

***Law Audience Journal, Volume 6 & Issue 2, 25<sup>th</sup> Sep 2025,  
e-ISSN: 2581-6705, Indexed Journal, Impact Factor 5.954, Published  
at <https://www.lawaudience.com/volume-6-issue-2/>, Pages: 05 to 29,***

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***



### **Cite this article as:**

TANVEER SINGH MADHAV, “*Human Rights and the Environment: India's Contribution to the Emerging Right to a Healthy Environment in International Law*” Vol.6 & Issue 2, Law Audience Journal (e-ISSN: 2581-6705), Pages 05 to 29 (25<sup>th</sup> Sep 2025), available at <https://www.lawaudience.com/human-rights-and-the-environment-indias-contribution-to-the-emerging-right-to-a-healthy-environment-in-international-law/>.

***Law Audience Journal, Volume 6 & Issue 2, 25<sup>th</sup> Sep 2025,  
e-ISSN: 2581-6705, Indexed Journal, Impact Factor 5.954, Published  
at <https://www.lawaudience.com/volume-6-issue-2/>, Pages: 05 to 29,***

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

***| Copyright © 2025 By Law Audience Journal |  
(E-ISSN: 2581-6705)***

*All Copyrights are reserved with the Authors. But, however, the Authors have granted to the Journal (Law Audience Journal), an irrevocable, non-exclusive, royalty-free, and transferable license to publish, reproduce, store, transmit, display, and distribute it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known.*

*No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non-commercial uses permitted by copyright law.*

*For permission requests, write to the publisher, subject of the email must be "Permission Required" at the email addresses given below.*

*Email(s): [lawjournal@lawaudience.com](mailto:lawjournal@lawaudience.com), [info@lawaudience.com](mailto:info@lawaudience.com), [lawaudience@gmail.com](mailto:lawaudience@gmail.com).*

*Phone (No(s)): +91-8351033361,*

*Website: [www.lawaudience.com](http://www.lawaudience.com).*

*Facebook: [www.facebook.com/lawaudience](http://www.facebook.com/lawaudience).*

*Instagram: [www.instagram.com/lawaudienceofficial](http://www.instagram.com/lawaudienceofficial).*

*Contact Timings: 10:00 AM to 8:00 PM.*

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

### **Disclaimer:**

*Law Audience Journal (e-ISSN: 2581-6705) and Its Editorial Board Members do not guarantee that the material published in it is 100 percent reliable. You can rely upon it at your own risk. But, however, the Journal and Its Editorial Board Members have taken the proper steps to provide the readers with relevant material. Proper footnotes & references have been given to avoid any copyright or plagiarism issue. Articles published in Volume 6 & Issue 2 are the original work of the authors.*

*Views or Opinions or Suggestions (if any) expressed or published in the Journal are the personal points of views of the Author(s) or Contributor(s) and the Journal & Its Editorial Board Members are not liable for the same.*

*While every effort has been made to avoid any mistake or omission, this publication is published online on the condition and understanding that the publisher shall not be liable in any manner to any person by reason of any mistake or omission in this publication or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this work.*

*All disputes are subject to the exclusive jurisdiction of Courts, Tribunals and Forums at India only.*

***Submit your article(s) for Publications at [lawaudience@gmail.com](mailto:lawaudience@gmail.com), or  
[lawjournal@lawaudience.com](mailto:lawjournal@lawaudience.com), with subject as "Submission of Paper(s)  
for Publication in Law Audience Journal".***

*Law Audience Journal, Volume 6 & Issue 2, 25<sup>th</sup> Sep 2025,  
e-ISSN: 2581-6705, Indexed Journal, Impact Factor 5.954, Published  
at <https://www.lawaudience.com/volume-6-issue-2/>, Pages: 05 to 29,*

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

## **Publisher Details:**

*Law Audience Journal (e-ISSN: 2581-6705),*

*Sole Proprietorship of Mr. Varun Kumar, Kharar, District.  
S.A.S, Nagar, Mohali, 140301,*

*Phone No(s): +91-8351033361 (WhatsApp),*

*Email ID(s): [lawjournal@lawaudience.com](mailto:lawjournal@lawaudience.com),  
[info@lawaudience.com](mailto:info@lawaudience.com) or [lawaudience@gmail.com](mailto:lawaudience@gmail.com).*

*Website: [www.lawaudience.com](http://www.lawaudience.com).*

*Contact Timings: 10:00 AM to 8:00 PM.*

## **Editor(s):**

- *Dr. Amit Yadav, Editor-In-Chief at Law Audience Journal, Associate Professor (Senior Scale) at School of Law, Manipal University Jaipur.*
- *Adv. Varun Kumar, Founder-CEO-Owner-Publisher-Publishing Editor at Law Audience Journal.*

***Editorial Board Members Details Are Available At:***

***<https://www.lawaudience.com/editorial-board-members/>***

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

## **I. INTRODUCTION:**

The interdependence between human rights and environmental protection has become one of the defining issues of contemporary international law. The recognition that a safe, clean, healthy, and sustainable environment is essential for the enjoyment of basic human rights marks a significant evolution in both environmental and human rights law. The global acknowledgment of this link was consolidated in October 2021 when the *United Nations Human Rights Council (UNHRC)* adopted *Resolution 48/13* recognising the right to a clean, healthy, and sustainable environment as a human right for the first time at the international level.<sup>1</sup> This was further strengthened in July 2022, when the *United Nations General Assembly (UNGA)* overwhelmingly passed *Resolution 76/300* affirming the same right.<sup>2</sup> Most recently, in 2025, the *International Court of Justice (ICJ)*, responding to a request for an advisory opinion, held that the right to a healthy environment is not only part of customary international law but also imposes obligations on States to prevent environmental harm that threatens human rights.<sup>3</sup> While international consensus is relatively recent, the Indian legal system has long recognised the close link between human rights and environmental protection. Article 21 of the Constitution of India, which guarantees the right to life and personal liberty, has been expansively interpreted by the Supreme Court to include the right to a clean and healthy environment.<sup>4</sup> Through a series of landmark cases such as *Subhash Kumar vs. State of Bihar*,<sup>5</sup> *M.C. Mehta vs. Union of India*,<sup>6</sup> and Vellore Citizens' *Welfare Forum vs. Union of India*,<sup>7</sup> the judiciary has read environmental rights into fundamental rights, thus contributing significantly to the development of environmental constitutionalism. This judicial creativity, combined with progressive legislative frameworks like the *Environment (Protection) Act 1986*

<sup>1</sup> UNHRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.

