

## ACCESS TO GREEN JUSTICE: NEEDS OF THE HOUR

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### **Abstract**

*A healthy environment is necessary for the full enjoyment of human life. Access to green justice is need for every one's for good health, development, hygienic environment and sustainability of natural resource which are highly essential for present as well as future generations. This mother earth fulfils our basic needs, where we care for our intellectual, physical, social and economic establishment. Nobody from the outer space will to solve our problem and provide us green justice i.e. Protection, preservation and fulfil the basic needs. It is the duty of every human being to take care of our mother earth and think about the safety and progress of the present and future generations. In the national and international level every state holders makes such legislation for protection and preservation of environment. The nature of law is enforceable, which regulates the human acts, who have taken core responsible to protect the environment Human beings are the main resources of every state who utilized other Natural resources for his welfare and progress of the society without following precautionary measures and exploit the natural resources. These types of attitudes reflected on Environment which creates a major global problem. Public welfare Institutions takes such steps towards the protection of human health, welfare and social interest, which can be possible by a well surrounding. Time to time the judiciary gives such direction to the state to protect the plants, animals, birds and other elements of the environment which are highly essential for human existence. The Researchers try to approach in this article how the protection of environment is every one's primary duty of this earth and also it is primary duty of the national and International state holders to takes such welfare majors prepare and planning to provide a hygienic and progressive environment for present and future Generation.*

**Keywords:** Healthy Environment, Human Health, Human Welfare, Indian Judiciary, Indian Laws

“Wealth is not the money we make; rather it is the health of environment around us.”

### **Introduction:**

A healthy environment is necessary for the full enjoyment of human life. The protection and improvement of human environment is a global issue which affects the well-being of people and economic development throughout the world. The interdependence between human life and environment has become an unavoidable truth. The theme for 2018 was “Beat plastic pollution which was a call to action for all of us to come together to combat one of the greatest environmental challenges of the 21<sup>st</sup> Century. Changes in natural resources base due to human activities has taken place more rapidly in past 50 years causing continuous deterioration of Environment.<sup>1</sup>

From Stone Age to modern era man has come a long way. In this per-suit for comforts of life he ignores the threat of green violation and environmental degradation. Human activities are causing Green House gases to accumulate in the atmosphere. Global warming, Ozone Depletion and Acid rain etc are the main concern of the Hours. The ecosystem is under a Threat that is never faced before. This article approaches the Journey to judgement in the administration of access to Green Justice. Nature and mankind are an in separable part of life. There are unlimited forms of life on Earths. Man is one among the many species competing with all other for survivals. The Earth started to undergo deadly climate change. The world’s climate is changing and will continued change into the coming century. Based on a large body of scientific peer review research “Global annually averaged surface air temperature has increased about 1.8 Fahrenheit over the last 115 Years.<sup>2</sup>

From time immemorial nature has bestowed living beings with well-balanced natural ecosystem on this green living planet. But at the same time our planet is facing changes vis-à-vis imbalances in its ecological components owing to the mismanaged exploitation of natural resources by the mankind itself. Hence it is the need of the hour that we strike a balance between them as because humanity needs both.

Scientific innovations and industrial advancements have taken the human civilization to such a level that not only has adverse imbalances vis-à-vis threatening the natural and ecological equilibrium but at the same time poses the risks of the planet earth like Climate change, Acid rains, Global warming, Ozone depletion and Greenhouse effect etc.<sup>3</sup>

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<sup>1</sup> The Hindu, Jan26, 2022, P-7

<sup>2</sup> Anbhumani Ramadoss “A Climate Emergency”, The Hindu, 27.9.2019, P-9

<sup>3</sup> Easwaran Narassimhan “Towards Low Emissions Growth”, The Hindu 26.1.2022, P-7

The present paper attempts to analyze the issues of Climate Hazards and for improvement of global based greening solution to provide Climate Justice by setting up a strong Climate Law.

