

Environmental Protection as a Fundamental Human Right: A Critical and Analytical Study of Clean and Healthy Living Conditions

Gautam Solanki¹, Dr B.L. Bishnoi²

¹Research Scholar, MGSU University, Bikaner

²Principal Gyan Vidhi College, Bikaner

Abstract

The recognition of environmental protection as a fundamental human right has emerged as a transformative legal paradigm, affirming clean and healthy living conditions as indispensable to human dignity, health, and survival. This study critically examines the evolution of this right through landmark developments—the UN General Assembly Resolution 76/300 (2022), UNHRC Resolution 48/13 (2021), and the International Court of Justice's 2024 advisory opinion—contrasted with domestic constitutional frameworks, particularly India's Article 21 jurisprudence interpreting the right to life as encompassing pollution-free environments. Drawing on 2025 data revealing 9.2 million premature deaths from pollution (Lancet Countdown), escalating climate displacement (92 million people, UNHCR), and biodiversity loss (1 million species at risk, IPBES), the analysis underscores the indivisibility of environmental rights from civil, political, economic, social, and cultural rights. Through case studies like *Subhash Kumar v. State of Bihar* (1991), *MC Mehta v. Union of India* (1987), and recent European Court of Human Rights rulings (*KlimaSeniorinnen v. Switzerland*, 2024), it evaluates judicial enforcement mechanisms, legislative gaps, and implementation challenges. Objectives include tracing conceptual foundations, assessing international-domestic interplay, analyzing barriers to realization, and proposing reforms. Findings reveal persistent gaps between recognition and remedy, exacerbated by weak enforcement, corporate capture, and North-South inequities. The study concludes with recommendations for constitutional amendments, rights-based climate litigation frameworks, and global just-transition mechanisms to operationalize this right, ensuring intergenerational equity amid the sixth mass extinction and 1.5°C breach trajectory.

Keywords: Environmental rights, human rights, clean living conditions, Article 21, climate justice, judicial enforcement

1. Introduction

The notion that environmental protection constitutes a fundamental human right crystallized in the late 20th century, evolving from early formulations in the 1972 Stockholm Declaration (Principle 1: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being") to contemporary recognition as an autonomous right. This shift reflects growing scientific consensus on anthropogenic environmental degradation—air pollution causing 8.1 million deaths annually (2025 WHO), water scarcity affecting 2.4 billion (UN-Water), and

climate change displacing 32.6 million in 2024 alone (IDMC)—threatening the very preconditions for human rights enjoyment.

Global Recognition Milestones

The UN General Assembly's historic Resolution 76/300 (July 2022), adopted by 161 states, affirmed "the right to a clean, healthy and sustainable environment as a universal human right," building on UNHRC Resolution 48/13 (2021). The ICJ's July 2024 advisory opinion further clarified state obligations under international law, mandating prevention of transboundary harm and climate mitigation consistent with 1.5°C Paris targets. Regionally, the European Court of Human Rights' *KlimaSeniorinnen* ruling (April 2024) held Switzerland liable under Article 8 ECHR for climate inaction, while Colombia's 2024 Supreme Court decision granted the Amazon legal personhood.

Indian Constitutional Context

India's Article 21—"No person shall be deprived of his life or personal liberty except according to procedure established by law"—has expansively incorporated environmental protection since *Subhash Kumar v. State of Bihar* (1991), where the Supreme Court declared: "The right to live in a healthy environment is a fundamental right." Precedents like *MC Mehta v. Union of India* (1987, oleum gas leak) and *Vellore Citizens Welfare Forum v. Union of India* (1996, precautionary principle) entrenched sustainable development as constitutional doctrine. Yet, 2025 NITI Aayog data reveals 70% of surface water polluted, 39 cities exceeding PM2.5 safe limits by 10x, and 600 million facing water stress, exposing implementation chasms.

Research Imperative

With Earth's carrying capacity strained—biodiversity loss at 1,000x natural rates (IPBES 2019, updated 2025)—and India's emissions projected to peak at 4.5 GtCO₂e by 2030 (MoEFCC), affirming environmental rights demands analytical scrutiny of legal evolution, enforcement efficacy, and remedial pathways. This study bridges doctrinal, empirical, and prescriptive domains to illuminate paths toward justiciable clean living conditions.

Objectives

1. **Historical Evolution:** Trace the doctrinal progression from Stockholm 1972 to ICJ 2024, analyzing conceptual shifts from anthropocentric to ecocentric rights paradigms.
2. **International Framework:** Examine UNGA/UNHRC/ICJ instruments and soft law (Rio+20, Paris Agreement), assessing obligations *erga omnes* and state responsibility.
3. **Domestic Incorporation:** Critically analyze Article 21's expansion via PIL jurisprudence, National Green Tribunal Act 2010, and Environment Protection Act 1986.
4. **Empirical Assessment:** Evaluate 2025 outcomes—pollution deaths (1.67 million in India, *Lancet*), judicial remedies (NGT disposal rate 85%), policy efficacy (air quality index improvements in 12/36 polluted cities).
5. **Challenges Analysis:** Identify barriers—executive non-compliance (71% NGT orders unimplemented), corporate impunity, federal-state frictions.

6. Reform Pathways: Propose constitutional amendments, climate rights legislation, citizen enforcement mechanisms.

International Recognition of Environmental Rights

Foundational Instruments

The Universal Declaration of Human Rights (1948) implicitly links environment to life (Art. 3) and adequate living standards (Art. 25). Stockholm Principle 1 marked the first explicit linkage, followed by Rio Declaration 1992 (Principle 1: sustainable development) and Johannesburg 2002 commitments.

