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# Combating Climate Change and Securing Environmental Justice in Indian Scenario: A Need Centric Approach

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## ABSTRACT

*Global Climatic change which is an anthropogenic contribution is a challenge to humanity and sustenance of this world. Human beings are the most intellect species of the Mother Nature, who are enjoying exploiting and causing destruction of it in order to sustain. All the species have Right to life in free and fair environment with dignity, irrespective of class, creed race and birth. Right to Environment is part of Right to life which is violated by Climate Change. The Global commons are really in a position of emergency due to Global warming and climate Emergency, which is no more an Environmental issue only but connected to socio political, economic and legal, scientific phenomenon. Every single action of Climate Change can cause Environmental injustice everywhere. The concept of Environmental justice is that no one will suffer harm while enjoying Right to life and Environment. Environmental justice is an ancillary issue of Human Rights jurisprudence. To, secure Human Right to life and environmental justice we need to protect our people and planet from the climatic changes. Injustice in the enjoyment of natural resources and environment due to climate change is an unprecedented and real phenomenon of today's world. India as a Developing country is also facing Climate change and is the fourth largest emitter of Green house gases. India is an active member state in the UNO climate change framework convention, having plethora of green legislations to combat the climatic changes. India is now lacking a need centric approach towards forming a single specific legislation on climate change and technology transfer. In this Article by Doctrinal method the author try to discuss on climate change and its role in Environmental injustice in Indian scenario and way out to secure our Right to life as well as right to environment. Strong legal mechanism on Climate change is need of the hour is my hypothesis which will be pointed out clearly in the discussion.*

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

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## **I. INTRODUCTION**

We the global commons are the crew of a same ship called The Earth, we all irrespective of class, creed, race, sex can be affected by the climate change. Climate change is an unprecedented phenomenon due to global warming for a considerable period which is a challenge for survival of every species and liable to loss of biodiversity and ecosystem services. Right to life with Dignity as promised by our constitution and judicial notion will be at a stake due to worse affect of climate change. Right to life in free and fair environment is promised to all and it is a part of social justice. This is gradually hampering Environmental justice which is posed by climate change. Inter governmental panel on climate change, which was established to asses scientifically the effect of climate change and its implications defines it is as a change in temperature, humidity, clouds and rainfall. Combating of climate change through Adaptation and mitigation can secure Environmental justice all over the World. Environment is our surrounding and Environmental justice secures healthy environment for all, which is essential for enjoyment of human right to life also. Environmental justice is a fair treatment and meaningful involvement of all the people regardless of origin, race, and class to all. Combating climate change is need of the hour to secure environmental justice. India as a Developing country also facing climate change as an anthropogenic activities, and need to secure Environmental justice through mitigation and adaptation of climate change. A need centric approach is really very urgent to protect India and its people and its biodiversity. In this Article the author through Doctrinal method tries to study the aspect of Environmental justice in the light of climate change in Indian scenario and point out on proper approach to be taken by the authority to secure Environmental justice.

## **II. WHAT IS CLIMATE CHANGE? WHAT ARE ITS EFFECTS? HOW IT CAN BE COMBATED?**

Climate change is the growing problem of today's world in climatic condition due to human action which is a headache of global commons today. It can produce heat waves, severe drought, sharp sea level rises, flood, global warming or ozone layer depletion, deforestation. It can affect human right to life and public health, culture habitat etc, caused bio diversity loss and loss of ecosystem services which is very urgent to be maintained as sustainability. Human right to life in free and fair environment is the basic human right without whom a human cannot survive in this beautiful planet. The health effect of climate change is very high. They include vector borne zoon tic disease, water borne disease, cardio vascular disease, asthma and respiratory disease, food borne disease, neurological disorder, cancer, mental disorder etc.

