pages: 58-60 www.ijemr.net

²¹ Universal Declaration Of Human Rights, 1948.

²² International Covenant On Civil & Political Rights, 1966.

²³ International Covenant On Economic, Social & Cultural Rights, 1966.

²⁴]Stockholm Declaration, Principle 1, U.N. Doc. A/Conf.48/14, at 2-65 (5-16 June 1972).

²⁵ Rio Declaration, U.N. Doc. A/Conf.151/5/rev.1 (13 June 1992).

²⁶ Shelton, D.(2010) Developing Substantive Environmental Rights, Journal of Human Rights and the Environment, 1(1), p. 90.

V. Environ-Human Rights in India

In India, a state of natural imbalance has been developed through many people-centered activities such as industrialization, urbanization and the large-scale exploitation of natural resources that have caused environmental damage, which have led to widespread serious consequences, including global warming, drought, floods, environmental refugees and migration, health problems, ozone depletion, etc., such as urbanization to accommodate a large population, and industrialization to meet their needs. The Indian judiciary played a remarkable role in putting the issue of environmental degradation within the framework of fundamental rights to heal the victim of environmental damage. In 1976, provisions were included in the constitution that placed responsibilities on the state and its citizens to protect the environment. The Indian judiciary has also considered sustainable development as a basis for achieving a balance between environment and development through this universal agenda. The courts in general and the Supreme Court in particular have done their best to fulfill the ambitions regarding the right to the environment and to fill the gaps in environmental legislation. It also gave a liberal interpretation of existing laws in the light of international human rights instruments to achieve the goal of human dignity through easy access to basic life-supporting elements of life such as: clean water, clean air and a healthy environment through the roots of the Human rights law. Various milestone judgments on environmental protection were made through public interest procedures. With the 42nd constitutional amendment in 1976 and judicial interpretation over the years the law of the constitution developed environmental case law in India. The broad meaning given to the right to life guaranteed by Article 21 of the Indian Constitution has contributed to the theoretical solidity of the right to a healthy environment. Usually, the Supreme Court and the Supreme Courts have recognized these rights without a corresponding fundamental right by issuing a series of guidelines under their written jurisdictions under Articles 32 and 226 of the Constitution respectively.²⁷ The introduction of Articles 48A²⁸ and 51-A (g)²⁹ has laid the basis for building environmental case law.

VI. Role Of Judiciary

The most important contribution of the Supreme Court to case law on human rights has been twofold. Firstly, it is the substantive extension of the concept of human rights under Article 21 of the Constitution and, secondly, the procedural innovation of PIL.³⁰ The Apex court adopted a progressive approach by easing the rule of "standing" in court and allowing ordinary citizens to submit a petition to the court. As a result of the extension of the scope of Article 21 with regard to the right to life, public interest disputes (PILs) concerning many human rights issues³¹ brought before the Court. The table below shows the judicial chronology of the development of the concept of environmental human rights:

S. No.	Case Name	Verdict
1.	Menaka Gandhi v. Union of India ³²	The Supreme Court gave a broad meaning to the right to life guaranteed under Article 21 of the Indian Constitution, allowing the court to exercise different

²⁷ *Supra 1*

²⁸ Article 48A was inserted in Part IV of the Constitution³³ which relates to the Directive Principles of State Policy (Forty-Second Amendment Act, 1976). It stipulates that, "the State shall endeavour to protect and improve the environment and to safeguard the forests and the wildlife of the country."

²⁹ Article 51-A (g) stipulates that it is the duty of every citizen "to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures".

³⁰ IS THERE A RIGHT TO ENVIRONMENT IN THE INDIAN CONTEXT?, available at:

https://shodhganga.inflibnet.ac.in/bitstream/10603/139529/12/12_chapter%204.pdf (last accessed on January 20, 2020)

³¹ E.g. Health hazards due to pollution, housing for beggars, immediate medical aid to injured persons, deaths due to starvation, the right to information, the right to open trial, inhuman conditions in aftercare homes.

