
The Enforceability of Environmental Laws and the Constitution: From view of Waste Management

Adv. Sapna Desai
The Bar Association, Hubli

Abstract

With India's burgeoning population, rapid urbanization, and industrial growth, the management of waste has emerged as a critical challenge. This paper aims to analyze the legal and constitutional framework governing waste management in India, with a focus on its alignment with environmental conservation and public health objectives. Solid waste management, encompassing collection, segregation, transportation, and disposal, is explored within the context of environmental protection and human well-being. Drawing upon existing laws, regulations, and policies issued by the Ministry of Environment and Forest (MoEF), as well as statutes such as the Environment Protection Act, 1986, this study evaluates the efficacy of current waste management practices. Despite the formulation of laws aimed at ensuring sustainable waste management, challenges persist in their effective implementation. The paper also examines the recent Environmental Impact Assessment (EIA) draft of 2020, which introduces post-facto approval of industrial projects and its potential implications for industrial waste management. Additionally, the research offers recommendations for enhancing the implementation of solid waste management strategies in India, addressing gaps in regulatory enforcement and promoting sustainable waste management practices. Through a comprehensive analysis of the legal and policy framework, this paper seeks to contribute to ongoing efforts to address the pressing issue of waste management in India, in alignment with constitutional principles of environmental protection and public health.

Introduction

Waste management, encompassing the collection, transportation, processing, and disposal of waste, stands as a critical imperative in contemporary society. As populations burgeon, urbanization burgeons, and industrialization accelerates, the generation and handling of waste have become increasingly pressing concerns. Amidst the backdrop of environmental degradation and the spectre of global warming, the imperative for efficient and sustainable waste management practices has never been more pronounced. Rooted in the principles of the waste hierarchy, which advocate for the reduction, reuse, and recycling of waste, waste management endeavors seek to mitigate the adverse environmental impacts of waste generation. The Polluter Pays Principle, a foundational tenet in environmental law, delineates the responsibility of the polluting entity to bear the costs of environmental harm caused by their actions. In India, the ambit of waste management is overseen by an intricate web of regulations and authorities, spearheaded by the Ministry of Environment, Forest and Climate Change (MoEF), alongside the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) across different states. Furthermore, the adjudication of disputes and

enforcement of environmental rights finds a specialized forum in the National Green Tribunal (NGT), instituted in 2010 to address grievances pertaining to environmental matters.

In the words of Justice Krishna Iyer, "Humanity is indivisible. So is Peace and Security."¹ This axiom underscores the interconnectedness between humanity and the environment, emphasizing the inseparability of ecological preservation and human well-being. Earth, as the sole habitat conducive to life, sustains a delicate balance encompassing water, air, land, and their interrelationships with living organisms, including humans². This intricate web of interdependencies constitutes the ecosystem, wherein every organism, from microorganisms to humans, plays a pivotal role in maintaining ecological equilibrium. But, the harmonious coexistence within the ecosystem is imperilled by anthropogenic activities, notably industrialization and urbanization³. As nations pursue economic growth and industrial development, the concomitant increase in industrial activities yields a surge in waste production and emissions. While industrialization augments productivity and economic prosperity, it also begets waste in the form of effluents, emissions, and hazardous materials. Consequently, environmental pollution emerges as a paramount concern, exacerbating ecological imbalances and imperilling human health and well-being. The evolution of waste production from predominantly biodegradable materials to non-biodegradable substances, such as plastics and hazardous chemicals, underscores the urgency of addressing contemporary waste management challenges. While waste generation has been inherent to human existence, the advent of industrialization and urbanization has escalated waste-related environmental concerns to unprecedented levels. Non-biodegradable waste poses unique challenges due to its persistence in the environment, contributing to pollution and ecological degradation.

Against this backdrop, this research paper endeavors to explore the intricate nexus between waste management and the constitutional framework in India. By delving into existing laws, regulations, and policies governing waste management, the paper seeks to assess the efficacy of current waste management practices. Furthermore, it aims to analyze the recent Environmental Impact Assessment (EIA) draft of 2020 and its potential implications for waste management, while offering recommendations for enhancing the implementation of sustainable waste management strategies. Through a comprehensive examination of legal and constitutional dimensions, this paper seeks to contribute to the discourse on waste management in India, aligning with constitutional imperatives of environmental protection and public health.

