

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 4

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Legal Frameworks for Climate Justice: Fostering Harmony in Times of Crisis

SYED SHIRAZ FAZAL¹ AND TWINKLE HUSSAIN²

ABSTRACT

It is no more a concept unknown to anyone anymore that climate change has been happening drastically and has been disproportionately affecting vulnerable communities and exacerbating existing socio-economic disparities. Human being have forgotten that there is going to be no life if the climate is deteriorated and therefore, it poses upon every human being, an infeasible duty to understand about climate justice and move towards development only by keeping it in the minds.

Through this research paper, the researcher will make an attempt to explore the critical intersection of climate justice and climate-resilient development, emphasizing the need to aid between these two concepts. Climate justice, rooted in the principles of equity, conscience and fairness, highlights the ethical and moral imperative to address climate change impacts that has been disproportionately affecting the marginalized populations. Climate-resilient development, on the other hand, focuses upon developing capacities that are adaptive to withstand climate-related risks.

This paper will highlight that achieving true sustainability necessitates an integrated and balanced approach that has the ability to incorporate both climate justice and climate-resilient development and also the recent reports of Climate Change Performance Index showing the very recent status of climate. It will examine the challenges and opportunities in this endeavor and will provide recent and landmark examples of successful initiatives and policies that has strived, if not completed, the balance between environmental protection and social equity. The synthesis of these two critical domains is essential for shaping a sustainable future where all individuals and communities can thrive despite the challenges posed by a changing climate.

Keywords: *Climate change, Climate-Resilient Development, Environment Protection, Social Equity, Sustainable.*

I. INTRODUCTION

Domestic laws and the adjudications of the cases have increasingly brought climate change under control over the past decade. Decisions, especially those aimed at reducing emissions, are

¹ Author is an Assistant Professor at Lloyd Law College, India.

² Author is an Assistant Professor at Asian Law College, India.

also used to link local actions to global targets.³ Judges play an important and paramount part in protecting the rule of law, helping countries to achieve the victories that is possible in climate protection, and supporting people and the rule of law. Such as in the case of Leghari⁴, the hon'ble Court singled out justice of climate as a successor to environmental justice. The court said environmental justice depends on the implementation of national laws and decisions based on international law. It focuses on changing or stopping polluting industries.

As the court noted, climate justice takes many humanitarian approaches. It links human rights with developmental aspects of society. It aims to promote the rights of vulnerable groups and “explain the burden and benefits of climate change and its direct and indirect impacts.” Climate justice is “based on science, responsive to science, and recognizes the need for equitable management of the world's resources.” But acknowledging that achieving climate justice is difficult, the Court approved the fact and acknowledged that the criminals often cross the national borders and are quite difficult to detect. Finally, the Court articulated its vision of water justice, drawing on the human rights idea of clean water and air justice.

Comparative international law and knowledge of international and national legal systems assist judges in judicial decisions; this information becomes the main keywords of the climate change justice toolbox.

II. INTERNATIONAL AGREEMENTS AND CONVENTIONS: FOUNDATIONS FOR CLIMATE JUSTICE CLIMATE CHANGE THROUGH THE HARD LAWS⁵

(A) Convention on Wetlands of International Importance Especially as Waterfowl Habitat

This Convention, also known as Ramsar Convention adopted in Iran in 1971, recognized the connection between wetlands and water resources, biodiversity and people's livelihoods. It promotes an integrated approach that takes into account the various functions and importance of wetlands. Since wetlands are very important for the ecological system with their rich fauna and flora, the general aim of the Convention is to stop the loss of these areas and ensure their protection. To achieve these objectives, the Convention imposes on Parties general obligations to protect wetlands on their territory, as well as specific obligations regarding wetlands selected for the Ramsar List of Areas of International Importance.⁶

³ Leghari v. Federation of Pakistan (2015) W.P. No. 25501/201

⁴ *Ibid.*

⁵ K. Abbott and D. Snidal. 2000, *Hard and Soft Law in International Governance*, Intl Org. 54. p. 421.

⁶ 2 Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, Iran, 2 February 1971, United Nations Treaty Series, Vol. 996, No. 14583, p. 245. See Art. 3(1) for the convention's object and

From a strict perspective, it must be acknowledged that these roles are not clear and rather vague, such as formulation of plans by the contracting parties in order to “promote the conservation”⁷ where there is no clarity as to what is the mode of promoting the conservation of wetlands.

