International Journal of Law
www.lawjournals.org
ISSN: 2455-2194
Received: 01-12-2023, Accepted: 17-12-2023, Published: 02-01-2024
Volume 10, Issue 1, 2024, Page No. 257-263

India's environmental justice and human rights systems: A legal and institutional review

Megha Sharma[1], Dr. Vivek Malik[2]
[1] Research Scholar, Department of Law, Kalinga University, Raipur, Chhattisgarh, India
[2] Department of Law, Kalinga University, Raipur, Chhattisgarh, India

Abstract
Degradation of India's natural environment is a major cause for alarm because it threatens people's livelihoods, health, dignity, and the very right to exist. By analyzing constitutional provisions, legislative mechanisms, judicial innovations, and regulatory institutions, this article provides an institutional and legal analysis of how environmental justice is integrated into India's human rights framework. The study examines key environmental statutes, including the EPA, Water, Air, and the Forest Conservation Acts, & Biological Diversity Act of 2002, as well as constitutional requirements under Articles 21, 48A, and 51A(g). It employs a doctrinal and qualitative approach to its analyses. It further evaluates the functioning of the CPCB, SPCBs, MoEFCC, and the National Green Tribunal in operationalising environmental governance, while underscoring the pivotal role of judicial activism in expanding environmental rights through PIL and landmark judgments. A comparative assessment with South Africa, Ecuador, and the European Union exposes gaps in India's system, especially the absence of explicit constitutional recognition. The study concludes that ensuring environmental justice requires stronger institutional accountability, enhanced procedural rights, and comprehensive constitutional reform to safeguard ecological integrity for future generations.

Keywords: Environmental justice, human rights, environmental governance, constitutional law, environmental institutions, India, comparative environmental law

Introduction

The accelerating pace of environmental degradation in India manifested through air and water pollution, climate instability, biodiversity loss, and deforestation pose profound challenges to human well-being, public health, and socio-economic security. These ecological threats disproportionately impact marginalized communities, making environmental deterioration not only an ecological concern but a structural human rights issue.

Despite this robust jurisprudential foundation, India's environmental governance remains constrained by institutional fragmentation, limited enforcement capacity, overlapping mandates, regulatory gaps, and inadequate public participation. Statutory frameworks including the Environment Protection Act, Water Act, etc establish regulatory structures, yet practical implementation often falters due to weak monitoring, inadequate technical capacity, and political-economic pressures. Institutions such as the CPCB, SPCBs, & MoEFCC, play critical roles but face structural limitations in authority, resources, and jurisdiction.

This research examines the institutional and legal mechanisms through which India seeks to integrate environmental justice with human rights protection. It also situates India's approach within comparative global perspectives, particularly South Africa's constitutional environmentalism, Ecuador's Rights of Nature, and the European Union's procedural ecological rights. By analysing constitutional doctrine, statutory frameworks, judicial decisions, and institutional performance, the analysis seeks to estimate the effectiveness of India's environmental governance architecture and identify the reforms necessary to secure environmental justice for present and future generations.

Research Methodology

This research implements a doctrinal, qualitative, and analytical investigate design, drawing from:

- **Primary sources:** Constitutional provisions, environmental, and judicial decisions from the SC and HC.
- **Secondary sources:** Academic research, government reports, international conventions, and scholarly commentaries.
- **Comparative analysis:** Select international jurisdictions such as South Africa, Ecuador, and the European Union.

The methodology critically evaluates how Indian institutions and legal mechanisms operationalize environmental justice within a human-rights framework.

Conceptual Framework

1. Environmental Justice (EJ)

The idea of EJ arose in the late 20th century as a revolutionary reaction to the disparity in the environmental advantages and disadvantages that various social, racial, and economic groups experienced. The findings that minority & low-income communities bore a disproportionate share of the costs of environmental deterioration gave rise to the movement. Because environmental challenges are fundamentally related to power dynamics, inequality, and human rights, EJ stands as a union of social justice, environmental protection, and civil rights (Bullard, 1990; Taylor, 2000) [11].