¹ "Humanity is indivisible. So is Peace and Security. Civilized man's uncivilized aggression on Nature has made us realize that, like humanity, ecology is indivisible. Peace and Salvation on earth are possible only if we are conscious of ecological ethics"

² Environmental (Protection) Act, 1986, s. 2 (a)

³ M.B.K. Darkoh, Environmental Impacts of Urban-Industrial Development in the Developing World, 27/28 J. Afr. Stud. Dev, 127, 127-137 (1997).

Waste

Waste management encompasses a broad spectrum of activities aimed at effectively handling various types of waste, ranging from organic matter to hazardous chemicals. The United Nations Environment Programme (UNEP) took a significant step in addressing global waste management issues by drafting and adopting the Basel Convention in 1989. India, recognizing the importance of international cooperation in waste management, became a party to this convention. According to Article 2(1) of the Basel Convention, waste is defined as substances or objects that are disposed of or intended to be disposed of by the provisions of national law. This definition underscores the multifaceted nature of waste and the necessity of regulatory frameworks to govern its management. Waste can be broadly classified into two main types: biodegradable and non-biodegradable waste. Biodegradable waste comprises organic materials such as leftover food and vegetable peels, which can be easily decomposed through natural processes. In contrast, non-biodegradable waste poses significant environmental challenges as it cannot be easily decomposed and often releases toxins into the environment, contributing to pollution. Non-biodegradable waste includes various types such as Municipal Solid Waste (MSW), Industrial Waste, Bio-medical Waste, E-waste, and others⁴.

Municipal Solid Waste (MSW) constitutes non-liquid, non-soluble waste generated from domestic usage, commonly referred to as garbage, rubbish, trash, or refuse. In India, the Solid Waste Management Rules of 2016 categorize MSW into three main categories: biodegradables (vegetable and fruit peels), dry waste (paper, metal, plastic, etc.), and domestic hazardous waste (diapers, sanitary napkins, etc.). Proper segregation and disposal of MSW are essential to minimize its environmental impact and promote sustainable waste management practices⁵.

Industrial waste, a by-product of industrial processes, often contains hazardous chemicals and materials that pose serious threats to human health and the environment. These wastes are released as effluents and emissions, contaminating land, water, and air and contributing to environmental pollution. Similarly, bio-medical waste generated from healthcare facilities, including hospitals, pharmacies, and diagnostic centers, comprises used needles, syringes, vials, and other medical equipment. Given its potential to spread infections, proper management and disposal of bio-medical waste are imperative to protect public health and prevent environmental contamination.

Electronic and Electrical Waste, commonly known as e-waste, poses unique challenges due to its non-decomposable nature and rapid proliferation. With advancements in technology, the IT and communication sectors generate substantial volumes of e-waste, presenting significant

⁴ Charan, J Krishna & Charan, J. Lakshmi. (2021). An Overview of Indian Laws for Sustainable Solid Waste Management.

⁵ Government notifies new solid waste management rules (no date) Down To Earth. Available at: <https://www.downtoearth.org.in/news/waste/solid-waste-management-rules-2016-53443> (Accessed: 25 April 2024).

management challenges, especially in developing countries like India⁶. The influx of e-waste from developed countries further exacerbates this challenge, necessitating robust regulatory frameworks and efficient waste management practices.

Regulations on Waste Management

India's constitutional framework mandates citizen duty (Art 51A) and state commitment (Art 48A) to environmental protection. Post the Stockholm Conference in 1972, the Ministry of Environment and Forests (MoEF) was established in 1985, overseeing environmental regulation and policy. Alongside the MoEF, pollution control boards (CPCB and SPCBs) play vital roles. Numerous environment legislations have since been enacted, reflecting India's dedication to sustainable development and conservation.