A few generations from now, our descendants may not see the animals and plants which we now regard as common place. Nearly 500 species have become extinct in just the last century. We are depleting 25% more natural resources than the planet can sustain right now. Mankind is teetering dangerously to the principle of extinction. Industries, Vehicles, burning of fossil fuels, thermo power plants and large scale rearing of cattle are emitting heat-trapping the sun's heat and increasing the earth's temperature. The Climate Crisis is code red for humanity. As because temperature everywhere is reaching new highs, biodiversity is reaching new lows, oceans are warming and the earth is acidifying and choking with plastic waste. Increasing temperatures will make vast stretches of our planet dead zones for humanity by this century's end. The Lancet Journal just described climate change as the "defining narrative of human health" in the years to come – a crisis defined by widespread hunger, respiratory illness, and deadly disasters and infectious disease outbreaks.

Despite these alarm bells, we only see nothing new actins by different countries for climate change. No doubt the recent new announcement COP26 for climate action is welcome. That is our world is on track for calamities global temperature rises well above 2°C. This is a far cry from 1.5°C target to which the world agreed under the Paris Agreement – a target that science tells us is the only sustainable pathway for our world. This target is achievable if we can reduce global emissions by 45% compared to 2010 levels this decade Human health and Environment Safety, both are important and therefore there is an imperative need for Promoting Scientific use of Environment Policy to access to Green justice.

### ***Journey to Justice:***

In society in which we live today is a global risk society. As we know that more than 500 International and National environmental agreements have been developed conference on the human environment in Stockholm in 1972 to improve the greening concept in the greening concept in the global arena. Similarly climate change was placed at the Centre of Global Diplomacy in the 23<sup>rd</sup> Annual UN Climate Conference (COP 23) Meeting held in Born, Germany in 2017. The overall outcome of the COP23 Conference was however a balanced one for developed and developing countries including India. Climate change is the defining human development challenge for the 21<sup>st</sup> Century. As we know that World Climate is changing and will continue to change into the coming century. The risks associated with the changes are real

but highly uncertain, which affects mainly the livelihood of rural population in developing countries.

United Nations Framework Convention on Climate Change (UNFCCC) is one of the basic legal documents for adaption of climate change. The UNFCCC is one of the three Conventions adapted at the “Rio Earth Summit” in 1992. Its Sister Rio Conventions are the UN Convention on Biological Diversity (CBD) and the Convention to Combat Desertification (CCD). Beside these there is Kyoto Protocol, which exclusively deals with Climate Change issues. The Kyoto Protocol was adapted in Kyoto, Japan on 11<sup>th</sup> December 1997. But due to a complex ratification process, it came into force on 16<sup>th</sup> February 2005. Its main objective is to design and strengthen the Protocol environmental integrity, support the carbon market credibility and ensuring a strong Green Justice.

Recently there are efforts taken through Conference of Parties (COP). As we know COP is the Supreme decision making body of the UNFCCC. A key task for the COP is review the national communications and emission inventories submitted by the parties. The first COP meeting was held in Berlin, Germany in 1995. Only question surviving before us at present is how to deal with it before it sets catastrophic by the end of this Century? Because according to the research of the Intergovernmental Panel on Climate Change (IPCC) a temperature increase over 2 C would lead a serious consequence, such as a greater frequency of extreme climate change. In fact we are living as if we had 1.5 planets or double planets. As a whole climate change hurts innocent people and their livelihood. The climate change conference in Warsaw, Poland in 2013 and Lima, Peru in 2014 enabled essential progress towards COP21 in Paris 2015 to reducing greenhouse gas emissions. Similarly the Intended Nationally Determined Contributions (INDCs) was introduced at COP19, in Warsaw, Poland in 2013 to agree for a new International agreement to outline the post 2020 climate action. This was an agreement to communicate internationally that what are steps they will take to address climate change in their own countries by taking into their domestic circumstances capabilities.

Similarly Common but Differentiated Responsibility (CBDR) was formalized in International Law at the 1992 UN Conference on Environmental and Development (UNCED) in Rio de Janeiro. That means the developed countries, which had been able to develop for longer times unlimited for longer times unimpeded by environmental restrictions now need to take a greater share of responsibility.