In the 1980s, EJ movements in the US started as grassroots campaigns opposed the location of hazardous waste sites and harmful enterprises in low-income areas. African-

American, Latinx, and indigenous activists spearheaded these campaigns that challenged the prevailing environmentalist ideology of the period, which ignored social injustices in favor of preserving natural areas and preserving wildlife (Pellow, 2000).

2. Right to Environment as a Human Right

Recognized as an essential human right in new decades is the importance of maintaining a healthy, safe, and environmentally friendly workplace, thanks to societal, legal, and political movements around the world. Environmental degradation endangers more than simply ecosystems; it endangers basic HR with the right to exist, be healthy, have access to food & water, and advance in one's own development. This is becoming increasingly clear to people around the world. This realization is driving this change. Sustainable development cannot be achieved without simultaneously preserving human dignity and preserving the delicate balance of our planet. The progressive codification of this right is a reflection of this universal recognition.

2.1 Early International Recognition: The Stockholm Declaration (1972)

At the UNCHR in Stockholm in 1972, the first official global recognition of the link between conservational preservation & human welfare took place. In the final declaration of the meeting, the Stockholm Declaration, 26 principles were given down to assist governments in balancing social and financial progress with environmental protection. Fundamental to the Stockholm Declaration from the start was the idea that:

"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."

2.2 Regional Developments: Operationalizing Environmental Human Rights

Regional human rights systems have demonstrated how international norms may be domesticated through regional collaboration and legislation. These systems have translated global principles into standards that can be enforced.

The UNECE ratified the Aarhus Convention (1998) to guarantee that all Europeans can obtain information, participate in decision-making, & seek redress when environmental disputes emerge. It established a straight connection between HR & environmental protection and was the first ever legally enforceable international instrument to do so. It mandates that governments protect its residents:

1. The ability to access environmental records maintained by government agencies.
2. The chance to be intricate in environmental decision-making.
3. The ability to challenge environmental infractions through administrative or judicial review procedures. Environmental democracy was solidified in Europe with the codification of these concepts in the Aarhus Convention, which prompted other regions to follow suit (UNECE, 1998).

2.3 Judicial Recognition and Enforcement

The role of the judiciary is crucial in turning the generally accepted rights to the environment into binding laws. Environmental protection has been proclaimed by courts in certain jurisdictions as an important component of the right to life & dignity, by expanding the reach of established constitutional or human rights protections.

The influence of activist judges in India is enormous. "The Indian Supreme Court has consistently upheld the right to a safe & healthy environment in its detailed interpretations of the Article 21 of the Indian Constitution". The world's environmental laws owe a debt of gratitude to the landmark M.C. Mehta cases (1986–2001), which popularized concepts like polluter pays, absolute liability, & protective principle (LawBhoomi, 2023).

3. Theoretical Foundations

- **Sustainable Development**

The Brundtland Commission (WCED, 1987) was the first to identify sustainable development; the Rio Declaration (1992) was the subsequent document to embrace the idea. Although the basic principles of sustainability were outlined in the 1992 Rio Declaration, they could not be enforced by law. "Sustainable Development" has become a part of customary international law, according to the court's decision in the B K Srinivasan case. This term seeks to find a middle ground between development & environmental protection, although the experts in the field of international law have not yet agreed on its essential features. The court's recognition of the PPP, sustainable development, & precautionary principle, as well as the new burden of proof, have placed further scrutiny on environmental decisions made by government development agencies. This idea is a part of the NGT Act that was passed in 2010.