- **Environmental Protection Act of 1986:** The Environmental Protection Act of 1986⁷ stands as a cornerstone in India's legal framework for environmental conservation and waste management. Enacted with the objective of establishing a robust protection system for the environment, this Act confers extensive powers upon the Central Government to regulate various aspects of waste management. One of the fundamental provisions of this Act, outlined in Section 7, imposes a principal prohibition on activities that emit or discharge environmental pollutants beyond prescribed standards. This prohibition underscores the imperative of preventing environmental harm and maintaining environmental quality within defined parameters. Section 9 of the Environmental Protection Act imposes a duty on individuals or entities responsible for any activity causing harm to the environment to take necessary measures to prevent or mitigate the pollution resulting from such activities. This section also mandates the reporting of any environmental incidents or events that may pose a threat to the environment. Furthermore, Section 9(3) embodies the Polluter Pays Principle, a critical tenet of environmental law, which holds polluters financially liable for the expenses incurred in restoring the environment to its natural state. This principle emphasizes the accountability of polluting entities and underscores the concept of environmental justice by ensuring that those responsible for environmental degradation bear the costs of remediation⁸. The Environmental Protection Act includes provisions that pierce the corporate veil, holding individuals personally liable for environmental offenses committed by companies under their control or with their connivance. This provision serves as a deterrent against environmental violations and underscores the principle of individual accountability in corporate environmental governance. Complementing the Environmental Protection Act are the Environmental Protection

⁶ Developing countries like India bear the brunt of global e-waste (2019) Business Insider. Available at: <https://www.businessinsider.in/ewaste-management-is-problem-for-countries-like-india/articleshow/68077810.cms> (Accessed: 25 April 2024).

⁷ Act No.29 of 1986

⁸ Post, G. (2019) Waste Management Laws in India, iPleaders. Available at: <https://blog.ipleaders.in/waste-management-laws-india/> (Accessed: 25 April 2024).

Rules of 1986. These rules, formulated by the government under the authority vested in it by the Environmental Protection Act, provide specific directions and guidelines for the implementation of environmental protection measures. While the Act establishes the overarching framework for environmental protection, the rules serve as operational guidelines, detailing procedures and protocols for compliance with environmental regulations.

- **The National Green Tribunal Act, 2010⁹:** (NGT Act) was enacted to establish the National Green Tribunal (NGT) for the swift resolution of environment-related cases, including forest conservation and natural resource protection. Enforced on October 18, 2010, it replaced the National Environment Tribunal Act, 1995, and the National Environment Appellate Authority Act, 1997. NGT handles matters concerning air and water pollution, the Environment Protection Act, the Forest Conservation Act, and the Biodiversity Act. Its establishment dissolved the National Environment Appellate Authority, facilitating a centralized environmental dispute resolution mechanism.
- **The Air (Prevention and Control of Pollution) Act, 1981¹⁰:** (Air Act) aims to prevent, control, and mitigate air pollution, establishing central and state pollution control boards. It mandates ambient air quality standards and prohibits the use of polluting fuels and substances. The Act empowers state governments to designate air pollution control areas, regulating industrial operations within these zones through the consent mechanism of state pollution control boards. These boards oversee air quality testing, inspect pollution control equipment, and monitor manufacturing processes to combat air pollution effectively.
- **The Water (Prevention and Control of Pollution) Act, 1974¹¹:** The Water (Prevention and Control of Pollution) Act, 1974, is a pivotal legislation aimed at preventing and controlling water pollution to uphold water wholesomeness in India. It mandates the establishment of pollution control boards at the central and state levels, emphasizing the need for coordinated efforts in water pollution prevention. The Act prohibits the discharge of pollutants beyond specified standards into water bodies and prescribes penalties for non-compliance. Under this Act, the Central Pollution Control Board (CPCB) sets standards for pollution prevention, while state pollution control boards (SPCBs) operate under CPCB and state government directives. Additionally, the Water (Prevention and Control of Pollution) Cess Act, 1977, complements the Water Act by levying a cess on water consumption by certain industrial activities, thereby providing financial resources for pollution control initiatives.
- **Hazardous Wastes Management Regulations:** Hazardous waste management regulations play a crucial role in safeguarding both human health and the environment from the dangers posed by hazardous substances. Defined by their physical, chemical, and toxic properties, hazardous wastes require stringent management protocols to mitigate risks effectively. A multitude of legislations, including the Factories Act,