<sup>2</sup> UNGA Res 76/300 (28 July 2022) UN Doc A/RES/76/300.

<sup>3</sup> Request for Advisory Opinion on the Right to a Healthy Environment (Advisory Opinion) [2025] ICJ Rep (forthcoming).

<sup>4</sup> Constitution of India 1950, art 21.

<sup>5</sup> Subhash Kumar v State of Bihar (1991) 1 SCC 598.

<sup>6</sup> MC Mehta v Union of India (1987) 1 SCC 395.

<sup>7</sup> Vellore Citizens' Welfare Forum v Union of India (1996) 5 SCC 647.



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com),***

and the establishment of the *National Green Tribunal (NGT) in 2010*, has positioned India as a leader in environmental jurisprudence within the Global South. The Indian experience is particularly significant in the context of international law for three reasons. First, India is one of the most environmentally vulnerable countries in the world, facing challenges ranging from air and water pollution to climate-induced disasters, making the recognition of environmental rights not merely aspirational but essential to survival. Second, as a developing country with considerable geopolitical influence, India has consistently emphasised the principle of *“common but differentiated responsibilities” (CBDR)* in international negotiations, thereby shaping the discourse on equity and environmental justice. Third, India's domestic judicial activism has often predated or paralleled global developments, providing valuable jurisprudential resources for international law.

Despite these achievements, challenges remain in ensuring effective enforcement of environmental rights in India. A gap persists between recognition and implementation, with issues of weak regulatory institutions, uneven access to justice, and disproportionate environmental harm borne by vulnerable communities. Moreover, as environmental degradation intensifies, new dimensions of the right to a healthy environment emerge, such as the rights of climate migrants, intergenerational equity, and corporate accountability. This paper critically examines the evolution of the right to a healthy environment in international law and assesses India's unique contribution to its development. It begins by tracing the emergence of the right in international legal instruments and human rights forums, before analyzing India's constitutional and judicial recognition of environmental rights. It then compares India's experience with developments in other parts of the Global South, highlighting its distinctive role in global environmental governance. Finally, the paper identifies gaps and future prospects, arguing that India has the potential to bridge the divide between international recognition and domestic realisation of environmental human rights.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

## **II. THE RIGHT TO A HEALTHY ENVIRONMENT IN INTERNATIONAL LAW:**

The acknowledgment of a right to a healthy environment has evolved progressively through the interplay of international environmental law and international human rights law. The right to a healthy environment has historically developed through "*soft law*" instruments, regional treaties, and progressive judicial interpretation, in contrast to civil and political rights enshrined in binding treaties like the *International Covenant on Civil and Political Rights (ICCPR)*. The transition from aspiration to enforceable norm exemplifies the dynamism and fragmentation of international law in this domain.

### **II.I EARLY FOUNDATIONS: STOCKHOLM TO RIO:**

The 1972 United Nations Conference on the Human Environment in Stockholm marked the first explicit link between human rights and environmental protection at the international level. Principle 1 of the Stockholm Declaration declared that humans have "*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.*"<sup>8</sup> Although non-binding, the Stockholm Declaration set the normative foundation for environmental human rights. Two decades later, the 1992 Rio Declaration on Environment and Development further strengthened the human rights-environment nexus. Principle 10 stressed the importance of access to information, public participation, and access to justice in environmental matters, laying the groundwork for procedural environmental rights.<sup>9</sup> The Rio Declaration thus not only reiterated the substantive right to a healthy environment but also articulated procedural guarantees necessary for its realisation.

### **II.II REGIONAL HUMAN RIGHTS SYSTEMS:**

<sup>8</sup> Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) (16 June 1972) UN Doc A/CONF.48/14/Rev.1.

<sup>9</sup> Rio Declaration on Environment and Development (13 June 1992) UN Doc A/CONF.151/26 (vol I).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

Regional human rights systems played a pivotal role in transforming the right into a legally enforceable norm. The African Charter on Human and Peoples' Rights (1981) expressly recognised the right of peoples to a "general satisfactory environment favourable to their development."<sup>10</sup> The Inter-American Court of Human Rights, in its Advisory Opinion OC-23/17, affirmed the right to a healthy environment as an autonomous right under the American Convention on Human Rights.<sup>11</sup> Similarly, the Aarhus Convention (1998), although regional to Europe, advanced procedural rights by legally obligating States to ensure access to environmental information and participation in decision-making. These regional developments created persuasive precedents, contributing to the gradual crystallization of the right at the global level.

### **II.III UN HUMAN RIGHTS BODIES AND RECOGNITION:**

Within the UN system, the Special Rapporteur on Human Rights and the Environment, established in 2012, systematically advanced the normative framework by identifying core obligations of States. In 2021, the Human Rights Council adopted Resolution 48/13, recognising for the first time at the UN level that "*a clean, healthy and sustainable environment is a human right*."<sup>12</sup> Although a General Assembly resolution followed in 2022, critics argue that the right remains largely aspirational without codification in a binding treaty. However, the growing jurisprudence of treaty bodies such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights reflects an emerging consensus that environmental degradation can constitute a violation of existing human rights, such as the rights to life, health, water, and food.<sup>13</sup>

<sup>10</sup> African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, art 24.

<sup>11</sup> Inter-American Court of Human Rights, Advisory Opinion OC-23/17 on the Environment and Human Rights (15 November 2017).

<sup>12</sup> UNHRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.

<sup>13</sup> See eg Human Rights Committee, *Portillo Cáceres v Paraguay* (Views, 20 September 2019) UN Doc CCPR/C/126/D/2751/2016.