(B) Vienna Convention for the Protection of the Ozone Layer, 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, and 2016 Amendment to the Montreal Protocol (Kigali Amendment)

Its main purpose is to protect the earth's ozone layer by blocking it by promoting international cooperation and collaboration. Addressing activities that cause ozone depletion. The Convention establishes a framework for research, exchange of information and development of measures aimed at controlling and reducing the release of harmful substances into the ozone layer.⁸

Montreal Protocol on substances that deplete the ozone layer (1987) The Montreal Protocol, adopted in 1987 within the framework of the Vienna Convention, is a landmark international agreement which is aimed at clearing out production and consumption. Ozone-depleting substances (ODS) The Agreement identifies ozone-depleting chemicals such as chlorofluorocarbons (CFCs) and halons and establishes a timeline for their phase-out. The Montreal Protocol has made significant progress in reducing ODS and helping repair the ozone layer.⁹

(C) 2016 Amendment to the Montreal Protocol (Kigali Amendment):

The Kigali Amendment is the Montreal Protocol adopted at a meeting in Kigali, Rwanda in 2016. The change concerns hydrofluorocarbons (HFCs), which started as alternatives to ozone-depleting chemicals but have since been recognized as potent greenhouse gases. The Kigali Amendment set targets for the production and use of HFCs to reduce their impact on global

purpose. Wetlands are broadly defined in Art. 1(1) as “areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.”

⁷ Article 3 of Convention on Wetlands of International Importance especially as Waterfowl Habitat.

⁸ WMO/OMM. 1990. *The Changing Atmosphere: Implications for Global Security*. Statement from international meeting sponsored by Government of Canada. Toronto. 27–30 June 1988 (Reprinted in 5 AM1. U. J. INT'L L. & POL'y 515).

⁹ Ministerial Declaration on Climate Change (Fact Sheet). 13 The Noordwijk Declaration states, “The Conference recognizes the need to stabilize, while ensuring stable development of the world economy, CO₂ emissions and emissions of other greenhouse gases not controlled by the Montreal Protocol. Industrialized nations agree that such stabilization should be achieved by them as soon as possible, at levels to be considered by the IPCC and the Second World Climate Conference of November 1990. In the view of many industrialized nations, such stabilization of CO₂ emissions should be achieved as a first step at the latest by the year 2000.”

warming. This amendment demonstrates a concerted effort to address the problem of ozone layer protection and climate change by encouraging the implementation of environmental changes.¹⁰

Soft Laws

(D) Intergovernmental Panel on Climate Change (IPCC) Reports

The IPCC provides a comprehensive assessment of the science, impacts and mitigation of climate change. Although these reports are unofficial, they can provide important information to policymakers and often influence the development of national and international climate policies. The ultimate goal of the conference is to stabilize greenhouse gas concentrations "at a level that will prevent anthropogenic interference with the climate system." "These levels must be reached in sufficient time to allow ecosystems to adapt to climate change, to ensure food supplies are not threatened and to enable the business to grow to a profitable level," he said.¹¹

(E) United Nations Framework Convention on Climate Change (UNFCCC)

The idea has been this ever since. Industrialized countries have been and still are the source of most greenhouse gas emissions, so they want to do what they can to reduce domestic emissions.¹² These include 12 "transition economy" countries from Central and Eastern Europe. Annex I countries must reduce their emissions to 1990 levels by 2000. Many have made efforts to do this, and some have succeeded.

The main goal is to stabilize the greenhouse gases in the atmosphere at such a level that will prevent human impact on the atmosphere. For carrying forward the very role of itself, recognizes the importance of economic development and poverty eradication in the fight against climate change and points out the fact that developed and developing countries have different histories of emissions and different capacities to combat climate change.

The Conference of the Parties otherwise known as COP is the highest decision-making body of the United Nations Framework Convention on Climate Change. Every year, it brings together representatives of member states to evaluate progress and decide on security-related issues. Kyoto Protocol being one of the most important aspect of this convention wherein the genres

¹⁰ Based on Article 5 of the Kigali Amendment Treaty Section 8 qua subpart(b) available at <https://ozone.unep.org/treaties/montrealprotocol/articles/article-5-special-situation-developing-countries> (last accessed on Jan 20,2024).