⁹ Act No. 19 of 2010

¹⁰ Act No. 14 of 1981

¹¹ ACT NO. 6 OF 1974

1948¹², the Public Liability Insurance Act, 1991¹³, and the National Environment Tribunal Act, 1995¹⁴, alongside rules under the Environmental Act, address hazardous waste management directly or indirectly. Key regulations such as the Hazardous Wastes (Management, Handling and Transboundary) Rules, 2008, the Biomedical Waste (Management and Handling) Rules, 1998, and the Municipal Solid Wastes (Management and Handling) Rules, 2000, provide comprehensive guidelines for the safe handling, storage, and disposal of hazardous materials. Recognizing the need for enhanced efficacy and clarity, the Ministry of Environment, Forest and Climate Change has proposed updated versions of these regulations. The draft Bio-Medical Waste (Management & Handling) Rules, 2015, and the draft Solid Waste Management Rules, 2015, aim to streamline waste management practices, reduce waste generation, and ensure environmentally sound disposal methods. These proposed rules signify a proactive approach towards addressing emerging challenges and promoting sustainable waste management practices across the country.

- **The E-Waste (Management and Handling) Rules, 2011:** Implemented¹⁵ with aim to curtail hazardous substance usage in electronic equipment by setting thresholds and ensuring environmentally sound e-waste recycling. These regulations are applicable to producers, consumers, collection centers, dismantlers, and recyclers involved in the manufacturing, sale, or processing of electrical and electronic equipment. Similarly, the Batteries (Management & Handling) Rules, 2001, mandate proper lead acid battery waste management. Manufacturers, importers, dealers, and consumers must adhere to these rules, emphasizing the responsible handling and disposal of batteries and their components.

Challenges in Following the Rules

The implementation of waste management rules in India encounters several practical challenges. The existing legal framework comprises multiple rules, necessitating separate authorizations for different waste disposal scenarios. A unified legislation with a single license requirement for various waste types would streamline compliance efforts. However, industrial units face delays in obtaining or renewing authorizations from State Pollution Control Boards (SPCBs). The lack of a tracking mechanism for application processing often leads to resorting to facilitatory payments, discouraging compliance. Moreover, the unpredictable regulatory approach of SPCBs introduces speculative risk assessment, with larger industrial units facing heightened scrutiny compared to smaller enterprises. The absence of uniform conditions in authorizations across entities further hampers nationwide compliance monitoring. Additionally, inadequate statistics on prosecutions and authorization revocations, coupled with the lack of specialized environmental audit firms, raise investor scepticism. Furthermore, the absence of an IT-enabled system for record maintenance complicates compliance, especially

¹² ACT NO. 63 OF 1948

¹³ ACT NO. 6 OF 1991

¹⁴ ACT NO. 27 OF 1995

¹⁵ On May 1, 2012

given the immense volume of physical records involved. India grapples with waste management challenges amid rapid urbanization, resulting in untreated waste accumulation. Urban areas generate substantial solid waste, yet inadequate infrastructure leads to a significant portion remaining untreated. E-waste poses a growing concern due to increasing generation rates and insufficient recycling infrastructure. Limited garbage collection infrastructure, with a vast disparity compared to China, exacerbates the problem. Inefficient sorting practices further compound the issue, with only a fraction of waste being properly sorted for recycling, leading to valuable materials ending up in landfills. Addressing these challenges requires concerted efforts to enhance waste management infrastructure, streamline regulatory processes, and promote sustainable waste handling practices nationwide.

Constitution of India on waste Management

The Constitution of India, with its federal structure, embodies the aspirations of freedom fighters by enshrining fundamental rights and Directive Principles of State Policy. Part XI delineates the legislative jurisdiction between the Union and State governments, including provisions related to the environment dispersed throughout the document. The Preamble, starting with "We the People," elucidates the constitutional goals, declaring India a Sovereign Socialist Secular Democratic Republic. While the terms "Secular" and "Socialist" were later incorporated by amendment, the Constitution inherently possessed these qualities from its inception. The socialist ethos, coupled with provisions in Part IV emphasizing social welfare governance, underscores the imperative of a clean environment for public welfare. The designation as a "Democratic Republic" underscores government accountability to the masses, implicating a duty to provide a conducive environment for human habitation. The Preamble's pursuit of social, economic, and political justice is intrinsically linked to environmental preservation. Unregulated industrialization and unchecked exploitation of natural resources contradict the principles of a welfare state and equitable justice. Although the Preamble does not explicitly address environmental concerns, its broad language encompasses environmental protection and a clean habitat as implicit imperatives¹⁶. Thus, the constitutional framework, as reflected in the Preamble, inherently mandates environmental preservation and underscores the government's duty to ensure a sustainable and healthy environment for its citizens.

