**Energy Conservation and the Rights of the indigenous people**

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**Abstract**

*Environmental preservation and protection have always been deeply ingrained in Indian heritage and culture. The Indian State has also made it a part of the Constitution, which obliges both the state and its citizens to "guard and enhance the environment," acknowledging its significance. Due to the economy's liberalisation and globalisation, we must be more vigilant than ever to prevent industrial development from harming the environment. But over the course of millennia, the process of indiscriminately exploiting natural resources has led to the degradation, depletion, or even destruction of our natural environment.There is only one choice left for us to survive if we continue to trample on the natural world. Humans have had a significant impact on the world around them. he has been the cause of the deterioration of his surroundings ever since he ascended to the planet. He started by igniting fires and releasing gases, smoke, and ash into the air. Environmental deterioration is currently one of the most important challenges affecting humans and all other living things on Earth. The State is required by Article 48 A of the Constitution to work to safeguard the country's forests and wildlife as well as to endeavour to maintain and develop the environment. There is currently a growing awareness that it is important to take appropriate action to safeguard the environment, forests, and wildlife. The state is required by Articles 39(e), 47, and 48A to safeguard individual health, advance public health, and preserve and enhance the environment. The 1.2 billion people living in India, as well as the migration of people from the rural who wish to work in the city, have resulted in overcrowded cities. Millions of people must deal with issues such a lack of affordable housing, reduced access to water and electricity, gridlock, pollution, and basic services.*

**Keywords:**Sustainable Development, Environmental Pollution, contaminated, atmosphere, traffic congestion, human rights.

**Introduction**

One of the main responsibilities of the State for the welfare and prosperity of the country and its citizens is environmental preservation. Environmental contamination is one of the main issues the world is now dealing with. Environmental pollution has existed on Earth for as long as Homo sapiens have. Man's desire for limitless delight is what caused him to use nature's resources so arbitrary. Despite the fact that more than 200 laws were passed before and after independence, the administration did little to address environmental contamination. In India, we deal with serious environmental issues and environmental legislation violations. By preventing the occurrence of these dangers and enforcing effective monitoring, control, and recovery measures, law and order can provide us the chance to reshape the economy in the future and put us on a route toward sustainable growth. This article includes information about the United Nations Environmental Charter, which was enacted in 1972, and the United Nations World Charter for Nature, which was signed in 1982.[[1]](#footnote-1)

It is crucial to consider the changes that have occurred in our nation, state, nation, and people over the course of our more than fifty years of independence while examining the state of our current national environment.[[2]](#footnote-2)“In light of the advancements, we will examine how the marriage of law and science has given our society a new dimension. The role of contemporary international law has evolved in our globalised society. To achieve this, a stable, modern world order is required. Both fields have an important role to play in preserving the environment.”As a result, we must study the terms of the 1982 United Nations World Charter for Nature, which has a significant message for the Indian state, country, and people. We cannot give people the chance for social and spiritual development in the absence of a healthy human environment.[[3]](#footnote-3)

“As evidenced by the United Nations' worldwide treaty for nature, man's actions have created a situation in which he is out of harmony with nature. Technology breakthroughs have led to a new style of life being adopted by people all over the world. In the past, Rabindranath Tagore said that man and nature coexisted peacefully. In the words of Tagore, "We assumed that the rules of nature should be kept in abeyance for our convenience" The natural law has been disregarded by modern man. But now that we know better, Because we are aware that the law cannot be disregarded, we are strong. Because this law is a component of all of us and not a distinct entity.[[4]](#footnote-4)”

The concept of oneness is the most puzzling of all riddles. We ask a question in response to a duality and seek the response in the opposing reality. When we finally discover a connection between these two, we feel like we've finally arrived at the truth. A number of major factors, such as “people and human settlements; transportation; energy; resources; developments; and environmental policy,” have been discussed in relation to environmental issues in India.[[5]](#footnote-5)

**Environment Protection and Sustainable Development: Global Scenario**

The United Nations issued the "Declaration of the United Nations Conference on the Human Environment, 1972" in response to the historical imperative, speaking for all of humanity.”[[6]](#footnote-6)The United Nations Declaration marked a turning point in human history in the fight to preserve the environment and a livable planet for all species. The Declaration of Independence placed a high value on finding ways to live in peace with nature and spreading awareness of the natural world's rules. A new biological revolution was ushered in as a result of the Declaration. In the Declaration of Independence, it was stated that "the well-being of peoples and economic progress all over the globe are directly affected by the fact that man is both a creature and a moulder of his environment." There is "proof of man-made damage in many places of the planet: alarming levels of pollution in water, air and earth and living organisms; severe and undesired perturbations to the biological balance of biosphere.".