¹¹ **Clark WC, Mitchell RB, Cash DW. 2006.** Evaluating the influence of global environmental assessments. In *Global Environmental Assessments: Information and Influence*, ed. RB Mitchell, WC Clark, DW Cash, NM Dickson, pp. 1–28. Cambridge, MA: MIT Press available at <https://nrs.harvard.edu/URN-3:HUL.INSTREPOS:37376231>

¹² These are called Annex I countries and belong to the Organization for Economic Co-operation and Development (OECD).

of the Legal emission reduction targets have been set for developing countries and industry-focused guidelines have been implemented.

Paris Agreement on the other hand is another important aspect of the same signed at signed at COP21 held in Paris, France in 2015 wherein the agreement to limit global warming to below 2 degrees' Celsius pre-industrial levels, with 1.5 degrees Celsius as the ideal target. Information about National Decisions (NDCs) and the key mechanisms that allow countries to set their climate plans.

The **United Nations Framework Convention on Climate Change** is a framework for international efforts to address climate change and provides the basis for discussion and agreement for a comprehensive resolution of the problem. Please note that some improvements may have been made since my last update in January 2022 and you may want to check back for the latest information.

Having a special focus in the area that as individuals one can really make an impact to, the Domestic or Municipal Laws are extremely important for the alignment of principles of climate change, as it not only ensures the people of the country a cleaner and safer environment, but also creates accountability for anything in the opposite direction.

The **Water (Protection and Prevention of Pollution) Act (1974)**, also known as the Water Act, is India's oldest "environmental" law¹³ and specifies pollution and the need to protect and control it. It was issued in accordance with Article 252 of the Constitution (ordinary laws made by two or more states of the dependent state) and has a federal structure. This is necessary because "water" is a state term under Article 21 of the Constitution of India (which establishes the law between the central government and the state governments). "Environment" is not a topic mentioned in Revelation Seven. Since "water" is a national issue, the design of the bill plays a strong role. The role of the central Pollution Control Board is to manage the activities and capabilities of national Pollution Control Boards, establish national standards, and conduct research.

The State Pollution Control Board is the main agency responsible for planning and implementation of the law. Commercial units must obtain Construction Approval (CTE) and Operation Consent (CTO) from the State Security Council before installation and commissioning. The National Pollution Control Board has the authority to obtain information, transport and verify samples, as well as entry and inspection authority. Offenses under the Act

¹³ UN Water, Human Rights to Water and Sanitation, UNITED NATIONS, *available at* <https://www.unwater.org/water-facts/human-rights/> last accessed on 07 Jan, 2024.

may not be cognized in any court, except by complaint of the Pollution Control Board, except by a complaint by a person who has given 60 days' notice of his intention to file a complaint with the Board. Pollution Control Boards are partially financed by water taxes paid by businesses and local governments. This tax was abolished with the introduction of the Goods and Services Tax (GST) from July 2017. The central and state governments will provide funds for the work of Pollution Control Board and Pollution Control Board respectively.

The Air Law (Prevention and Control of Terrorism) (1981), also known as the Air Law, was enacted to implement the resolutions of the United Nations Conference on the Human Environment, held in Stockholm in June 1972, on air quality and climate protection. pollution control. The "Definition of Products and Procedures" Law expresses what needs to be done to solve the environmental pollution problem. It was also proposed that the State Committee and the State Committee established under the Water Act 1974 should carry out functions under the Air Act. All structures and government relations of the Water Law are contained in the Air Law, but the Law is based on Article 253 of the Constitution (which gives validity to the field of international agreements) rather than Article 252 (two or more states in the same country). country). common law). state the subject).

Unlike "water", "air" is not explicitly mentioned in any of July's lists. This could lead to central legislation as the residual power of the parliament, as defined in Article 248 of the Constitution and explained by various Supreme Court decisions. However, this does not happen very often because considering that air pollution and water pollution are similar problems, it was deemed necessary to find similar methods. The new law empowers the Central Commission and State Commissioners on Water Policy to operate under the Air Act. States that have not yet formed a state government are allowed to do so (President Dej has given them permission to decide on their own).