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

## **II.IV ICJ AND THE MOVE TOWARDS CUSTOMARY LAW:**

A landmark development occurred in 2025 when the International Court of Justice delivered its advisory opinion on the right to a healthy environment. For the first time, the ICJ affirmed that States have obligations under customary international law to prevent environmental harm that undermines the enjoyment of human rights.<sup>14</sup> The Court highlighted that the right is not merely derivative of other rights but stands as a freestanding entitlement, binding upon all States. The advisory opinion is expected to influence both international negotiations and domestic courts, offering a strong normative and legal foundation. Importantly, India had intervened during the advisory proceedings, supporting recognition of the right while emphasising the principle of equity and differentiated responsibilities.

## **II.V THE RIGHT TO ENVIRONMENT AND SUSTAINABLE DEVELOPMENT:**

The recognition of a healthy environment as a human right has also been closely tied to the discourse on sustainable development. *The Brundtland Report (1987) emphasised the need to balance environmental protection with economic development.*<sup>15</sup> *Sustainable development principles have since been incorporated into the Rio+20 outcome document and the 2030 Agenda for Sustainable Development. Goal 16 (access to justice) and Goal 13 (climate action)* explicitly link human rights and environmental governance. For developing countries like India, sustainable development has served as the bridge between environmental rights and developmental imperatives. By framing environmental protection as integral to human dignity and justice, the right to a healthy environment is increasingly viewed as indispensable to achieving the Sustainable Development Goals (SDGs).

## **II.VI CRITIQUES AND CHALLENGES:**

<sup>14</sup> Request for Advisory Opinion on the Right to a Healthy Environment (Advisory Opinion) [2025] ICJ Rep (forthcoming).

<sup>15</sup> World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

Despite these advances, critics question whether the right to a healthy environment risks duplication or dilution of existing rights, such as the rights to life, health, or water. Others argue that recognition without binding obligations creates a “*feel-good*” right with limited enforceability. Moreover, the lack of uniformity in scope—whether the right is substantive, procedural, or both—continues to generate doctrinal uncertainty. Nevertheless, the trajectory of international law demonstrates a growing consolidation. From Stockholm’s aspirational statements to the ICJ’s authoritative pronouncement, the right to a healthy environment is increasingly recognised as both a moral imperative and a legal entitlement.

### **III. INDIAN CONSTITUTIONAL AND JUDICIAL FOUNDATIONS:**

India is one of the best examples of how the courts have come up with new ways to protect the right to a healthy environment. The Constitution of India does not specifically enumerate environmental rights; however, the Supreme Court and High Courts have innovatively construed fundamental rights and directive principles to include environmental protection. This body of law has changed environmental rights from goals for policy to rights that can be enforced by the Constitution.

#### **III.I CONSTITUTIONAL PROVISIONS AND EARLY DEVELOPMENTS:**

The Indian Constitution, adopted in 1950, did not originally contain specific provisions on the environment. The 42nd Amendment of 1976 introduced Article 48A, directing the State to “*endeavour to protect and improve the environment,*” and Article 51A(g), imposing a fundamental duty on citizens to protect and improve the natural environment.<sup>16</sup> However, as directive principles and duties, these provisions were non-justiciable. It was through Article 21—guaranteeing the right to life and personal liberty—that the judiciary expanded constitutional protection to include the right to a healthy environment. Beginning in the late 1970s, the Supreme Court adopted an expansive interpretation of Article 21, holding that “*life*”

<sup>16</sup> Constitution of India 1950, art 48A and art 51A(g).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

means more than mere animal existence and includes the right to live with human dignity.<sup>17</sup> This interpretation provided the foundation for linking environmental protection with the right to life.

### **III.II LANDMARK JUDICIAL DECISIONS:**

***Several landmark decisions illustrate how Indian courts incorporated environmental rights into constitutional law:***

- ***Subhash Kumar vs. State of Bihar (1991):*** The Court held that the right to life includes the right to enjoyment of pollution-free water and air.<sup>18</sup> Although the petition was dismissed on factual grounds, the case marked the formal recognition of the right to a clean environment under Article 21.
- ***MC Mehta vs. Union of India (Oleum Gas Leak Case, 1987):*** Following a gas leak in Delhi, the Court expanded the principle of absolute liability for hazardous industries and underscored that environmental protection is integral to the right to life.<sup>19</sup> This case established the doctrine that enterprises engaged in inherently dangerous activities owe a non-delegable duty to ensure safety.
- ***Vellore Citizens' Welfare Forum vs. Union of India (1996):*** The Court explicitly incorporated the principles of sustainable development, the precautionary principle, and the polluter-pays principle into Indian law, affirming that these principles are part of the law of the land.<sup>20</sup> This decision not only advanced domestic jurisprudence but also aligned Indian law with emerging international norms.
- ***M.C. Mehta vs. Union of India (Taj Trapezium Case, 1997):*** The Court ordered relocation and conversion of industries to protect the Taj Mahal from air pollution, emphasising cultural heritage as part of environmental rights.<sup>21</sup>

<sup>17</sup> Maneka Gandhi v Union of India (1978) 1 SCC 248.

<sup>18</sup> Subhash Kumar v State of Bihar (1991) 1 SCC 598.

<sup>19</sup> MC Mehta v Union of India (Oleum Gas Leak Case) (1987) 1 SCC 395.

<sup>20</sup> Vellore Citizens' Welfare Forum v Union of India (1996) 5 SCC 647.

<sup>21</sup> MC Mehta v Union of India (Taj Trapezium Case) (1997) 2 SCC 353.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

- ***Indian Council for Enviro-Legal Action vs. Union of India (1996):*** The Court reinforced the polluter-pays principle, holding industries absolutely liable for remediation of environmental damage.<sup>22</sup>

These cases illustrate how Indian courts, through creative interpretation, effectively constitutionalized environmental protection and recognised a justiciable right to a healthy environment.

