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Climate Change and Environmental Justice in India

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ABSTRACT

Global climate change, which is a result of human activity, poses a threat to humanity and the world's survival. Human people are the most intelligent species on the planet, and they enjoy exploiting and destroying it in order to survive. Regardless of class, creed, ethnicity, or birth, all creatures have the right to live in a free and fair environment with dignity. Climate Change violates the right to life, which includes the right to the environment. Global warming and climate emergency have put the global commons in a state of emergency, which is no longer just an environmental issue but also a sociopolitical, economic, legal, and scientific reality. Every action taken in response to climate change has the potential to inflict environmental injustice everywhere. Environmental justice means that no one will be harmed while exercising their right to life and the environment. Environmental justice is a tangential topic in Human Rights law. Earth must be protected from the effects of Climate change, in order to ensure Environmental justice and the Fundamental Right to Life. India is the fourth highest emitter of greenhouse gases in India and is also highly affected by climate change since it is a developing country. India is a member of the United Nations Framework Convention on Climate Change and has a slew of green laws in place to address climate change. India currently lacks a need-driven strategy to develop a single specialised climate change and technology transfer policy. In the present manuscript, the author has explored climate change and its role in environmental injustice in the Indian context, as well as possible solutions to safeguard our fundamental right to life and right to the environment.

Keywords: *Global warming, Climate Change, Human Rights, Environmental justice, Right to Environment.*

I. INTRODUCTION

This Vedic knowledge displays a philosophy of law and human government founded on the concept of community coexistence. Each member of our community benefits from the health of each part of our eco-system, and our survival, as well as that of the world, is ultimately

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dependent on it.

The Intergovernmental Panel on Climate Change (IPCC) published a new report, Global Warming of 1.5°C, in early October 2018 with the goal of "strengthening the global response to the threat of climate change, sustainable development, and efforts to reduce poverty."² We, the global commons, are all passengers on the same ship called The Earth, and we can all be harmed by climate change, regardless of class, creed, race, or sex. Climate change is an unusual phenomenon caused by global warming over a long period of time, posing a threat to the existence of all species and threatening biodiversity and ecosystem services.³ Due to the worsening effects of climate change, our constitutional right to life with dignity, as well as judicial notions, will be jeopardised. Everyone has the right to live in a free and fair environment, and it is a part of social justice. As a result, environmental justice is being harmed as a result of climate change.⁴ Climate change is the term used to describe the change in global and regional climates through time. It reflects changes in the variability or average condition of the atmosphere over time scales ranging from decades to millions of years. As part of a natural cycle, the earth's climate is dynamic and changes on a regular basis. The fact that current events are occurring at a faster rate is causing rising alarm around the world. Natural processes such as continental rifts, volcanoes, ocean currents, the earth's tilt, and comets and meteorites, as well as those caused or produced by man, can all contribute to these changes.⁵ Human activities are now well recognised as the leading contributors to today's global warming. India faces climate change as a result of anthropogenic activity as a developing country, and it must ensure environmental justice through climate change mitigation and adaptation. A need-based strategy is essential for the conservation of India, its people, and its wildlife. The author of this paper takes a doctrinal perspective to look at the question of environmental justice in the context of climate change in India, as well as the best strategy for authorities to ensure environmental justice.

II. CLIMATE CHANGE & ITS EFFECTS

Climate change is a developing problem in today's globe in terms of climatic conditions as a result of human behaviour, and it has become a pain for the global commons. Heat waves, severe droughts, rapid sea level rises, floods, global warming or ozone layer loss, and

² See IPCC, Special Report on Global Warming of 1.5 °C (SR15), available at: <http://www.ipcc.ch>.

³ Thomas G. Wenski, *The Challenge of Climate Change and Environmental Justice: A Distinctive Catholic Contribution*, 23 NOTRE DAME J.L. Ethics & PUB. POL'y 497 (2009).

⁴ Samuel Tobias Steinmetz, *Climate Change and Environmental Justice: Adapting the Changes that We Cannot Prevent*, 44 Clearinghouse REV. 319 (2010).

