
DEDUCING THE RELATIONSHIP BETWEEN THE ARTICLE 21 i.e. RIGHT TO LIFE AND PERSONAL LIBERTY AND RIGHT TO CLEAN ENVIRONMENT

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ABSTRACT

In this paper we get eluded about the connection of Article 21 i.e. right to life and personal liberty, with Right to clean environment. Firstly, the two concepts, right to life and personal liberty is actually eluded. After that there has been listing the several components within the sphere of the two components. And followed by the same a proper analysis has been made in this regard, with regard to the true meaning of the same, and the connectivity of the same, to the concept of proper and clean environment. And it has been also eluded in this regard that how having not a proper environment contributes in the non-fulfillment of this sub rights which would ultimately contribute in the violation of the Article 21 of the Indian Constitution. And for almost for all the cases, the same is actually is eluded with certain case laws, which would in much more elaborate way make understand the particular cases. Followed by that there are certain incorporation of the DPSPs on the basis of the clean environment, and how their incorporation, is actually related with the connectivity of the same, is actually eluded here. Followed by that there has been an over view of the India's mechanism in controlling the environment in lines of protecting their citizens, from the constitutional mandate has been mentioned here. Post to that certain drawbacks in the form of challenges has been also eluded here. Then certain recommendations have been made in this regard. Lastly a summarization is also made with regard to this.

KEYWORDS: Right to Live With Dignity, Right to Personal Liberty, Right to Clean Environment, Violation, Uncleanliness, Government, Administration.

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INTRODUCTION

Firstly, we need to know what is actually known as the environment. According to a very standardized definition the same can be regarded as the combination of all natural, social, economical, cultural factors, on the basis of which the people live in the society. So, going through these particular lines, it actually covers up the existence of the person, in the society, as well what they actually do in the same. So, in that way through the lines of the constitution, it rates to the fact of right to live as well as right to personal liberty. While on other hand we find out that right to clean environment is also regarded to be a fundamental right. But the question in this regard pertains to the fact that in which sunset the particular thing would actually fall. It actually can come within various article's ambit. But as we interpret the word previously an environment includes both the being's existence that is the life as well as it's liberty, s a clean environment would lead to a dignified life to the person and so is the freedom to do with its executions. So, in that way, such right to clean environment has a very vivid connection with right to life as well as personal liberty and these parts has certain subparts within the same which also connects to the particular Article 21. Such has been properly eluded in this particular paper,

RESEARCH GAPS

Whether there is any connection between the Right to clean environment with the two aspects of the Article 21 i.e. right to live with dignity and Right to Personal liberty?

Whether the violation right to clean environment implicitly violates the core significance of the abovementioned Article?

RIGHT TO LIVE WITH DIGNITY

Now, if we actually break the particular constitutional rights into two parts, we get to see that there are actually two main parts pertaining to the same. And that were the Right to live and personal liberty. So within that firstly comes the Right to live. And here right to live mainly indicates right to live with dignity. And the dignity with to a person is actually not just given through only showering respect through attitude by other individuals surrounding him her. It also somehow or the other contributes to the dignity the same actually attains through the self-respect. It should also be through the keeping of the surroundings of the individual in such a way that would actually contribute in keeping the health of the person in a proper position. And the biggest contributor in

this regard would be the environment. A clean and health environment, in some way or the other contribute maximally in keeping the health of a particular person in a proper condition. And hence the person in a proper health condition, would lead them to be in proper sensation. And being in such position, a person can actually be empowered to be in dignity. Accordingly, there are various components within the same, which are linked to clean environment, forming the main crux from these articles.

RIGHT TO PERSONAL LIBERTY

This is regarded to be another sect of the right i.e. the Right to personal liberty. The environment, is an entity, which actually covers the sum of various kinds of factors within the same. And that is actually the entity upon which a particular being actually a part of the same. Hence cleanliness being the prime influencer of this environment, a clean atmosphere, would open up to all the convenience of particular being. And in that way, the same is also contributory in providing the liberty to all these persons as they would get utmost freedom to execute their undertakings. But on other hand an unclean atmosphere, is found to have created certain disruptions, having created discomfort to the beings, which would actually obstruct the various the undertakings, of the same. This way, the freedom of the same is actually getting disrupted. Hence the same again acts as an impediment to Article 21 of the Indian Constitution. Hence there is the clear linkage between Article 21 of the Indian Constitution as well as the Right to clean Environment.