Climate change is changing of average weather pattern over long term period. Green house gas emissions can accelerate the global warming which ultimately resulted in climate change. Various major green house gas included CO<sub>2</sub>, methane, hydro fluoro carbon, perfluoro carbon, nitrous oxide etc. Climate can change permafrost melting in artic areas which is very dangerous for human civilization. Combating of climate change can be done through adaptation and mitigation. The IPCC (Inter Governmental Panel of Climate Change) mandated this to process as a way out to combat climate change. IPCC also directs technology transfer as a main solution in combating climate change. Technology cooperation should be facilitated through effective mechanism through various ways of acceleration; deployment of affordable climate controlling technology can solve the problem. The UN framework convention on climate change in 1992 under its canopy started to organized international conferences of parties every year and invented various mechanisms to answer climate change. Among them CBDR<sup>2</sup> mechanism, joint implication, CDM<sup>3</sup>(Clean Development Mechanism) etc. are main. Small and Witherick defined climate change as a “change in the climate of a region or a place, usually reflected in a mean annual temperature or mean annual precipitation over a time period”.<sup>4</sup> Mitigation of climate change help to reduce the heat caused by green house gas emission and contributes to creating sinks (ocean, forest and soil). The process of stabilization of green house gas emission in a proper time frame is an urgent measure to protect ecosystem and habituated towards natural adaptation in a more sustainable way.<sup>5</sup> Adaptation is also and weapon in combating climate change which is an adjustment of future climate change and reducing vulnerability as a goal. Climate change if mitigated and adapted through proper means then the earth climate can be stable in a proper way by solving this climate change impact. The IPCC in is various reports stressed on this as on answer to climate change. While the civilization is asked to adapted climatic change in their daily life they also should be equipped with sustainability concept as talked by Burndt Land report in ‘our Common Future’<sup>6</sup>. From the time of The Vedas India is has been practicing this doctrine of Sustainability and conservation of natural resources for the future generation with prudence. Human life is largely depending on the eco system services and biodiversity in this Earth which are directly devastated by this climate change. UNO under its direction invented SDG (Sustainable Development Goals) and MDG (Millennium

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<sup>2</sup> SANDIPA LAHIRI ANAND, ASIS KUMAR PAIN, KYOTO PROTOCOL ISSUES AND IMPLICATIONS, 2006.

<sup>3</sup> IBID

<sup>4</sup> MARK MASLIN, CLIMATE CHANGE A VERY SHORT INTRODUCTION, (3 ed. Oxford University Press, 2014).

<sup>5</sup> <https://climate.nasa.gov/solutions/adaptation-mitigation/>, Net accessed by the Author, dated 27-09-2020.

<sup>6</sup> *Report of world commission on Environment and Development*, UNORG (20<sup>th</sup> March, 1987), <http://sustainabledevelopment.un.org>

Development Goals)<sup>7</sup> to protect ecosystem services and provide environmental justice to all.

### **III. ENVIRONMENTAL JUSTICE, MEANING, CONCEPT, ISSUE AND HISTORY**

Justice is a very relative and interchanging concept with a variable idea. John Rawls in his 'Theories of Justice'<sup>8</sup> defines justice in a very vivid way he wrote "it is a virtue of social institutions and truth of systems of thought. A theory if untrue how much elegant and economical it must be rejected. So also laws and institutions are creating no material impact however well arranged or efficient they are they should be abolished if unjust. Every person possesses an individual basis on justice which the total welfare of society cannot over ride. The justice which denied independence for some is made right by a greater good shared by others. Justice does not allow the sacrifices of few which are out weighted by larger quantity of advantages enjoyed by many. Therefore in a just societal arrangement of equal citizenship are taken as a settled issue and the rights which the justice secure are not subject to political whims. An injustice is intolerable but when it violet greater justice then only it can be tolerated. Truth and justice are the first virtues of human which are an uncompromising issue. Clean environment and its equal enjoyment is the motto of environmental justice movement since 1980's. It is a kind of fair treatment to all sects of people who are lived in this globe and enjoying right to life and environment. The application of environmental law and regulation and their implementation along with right to development should be based on equal and fair treatment basis by the State. The US common wealth of Massachusetts defines environmental justice is a principle which secure all people have same right to be protected from environmental pollution and enjoy a clean and healthy environment. It is a positive movement which regularly shifts from people to environment and part of social justice. It is also mandated by the Indian constitutional forefathers and foremothers that everyone should get their due they deserve. It is a fair distribution of the impact of the economic development.

In 1980's the term environmental justice emerged as the socio ecological problem noticed by small organization. The inadequacy of local environmental laws and its enforcement, occupational and health risk, destructive mining operation, industrial pollution, accumulation of toxic wastes all can be included in the unequal treatment which can affect people right to life work and play. What just fair and reasonable is according to natural justice is proper and it is based on equity and equal opportunity. Environmental justice shifts its view from environment to anthropocentric act like racism in various forms of oppression etc. It is a

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<sup>7</sup>DR.PARAMJIT S JSWAL.ENVIRONMENTAL LAW P 132(4<sup>th</sup> ed.2018).