According to the UN Declaration, underdevelopment is to blame for environmental issues in developing countries. Furthermore, it issued a warning that "the natural growth of population continuously raises challenges for the preservation of the environment, but these concerns can be overcome with the adoption of proper policies and procedures. People are the most valuable thing in the world. People are the ones who advance society, produce social riches, advance science and technology, and continuously alter the environment via their labour.[[7]](#footnote-7)

* **The World Charter for Nature[[8]](#footnote-8)**

Result, the 1982 UN global charter for nature is critical to humanity. It embodies the world's 'life and living' concept. It states that "life relies on the continued operation of natural processes that assure the provision of energy and nutrients" for humans. “Living in peace with nature provides the finest opportunity for the growth of human creativity as well as relaxation and enjoyment," according to "civilization is founded in the natural world, which has moulded human culture and affected every creative and scientific accomplishment”. That's all laid out in the document's introduction. Man may modify nature and deplete natural resources by his actions or their repercussions, and that "Energy form of life is unique-warranting respect regardless of its importance to man". Perseverance of international peace is necessary for long-term benefits from nature, according to the charter.[[9]](#footnote-9)

**Constitutional and Legal Provisions**

“Our right to live in a safe and secure environment is guaranteed to us by Article 21 of the Indian Constitution.The states have a duty to protect the environment, according to Part 4 of the Indian Constitution. Article 51 and Article 48(A) (A). The constitution also includes safeguards against encroachments. Even while individuals have a wealth of remedies at their disposal, the methods by which they might be used are out of reach for the average person, both financially and conceptually. As a consequence, the Indian Supreme Court created a tool known as the (PIL), which can be contested in court and combat what is incorrect, that is, the public interest. It helps to safeguard a person's rights and prevents their violation. Anyone may launch a lawsuit against someone who has committed an illegal act.”

Because of the PILs that were filed by activists and organizations, pollution levels have decreased significantly. This has made the PILs a crucial instrument for society.Following the United Nations Human Environmental Conference that was held in Sweden in 1972[[10]](#footnote-10), Article 48(A) and Article 58 were introduced to the Indian Constitution as part of the 42nd constitutional amendment, which also changed the definition of "ecology and environment" in the document (A-g). These provisions are found in Part Four of the Indian Constitution. It explains how a state may ensure that animals and forests are safeguarded, as well as the environment's cleanliness and improvement, within the power provided by the constitution. Taking care of our country's animals and forests is a government obligation and a fundamental part of enforcing those obligations in the interests of the country's administration as a whole. Article 51A of the Constitution, which was amended by the Constitutional Amendment, not only provided the states the constitutional authority, but also the people, to take action on environmental concerns (g). This wasn't simply another environmental protection measure; it was a revolution in its own right. Nevertheless, for the first time in Indian history, the article 51A(g) acknowledged the Buddhist and Gandhian environment ethical framework and declared it a basic obligation for Indian people to safeguard and enhance the natural environment. An additional important element of the articles interpreted by the judiciary in accordance with article 48A and 51A(g) is the court's ability to invalidate or strike down any government orders or policies that are not in accordance with the articles. Using the "Doctrine of public trust" as a foundation, this is accomplished.

**Legal Enactments**

1. **“The Water (Prevention & Control of Pollution) Act, 1981**, An Act "to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water”, establishes pollution control boards (PCBs) in each state, as well as a central PCB at the centre, which grant permission for the creation of industries and the emission of effluents.”
2. ***“The Air (Prevention & Control of Pollution) Act, 1981*** - Outlines the legal framework for air pollution prevention, control, and abatement.”
3. ***“The Environment (Protection) Act, 1986*** - framed in the aftermath of the Bhopal Gas Leak tragedy and the execution of the Stockholm Declaration. enables the creation of rules and regulations for: pollutant discharge; coastal protection; Assessing the environmental impact Waste Ozone Depleting Substances and Dangerous Substances Every resident was required to "protect and improve the natural environment, including forests, trees, rivers, and wildlife, and to have compassion for all living species," according to the Environment Protection Act of 1986.”
4. ***“The National Environment Tribunal Act, 1995***- The Tribunal hears compensation claims resulting from mishaps involving the handling of dangerous substances. puts stringent or no-fault liability in place in these situations.”
5. ***“The National Environment Authority Act, 1997*** - Orders granting environmental permits for projects and industrial activity are appealed to the Authority.”
6. ***“The Forest (Conservation) Act, 1980*** - prohibits the destruction of trees from forest land, the de-reservation of reserved forests, and the use of forest land for non-forestpurposes without the Central Government's prior approval.”

**Judicial Response on Environment Protection and Sustainable Development**

Now, let's look at some famous precedent-setting cases where the PIL concept has been effectively applied to reform environmental laws in India.