³² Menaka Gandhi v. Union of India (1978) 1SCC 248.

		rights within the framework of the right to life.
2.	Minerva Mills v Union of India ³³	In interpreting the fundamental right with regard to "Right to Life", the judiciary has taken an innovative approach by combining the spirit of both fundamental rights and the principles of the directive. There is no conflict between the two and they complement each other and complement each other.
3.	Francis Coralie v. Union Territory of Delhi ³⁴	The court has drawn up a list of positive obligations for the state as part of the duty related to the right to life.
4.	ABSK Sangh (Rly) v Union of India ³⁵	The Apex court ruled that fundamental rights should be interpreted in the light of the guideline principles and that the latter should be read in the first.
5.	Rural Litigation and Entitlement Kendra v. State of U. P. ³⁶	This case is one of the first in which the court dealt with environmental and ecological balance.
6.	Shri Sachidanand Pandey v State of West Bengal ³⁷	The Supreme Court has pointed out that whenever a problem of ecology is brought to justice, the court must keep in mind Articles 48-A and 51-A (g) of the Constitution.
7.	T. Damodar Rao v SO Municipal Corporation, Hyderabad ³⁸	The Court pointed out that, in view of Articles 48-A and 51A (g), the protection of the environment is not only the duty of every citizen, but also the "obligation" of the state and all other state organs, including the courts.
8.	LK Koolwal v State of Rajasthan ³⁹	Insanitation leads to slow poisoning and has an adverse effect on the lives of citizens and therefore falls within the scope of Article 21 (right to life) of the Constitution of India.
9.	Charan Lal Sahu v. Union of India ⁴⁰	The relationship between the quality of the environment and the right to life was further dealt with by the court.
10.	Subash Kumar v. State of Bihar ⁴¹	The court noted that the right to life guaranteed by Article 21 includes the right to enjoy pollution-free water and air for full enjoyment of life.
11.	Bandhua Mukti Morcha v. Union of India and others ⁴²	From the point of view of Human Rights, with regard to tied work and weaker sections of society, the Supreme Court stated that Article 21 guarantees

³³ Minerva Mills v Union of India AIR 1980 SC1789³⁴ Francis Coralie v. Union Territory of Delhi (1981) 1 SCC 608.³⁵ ABSK Sangh (Rly) v Union of India AIR(68) 1981 SC 298, p335³⁶ Rural Litigation and Entitlement Kendra v. State of U. P. (1985) 2 SCC 431.³⁷ Shri Sachidanand Pandey v State of West Bengal AIR 1987 SC 1109³⁸ T. Damodar Rao v SO Municipal Corporation, Hyderabad AIR 1987 AP 171³⁹ LK Koolwal v State of Rajasthan AIR 1988 Raj.2⁴⁰ CharanLalSahu v. Union of India (1990) 1 SCC 613.⁴¹ Subash Kumar v. State of Bihar AIR 1991 SC 420.⁴² Bandhua Mukti Morcha v. Union of India and others, 1992 AIR 38; 1991 SCR (3) 524

		the right to live with human dignity and free from exploitation.
12.	Unni Krishnan v. State of A.P ⁴³	The extended scope of Article 21 was declared by the Supreme Court by noting that life also includes education and the right to education derives from the right to life.
13.	M C Mehta vs. Union of India ⁴⁴	This Case has extended the interpretation of the right to life in Article 21, thereby guaranteeing the right to life, a broader meaning to include the right to a safe and pollution-free environment in its scope.
14.	A P Pollution Control Board (II) v Prof M V Nayudu ⁴⁵	The Supreme Court noted that the right of access to drinking water is fundamental to life and that it is the duty of the state to provide clean drinking water to citizens.
15.	N. D. Jayal v. Union of India ⁴⁶	The Supreme Court has stated that "compliance with sustainable development is a sine qua non condition for maintaining a symbiotic balance between the right to development and development." This concept is "an integral part of life under Article 21 of the Constitution".
16.	Noise Pollution v In Re ⁴⁷	The court ruled that freedom from noise was part of the "Right to Life" guaranteed by Article 21.

VII. The Future of A New “Human Right To A Good Environment” in India

The concept of an internationally recognized human right to a good environment is problematic, and that future work on environmental human rights and climate change in international law is best pursued within the framework of existing rights. This is the hope of the drafters of the Global Pact for the Environment.⁴⁸ Article 1 of which declares that ‘Every person has the right to live in an ecologically sound environment adequate for

⁴³ Unni Krishnan v. State of A.P, 1993 AIR 2178

⁴⁴ M C Mehta vs. Union of India 1998(6)SCC 60 and 1998(9)SCC589.

⁴⁵ A P Pollution Control Board (II) v Prof M V Nayudu (2001) 2 SCC 62

⁴⁶ N. D. Jayal v. Union of India (2004) 9 SCC 362.