- **Intergenerational Equity**

According to WCED, the Brundtland Commission was the first to propose the idea of intergenerational equity (1987). This concept states that state authorities should preserve and responsibly manage natural resources in order to protect the interests of current & future generations. This generation has an obligation to safeguard the natural resources that have been passed down through the ages, according to the Supreme Court's decision in the case of State of Himachal Pradesh v. Ganesh Wood Products. The incorporation of internationally recognized concepts into national policies and regulatory frameworks is seen in legislation such as the NGT Act, 2010, and other contemporary environmental regulations. The Indian court has a special obligation to safeguard basic rights in light of the country's fast industrialization and economic development, particularly those of the country's most vulnerable citizens, and to ensure that they are able to live in an environment free from danger. Protecting and advancing individuals' environmental and basic rights is a shared responsibility of the legislative, executive, and judicial departments, as stated in the Constitution.

- **Polluter Pays Principle**

One of the cornerstones of environmental law is the PPP, which states that individuals or entities responsible for harming the environment should also be held financially responsible for its prevention, management, and restoration. An economic incentive to decrease hazardous emissions and unsustainable activities is created when the polluting party is made financially responsible for pollution rather than the state or society. India is no exception; the country's courts

and legislature have adopted this approach to hold polluters to account for their damage to the environment. In issues including industrial pollution, waste management, and ecological deterioration, PPP has been routinely adopted by the NGT & SC. The notion encourages ecological fairness, responsible resource management, and sustainable development by making people pay for damage they do to the environment.

- **Precautionary Principle**

The precautionary principle has been acknowledged by the SC in multiple rulings; it was approved in the Rio Declaration, 1992 (Principle 15) & later included in international agreements. The principle states that when scientific inquiry indicates a possible danger, it is the societal obligation to safeguard the public from harm, regardless of whether comprehensive scientific evidence is available. When considering issues of justice between generations, it is equally pertinent.

The Supreme Court ruled in the Shrimp culture and Vellore Citizens cases that the government has a responsibility to identify and eliminate the sources of environmental pollution. The developer has the onus to prove that their activities are ecologically sound in accordance with the precautionary principle.

The principle has not been fully executed in India's legal system, despite these freshly reinforced preventative declarations. Specifically, projects to construct dams have been exempted from the need to exercise prudence. Despite the enormous damage that may occur if the Tehri Dam were to collapse, the 1992 case concluded that a "quite safe" threshold was adequate. Claiming to use cautious since the case is not about a "polluting industry," the Court appears to have made little progress since then. If the research is ambiguous and damages are hard to pin down, then the precautionary principle, according to the court, does not apply. It seems to have figured out that, instead of taking precautions in advance, the future effects of dam construction will be enough to balance the harm. Not only have courts placed restrictions on the precautionary principle, but some observers have claimed that environmental protection is mostly moot due to enforcement challenges.

Constitutional and Legal Framework in India

1. Constitutional Provisions

1.1 Article 21 (Right to Life)

The absolute right to life & liberty is protected under Article 21 of the Indian Constitution, which reads as follows: "No person shall be deprived of his life or personal liberty except according to procedure established by law." Assuring not just one's physical survival but also one's quality and dignity of life, this provision forms the basis of human rights in India. Judicial interpretations of Article 21 have evolved over time, extending its reach to include other fundamental human rights, such as the right to adequate medical care, an unpolluted environment, an adequate education, a means of subsistence, and a safe place to live.

Maneka Gandhi v. Union of India (1978) and other seminal decisions expanded its scope, stating that any limitation on individual freedom must be justified by reasons of fairness and due process. Since a healthy ecosystem is necessary for all forms of life, Article 21 lays the groundwork for ecological and environmental rights as well. An essential tool for advancing social justice and human development in India, Article 21 has developed into a dynamic provision protecting various facets of human well-being as a result of judicial activism.

1.2 Article 48A (Directive Principles)

The 42nd Constitutional Amendment Act, 1976, added Article 48A to the Constitution, which states: "The State shall endeavor to maintain and enhance the environment and to safeguard the forests and wildlife of the country."