⁵ Alice Kaswan, *Climate Change and Environmental Justice: Lessons from the California Lawsuits*, 5 San DIEGO J. CLIMATE & ENERGY L. 1 (2013-2014).

deforestation are all possible outcomes. It may have an impact on human rights⁶ to life and public health, culture, habitat, and other factors, as well as a loss of bio diversity and ecosystem services, all of which are critical for long-term sustainability.⁷ The right to live in a free and fair environment is a fundamental human right without which no one can thrive on this lovely planet. Climate change has a significant negative impact on human health. Vector-borne zoonotic disease, water-borne disease, asthma and respiratory disease, neurological disorder, cancer, and other diseases are among them. Climate change is defined as a long-term shift in average weather patterns. Greenhouse gas emissions have the potential to hasten global warming, resulting in climate change. CO₂, methane, hydrofluorocarbon, perfluorocarbon, nitrous oxide, and other significant greenhouse gases were identified. Permafrost melting in arctic areas could be influenced by climate change, posing a serious threat to human civilisation. Adaptation and mitigation can be used to combat climate change. This approach was mandated by the IPCC (Intergovernmental Panel on Climate Change) as a means of combating climate change. In addition, the IPCC promotes technology transfer as a key strategy for combating climate change. Technology cooperation should be enabled through effective mechanisms that accelerate the process in numerous ways; the problem can be solved by deploying inexpensive temperature control technology. Under the umbrella of the UN Framework Convention on Climate Change, which was established in 1992, worldwide conferences of parties were held every year, and new strategies to address climate change were devised. CBDR⁸ mechanism, joint implication, CDM⁹ (Clean Development Mechanism), and others are among the most important. Climate change, according to Small and Witherick, is "a change in the climate of an area or a place through time, commonly expressed in a mean annual temperature or mean annual precipitation." ¹⁰ Climate change mitigation helps to minimise the heat produced by greenhouse gas emissions and aids to the creation of sinks (ocean, forest and soil). The process of stabilising greenhouse gas emissions within a reasonable time frame is a critical step in protecting ecosystems and adapting to natural adaption in a more sustainable manner.¹¹ Adaptation, which is an adjustment of future climatic change with the purpose of minimising susceptibility, is also a weapon in the fight against climate change. If climate

⁶ Annalisa Savaresi, *Climate Change Justice: Human Rights and Climate Change*, 2 TEL 198 (2013).

⁷ Mark Stallworthy, *Sustainability, Coastal Erosion and Climate Change: An Environmental Justice Analysis*, 18 J. ENVTL. L. 357 (2006).

⁸ SANDIPA LAHIRI ANAND, ASIS KUMAR PAIN, KYOTO PROTOCOL ISSUES AND IMPLICATIONS, 2006.

⁹ IBID

¹⁰ MARK MASLIN, CLIMATE CHANGE A VERY SHORT INTRODUCTION, (3 ed. Oxford University Press, 2014).

¹¹ <https://climate.nasa.gov/solutions/adaptation-mitigation/>, Net accessed by the Author, dated 27-09-2020.

change is controlled and adapted properly, the earth's climate can be stabilised in a proper manner by resolving the influence of climate change. In various publications, the IPCC emphasised this as a solution to climate change. While society is being urged to adjust to climatic change in their daily lives, it should also be prepared with a sustainability concept, as discussed in the Burndt Land report 'Our Common Future'.¹² India has been implementing the philosophy of sustainability and protection of natural resources for future generations since the time of the Vedas. Human life is heavily reliant on the Earth's eco system services and biodiversity, both of which are being adversely harmed by climate change. SDGs (Sustainable Development Goals) and MDGs (Millennium Development Goals) were created under its supervision to maintain ecosystem services and offer environmental justice to all.¹³