- **Directive Principles of State Policy:** Part IV of the Constitution of India, known as the Directive Principles of State Policy (DPSP), delineates the socio-economic goals for the nation, although non-justiciable, they are fundamental in governance. Before the 42nd Amendment, environmental protection was inferred from Articles 38, 47, and 50. Article 37 mandates the State to apply these principles in legislation. Article 38 emphasizes social, economic, and political justice, implying a duty to preserve the environment essential for societal well-being. Article 47 prioritizes public health, inherently linked to a pollution-free environment. Article 51 underscores adherence to

¹⁶ Sadhu, S.K., Ghosh, A.R. (2018). Law and Regulation of Wastes and Wastewater: Indian Perspective. In: Jana, B., Mandal, R., Jayasankar, P. (eds) Wastewater Management Through Aquaculture. Springer, Singapore. https://doi.org/10.1007/978-981-10-7248-2_16

international law, including environmental protection obligations. The 42nd Amendment introduced Article 48A, explicitly requiring the State to protect and enhance the environment. While DPSPs are non-justiciable, courts can strike down laws violating them. *Mumbai Kamgar Sabha v. Abdulbhai*¹⁷ advocates aligning laws with DPSPs. Moreover, certain DPSPs have been elevated to fundamental rights, such as the right to a pollution-free environment, when read in conjunction with Parts III and IV-A of the Constitution. Thus, the Constitution mandates environmental protection, integral to the nation's socio-economic fabric, directing legislative and judicial action for a cleaner, healthier environment.¹⁸

- **Fundamental Duties:** Part IV A of the Constitution, introduced by the 42nd Amendment Act, 1976, imposes fundamental duties on every citizen of India. Article 51A(g) specifically mandates citizens to protect and enhance the natural environment, including forests, lakes, rivers, and wildlife, emphasizing compassion for living creatures. While the Constitution initially lacked provisions for enforcing fundamental duties, the Rajasthan High Court in *L.K. Koolwal v. State of Rajasthan*¹⁹ highlighted the symbiotic relationship between rights and duties, affirming their justiciability. In *Shri Sachidanand Pandey v. State of West Bengal*²⁰, the Supreme Court asserted its authority to issue directives regarding fundamental duties, rejecting the notion that policy priorities exempt judicial intervention. *Rural Litigation and Entitlement Kendra v. State of UP*²¹ emphasized the shared responsibility of citizens and government in preserving the environment, echoing Article 51A(g)'s call to action. Similarly, in *Kinkari Devi v. State*²², Justice P.D. Desai underscored citizens' constitutional duty to safeguard the environment, warning against betraying the fundamental law. Thus, Article 51A(g) enshrines environmental stewardship as a foundational obligation, reinforcing the collective responsibility of citizens to nurture and protect the nation's natural heritage.
- **Fundamental Rights:** Part III of the Indian Constitution delineates fundamental rights, notably Article 21, which safeguards the right to life and personal liberty. Interpreting Article 21 in *Francis Coralie v. Union Territory of Delhi*²³, the Supreme Court recognized the right to live with human dignity, encompassing basic necessities like food, shelter, and clothing. *Maneka Gandhi v. Union of India*²⁴ further established that the procedure for deprivation of life or liberty must be just, fair, and reasonable. Over time, Article 21's expansive interpretation has extended to include environmental protection as a fundamental right, acknowledging the intrinsic link between life and a

¹⁷ *Mumbai Kamgar Sabha, Bombay vs M/S Abdulbhai Faizullabhai & Ors* 1976 3 SCC 832

¹⁸ Environmental law and policies, Constitutional Provisions relating to Environment Protection in India – Environmental law and policies. Available at: <https://ebooks.inflibnet.ac.in/esp13/chapter/constitutional-provisions-relating-to-environment-protection-in-india/> (Accessed: 25 April 2024).

¹⁹ AIR 1988 RAJ 2

²⁰ AIR 1987 SUPREME COURT 1109

²¹ AIR 1985 SUPREME COURT 652

²² AIR 1988HP 4

²³ 1981 AIR 746

²⁴ 1978 AIR 597

clean environment. Article 14 ensures the right to equality, prohibiting any discriminatory action by the state. Environmental management must adhere to this principle, as recognized in the Stockholm Declaration of 1972. Judicial interventions, such as striking down arbitrary official sanctions, uphold Article 14 in environmental matters, particularly in urban development.

