

The Constitutional Protection for a Climate-Safe Environment: Emerging the Scope of Right to Life

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Abstract

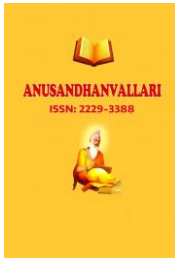
The existential threat posed by climate change has necessitated a re-evaluation of traditional constitutional jurisprudence, particularly concerning the "Right to Life." This article employs a doctrinal research methodology to examine the expanding judicial interpretation of the Right to Life to encompass a climate-safe environment. By analyzing constitutional provisions, international human rights instruments, and landmark judgments from various jurisdictions, this review argues that the classical, narrow conception of the Right to Life, limited to physical survival and human security, is legally insufficient in the Anthropocene. The article explores the doctrinal shift towards an "unenumerated" rights approach, where environmental integrity is a precondition for the enjoyment of the Right to Life. Finally, the article addresses the challenges of justiciability and the separation of powers, concluding that a robust, expanded interpretation of the Right to Life is not only legally sound but imperative for the preservation of human dignity and state sovereignty.

Keywords: sovereignty, imperative, enjoyment

Introduction

The climate crisis represents the gravest challenge to human rights in the 21st century. As global temperatures rise, extreme weather events, sea-level encroachment, and ecological collapse threaten the very foundations of human existence. In this era of the Anthropocene, the legal frameworks designed to protect human dignity must evolve. Central to this evolution is the "Right to Life," a cornerstone of almost every modern constitution and international human rights treaty. Historically, this right has been interpreted negatively: the state must not arbitrarily deprive a person of life. However, the realities of climate change demand a positive interpretation: the state must take proactive measures to ensure the environmental conditions necessary for life to persist.

This article adopts a doctrinal research approach, analyzing legal texts, judicial precedents, and scholarly commentary to argue that the Right to Life is inextricably linked to the Right to a Healthy Environment (Shelton, 2010). As environmental degradation escalates, the line between environmental harm and human rights violations blurs (O'Neill, 2019). Courts worldwide are increasingly recognizing that a government's failure to act on climate change constitutes a violation of its constitutional duty to protect life (Heyvaert, 2019). This review traces the doctrinal expansion of the Right to Life, examining how it has morphed from a shield against state violence into a sword demanding climate action (Rajagopal, 2007). By exploring comparative jurisprudence and integrating environmental law principles, this article posits that a "climate-safe environment" is no longer a policy preference but a constitutional imperative embedded within the Right to Life (Knox, 2020).



The Indian Constitutional Framework

While the original text of the Constitution of India, 1950, did not explicitly enumerate the right to a clean environment, the Indian judiciary, through a process of creative and expansive interpretation, has woven environmental protection into the fabric of fundamental rights. This doctrinal evolution is supported by specific statutory provisions under the Indian Penal Code (IPC), which provide the penal backbone for enforcing environmental standards. The following is an expanded analysis of the constitutional and statutory provisions that form the bedrock of environmental jurisprudence in India.

Article 21: The Fountainhead of Environmental Rights

Article 21 serves as the most potent tool in the Indian environmental lawyer's arsenal. While the text explicitly guarantees that "No person shall be deprived of his life or personal liberty except according to procedures established by law," the Supreme Court of India has rejected a narrow, literal interpretation of the word "life" (Bhuwania, 2016).

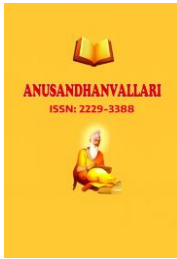
Through landmark judgments such as *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh* (1987) and *Virender Gaur v. State of Haryana* (1995), the judiciary established that the right to life includes the right to a pollution-free environment. The doctrinal reasoning posits that the right to live is not merely the right to physical survival (animal existence), but the right to live with dignity and health (Mehta, 2010; Muralidhar, 2004).