### **III.III PROCEDURAL ENVIRONMENTAL RIGHTS:**

Indian jurisprudence has also advanced procedural environmental rights, echoing international developments such as the Aarhus Convention. The Supreme Court has recognised the right to access environmental information and public participation in decision-making. In ***Research Foundation for Science, Technology and Natural Resource Policy vs. Union of India***, the Court held that access to information is a component of Article 21.<sup>23</sup> ***Similarly, the Court has entertained public interest litigations (PILs) by citizens and NGOs***, lowering barriers to environmental justice. The innovation of PILs has been especially significant. Unlike traditional standing rules, PILs allow concerned citizens to approach the courts on behalf of affected communities. This mechanism has empowered marginalised groups and enhanced access to justice, effectively operationalizing procedural dimensions of the right to a healthy environment.

### **III.IV LEGISLATIVE AND INSTITUTIONAL FRAMEWORK:**

***Parallel to judicial developments, India has enacted a robust statutory framework for environmental protection:***

- ***Environment (Protection) Act 1986***, enacted in response to the Bhopal Gas Tragedy, provides the central government with sweeping powers to protect and improve the environment.

<sup>22</sup> Indian Council for Enviro-Legal Action v Union of India (1996) 3 SCC 212.

<sup>23</sup> Research Foundation for Science, Technology and Natural Resource Policy vs. Union of India (2005) 10 SCC 510.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

- *Air (Prevention and Control of Pollution) Act 1981 and Water (Prevention and Control of Pollution) Act 1974 establish regulatory authorities for pollution control.*
- *National Green Tribunal (NGT) Act 2010 created a specialized tribunal with powers to adjudicate environmental disputes and enforce environmental rights effectively.*

The NGT has played a critical role in enforcing the right to a healthy environment by delivering speedy remedies, imposing penalties, and monitoring compliance. Cases such as ***Almitra H Patel vs. Union of India (2017)***, concerning municipal solid waste management, illustrate the NGT's proactive approach.<sup>24</sup>

### **III.V LIMITATIONS AND CHALLENGES:**

***Despite this progressive framework, several limitations remain:***

1. ***Implementation Gap:*** While judicial pronouncements are progressive, compliance and enforcement remain inconsistent due to weak regulatory capacity and bureaucratic inertia.
2. ***Over-reliance on judiciary:*** Excessive judicial activism sometimes substitutes rather than supplements legislative and executive action, raising concerns about democratic legitimacy.
3. ***Inequitable access:*** Vulnerable and marginalised groups often face barriers in accessing remedies, despite the liberal PIL framework.
4. ***Industrial pressures:*** Economic growth imperatives often override environmental concerns, leading to dilution of safeguards.

Thus, while India has contributed significantly to environmental constitutionalism, the challenge lies in translating recognition into effective implementation.

### **IV. COMPARATIVE ANALYSIS: INDIA AND THE GLOBAL SOUTH:**

<sup>24</sup> Almitra H Patel v Union of India (2017) 15 SCC 533.



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

The recognition of the right to a healthy environment has not been uniform across jurisdictions. While India has developed a distinctive model of environmental constitutionalism rooted in judicial activism, other Global South countries have followed alternative approaches, including explicit constitutional recognition and regional human rights protection. A comparative analysis highlights both the uniqueness of India's contribution and the shared challenges faced by developing countries in operationalizing environmental rights.

#### **IV.I LATIN AMERICA: CONSTITUTIONALIZING ENVIRONMENTAL RIGHTS:**

Latin America has been at the forefront of explicitly constitutionalizing the right to a healthy environment. *The 2008 Constitution of Ecuador was the first in the world to recognise the rights of nature (Pachamama)*, granting ecosystems legal personhood and enforceable rights to exist, persist, and regenerate.<sup>25</sup> Similarly, Colombia's Constitutional Court in 2018 recognised the Atrato River as a legal subject with rights, thereby extending environmental protection beyond anthropocentric frameworks.<sup>26</sup> These developments illustrate a radical shift towards ecocentric jurisprudence, where environmental protection is not merely derivative of human rights but stands as an independent entitlement. Compared to India, which has read environmental rights into Article 21, Latin American countries have adopted a more explicit and expansive constitutional framework. Nevertheless, India's jurisprudence aligns with Latin America in recognising intergenerational equity and sustainable development as guiding principles.

#### **IV.II AFRICA: REGIONAL AND DOMESTIC DEVELOPMENTS:**

*The African Charter on Human and Peoples' Rights (1981)* expressly guarantees the right of peoples to a satisfactory environment.<sup>27</sup> This provision has been judicially enforced by the

<sup>25</sup> Constitution of Ecuador 2008, arts 71–74.

<sup>26</sup> *Future Generations v Ministry of the Environment and Others* (Colombian Constitutional Court, Judgment T-622/16, 2018).

<sup>27</sup> *African Charter on Human and Peoples' Rights* (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, art 24.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

***African Commission on Human and Peoples' Rights in Social and Economic Rights Action Centre (SERAC) vs. Nigeria (2001)***, where Nigeria was found in violation for failing to prevent oil pollution in Ogoniland.<sup>28</sup> At the domestic level, countries such as South Africa have incorporated environmental rights into their constitutions. Section 24 of the South African Constitution guarantees the right to an environment not harmful to health or well-being and obliges the state to take reasonable measures to prevent pollution and ecological degradation.<sup>29</sup> South Africa's model contrasts with India's judge-made constitutionalism, as it provides explicit textual recognition alongside enforceability.

#### **IV.III ASIA: PARALLELS AND DIVERGENCES:**

Within Asia, several jurisdictions have also embraced environmental rights. The Constitution of Nepal (2015) explicitly recognises the right to a clean environment as a fundamental right under Article 30.<sup>30</sup> The Supreme Court of Bangladesh has followed India's example by reading environmental rights into the constitutional right to life, adopting principles such as polluter-pays and precautionary principle in cases like ***Dr Mohiuddin Farooque vs. Bangladesh***.<sup>31</sup> Pakistan has also witnessed judicial recognition of environmental rights. In ***Shehla Zia vs. WAPDA (1994)***, the Supreme Court held that the right to life under Article 9 includes the right to a clean environment.<sup>32</sup> These cases reflect the influence of Indian jurisprudence, particularly in neighbouring jurisdictions where courts have relied on Indian precedents in interpreting constitutional provisions.

