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LEGAL CHALLENGES AND POLICY GAPS IN ACHIEVING CLIMATE JUSTICE IN INDIA

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ABSTRACT

The Climate justice is emerging as a critical and indispensable framework in addressing the Global climate crisis. The Core concept of climate justice is that every country, every continent affected by the climate crisis but the impact and responsibilities neither affect everyone equally nor everyone is equally responsible. It highlights the equity and human rights is the center of all decision making and action in related to climate change, specifically in recognition of how vulnerable communities worldwide are disproportionately affected by the climate impacts despite having contributed minimally to the crisis. This paper examines the legal challenges and policy gaps that affecting in achieving of climate justice in India. As a fast emerging economy with notable socio-economic discrepancies, India faces unique challenges in achieving climate justice. Vulnerable groups such as indigenous peoples, farmers, women, and urban poor are often the most affected by climate-related events like droughts, floods, and heat waves, yet they have contributed the least to climate crisis historically. Despite being a proactive participant in global climate governance, ratifying key treaties like the Paris Agreement (2015) and UNFCCC (1992), the country lacks a specific legal framework and weak enforcement mechanism. The paper prominently focused on analyzing the existing environmental laws, policies and strategies which can be useful in combating climate injustice and to focus on integrating climate justice into Legislation and promoting collaboration between stakeholders by addressing the gaps which need to be strengthening the policy framework and legal provisions to achieve climate justice in a sustainable way, this paper aims to contribute to a more just and resilient approach to climate justice.

Keywords: Climate Justice, Climate Change, Environmental Laws, legal framework, Vulnerable Communities

1. INTRODUCTION

Climate justice is a type of Environmental justice focuses on the unfair impact of climate change on the vulnerable group who has been affected historically despite being the minimal contributors for the climate change. According to Schlosberg and Collins (2014), climate justice intersects human rights, social justice, and environmental protection, recognizing that those who contribute least to climate change often suffer its gravest consequences. *Climate Justice is a framework focused on ensuring that equitable distribution of burden on the ultimate contributors, while promoting the equitable solutions for affected groups.* It emphasizes human rights, equality, collective rights, and historical responsibilities to address the climate crisis through advocacy and policy reforms. Climate Justice aims to create a fairer distribution of resources and support marginalized communities who are disproportionately impacted by environmental changes. *India was ranked at 9th in climate risk index¹ as a most affected by the climate change. The environmental crisis in India is rapidly increasing due to the industrialization, urbanization, Global warming which deteriorating the conditions of the country and due to the impact of the climate change it became more **vulnerable to extreme floods, droughts, heat waves, sea level rise, decline in human health, Natural habitat, depletion of groundwater, loss of wildlife habitat, Agro impact and economic crises. While the Nation is having existing Environmental laws and being committed to Paris Agreement, the Kyoto protocol and the member of the United Nations Framework Convention on Climate Change but still the country lacks the legislations, effective implementation for Environmental governance .This is the demanding situation not only to draft effective policies but also a legal framework that analyses the impact of the climate change on vulnerable communities** indigenous peoples, and rural populations. **However, there is gap which needs to be bridged with the proper legislation, effective policies and enforcement mechanism with a fair, inclusive and Justice seeking approach towards the Climate Justice.***

2. CLIMATE JUSTICE AND ITS PRINCIPLES:

Climate change has emerged as most important global challenges of the 21st century. It is not only limited to environmental crisis but extend to economic loss, public health hazard, food insecurity, displacement, and human rights. Climate justice is a framework that deals with the

¹ Adil, L., Eckstein, D., Kuenzel, V., Schaefer, L. (2025). *Climate Risk Index 2026 – Who suffers most from extreme weather events?* [Germanwatch Climate Risk Index](#). [1]

inequality faced by the vulnerable communities, lower income groups, indigenous people who contributes the least to causes of climate change². The impact of the climate change in India is particularly affecting the group of communities who mainly depends upon agriculture, forest, fisheries, and other climate-sensitive sectors which directly affects the lives and livelihood of the larger population. In reality the most of the carbon emission which contributes the global warming are due to the industrialized sector and the one who affected by the consequences are the underprivileged communities who faces serious health hazards, loss of livelihood, displacement and food insecurity. Climate justice acknowledges that climate change is not merely an environmental crisis but also an issue of equity, equality, human rights and social justice. It is based on the understanding that those who often suffered by the severe consequences are the least contributors to the climate change. The climate change affects disproportionately the most vulnerable and disadvantaged, including tribal communities, coastal communities, women, children, ethnic minorities, poor communities, migrants or displaced persons, older populations, and those with underlying health conditions health conditions prone to environmental threats despite having minimal contribution to greenhouse gas emissions. Therefore, climate justice striving to eradicate the unequal distribution of climate burdens and benefits by emphasizing accountability, inclusivity and protection of vulnerable communities.