COMPONENTS OF RIGHT TO CLEAN ENVIRONMENT HAVING A CONNECTION WITH RIGHT TO LIVE WITH DIGNITY

Followed by the same , we get to see that there are certain components within the realm of Article 21 of the Indian Constitution seeking the rights of the citizens to have a clean environment, and also having a relationship with the right to have a clean environment.

Firstly let's come to the rights to have a healthy natural environment. In this regard we get to see that the particular rights actually have very vivid relationship with both the right to live with dignity. If we analyze the various components of the atmosphere, we get to see that the particular being actually has certain basic component within the same. And that is actually inclusive of the air, water, trees, in the form of forests, the soil etc. All these components, are some way or the

other related with the fraternity of the existence of the beings. Air and water are actually the basic components regulating the life of the people. Thus in this regard, it is needed to be seen that more properly an atmosphere is to be preserved, the quality of the same, would actually increase like like wise. Hence accordingly a life can also be possible without due respect, which is not regarded to be qualitative. But the institution of Article 21 of the Indian Constitution, is actually different, where right to life correlates to the fact of right to life with dignity. Thus in such scenario, disruption in the various components of the atmosphere would some way or the other create various illness of the citizens in the country. For example polluted water may cause certain diseases to the person, and that would some way or the other lead to the diversion of the citizens from the normal way of life. And to that effect the question again lies that whether such kind of act is actually not an obstruction to the dignity or not. The same situation may also happen with regard to the air pollution as well as cutting of trees in forest destroying the ecosystem of the environment. Hence a healthy natural environment is actually needed for protecting the dignity of the particular citizens.¹

In the case of *Subhas Kumar vs Union of India*, we get to see that the particular industry was that discharging sludges and slurries along with coal washeries, polluting the water of the Bokaro river. To that effect, a PIL were found to have filed. Hence the question arouse to that effect that whether such kind of Act is actually a constitutional violation or not. In this particular judgment though there were not much evidence of creation of pollution given by the opponent party against the accused to have created the pollution, for that the court could not give the judgment against its favor, the same did declare that Right to live with dignity actually comes from the Right to have a quality environment. This actually formulates the main crux of the particular doctrine.

Then coming upon another fundamental right, and i.e. the **right to have a environment, to be totally free from any kind of noise**. One of the most devastating effect of the noise pollution would be the pollution caused by the same to the air thus disrupting the same, having severe health problems to the people. But the one which is very much vivid in nature is the pollution which the

¹ <https://www.pib.gov.in> Environmental Protection under Constitutional framework
<https://iucn.org> The Right to Clean Environment
<https://blohipleaders.in> Right to clean environment

same actually creates through the aid of various sound movement techniques. There has been certain ways, which would actually contribute to the hampering of the dignity to the citizens. First of all too much sound would actually breaks the mental piece of the people. This would create discomfort in the state of mind, diminishing the tranquility within the same. And such mainly happens, whenever there is a certain kind of loss of dignity within the same. Apart from that it also creates problem in the mid through hypertension, stress etc. And all such is actually being caused to a person on not giving certain due respect to the same. Too much sound on other hand may also create problem in the mental development of the children. And that can actually be regarded as the maximal obstruction to the dignity of the people, i.e. derailing the next generation against the right track. On other hand there are also other diseases like heart problems, which also has a high probability to get incurred from this particular phenomenon. This way, the particular phenomenon some way or the other creates problem in the human dignity.

Apart from that there has been also certain important case laws which would clearly eludes the fact of having a very vivid relation on right to love with dignity and right to have a clean environment.²

More case laws on this topic

Firstly lets's come to the case of *Virendar Gaur vs State of Haryana*. In this particular case, we get to see that the petitioner was found to have challenged the allotment of a particular land by the Municipal corporation for the construction of a private building. The contention of the petitioner was that the open land should remain intact, as that would contribute to the ecosystem of the nature favoring the ecosystem of the individuals. The court in this case was found to have favored the particular stand of the individuals, and it says that right to healthy environment is synonymous to the dignity of the people. And that is inclusive of both physical and mental well being. Free space would actually facilitate the proper flow of the air and also it would actually contribute upon the ecosystem of the nature. This would some way or the other contributes upon the physical well being of the people. On other hand the free space would lead to tranquility, which would also some way or the other contribute upon the mental well being of the people.³

² <https://ir.nbu.ac.in> Right to live in Noise free environment and role of Judiciary

