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Rising Air Pollution: A threat to Constitutional Right to Life

-Akanksha Kumari

The Supreme Court has long held that life with dignity, health, and breath is included in the right to life. In *Subhash Kumar v. State of Bihar*¹, the Court unequivocally declared that the right to clean water and air is a component of the right to life. The right to clean air is guaranteed by the constitution, not by policy.

But a silent, invisible holocaust is taking place in India. It kills more Indians each year than riots, terror, illnesses, and natural disasters combined, but it doesn't spark upheaval, take over prime-time discourse, or topple governments. These days, air pollution affects more than just the environment. The greatest constitutional crisis and emergency of our day is the daily violation and erasure of Article 21's protection of human dignity and life itself².

13 of the 20 most polluted cities in the world are located in India, a questionable title. India's extremely poor air quality in both urban and rural areas forces more than 1.4 billion people to breathe dangerous air every day. A single toxic layer of PM2.5 has ensnared the entire country; this is not a seasonal, regional, or contextual problem³.

The Environment (Protection) Act,⁴ the Air (Prevention and Control of Pollution) Act,⁵ and the National Clean Air Programme⁶ were introduced in 2019, however monitoring systems are still insufficient and enforcement is weak, scattered, and mainly symbolic. Toxic air is now a systematic breach of Article 21 in addition to being a harm to the environment. Delhi's

¹ *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

² Shashwat Anand & Rajesh G. Inamdar, *India's Silent Genocide: Why Toxic Air is Our Greatest Constitutional Crisis, DOWN TO EARTH* (Dec. 17, 2025), <https://www.downtoearth.org.in/air/indias-silent-genocidewhy-toxic-air-is-our-greatest-constitutional-crisis> (last visited Dec. 17, 2025).

³ Vishwa Mohan, *With 13 of 20 Most Polluted Cities, India Ranks 5th Globally, TIMES OF INDIA* (Mar. 12, 2025), <https://timesofindia.indiatimes.com/india/with-13-of-20-most-polluted-cities-india-ranks-5th-globally/articleshow/118909491.cms>.

⁴ Environment (Protection) Act, 1986, No. 29, Acts of Parliament, 1986 (India).

⁵ Air (Prevention and Control of Pollution) Act, 1981, No. 14, Acts of Parliament, 1981 (India).

⁶ Ministry of Env't, Forest & Climate Change, Gov't of India, *National Clean Air Programme (NCAP) - An Overview* (Jan. 10, 2019).

growing air pollution is tangible evidence of ongoing violations of constitutional and environmental rights.

JUDICIAL INTERVENTIONS AND CONSTITUTIONAL PROTECTIONS

Our Constitution's founding fathers foresaw scenarios in which governments might not carry out their moral and constitutional obligations. Articles 32⁷ and 226⁸ give the Supreme Court and High Courts the authority to step in, even *suo motu*, whenever the executive fails to act when fundamental rights are being systematically violated. When institutional inaction jeopardises the enforcement of constitutional rights, the courts have repeatedly intervened to make sure that these rights are more than just promises. For example, the Supreme Court banned stubble burning, required interstate coordination, and continuously monitored air quality in *Re: Air Pollution in Delhi-NCR*⁹. Similarly, when bureaucratic paralysis became a persistent problem, the Court frequently interfered in the *MC Mehta case vs Union of India*¹⁰. These illustrations show how the Constitution gives the court the authority to uphold and defend fundamental rights in the event that the state is unable to do so.

In *M.K. Ranjitsinh & Ors. v. Union of India & Ors.* (2024)¹¹, the Supreme Court recognised the "right to be free from the adverse effects of climate change" as one of the fundamental rights. These rights were safeguarded by Articles 21 (Right to Life) and 14 (Right to Equality). The decision primarily relied on the precedents set in *Virender Gaur v. State of Haryana* (1994)¹² and *M.C. Mehta v. Kamal Nath s*(2000), which established a clear connection between environmental integrity and the right to life. Additionally, the Court acknowledged a special right against climate degradation, emphasising how it disproportionately impacts marginalised groups including the poor and indigenous people. The Court's Evaluation of Indian Law: The Environment Protection Act (1986) and the Energy Conservation Act (2001)¹³ are two examples of the statutory landscape that persists in India despite the lack of a unified climate policy. The Court also emphasised pertinent

⁷ India Const. art. 32, cl. 1.

⁸ India Const. art. 226, cl. 1.

⁹ Shashwat Anand & Rajesh G. Inamdar, India's Silent Genocide: Why Toxic Air is Our Greatest Constitutional Crisis, *DOWN TO EARTH* (Dec. 17, 2025), <https://www.downtoearth.org.in/air/indias-silent-genocidewhy-toxic-air-is-our-greatest-constitutional-crisis>.

¹⁰ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

¹¹ *M.K. Ranjitsinh & Ors. v. Union of India & Ors.*, 2024 SCC OnLine SC 570

¹² *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577

¹³ The Energy Conservation Act, 2001, No. 52, Acts of Parliament, 2001 (India).

constitutional provisions, such as Article 51A (g)¹⁴, which puts a comparable obligation on citizens to conserve the environment, and Article 48A¹⁵, which places the responsibility for environmental protection on the State.

On 17th December, 2025, The Chief Justice of India Surya Kant and Justice Joymalya Bagchi's Bench decided that the Delhi air pollution problem will not be a seasonal listing and would be handled on a daily basis. At first, CJI Surya Kant asked the authorities to outline the useful outcomes of the ongoing initiatives. He emphasised that other considerations must be given equal weight by the authorities and that stubble burning should not become a political issue or a way to place blame on those who are "hardly represented before us". The Bench mandated that the Union provide a report within a week detailing the actions taken to address contributions other than stubble burning. The Union was ordered by the Bench to provide a report outlining the steps taken to address contributions other than stubble burning within a week.

CONCLUSION

India's increasing air pollution challenges the constitutional right to life and dignity under Article 21 as a direct State obligation and has thus become a significant constitutional issue. Continuous exposure to contaminated air affects billions of people, causing disproportionate harm to disadvantaged populations, as well as to equality, livelihood, and health. The Supreme Court has repeatedly held that when the government fails to protect constitutional rights, courts must intervene under Articles 32 and 226. From *Re: Air Pollution in Delhi-NCR* to the *MC Mehta* series, the courts have intervened to enforce ecological protection as a rights-based obligation through interstate collaboration, oversight, and regulation. Most importantly, in the seminal judgment of *M.K. Ranjitsinh & Ors. v. Union of India & Ors.* (2024), the right to be free from the deleterious effects of climate change was recognised as part of Articles 21 and 14, linking environmental integrity with life, equality, and dignity. Consequently, India's air pollution crisis is both an ecological and constitutional issue, involving the obligation of the State to ensure clean air and the role of judicial review in protecting citizens' rights.

¹⁴ INDIA CONST. art. 51A, cl. (g).

¹⁵ India Const. art. 48A.