#### **IV.IV INDIA'S DISTINCTIVE MODEL:**

***India's contribution is distinctive in several respects:***

1. ***Judicial Innovation:*** *Unlike countries with explicit constitutional guarantees, India's environmental rights emerged primarily through judicial interpretation*

<sup>28</sup> Social and Economic Rights Action Centre (SERAC) and Another v Nigeria (2001) AHRLR 60 (ACHPR 2001).

<sup>29</sup> Constitution of the Republic of South Africa 1996, s 24.

<sup>30</sup> Constitution of Nepal 2015, art 30.

<sup>31</sup> Dr Mohiuddin Farooque v Bangladesh (1997) 49 DLR (AD) 1.

<sup>32</sup> Shehla Zia v WAPDA (1994) SCMR 693 (Supreme Court of Pakistan).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com),***

of Article 21. This demonstrates the creative potential of constitutional adjudication in expanding rights frameworks.

2. ***Integration of International Norms:*** Indian courts have explicitly incorporated international principles such as sustainable development, precautionary principle, and polluter-pays into domestic law, thereby aligning national jurisprudence with global standards.
3. ***Public Interest Litigation (PIL):*** The liberalisation of standing rules through PILs has democratized environmental litigation, enabling citizens and NGOs to bring environmental issues before courts. This procedural innovation has influenced other Global South jurisdictions, particularly Bangladesh and Nepal.
4. ***Balancing Development and Environment:*** India's model reflects a pragmatic balance between environmental protection and developmental imperatives. By framing environmental protection as integral to the right to life, Indian jurisprudence situates environmental rights within the broader framework of socio-economic justice.

#### **IV.V SHARED CHALLENGES IN THE GLOBAL SOUTH:**

***Despite variations, Global South countries share common challenges in operationalising environmental rights:***

- ***Implementation Deficits:*** Whether through judicial pronouncements or constitutional provisions, enforcement remains weak due to limited institutional capacity, corruption, and lack of resources.
- ***Developmental Pressures:*** Developing countries face the dilemma of balancing economic growth with environmental protection. Industrialization, infrastructure projects, and extractive industries often take precedence over environmental rights.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

- *Inequality and Environmental Justice: Vulnerable and marginalised communities disproportionately bear the brunt of environmental degradation, while benefits of economic development accrue to elites.*
- ***Climate Change Vulnerabilities:*** *Countries in the Global South are among the most affected by climate change impacts such as floods, droughts, and forced migration, making the right to a healthy environment even more critical.*

#### **IV.VI INDIA'S INFLUENCE ON GLOBAL SOUTH**

##### **JURISPRUDENCE:**

India's jurisprudence has served as a model for several Global South jurisdictions. Courts in Bangladesh, Nepal, and Pakistan have frequently cited Indian decisions in developing their own environmental rights frameworks. Moreover, India's articulation of principles like intergenerational equity has resonated in global debates, influencing both domestic and international fora. Thus, while Latin America has pioneered explicit constitutional recognition and Africa has advanced regional enforcement, India's contribution lies in judicial creativity and procedural innovations that have made environmental rights more accessible. Together, these models illustrate the diverse pathways through which Global South countries have advanced the right to a healthy environment, enriching global discourse.

#### **V. CONTEMPORARY CHALLENGES AND GAPS:**

Despite India's remarkable jurisprudence and its influence on international discourse, serious gaps remain between recognition and realisation of the right to a healthy environment. These gaps are not unique to India but resonate across the Global South, where the struggle for environmental justice often collides with developmental imperatives and institutional limitations. Understanding these challenges is essential to assess the effectiveness of India's contribution and the future trajectory of environmental human rights.

##### **V.I THE IMPLEMENTATION GAP:**



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

One of the most persistent problems is the wide gap between judicial pronouncements and their actual enforcement. Courts in India have delivered progressive judgments, yet compliance is uneven and often delayed. Regulatory agencies such as the Central Pollution Control Board and State Pollution Control Boards suffer from chronic underfunding, lack of technical capacity, and political interference.<sup>33</sup> The consequence is that environmental degradation continues unabated even in areas where courts have issued strong directions, such as air pollution in Delhi or river pollution in the Ganga. This implementation deficit undermines the transformative potential of judicial recognition. Without robust institutional mechanisms, the right to a healthy environment risk remaining a “*paper right*,” celebrated in courtrooms but ineffective in practice.

## **V.II OVER-RELIANCE ON JUDICIAL ACTIVISM:**

The centrality of the judiciary in advancing environmental rights has been both a strength and a weakness. While judicial creativity has filled legislative and executive gaps, it has also led to concerns about separation of powers. Courts are increasingly burdened with issues better suited for specialized agencies, such as emission standards, waste management, and infrastructure approvals. This over-reliance on judicial activism risks judicial overreach and weakens the accountability of other branches of government.

For example, in *M.C. Mehta vs. Union of India*, the Supreme Court issued detailed orders on vehicular emissions and industrial relocation, effectively performing regulatory functions.<sup>34</sup> While these interventions produced short-term benefits, they highlight structural deficiencies in governance that judicial activism alone cannot resolve.

## **V.III ENVIRONMENTAL INEQUALITY AND JUSTICE:**

Environmental degradation in India disproportionately affects vulnerable and marginalised communities. Tribals, Dalits, fisherfolk, and rural poor often bear the brunt of industrial pollution, deforestation, and displacement caused by large-scale projects. The Bhopal Gas

<sup>33</sup> Centre for Policy Research, State Pollution Control Boards: Capacity and Performance Assessment (2019).

<sup>34</sup> MC Mehta v Union of India (Vehicular Pollution Case) (1998) 6 SCC 63.