³ <https://indiakanoon.org> <https://scc.online.com>

In the case of *T.N. Govadraman Thirumulpad Vs Union of India*, we get to see that there has been reckless cutting of trees leading to deforestation and also having undergone the mining activities to have implemented there resulting in erosion of the soil. In this regard the court directed to immediately stop the reckless cutting of the trees there. And also mining activities should be not undergone just below the forest land, as per the direction given by the same. The court did install central inspection authorities in this regard who would actually have a proper vigilance upon the same. The court did also say that every citizen should be entitled to get the pollution free air and water, for their full enjoyment of the life. Anything contrary to it would cause the Court to intervene within the same. Thus implies to give rights for dignity to the people.⁴

Followed by the same there comes another very important case comes i.e. the *Vellore Welfare Forum vs Union of India*. In this particular case we find out that the PIL was made against the act of tanneries in Tamil Nadu causing severe depletion in the nearby rivers. To this effect the court did say that the Right to clean environment is the part and parcel of Right to live with dignity. And environmental protection is an essential part of the right to live with dignity. Here the polluter's pay principles as well as precautionary principles were also incorporated. Here the first principle talks about the compensation to be given who some way or the other victimized in the pollution. And the second principle says if there is any probability to have caused pollution, in an early basis, there must be adequate protection taken in that regard.⁵

COMPONENTS OF RIGHT TO CLEAN ENVIRONMENT HAVING A CONNECTION WITH RIGHT TO PERSONAL LIBERTY

Followed by it let's come to the analysis of certain components, pertaining to the fundamental rights, which will actually deduce the interrelation of the same with rights to personal liberty. It clearly shows how the right to clean environment, opens up to the liberty of the person in all the aspects.

Firstly within the particular banner comes the most important for of Right i.e. the **Right to move freely** which is actually connected with Right to clean environment inevitably. As discussed

⁴ <https://indiakanoon.org> <https://scc.online.com>

⁵ <https://indiakanoon.org> <https://scconline.com>

earlier a clean environment always opens up to all kinds of convenience for a particular person. On other hand an unclean atmosphere is unlikely to that creates disruption to such to the citizens both directly as well as indirectly. And one of the severe most form of disruption is the pollution. And to that effect firstly comes the air pollution. The most prominent thing in this regard, which they cause is severe kinds of heart diseases. Here we get to see that they are actually into causing several diseases, like that of respiration problem, heart diseases, nausea etc. And becoming sick would actually lead to no doing of any particular work, which the being wants to do. Thus this way again the right to personal liberty is getting hampered, The same thing also appears from water where the diseases like cholera and other associated diseases would may lead to incurring of the vegetable state of the persons. Another very important form of obstruction to this would be through the mental disruption created to the persons. This is the indirect form of disruption to have created to them. And that is through the aid of the pollution, which is actually created through the fear instilled upon the same as well as through the lack of confidence. Followed by the same we find out that an unclean atmosphere especially with special reference to air and water to this regard, creates disruption in the movement of transportation for the people. We get to see in the pollution, which has been created results in the air as well as water creates severe obstacles for the movement of flights and water transports, often lead to cancellation of the same. Apart from that such kinds of calamity also cause partial injustice to the people. Suppose any kind of calamity, which actually occurs due to uncleanliness, may cause certain calamity like disruption of roads or more severe to that like that of disruption through the various ways, like that of the gas leakage, splitting of explosives etc, where severe casualties may happen affecting certain group of people. Here in this regard even if a certain group of people come from an economic consideration may come out from the problem, but the people from the marginalized section faces the maximum problem to this regard. And to this regard through the aid of the violation of the Right to personal liberty Article 14 is also found to be violated as these issues are actually being created by the individuals. And such in turn it is pushing the marginalized section exclusively into more severe problem⁶.

Followed by the same, another important form of right i.e. **right to earn livelihood** according to the choice, and that is found to be obstructed through the uncleanliness of the atmosphere. And that also goes through the same lines, where we find a clean atmosphere opens up to various kinds

⁶ <https://lawoctopus.com> Article 21: Right to live and Personal Liberty

of convenience to the people, which is actually not possible in the course of pollution of natural features. And to his regard we see that within this particular right, the right to profess trade is getting obstructed highly. Here in this season of pollution, we see the air as well as water gets highly polluted. This lead to stoppage of air port facilities , and dock facilities up to a great extent. These businesses being highly accredited are found to be stopped for a certain period of time .This led to the incurring of huge loss for these persons. And also the persons, like the pilots , people trained in aircraft facilities, being some much trained in the jobs, are seen to have leave the same and to switch ovr to the other jobs. The same loss is also happening for the dick facilities. The sailors who are not that economically stable, are seen to had to move for other kinds of jobs. Apart from the other sections of the people ,like that of the fishermen, are also facing problem , in this regard as it were actually impossible to accomplish fishing in the polluted sector of the water. They had to divert into other means of occupation, like that of agriculture. Apart from hat too much pollution may also creates disruption in the movement of transportation in these water bodies. And these creates a severe problem , for the boatmen. Sometimes right to livelihood may also come through the hands of the economic justice. Unfortunately sometimes, taking the **right to choose livelihood**, erupts the justice to the people economically ina grave manner. Here through cutting the trees in the forests, for urbanization, several people like the wood cutters, the leave collectors, the other forest dwellers, to be faced high difficulty in earning their livelihood. In Pradip Kumar Singh vs State of Bihar, though it led to eroding of natural resources the forest dwellers were given the permission to collect tendu leaves from national parks, owing to the fact that they do not have any other kind of profession in this regard. But here through deforestation the rights to livelihood itself is getting hampered for these people. ⁷