Like the Water Act, the Air Act also provides for the central government to issue directives to the Central Government and the Central Government and the state governments to issue directives to the state committee. The main provision of the constitution is Article 19, which allows the state government to declare certain areas as "climate control" areas where the use of fuel or burning of other materials is prohibited. Section 20 empowers the Government to direct the Motor Vehicle Registration Authority regarding compliance with emission standards prescribed by the State Commission. The Council of State may approve the establishment or operation of an enterprise in the field of climate control. The State Committee has the right to conduct entrance examinations, obtain information, take samples and examine samples.

There is also an objection according to the provisions of the Water Law (Article 31). The State Committee (by direction of the Government, if any) shall be responsible for the shut-down, management, operation, etc. of electricity, water or other services. It has the authority to give instructions regarding its termination or control. The State Government has the power to replace the State Committee that is not performing its duties, tell all employees to leave and take away their powers from other persons as directed by the State Government. The central government funds the expenses of state commissions established in the Aviation Law. This is different from the Board provisions established in the Water Act, where the central government collects taxes on behalf of the states to meet the expenses of the Board and State Boards. However, the central government does not pay fees under the Air Act by State Administrations established in the Water Act to operate under the Air Act; Article 258 (2) of the Constitution gives Parliament the power to make laws on behalf of the states. and to ensure accountability of states, even when it relates to matters not included in the convention or the state list. Section 258(3) provides that the Central Government shall pay additional administrative charges to the State Governments. As in the Water Law, it is stated in the Air Law that the annual report of the Council of Ministers must be submitted to the Parliament, and the annual report of the Council of State must be based on the State Regulation.

Like the Air Act, the Environment (Protection) Act (EP Act) came into force in 1986 under Article 253 of the Constitution, citing the decision of the 1972 Stockholm Conference on appropriate steps "to protect and improve the environment and to prevent environmental pollution". It harms humans, other organisms, plants and property. "He pointed out that the above-mentioned decisions must be followed because they are related to the protection and improvement of the environment and the prevention of harm to humans, other living animals and shelters." "The environmental protection act was created in part as a response to the 1984 Bhopal gas tragedy, which exposed the weakness of the government's agency to deal with serious polluters, particularly foreign investors (or less federally involved), compared to the previous act (Article 3).

The act relied on the central government to It gave the authority "to act as it deems appropriate or necessary for the purpose of protecting and improving the quality of the environment and to prevent, control and reduce environmental pollution" and "to take any measures". The role of the state is not defined; this is expressed in article 23, which gives the central government the power The EP Act empowers the Central Government to cooperate with the State Governments under this Act and other relevant laws for the purposes of this Act. The powers it grants are similar to those exercised by the State Board under the Air and Water Act. The central

government may impose restrictions or restrictions on the location or operation of the business. These regulations were used to create a national environmental assessment. Regulatory powers under the European Parliament Act rest solely with the central government, but all legislation must be delegated to the Parliament. This differs from other laws that allow decisions to be made by notification. Although the states do not have direct authority, the central government can delegate its authority to the state governments.

The central government promulgated the Environmental Protection Act in 1986 under Articles 6 and 25, which authorized the setting and enforcement of pollution standards. There are other laws under the Environmental Protection Act, Environmental Protection Act, Bio-Medical Waste Act, Municipal Waste Management Act managed by Pollution Control Board as an organization, Environmental Protection Act and Pollution Control Board Responsibility. The Ozone Depleting Substances (Regulation and Control) Rules, 2000 are particularly noteworthy. The rules require registration of companies, sellers and consumers of ozone-depleting substances such as halons, radon, CFCs, carbon tetrachloride (CCl₄) and other compounds.

III. EIA (ENVIRONMENTAL IMPACT ASSESSMENT) AND ITS INTRICACIES

Section 3(1) of the Environmental Protection Act empowers the central government to take any action it deems necessary or necessary to protect and improve the environment and to protect, maintain and reduce environmental pollution. In addition, the Central Government issued a notification under Section 3(1) and (2) and Section 5(3) on 14 September 2006 requiring removal (during the notification period) of the following activities:

- Mining, natural resource extraction, power generation
- Primary processing
- Material production and processing
- Production and processing
- Services/physical infrastructure
- Construction and regional Environmental Impact Assessment (EIA) Environmental Impact Assessment (EIA) Environmental Impact Assessment (EIA) a project or development. Environmental assessment is used to estimate the impact of the project on the environment during the planning stage so that decisions can be made to minimize the impact on the environment.

