



# Exploring The New Horizons Of Climate Emergency & Climate Justice In India

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*"The world is reaching the tipping point beyond which climate change may become irreversible. If this happens, we risk denying present and future generations the right to a healthy and sustainable planet – the whole of humanity stands to lose."<sup>1</sup>*

**Kofi Annan, Former Secretary-General of UN**

## **Abstract:**

The climate change has become the most debated global talk due to its devastating effects on human beings, flora, fauna, other organism and economy across the globe. There is a direct link between the effects of climate change and violation of human rights. The world is going under the climate emergency and therefore climate justice is an elementary requirement to protect the rights of human beings and a healthy ecosystem. India is one of the worst climate change affected country.

Hence, climate justice is more essential and the need of the hour in India. There are no appropriate laws in India to compensate for the loss or violation of human rights that occur due to climate change, and there is also no proper legal mechanism to address the impact of the same and ensure climate justice in India. However, the judiciary has played a vital role in warranting climate justice and declaring that human beings have fundamental rights against the effects of climate change in a landmark judgment recently.

The basic objectives of this research paper are to analysed and explore the new horizons of the climate emergency in India. Further to analysed the legal measures in India and other countries to tackle the climate change impact and suggest feasible legal measures to deal with climate change.

The research methodology would be doctrinal, where written sources such as books, journals, e-resources, etc. will be analysed, and also published numerical data will be gathered to establish the link between climate change and its impact on the ecosystem and human beings, particularly.

**Key Words:** Climate emergency, devastating, impact, warrant, justice, horizon, feasible, legal measures.

<sup>1</sup> <https://curious.earth/blog/climate-change-quotes/#:~:text=%E2%80%9CClimate%20change%20is%20the%20single,a%20brighter%20future%20for%20all.%E2%80%9D>

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“The time for seeking global solutions is running out. We can find suitable solutions only if we act together and in agreement.”

**Pope Francis, 266th Catholic Pope<sup>2</sup>**

## Introduction:

Climate change is considered one of the greatest challenges faced by humanity on earth in this century. It has devastating effects on our ecology, economy, health, etc.

Climate change is the long-term alteration of weather patterns and temperatures. “Compared to prior to the industrial revolution, the earth has become 1.2°C warmer today”<sup>3</sup>. It is an accepted fact that the main source of climate change is human actions. Basically, the human beings’ activities are responsible for climate change; hence, the solution to mitigate it also lies with us. The impact of climate change is extremely unfair, as the people in countries like India and Kenya are suffering more than those in developed countries, and therefore climate justice is the most urgent requirement of this century.

Regrettably, the world’s poorest countries are the biggest sufferers of climate change, despite being the lowest carbon-emitting countries. Hence, addressing these issues has become more urgent.

The consequences of the climate change are quite visible. In 1930, Mr. Callendar a scientist discovered that the earth is becoming warmer<sup>4</sup>.

## Global Initiatives on Climate Justice:

i. The Earth Summit was the first expressed global measure to combat climate change. The “Earth Summit Conference on Environment and Development” was held by the United Nations from June 3–14, 1992, in Rio de Janeiro. One of the biggest successes of the conference was the Convention on Climate Change (UNFCCC), with the basic objective of reducing greenhouse gas emissions.

ii. **The Kyoto Protocol, 1997**

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<sup>2</sup> <https://curious.earth/blog/climate-change-quotes/#:~:text=%E2%80%9CClimate%20change%20is%20the%20single,a%20brighter%20future%20for%20all.%E2%80%9D> Visited on 02.06.2024 at 4pm .

<sup>3</sup> <https://www.un.org/en/climatechange/what-is-climate-change> -Visited on 02.06.2024 at 4pm

<sup>4</sup> <https://www.discover.ukri.org/a-brief-history-of-climate-discoveries/index.html>

It was adopted by the United Nations for controlling global warming by lessening the emission of greenhouse gases.

### iii. Paris Agreement:

The Paris Agreement is a fundamental document to mitigate climate change. It is a legally binding accord that was enforced with effect from November 4, 2016. One of the major obligations of the ratified states is to take appropriate measures to keep the temperature below 1.5 °C compared to the pre-industrial level. However, this action requires the overall socio-economic transformation of states. Achieving net zero emissions is one of the basic needs to combat climate change, as underlined by this agreement.

### iv. European Court of Human Rights

#### **Verein Klima Seniorinnen Schweiz and Others v. Switzerland<sup>5</sup>**

It is considered to be the first international judgment that establishes the direct link between the climate change and human rights.