Consequently, the Court has ruled that the right to life includes several essential environmental dimensions. It recognizes the right to a healthy environment, which encompasses access to clean air, water, and soil necessary for sustaining life. The Court has also acknowledged the right to livelihood, noting that environmental degradation often destroys traditional sources of livelihood, particularly affecting rural and indigenous communities (Baviskar, 2003; Gadgil & Guha, 1995). Furthermore, it emphasizes public health and hygiene, holding that state inaction in addressing environmental hazards may amount to a violation of the fundamental duty to protect and preserve life (Rosencranz, 2001). Therefore, under this expanded scope, any industrial activity, governmental policy, or omission that significantly degrades the environment and threatens human health can be challenged as a violation of Article 21.

Article 48A: The Directive Principle of State Policy

Introduced by the Constitution (Forty-second Amendment) Act, 1976, Article 48A placed environmental protection on the constitutional statute book. It is a Directive Principle of State Policy (DPSP), meaning it is fundamental in the governance of the country, though not directly enforceable in a court of law (Austin, 1999; Basu, 2015). It mandates that "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country."

The expansion of this provision is crucial for understanding the state's obligation toward environmental protection. Article 48A imposes a positive obligation on the state, requiring it not merely to refrain from harming the environment but to actively endeavor to protect and improve it through environmental policies, regulatory institutions such as the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs), and effective pollution control measures (Divan & Rosencranz, 2001). It also emphasizes safeguarding biodiversity, as the explicit reference to forests and wildlife broadens the scope of environmental protection beyond pollution control to include ecological conservation and the preservation of natural habitats. Although Article 48A is non-justiciable, the judiciary has frequently relied on it while interpreting the scope of Article 21, using its principles to assess whether laws and governmental actions adequately fulfill the state's constitutional obligation to protect the Right to Life (Singh, 2023).



Article 51A(g): The Fundamental Duty of Citizens

Coinciding with Article 48A, the Forty-second Amendment also introduced Article 51A(g), which imposes a Fundamental Duty on every citizen of India. It states that "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures" (Kashyap, 2003).

The doctrinal significance of this provision lies in its emphasis on shared responsibility for environmental protection. It promotes civic responsibility by shifting the focus from purely state-centric regulation to individual accountability, thereby encouraging citizens to act as guardians of the environment. The provision also highlights compassion for living creatures, expanding the ethical scope of law beyond a purely human-centered approach and recognizing the intrinsic value of animal welfare and biodiversity. Furthermore, it serves as an aid to constitutional interpretation, as Article 51A places a duty on every citizen to protect and improve the natural environment. On this basis, courts have acknowledged that citizens possess locus standi to initiate environmental litigation, allowing them to approach the judiciary to ensure that both the state and private entities fulfill their obligations toward environmental protection (Bhushan, 2018; Sathe, 2002).

Section 277 of the IPC: Protection of Water Sources

Section 277 specifically addresses the pollution of water, a resource critical to the Right to Life. It determines that any person who "voluntarily corrupts or fouls the water of any public spring or reservoir" so that it becomes less fit for the purpose for which it is ordinarily used is punishable (Singh, 2019).

The expansion of this provision highlights that water pollution includes various forms of contamination affecting its usability. The term "corrupts" broadly covers the introduction of industrial effluents, sewage, or agricultural runoff into water bodies, while "fouls" refers to changes in taste, color, or odor that make water unfit for use even if it is not immediately harmful. The standard applied is the fitness of water for its ordinary purpose, such as drinking or irrigation; if pollution renders it unsuitable for these uses, the offender becomes liable (Gaur, 2021). The provision also prescribes penal consequences, including imprisonment up to three months or a fine, thereby recognizing water pollution as a serious criminal offense directly linked to human survival and public health.

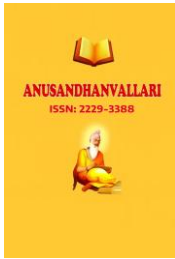
Section 278 of the IPC: Protection of the Atmosphere

Section 278 addresses air quality, making it an offense to "voluntarily vitiates the atmosphere" in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way.