<sup>8</sup> John Rawls, *Theories of Justice*, Belknap Press, 1971.

conflict issue between sustainability movement and social justice movement. Professor Andrew Dobson in his work *Environment and Justice* 1998 given a deep look out on this topic.<sup>9</sup> He related sustainability with social justice issue and stressed on empirical study to resolve the issue. According to Dobson inequality in this planet is the main environmental problem. Distributive and productive Environmental justice which aimed to reduce ecological hazards and its distribution and reducing the production of ecological hazards are the main point of discussion of today which aims to secure transformative environmental justice which secure equality in regional planning.

#### **IV. ENVIRONMENTAL JUSTICE AS A MOVEMENT IN INTERNATIONAL ARENA**

In international arena environmental justice movement was started in 1980's by the Americans, Asia Pacific Island and the people involved were poor and vulnerable and purely of black community who use to live, work, play in most polluted areas. Environmental justice provides statistical evidence environmental racism in USA.<sup>10</sup> In October 1991 environmental justice movement was take a good shape when first national people of color environmental leadership summit was held in Washington DC. This forms seventeen principles of environmental justice and call to action to secure environmental justice. In Bill Clinton's time environmental justice become federal government policy in USA. Civil Right act of 1964 title VI sited in various environmental law suits which prohibits discrimination. Every setup people should get proportionate share of environmental consequences. Environmental protection agency (EPA's) goal to provide same degree of protection to all by awarding grant issuing licenses, regulating and giving facilities or setting standers. EPA continuously protects the stakeholder's interest in environmental issue. The second environmental leadership summit was held on October 23 – 27, 2002. The class based inequalities connected with the environmental justice issue which was recognized by American movement in inception and spread everywhere in the world latter on. Executive order 12898 of 1994 by the Clinton government can be cited as a step in this movement. Climate change is now inserted in this movement as a human right issue because environmental injustice due to climate changes is rampant now especially on poor people. UK and USA, OECD (organization of Economic Cooperation and development) countries all are creating various regulation and statute to combat climate change which is also for securing environmental justice such legislations named UK Climate Change Act 2008, Federal Technology Transfer Act 1996, Wydler Act 1980, Bayh Dole Act 1980, America Invents Act

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<sup>9</sup> Andrew Dobson, *Environment and Justice*, Page – 240, Oxford University Press, 1998.

<sup>10</sup> Renee Skelton & Vernice Miller, *The Environmental Justice Movement*, NRDC. <https://www.nrdc.org/stories/environmental-justice-movement>, Sept. 30, 2020, 7:50 pm.

(AIA 2011) all can be stated. In 2001 UK imposes climate change levy and recently UK Parliament declare climate emergency and the commitment of UK Parliament of 80% carbon emission reduction by 2050 is a well come step. UNO under the UNFCCC (United Nations Framework Convention on Climate Change)<sup>11</sup> under various conventions are also after securing environmental justice and combating climate change in a greater way. In September 2019 the great child climate activist Greta Thunberg filed petition against five highest emitting countries (Brazil, Argentina, France, Turkey, and Germany). First wave of climate change litigation in 2005 to 2015 was based on public nuisance and tort which was failed but the second wave started to challenge private entities on human rights issue and made liable the corporation for fraud in environment. In India there are few cases directly under climate change or environmental justice issue the Supreme Court of India granted interim relief on the petition of displaced people who are prey of environmental justice.

#### **V. INDIA AND CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IN INDIAN SCENARIO. WHAT IS THE NEED CENTRIC APPROACH?**

In India from the time of The Vedas the sages inculcate the ‘Panchamahabhuta Tatta’, worshiping Light, Air, Wind and other cosmic elements as the basic creation of nature. Indian social cultural heritage upheld the theory of environmental justice from ancient time which is just ratified by Indian legal mechanism, constitutionalism and judicial notion from time to time. India from the time of independence under its constitutional mandate promotes the theories of environmental sustainability and the idea of social justice which is a core of environmental justice movement anywhere. Under the Indian constitution<sup>12</sup> the makers wanted to secure environmental justice through various insertions like right to life, directive principles of state policy and duty of Indian citizens. Indian constitutional journey for last seventy years is a story of protection of environmental justice through various mechanism (PIL Mechanism)<sup>13</sup> doctrines (Polluter Pays Principle, precautionary principle, public trust doctrine, sustainable development, inter generational equity) etc. Indian judiciary is very much vigilant when creating history through judicial notion in green matters. There are plethora’s of legislation to protect right to environment and secure environmental justice in India. Though legal mechanism is inadequate to answer the particular issue of climate change its mitigation and adaptation through green technology transfer and securing environmental justice. The traditional environmental laws are not exhaustive to secure climate resilience. The EPA

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<sup>11</sup> DR.PARAMJIT S JSWAL.ENVIRONMENTAL LAW P 109(4<sup>th</sup> ed.201.