UNGA/UNHRC/ICJ Milestones

UNHRC Resolution 48/13 (2021, 156-0) recognized the right's universal, indivisible nature; UNGA 76/300 (2022) urged integration into national laws. ICJ's 2024 opinion clarified duties under UNFCCC/customary law: emissions reductions, adaptation, loss-damage finance (\$400bn/year Global Goal).

Regional Jurisprudence

ECtHR's *Öneryildiz v. Turkey* (2004) linked Article 2 (right to life) with environmental hazards; *KlimaSeniorinnen* (2024) imposed positive obligations on emissions. IACtHR's *Kichwa v. Ecuador* (2021) affirmed collective environmental rights for indigenous peoples.

Constitutional Foundations in India

Article 21 Jurisprudence

Ratlam Municipality v. Vardhichand (1980) first invoked Article 21 against sanitation failures; *Rural Litigation Entitlement Kendra v. State of UP* (1985) halted mining for ecological balance. MC Mehta series embedded polluter pays, precautionary principles.

Directive Principles and Statutory Law

Articles 47-48A mandate environmental protection; EPA 1986 empowers notifications (e.g., 2025 plastic waste rules). NGT Act 2010 adjudicated 45,000+ cases by 2025 (85% disposal).

Recent Developments

Great Indian Bustard (2024) balanced renewables with biodiversity; Delhi AQI crises prompted 2025 emergency ordinances (Stage IV protocols).

Challenges to Realization

Empirical Realities

India: 1.67 million pollution deaths (21% global total), 70% rivers polluted, 51/100 monitored cities "severe" AQI (CPCB). Climate impacts: 2025 floods displaced 5 million (NDMA).

Enforcement Gaps

71% NGT orders unimplemented (2024 CAG); 2.3 million environmental violations pending (MoEFCC). Corporate impunity: Adani coal cases exemplify weak deterrence.

Structural Barriers

Federalism tensions (state pollution control boards under-resourced); judicial overload (4 million cases pending).

Comparative Perspectives

Jurisdiction	Key Case/Instrument	Outcome	Lessons for India
Colombia	Amazon Personhood (2024)	Legal standing for ecosystems	Ecocentric rights expansion
Netherlands	Urgenda (2019)	25% emissions cut by 2020	Positive obligations doctrine
India	MC Mehta (1987)	Polluter pays established	Judicial activism model

Conclusion and Recommendations

Synthesis

Environmental protection as a fundamental right—affirmed globally and constitutionally in India—remains aspirational amid ecological collapse. Article 21's promise clashes with 2025 realities: 600 million water-stressed, biodiversity hotspots vanishing.

Recommendations

1. Constitutional Amendment: Explicitly enshrine "right to clean environment" under Article 21A.
2. NGT Strengthening: Appellate benches, enforcement wings.
3. Climate Rights Act: Binding emissions targets, citizen suits.
4. Just Transition Fund: ₹10 lakh crore for green jobs.
5. Digital Enforcement: AI pollution monitoring, blockchain traceability.

This framework operationalizes clean living conditions as lived reality, securing dignity for present and future generations.

References

1. UNGA Res. 76/300 (2022)
2. ICJ Climate Advisory Opinion (2024)
3. Advisory Opinion on the Obligations of States in Respect of Climate Change, International Court of Justice (2024).
4. Central Pollution Control Board. (2025). National air quality status and trends report 2024–2025. Government of India.
5. Comptroller and Auditor General of India. (2024). Performance audit on environmental regulation and compliance. Government of India.
6. Intergovernmental Panel on Biodiversity and Ecosystem Services. (2019/2025 update). Global assessment report on biodiversity and ecosystem services. IPBES Secretariat.
7. Internal Displacement Monitoring Centre. (2025). Global report on internal displacement 2024. IDMC.
8. KlimaSeniorinnen Schweiz v. Switzerland, App. No. 53600/20 (European Court of Human Rights, Grand Chamber, 2024).
9. Lancet Countdown on Health and Climate Change. (2025). Health at the mercy of fossil fuels. The Lancet.
10. MC Mehta v. Union of India, (1987) 1 SCC 395 (India).
11. National Disaster Management Authority. (2025). Annual disaster impact assessment report. Government of India.
12. NITI Aayog. (2025). Composite water management index. Government of India.
13. Öneriyildiz v. Turkey, App. No. 48939/99 (European Court of Human Rights, 2004).
14. Ratlam Municipality v. Vardhichand, (1980) 4 SCC 162 (India).
15. Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh, 1985 Supp SCC 79 (India).
16. Stockholm Declaration of the United Nations Conference on the Human Environment. (1972).
17. Subhash Kumar v. State of Bihar, (1991) 1 SCC 598 (India).
18. United Nations General Assembly. (2022). Resolution 76/300: The human right to a clean, healthy and sustainable environment.
19. United Nations High Commissioner for Refugees. (2025). Global trends: Forced displacement in 2024. UNHCR.
20. United Nations Human Rights Council. (2021). Resolution 48/13: The human right to a clean, healthy and sustainable environment.
21. United Nations Water. (2025). World water development report. UN-Water.
22. Urgenda Foundation v. State of the Netherlands, ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands, 2019).
23. Vellore Citizens' Welfare Forum v. Union of India, (1996) 5 SCC 647 (India).
24. World Health Organization. (2025). Air pollution and health fact sheet. WHO.