

# When Government Fails, Courts Must Protect

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What future can we expect when environment is treated as optional? An Environment is often described as a reflection of a country. Yet millions of peoples are failed to understand this, Constitutional Law plays a crucial role in instituting government actions towards the environment and ecosystems of the country affirming that the climate is well maintained and unharmed from any degradation. The supreme court of India has stated that “The right to a healthy environment is a vital component of the fundamental right to life” under Article 21 of the constitution. Environmental protection is no longer a choice; it is our moral duty towards our country. Constitutional Law has become a powerful fuel for ensuring environmental sustainability. This article explores the historical evolution of constitutional law and how the recognition of a right to a healthy environment has gained momentum over time.

## Historical development:

The first constitutions to include environmental provisions were adopted in the 1970s and 1980s, with the Portuguese Constitution (1976) and the Spanish Constitution (1978) being notable early examples. These constitutions recognized the importance of environmental protection and established the state's duty to protect the environment. After that many countries followed this law which was considered as a great success all over the world.

**The constitution of Ecuador (2008)**, recognize the rights to nature, while others, such as the **constitution of South Africa (1996)**, guarantee the right to a healthy environment, as I already told that the India has established the right to a healthy environment in (Article 21). The father of environmental ethics, Aldo Leopold, linked environmental degradation to the theory that property is an abstract, exclusive relationship between persons and things because this “commodifies” nature. “Conservation (environmentalism) is getting us nowhere because it is incompatible with our Abrahamic concept of land. We abuse land because we regard it as a commodity belonging to us.”

## Legal Frame works:

Global environmental governance frameworks play a crucial role in shaping national environmental law and policy.

Several key international environmental agreements have been adopted in recent decades, including:

- The [United Nations Framework Convention on Climate Change \(UNFCCC\)](#)
- The [Paris Agreement](#)
- The [Convention on Biological Diversity \(CBD\)](#)

➤ The [United Nations Convention to Combat Desertification \(UNCCD\)](#)

These laws have been established by many international countries around the world to preserve and protect the environment at any cost. International environmental law also interacts with constitutional frameworks, guiding national courts and policymakers in aligning local laws with global standards. This integration strengthens the enforcement of environmental protections and promotes sustainable development. Overall, constitutional frameworks are vital to establishing and enforcing robust environmental protection mechanisms in comparative constitutional law.

**Enforcement Mechanism: Turning Law into Action**

So, if the government failed to fulfill their responsibilities, then law has to stand up and take actions regarding that. Public awareness campaigns and advanced technologies can enhance enforcement efforts. Cooperation of different countries from all over the world is also very important because one single country can't do what all countries can do altogether so it's very important to gather up and spread peace and environmental policies all across the world.

**Everyone has the right:**

- To an environment that is not harmful to their health or well-being.
- To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures.
- Prevent pollution and ecological degradation.
- Promote conservation.

**Ongoing challenges Facing by the Environment:**

- The world faces a complex and interconnected web of environmental problems, threatening ecological stability and human well-being. Climate change is the main thread for the environment which causes global warming and green house effect. The integration of human rights and environmental protection is becoming increasingly important. The (UNHRC) has recognized the right to a healthy environment as a human right, and several countries have incorporated this right into their constitutions.
- Courts play a crucial role in shaping environmental jurisprudence, particularly in cases involving constitutional environmental rights. The supreme court of india, for example, has been at the forefront of environmental jurisprudence, recognizing the right to a healthy environment as a fundamental right.

**Protection of Fundamental Rights:**

Environmental justice cannot exist without substantive environmental rights. Justice is generally defined as “The maintenance or administration of what is just especially by the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments.” It is often said that the primary responsibility for environmental protection lies with the states and that states

are closer to their residents and local needs, including to make balancing judgments between potentially conflicting interests. Equal Protection and Civil Rights have been proposed and tried as basis for environmental justice. However, for courts to apply a strong legal foundation and nondifferential scrutiny to statutes and government actions under the Equal Protection Clause and Civil Rights, a classification of people would need to be suspect, and most importantly asking everyone's opinions is the best thing a person can do it makes the country economically strong.

### **Conclusion:**

In summary, constitutional law plays a crucial role in environmental protection by delineating government obligations and establishing legal frameworks that support sustainable development. By recognizing environmental rights as fundamental within constitutional texts, nations create a legal basis for citizens to advocate for their environmental interests and demand accountability from their governments. This legal framework not only facilitates the alignment of domestic laws with international environmental commitments but also underscores the importance of judicial interpretation and enforcement in upholding these rights. Nevertheless, the effectiveness of such constitutional provisions is contingent upon the political will to prioritize environmental concerns, adequate resource allocation, and active public engagement. Ultimately, a robust constitutional approach to environmental governance is essential for fostering a sustainable future that respects both human rights and ecological integrity.

### **Sources:**

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