The Climate justice is the part of the environmental justice. Environmental justice is a broader framework which ensures equal protection of all individuals from environmental degradation. The climate justice mainly focuses on the unequal impact of the climate change against the nations, vulnerable communities and the future generation. Due to the Industrialization, the developed nations contributed larger amount of green house gases historically and the severe impact of the climate change faced by the developing nations who have contributed the least. International Environmental Law formed the principle based on this situation namely “common but differentiated responsibilities” which ensures that the all the states shall share the responsibility in mitigating climate change whereas the developed nations comes with a greater responsibilities for their historical contribution and economic capacity³.

The Principle of Sustainable development is the foundation for the Environmental Governance and climate Justice. Brundtland Report (1987) sustainable development as development that

² Kashwan, P. (Ed.). (2025). *Climate Justice in India*. Cambridge: Cambridge University Press.

³ Mohapatra, S. (2024, July 24). *Economic Survey 2023-24: India Challenges Global Climate Strategy, Calls for Equitable approach*. Frontline. <https://frontline.thehindu.com/environment/economy-policy-india-climate-strategy-rethink-balancing-growth-sustainability-economic-survey-2024/article68440598.ece>

meets the needs of the present without compromising the ability of future generations to meet their own needs. In developing nations like India, economic development is more important to curb the poverty alleviation and social security but still the development made lead to the environmental degradation. India is very keen in promoting and achieving the Sustainable Development Goals and judicial activism ensure this international principle is included in the Indian Environmental law to seek economic growth, social welfare and environmental protection. Climate action was included in the Sustainable development goals. It is further explained that climate change is not only an environmental issue but also a moral and political issue. Climate justice and Sustainable Development goals are interlinked as it is important for achieving sustainable development because inequality and environmental damage are connected⁴.

2.1 PRINCIPLES OF CLIMATE JUSTICE:

1. **Equity and Fairness:** The principle recognizes that the communities which are responsible for the climate change should take the mitigation and adaptation efforts rather than the vulnerable communities which are need to be protected
2. **Inclusivity and Participation:** This principle ensures that affected population is involved in the decision making process, especially vulnerable and indigenous peoples.
3. **Common but Differentiated Responsibilities (CBDR):** This principle ensures that all countries are responsible for climate change but with the differentiated responsibilities based on their historic contribution towards the emission of green house gases
4. **Intergenerational Justice:** The principle ensures that it is the duty of the current generation to protect the environment for future generations use.
5. **Precautionary Principle:** It is the duty of the policy makers to take preventive measures protect the environmental resources and to prevent environmental degradation.
6. **Human Rights:** Climate policies should support fundamental rights as it was majorly affecting the life, health and livelihood of the vulnerable communities
7. **Responsibility and Accountability:** Organizations and countries should be accountable for their emissions and actions impacting the climate.

⁴ Brundtland, G.H. (1987) Our Common Future: Report of the World Commission on Environment and Development. Geneva, UN-Dokument A/42/427. <http://www.un-documents.net/ocf-ov.htm>

3. LEGAL & CONSTITUTIONAL FRAMEWORK AND ENVIRONMENTAL GOVERNANCE IN INDIA

In India the climate change does not have a separate legislation but it was governed under the Environmental legislations, constitutional mandates, policies and judicial decision. Environmental Protection in India is mandated by the constitution of India. Environmental Protection in India is mandated by the constitution of India.

3.1 FUNDAMENTAL RIGHTS:

Article 21 of the Constitution states: "No person shall be deprived of his life or personal liberty except according to the procedure established by law." Earlier environmental protection was not included in the ambit of right to life. In *Subhash Kumar v. State of Bihar* (1991), the Court reiterated that the Right to Life includes the right to clean air and pure water.