1) The initial instance, which is the ***Ratlam Municipal Corporation vs. Vardichand***,[[11]](#footnote-11)is a well-known instance of environmental law. The Supreme Court acknowledged the socioeconomic equality of the legal norms in this significant decision. This case holds regulatory authorities accountable for carrying out their legal obligations even when funds are scarce by preventing public inconvenience and guaranteeing that the environment stays pollution-free. Social justice is necessary, thus the people must be able to use the jurisdiction that has been granted for their benefit, according to Justice Krishna Iyer. Because of this, the several courts in the judge's case recognised PIL (Public Interest Litigation) as a constitutional need.

2) The following example is to help us better comprehend this, ***Peoples Union of Democratic rights v Union of India***[[12]](#footnote-12). In its ruling on the case, the Supreme Court of India authorised PIL (Public Interest Litigation) or SIL (Social Interest Litigation) cases brought by civic-minded individuals. This is especially important for the protection of a person's or a community's legal and constitutional rights when they are unable to appeal for them because of their socioeconomic standing and are unable to go before higher courts. Everyone can take part in public interest litigation so that they can all have an equal chance to attain justice. This was primarily done with the tribal and forest dwellers in mind, who have little to no legal understanding. These are the folks who are most impacted when environmental projects are undertaken. also as a result of the lack of resources. These people either leave their natural surroundings and relocate, or else they must stay put and experience the effects of the changing environment. In order to ensure that these persons have an equal opportunity to get justice, the public interest litigations or social interest litigations permit others to file a petition on their behalf.

The two cases mentioned above are the best illustrations of how the judiciary has improved over the years and has demonstrated compassion for preserving and enhancing the environment. We can examine more instances to gain a better understanding of the judiciary's status in India with regard to environmental regulations.

3) The case that follows is the ***Shriram Foods & Fertilizer industries and another vs. Union of India and another***.[[13]](#footnote-13)In this case, the Indian Supreme Court highlighted the need for strict adherence to the Code of Environmental Law during the manufacture and sale of hazardous products in order to lessen the risk to factory workers and the local populace. A lot of individuals were harmed in this case when oleum gas escaped from one of the S units, and one of the former court-practicing attorneys passed away as a result. It was discovered that the leak originated from the caustic chlorine facility. At the time, there were prohibition orders under the Factory Act that stated no plant may operate a factory if it did not adhere to the safety regulations.

“A highly qualified team of specialists was assembled to look into the situation and write a report. The reports were able to demonstrate that the advice was consistently followed, and the likelihood that a hazard would affect a community had been decreased to the absolute minimum.”

4) ***Another Landmark case we look at the case of Vellore citizens Welfare Forum vs. Union of India***[[14]](#footnote-14), A public-spirited social group was granted standing by the Supreme Court to defend the health of Vellore citizens based on their PIL. This incident took place in the Tamil Nadu city of Vellore, where it was discovered that a tannery was dumping poisonous chemicals into the neighbouring river Palar, endangering the lives of several people who used the water for everyday purposes. The Indian Supreme Court ordered the tannery to close down its factory and shift to a new location. In this instance, the court determined that both the "Precautionary Principle" and the "Polluter Pays Principle" were components of the country's environmental law. Then, it was determined that the constitutional requirement to safeguard and promote the environment included Articles 47, 48A, and 51A(g).

5) “The case that we examine next is the***M.C. Mehta & Another vs. the Union of India & others***[[15]](#footnote-15), after the two crucial instances of the Bhopal Gas Tragedy and the Oleum Leak Case, this case was brought. In this case, it was determined that the industry had a non-refusable duty to ensure that these communities were not impacted or harmed as a result of the risky and inherently hazardous activities engaged in. These activities could pose a high threat to the safety and health of the individuals who are the factory workers as well as those living in the nearby areas. The court ruled that the greatest levels and standards of safety precautions should be used, and that the corporation would be held accountable for covering any related losses in the event of an accident. The business cannot contest the payment of damages by claiming that all relevant measures were taken by them and that the injury was only caused by a lack of reasonable care and negligence.”

6) “Additionally, we can consider the instance of***Narmada BachaoAndolan v. Union of India & others***,[[16]](#footnote-16)The court ruled that access to water is a need for human survival on this planet and that it is also a fundamental human right protected by article 21 of the Indian Constitution. Additionally, article 21 of the Universal Declaration of Human Rights—the right to life—includes the fundamental human rights to a healthy environment and the opportunity for sustainable development.”

7) “The next case we look at is the case of the ***India Council for Environmental Action v. Union of India and ors***. This case dealt with complaints made by a petitioner in the year 1990 who claimed that the coastal stretches, which are now designated as coastal stretches zones, had not been implemented since it controlled activities that occurred in these zones. This delay had caused more ecological damage in certain coastal areas. The court ruled that just as economic growth should not be permitted at the expense of environmental destruction by spurring widespread development, necessary environmental and ecological preservation should not be carried out at the expense of impeding the growth of the economy and other developments. It is important for environmental protection and economic development to coexist. That is, nothing should be sacrificed for another, and everything should happen at once. However, in exceptional cases, development should only proceed with careful consideration for the environment.”