(A) EIA as an international law

At the international level, the role of EIA was recognized at the Earth Summit held in Rio in 1992. Rule 17 of the Rio Declaration states: "EIA as a national instrument should address projects that will have a significant impact on the environment and which will be considered as pressure from a country that can be successful in this regard." Development of an appropriate approach to improve the integration of energy, environment and financial policy Sustainable Development decisions, impact, Environmental Assessment Development, development and implementation of Environmental Impact Assessment to promote sustainable economic development, business analysis and feasibility studies, forestry including environmental assessment of the business.

It's a process for projects that may have a significant impact on biodiversity evaluation is required, to ensure that appropriate information is made widely available and, where appropriate, to the public, and to support the evaluation of the impacts of policies and programs on the environment biodiversity.

United Nations Convention on Climate Change and Biological Diversity (1992) lists EIA as the implementation process of these conventions (Articles 4 and 14 respectively). Sharing knowledge and skills with members wishing to conduct an environmental review of the country (November 2001). United Nations Economic Commission for Europe (Aarhus) Convention on Access to Information, Public participation in decision-making processes and access to justice Environmental Issues (1998) scope projects and plans, programs and decision-making levels and

(B) Environmental Impact Assessment Under Indian Law

Indian Environmental Impact Assessment was first initiated in 1977-78 to evaluate the River Valley Project. Then mining, industry, thermal energy production, ports, atomic energy, railways and highways, bridges, airports and communications, etc. expanded to include areas.

In January 1994, the **Ministry of Environment and Forestry** (hereinafter referred to as the Ministry of Forest) published the "Environmental Development Circulation Research Report". The notification lists 30 projects that require environmental approval from the central government. It also includes, for the first time, public hearings as a precondition for removing major projects.

The notification should be responsible for the preparation and submission of the Environmental Assessment (EIA), Environmental Impact Assessment Management Plan (EMP) and project report with the option of consulting various expert groups. Until the 1980s, many developments

in India were carried out with little or no attention to the environment. Environmental problems began to attract attention with the establishment of the National Environmental Planning and Coordination Board in the Fourth Five-Year Plan (1969-1978). Until the 1980s, environmental problems and forestry were handled by the Ministry of Science and Technology and the Ministry of Agriculture, respectively.

a. National Environmental Appeals Authority (NEAA)

NEAA was established under the NEAA Act 1997 as an independent body to hear appeals against environmental clearance decision making regulations. The company has a President and a Vice President and there can be a maximum of three members.

b. Environmental Impact Assessment Notification 2006

The Notification made some improvements to level of scoping, details of policy implementation, public participation draft Environmental Impact Assessment to Pollution Control Board reporting and delegation of authority. The report still has some drawbacks, for example: level of scoping. No public participation in consultation, exemption for some projects Environmental assessment circulation and public participation and weak monitoring.

Current report reduced in some regions, main weakening environmental impact assessment by excluding NGOs and public environmental advisory groups, extending the validity period of permits and activities in exempt areas, and eliminating public debate. Key points for development are local government plays an important role that citizens must have broad knowledge in decision-making on responsibility and control information on stable connections in the studied areas and greater transparency in management approval processes publish all documents as public documents review.

c. Problems in Environmental Impact Assessment System in India

Although it is not mandatory for some companies to conduct Environmental Impact Assessment as per Regulations, some technological technologies that are harmful to the environment processes, so these listed businesses will have an impact on the environment and public health. It is known that large projects of small businesses cause more pollution.

Lack of information on the role of citizens in the environmental impact assessment process. Public input is not taken into account at the initial stage, which often leads to conflicts in the later stages of project approval this is a picture. This causes delays in the implementation of the plan. Lack of respect for the village locals know. The indigenous knowledge of local people is an important source of information about the challenges of the region and the impact of projects

on them. Generally, environmental assessment for commercial projects, such as nuclear energy projects, is confidential to politicians and leaders because Information on environmental quality assessment is a problem in India.