The importance of environmental protection to the nation's policy is acknowledged in this section of the Constitution. The State is obligated to incorporate environmental considerations into legislative, administrative, and developmental frameworks according to Article 48A, even though DPSPs are not justiciable and cannot be directly enforced by courts (Chaudhary, 2011). Maintaining ecological integrity in the face of industrialization, urbanization, and agricultural development is of utmost importance, and sustainable development must strike a balance between the two.

A major change to the constitution occurred with the addition of Article 48A, which states that protecting the environment is an essential part of good government and not only a legislative issue. In order to keep the environment in check, the state is prompted to take preventative actions like:

- Creating national policies to safeguard forests, biodiversity, and pollution control.
- Passing laws to control industrial emissions, deforestation, and wildlife exploitation.
- Supporting scientific research, technological interventions, and public awareness campaigns.

1.3 Article 51A(G) (Fundamental Duties)

In 1976, as a component of the Fundamental Duties under Part IVA, Article 51A(g) was included into the Indian Constitution by means of the 42nd Congress Amendment Act. It says it straight:

"It shall be the duty of every citizen of India to protect and improve the natural environment, including forests, lakes, rivers, wildlife, and to have compassion for living creatures."

The legislation establishes an ethical and civic duty for every citizen to participate in environmental conservation activities, in addition to the broader framework of state responsibility described in Article 48A, which requires the state to take actions to conserve & expand the environment. A crucial tool for promoting environmental awareness, voluntary action, and civic responsibility among citizens, Article 51A(g) is non-justiciable (i.e., cannot be enforced in a court of law) (Swenden, 2019).

A change in constitutional thinking is reflected in the introduction of Article 51A(g), which states that environmental conservation is a collective social duty and not only a responsibility of the government. In a nation like India, where biodiversity and public health are under grave danger from both fast urbanization and natural degradation, this double duty takes on added significance. According to Deepai (2021), the incorporation of this duty by the Constitution promotes sustainable development and ecological balance by encouraging citizens to cultivate a sense of stewardship toward nature and wildlife.

2. Statutory Framework

Key environmental laws:

2.1 Environment (Protection) Act, 1986

The "Environment Protection" Act of 1986 gives the Central Government the power to suspend or control the distribution of water, electricity, and other services, as well as to close, regulate, or forbid any industry or activity. It is a power of paramount importance. No authority had such authority under the previous Acts. The "Environmental Protection" Act of 1986 maintained the same lack of strength as the Pollution Acts. There was no system in place to make sure the Pollution Acts were being enforced. Citizens and employees were not granted access to data or allowed to observe or utilize any industry without the Board's consent. Only when authorities from the Pollution Control Boards choose to book industries under the Pollution Acts will they be held accountable. Because to corruption, political pressure, and a lack of infrastructure, the Boards have let the industries go Scot free. None of these issues are addressed under the "Environmental Protection" Act. There is no improvement in the person's situation. This person will not be able to move on with their complaint if the government decides not to submit a complaint or files a complaint against the industry within the 60-day notice period.

2.2 Air (Prevention and Control of Pollution) Act, 1981

The presence of clouds alerted millions of people to the dangerously high level of air pollution. Due to regional differences in air pollution levels, the problem has not yet spread to every corner of the globe. Pollutant levels in the air are steadily rising across India, and if current trends continue, one day soon, no city will be safe from the garbage, which will cover the entire country. Extensive research and investigation have shown that India releases more than one million tonnes of pollutants into the air annually. Pollution is a direct or indirect result of today's industrial and urban civilization, which includes things like fast transportation, modern food, the demand for miracle treatments, mechanization, and the pursuit of monetary riches. Damage to people, property, and the environment can result from air pollution. However, this rule has drawn a lot of criticism for purportedly attempting to safeguard the environment by employing severe fines & long-disproven concept of punitive deterrence.