Article 19(1)(a) guarantees freedom of speech and expression, pivotal in shaping environmental jurisprudence through public interest litigations (PILs). Media and public opinion have influenced environmental discourse, exemplified by *P.A. Jacob v. The Superintendent of Police, Kottayam*²⁵, where the Kerala High Court regulated noise pollution under Article 19(1)(a). Article 19(1)(g) confers the right to practice any profession, subject to reasonable restrictions in the public interest. In *Abhilash Textiles v. Rajkot Municipal Corporation*²⁶, the Gujarat High Court balanced this right against public health concerns, emphasizing environmental protection over profit-driven activities. However, the apex of environmental rights lies in Article 21, which has evolved to encompass the right to a healthy environment. *M.C. Mehta v. Union of India*²⁷ established the right to live in a pollution-free environment as an implicit facet of Article 21. This evolution recognizes the inseparable connection between life and the environment, emphasizing the imperative to safeguard both. As civilization progresses, preserving natural resources becomes paramount to protect the core of democratic nations: human life. Thus, the inclusion of the right to a healthy and pollution-free environment within Article 21 reinforces India's commitment to environmental justice as a fundamental aspect of constitutional governance.

- **Other Provisions:** Article 246 of the Constitution delineates the legislative powers between the Union and the States, segregating subjects into Union List, State List, and Concurrent List. The Union List encompasses domains like defence, foreign affairs, and atomic energy, while the State List includes public health, agriculture, and water management. The Concurrent List covers areas such as forests, wildlife protection, and factories. This division is crucial for environmental governance, as certain issues like sanitation and waste disposal are better addressed locally, whereas others like pollution and wildlife protection necessitate uniform national laws. Article 253 empowers Parliament to enact laws to fulfill India's international obligations and decisions taken at international forums. Despite the absence of a specific entry on "environmental Protection" in the Seventh Schedule, Parliament's authority under Article 253 enables it to enact comprehensive environmental legislation. While the Tiwari Committee proposed introducing an entry on environmental protection in the Concurrent List, it didn't account for Parliament's power under Article 253. However, in conjunction with Article 252, which led to the creation of various Acts for environmental protection, Article 253 significantly contributes to environmental legislation. The Law of Writs under Article 32 and Article 226 of the Constitution empowers the Supreme Court and

²⁵ AIR 1993 KERALA 1

²⁶ AIR 1988 GUJARAT 57

²⁷ (1991) AIR SC 813

High Courts to issue writs for the enforcement of fundamental rights. This constitutional remedy ensures that individuals can approach the judiciary to safeguard their rights, including environmental rights. The liberalization of the rule of Locus Standi by the Supreme Court, as seen in the case of *Charan Lal Sahu vs. Union of India*²⁸, has facilitated broader access to the courts for environmental litigation. Through these provisions, the judiciary has played a pivotal role in shaping and implementing various environmental protection and pollution control measures, ensuring that the actions of the state are justiciable and accountable²⁹.

Judicial Approach

The Indian judiciary has played a crucial role in addressing environmental concerns by adopting a pragmatic and activist approach in interpreting constitutional provisions related to environmental protection. This approach has led to the recognition of the right to live in a clean environment as part of the right to life and personal liberty enshrined in Article 21 of the Constitution. This expansion of Article 21 has transformed many non-justiciable Directive Principles of State Policy into enforceable fundamental rights through judicial activism, significantly impacting environmental jurisprudence. Pollution, a by product of modern industrialization and urbanization, poses significant challenges to public health and the environment. Despite legislative efforts to curb pollution, the judiciary has intervened to uphold environmental rights. In cases like *B.L. Wadehra v. Union of India*³⁰, the Supreme Court expressed dissatisfaction with the pollution levels in Delhi and emphasized the need for clean and healthy surroundings. Similarly, in *Ratlam Municipality v. Vardhi Chand*³¹, the closure of limestone quarries was ordered to protect the people's right to live in a healthy environment. The Supreme Court's landmark judgments have reaffirmed the fundamental right to live in a pollution-free environment. In *Subash Kumar v. State of Bihar*³², the Court emphasized the right to enjoy pollution-free air and water, integral to the quality of life. Precautionary principles were invoked in *Vellore Citizens Welfare Forum v. Union of India*³³ to address pollution caused by industrial effluents, leading to the closure of non-compliant industries. Moreover, in *M.C. Mehta v. Union of India*³⁴, industries in Agra were directed to transition to natural gas to prevent pollution near the Taj Mahal.

