

**INTERNATIONAL JOURNAL OF LEGAL
SCIENCE AND INNOVATION**
[ISSN 2581-9453]

Volume 6 | Issue 6

2024

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Assessing Constitutional Mandates for Urban Air Quality: An Analysis of Article 21 in the Context of Air Pollution Control

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ABSTRACT

Air pollution is one of the major environmental threats in the world, and nowadays the impact of air pollution affects major cities. India is a major contributor to air pollution in the world, with the highest pollution rates. This not only affects the living organisms that inhale the air, but it's gradually affecting both the economy and society. The main victims of this pollution are less immune people and older people; the chances of causing problems for them are easy. So this paper delves into constitutional mandates concerning urban air quality with special reference to constitutional provision article 21 and control measures in India.

Article 21 protects the right to life and personal liberty as fundamental rights. The right to life word mentioned in this article has broad meaning enough to include the right to a pollution-free environment, so it includes clean air as a fundamental right. The judiciary today upholds the importance of adding clean air under Article 21. The role of Judiciary is vital for a pollution-clean environment.

*This article starts by looking into a comprehensive view of the status quo of urban air pollution in India, focusing on its adverse effects and impacts on public health, environmental sustainability, and economic productivity. Next, focus on the constitutional frameworks that provide protection to the environment and the evolution of Article 21 and its impacts on environmental protection. In landmark judgements like *McMehta v. Union of India* and *Subash Kumar v. State of Bihar*, the paper elucidated the judicial interpretation of Article 21 and its implications for pollution controls.*

*Furthermore, this also examines constitutional mandates and other excusive legislation, such as the *Environmental Protection Act of 1986* and the *Air Prevention and Control Act of 1981*, to examine its mechanisms for addressing urban air quality threats. And also highlights the role of international covenants and agreements such as the *Stockholm Declaration* and the *Paris Agreement* in shaping Indian pollution laws and legal obligations.*

So by examining the legal provisions, judicial pronouncements, and policy initiatives, this article finds out the strengths, limitations, and potential gaps in the existing legal

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frameworks for controlling urban air quality. Furthermore, it is looking into the practices of other jurisdictions about pollution control to escalate the constitutional mandate for pollution control in India. Finally, the paper combines legal studies, environmental science, and public policy to help us understand constitutional provisions for air quality. It also provides information to policymakers, lawyers, and environmental activists to reduce the effects of air pollution on humans and nature.

Keywords: *article21, air pollution, fundamental right, environmental pollution.*

I. INTRODUCTION

Air pollution is one of the major environmental threats in the world, and nowadays the impact of air pollution affects major cities. India is a major contributor to air pollution in the world, with the highest pollution rates. This not only affects the living organisms that inhale the air, but it's gradually affecting both the economy and society. The main victims of this pollution are less immune people and older people; the chances of causing problems for them are easy. So this paper delves into constitutional mandates concerning urban air quality with special reference to constitutional provision article 21 and control measures in India.

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II. RIGHT TO LIFE AND ENVIRONMENTAL PROTECTION UNDER ARTICLE 21

Article 21 of the Indian Constitution says that “no person shall be deprived of his life or personal liberty except according to procedure established by law.”². The judiciary at first instance interpreted this article very narrowly, concentrating only on the physical protection. Then gradually, over time, the importance and scope of Article 21 have widened extraordinarily. Increasing and including a wide range of rights indeed for a dignified and peaceful life, including the right to a clean environment.

Rural litigation and entitlement Kendra v. state of Uttar Pradesh (1958) is a landmark case where the Supreme Court highlighted that environmental protection is a fundamental part of Article 21. The case is about a petition filed against the Missouri Hills, which was under severe damage like landslides, deforestation, and threatening to nearby communities. The Supreme

² Subhash Kumar v. State of Bihar, (1991) 1 S.C.C. 598.

Court ruled for the end of harmful mining activities and established that the right to life includes the right to a safe and pollution-free environment. This was a landmark step for expanding the scope of Article 21 to include environmental protection, highlighting that ecological harm and pollution violate fundamental rights³

III. JUDICIAL INTERPRETATIONS OF ARTICLE 21 IN THE CONTEXT OF AIR POLLUTION

Article 21 has been interpreted by Indian courts, specifically concerning about the air pollution, which played a crucial role in making the regulatory law. *Mc Mehta v. Union of India*, the case commonly known as the “taj trapezium case.” In this case, McMehta filed a public interest litigation concerning the harmful effects that caused serious impacts on Taj Mahal. The harmful emissions from industries caused the white marble of Taj Mahal to turn yellow due to acid rain caused by pollutants like sulfur dioxide (SO₂) by vehicles and industries. The Supreme Court specifically allowed an area consisting of 10400 sq. km around Taj Mahal named "Taj Trapezium Zone“ to protect Taj Mahal from harm; the zone also covered Agra and surrounding areas. The court also ordered over 200 industries to close or relocate the TTZ or emit cleaner natural gas. The apex court also ordered standards for reducing pollution from vehicles⁴

In another case, *M.C. Mehta v. Union of India* (1998), the Supreme Court made a strong statement for tackling the pollution by vehicles in Delhi. Delhi is one of the most polluting cities in the world. The Supreme Court strictly mandated that the public transportation services need to switch to natural gas for the purpose of reducing harmful emissions from diesel vehicles. Through this decision made by the Supreme Court, it highlighted the importance of urban air quality and the use of Article 21 to tackle urban air pollution. Highlighting the importance of public health as a major component of the right to life⁵

IV. AIR POLLUTION AS A PUBLIC HEALTH CRISIS

The problem of air pollution happening in urban areas is unavoidable, and it has become a major threat to human health. In India, major cities like Mumbai, Delhi, and Kolkata are continuously listed in the list of major polluting cities in the world. The primary causes of this pollution include vehicle emissions, construction activities, industrial discharge, and burning of crops in agriculture. Decreasing air quality causes serious health issues like stroke, lung

³ *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh*, A.I.R. 1987 S.C. 359.