These reports are often incomplete and provide inaccurate information. Environmental permits are granted to people who file complaints and/or attend hearings even if the public objects/rejects them without stating their reasons. There are several ways to get information about the agreement.

Regional offices will monitor the implementation of these conditions and prepare reports. But local people/organizations are still not aware of these events and are not a part of them. It is not clear whether the temporary office reflected actual practice in its report to the MoEF.

The current treatment process, particularly for competitive environmental approvals, is weak and limited in terms of: resources. The National Environment Appeal Body heard just 15 cases between 1997 and 2005.

IV. CASE LAWS

1. *Works at Sterlite Industries (India) Ltd. v. Union of India*¹⁴

The Supreme Court discussed the principles that an administrative system for authorizing environmental approval would be problematic. The basis of judicial review is illegality, irregularity and improper procedure. Therefore, it would be against the law to allow environmental approval outside the authority granted by law. If the decision is influenced by Wednesbury's unreasonableness.¹⁵ The court will intervene on the grounds of unreasonableness. Finally, the agreement may be challenged because it violates the law.

2. *Gram Panchayat Navlakh Umbre v. In Union of India and Ors*¹⁶

The court said "The discretion of the authorities must lead, beyond the obvious, to the following consequences: There is a necessary decision and that decision results in appropriate reflects an application. The project is as it is now. The fact that the organization consists of experts is not enough to ensure that the consequences of its decision are fair and appropriate."

3. *Samata and the Forum for Sustainable Development v. Union India and others*¹⁷

NGT stated that "to see the disadvantage of negotiating in considering the demand on the same alert the following considerations are required: A list/format of views, comments and

¹⁴ Civil Appeal Nos. 2776-2783 of 2013

¹⁵ *Ibid.*

¹⁶ 2013(1)ABR439

¹⁷(NEAA APPEAL No. 10 of 2010).

suggestions from all members of the group It is recorded as **Deepak Kumar v. Haryana and Ors.**¹⁸ less Mining license/lease for five hectares of land to reduce traffic and secure the mining industry. Additionally, if the land is divided into smaller parcels, prior approval from the Ministry of Environment and Forestry is required.

4. Adivasi Majdoor Kisan Ekta Sangathan and Others v. Ministry of Environment and Forests and Others¹⁹

Witness Against the Plan not recorded and available to public The summary of the hearing was not prepared in the local language and was not made public. Therefore, the court declared the agreement invalid.

5. T N Godavarman v. Union of India²⁰

Where came the decision of the Supreme Court dated January 6, 2014, the court said, "The current process within the scope of EIA notification is not sufficient in many respects, there is a need for a regulator in the country that it will be able to carry out independent, objective and transparent evaluation and approval of environmental licensing projects and at the same time supervise the use of the conditions specified in the Environmental Licensing Law Environmental cleaning National Mining Policy, 2019

In 2017, the Supreme Court noted "greedy" mining in Keonjhar and Sundargarh, the major mining districts of Odisha, stating that these mining activities were destroying the environment and forests and causing a lot of suffering to the local people."

The 2019 NMP was published partly in response to this criticism. Policy to increase the size of large stones by 200% through financial support and reduce the mining industry economy by 50% in seven years. However, it also shows some goals to protect ecologically sensitive areas and ensure the health of people affected by mining, most importantly the Ministry of Mines to create a stable mining sector It recommends the creation of a unified working organization under the support of the office also reports the government on taxes, rents, etc. will inform you about the issues.²¹

In NMP (2019), the most important point in terms of climate legislation is the concept of equality in concrete structures. The 2019 NMP said to ensure that future generations benefit

¹⁸ AIR 2012 SUPREME COURT 1386

¹⁹ APPEAL NO. 3/2011 (T) (NEAA No. 26 of 2009)

²⁰ (1997) 2 SCC 267

²¹ "Will the new National Mineral Policy ensure responsible mining?" By Srestha Banerjee *available at* <https://www.downtoearth.org.in/news/mining/will-the-new-national-mineral-policy-ensure-responsible-mining--63741>

from this property, it is necessary to recognize that natural resources, including minerals, are an asset and that the state is the representative of the people. Work to ensure that the state receives value for this asset. The benefit of the stone mined is the total cost. But each mineral “Those that are relevant and appropriate to the Indian context, such as storage/resources and resource use through recycling, need to be taken into account to determine equal balance.”

