Category: **Obligation to Provide Access to Legal Remedies; Substantive Obligations**

Sub-Category: **Court Decisions**

Name of Good Practice: Jurisprudence of the Supreme Court of India Relating to Environmental Protection

Key Words: Accountability, Access to Justice, Constitutional Court, Jurisprudence, Remedy, Right to Life

Implementing Actors: Court: Supreme Court of India

Location: India

Description: Article 21 of the Indian Constitution of 1949 provides for the fundamental rights to protection of life and personal liberty, stating that “[n]o person shall be deprived of his life or personal liberty except according to procedure established by law.” The Indian Supreme Court in a series of decisions has connected Article 21 with a right to a healthy environment.

The Court set up the groundwork for linking a right to a healthy environment to the right to life in *Maneka Gandhi v. Union of India* (1979), in which it held that any State action interfering with the rights protected by Article 21 had to be “right, just and fair.” Since *Mankeka,* the Court has been active in protecting the right to life from environment degradation. For example, in *RLEK v. State of Uttar Pradesh and Others* (1988), the Court ordered the closing down of several limestone quarries that were causing environmental degradation. The Court explained that its order would “undoubtedly cause hardship to [the quarry owners] but it is a price that has to be paid for protecting and safeguarding the right of the people to live in healthy environment with minimal disturbance of ecological balance and without avoidable hazard to them and to their cattle, homes and agricultural land and undue affectation of air, water and environment.” In *Subhash Kumar v. State of Bihar* (1991), a case dealing with the discharge of industrial pollution into a river, the Court noted that Article 21 includes the “enjoyment of pollution free water and air for full enjoyment of life.” It further noted that should such environmental pollution occur, individuals are entitled to a remedy, including “removing the pollution of water or air which may be detrimental to the quality of life.” In *M.C. Mehta v. Union of India* (2004), a case dealing with pollution caused by mining operations, the Court explained that regulatory authorities have a duty to protect the environment from impacting on the right to life and “where the regulatory authorities, either connive or act negligently by not taking prompt action to prevent, avoid or control the damage to environment, natural resources and peoples' life, health and property, the principles of accountability for restoration and compensation have to be applied.”

Further Information: *See* *Subhash Kumar v. State of Bihari* (1991): <http://indiankanoon.org/doc/1646284/>; *M.C. Mehta v. Union of India* (2004): <http://www.ielrc.org/content/e0409.pdf>; *RLEK v. State of Uttar Pradesh and Others* (1988): <http://indiankanoon.org/doc/104313664/>.