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

Tragedy remains a stark reminder of how the poorest citizens suffer the gravest consequences of environmental disasters while corporations and state actors evade full accountability.<sup>35</sup> Moreover, urban-rural divides exacerbate inequality. While urban elites may benefit from environmental litigation that curbs industrial pollution, rural communities often lack access to courts and legal remedies. Environmental rights, therefore, risk reproducing social hierarchies unless issues of equity and distributive justice are directly addressed.

#### **V.IV CLIMATE CHANGE AS AN EMERGING DIMENSION:**

Climate change adds new complexities to the right to a healthy environment. India is among the most climate-vulnerable countries, facing rising temperatures, floods, droughts, and sea-level rise. These impacts threaten livelihoods, displace communities, and intensify existing inequalities. Yet, Indian courts have only recently begun to address climate change explicitly within the framework of Article 21. *In Ridhima Pandey vs. Union of India*, a nine-year-old petitioner argued that the State's failure to mitigate climate change violated her fundamental rights.<sup>36</sup> Although the case did not produce a landmark ruling, it reflects growing attempts to frame climate change as a rights issue. The ICJ's 2025 advisory opinion is likely to further strengthen this jurisprudence by providing a global legal foundation for climate-related human rights claims.

#### **V.V CORPORATE ACCOUNTABILITY AND ENVIRONMENTAL RIGHTS:**

Another major gap concerns corporate accountability. While principles such as polluter-pays have been recognised, enforcement against powerful corporations remains weak. Multinational corporations often exploit regulatory loopholes or benefit from state complicity. The Bhopal case again serves as a cautionary tale: despite judicial efforts, victims struggled for decades to obtain adequate compensation and remediation.<sup>37</sup> The rise of public-private partnerships in infrastructure and energy further complicates accountability. As India pursues rapid

<sup>35</sup> U Baxi and A Dhanda, *Valiant Victims and Lethal Litigation: The Bhopal Case* (Indian Law Institute 1990).

<sup>36</sup> *Ridhima Pandey v Union of India* (National Green Tribunal, 2017) OA No 187/2017.

<sup>37</sup> S Shastri, *Environmental Law* (7th edn, Eastern Book Company 2021) 543–550.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

industrialization, ensuring that corporations respect the right to a healthy environment is critical. Internationally, debates on business and human rights, particularly under the UN Guiding Principles on Business and Human Rights, may offer frameworks for strengthening accountability in India.

## **V.VI FRAGMENTATION OF LEGAL AND INSTITUTIONAL FRAMEWORKS:**

India's environmental governance is split up among many laws, agencies, and areas of law. When mandates overlap, it makes things unclear, and when coordination is weak, it makes enforcement less effective. For example, pollution control boards, state governments, and the National Green Tribunal all have a say in river pollution, which leads to a bureaucratic deadlock. The absence of a comprehensive, rights-based environmental code contributes to uncertainty. While the judiciary has attempted to harmonize principles, the lack of legislative codification weakens consistency and predictability in environmental governance.

## **V.VII THE INTERNATIONAL DIMENSION:**

Finally, India's insistence on equity and common but differentiated responsibilities in international negotiations sometimes creates tension between its domestic environmental obligations and global expectations. While India has championed climate justice at the UNFCCC, critics argue that its domestic policies—such as continued reliance on coal—undermine its environmental rights commitments. Bridging this domestic-international gap remains a central challenge.

## **V.VIII SYNTHESIS:**

These challenges underscore the paradox of India's contribution: it has offered some of the most innovative jurisprudence on environmental rights, yet its implementation remains fragile. The lesson for international law is clear: recognition of the right to a healthy environment, whether judicial or legislative, must be accompanied by strong institutional mechanisms,

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

equity-sensitive frameworks, and accountability structures. Without these, the right risks become aspirational rhetoric rather than lived reality.

## **VI. INDIA'S ROLE IN INTERNATIONAL LAW:**

India's contribution to the global development of the right to a healthy environment extends beyond its domestic jurisprudence. As a major developing country with significant geopolitical weight, India has played an important role in shaping international environmental law and human rights discourse. Its positions in multilateral negotiations, its advocacy for equity, and its leadership in certain international initiatives reflect both the promise and the tensions of linking human rights and environmental protection at the global level.

### **VI.I INDIA AT MULTILATERAL ENVIRONMENTAL NEGOTIATIONS:**

India has been an active participant in international environmental negotiations since the 1972 Stockholm Conference. At Stockholm, Prime Minister Indira Gandhi famously declared that "poverty is the worst polluter," highlighting the link between environmental degradation and socio-economic inequality.<sup>38</sup> This statement has since become emblematic of India's approach: environmental protection cannot be divorced from developmental imperatives. *At the 1992 Rio Earth Summit, India strongly supported the principle of common but differentiated responsibilities (CBDR),* ensuring that international environmental law recognised the historical responsibility of developed countries for environmental degradation.<sup>39</sup> This principle remains a cornerstone of India's negotiating stance in forums such as the *UN Framework Convention on Climate Change (UNFCCC)*.

### **VI.II INDIA AND THE PARIS AGREEMENT:**

<sup>38</sup> Indira Gandhi, Address at the UN Conference on the Human Environment (Stockholm, 14 June 1972), reprinted in Selected Speeches and Writings of Indira Gandhi (Publications Division, Government of India 1972).

<sup>39</sup> Rio Declaration on Environment and Development (13 June 1992) UN Doc A/CONF.151/26 (vol I) principle

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

India played a pivotal role in shaping the Paris Agreement of 2015, which embodies a hybrid approach of nationally determined contributions (NDCs). While committing to ambitious targets, including reducing emissions intensity of GDP by 33–35% by 2030 and achieving 40% renewable energy capacity, India has consistently argued for climate justice and differentiated responsibilities.<sup>40</sup> *In 2021, Prime Minister Narendra Modi announced India's target of achieving net-zero emissions by 2070 at COP26 in Glasgow.*<sup>41</sup> While criticised as less ambitious compared to developed countries' timelines, India's pledge reflects its balancing act between developmental needs and global climate obligations. The framing of climate action in terms of justice and equity aligns with the recognition of a right to a healthy environment that accommodates the realities of developing countries.

