



## Legal Regulations for Ensuring Human Environment and Sustainability Rights in India

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### Article information

Received: 14<sup>th</sup> August 2024

Received in revised form: 13<sup>th</sup> September 2024

Accepted: 18<sup>th</sup> October 2024

Available online: 21<sup>st</sup> November 2024

Volume: 1

Issue: 2

DOI: <https://doi.org/10.5281/zenodo.14190333>

### Abstract

It is essential to find solutions for societal issues because of the planet's environmental crisis and its ability to sustain the well-being of humans. In this context, "transformations towards sustainability" gain prominence and institutionalize themselves more deeply in global policy and intellectual discourse. Reorienting and modifying government activities and processes is necessary for transformations towards sustainability. In spite of the many different stakeholders involved in managing the transition, this article examines the role of the legal system in directing the process of change toward a more equitable and sustainable future. The relationship between both strategies has been recognized in several global and geographic regions musical instruments UN subsidiary organization legislation, conversation results records, and court rulings that view in the realm of human rights as a practical mechanism for promoting environmental protection goals. The majority of groups, governing bodies, and even academics have considered environmental deterioration and abuses of human rights as unconnected issues, despite the apparent link between both. Environmentalists have a history of ignoring the effects caused by environmental abuse on human populations in favor of protecting natural resources. As a tactical instrument, judicial intervention can influence behavior, opening the door to transformational shifts. The study provides an original multidisciplinary analysis of representative Indian climate change legal choices situated within the sustainability transitions rhetoric supported by the environmental rule of law, drawing on the social science literature. By examining policies, actions made by human rights and environmental organizations, and rulings from different tribunals, this study aims to outline the association between preserving the environment and fundamental rights viewpoints.

**Keywords:** - Earth's Environmental, And Human Rights, Indian Climate Change, Judicial Pronouncement, Environmentalists, Transformation, Rule Of Law, Natural Resource, Organization.

*"Without respect for the rights of humans & the rule of law, there cannot be development without peace, nor there sustainable development without enduring peace."*

*Former UN Deputy Secretary-General Jan Eliasson*

## I. INTRODUCTION

India, a country of 1.34 billion people, has a variety of laws and enforcement organizations to suit the needs of a rising, market-driven society. Both at the federal and state levels, there is a robust legal framework, an effective policy on the environment, and well-established institutions. But as India's economy grows, so does public awareness, and this has caused a desire for better environmental quality. The goal of environmental legislation and related standards is to guarantee the preservation of ecological balance and environmental quality requirements. The state has additionally profited from the

adoption of environmental norms by world organizations and industrialized countries, which has helped improve local requirements.

Robust ministries, such as the Ministry of Forestry, Environment, and Climate Change, assert that they function under the banner of sustainable development. Nevertheless, the established norms and regulatory tools—which are sometimes dispersed and sector-specific—have not been able to accurately represent the interconnectedness of ecological health and human welfare. Specialized green tribunals linked to environmental governance are among the additional institutions that have been inspired by the disparity between the rising demand from the public for preserving the environment and the enforcement's inability to carry out the relevant laws and regulations. As such, the significance of court action to safeguard the natural world and ecology is increased.

This Background Paper aims to provide a description of the subject of environmental human rights and to study the relationship between these two domains. It aims to offer some standard groundwork for conversation. Some difficulties cut across. The association between the fundamental values of human rights and the imperative of environmental conservation and protection at the international, regional, and national levels raises an assortment of important questions. Legal analysis is an appropriate fit for the two fields of conservation of the environment and human rights. The authors took into account the reality that the conference attendees come from an assortment of disciplinary experiences, despite the fact that many of the concerns discussed in this paper have been addressed from a legal perspective. There are several ways to address the relationship between the rights of humans and the environment, including from the perspectives of political science, economics, sociology, ecology, and the relationship between nations.

Contrarily, a right to an environment that is healthy indicates the recognition of a distinct, autonomous human right that is not reliant on the already-existing protected rights acknowledged in the global agreements. For instance, a victim need not provide data to back up the claim that an environmental issue is to blame for the violation of their right to life or any other right. In case it is possible to define the specifics of this right, then a victim should be able to prove that their right to maintain a healthy environment was infringed.

The United Nations Environmental Program (UNEP) Report for 2021 states that systemic transformation is necessary to guarantee sustainability. The revolution "will involve a fundamental change in the economic, technological, and social structure of society in general involving perspectives on the world, norms, values, and management. "The objective of a changing future is to "integrate[ing] people and planet across scales" to attain human security and integration into society within an enduring and resilient earth system. "An expansive viewpoint helps prevent lock-ins and generates options for accelerating and leveraging the transformation concerning sustainability growth," according to this description.