2.3 Water (Prevention and Control of Pollution) Act, 1974

The purpose of lawmakers to see water as an asset to the country's economy, a part of the people's way of life, a place to live, and a part of the land's natural heritage is affirmed by the water-related legislation that has been passed thus far. The requirements of a conventional civil court made finding a solution quite difficult. Due to few procedural and technical mistakes, cases often remained unsolved. However, the "Water (Prevention and Control of Pollution) Act, 1974, did not come into being until 1974. After that, in 1977, lawmakers approved the Water (Prevention and Control of Pollution) Cess Act". It usually takes a very long time for a legal action to be resolved because of the method. In addition, a suspect has the option to appeal a lower court's decision. As a consequence, pollution persists and the enforcement of laws is slowed down. In a string of decisions, India's highest court has called for the prompt resolution of pollution control lawsuits.

2.4 Forest (Conservation) Act, 1980

There is a dramatic change in forest legislation from the previous ones to the new ones, which are more environmentally conscious. For the sake of the people and the country, it views forests as a valuable national asset that should be preserved and improved. There appears to be some impact from the "Forest Conservation" Act of 1980. The body that represents the Central Government on the topic grants prior permission without providing any guidelines. The federal government has the final say over the committee's organizational structure and makeup. The committee is not obligated to perform an objective, open-ended Environmental Impact Assessment before issuing recommendations. The suggestion that previous approval not be granted is likewise not binding on the Central Government. Concerning these points, the National Forest Policy is crystal clear. The legislation must to provide sufficient infrastructure mechanisms, and prior approval ought to be subject to impartial examination by experts. Some modifications were made by the "Forest Conservation" Act of 1980 (the 1988 Amendment). But the important thing to consider is why the amendment doesn't consider building a dam, which, according to the policy, should align with the goals of forest & tree conservation, as a nonforest objective.

2.5 Biological Diversity Act, 2002

The wealth of traditional and modern knowledge systems in India pertaining to biodiversity is well-known. The country is also noted for its abundant biological diversity. India signed the UNCBD at Rio de Janeiro on June 5, 1992, and was a participant in the convention. On December 29, 1993, the aforementioned Convention became effective. The Convention in question restates, once again, that the biological resources belong to the states. The legal system provides an idealized body based on the stated objectives of protecting national interests and indigenous knowledge related to India's biological diversity. However, most of India's environmental laws are unclear and difficult to apply. It would appear that the Act's purview is limited to establishing a system for licensing all actions pertaining to the prospecting and commercial use of biodiversity, as well as a framework for legally documenting biodiversity and a mechanism for patenting related knowledge systems.

Institutional Mechanisms for Environmental Justice

1. Central Pollution Control Board (CPCB)

The CPCB was recognized in 1974 under the "Water (Prevention and Control of Pollution)" Act as a statutory organization to serve as the national apex body for environmental regulation & pollution control in India. Its establishment marked a pivotal moment in the country's environmental governance, representing India's first organized attempt to systematically monitor, regulate, and mitigate pollution at the national level (Swenden, 2019). Operating under the administrative control of the MoEFCC, CPCB coordinates closely with State Pollution Control Boards (SPCBs) to ensure uniform implementation of environmental standards across all states and union territories. Over the decades, the Board's mandate has progressively expanded to cover air, water, soil, noise, and hazardous waste management, reflecting a holistic approach to environmental protection (Deepa, 2021).

One of the CPCB's primary responsibilities is setting standards for environmental quality. This includes formulating benchmarks for effluents, emissions, and ambient environmental conditions under key environmental legislations, such as the "Water Act (1974), Air Act (1981), and Environment Protection Act (1986)". These standards serve as regulatory reference points for industries, municipal authorities, and other polluting entities. For instance, CPCB has established permissible limits for particulate matter (PM2.5 and PM10) in ambient air, biochemical oxygen demand (BOD) in wastewater, and noise levels in urban areas, providing a scientific basis for enforcement and monitoring.