### **Indian Contribution to the Climate Change Negotiations**

From the era of ancient India has a long history and tradition of harmonious co-existence between man and nature. India initially develops a strict “Polluter Pays” concept without a willingness to accommodate bracket principles. India’s commitment is to:

- i. Restriction in emission intensity
- ii. Emission per unit at GDP
- iii. An increase in forest cover
- iv. A greater role for renewable energy in Power generation.

### **Current Laws in India**

Our existing laws are not adequate to deal with climate change. India has the Environmental Protection Act-1986, the Air Prevention and Control of pollution Act-1981, the Water Prevention and Control of pollution Act-1974. But now Climate Change is not exactly within air and water that means what are the laws which would cover the impact of a cyclone to reduce future climate impact? There is also no strong laws ready to tackle environmental violations that is Green Crime which is now a global issues. The Environmental Protection Act, 1986 is grossly inadequate to deal with violations of Climates as because Clause 24 of the Act, effect of other laws like, CrPC 1973. This makes the EPA subordinates to every other laws.

Further, there is a need to integrate Climate action-adoption and mitigation and monitor process. In addition to comprehensive climate action technological i.e. changing energy sources or carbon intensity we have to also adopt nature based i.e. emphasizing restoration of ecosystem, reducing natural hazards and increasing carbon sinks.

In this context India has also planning to adopt in future the “Panchamrit solution” has announced at UN Climate Change Conference (COP26, from Oct 31<sup>st</sup> to Nov 12<sup>th</sup>, 2021) at Glasgow, Scotland. This solution’s main aim is to

- i. Reducing fossil fuel dependence and carbon intensity (i.e. to reduce one billion tonnes of projected carbon emissions by 2030).
- ii. To ramping up the renewable energy share to 50% by 2030.

Hence, Glasgow Conference (COP26) is important as it will call for practical implementation of the 2015 Paris agreement by setting rules. This is why it is right for India to mull setting up

a Climate Law to provide true sense climate Justice, new carbon space and environmental protection.<sup>4</sup>

It is also right time for India to create an ‘Environmental Commission’ having quasi-judicial powers of civil courts to ensure lower energy pathways that addressed to minimize climate change<sup>5</sup>. India has taken number of efforts to retain its position in the top 10 best performing countries for the third year in a row in the largest global climate change performance index (CCPI) released by Germanwatch on the guidelines of the COP26 despite of pandemic difficulties. It has also stated that India will achieve net zero emission latest by 2070 and by 2030 India will ensure 50% of its energy will be sourced from renewable energy sources. Similarly India has also reduce its carbon emission until 2030 by a billion tonnes. India has also reduce its emission intensity per unit of GDP by less than 45% to provide Climate Justice to the people of India. The concerns of climate change have been taken as one of the most pressing environmental concerns by the Supreme Court of India and various High Courts. In fact Supreme Court of India declared clean water, air and soil a fundamental right of the people of India. It shaped environmental justice when the industrialization process resulted in poisoning the ground water of village. In Narmada Bachao Andolan,<sup>6</sup> the Supreme Court dealt with the development versus environmental problem in the context of sustainable development. The Supreme Court in Karnataka Industrial Areas Development Board vs. Sri C. Kenchappa and Others<sup>7</sup> while ordering authorities to properly consider the adverse environmental impact of development before acquisition of lands for development and the impacts of climate change and Ozone Layer depletion. In Reliance Natural Resources Limited vs. Reliance Industries Limited, the court observed that the low carbon content in natural gas, relative to other fossil fuels implies that its use may help in combating global warming problems.<sup>8</sup>

## **Task before us**

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<sup>4</sup> D. Raghunandan, “The lowdown on India’s Glasgow announcement”, The Hindu 12.11.2021, P-6.

<sup>5</sup> Why the Underdogs Came Out Ahead: An Analysis of the Supreme Court’s Environmental Judgments, 1980-2010, Economic and Political Weekly, January, 25, 2014, Vol.XLIXNo.4.

<sup>6</sup> Narmada Bachao Andolan, October 18, 2000

<sup>7</sup> Karnataka Industrial Areas Development Board vs. Sri C. Kenchappa and Others, (2006) 6 SCC 371

<sup>8</sup> Indian Council for Environmental Legal Action vs. Union of India (1996) 3 SCC 212

Recent decarbonisation modelling studies point to a significant role for battery, green hydrogen, carbon capture and storage technologies to decarbonise India's transport and industry sectors. However India's R&D investments in these emerging green technologies are not existent the introduction linked incentives under "Aatmanirbhar Bharat" are a step in the right direction for localising clean energy manufacturing activities.