Two of the primary objectives of modern international law are the environmental conservation and human rights. After the UN was founded, the preservation and development of the rights of people became the world community's top priority. It wasn't until 1972 that domestic environmental preservation voices started to make a significant impact on international politics.

International instruments relating to human rights recognize essential human rights like the right to appropriate housing and food, the right to secure and nutritious employment, and the right to health. Large superstructures, mega dams, large industrial units owned by MNCs, mining, and tourism-related activities are all part of the current unsustainable development scenario. These projects have the potential to uproot millions of people in a single blow without including their social and economic factors, and cultural elements of life. Numerous people have been impacted by dam construction, mining operations, fast industrialization, and urbanization. Here is the exact reason why, in every location where these kinds of initiatives are either proposed or already have been implemented, the voice of protest is now present.

### 1.1 The Connection Between Human Rights and Environmental Degradation

Traditionally, human rights and laws about the environment have been seen as two distinct and independent areas of rights. However, by the close of the 20th century, the notion emerged that environmental protection might be furthered by situating it in line with human rights, which by that time had accumulated substantial recognition as an issue of international law and custom. Divergent perspectives regarding how to address "human rights and the environment" are to be expected given the number of intricate obstacles that arise when both these industries meet.

The preservation of the natural environment and the officially recognized rights of people can occasionally clash. However, there is unquestionably a rhetorical and moral benefit to treating environmental concerns as human rights issues. The concern of whether international laws on human rights can help safeguard the environment is still open for debate, while academics have spoken extensively about the connection between environmental conservation and human rights. According to Dinah Shelton, environmental preservation and human rights constitute "overlapping cultural principles with core shared goals." Rather than adding additional rights to existing treaties, we must talk about a "greening" of current laws governing human rights since it relates to the environmental components of rights included in proclaimed international agreements on human rights.

### 1.2 Universal Instruments

There are two ways to track the connections between human rights and environmental rights: either one looks at international environmental law and looks for standards relating to human rights within it, or one looks at present-day international human rights framework and looks for environmental rights. The UDHR, ICCPR, and ICESCR are three major

international human rights providers that do not specifically include the right to excellent environmental preservation. Nonetheless, the environment was brought up concerning cleanliness in the ICESCR (Article 7). The environment is addressed in the context of preventing sickness and malnutrition under the Convention on the Rights of the Child (CRC). Article 24, paragraph 2(c) of the CRC mandates that States aim to ensure that every child has access to the best possible quality of health, taking into account the risks and hazards associated with environmental pollution.

### 1.3 The Perspective of India

Many human-centric operations, such as development, urbanization, and extensive resource extraction, have created a state of natural imbalance in India. These activities have had serious long-term effects on the environment, including global warming, floods, droughts, environmental refugees and migration, diseases, ozone depletion, and numerous other issues. Urbanization was necessary to house a large number of people, and industrialization was necessary to meet their needs. Simultaneously, the state of circumstances is exacerbated by an absence of robust legislative actions. It is significant to observe that the nation, which was self-sufficient in natural resources before, is now threatened by these resources, which include water, air, forests, and diversity.

### 1.4 Agreements on the International Environmental

India is a party to several international accords concerning environmental conservation. Since the Stockholm Declaration of 1972 established that there is only one environment on the planet. India is constrained to interpret and carry out the provisions of certain international accords inside its boundaries as a signatory. The fifth paragraph of Article 51 of the Indian Constitution makes this quite clear: the state is to promote respect for international legislation and treaty responsibilities.

On the other hand, another important provision regarding ecological protection is found in Article 253 of the Constitution, which gives our country's Parliament the authority to pass laws that can be implemented across the entire country or to any specific territory to carry out any agreement or commonly held opinion signed with other countries or countries.

To put judgments addressed at any international conference into effect, parliament may also pass further legislation. A court cannot challenge any provision enacted in the discipline of preservation of the environment under Article 253 read with Articles 13 and 14 because it lacks legislative authority.

### 1.5 The State's Role to Protect the Environment

Article 47 requires the state to monitor the rising levels of dietary intake and living standards of its citizens. Enhancing public health is also the state's main responsibility. The use of alcohol and narcotics, which can be harmful to the health of living things and seriously endanger their lives, must be outlawed by the state unless prescribed by a physician.

Based on the definition given to the term "responsibility," the state should execute effective, adequate, and required actions to enhance everyone's health and quality of living and to increase knowledge in the context of ecological preservation." Environment development efforts cannot be pursued by those who pose a threat to civilization as a whole. As a result, the government must closely monitor these efforts and behaviors.