Another right, which can be also regarded as the component of the Right to personal liberty, is also getting hampered in an unclean environment, is the **right to privacy** as well as right to dignity. In various slum centered areas we find out that there has been commonality within the toilets as well as washing rooms. This highly affects the privacy of the people living there. It highly affects the privacy of the person there. Especially the issue actually occurs whenever the fact of heterogeneity of the sex comes into the picture. Congestion is also another form of uncleanliness. In various i urbanized places, especially the cities which are older to the contemporary time, the

⁷ <https://www.nextias.com> Right to Freedom (Art 19 to Art 22)

streets, the narrow pathways are found to be highly congested, Here this affects the privacy of the persons with regard to move separately from other fellow passengers through the body. The same things also happen in their deadlines with the heterogeneity of the sexes. And the same issue of congestion also happens in the cases of the other sectors like hospitals, banks, working places etc located in urban sectors.⁸

More case laws on this topic

There are certain case laws which clearly eludes the fact that the violation to the having a clean environment as a fundamental right, would somehow or the other contribute in making the relation of the same with right to personal liberty.

In the case of *K.M. Chinappa vs Union of India 2002*, we get to see that there had been certain activities of mining work which were actually being undergone on the Kundermukh area of the Karnataka State. The particular land is actually the national park, which is located in the particular region. And that particular land is also regarded to be a biodiversity spot. Thus the particular land is within the realm of the state Government. It was found specifically that the mining activities were mainly surrounded within that particular premise. Now a PIL was formed where the petitioner in that regard did allege the fact that this continuous depletion of the forest is actually creating the deforestation as well as the the flora as well as fauna of the nature is also getting depleted. Not only this due the mining activities there tribal communities, which are actually found to have been there are also restricted access there. In this regard we get to see that the court for, you did oppose this particular act, where it said that in lieu of being the national parks, the wildlife sanctuaries being within the ambit of the state, the same cannot actually be used for any other purpose. It directed immediate rehabilitation of the sanctuary in its original position. Apart from that the same, it also did allow, the mining activities to grow, but the condition to it was that the same should be actually accomplished for a limited period of time, upon the fulfillment of certain conditions. It also said that in this regard the fundamental rights of the person i.e. right to life must be taken into consideration. It says that each of the citizens are actually entitled to be there within the ambit of

⁸ <https://www.nextias.com> Right to Freedom (Art 19 to Art 22)
<https://blogpleaders.in> Art 19 of Indian Constitution

the clean environment. And to this regard not only the same did uphold the fact about right to life but also the connection of the matter of liberty is actually attached within the same. Here restricting the tribal communities to access the forest is violating the freedom of them. To the forests these people are dependent highly. It has been found that these particular forests are actually dependant in many ways. They are dependant there through collecting the woods, the cutting and selling them, collecting the leaves. Thus this way right to personal liberty is actually getting hampered. So from there we can infer regarding the fact that right to clean environment is not just related to having of the right to life but also the connection of the same to the matter of liberty is also essential; in this regard. From the basic intuition though it talks about the protection of life, the actual institution also have connection with liberty as always, as we are always there in the mode of execution, with the various facets of the nature.⁹

Followed by the same another important case with relation to the personal liberty would be the case of *MC Mehta Vs the Union of India* 1998 case. We all know that MC Mehta being an environmental lawyer specifically, has filed PILs in various cases, leading to environmental degradation. One of these cases was this which can be also said as the vehicular pollution case. In this regard it was found specifically for the city Delhi, where we get to see that the vehicular pollution did cause severe depletion of the air quality of that particular place. The court did immediately direct to have kept safety measures with regard to the same, and directly criticized the State Government, for the particular purpose. It did uphold that polluted air through this vehicular emission may lead to the incurring of severe health hazards within the ambit of the people. To the continuation of the same it also emphasizes upon the liberty of the citizens, Here in this regard, we see that the polluted air actually creates certain kinds of obstacles, which is creating severe obstacles for the communication of the public, within the particular road.¹⁰

