

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

ENVIRONMENTAL JUSTICE AND CLIMATE LITIGATION THE ROLE OF COURTS IN SUSTAINABLE DEVELOPMENT

AUTHORED BY - P. YUVAN KRISHNAN¹ & MRS. KUMUDHA²

ABSTRACT

In the modern era, the concept of environmental justice has gained prominence, emphasizing the fair distribution of environmental benefits and burdens across society. At the same time, the right to development has been recognized as an essential human right, particularly for developing countries seeking to overcome poverty and achieve economic progress. However, these two rights often come into conflict, as development activities such as industrialization, urbanization, and infrastructure expansion frequently result in environmental degradation, pollution, and depletion of natural resources. In the Indian context, this conflict assumes greater significance due to rapid economic growth, population pressure, and diverse ecological conditions. The Constitution of India, through judicial interpretation, has expanded the scope of the right to life to include the right to a clean and healthy environment. Simultaneously, the State has a duty to promote development and ensure the welfare of its people. This dual responsibility creates a challenging scenario where competing interests must be carefully balanced. The judiciary has played a crucial role in addressing this conflict by evolving principles such as sustainable development, the precautionary principle, and the doctrine of harmonious construction. Through various landmark decisions, courts have attempted to reconcile environmental protection with developmental needs, ensuring that neither is sacrificed at the cost of the other. Climate litigation has further strengthened this role, enabling courts to intervene in matters involving environmental degradation and climate change.

-
1. Author **P. YUVAN KRISHNAN, Reg No. 21142143
B.Com., LL.B., Hons**
 2. Co Author **Ms. S.KUMUDHA, Assistant Professor
Law Department,**

At the international level, several agreements and conventions have emphasized the importance of integrating environmental protection with development goals. Concepts such as “common but differentiated responsibilities” highlight the need for equity between developed and developing nations in addressing environmental challenges. Despite these efforts, significant challenges remain, particularly in terms of financial resources, technological support, and policy implementation.

This study seeks to examine the role of courts in balancing the right to environment and the right to development within the framework of environmental justice and climate litigation. It aims to analyse how judicial interventions contribute to sustainable development and whether existing legal mechanisms are adequate to address the growing environmental challenges in developing countries

INTRODUCTION

India, with its rich cultural heritage, diverse landscapes, and complex socio-economic dynamics, offers a compelling backdrop for exploring the historical roots of environmental rights and the right to development. As a nation undergoing rapid industrialization, urbanization, and economic growth, India faces the intricate challenge of reconciling its developmental aspirations with environmental preservation. Examining the historical background of these intertwined concepts within the Indian context is imperative for a comprehensive understanding of their evolution, significance, and impact on contemporary policy and governance.

The significance of exploring the historical background of environmental rights and the right to development in India is multifaceted. It allows us to delve into the historical, philosophical, and legal foundations that have shaped these concepts over time. Such an exploration unravels India's deep-rooted reverence for nature, its traditional practices of environmental stewardship, and the journey towards codifying environmental protection and the right to development within its unique historical trajectory.

Ancient India, a cradle of profound philosophical thought and spiritual wisdom, has long recognized the intrinsic connection between humanity and the environment. The Vedic scriptures, including the Vedas and Upanishads, contain verses that revere nature and

emphasize living in harmony with it. These ancient texts lay the foundation for India's enduring environmental ethics, underscoring the sacredness of the natural world and the responsibility of humans to protect it.

The Atharva Veda, one of the oldest texts in the Indian tradition, contains verses dedicated to environmental preservation and the well-being of all living beings. These verses highlight the reverence for the environment and its role in sustaining life, reflecting India's historical understanding of the interdependence between humans and nature.

Throughout its history, India has witnessed the practice of sustainable and nature-friendly livelihoods. Indigenous communities have upheld practices such as agroecological farming, forest management, and water harvesting techniques. These practices exemplify India's historical commitment to environmental conservation and the sustainable use of natural resources. Communities across India have maintained a harmonious relationship with their natural surroundings for centuries. Traditional knowledge systems have guided resource management, emphasizing the importance of balance and sustainability. These historical practices underscore the ancient recognition of the need for environmental stewardship and have informed modern approaches to environmental rights and conservation. India's historical legal codes provide insights into early attempts at regulating human interactions with the environment. Legal documents such as the Arthashastra and the Manusmriti contained provisions related to land use, property rights, and resource management. These ancient codes reflect an awareness of the need to govern human-environment relationships, albeit in rudimentary forms.

1.1 History of right to Environment and right to Development:

History of environment and development, its law and practice is not one and the same in all the nations, it differs from nation to nation and one period to another period thus in this chapter the researcher is making a study on history and evolution of the environmental law in india. Evolution of environmental jurisprudence in India: In order to know the evolution of environmental law in India, the researchers have discussed the ancient, medieval and modern environment.