2. State Pollution Control Boards (SPCBs)

The SPCBs are statutory authorities established under the "Water (Prevention and Control of Pollution) Act, 1974, & Air (Prevention and Control of Pollution) Act, 1981", in each state &union territory. While the CPCB functions at the national level, SPCBs are responsible for implementing environmental regulations, monitoring pollution, and enforcing compliance within their respective state jurisdictions. These boards act as the primary interface between citizens, industries, and the government, adapting national standards to local environmental conditions and industrial profiles, and addressing region-specific ecological challenges.

One of the central responsibilities of SPCBs is the prosecution of environmental laws at the state level. This includes monitoring industrial effluents, air emissions, noise levels, and waste management practices to ensure compliance with statutory norms. SPCBs have the authority to inspect industrial units, issue notices for non-compliance, and recommend corrective measures. Their role is critical in ensuring that the broader regulatory framework established by the CPCB is implemented effectively on the ground.

3. Ministry of Environment, Forest and Climate Change (MoEFCC)

The MoEFCC is the primary government agency in India answerable for planning, promoting, coordinating, & managing the execution of guidelines related to the environment, forests, and climate change. Established in 1985 as the MoEF & later renamed in 2014 to include climate change, the Ministry reflects India's growing focus on environmental protection and sustainable development. Its mandate includes conserving natural ecosystems, protecting biodiversity, promoting afforestation, mitigating climate change, and safeguarding wildlife through the management of national parks, wildlife sanctuaries, and biosphere reserves. The MoEFCC formulates environmental and forestry policies, enforces laws and other pollution control measures, and supports research and capacity-building initiatives to enhance scientific understanding of environmental issues. It also represents India in international climate negotiations and promotes public awareness & participation in conservation efforts. Key initiatives include the NAP, the NAPCC on Climate Change with its various missions, and the Wildlife Crime Control Bureau. By balancing economic development with ecological sustainability, the MoEFCC plays a crucial role in ensuring India's natural resources are preserved for current and future generations while contributing to global environmental governance.

Judicial Integration of Environmental Justice and Human Rights

Indian courts have played a pivotal role in expanding and enforcing environmental rights, often through judicial activism that complements legislative and administrative efforts. In "Subhash Kumar v. State of Bihar (1991)", the Supreme Court recognized the right to pollution-free air and water as an integral part of the right to life under Article 21. The "M.C. Meht" a series of cases set landmark precedents addressing industrial hazards, vehicular emissions, and the pollution of the Ganga, highlighting the judiciary's proactive role in environmental protection. In "Vellore Citizens Welfare Forum v. Union of India (1996"), the Court introduced the principles of sustainable development and the polluter pays doctrine, while "Indian Council for Enviro-Legal Action v. Union of India (1996)" held industries financially liable for environmental damage. Similarly, "A.P. Pollution Control Board v. Prof. Nayudu (1999)" emphasized the importance of scientific expertise in adjudicating environmental disputes. While judicial intervention has partially addressed institutional weaknesses, sustainable environmental justice requires robust legislative frameworks and effective administrative enforcement.

Comparative Analysis

1. South Africa

Environmental rights are explicitly guaranteed in South Africa's constitution, setting the country apart from others throughout the world in this regard. The right to a healthy and safe environment, as well as the right to have that environment preserved for current and future generations via reasonable legislation and other measures, is guaranteed to all citizens of the Republic of South Africa (1996) through Section 24 of the Constitution. Some of these steps include raising awareness about the need of conservation, working to stop pollution and environmental deterioration, and making sure that development doesn't harm the environment while yet allowing for reasonable social and economic advancement. Ecological sustainability and equitable development are interdependent, and this approach is novel in that it recognizes the disproportionate impact of environmental degradation on marginalized populations while simultaneously advocating for environmental protection. Environmental protection has been elevated from the realm of administrative or technical concerns to that of a basic human right in South Africa, thanks to the incorporation of environmental rights into the country's constitution, which makes them legally enforceable.