Followed by the same another important case comes in this regard, and that is the *Rural Litigation Kendra vs State of UP*. In this particular case we find that the quarrying mines, present there is continuously involved in making depletion upon various environmental resources. The entire thing is actually creating landslides, loss of water resources, drying up springs, damage to agriculture etc. So in that way the Supreme Court was found to have given the judgment, where it were actually

⁹ <https://indiakanoon.org> <https://scconline.com>

¹⁰ <https://indiakanoon.org> <https://scc.online.com>

stated that there should be immediate stoppage to the functioning of the quarrying mines. But exceptionally certain mines were still there in existence which was actually not having the full ownership to it, rather take as the lease. But that was also done meeting certain criterion of the matter. To this regard the court dis say that the through the stoppage of the mines, it is actually attempting to save the environment from degradation. And to that effect, the degradation is not just causing violation to right of life wit dignity, as through the same it is borne out with illness. And also to that effect the institution of liberty is also getting hampered, Here through the degraded environment, there creates huge obstruction in the execution of he regular activities of the people there, glorifying the particular cause.¹¹

There has been the incorporation of Article 48A and 51A(g) of the Indian Constitution, through the incorporation of the DPSP, where in the former article states that it is totally the responsibility of the sate to have taken initiatives in improving the environment, am also having the to do certain things, which would actually lead to the protection of wildlife in the forest. If teher is any probability of tehhuman act to create certain depletion it would be the responsibility of the State to take the measures

The latter article sates that it is also the duty of every individuals of the state through their acts as well as omissions, to protect as well as improve the various aspects of the environment.

LEGAL & ADMININISTRATIVE FRAMEWORK IN PROTECTING A CLEAN ENVIRONMENT BY THE COUNTRY INDIA

There have been certain mechanisms, which our country follows with regard to the protection of environment, from various kinds of untidiness, and thus having conferred upon them the fundamental rights of having got the right to clean environment. That particular thing actually follows certain procedure.

To that regard, firstly comes the **Ministry of Environment, Climate Change**, where the work of the same in protection of the environment, is found to be very much prominent. In this regard the most influential thing, which the same does were the formulation of various policies. And these

¹¹ <https://indiakanoon.org> <https://scc.online.com>

policies, were mainly on the basis of the environment, the forests, and also on the basis of the climate change. And these policies, mainly talks about the protection of the environment, from the various forms of the acts like deforestation, urbanization as well as the industrialization. It talks about the fact that there should be mandate in the protection of the ecosystem of the country, where the trees do really play a very vital role. Apart from that there were also incorporation of certain principles within the same., in order to protect the conservation of the environment . And to that effect, comes, into regard the various policies, namely the Precautionary principle, Polluter's pay principle. And these principles are mainly functional in situation, where certain damages are actually being taken by the people in the occasion of the environmental degradation. Apart from that there should also be the incorporation of necessary precautions, saving the environment, from degradation. Apart from that it also opens up to freedom for all the indigenous people there to collect leaves for their livelihood from there. It also emphasized upon certain forests to be declared to be the national parks, on conferring upon the state the entire rights to protect the government. Apart from that it also opens up with various kinds of methodologies, where the various natural resources, one is actually having within itself, like that of air, water, are found to have utilized in such a way, so that the present generation t that effect utilizes the same upto it's fullest without compromising the future generation on being deprived of these particular resources. And that would be followed by certain methodologies, techniques, people's cooperation etc. It simultaneously formulates a policy country wise which si known as the National Action Plan on Climate Change and a also state wise implementation would be there which would be regarded as the State Action Plan o Climate change. Apart from that the methodology named Environment Impact Assessment is also mentioned where the environment is assessed, and on the basis of the same, certain predictions on the environment are made, and accordingly certain rules are made upon dealing of the natural resources their. Apart from that the same is also found to be instrumental in making the public awareness to people with regard to te protection of the environment. It is done through various mediums. And to that the common method is the broadcasting method, i.e. through the various social media networks, the TVs etc. Apart from that awareness also happened in various educational institutions, namely the schools, colleges etc. Also

there are benchmarks placed all around, through which the awareness is actually found to be spread.¹²