### **VI.III LEADERSHIP IN SOUTH-SOUTH COOPERATION:**

India has demonstrated leadership in South-South environmental cooperation. *The launch of the International Solar Alliance (ISA) in 2015*, co-founded with France, exemplifies India's proactive role in promoting renewable energy globally.<sup>42</sup> With over 100 member countries, the ISA represents a unique platform for accelerating the energy transition in the Global South, linking sustainable development with environmental rights. Similarly, India has advanced regional cooperation in the Bay of Bengal Initiative for *Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)* and the *Indian Ocean Rim Association (IORA)*, focusing on marine environmental protection and disaster resilience. These initiatives strengthen India's role in promoting environmental human rights through regional diplomacy.

### **VI.IV INDIA AND HUMAN RIGHTS FORUMS:**

India's engagement with human rights bodies on environmental issues has been more cautious. While it supported *UNHRC Resolution 48/13 (2021)* recognising the right to a healthy environment, India has often emphasised state sovereignty and non-interference in domestic

<sup>40</sup> UNFCCC, India's Nationally Determined Contribution (2015).

<sup>41</sup> UNFCCC COP26, 'India's National Statement at COP26 Summit' (Glasgow, 1 November 2021).

<sup>42</sup> International Solar Alliance, Framework Agreement on the Establishment of the International Solar Alliance (2015).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

affairs.<sup>43</sup> This reflects a tension: India champions environmental rights domestically through its judiciary but remains cautious about binding international obligations that could constrain policy space. Nevertheless, India's submissions before the International Court of Justice in 2025—during advisory proceedings on the right to a healthy environment—demonstrated a willingness to support recognition of the right in international law, provided equity and differentiated responsibilities were preserved.<sup>44</sup> This stance illustrates India's strategy of shaping global norms while safeguarding national developmental priorities.

## **VI.V INDIA'S CONTRIBUTION TO INTERNATIONAL JURISPRUDENCE:**

Indian judicial decisions have been cited in international and comparative jurisprudence. Principles such as intergenerational equity, developed in *MC Mehta v Kamal Nath* (1997),<sup>45</sup> have influenced debates in international forums and have parallels in cases such as the *Philippine Supreme Court's Oposa vs. Factoran* (1993).<sup>46</sup> By articulating universal principles through domestic adjudication, Indian courts have indirectly contributed to the evolution of international environmental law.

## **VI.VI TENSIONS AND CONTRADICTIONS:**

Despite its contributions, India's role in international law is not without contradictions. Its continued reliance on coal and fossil fuels raises questions about its commitment to environmental rights. Domestic policies sometimes conflict with international advocacy, such as dilution of environmental impact assessment processes in favour of industrial projects. Moreover, India's cautious approach in human rights forums reflects an underlying ambivalence: while judicial activism has advanced environmental rights at home, the state

<sup>43</sup> UNHRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.

<sup>44</sup> Request for Advisory Opinion on the Right to a Healthy Environment (Advisory Opinion) [2025] ICJ Rep (forthcoming).

<sup>45</sup> *MC Mehta v Kamal Nath* (1997) 1 SCC 388.

<sup>46</sup> *Oposa v Factoran* (G.R. No. 101083, 30 July 1993, Supreme Court of the Philippines).



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

remains wary of binding obligations that may limit its developmental autonomy. This duality illustrates the broader dilemma of the Global South in reconciling environmental justice with economic development.

## **VI.VII ASSESSMENT:**

India's role in international law reveals a complex but constructive engagement. By championing equity and justice in climate negotiations, leading renewable energy initiatives, and contributing jurisprudential innovations, India has significantly enriched the global recognition of environmental human rights. Yet, the credibility of this contribution depends on whether India can align its domestic policies with its international commitments, ensuring that environmental rights are realized not only in legal texts but in the lived experience of its citizens.

## **VII. FUTURE PROSPECTS:**

The acknowledgment of the right to a healthy environment in India and international law signifies a pivotal advancement; however, its future development hinges on the efficacy of its institutionalization, implementation, and adaptation to evolving global challenges. India's challenge is not only to maintain its innovative jurisprudence but also to integrate it with more robust legislative frameworks, efficient enforcement, and international obligations. The global challenge is to turn hopeful statements into legal obligations while still making sure that the right is sensitive to the needs of the Global South as it develops.

### **VII.I TOWARDS CONSTITUTIONAL CODIFICATION:**

While Indian courts have effectively read the right to a healthy environment into Article 21, the absence of explicit constitutional recognition remains a limitation. A constitutional amendment incorporating the right to a clean and healthy environment as a fundamental right would provide greater clarity, strengthen its enforceability, and reduce dependence on judicial creativity. Such codification would also align India with countries like South Africa, Ecuador, and Nepal, where environmental rights enjoy explicit constitutional status. By enshrining the

**Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).**

right in clear constitutional text, India could institutionalize its judicial innovations and provide a durable safeguard against political or judicial retreat.

## **VII.II STRENGTHENING LEGISLATIVE AND INSTITUTIONAL FRAMEWORKS:**

A fragmented statutory regime undermines consistency and predictability. India could consider adopting a comprehensive Environmental Rights Act that harmonizes existing laws, codifies environmental principles, and clarifies institutional mandates. Such an Act could also provide for independent oversight mechanisms, citizen participation, and remedies for violations. Strengthening institutions such as the National Green Tribunal, enhancing capacity of pollution control boards, and ensuring accountability of corporations would be critical steps towards making environmental rights effective.

## **VII.III INTEGRATING CLIMATE JUSTICE INTO ENVIRONMENTAL RIGHTS:**

Climate change is the defining environmental challenge of the 21st century, and its integration into environmental rights discourse is essential. Indian courts and policymakers must increasingly recognise that environmental rights cannot be realised without robust climate action. This requires mainstreaming climate adaptation and mitigation measures into rights frameworks. For instance, recognising the rights of climate migrants, ensuring access to clean energy, and protecting vulnerable communities from climate-induced disasters would represent a progressive application of the right to a healthy environment. India's advocacy for climate justice at the international level can be reinforced by domestic jurisprudence and policies that operationalize this principle.