This provision addresses air pollution and its impact on public health. The term "vitiating the atmosphere" refers to making the air impure through smoke, fumes, chemical emissions, or harmful gases released from factories and vehicles (Ghosh, 2020). The requirement that emissions be "noxious to health" establishes a connection with public health, targeting pollutants that are harmful or potentially harmful to the respiratory system rather than mere inconvenience. It also emphasizes community impact, as the provision applies to harm caused to the public in general or to people passing through public spaces, thereby acting as a statutory deterrent against urban and industrial air pollution (Sanjay Parikh & M. C. Mehta, 2018).

Structural Challenges: Justiciability and Separation of Powers

While the doctrinal expansion of the Right to Life to include a climate-safe environment is normatively appealing, it faces significant structural challenges. A critical area of debate in legal theory is the tension between judicial activism and the separation of powers. Critics argue that climate policy is a "political question" best left to the



legislature and executive, not unelected judges (Tushnet, 2020; Wald, 2017)

When courts order governments to set specific emission targets or shut down industries, they arguably encroach upon the domain of the executive. This raises the issue of "justiciability"—whether a court is the appropriate forum to resolve complex, polycentric issues like climate change which involve economic trade-offs, foreign policy, and scientific uncertainty (Fullerton, 2019; Posner, 2019).

However, proponents of the expanded Right to Life argue that when the political branches fail to act on an existential threat, the judiciary must intervene to protect the minimum core of human rights. If the legislative process is paralyzed by lobbying or short-termism, the Right to Life acts as a "trump card," compelling the state to fulfill its basic obligations (Humphreys, 2010; O'Connell, 2021).

Furthermore, courts have addressed the "causation" hurdle—the difficulty of linking specific state inaction to specific climate harm. By shifting the focus from individual causation to systemic state responsibility, courts have argued that the aggregate effect of national policies contributes to global harm, thereby violating the rights of citizens within the jurisdiction. This "systemic risk" approach allows the judiciary to frame climate inaction as a proportional violation of the Right to Life without needing to attribute a specific flood or wildfire solely to the government's policy.

Recommendations

For the Right to Life to effectively secure a climate-safe environment, constitutional law must integrate the concept of "Planetary Boundaries." This scientific framework defines the safe operating space for humanity (Rockström et al., 2009; Steffen et al., 2015). Doctrinally, this means that the Right to Life should be interpreted as a guarantee not to exceed environmental tipping points, such as the 1.5°C warming threshold.

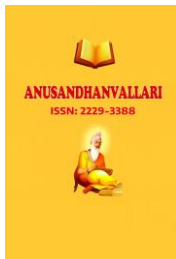
Legal doctrines such as the Public Trust Doctrine (PTD) offer a robust mechanism for this integration. The PTD posits that the state holds natural resources in trust for the public and future generations (Sax, 1970; Wood, 2013). By merging the PTD with the Right to Life, courts can establish a fiduciary duty for the state to protect the atmosphere. This approach was notably utilized in the *Juliana v. United States* litigation (though the specific claims were dismissed on standing grounds, the rhetoric influenced subsequent jurisprudence), arguing that the government's affirmative actions in subsidizing fossil fuels violated the plaintiffs' Right to Life.

Hence, doctrinal expansion requires a move from an anthropocentric view (environment for human use) to an eco-centric view (humans as part of the environment) (Kopnina et al., 2018; Stone, 2010). The Right to Life cannot be sustained in a dead ecosystem. Therefore, constitutional protections must recognize that the degradation of nature is a direct injury to the legal person.

Conclusion

The constitutional Right to Life is undergoing a profound transformation. No longer confined to the prohibition of unlawful killing, it is evolving into a guarantee of a livable, sustainable, and safe environment. Through a review of comparative jurisprudence and doctrinal analysis, it is evident that the judiciary plays a pivotal role in this evolution, stepping in where political will has faltered.

