



## THE ROLE OF GOVERNMENT IN THE PROTECTION OF ENVIRONMENTAL HUMAN RIGHTS

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### ABSTRACT

Environmental human rights have become a central pillar of modern human rights discourse, especially in the context of rapid industrialization, climate change, and ecological degradation. Governments play a critical role as duty-bearers obligated to frame laws, implement policies, enforce environmental standards, and provide judicial remedies to protect these rights. This paper examines the conceptual foundations of environmental human rights, analyzes the governmental mechanisms designed to safeguard them, and evaluates key national and international case laws. It further discusses institutional challenges and offers policy recommendations for enhancing environmental governance. The study argues that stronger governmental action and improved environmental rule of law are essential for ensuring justice, sustainability, and intergenerational equity.

**Keywords:** Environmental human rights, environmental governance, sustainable development, climate change, environmental justice, human rights law.

## 1. INTRODUCTION

Environmental degradation threatens the enjoyment of basic human rights, including the rights to life, health, food, water, and dignity (Boyd, 2018). Recognizing this interdependence, the United Nations General Assembly formally acknowledged the right to a clean, healthy, and sustainable environment as a universal human right (UNGA, 2022). Governments worldwide are therefore required to incorporate environmental rights into national legal frameworks, implement policies for sustainable resource use, and ensure effective judicial mechanisms (Birnie et al., 2009).

In many nations, courts have expanded the interpretation of constitutional rights to include environmental protection. In India, for instance, the Supreme Court has repeatedly held that Article 21, the Right to Life, inherently includes the right to a pollution-free environment (Subhash Kumar v. State of Bihar, 1991). Thus, environmental human rights now serve as a legal and moral benchmark for evaluating state responsibility.

## 2. LITERATURE REVIEW

Scholars argue that environmental human rights provide a structured framework for integrating ecological concerns with human rights obligations (Shelton, 2010). Gellers (2015) highlights that more than 100 national constitutions recognize environmental rights, demonstrating a global shift toward environmental constitutionalism. Knox (2013) emphasizes that the UN's environmental mandate requires states to protect citizens from environmental harm caused by state and non-state actors.

Peel and Osofsky (2018) explain that judicial intervention, particularly climate litigation, has increasingly shaped state obligations. Internationally, environmental treaties such as the Stockholm Declaration (1972), Rio Declaration (1992), and Paris Agreement (2015) have strengthened state responsibilities through principles like precaution, polluter pays, and intergenerational equity.

### 3. METHODOLOGY

This study adopts a *doctrinal research methodology*, relying on:

1. **Primary sources:** Constitutions, statutes, case laws, international treaties, and government policies.
2. **Secondary sources:** Books, journal articles, UN reports, and scholarly commentaries.

The research analyzes legal frameworks across jurisdictions, focusing particularly on India, while comparing global trends in environmental human rights protection.

### 4. CONCEPTUAL FRAMEWORK: ENVIRONMENTAL HUMAN RIGHTS

#### 4.1 Definition and Scope

Environmental human rights encompass the entitlement of individuals to live in a clean and sustainable environment, which is essential for the enjoyment of all other rights (Atapattu, 2019).

#### These rights include:

- Right to clean air and water
- Right to sanitation
- Right to information
- Right to climate stability
- Right to participate in environmental governance
- Right to seek environmental justice

#### 4.2 International Recognition

#### Key instruments include:

- **Stockholm Declaration, 1972** – first recognition of environmental rights.
- **Aarhus Convention, 1998** – rights to information, participation, justice.
- **Paris Agreement, 2015** – climate justice and sustainable development.

- **UNGA Resolution 76/300 (2022)** – universal recognition of the right to a healthy environment.

## 5. GOVERNMENTAL ROLE IN PROTECTING ENVIRONMENTAL HUMAN RIGHTS

### 5.1 Legislative Responsibilities

Governments enact laws such as pollution control acts, climate change policies, and conservation statutes. In India, key legislations include:

- Environment (Protection) Act, 1986
- Air (Prevention and Control of Pollution) Act, 1981
- Water (Prevention and Control of Pollution) Act, 1974
- Forest Conservation Act, 1980

These laws operationalize constitutional environmental rights.

### 5.2 Regulatory Enforcement

Regulatory agencies such as the Central Pollution Control Board (CPCB) ensure compliance with environmental standards. Enforcement mechanisms include:

- Environmental Impact Assessment (MoEFCC, 2016)
- Monitoring systems for emissions and effluents
- Penalties for non-compliance
- Mandated environmental audits

Weak enforcement remains a global concern (UNEP, 2019).

### 5.3 Judicial and Quasi-Judicial Remedies

Environmental courts and tribunals facilitate access to justice. In India, the National Green Tribunal (NGT) plays a crucial role in adjudicating environmental violations. Important cases include:

- *M.C. Mehta v. Union of India* (Vehicular pollution, industrial hazards)
- *A.P. Pollution Control Board v. Nayudu* (need for scientific expertise)
- *Vellore Citizens Welfare Forum v. Union of India* (precautionary and polluter pays principles)

***Internationally, courts have also established state obligations:***

- *Urgenda v. Netherlands* (2015) – mandatory emission reduction.
- *Juliana v. United States* – youth climate rights.
- *Opsoa v. Factoran* (1993) – intergenerational equity.

#### **5.4 Public Participation and Transparency**

The Aarhus model demonstrates that public participation improves environmental accountability (Kiss & Shelton, 2007). Government duties include:

- Public hearings for project approvals
- Access to environmental information
- Consultation with affected communities

#### **5.5 Protection of Vulnerable Groups**

Indigenous peoples, children, women, and low-income communities face disproportionate environmental burdens (WHO, 2018). Governments must adopt policies based on environmental justice and equity.

#### **5.6 International Cooperation**

Climate change, biodiversity conservation, and pollution control require coordinated action. Governments participate in global treaties, climate negotiations, and international monitoring initiatives (IPCC, 2021).

### **6. DISCUSSION**

Despite increasing recognition of environmental rights, many governments struggle with enforcement due to corruption, institutional weaknesses, and conflict between economic growth

and environmental protection (Knox, 2013). Courts worldwide have responded by expanding environmental jurisprudence and requiring states to adopt precautionary measures.

## 7. CONCLUSION

Environmental human rights are fundamental to human dignity, sustainability, and intergenerational equity. Governments carry the primary obligation to ensure these rights through legislation, regulation, enforcement, public participation, and judicial remedies. The growing body of jurisprudence—ranging from *M.C. Mehta* in India to *Urgenda* in Europe—demonstrates increasing judicial willingness to hold states accountable.

However, significant challenges persist: weak governance, insufficient monitoring systems, corruption, and climate impacts. To address these challenges, governments must strengthen environmental rule of law, empower regulatory institutions, expand public participation, and integrate environmental rights into all development policies. Ensuring environmental justice requires both national commitment and global cooperation.

The future of environmental human rights depends on decisive governmental action and a shift toward sustainable, rights-based environmental governance for the protection of present and future generations.

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