Recently, Supreme Court in its Landmark judgment in *M.K.Ranjitsinh & Ors. v. Union of India & Ors.* (2024)⁵ signifies an important development in constitution of India. In this ruling the court recognized that right to be free from the adverse effects of climate change” is integral to the fundamental rights enshrined under Articles 21 and 14 of the Indian Constitution, which provides for the right to equality and life. Various past precedents anchored and built this judgment by recognizing the climate change as part of the constitution. The courts have played major role to expand the Article 21 to cover industrial pollution, felling of trees, river pollution, and climatic changes. In *Vellore Citizens Welfare Forum v. Union of India* (1996), the Supreme Court has reiterated two principles namely the Precautionary Principle and the Polluter Pays Principle, which emphasized industries to adopt precautionary measures not to contaminate the environment and compensate for pollution caused.

3.2 FUNDAMENTAL DUTIES AND DIRECTIVE PRINCIPLE OF STATE POLICY:

Article 48A directs the State to protect and improve the environment and safeguard forests and wildlife. Article 51A (g) imposes a fundamental duty upon citizens to protect and improve the natural environment. Judiciary interpreted the environmental rights as the part of the right to life under Article 21 of the constitution of India.

⁵ (2024) SCC Online SC 570

3.3 STATUTORY FRAMEWORK RELATING TO ENVIRONMENTAL PROTECTION

India has implemented several legal framework for the environmental protection includes the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, the Forest Conservation Act, 1980, and the Biological Diversity Act, 2002. National Action Plan on Climate Change (NAPCC) a legislative policy enacted for mitigating and adapting the challenge of climate change through sustainable development. Despite having the legislative framework and polices still India faces hindrance in climate governance through weak enforcement, implementation gaps, administrative hurdles and lack of institutional coordination.

3.4 ENVIRONMENTAL GOVERNANCE:

Environmental governance is known as the set of rules, regulation, processes and Administrative practices that are established to regulate environmental protection and resource management. Environmental governance includes businesses, non-governmental organizations (NGOs) and citizens to actively participate in environmental decision-making for the future better environment. The Key purpose of environmental governance is to guarantee that environmental decisions are transparent, inclusive, and effective. Policies that support ecosystem preservation, climate change mitigation, and sustainability fall under this category. In India, Environmental Governance enhanced through the constitutional Obligation, statutory frameworks, judicial activism, policy measures and strategic plans.

4. INTERNATIONAL COMMITMENTS OF INDIA TOWARDS CLIMATE JUSTICE:

India has actively participated in international climate governance frameworks and has obliged to take necessary steps in addressing climate change while upholding the principles of equity, sustainable development, Common but differentiated responsibilities, intergenerational equity and protection of vulnerable communities. India has become the party to the United Nations Framework Convention on Climate Change (UNFCCC) in 1993⁶, which set as the beginning for International climate governance. This principle acknowledges that all nations is responsible for addressing climate change while the developed countries who have been

⁶ UNFCCC. (1992). *United Nations Framework Convention on Climate Change*. United Nations. UNFCCC Document Repository.

contributing towards the emission of green house gases possess greater responsibility. India also became a party to the Kyoto Protocol adopted in 1997⁷ under the UNFCCC framework. This principle mandated emission reduction obligations predominantly upon developed nations while discharged developing countries such as India from compulsory emission reduction targets. Another significant international commitment undertaken by India is participation in the Paris Agreement adopted in 2015⁸. The Paris agreement signifies at limiting global temperature rise and strengthening international cooperation on climate action. India submitted its Nationally Determined Contributions (NDCs) tracing national climate goals and mitigation strategies. India committed to reducing the emission intensity of its Gross Domestic Product, carbon sinks and non fossil fuel based energy sources. In a significant step towards strengthening India's action, the Union Cabinet, India's Nationally Determined Contribution (NDC) for the period 2031 to 2035 to reduce Emissions Intensity of its GDP by 47 percent, enhancing the country's ambition under the UNFCCC and its Paris Agreement while reinforcing its commitment to sustainable development and climate justice⁹. India also launched various renewable energy initiatives by promoting solar energy. India is also committed to the United Nations Sustainable Development Goals (SDGs) adopted in 2015. India has undertaken various obligations in international agreements like the UNFCCC, Kyoto Protocol, Paris Agreement, SDGs, and biodiversity conventions for climate mitigation, adaptation, renewable energy and environmental protection. These continuous efforts show the active engagement of India in international commitments towards achieving climate justice. However, Climate justice requires not only the international commitments but also stronger legal framework, effective implementation and enforcement, environmental governance, climate risk assessment to achieve it with sustainability.