Followed by that another important comes entity which comes into being is the various **Pollution Control Boards**. These Boards are actually set up for the air as well as in Water. The main aim is to check the air as well as water quality of the boards. It actually checks whether the particular water is actually applicable for the public use or not. And in addition to that it also checks whether the particular water is actually required for any kind of further research or not. Followed by the same it is always into strict vigilance regarding the fact the recent developments, which are happening there. Apart from that is also into strong vigilance regarding the various developments, which are actually being held related to the various water bodies. These things mainly happen through their approvals. On other hand we get to see that the people there are having their approval on other basis also. Apart from that it has also significant contributions upon the air quality also. Here we see that the particular thing actually checks, what is the status of the air level there. And followed by the same, it approves on the communication of the entire thing. Followed by the same whenever there is an degradation in the environmental sector especially for air and water purposes, these bodies are mainly instrumental in regulating the various PILs which actually borne out. Ever PILs should be devised upon the sole approval of the presenters.¹³

Apart from that, there has been certain **legislations**, which actually comes into the being, through the initiation of the state which are actually required for the protection of environment, by upholding the fundamental right of the citizens of having the right to clean environment. And to that regard it were seen that all these particular statutes has a correlation with the constitutional right mentioned in Article 21 of the Indian Constitution i.e. Right to life and personal liberty. All the rights which the status are talking about are based upon this particular Article.

Firstly comes the **Environmental Protection Act, 1986**– It is regarded to be the biggest legislation. And the same is also one of the most prominent form of legislation. It is actually utilized by the Central Government, for the purpose of having preserving the intactness of the

¹² <https://moef.gov.in> Ministry of Environment, Climate Change, Forest

¹³ <https://cpcb.nic.in> Functions of the Central Board at the National Level

<https://www.ceew.in> How are State Pollution Boards innovating for Workshop Challenges

environment, as well as protecting the same from the various hazards which are likely to be there causing disruption. Under this particular legislation there various vigilant authorities especially the boards which are actually framing certain policies, for regulating the resources of the environment. And on the other hand it is also acting as a adjudicating authority for deciding the cases of breaches of such rules. This way clearly creates a balance on saving the needs of the citizens on utilizing the environment, and on other hand also having protected the integrity of the environment, which is some way or the other beneficial for beings only. This way it is related as well as protectable on both the parts of these articles i.e. the right to life and personal liberty.

Followed by that the next legislation which comes into prominence is the **Water (Prevention and Control Act). 1974.** This particular statute mainly talks about the fact that how the resources of the water are actually getting to be protected. There has been certain procedures which actually facilitate the particular thing. And to that comes to the most prominence is the various Boards there. And to that regard we get to see that the distribution to the same is actually happening in both state as well as in the central level. This enhances efficiency up to a great extent. The socio cultural fraternity is actually not the same from different states, which actually regulates the utilization of the water of these rivers. So for that reason there is actually the need of having different kinds of regulations, and hence, separate boards are institutionalized for this. And above all another regulation of the administrative system is actual lot possible in a particular framework. On other hand to have an unit in the basic rules of these boards there should be an universal board, and that is the Central Board of water pollution. Thus this way we can see that very minutely Article 21 is being protected. And we see very minutely Article 21 is protected. And here the universal one is actually the all other laws regulating bodies to stick into a particular Article, while on other hand the regulating bodies are actually there to interpret the particular Article more significantly.

Followed by the same, there comes, another important Article in this regard and that would be the **Air (Prevention and Control Act).** These statutes are also responsible for the purpose of having protected to air quality properly. Here again in this particular Act, the initiation of the proper pollution control board were also ver much existent. Another unique form of measuring the quality of the air which actually impacts the law making process, is also very much satisfying in nature. The entire methodology actually involved certain technology within the same. On other hand,

the law regulations were demarcated according to the guidelines of application of an act upon the air. And that were to be demarcated as the pollution levels. And to that effect the main focus is upon the utilization of these resources. And that would be mainly industrial emissions on the air, the transportational facilities like that of aeroplane, the helicopters etc. Apart from that it also plays a very vital role in regulating the public awareness programme, for spreading the propaganda of protecting the environment. Thus a balance between the right to occupation and right to clean air is made through the act which contributes in balancing the two facets of the particular article.

Followed by that another statute which actually being comes into being I the **Wildlife Protection Act, 1972**. This particular statute actually speaks about the various measures through which certain measures are actually needed to be taken for the purpose of protection of the forest. It actually wants to protect the places where the wildlife actually co habits. These would some way or the other also contributes in protecting the ecosystem of the country. Hence cutting of trees through the process of deforestation highly affects that. Through the density of the trees the same contributes in the various green house emissions, as well as other emissions of the gases. And to that effect the same also leads to growth of various insects and birds which through their acts of decomposition of the soil actually facilitate in the nutrient cycling. This is somewhat very much useful to the human species. Apart from that through the trees and the wild species, the inhabitants are also very much dependant upon them. ¹⁴

DRAWBACKS OF SUCH MECHANISMS

Thus from the various structuring of the administration, set up by the country, through the implementation of the statute, we can be very well see that there has been enough efforts rendered by the state through the heterogeneity of the application of the laws, on protection of the environment through cleanliness, ie through statutes through setups, etc, but still there are certain drawbacks which are still existing within the particular fraternity. This thing is mainly happening within the procedure of the functioning of the particular entities. Such has been detailed as followed.