III. ENVIRONMENTAL JUSTICE

Justice is a fluid and ephemeral concept with a changeable meaning. In his book 'Theories of Justice',¹⁴ John Rawls describes justice as "a virtue of social institutions and the validity of systems of thought." If a hypothesis is false, no matter how beautiful or cost-effective it is, it must be dismissed. So, regardless of how well-organized or efficient laws and institutions are, if they are unjust, they should be removed. Every individual has a personal foundation of justice that the overall good of society cannot override. The justice that denied certain people their independence is made right by a higher benefit shared by everyone. Justice will not allow the sacrifices of a few to be outweighed by a greater number of benefits enjoyed by many. As a result, equal citizenship is treated as a settled matter in a just societal arrangement, and the rights that justice secures are not subject to political whims. Unjustice is terrible, but when it is accompanied by more justice, it can be endured. Truth and justice are the first human qualities, and they are a non-negotiable issue. Since the 1980s, the motto of the environmental justice movement has been "clean environment, equitable enjoyment." It is a form of equitable treatment for all individuals who exist on this planet and have a right to life and a healthy environment. Environmental law and regulation, as well as the right to development, should be applied and implemented by the government on an equitable and fair basis. According to the Massachusetts Common Wealth, environmental justice is a principle that assures that everyone has the same right to be free of pollution and to live in a safe and healthy environment. It's a positive trend that regularly shifts from humans to the environment, and it's a part of social

¹² *Report of world commission on Environment and Development*, UNORG (20th March, 1987), <http://sustainabledevelopment.un.org>

¹³ Mark Stallworthy, *Sustainability, Coastal Erosion and Climate Change: An Environmental Justice Analysis*, 18 J. ENVTL. L. 357 (2006).

¹⁴ John Rawls, *Theories of Justice*, Belknap Press, 1971.

justice. The constitutional forefathers and mothers of India also provided that everyone should be treated fairly. It is a fair distribution of the effects of economic development.

Environmental justice developed in the 1980s as a socio-ecological challenge identified by tiny organisations. Inadequate local environmental legislation and enforcement, occupational and health dangers, destructive mining operations, industrial pollution, and toxic waste accumulation are all examples of unequal treatment that can jeopardise people's right to live, work, and play. According to natural justice, what is just, fair, and reasonable is proper, and it is founded on equality and equal opportunity. Environmental justice turns the focus away from the environment and onto anthropocentric acts such as racism and other types of oppression. It's a topic of conflict for the environmental and social justice groups. Professor Andrew Dobson examined this problem in his book *Work Environment and Justice*, which was released in 1998.¹⁵ He linked sustainability to the topic of social justice, emphasising the importance of empirical research in resolving the problem. According to Dobson, the primary environmental issue on this planet is inequity. Environmental justice, both distributive and productive, aimed at reducing ecological hazards and their distribution, as well as reducing the production of ecological hazards, is the main topic of discussion today, with the goal of achieving transformative environmental justice, which ensures equality in regional planning.

IV. ENVIRONMENTAL JUSTICE AS AN INTERNATIONAL MOVEMENT

The environmental justice movement originated in the 1980s in the United States and the Asia Pacific Islands, with poor and vulnerable people, particularly from the black community, living, working, and playing in the most polluted areas. Statistical evidence of racism in the United States is presented in the context of environmental justice.¹⁶ The environmental justice movement began to take shape in October 1991, when the first national people of colour environmental leadership conference was held in Washington, DC. As a result, seventeen environmental justice principles have been developed, as well as a call to action to ensure environmental justice. During Bill Clinton's presidency, environmental justice became a federal government policy in the United States.¹⁷ A number of environmental law claims have used Title VI of the Civil Rights Act of 1964, which prohibits discrimination. Every person in a given situation should bear a fair part of the environmental effects. The purpose of the Environmental Protection Agency (EPA) is to offer equal protection to all people through

¹⁵ Andrew Dobson, *Environment and Justice*, Page – 240, Oxford University Press, 1998.

¹⁶ Renee Skelton & Vernice Miller, *The Environmental Justice Movement*, NRDC. <https://www.nrdc.org/stories/environmental-justice-movement>, Sept. 30, 2020, 7:50 pm.