This is based on 2008. This is contrary to the law; which states Preservation of food should not be understood as restricting consumption or storing it for future use reserve base through the development of mineral resources of relevant minerals. But overall, the 2019 National Management Plan does not go far enough to address the growing environmental problems caused by mining. On the other hand, it is concerned with compliance with the law to clarify standards and procedures for monitoring pollution in the mining area. did not publish guidelines. This is a particularly glaring oversight because environmental laws provide no guidance for the mining industry.

V. PREVENTIVE PRINCIPLE IN INTERNATIONAL LAW

The precautionary principle in international law requires states to maintain control over natural resources and ensure that activities within their jurisdiction or control do not affect much of the environment within their territory. Since the Trail Smelter Arbitration first took place in 1938, the prevention of pollution has been identified as an important instrument of international environmental law, leading to the victory of the United Nations instruments, instruments in the region, writings from civil society and the determination of international rules. Environmental law is a law. International Court of Justice.

This principle is an important principle of international law that foresees preventing damage to the environment rather than compensating for damage that has already occurred. The precautionary principle has been established as a rule of international law and is supported by extensive codified application in many environmental agreements and initiatives. In practice, these principles also relate to due diligence, in particular the duty to assess environmental impacts before engaging in activities that may pose a risk of infection.

1. *Urgenda Foundation v. State of the Netherlands*²²

The case was brought against the Dutch government by the Dutch environmental group Urgenda Foundation. Urgenda's main argument is that the government has a legal responsibility to take more serious and effective work to reduce greenhouse gas emissions in order to prevent climate

²² ECLI:NL:HR:2019:2006

change.

In 2015, the Hague Court ruled on Urgenda that the Dutch government has a legal obligation to ensure greater climate protection. The court found the government's current safety regulations were inadequate and ordered it to reduce carbon emissions by at least 25% compared to 1990 levels by 2020.

This decision is the first time the court has instructed the government to take more specific and harsher steps to combat climate change. The decision is based on the principle that the Dutch government has a responsibility to care for its citizens and protect them from the potentially serious effects of climate change. The Urgenda case had a huge impact around the world and led to the implementation of similar laws in other countries as citizens and organizations sought to hold governments accountable that weather rules were not necessary.

2. Friends of the Irish Environment v. Government of Ireland²³

This has been hailed as a "revolution in climate control in Ireland" and has certainly had a positive impact on the environment. This is true in the sense that the Irish Friends of the Environment ("FIE") have achieved their ultimate aim of reversing the 2017 National Poverty Reduction Strategy, but they have not been able to make the legal arguments very well.²⁴

Now the Supreme Court has discussed the possibility of environmental legislation in a decision by Chief Justice Frank Clarke. They did not consider the possibility of such a policy and sympathized with it. This review should be in the spirit of a similar article that attempted to explain the future of such events by examining the legal problems that need to be overcome and will lead to, based on the experiences of Irish environmental friends. recognition of environmental legal rights.²⁵ This statement is further illustrated by the Court's analysis of constitutional rights, which this article considers to be the best non-binding agreement. Vote and therefore decide to determine the law regarding environmental rights.

The court re-characterized non-enumerated rights as derived rights, which are statutes in Irish jurisprudence, although not expressly written in the constitutional bridge text. These rights have "roots in the text or structure of the law."²⁶ Clarke CJ explained that this did not require a narrow approach, but followed Henchy J's understanding of rights specific to the character of the

²³ [2020] IESC 49

²⁴ Áine Ryall, 'Supreme Court ruling a turning-point for climate governance in Ireland' *The Irish Times* (7 August 2020).

²⁵ Eoin Forde, 'The Future of Climate Litigation in Ireland: An Appraisal of Climate Case Ireland', *Trinity College Law Review Online* <<https://trinitycollegelawreview.org/the-future-of-climate-litigation-in-ireland-an-appraisal-of-climate-case-ireland/>>> accessed 10 March 2021.