Firstly we see that there though there has been proper laws, which would actually initiate the entire thing there is actually not proper enforcement to the same. So from there we can only understand that the entire thing is actually bookish in nature. It does not actually have any proper application. Even though the same is having application, it actually does not have the veracity to actually get justice, for which the same is actually aiming for. There is also lack of seriousness as well as enthusiasm from the side of the state to actually enforce the entire thing. And to that effect the main factor which actually contributes upon making the same is the political intervention, which is found to be very much prominent here. And within that even there are also certain reasons contributing upon the same. One is having targeting areas for development, according to convenience. And with that there are also targeted voters, who would work for that. This way, it will only target population only. The political parties will actually see that which entities would actually fetch them the vote accordingly they would cater the interest of those persons exclusively.

Then we see another issue which arises in this regard to the enforcement bodies where we see that the staffs who are actually there in the particular work are much less in the number. And to that effect the staffs are not that much well trained to that effect. Apart from that the same also lacks in various resources, namely, technical, mechanical financial resources etc. And within the ambit of the technical resources comes the machinery part. Here the poor functioning of the machinery, renders the incapacity to execute the functions properly. These things mainly happen with regard to decide the pollution level of air, water, the other inspection procedures. And regarding the lack of the financial resources it is mainly because of the political parties do not want to invest much money in working of these enforcement bodies.

Apart that problems like data management also subsists in this sector. The data is actually there to elude the account that how much loss has been actually got created in the particular place. And that can actually happen because of many factors which is inclusive of pollution, congestion etc. And in order to process the entire thing, there is the need of having proper survey for the same. And to that effect, all time, it were seen that the surveys actually lack accuracy. And accordingly the action to be taken into regard for the same also did differ greatly because of that. Sometimes, it did appear to be very much inadequate, and sometimes, it acts were found to be distracted from the original thing. Another issue which also arises from this factor is the same to be having manipulated. And that mainly happens because of the political factors to have played a great role

here. The political parties in order to save their votes, use manipulation as a tools. Factually the pollution which has been actually created are mainly delving from the various industries, which are actually there nearby. And they are actually the ones from there the government gets high funding. So in order to keep them in the favorable side, such kinds of acts are actually initiated by them. On other hand we also see that our country India, is mainly thrived with low income based people. And to that effect a big population of the same, actually comprises of the slum people as well as that of other related people of such sector. So in that case in order to stop them for having been conserved their resources, it is needed to construct their livelihood which may affect a huge number of votes from these people. Thus in that way in order to save their votes such kinds of manipulations are done, from the perspective of these persons, where the severity of pollution is being misjudged.

Then followed by that, another problem in this context lies in having problem in tracking real life monitoring tools. This cause is someway or the other related with the previous cause also. This mainly happens due to the lack of proper technology the same is actually having. And to that effect, the result is that there is also no other way to actually cross check the entire thing. The report comes in such way, where it leaves no way to verify the same. On other hand it is not there that such kinds of instruments are actually not there. But unfortunately such instruments like that of GPS tracked garbage tracks, are hardly used in this particular sectors which appears to be again very much disappointing. On the other hand there also other forms of technology appears where we see that there is also the provision for the citizens to report certain things which to the government, especially the ones who are victimized to this effect. But unfortunately, inspite of having these means of communications, it is seen that they hardly have any way to communicate themselves to the government. In most of the cases there comes no reply from the authority. This way the continuous ignorance of the authority to the people's call make helpless but to bear the issue. Most of the time, these methodologies and the technologies are just mere propaganda and nothing else.