¹⁷ Alice Kaswan, *Environmental Justice and Domestic Climate Change Policy*, 38 ENVTL. L. REP. News & Analysis 10287 (2008).

awarding grants, issuing licences, regulating and granting facilities, and setting standards. In environmental issues, the EPA continuously protects the interests of stakeholders. On October 23–27, 2002, the second environmental leadership conference was conducted. The environmental justice issue, which was recognised by the American movement at its inception and later extended throughout the world, is linked to class inequities. The Clinton administration's Executive Order 12898 from 1994 can be considered a step forward in this direction. Because environmental injustice as a result of climate change is now pervasive, particularly among the poor, climate change has been incorporated into this movement as a human rights issue.¹⁸ The UK Climate Change Act 2008, the Federal Technology Transfer Act 1996, the Wydler Act 1980, the Bayh Dole Act 1980, and the America Invents Act are among the legislation and statutes being enacted by the UK and other OECD countries to address climate change and promote environmental justice (AIA 2011). The UK imposed a climate change levy in 2001, and the UK Parliament has declared a climate emergency, and the UK Parliament's vow to reduce carbon emissions by 80% by 2050 is a positive step. Under the UNFCCC (United Nations Framework Convention on Climate Change)¹⁹, the United Nations is also pursuing better environmental justice and addressing climate change through different conventions. Greta Thunberg, a young climate activist, launched a petition against the top five emitting countries in September 2019. The first wave of climate change lawsuit, which lasted from 2005 to 2015, was based on public nuisance and tort, but it failed, thus the second wave turned to human rights considerations, holding private businesses liable for environmental fraud. Despite the fact that there are few cases directly related to climate change or environmental justice in India, the Supreme Court of India awarded displaced people who are victims of environmental injustice a temporary remedy.

V. CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IN INDIA

The sages of India have practised the 'Panchamahabhuta Tatta' from the time of the Vedas, worshipping Light, Air, Wind, and other cosmic elements as the primary creation of nature. The principle of environmental justice has been preserved by Indian social cultural heritage since ancient times, and it has been recognised by Indian legal mechanisms, constitutionalism, and judicial notions from time to time. Under its constitutional mandate, India has promoted theories of environmental sustainability and the concept of social justice, which is at the heart of any environmental justice campaign. The makers of the Indian constitution²⁰ aimed to ensure

¹⁸ Mary Robinson, *Justice, Human Rights, and Climate Change*, 39 FLETCHER F. WORLD AFF. 9 (2015).

¹⁹ DR.PARAMJIT S JSWAL.ENVIRONMENTAL LAW P 109(4th ed.201.

²⁰ INDIAN CONST. art 21, 48A, 51A(g).

environmental justice through different insertions such as the right to life, directive principles of state policy, and Indian people's responsibility.²¹ For the past seventy years, India's constitutional journey has been a storey of environmental justice protection through various mechanisms (PIL Mechanisms)²², doctrines (Polluter Pays Principle, precautionary principle, public trust doctrine, sustainable development, intergenerational equity), and other means. When it comes to creating history by judicial notions in green concerns, the Indian judiciary is quite watchful. In India, there is a multitude of legislation protecting the right to the environment and ensuring environmental justice. Though legal mechanisms are insufficient to address the specific issue of climate change mitigation and adaptation through green technology transfer and environmental justice, they are necessary. Traditional environmental laws are insufficient in ensuring climate resilience. Despite being vigilant and making proper progress in environmentalism, the EPA (Environmental Protection Agency) is still not prepared to deal with the climate change threat. The greatest obstacle to achieving environmental justice in India is poverty, which is exacerbated by climate change. Climate change is primarily caused by global warming caused by the release of greenhouse gases. Climate change is a difficult topic in today's globe, particularly in India, because it causes unfairness to people by destroying biodiversity, degrading ecosystem services, depleting ozone, harming public health, and so on. Poverty and inequality are two concepts that the Indian economy is grappling with as a result of climate change. As a developing country, India should take major steps to reduce and adapt to climate change in a specific manner, including enacting climate change legislation and transferring technologies.