²⁶ Rachael Walsh, 'The Constitution, Property Rights and Proportionality: A Reappraisal' [2009] 31 *DULJ* 1.

individual, which are established by considering the constitution as a whole. legislation.²⁷

This appears to be an attempt to establish a principle for the recognition of law in order to resolve the drawback of the doctrine of anonymity, which is the primary issue, which has led to inconsistencies in previous decisions and laws. issues related to the interests of the judge,²⁸ by including these rights in the Constitution. There also appears to be a clear rejection by the Supreme Court of the Supreme Court's statement that there was a possibility that the application of rights in international human rights instruments was likely to affect what would be "general" in Irish law. The search for new rights would result in limited judicial power²⁹ and instead, the aim is to create a narrower and more legal basis in the constitutional text.

3. *M.C. Mehta And Anr v. Union Of India & Ors*³⁰

A seminal environmental impact case from India. The case was filed over the leakage of hazardous oleum gas from the Shriram Food and Fertilizer plant in Delhi, which had a major impact on public health. The main issues of legal reform around the recognition of the right to a healthy environment as a fundamental right under Article 21 of the Constitution of India and the social responsibility of businesses that damage the environment.

The Supreme Court, led by Justice Bhagwati, delivered a path-breaking judgment recognizing the constitutional importance of the right to a healthy environment. The court introduced the concept of liability for companies operating in hazardous business; thus, they must hold firm to the harm they have caused. The verdict not only ordered the closure of the Shriram factory but also called for compensation to be paid to the victims. The decision established the "polluter pays" principle, setting a precedent for environmental litigation in India and following the extension of the law to trade and protectionism. The MC Mehta cases, including the oleum spill, have played a significant role in raising environmental concerns for legal action and highlighting the role of industry and government in protecting the environment and public health.

4. *Research Foundation for Science v. Union of India*³¹

According to the 170 boxes mentioned in the report of the Customs and Expenditure Commissariat, these boxes were kept in the same place and at the same time, the Board of

²⁷ *McGee v. The Attorney General* [1973] IR 284; *Norris v. The Attorney General* [1984] IR 36; *Fleming v. Ireland* [2013] 2 IR 417; *NHV v Minister for Justice & Equality* [2017] IESC 35.

²⁸ *O'T. v B* [1998] 2 IR 321.

²⁹ James Rooney, 'International Human Rights as a Source of Unenumerated Rights: Lessons from the Natural Law' (2018) 41 (1) *DULJ*.

³⁰ 1987 AIR 1086, 1987 SCR (1) 819

³¹ 2007 AIR SCW 5851

Commissioners Management noted that the importers did not request these boxes. Details of the supplier of these products are not recorded. Before publishing the instructions for these 170 boxes, it is necessary to write the details of these products. Concerned authorities like Jawaharlal Nehru Port or Mumbai Port and all other relevant authorities will submit updated information to the committee within four weeks regarding the shipment of 170 containers and how the goods were shipped from the port information. We are coming to the end of the day. The committee has to send its report and recommendations and after the decision, necessary instructions regarding the 170 boxes will be given.

In line with the recommendations of the Investigation Commission, the instruction was given to immediately burn and destroy the 133 boxes in question, and the Investigation Commission accepted its opinion. Check and follow these instructions. The cost of burning must be paid to the Board by the sender within four weeks. The committee will ensure that the fuel coming out of the incineration facility specified in its report is destroyed in a timely manner. After the oil in question is destroyed, the inspection team is required to submit a follow-up report. Instruct all stakeholders to provide their full assistance and cooperation to the Committee. As for the November Esscon delivery, if the government implements the recycling option, the recycling process will be carried out under committee supervision.

If a renewal request is not made to the Board of Supervisors within four weeks, the shipment will be destroyed in the same manner as other shipments. Pollution payments and conservation measures have contributed to environmental legislation. These principles help prevent dangerous activities from occurring now or in the future. Both these principles are cited in *Citizens of Vellore v. Union of India*.³² During this period, environmental protection was once again accepted as the basic policy of the country. The court must establish its legal authority when it must be ready to accept light from any source. It must establish new principles and develop new standards suitable for solving new problems emerging in the big economy.

The NGT ordered the Central Pollution Control Board to conduct a study on the impact of climate change on health, particularly on children, and to formulate a national environment management plan to combat climate change.

³² 1996 5 SCC 647