The judiciary's role in protecting the environment extends to promoting sustainable practices. In *M.C. Mehta v. Kamal Nath*³⁵, the Court held that disturbing the ecological balance violates

²⁸ 1990 AIR 1480

²⁹ Limited, L. P. (2022) Protection of Environment under the Indian Constitution, LinkedIn. Available at: <https://www.linkedin.com/pulse/protection-environment-under-indian-constitution-legasispvtltd/> (Accessed: 25 April 2024).

³⁰ 1996 SCC (2) 594

³¹ 1980 AIR 1622

³² 1991 AIR 420

³³ 1996 (5) SCC 647

³⁴ 1997 (2) SCC 353

³⁵ AIR ONLINE 1996 SC 711

Article 21 of the Constitution, applying the polluter pays principle and Public Trust Doctrine. Similarly, in *M.C. Mehta v. Union of India*, the Court refused to extend the deadline for vehicle conversion to CNG, prioritizing public health over commercial interests. Recent judgments have reiterated the right to a clean environment as a fundamental right. In *N.D. Jayal v. Union of India*³⁶, the Supreme Court reaffirmed the implicit nature of the right to a clean environment within Article 21. Moreover, in *Municipal Corporation of Greater Mumbai v. Kohinoor CTNL Infrastructure Co. (P) Ltd.*³⁷, the Court affirmed that the right to live in a clean and healthy environment is part of common law jurisprudence.

Conclusion

The protection of the environment and effective waste management have emerged as critical issues in modern times, necessitating comprehensive legal frameworks and judicial activism to address them. Over the years, the Constitution of India has evolved dynamically, with the judiciary playing a pivotal role in declaring various unenumerated rights as fundamental rights. One of the most significant developments has been the recognition of the right to a clean environment as a fundamental right, underscored by the judiciary's interpretation of constitutional provisions. The Stockholm Conference marked a turning point in global environmental awareness, prompting nations to prioritize environmental protection. In India, the 42nd amendment to the Constitution reflected this commitment by incorporating provisions explicitly aimed at safeguarding the environment. This legislative intervention expanded the scope of environmental protection within the constitutional framework, laying the foundation for subsequent judicial pronouncements on environmental issues.

The judiciary, as a key organ of the democratic system, has played a pivotal role in shaping environmental jurisprudence through landmark judgments. By interpreting constitutional provisions in the context of environmental protection, the judiciary has broadened the scope of fundamental rights and reinforced principles such as the Polluter Pays Principle, Precautionary Principle, and Public Trust Doctrine. Through initiatives like Public Interest Litigation (PIL), the judiciary has provided a platform for citizens to raise environmental concerns and hold authorities accountable for environmental degradation. Despite these efforts, environmental pollution continues to escalate, underscoring the need for collective action and awareness. While legal frameworks and judicial interventions are essential, true environmental protection requires a concerted effort from all stakeholders, including individuals, communities, and organizations. Recognizing their moral, ethical, social, and constitutional duties is crucial for upholding and guaranteeing environmental rights.

The concept of sustainable development has gained importance, emphasizing the importance of balancing economic growth with environmental preservation. Organizations are increasingly expected to comply with stringent environmental norms, not only to fulfil legal obligations but also to enhance their brand image and contribute to sustainable development. Non-compliance

³⁶ AIR 2004 SUPREME COURT 867

³⁷ Civil Appeal No.11150 of 2013

can result in sanctions, including revocation of business operations, highlighting the imperative for organizations to adopt environmentally responsible practices. The evolution of environmental law and waste management reflects a growing recognition of the intrinsic link between environmental protection and human well-being. While legislative and judicial interventions have been instrumental in advancing environmental rights, achieving meaningful progress requires a collective effort to promote environmental consciousness and sustainable practices. By embracing their responsibilities and working towards a common goal of environmental stewardship, society can pave the way for a more sustainable future.