1.2 Ancient history of environmental:

Forests, trees, and wildlife conservation were all held in high regard in Hindu ideology. India's ancient history spans over several millennia, during which the environment played a critical role in shaping the country's culture, economy, and civilization. Here's a brief overview of the history of Indian environment during the ancient period:

- **Indus Valley Civilization (c. 2600 BCE - 1900 BCE)**

This Civilization, which thrived from 2600 BCE to 1900 BCE, was a Bronze Age civilization that encompassed the northwest regions of South Asia, including present-day India, Pakistan, and Afghanistan¹ (Jha, 2016). The people had a sophisticated urban society that developed around the Indus River, and they were known for their advanced water management systems and sanitation practices.

The Indus Valley Civilization had a deep appreciation for the environment and had developed an extensive network of canals, wells, and reservoirs for the management of water resources. They had an extensive knowledge of hydrology, which enabled them to create an extensive network of water management systems. The civilization's water management practices were sustainable and ensured the equitable distribution of water among the population. Additionally, they also had a robust sanitation system, which included waste management and drainage systems, to ensure cleanliness and hygiene in their cities.

The Indus Valley Civilization was also known for its sophisticated agricultural practices, which were closely linked to its water management practices. The civilization relied heavily on agriculture, and they had a deep understanding of the soil fertility and the importance of crop rotation. They cultivated a wide variety of crops, including wheat, barley, rice, and cotton²(Singh, 2018).

The civilization also had a rich tradition of arts and crafts, which included the use of natural materials such as clay, wood, and stone. They used these materials to create beautiful and intricate objects such as pottery, jewelry, and sculptures.

¹ Jha, D. N. (2016). *The environmental history of early India: a reader*. Oxford University Press.

² Singh, A. (2018). Indus Valley Civilization. In B. R. Chawdhari, S. Kumar, & S. K. Jaiswal (Eds.), *Proceedings of the International Conference on Humanities and Social Sciences* (pp. 359-364). Springer

The Indus Valley Civilization's concern for the environment can also be seen in its religion and belief systems. The civilization practiced a form of animism, which recognized the spiritual significance of natural elements such as rivers, mountains, and animals³ (Kumar, 2017). They believed that all living things had a soul, and they treated them with respect and reverence.

1.3 Ongoing debates regarding whether or not the developed countries are providing enough money to combat climate change:

Developed nations pledged to provide \$100 billion yearly in climate finance by 2020 at the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC) in Copenhagen in 2009. This pledge has not, however, been fully fulfilled, and the lack of climate funding raises questions about whether there are enough resources to address the demands of developing nations, including India, in terms of adaptation and mitigation .

The implementation of ambitious climate targets and addressing the vulnerabilities brought on by climate change present enormous financial challenges for India as a developing nation. Large-scale renewable energy projects, enhancing climate resilience, and implementing adaptation measures across many sectors may not be fully financed by the funds India has received for climate-related programmes. Considering India's massive population, rapid economic growth, and wide range of geographical and socioeconomic conditions, this finance dilemma is especially acute⁴.

India has established challenging goals to increase the proportion of renewable energy in its energy mix, such as installing 450 GW of renewable energy capacity by 2030. In order to develop and implement renewable energy technologies on a large scale, it is necessary to make significant financial investments. The expenses of constructing the infrastructure needed for renewable energy, such as solar and wind power facilities, transmission lines, and storage systems, are high. Despite the fact that India has made headway in luring investors into the renewable energy sector, more funding is required to close the gap and quicken the switch to

³ Kumar, P. (2017). Indus Valley Civilization: Environmental Considerations. *International Journal of Science and Research*, 6(4), 2564-2567.

⁴ Moser, S. C., & Ekstrom, J. A. (2010). A framework to diagnose barriers to climate change adaptation. *Proceedings of the national academy of sciences*, 107(51), 22026-22031.

clean energy sources. For projects like creating climate-resilient infrastructure, putting policies in place to deal with drought and flooding, encouraging climate-smart agriculture, and enhancing water resource management, India needs a sizable amount of funding. India has a wide range of geographical and socioeconomic situations, which adds to the complexity of adaptation efforts and the accompanying finance needs.

The extent of the effects of climate change and the necessary mitigation and adaptation activities are enormous because India has the second-largest population in the world. India's finance needs for climate action are significant due to its expanding economy and development needs. The costs of shifting to a low-carbon economy, decarbonizing sectors, boosting energy efficiency, and satisfying the rising demand for energy are substantial. Additionally addressing marginalised communities' socioeconomic weaknesses.

From densely crowded urban areas to isolated rural areas, India is distinguished by a variety of geographical and socioeconomic situations. Regarding climatic vulnerabilities and required adaptations, each region faces specific difficulties. For instance, coastal areas are vulnerable to sea-level rise and cyclones, the Himalayan region is subject to glacial melt and the problems that go along with it, and dry regions experience water scarcity. These various situations demand specialised investments and adaptation solutions. The funding shortfall is made worse by the requirement to take into consideration the unique situations of various communities and regions, which call for tailored support to address their specific problems and vulnerabilities (Smith, J. 2022).

India therefore needs financial support from industrialised nations with a history of emission in order to address the aforementioned problems.

1.4 Technological Support:

The principle of common but differentiated responsibilities include the technological support by the developed countries to developing countries to combat the climatic change challenges. Just like financial assistance, technological assistance is also inadequate⁵.