Through the use of legal proceedings in the public interest and the opening up with respect to the rule of standing, the judiciary has been instrumental in the growth of environmental jurisprudence, particularly in interpreting constitutional provisions and national laws about global environmental legislation and human rights laws worldwide.

## II. LITERATURE REVIEW

(O'Donnell, E. L., 2018) As the demands on water reserves increase, there is a rising need for innovative legal frameworks that address water abuse and insufficient ecosystem health supplies. One innovative and evolving tactic is to use juridical status for offering rivers legal rights to safeguard their water systems. While this is a significant advancement in the fields of environmental legislation and water resources management, there is little information available about the strategy's application and use.

(Pelizzon, A., & Clark, C. 2020) The last ten years have witnessed swift creation of rights enjoyed by nature in a variety of circumstances, which has led to a rise in the public's awareness, acceptance, and acknowledgment of these rights across the world. However, far too frequently, research papers and press reports fail to highlight the crucial aspect, namely Indigenous individuals have continuously impacted and frequently spearheaded the most revolutionary cases involving the rights of nature. While noting that not every Indigenous person embraces the rights of Nature, we examine the ontologies of earth jurisprudence and rights of Nature in this article, as well as the relationship of these organizations with the governing bodies of Indigenous individuals in asserting and implementing their rights.

(Aggarwal, P., 2019) This paper aims to conduct a thorough analysis of the Sustainability Reporting (SR) and Corporate Social Responsibility (CSR) practices of Indian companies concerning disclosure with respect to both quantity and quality. Furthermore, it will explore the variations in SR actions by industry, firm size, economic viability, ownership structure, and SR dimension. The Corporate Responsibility Reports (BRR), Sustainable Reports, CSR, and annual reports of 61 of India's

top-listed firms are the primary sources of the data. An all-inclusive index for sustainability reporting is created. The method of content analysis is applied. Inter-coder dependability has been demonstrated.

(Arya, S., 2020) An additional supplier of precious and precious metals is electronic trash. Urban mining of these minerals has drawn a lot of interest lately since it offers enticing possibilities, increases financial possibilities, provides a means of subsistence, and eventually helps achieve the Sustainable Development Goals (SDGs) of the 2030 agenda. Due to the existence of hazardous chemicals, the substantial amount of E-waste proves to be an enormous struggle. Due to the massive production of e-waste and its detrimental effects on the natural world and in the field of public health, there exist multiple problems beyond current treatment remedies.

## 2.1 Objectives of the study

- Ascertain if there are any holes or inadequacies in the current legal system that make it more difficult to preserve the rights to the environment and sustainability.
- To find areas for improvement, compare India's environmental laws with those of other countries, as well as best practices and international legal frameworks.

## 2.2 The Scope of the Study

Research that looks at the laws that India has in place to protect the rights to the human environment and sustainability will probably cover a diverse array of topics, including:

- **Environmental Laws and Policies:** examining the regulatory structure that is now in place in India with regards to sustainability and protection of the environment, including the Water (Prevention, Control, and Regulation of Pollution) Act of 1974, the legislation known as the Wildlife Protection Act of 1972, and the Environment (Protection) Act of 1986.
- **International Commitments:** looking at India's responsibility under international conventions and agreements, like the Convention on the Conservation of Biological Diversity and the Paris Agreement, relating to environmentally friendly development and the preservation of the environment.
- **Judicial Precedents:** Analysing significant rulings rendered by Indian courts that have influenced environmental law and created guidelines for preserving the rights to the environment and sustainability.
- **Government Initiatives and Programs:** Evaluating the effectiveness of government initiatives and endeavors like the Swachh Bharat Mission and the National Action Plan on Climate Change that are meant to solve problems with the environment and encourage sustainable development.
- **Stakeholder Engagement:** Recognizing the responsibilities of different stakeholders to safeguard ecological law compliance and promoting sustainable practices, such as local communities, businesses, and Non-Governmental Organizations (NGOs).

By defining the study's parameters in this manner, researchers may conduct a thorough analysis of India's legal framework for sustainability and environmental protection, which will allow them to influence policy debate and decision-making in this crucial area.