2. Ecuador

By establishing a legal framework that is more focused on the environment and less on humans, Ecuador is leading the way in environmental governance on a worldwide scale. Articles 71–74 of Ecuador's 2008 Constitution establish the Rights of Nature (Derechos de la Naturaleza), officially acknowledging nature as a being with rights rather than just something to be used or regulated by humans. As stated in Article 71:

"Nature, or Pachamama, where life is reproduced and occurs, has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions, and evolutionary processes."

This constitutional innovation transforms the environment into a legal subject, granting individuals, communities, and organizations the authority to demand enforcement of nature's rights. It elevates ecological integrity to a constitutional value and shifts legal discourse from compensating human harm to protecting the intrinsic value of ecosystems.

Comparative Insight: Ecuador vs. India

Ecuador's ecocentric jurisprudence contrasts sharply with India's primarily anthropocentric approach. In India, courts have invoked doctrines such as the PTD (e.g., *M.C. Mehta v. Kamal Nath*, 1997) to protect environmental resources. However, Indian law frames environmental protection largely as a human right under Article 21, focusing on health, life, and livelihood, rather than granting independent legal standing to nature.

Key differences include

Feature	Ecuador	India
Legal Subject	Nature (rivers, forests, ecosystems)	Human beneficiaries of environmental protection
Constitutional Basis	Articles 71–74, 2008 Constitution	Article 21 & public trust doctrine
Locus Standi	Citizens can act as guardians of nature	Citizens act to protect human rights and public resources
Enforcement Focus	Ecological restoration, intrinsic ecosystem value	Human-centric relief, pollution control, compensatory measures
Philosophical Orientation	Ecocentric/Biocentric	Anthropocentric

Despite these innovations, Ecuador faces practical challenges enforcement gaps, political resistance, and competing economic interests which echo difficulties encountered in India.

3. European Union

The European Union (EU) represents a distinctive experiment in supranational environmental constitutionalism, wherein environmental rights are operationalized through a combination of binding directives, policy instruments, and judicial oversight that transcend individual member states' sovereignty. Unlike purely national systems, the EU enforces environmental protection across multiple legal and institutional layers, integrating ecological sustainability into economic, social, & human rights frameworks.

3.1 Constitutional and Legal Foundations

The "EU Charter of Fundamental Rights (2000)", Article 37, provides:

"A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development."

European Union measures like the "Environmental Liability Directive (2004/35/EC), the Habitats Directive (92/43/EEC), and the Environmental Impact Assessment Directive (2014/52/EU)" make Article 37 more enforceable, even if it is mainly a programmatic provision. Ecological concerns are now firmly entrenched in supranational jurisprudence thanks to the ECtHR and CJEU, which offer judicial monitoring and see environmental deterioration as potentially violating basic human rights.

3.2 Case Studies Demonstrating Environmental Human Rights Integration

Case Study: Lopez Ostra v. Spain (1994)

In *Lopez Ostra v. Spain* (1994), the ECtHR dealt with the problem faced by Spanish citizens residing in close proximity to a facility that treats industrial waste. The community's quality of life was greatly diminished due to the extreme environmental pollution that they endured, which included offensive smells and persistent health risks. The claimants said the government should have shielded them from these dangers. Spain was found to have infringed against the right to privacy & family life as guaranteed in Article 8 of the ECHR.

A comprehensive comparison of environmental constitutionalism in South Africa, Ecuador, the European Union (EU), and India reveals distinct divergences in constitutional design, jurisprudential orientation, and institutional governance, which have profound implications for the effectiveness and sustainability of environmental protection. One of the most striking differences lies in constitutional explicitness. Both South Africa and Ecuador have embedded environmental rights directly into their constitutions. Section 24 of the South African Constitution ensures that all individuals have the right to a healthy and safe environment. It also calls for policies and laws to be put in place to promote conservation, prevent pollution, and ensure environmentally sustainable development for both current & future generations. Articles 71–74 of Ecuador's 2008 constitution acknowledge the Rights of Nature (Derechos de la Naturaleza), giving ecosystems legal status and empowering communities and individuals to protect the environment. Article 21, which ensures the right to life, has been extensively interpreted by Indian courts, who have built India's environmental protection framework in contrast.