## **VII.IV INTERGENERATIONAL EQUITY AND FUTURE GENERATIONS:**

The principle of intergenerational equity, already recognised by Indian courts, offers fertile ground for future development. Explicitly linking environmental rights to the rights of future

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

generations would strengthen long-term accountability and align India with global trends in climate litigation. Cases such as *Oposa vs. Factoran* in the Philippines demonstrate how courts can frame environmental protection as a duty owed to future generations.<sup>47</sup> India's jurisprudence could expand on this by developing clearer frameworks for balancing present development with future sustainability.

## **VII.V CORPORATE ACCOUNTABILITY AND BUSINESS**

### **RESPONSIBILITIES:**

As India pursues rapid industrialization, ensuring corporate accountability becomes central to the future of environmental rights. India could draw upon international developments such as the UN Guiding Principles on Business and Human Rights and the ongoing negotiations on a binding treaty on business and human rights. Domestic legislation could be reformed to impose stricter liability on corporations, including mandatory environmental due diligence and disclosure obligations. Such reforms would not only strengthen the polluter-pays principle but also prevent tragedies like Bhopal from recurring. They would also ensure that economic growth does not come at the cost of human rights and environmental degradation.

### **VII.VI EXPANDING PROCEDURAL RIGHTS:**

Even though the courts have recognized it, access to information, public participation, and access to justice are still not very good in India. *The Right to Information Act (2005)* has given people more power, but it isn't being used enough in environmental governance. Future reforms should make environmental impact assessments more open, make the process of consulting stronger, and make it easier to sue for environmental damage. Improving procedural rights would also bring India in line with international agreements like the Aarhus Convention and help create a culture of participatory environmental governance.

### **VII.VII INDIA'S INTERNATIONAL LEADERSHIP:**

<sup>47</sup> *Oposa v Factoran* (G.R. No. 101083, 30 July 1993, Supreme Court of the Philippines).

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

India's future role in international law will be very important. India can improve its reputation as a leader of the Global South by making sure that its domestic policies match its international advocacy. India could become a better global leader by expanding programs like the International Solar Alliance, pushing for adaptation finance for countries that are most at risk, and supporting the codification of environmental rights in binding international agreements. The ICJ's 2025 advisory opinion gives India a unique chance to help change the right to a healthy environment from a soft law principle to a binding norm based on treaties and customs.

### **VII.VIII THE WAY FORWARD:**

The future of environmental rights in India and around the world depends on closing the gap between recognition and realization. This necessitates a transition from judicial innovation to institutional durability, from aspirational pledges to tangible execution, and from disjointed systems to cohesive frameworks. India is in a unique position to show how environmental rights can be balanced with development, fairness, and justice. India can make the right to a healthy environment a reality for current and future generations by adopting constitutional codification, strengthening institutions, integrating climate justice, holding businesses accountable, and improving procedural rights.

---

## **Bibliography:**

---

### **Primary Sources:**

- Constitution of India 1950.
- African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.
- Constitution of the Republic of South Africa 1996.
- Constitution of Ecuador 2008.
- Constitution of Nepal 2015.

***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,***

***Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

- International Solar Alliance, Framework Agreement on the Establishment of the International Solar Alliance (2015).
- Rio Declaration on Environment and Development (13 June 1992) UN Doc A/CONF.151/26 (vol I).
- Stockholm Declaration on the Human Environment (16 June 1972) UN Doc A/CONF.48/14/Rev.1.
- UNGA Res 76/300 (28 July 2022) UN Doc A/RES/76/300.
- UNHRC Res 48/13 (8 October 2021) UN Doc A/HRC/RES/48/13.
- Request for Advisory Opinion on the Right to a Healthy Environment (Advisory Opinion) [2025] ICJ Rep (forthcoming).

**Case Laws:**

- Subhash Kumar v State of Bihar (1991) 1 SCC 598.
- MC Mehta v Union of India (Oleum Gas Leak Case) (1987) 1 SCC 395.
- Vellore Citizens' Welfare Forum v Union of India (1996) 5 SCC 647.
- MC Mehta v Union of India (Taj Trapezium Case) (1997) 2 SCC 353.
- Indian Council for Enviro-Legal Action v Union of India (1996) 3 SCC 212.
- Research Foundation for Science, Technology and Natural Resource Policy v Union of India (2005) 10 SCC 510.
- Almitra H Patel v Union of India (2017) 15 SCC 533.
- MC Mehta v Kamal Nath (1997) 1 SCC 388.
- Ridhima Pandey v Union of India (NGT, 2017) OA No 187/2017.
- Shehla Zia v WAPDA (1994) SCMR 693 (Supreme Court of Pakistan).
- Dr Mohiuddin Farooque v Bangladesh (1997) 49 DLR (AD) 1.
- Oposa v Factoran (G.R. No. 101083, 30 July 1993, Supreme Court of the Philippines).
- Inter-American Court of Human Rights, Advisory Opinion OC-23/17 on the Environment and Human Rights (15 November 2017).



***Title: Human Rights and the Environment: India's Contribution to the  
Emerging Right to a Healthy Environment in International Law,  
Authored By: Tanveer Singh Madhav, Research Scholar  
Rajiv Gandhi National Law University, Patiala,  
Email Id: [tanveersingh2001@yahoo.com](mailto:tanveersingh2001@yahoo.com).***

- Social and Economic Rights Action Centre (SERAC) and Another v Nigeria (2001) AHRLR 60 (ACHPR 2001).

### **Secondary Sources:**

- U Baxi and A Dhanda, Valiant Victims and Lethal Litigation: The Bhopal Case (Indian Law Institute 1990).
- S Shastri, Environmental Law (7th edn, Eastern Book Company 2021).
- Centre for Policy Research, State Pollution Control Boards: Capacity and Performance Assessment (2019).
- World Commission on Environment and Development, Our Common Future (Oxford University Press 1987).