Then followed by the same, another reason, contributing to the factor is the lack of financial resources contributing to the particular sector. O tags ben found that a very less funding is actually produced from the perspective of the state for these activities. And to that effect the same is actually inclusive of many things. And that encompasses within that the technologies, for

investigation, the other costs needed for the report. To that effect it is seen that the technology which they actually use are mainly of low quality, and hence the readability within the same are not up to the mark. And that also some way or the other affects the accuracy of the particular thing. Followed by that comes the fate of the staff reporters. It is seen that the reporters which are actually honored for doing all such purposes appears to be not that much trained person. And also they are not that much remunerated in that regard. Thus as the consequence it is therefore seen that the efficiency to the particular work is also not found to be that much efficient. On other hand another factor which also plays a great role is the method of collection of the information from the local bodies mainly the people. So for that reason as it is actually for the sake of the investigator to know the facts, there is the need of utmost cooperation from their side, which can also happen through monetarily. But unfortunately, a great lack is being procured from those particular level of attitude of the government.

Followed by the same, another very important form of issue which actually caters to the interest of the people, is upon the very weak application of the laws upon the offence to be committed. The legislations, which are actually involved into the particular thing has very less laws stringent laws upon the particular matter. Thus if the penal provisions appears to be that much weak, then in such situation, it would be rather difficult for the people, there to reduce their rigor within them to create the wrong. On other hand it is also discussed previously that much initiative is not taken on the investigation. And in addition to that on being suspected, if proper penal provisions are actually not applied over the same then again it would be really be very difficult to eradicate the wrong doing there.

Followed by that another problem which forms a part upon this is the fragmented structure of administration, which the country is actually having within itself. In this particular administrative structure, the division of powers has been very much influential. There has been almost half a division of the workables within the various lists namely the union and the state list. So in that regard this creates an utter confusion within the administrative holders, to check upon these matters. And the matters persisting to the environmental law are there in both the lists. And that too much clarity is also not given upon the effect. Thus confusion persists from such aspect regarding which

function would be dealt by whom. And that as a result also affects the efficiency involved in the particular thing.¹⁵

PROBABALE RECOMMENDATIONS

Followed by this, lies certain recommendations, to this effect, which may lead to the eradication of the particular issue. Thus firstly in this regard comes the

There is the need of having a proper judicial review upon the particular legislation, which is actually found to be implemented. It were seen that there are various lacunas within the particular legislation, and to that effect, the judicial application over the same becomes very much difficult. It would be totally upon the duty of the court to check upon it's correctness and to actually direct the legislature the guidelines, upon which the legislation must be actually designed in such a manner where there the accountability of the authority responsible for the same is counted highly. And that is also inclusive of the creation of the proper transparency in the allocation of environmental law issues within the Union as well as the State lists.

To the continuation of the same while creating the statute there should be the provision for appointing the particular inspector who would actually see whether the application of the laws regarding to this is getting implemented or not. The inspector would have the sole responsibility upon having survey upon rights of the people whether they are affected or not.

Apart from that it were to be also seen that there should be the setting up of various human rights commissions specifically upon this particular issue i.e. the environmental problems, and to that effect there should also be the initiation of various public awareness programmes, which would actually making them known about the function of these commissions, and it is to be also seen that whether these commissions, are actually available to those persons or not.

Then adequate funding must also be provided from the perspective of the government regarding the maintenance and investigation regarding the cleanliness of the environment. And that also

¹⁵ <https://www.redalyc.org> Law of Environment in iNdia : Problems & Challenges in it's enforcement
<https://blog.ipleaders.in> Poor implementation of Environmental laws in India

includes various involvement of the technologies which are said to measure the amount of the damage which has been created there.

Followed by that rather the last recommendation to this regard would be that, where there should be more research being initiated upon a particular topic. And to that effect it is needed to more familiarize the concept of the environmental protection in law, in the institutions. It has been seen that till date such has not been popularized in comparison to the other aspects especially in higher studies and research, which is really regarded to be the need of the hour. And through this research itself through the intellect of the new minds as students, new policies may bring out which may contribute upon the clarity of the research made.

CONCLUSION

Hence from there we get to infer one fact that right to lean environment is implicitly linked with birth the aspects of the Article 21 of the constitution, right to live with dignity, as well as of Right to have personal liberty. One if derailed from the normalcy, it implies to be not treated with due dignity. And sometimes special treatments are actually given to certain persons, but that to the unequals to bring back to them to the normalcy. And to that effect an unclean atmosphere would contribute to the greatest abnormality as that would affect the health of the person. Same is also regarded for the next part as the unclean atmosphere would create obstruction to one's utmost freedom of execution. And here the lack of cleanliness is maximally created by the human itself. And on the same hand it is the fundamental right of every citizen to see that the fundamental right is not hampered for others. So due diligence must be taken into regard. The administration is seen to be not that much taken into initiative upon the particular matter as aforesaid, which needs to immediately checked upon. This shows that democracy is not being fully maintained on the squinted service of the same. So once this particular problem is eradicated the other would soon follow by.