Another key distinction emerges in the jurisprudential orientation of environmental law across these jurisdictions. Ecuador's framework embodies a radical ecocentric perspective, wherein nature is recognized as a rights-bearing entity independent of human interests. The state's responsibility to repair and preserve ecological integrity has been highlighted by judicial interventions like the Vilcabamba River and Los Cedros Forest cases, which demonstrate the enforcement of nature's fundamental rights. When it comes to environmental rights, South Africa has a socio-environmental justice stance, which means they prioritize human happiness, social equity, and sustainability across generations. This makes sure that goals of economic and social development are not at odds with those of ecological preservation. By establishing norms like the Aarhus Convention and the precedent set by the ECtHR, the European Union places an emphasis on procedural and participatory ecology, which in turn institutionalizes public involvement, access to information, and justice. As demonstrated in cases such as Tătar v. Romania (2009), nations have a responsibility to prevent harm, regardless of the level of scientific confidence, because environmental preservation is strongly related to basic human rights. But environmental law in India is still very much focused on people and their needs, with an emphasis on things like

public health & quality of life. Although the Indian judiciary has creatively used theories like the PTD, the precautionary PPP concept, these safeguards only help humans and fail to acknowledge the autonomy of ecosystems or non-human creatures.

Conclusion

This study concludes that India has made significant progress in linking environmental justice with human rights, primarily through constitutional interpretation and judicial innovation. Despite a healthy environment is not explicitly guaranteed in the Constitution, courts have interpreted Article 21 to include the right to a clean air and water environment, as well as a naturally balanced & free of pollutants environment. Environmental Protection Act, Water Act, and Air Act comprehensive statutes provide a solid legal basis; yet, effective execution is still hindered by institutional obstacles such as insufficient enforcement, overlapping mandates, low technical ability, and inadequate public participation. Judicial leadership, especially through the Supreme Court and the NGT, has filled important gaps but cannot substitute for strong institutional governance. Comparative insights show that countries with explicit constitutional environmental rights achieve greater consistency and accountability. Therefore, India must strengthen institutional capacity, enhance procedural rights, and move toward explicit constitutional recognition of environmental rights to ensure equitable, effective, and sustainable environmental justice for all communities.

References

1. Akyüz E. The evolution of environmental human rights interlinking human rights and environmental protection. Environmental Policy Journal,2021:45(2):134–150.
2. Arshad I, *et al*. Human rights and environmental protection a jurisprudential evolution. International Environmental Law Review,2023:19(3):201–222.
3. Arnstein SR. A ladder of citizen participation. Journal of the American Institute of Planners,1969:35(4):216–224.
4. Boyle A. Human rights and the environment where next. European Journal of International Law,2012:23(3):613–642.
5. Cullet P. Definition of environmental rights and their relation to human rights. Netherlands Quarterly of Human Rights,1995:13(1):25–40.
6. Davies A. Environmental justice and sustainability equality in the environmental state. Routledge,2006.
7. Giorgetta S. The right to a healthy environment and the human rights approach to sustainable development. International Environmental Agreements,2002:2(3):171–192.
8. Knox JH. Environmental human rights. Oxford University Press, 2020.
9. Koonan S. Water conflicts and environmental justice in India. Indian Journal of Environmental Law,2007:4(2):189–202.
10. Nafees A, *et al*. Environmental governance and human rights in India the role of civil society. Asian Journal of Environmental Law,2018:3(1):77–102.
11. Taylor D. The rise of the environmental justice paradigm. American Behavioral Scientist,2000:43(4):508–580.
12. Thakur K. Environmental protection law and policy in India. Deep & Deep Publications, 1997.