The practice of exchanging and transferring technologies from industrialised to

⁵ Chandra, R. (2003). *Industrialization and development in the Third World*. Routledge.

developing countries is referred to as technology transfer. It is essential to supporting the climate action of developing nations, especially in light of the Common But Differentiated Responsibilities (CBDR) approach used in international climate negotiations. The CBDR principle acknowledges that industrialised nations, which historically have contributed the most to greenhouse gas emissions, have a higher obligation than developing nations to combat climate change⁶.

The CBDR principle calls for developed countries to help developing countries transmit environmentally friendly technologies. With this transfer, we hope to improve the ability of developing nations to both mitigate (cut greenhouse gas emissions) and adapt (increase resistance to the effects of climate change)⁷.

1.5 The implementation of technology transfer faces a number of difficulties even though it has a substantial potential to aid developing nations' efforts to combat climate change:

There may be obstacles to the transmission of many environmentally sound technologies since they are covered by patents and other intellectual property rights. Due to high costs or legal limitations, developing countries may have trouble obtaining and using certain technology.

Transferring technology might be difficult because of the protection of intellectual property rights (IPR), especially when it comes to environmentally friendly solutions. The solutions, techniques, or designs used in these technologies frequently fall under the purview of patents, copyrights, trademarks, or trade secrets, which provide legal protection. IPR protection encourages innovation and rewards innovators, but it can also put obstacles in the way of the transfer of valuable innovations, particularly for developing nations⁸.

The high expenses associated with licencing agreements or the regulatory constraints

⁶ Luo, L., Tang, Q., & Lan, Y. C. (2013). Comparison of propensity for carbon disclosure between developing and developed countries: A resource constraint perspective. *Accounting Research Journal*, 26(1), 6-34.

⁷ Duguma, L. A., Wambugu, S. W., Minang, P. A., & Van Noordwijk, M. (2014). A systematic analysis of enabling conditions for synergy between climate change mitigation and adaptation measures in developing countries. *Environmental science & policy*, 42, 138-148.

⁸ Honkonen, T. (2009). *The Common But Differentiated Responsibility Principle in Multilateral Environmental Agreements: Regulatory and Policy Aspects*. Kluwer Law International B.V.

imposed by intellectual property owners may make it difficult for developing countries to access and use ecologically sound technologies. The ability of other parties to access, utilise, or adapt patented technologies without authorisation is constrained by patents, which provide the patent holders exclusive rights. In underdeveloped nations, where affordability and accessibility are essential components, this may impede the widespread acceptance and implementation of environmentally sound technologies.

CONCLUSION AND SUGGESTION

Germany's strategy to balancing environmental protection and the growth of the coal sector shows its dedication to a low-carbon future. Energy efficiency improvements, the increase of renewable energy sources, and the phase-out of coal and nuclear power are the top priorities of the nation's ambitious Energiewende energy transition agenda. Germany's commitment to lowering greenhouse gas emissions and defending environmental rights is demonstrated by the determination to phase out coal by 2038 at the latest. Support programmes for coal sector workers place a strong emphasis on the necessity of an equitable transition, which guarantees that people have employment options outside of the coal industry. The environmental effects of coal mining and electricity production are reduced by stringent standards, the use of renewable energy, and land restoration. The necessity for ongoing efforts to repair the environmental legacy of coal, as well as the economic instability in places dependent on coal, remain major obstacles. The move away from coal while simultaneously preserving the health of impacted populations and ecosystems is difficult, as Germany's experience shows.

This research examined the complex relationship between environmental protection and developmental rights, with a specific focus on the role of courts in balancing these competing interests. It is evident that environmental justice has evolved into a critical component of modern legal systems, particularly in developing countries like India, where rapid economic growth often places pressure on natural resources.

The judiciary has played a transformative role by interpreting fundamental rights in an expansive manner, especially by reading the right to a healthy environment into the right to life. Through principles such as sustainable development, precautionary principle, and harmonious construction, courts have attempted to strike a balance between ecological

preservation and economic progress.

However, challenges persist in implementation, enforcement, and policy coordination. While judicial intervention has significantly contributed to environmental governance, long-term sustainability requires collaborative efforts involving the legislature, executive, and civil society.

Recommendations and Suggestions

Policy-Level Suggestions

- Governments should integrate environmental considerations into all development policies.
- Stronger enforcement mechanisms must be established for environmental laws.
- Increase funding for climate adaptation and mitigation programs.

Judicial Suggestions

- Courts should continue adopting a proactive approach in environmental matters.
- Establish specialized environmental courts or tribunals for faster resolution.

Technological and Financial Support

- Developed countries must provide financial aid and technology transfer to developing nations.
- Promote renewable energy and sustainable infrastructure development.

Public Participation

- Encourage community involvement in environmental decision-making.
- Increase awareness about environmental rights and responsibilities.

Sustainable Development Approach

- Adopt a balanced model that ensures economic growth without compromising ecological integrity.
- Promote green industries and eco-friendly technologies.