While challenges regarding justiciability and the separation of powers remain, the existential nature of the climate crisis necessitates a bold interpretation of existing rights. The integration of the Right to Life with environmental principles creates a powerful legal mechanism to hold states accountable for climate inaction. As the scientific



consensus on climate change hardens, the legal consensus must follow: a government that allows its environment to become uninhabitable is, by definition, violating the Right to Life of its citizens. The path forward requires courts to continue bridging the gap between science and law, ensuring that the constitutional promise of "life" remains a reality for future generations.

References

- [1] Shelton, D. (2010). Human rights and the environment: Past, present and future. *Recueil des Cours de l'Académie de Droit International de La Haye*
- [2] O'Neill, K. (2019). The environment and international relations. In J. A. Goldstein & R. O. Keohane (Eds.), *The handbook of international relations* (pp. 378–396). Oxford University Press.
- [3] Heyvaert, V. (2019). Governing climate change: Rights, risks and restitution. *Transnational Environmental Law*, 8(1), 39–57. <https://doi.org/10.1017/S2047102518000138>
- [4] Rajagopal, B. (2007). *International law from below: Development, social movements and third world resistance*. Cambridge University Press.
- [5] Knox, J. H. (2020). The human right to a healthy environment and the Constitutional Right to Life. *Human Rights Law Review*, 20(3), 395–416. <https://doi.org/10.1093/hrlr/ngaa015>
- [6] Bhuwania, A. (2016). *Courting the people: Public interest litigation in post-emergency India*. Cambridge University Press.
- [7] Baviskar, A. (2003). *Between violence and desire: Space, identity, and struggles for water in the Narmada Valley*. In R. K. Bisht & H. K. P. Singh (Eds.), *Water and social sciences* (pp. 73–93). Rawat.
- [8] Rosencranz, A. (2001). Environmental litigation in India: Empowering the poor. *Journal of Environmental Law and Litigation*, 16, 227–244.
- [9] Austin, G. (1999). *Working a democratic constitution: A history of the Indian experience*. Oxford University Press.
- [10] Divan, S., & Rosencranz, A. (2001). *Environmental law and policy in India: Cases, materials and statutes* (2nd ed.). Oxford University Press.
- [11] Singh, M. P. (2023). *V. N. Shukla's Constitution of India* (15th ed.). Eastern Book Company.
- [12] Kashyap, S. C. (2003). *Our Constitution: An introduction to India's Constitution and constitutional law* (4th ed.). National Book Trust.
- [13] Bhushan, S. (2018). "Courts and the environment: The Indian experience". In S. Choudhary (Ed.), *Handbook on environmental laws in India* (pp. 145–160). LexisNexis.
- [14] Singh, R. (2019). *Ratanlal & Dhirajlal's The Indian Penal Code* (36th ed.). LexisNexis.
- [15] Gaur, K. K. (2021). *Commentary on the Indian Penal Code* (6th ed.). LexisNexis.
- [16] Ghosh, S. K. (2020). *Environmental law: Concept and legislation*. Eastern Book Company.
- [17] Sanjay Parikh, & M. C. Mehta (Eds.). (2018). *Handbook on environmental laws* (2nd ed.). LexisNexis.
- [18] Tushnet, M. (2020). *The Oxford handbook of the U.S. Constitution*. Oxford University Press.
- [19] Fullerton, M. (2019). *The politics of adaptation: Climate change and the judiciary*. *Environmental Law Review*, 21(3), 145–161.
- [20] Humphreys, S. (Ed.). (2010). *Human rights and climate change*. Cambridge University Press.
- [21] Kopnina, H., Washington, H., Taylor, B., & Piccolo, J. J. (2018). Anthropocentrism: More than just a misunderstood problem. *Journal of Environmental Studies and Sciences*, 8(3), 267–276.
- [22] Rockström, J., Steffen, W., Noone, K., Persson, Å., Chapin, F. S., Lambin, E. F., ... & Foley, J. A. (2009). A safe operating space for humanity. *Nature*, 461(7263), 472–475.
- [23] Sax, J. L. (1970). The public trust doctrine in natural resource law: Effective judicial intervention. *Michigan Law Review*, 68(3), 471–566.