## III. METHODOLOGY

One can use a thorough approach that includes the following stages to investigate the laws in India that provide rights related to the environment and sustainability:

- **Legal Analysis:** Examine significant Indian laws and regulations dealing with sustainability and environmental protection, such as the National Green Tribunal Act of 2010 and the Environment (Protection) Act of 1986, the Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, and the Environment (Protection) Act of 1986. Examine these laws' advantages, disadvantages, and shortcomings in safeguarding the rights to sustainability and the preservation of the environment.
- **Comparative Analysis:** Examine how India's legal system stacks up compared to global norms and best practices for sustainability and environmental preservation. Determine what India may learn from the encounters of other nations and take steps to fortify its legal framework.
- **Policy Recommendations:** Create policy recommendations based on your research to strengthen India's legal framework for defending rights to the environment and sustainability. Legislative changes, enforcement protocols, strengthening capacity projects, and participation of stakeholder's tactics should all be covered by these recommendations.
- **Public Awareness and Advocacy:** Through outreach initiatives, workshops, and advocacy campaigns, increase public knowledge of the value of preservation of the environment and sustainable rights. Encourage encouragement of policy changes and legislative changes that advance a more just and sustainable course for prosperity.

- **Monitoring and Evaluation:** Provide systems for tracking the use of suggested policy actions and assessing their long-term effects on the rights to a sustainable human environment. Update and improve tactics often in response to new situations and lessons discovered.

By utilizing this approach, you may carry out an in-depth investigation of the laws that guarantee the rights to the human environment and environmental sustainability in India and help create useful policies and strategies in this vital field.

#### IV. CONCLUSION

According to one's position on the link between advocacy for human rights and the environment, it is clear that preserving an unhealthy environment significantly impacts the enjoyment of human rights. The connection between human rights and environmental protection benefits both the safeguarding of the environment and the advancement of the human rights framework. This makes it possible to extend the defense of individual rights in the natural sphere.

India has a massive population, and it also has significant internal difficulties that are a reflection of social inequality, poverty, the country's vast size, bureaucratic incompetence or indifference, and widespread corruption. The tripartite system of checks and balances between the Executive, the Court, and Parliament—which was given to India after it gained independence in 1947 and is ingrained in Western common law constitutionalism—continues to have inconsistent success. The clumsy legislature with multiple parties. Due to regulatory authorities' inability to address environmental problems, the system of justice has emerged as the primary and most appropriate venue. To preserve and enhance the environment and ecology by Article 21 of the Constitution, a transformative process that is polycentric, participatory, and democratic has been encouraged by the liberal "aggrieved party" standing and the broader "a representation and citizen remaining" in environmental PILs, as interpreted by the National Governance Tribunal (NGT).

#### REFERENCES

- S. P. Sathe, *Judicial Activism in India* (OUP 2002) 217; P. N. Bhagwati, 'Judicial Activism and Public Interest Litigation' (1984).  
 G. N. Gill 'Human rights and the environment in India: access through public interest litigation' (2012).  
 Javed v State of Haryana AIR 2003 SC 3057; Unnikrishnan, J P vs. State of A.P (1993).  
 A. Jordan, 'The governance of sustainable development: taking stock and looking forwards' (2018) 26 *Environment and Planning C: Government and Policy* 17–33, 21.  
 L. Temper and others, 'A perspective on radical transformations to sustainability: resistances, movements and alternatives' (2018) 13 *Sustainability Science* 747–764, 751.  
 M. Ramos-Mejía, M.-L. Franco-García and J.M. Jauregui-Beckerb, 'Sustainability transitions in the developing world: Challenges of socio-technical transformations unfolding in contexts of poverty' (2018) 84 *Environmental Science and Policy* 217–233, 217.  
 Sabharwal, Y.K. (2005). *Human Rights and the Environment*.  
 O'Donnell, E. L., & Talbot-Jones, J. (2018). Creating legal rights for rivers. *Ecology and Society*, 23(1).  
 O'Donnell, E., Poelina, A., Pelizzon, A., & Clark, C. (2020). Stop burying the Lede: The essential role of indigenous law (s) in creating rights of nature. *Transnational Environmental Law*, 9(3), 403-427.  
 Aggarwal, P., & Singh, A. K. (2019). CSR and sustainability reporting practices in India: an in-depth content analysis of top-listed companies. *Social Responsibility Journal*, 15(8), 1033-1053.  
 Arya, S., & Kumar, S. (2020). E-waste in India at a glance: Current trends, regulations, challenges, and management strategies. *Journal of Cleaner Production*, 271, 122707.  
 Paula. S. (2010). The La Oroya Case: the Relationship between Environmental Degradation and Human Rights Violations. *Human Rights Brief* 18 (1), 19-23.  
 Quiroz, Diego. (2010). The Environment and Human Rights: Making the Connections. *Scottish Human Rights Journal*, 50 (2), pp. 1-12.  
 Report of the National Commission to Review the Working of the Constitution. (2002). New Delhi, Universal Law Pub. Pvt. Ltd. 2002. It was set up vide Government Resolution dated February 22, 2000, and submitted its report in 2002. The Commission recommended inserting a new article (30-D) in Part III of the Indian Constitution.