Of course India's new target to develop a new climate oriented policies are as follows:

- i. Reducing Emissions per unit of GDP by 45% in 2030 relative to 2005 levels.
  - ii. By letting absolute emissions by one billion tonnes by 2030 levels.
  - iii. 500(GW) (1Giga Watt=1000 Mega Watts) of non-fossil fuel installed power generation capacity by 2030.
  - iv. 50% electricity generation from renewable sources by 2030.
  - v. Net Zero emission by 2070.
1. A Commission on green law could be set up with the power and authority to issue directions and oversee implementation of plans and programmes of Green Justice. The Commission could have quasi-judicial powers with powers of a Civil Court to ensure that directions are followed in letter and spirit.
  2. A system which is need for Accountability at short term, medium term, long term, levels as we face hazards for implementation of green justice.
  3. In spite of the role of Judiciary an interplay initiatives among public spirited citizens, environmental groups and lawyers are necessary to the evolution of environmental jurisprudence principle in India to access to Green Justice.
  4. A green Industrialization strategy is necessary that combines laws, policy instruments and implementing institutions to steer its decentralised economic activities to become environmental friendly and resilient.
  5. A market steering approach rather than hands off approach would encourage private sector investments in Green technologies which needed to industrialise under climate constraints.

### **Initiations to Combat to Green Violation**

- Several initiations have been implementing to create awareness about climate change. i.e. how to mitigate and adopt to it.

- In 1991 S.C. directed the Central Government and all State Government to provide compulsory Environmental Education to all Schools and Colleges in the Case of M.C. Mehta vs. UOI.
- Climate Change has the potential to disrupt and reshape lives.
- There are several alarming predictions about its impact and one of them is the UN Sustainable Goals Report-2018 that is Climate Change is among the key factors in rising hunger and human displacement.
- The WHO estimates that Climate Change will cause an additional 2,50,000 deaths per year between 2030-2050, due to malnutrition, malaria, diarrhoea & heat stress.
- These Scenarios raise Questions that mainly to Vulnerable groups that where they know the manifestation of climate change and whether they aware that it could potentially affect the health and livelihood of present and future generations?

### **Challenges Ahead**

- One of the major challenges that the inconsistency of the Judiciary in dealing with environmental cases.
- Environmental groups and NGOs find it difficult to get involved in environmental cases in a consistent manner for various Practical reasons.
- Enactment of a Law, but tolerating its infringement is worse than not enacting a law at all. Continued of tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption which cannot tolerated in any civilised society.

### **Measures Needed**

To stopped Municipal Social Waste burning and to the waste Measurement System to improve air quality in a particular town or city.

- To ensure groundwater Conservation.
- There must be a strong coordination in between Judiciary and elected represented to create an awareness among the people
- Increased taxation on sale of private vehicles.
- To ensure a law this could cover and reduce future climate valuation and Cyclone impact.
- The Natural resources management must be inaccessibility among rural communities.

- When free access to information on an issue is not made available to the committees, they begin to rely on external agencies for solving their local problems.
- One stop centre must be launched for natural resources management to build close cooperation among departmental democratise access to knowledge and continue with research and development on every aspect of natural resource management.

One must be looked out that the air pollution reduction and steep climate change mitigation are not complementary goals but require independent efforts over the short and medium term. One upon a time the American Philosopher Henry David Thoreau rightly Stated that “The tree has also it’s our heart”. It has also its own life. But unfortunate that slowly but surely some of the rare trees are disappearing from our Earth. Hence it is a right time for us to think over it, elsewhere we the worst sufferer in the future. Access to Green justice is an inevitable requirement but it need not be at the cost of public awareness. Hence strict enforcement of Pollution Control policies, eco-friendly inputs and increase in ecosystem resilience through the conservation of biodiversity are necessary to shapes a clean and Green Earth.