Climate change lawsuit in India is still in its infancy. The importance of combating climate change is argued by the national green tribunal. The Indian judiciary has tackled environmental issues through numerous lawsuits brought under the Public Interest Litigation (PIL) procedure, although climate change has received little attention.

VI. CONCLUSION AND SUGGESTION

As a strategy, environmental justice was a joint effort with government agencies. The Commonwealth of Massachusetts is one example of such cooperation. Since WWII, Massachusetts has experienced socioeconomic devastation and unequal treatment of the impoverished working class. In the context of climate change, environmental justice ignores the concept of injustice in the enjoyment of environmental impacts. This environmental justice

²¹ Mark Stallworthy, *Sustainability, Coastal Erosion and Climate Change: An Environmental Justice Analysis*, 18 J. ENVTL. L. 357 (2006).

²² INDIAN CONST. art 32,226.

movement's strategy is to promote a healthy right to life for today and tomorrow. Sustainability and environmental justice go hand in hand, and they form a self-aware framework for both traditional and current environmental legislation. In today's world, poor people, minorities, and indigenous peoples are the principal victims of injustice.²³ This movement, which began in the United States in the 1980s, is being taken seriously in India and around the world. In order to ensure environmental justice, Indian environmentalism inserted many green mechanisms rules, regulations, and law, by law, green court; with constitutional mandate. India lacks a comprehensive legislative framework for addressing climate change mitigation, which contributes to climate and environmental injustice. To strengthen India's position in the fight against climate change, we must adopt a need-based approach to develop special legislation on climate change mitigation technology transfer and environmental justice. In the local and national justice movements, environmental justice should be the government's primary policy. The basic human right to life is contingent on human beings having access to a fair and clean environment, including water, food, shelter, and the issue of sustainability. True, we have laws, regulations, legislation, and international directives,²⁴ but to ensure environmental justice in India, we need direct legislation on climate change and a green technology transfer framework. My recommendations are as follows:

1. All environmental justice stakeholders in India should be active in this effort to combat climate injustice and provide environmental justice.
2. Environmental discrimination and gender justice issues related to the environment should be addressed simultaneously with climate change mitigation.
3. Climate change, ozone depletion, bio diversity loss, and other negative effects of environmental justice should be reduced by green technology transfer, as suggested by the IPCC.
4. Policymakers who make green judgments and strike a balance between development and the preservation of human rights can better ensure environmental justice.
5. Because climate change mitigation techniques such as emission trading can sometimes result in environmental injustice, we must keep in mind that our climate agreement should not cause such problems.
6. Environmental justice and climate justice programmes should work together to protect and maintain our people and the environment, as well as to resolve the issue by

²³ Rebecca Tsosie, *Indigenous People and Environmental Justice: The Impact of Climate Change*, 78 U. COLO. L. REV. 1625 (2007).

²⁴ Tom E. R. B. West, *Environmental Justice and International Climate Change Legislation: A Cosmopolitan Perspective*, 25 GEO. INT'L ENVTL. L. REV. 129 (2012).

alleviating the burden of environmental injustice on the poor and protecting human rights to life.

7. India requires additional ambassadors who would routinely appear in national media and raise public awareness about the threat of climate change. This has the potential to ensure environmental justice.
8. In order to preserve India from climate change, climate investment in the budget should be increased.
9. India requires a concrete environmental justice and climate change mitigation statute.

Despite different law regulation judicial conceptions, this is the only need-centered strategy of today's policy regulation. Climate Bonds and Insurance should be implemented.

India is a developing country where one-third of the population lives in poverty and is a victim of environmental injustice. To reduce greenhouse gas emissions, India should adopt a carbon price and engage in green technology transfer. If a direct climate change law is passed, their citizens should be allowed to seek relief from the courts immediately.