⁴⁷ Noise Pollution v In Re (2005) 5 SCC 733

⁴⁸ Global Pact for the Environment (2017) Draft presented to United Nations General Assembly high level summit, 19 September 2017

their health, well-being, dignity, culture and fulfilment'. The purpose of the Global Pact is to bring together principles of environmental law and justice under a single instrument which, it is intended, will be adopted by States as a new environmental treaty. If States do become more willing to work towards the adoption of new environmental human rights, any new right would need to be established within certain parameters if it is to be both practically meaningful and consistent with existing human rights theory and law. The future of environmental human rights lies not in the pursuit of an independent right to a good environment in a multilateral human rights treaty, but in the place of the further expansion, clarification and application of existing environmental rights. The complex links between the environment and human rights require that we not only pursue opportunities to promote their mutual protection through legal mechanisms, but also that we endeavor to re-understand the relationship of people with the natural world and not the environment only to be understood as something for which people are entitled, but to which we owe moral and legal obligations. As per Dr. Ajay Mathur, "A clean environment is now emerging as a human right in India. 100 years ago it was no problem, because at that time we produced very little waste and that waste was easily absorbed by the environment around us. However, as we evolve, the more we produce and consume, and as our population density increases, pollution is now the cheek to scoff at us. Globally, the debate on the interconnections and synergies between human rights and the environment has centered around three key questions: first, whether environmental protection is required to meet fundamental human rights; second, whether human rights can contribute to environmental protection; and third, whether environmental rights are fundamental human rights."⁴⁹ It is now important to emphasize the interrelations and synergies between SDGs and human rights and to emphasize that progress can be accelerated on both if they are implemented in a mutually reinforcing way. It seems to me that by establishing sustainable development goals as a means of achieving human rights, we will see more of these goals, apart from the SDG on a clean environment, taking on the human rights lexicon.⁵⁰

VIII. Conclusion

Whatever perspective one chooses with regard to the relationship between human rights and the environment, it is clear that leaving a healthy environment has a clear and even increasing effect on the enjoyment of human rights. Linking human rights to the environment is not only useful to protect the environment, but at the same time the human rights system would be strengthened by the integration of environmental issues, which could extend the scope of environmental protection of human rights.

IX. Suggestions

- New human rights must also be compatible with the theoretical foundations of human rights to ensure that they are consistent with our ideas about what human rights should be and why they matter and to maintain the power of human rights as a normative framework. The principles of Natural Rights Theory⁵¹, Interest Theory⁵², Will Theory⁵³ and Cosmopolitanism⁵⁴. It has been shown that, although

⁴⁹ Dr Ajay Mathur , "Right to clean environment has emerged as a new human right in India", Available at: <https://www.terii.org/article/right-clean-environment-has-emerged-new-human-right-india-dr-ajay-mathur> (last accessed on: September 12, 2018)

⁵⁰ Ibid

⁵¹ Natural Rights Theory: Reflecting the basic principles of natural law, natural rights theory posits that each individual person is entitled to a number of fundamental claims which derive from their inherent human dignity. These rights derive from human nature and consist of such things as are essential to the protection and realisation of human nature and dignity, those things which are necessary for the maintenance of a life worthy of a human being.

⁵² Interest Theory: rights are those things that human beings are entitled to claim because they are necessary for their well-being or to further their interests.

⁵³ Will Theory: This theory assumes that rights flow from each individual's ability to choose and exercise free will.

⁵⁴ Cosmopolitanism: Cosmopolitanism takes the position that all human beings are members of a single community and that as part of that community we have duties to assist others which are not limited by ideas of statehood or nationality.

each theory constructs a different explanation as to why certain claims should be considered "human rights," they all require such claims to be related in some way to fundamental human values, dignity, autonomy, or well-being.

- It must be possible to define the law with sufficient precision, so that it is enforceable and accessible, and can therefore make a practical contribution to environmental protection.
- The duty must be determined so that the beneficiaries and the carriers can be identified. On what basis can a person claim that he or she has a sufficient interest in an environmental impact to make a claim without expressing that interest in terms of other human rights?
- The law must be defined in such a way that a violation can be proven. The nature of climate change poses major challenges for demonstrating human rights violations. The cumulative nature of state contributions to the problem makes it difficult to prove that the actions or negligence of a particular state have had a certain effect on human rights, since no state can be considered to be solely responsible and each could claim that negative results have occurred even if it had acted differently.