**Conclusion**

With its unprecedented integration of law and science, this study aims to establish a new paradigm for environmental protection and management. It could provide a new framework for the scientific revolution with a focus on biology and natural systems. Because to advancements in ecology and international law, we now have a new tool for altering the climate on a global scale. With this combination, we might anticipate a change in sustainable development. Most importantly, it will help people adapt to varied ecological systems, including but not limited to individuals from different cultural backgrounds. It will result in a stronger sense of unity despite the diversity of the world. Integrating the concepts of law, science, and ecology can lead to world peace. In The Structure of Scientific Revolution, Thomas Kuhn makes the following claim: "Each paradigm produced a corresponding change in the topics exposed to scientific examination and in the standards by which the profession judged what should qualify as an acceptable problem or as a genuine problem solution." And each of them brought about changes to the scientific reality that we will eventually have to identify as a revolution in the scientific imagination. Such modifications and the discussions that follow them are the hallmarks of scientific revolutions.

Or, to put it another way, the UN Declaration of 1972 and the UN Charter for Nature of 1982, both of which India has ratified, represent the synthesis of international law and international science to build the worldview of ecologists. This structure represents harmony with nature and the rest of the world. Contrarily, Planck's unending patience and persistence in exploring the most fundamental questions of our science are motivated by his desire to see this pre-established harmony, as Einstein famously stated in his presentation on scientific study.

Finding a way to reconcile man-made laws with universal natural laws is therefore crucial. This can be accomplished by combining law and science in novel ways.

The Supreme Court has used public interest litigation to establish a number of orders and laws pertaining to environmental preservation. The Supreme Court is constantly working to close any gaps in the law. The Supreme Court's judicial activism has led to the development of a variety of ground-breaking ideas for environmental protection. Several opportunities to help the country become available as a result of judicial activism.

**REFERENCE**

* Jain M.P, „Indian Constitutional Law‟, 5th Edition, LexisNexis, Wadhwa Nagpur, 2008.
* Sahasranaman, P.B, “*Handbook of Environmental Law*” 2nd edition, Oxford University
* Press, India 2012
* http://judis.nic.in/supremecourt/chejudis.asp
* http://sanamurtaza.blogspot.in/2011/08/article-21-and-concept-of-environmental.html
* http://twocircles.net/legal\_circle/constitutional\_provision\_and\_environmental\_protecti n\_kamaluddin\_khan
* http://www.legalserviceindia.com
* http://www.legalserviceindia.com/article/l435-Public-Participation-in EnvironmentImpact-Assessment.html
* http://www.legalserviceindia.com/articles/peiln.htm
* www.indiancourts.nic.in/

1. Rabindranath Tagore, *Sadhna: The Realisation of Life*, Lectures in Harvard University, 1913, 1979 Edition, p. 51. [↑](#footnote-ref-1)
2. This is the theme of the XX Indian Social Sciences Congress 1996. [↑](#footnote-ref-2)
3. See, Saligram Bhatt, Environment Protection and Sustainable Development, APH Publishing, 2004, p. 133, and Paper presented in 1996 to Indian Social Science Congress, Santinikitan. [↑](#footnote-ref-3)
4. “Rabindranath Tagore, *Sadhna: The Realisation of Life,* Lectures in Harvard University, 1913, 1979

   Edition, p. 50.” [↑](#footnote-ref-4)
5. “*See,* Saligram Bhatt, *Environment Protection and Sustainable Development*, APH Publishing, 2004, p.55, and Paper presented in 1996 to Indian Social Science Congress, Santinikitan.” [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. “*Ibid.*, p. 293.” [↑](#footnote-ref-7)
8. “*See* text of World Charter for Nature in n. 12, pp. 15-20.” [↑](#footnote-ref-8)
9. “*Ibid.,* p.141.” [↑](#footnote-ref-9)
10. “United Nations Conference on the Human Environment**,** by name Stockholm Conference, the first United Nations (UN) conference that focused on international environmental issues.” [↑](#footnote-ref-10)
11. AIR 1980 SC 1622 [↑](#footnote-ref-11)
12. 1982 AIR 1473 [↑](#footnote-ref-12)
13. “AIR 1987 SC 1086” [↑](#footnote-ref-13)
14. “AIR 1996 SC 2715” [↑](#footnote-ref-14)
15. “AIR 1987 SC 1086” [↑](#footnote-ref-15)
16. “Ia No. 14 Of 1999 In Writ Petition (C) No. 319 Of 1994” [↑](#footnote-ref-16)