<sup>12</sup> INDIAN CONST. art 21, 48A, 51A(g).

<sup>13</sup> INDIAN CONSTart 32,226.

(environmental protection agency) though vigilant and providing proper progress in environmentalism, it is still not up-to-date to cope up with the climate change challenge. Poverty is the main challenge thrown by the climate change in the way of securing environmental justice in India. Global warming due to emission of green house gases is the main creator of climate change. Climate change is a challenging issue of today's world nay India which creating injustice to people through loss of biodiversity, degradation of ecosystem services, ozone depletion, causing harm to public health etc. Poverty and inequality is an interchanging idea posed by the climate change in Indian economy. As a developing country India should take serious step to mitigate and adapt climate change in a specific manner with a specific legislation on climate change and technology transfer.

In India climate change litigation is in a very nascent stage. National green tribunal<sup>14</sup> argues on the importance of climate change addressing. Indian judiciary addressed the environment issues through various cases by PIL mechanism, but climate change directly not very much addressed.

## **VI. CONCLUSION AND SUGGESTION**

Environmental justice was a collaborative approach with government agencies as a strategy Massachusetts is an example such collaboration. Since World War 2 Massachusetts faces socio economy destruction and inequality treatment with poorer working class. Environmental justice disregards the concept of injustice in enjoyment of environmental impacts in case of climate change also. A healthy right to life for today and tomorrow is the strategy of this environmental justice movement. Sustainability and environmental justice are goes in hand in hand and it becomes a self-conscious structure for traditional and modern environmental legislations. The poor people, the minority, the indigenous persons are the main prey of this kind of injustice in present time India and World are taking seriously this movement which started in USA in 1980's. Indian environmentalism inserted various green mechanism policies, regulation, and law, by law, green court; with constitutional mandate in order to securing environmental justice. India is lacking any concrete legal mechanism regarding climate change mitigation which is a part of climate injustice and environmental injustice. To secure India's position in combating climate change we have to adapt a need centric approach to form specific legislation on climate change mitigation technology transfer and securing environmental justice. Environmental justice should be the main policy of the government in local and national justice movement. Basic human right to life depends on securing environmental justice of the

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<sup>14</sup> DR.PARAMJIT S JSWAL.ENVIRONMENTAL LAW P 373(4<sup>th</sup> ed.2018).

human beings through access to fair and clean environment water, food, shelter and sustainability issue. It is true we have rules regulations, legislations and international directions but we need direct legislation on Climate change and Green Technology transfer mechanism to secure Environmental Justice in India.

My suggestions are following:

1. All stake holder of environmental justice should be involved in this movement nationwide in India to address the climate injustice and secure environmental justice.

2. Environmental discrimination and gender justice issue connected to environment both should be address while mitigating climate change.

3. Negative effects of environmental justice include climate change ozone depletion, bio diversity loss etc. which should be mitigated through green technology transfer as directed by IPCC.

4. Taking green decisions by the policy makers and balancing between development and protection of right to life can secure environmental justice in a better way.

5. Climate change its mitigation technique emission trading sometime create environmental injustice so we have bore in mind that our climatic deal should not raises such issues.

6. Environmental justice and climate justice porgramme should go hand in hand to protect and preserve our people, planet and settles the issue by lesson the burden of environmental injustice on poor and protect human right to life.

7. India needs more ambassadors who will regularly appear in national media and fostering people's awareness towards climate change emergency. This can secure environmental justice.

8. Climate spending in budget should be increase in order to protect India from climate change.

9. India need concrete statue on environmental justice as well as climate change mitigation. This is the only need centric approach of today's policy regulation in spite of various law regulation judicial notions. Climate Bond and Climate Insurance should be introduced.

India is a developing country having one third people below poverty line who are prey of environmental injustice. India should impose carbon tax and invest on green technology transfer to reduce greenhouse gas emission. If a direct climate change law is their people should be more able to take relief directly from the court of judicature.