5. ANALYSING THE LEGAL AND POLICY CHALLENGES

In India, climate change has increased the environmental concerns such as droughts, loss of livelihood, heat waves, floodwater scarcity, cyclones, loss of agricultural and displacement of communities. Climate justice recognized that the climate action is not only an environmental

⁷ United Nations. (1997). *Kyoto Protocol to the United Nations framework convention on climate change*. United Nations

⁸ United Nations Framework Convention on Climate Change. (2015) *Paris agreement*. Paris Retrieved from [UNFCCC Paris Agreement](https://unfccc.int/paris_agreement)

⁹ Cabinet approves India's Nationally Determined Contribution (2031-2035) to be communicated to the United Nations Framework Convention on Climate Change. (n.d.). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2245209&lang=2>

issue but also an issue of fair and equality, human rights and social justice. However, the existing constitution protection, environmental legislation and polices the challenges in implementation still continues to obstructs in achieving climate justice in India.

The first and foremost legal challenge in India is the absence of a one of the most significant legal gaps in India is the absence of climate change legislation. Climate Governance in India is protected by the environmental laws, constitutional mandates and policy frameworks but without the separate comprehensive legislation for the climate change is the gap which needs to be addressed. All the environmental protection acts supports the climate action indirectly but there is no specific law which can be legally enforceable related to climate mitigation and adaptation, carbon accountability and climate justice. Indian Government has introduced National Action Plan on Climate Change (NPACC) and State Action Plans on Climate Change (SPACC) policy initiatives to combat climate change but still our country is in need of the legislation, enforcement mechanism, planning and accountability for achieving the climate justice. Another major gap in establishing climate justice in India, the decision making processes in development projects is only related to the environment concerns and they fail to consider the climate related consequences which lacks the environmental governance with regard to climate action. Environmental Impact Assessment often focuses on the environmental issues rather the climate impacts. In reality, the development projects with significant climate impact obtain the environmental clearances without the evaluation of climate change and their consequences on ecological sustainability and vulnerable communities which needs to be addressed.

The existing legal framework and policies does not mandate climate impact assessment in the development projects specifically industrial sector, mining, thermal power generation and coastal development which contributes to the larger amount of carbon emission, loss of livelihood, health hazard, displacement and loss of bio-diversity which impacts the vulnerable community. This obstructs the India's commitment towards the sustainable development and climate justice.

Another pivotal issue which needs to be addressed is the public participation in the environmental governance and policy making because one who faces the consequences needs to be heard and to take part in environmental decision making process. However, in the Environmental impact assessment includes the public hearings and consultation for assessment but still the public participation is very limited due to lack of information and procedural complexities. Mainly the tribal population, rural residents and economically weaker sections

are often goes unheard and unnoticed yet they are most affected by the environmental concerns. Possible actions to be taken to create awareness disseminate the resources and information to engage them actively in the public hearing during developmental activities which leads to democratic procedural governance.

Another significant legal issue is the Environmental Clearance in India suffers from the institutional failure like weak enforcement, minimal public intervention and political interference, lack of staffs, unauthorized approvals, lack of transparency and lack of accountability which results in environmental violations. This Honesty, the mechanism should act a precautionary principle but it acts against it and weakens the environmental governance and accountability.

India having an extensive environmental regulatory framework but the implementation remains as challenge due to weak enforcement and Implementation failures and weak enforcement mechanisms further obstruct the achievement of climate justice in India. Environmental Monitoring system remains weak and inconsistent with the compliance.

6. CONCLUSION:

In developing nations such as India faces environmental crisis and climate impact disproportionately affect the vulnerable communities and climate justice become a integral part of environmental governance. Climate justice demands a governance model that balances economic development with environmental sustainability, social equity, and protection of present and future generations. The study suggests that the India requires a special legislation for climate justice as it not only environmental degradation but also equity, human rights, public health and sustainable development. The study finds that environmental governance lacks weak implementation and procedural limitation. Policy makers should consider that climate impact and risks must be integrated within environmental impact assessment. India still faces gap in achieving the climate justice despite having several constitution safeguards, environmental legislation, policy frameworks, Judicial activism and international commitments to address climate change impacts, absence of comprehensive climate change legislation and policy with inconsistent implementation of environmental safeguards continue to challenge in achieving climate justice. In conclusion, achieving climate justice in India requires a comprehensive, integrated model and human rights centered approach that combines sustainable environment with social equity and public participation. To build a Sustainable future that protects the ecological integrity and human dignity requires strengthening legislative

frameworks, improving institutional accountability, and guaranteeing inclusive environmental governance.



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