⁴ *M.C. Mehta v. Union of India*, (1997) 2 S.C.C. 353.

⁵ *M.C. Mehta v. Union of India*, (1998) 6 S.C.C. 63.

cancer, ischemic heart disease, and pneumonia.⁶ In *McMehta v. Union of India* (1998), the Supreme Court spoke about the health issues due to air pollution and directed certain steps to reduce such issues, like emissions from vehicles, a primary contributor of Delhi's smog. The court's direction to use CNG instead of diesel in vehicles made a significant movement, but still the city is facing air pollution issues⁷

V. STATUTORY FRAMEWORK SUPPORTING ARTICLE 21

The judiciary has played a pivotal role in including the right to clean air as a health concern under Article 21. There are various statutory measures that also support this interpretation made by the apex court. One of the important legislations is the Air (Prevention and Control of Pollution) Act 1981, whose object is to control air pollution in India⁸. The act says that both central and state pollution control boards must establish air quality standards, take necessary actions to curb emissions, and monitor pollution levels. But the implementation and enforcement of this act are very narrow, especially in urban areas, due to various factors that cause air pollution.

Moreover, the Environmental Protection Act 1986 was enacted by the aftereffects of the Bhopal gas tragedy and acted as a comprehensive legal framework for environmental protection in India. This act provided unlimited powers to the central government regarding environmental protection to implement various measures aiming to enhance and safeguard environmental quality, including air quality⁹. Under this statute, several regulations and rules have been established to control air pollution, which include the National Ambient Air Quality Standards (NAAQS)

VI. ROLE OF NATIONAL GREEN TRIBUNAL (NGT)

The establishment of the National Green Tribunal in 2010 was a crucial moment for boosting environmental governance in India. The primary aim of the establishment of national green tribunals was to ensure that environmental laws are effectively enforced and to hear environmental cases. Since its establishment and beginning of operations, the NGT has been playing a pivotal role in tackling air pollution by making strict orders both to industries and regulatory bodies to combat pollution¹⁰

⁶ Air quality energy and health, world health organisation, available at [https://www.who.int/teams/environment-climate-change-and-health/air-quality-energy-and-health/health-impacts#:~:text=The%20specific%20disease%20outcomes%20most,\(household%20air%20pollution%20only\)](https://www.who.int/teams/environment-climate-change-and-health/air-quality-energy-and-health/health-impacts#:~:text=The%20specific%20disease%20outcomes%20most,(household%20air%20pollution%20only).).

⁷ *M.C. Mehta v. Union of India*, (1998) 6 S.C.C. 63.

⁸ The Air (Prevention and Control of Pollution) Act, No. 14 of 1981, Acts of Parliament, 1981 (India).

⁹ The Environment (Protection) Act, No. 29 of 1986, Acts of Parliament, 1986 (India).

¹⁰ National Green Tribunal, District Environmental Plan, reasi, available at <https://reasi.nic.in/national-green->

In another notable case, *Shailesh Singh v. State of Uttar Pradesh*, we can see the national green tribunal concern about air quality. In this case, the tribunal addressed the serious air quality issues, which became a serious threat to human health. The NGT ordered various local authorities to initiate appropriate measures to reduce emissions from industrial establishments, vehicle emissions, and construction projects¹¹. This action by the tribunal highlighted its concern about public health as a guardian of the public and environment. The NGT directed both the Centre and state to spotlight air quality management.

The national green tribunal has also several times invoked Article 21, which guarantees the right to life. The tribunal made a connection with fundamental rights and environmental protection. The tribunal pointed out that that nation needs a clean environment and dignity of individuals. This view point of tribunal has resulted in many movements from people and organizations to seek relief from environmental harm, which has violated their fundamental rights. The state is responsible for the harm, and they are accountable.

VII. CONCLUSION

Article 21 has played an important role in shaping our legal system to include a clean environment as a fundamental right. Through this judicial approach, a clean environment has become more important, and citizens can approach the state for remedy due to a polluted environment. But there are some issues and we cannot properly implement these pollution control measures in urban areas due to large numbers of industries, emissions from vehicles, and many other factors. To tackle air pollution in India, there must be a bridge to remove the gap between law and practice. This needed the participation of citizens, strengthening legal frameworks, and the active role of government services in air quality management. And further adopting the international framework of air pollution into domestic laws will also bring more results. Increasing and controlling air quality is not just a matter of regulatory framework but as an important matter of right to life under Article 21.

tribunal-district-environmental-plan/#:~:text=The%20National%20Green%20Tribunal%20has,by%20principles%20of%20natural%20justice.

¹¹ *Shailesh Singh v. State of Uttar Pradesh*, O.A. No. 164 of 2018, decided on May 17, 2019 (N.G.T.).