The European Court, on the basis of the European Convention, specifically Article 86 upheld the right of a Swiss association, which belongs to the elderly women, against climate change. Further, the Court observed that the lives of the citizens were

affected due to a lack of proper action by Swiss authorities to make proper policies and take appropriate measures to minimize the effects of global warming and climate change.

More the Court observed that since Swiss Government is the Party of the Treaty hence, under obligation to cut the emission of the greenhouse gases. However, the Government was unable to meet the target of cutting the emission. The Court declared that every individual has a right to effective protection against the climate change effects and failure to that is a violation of the human rights.

#### **Dutch Supreme Court: State of Netherland v. Urgenda Foundation<sup>7</sup>**

In this landmark judgement the Dutch Apex Court delivered the judgement in the light of Article 28 and Article 89 of the “European Convention on Human Rights” and the Dutch Government was directed to adopt the climate change policies. Furthermore, the Government was ordered to decrease the discharge of greenhouse gases up to certain level.

In **the Sacchi et al. v. Argentina<sup>10</sup>** Remarkably, the Committee on the Rights of the Child, constituted under the “Convention on the Rights of the Child in 1989”, observed that although climate change

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<sup>5</sup> European Court of Human Rights , 9th April, 2024.

<sup>6</sup> Everyone has the right to respect for his private and family life, his home and his correspondence.

<sup>7</sup> Dutch Supreme Court, 2019- <https://energy.economictimes.indiatimes.com/news/renewable/supreme-court-of-india-bolts-right-to-life-with-climate-justice/109874429> Accessed on 15.04.2024

<sup>8</sup> “Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law”.

<sup>9</sup> “Everyone has the right to respect for his private and family life, his home and his correspondence.”

<sup>10</sup> 22 September 2021, CRC/C/88/D/104/2019.

demands an international retort, the other states separately hold accountability and shall be responsible for all their activities or inactions regarding climate change.

## Climate Justice: Indian Perspective

### i. India's Initiative towards Climate Change:

India is the third-biggest emitter of greenhouse gases. Our energy sector is basically based on coal that is a major worry for India. However, India is devoted to achieve generating 50 percent of its energy through renewable resources by 2030 and Net Zero Carbon emission goal by 2070.

To achieve this balance, the emitted greenhouse gases due to human activities in the atmosphere must be counterbalanced by removing them from there. This entire process is known as carbon removal.

Thus, achieving the target of net zero requires accomplishing carbon neutrality. It is difficult to achieve India Net Zero and carbon neutrality instantly. However, India has taken various measures to accomplish the same over an enumerated period of time.

#### Constitutional Framework

The basic provisions for the protection of environment are as follows:

Article 14, states the “right to equality and equal protection of the law” (Fundamental Right)

Article 21, provides “ protection of right to life and personal security” (Fundamental Right)

Article 48A, specifies the duty of the State Government to protect and improve the environment (Directive Principles of State Policy)

Article 51A(g), stipulates that the citizens have the fundamental duty to protect and improve the environment. (Fundamental Duty)

India's Legislative Measures to Mitigate Climate change:

Wild Life (Protection) Act 1972

Water (Prevention and Control of Pollution) Act 1974,

the Air (Prevention and Control of Pollution) Act 1981

Environment (Protection) Act 1986

National Green Tribunal Act 2010

Electricity Rules 2022 and many more measures.

## International Obligation

India has ratified the numerous international declarations, covenant and protocols, together with the 2015 Paris Agreement on Climate Change. Therefore, India is under obligation to ensure the implementation of international commitment.

### Role of the Judiciary in Imparting Climate Justice:

The concept and development of climate justice is reflected in the various Apex Court and other Courts judgements in India. The various common law principle has been accepted by our judiciary such as Sustainable Development, Precautionary and Polluter Pays Principles, Doctrine of Public Trust and Inter-Generational Equity while delivering the judgement on environment.

The wide interpretation of the fundamental rights, specifically Articles 14 and 21, the right to a clean environment, pollution-free air and water, and the right to livelihood, etc., have become part of the fundamental rights under the Indian Constitution.

In a millstone **verdict**<sup>11</sup>the apex court held that, in view of protecting and preserving the environment, Articles 48-A and 51-A(g) must be interpreted in light of Article 21 of the Indian Constitution.

In a recent landmark judgment<sup>12</sup>, which has created a new jurisprudence pertaining to climate justice in India. Where the apex court recognizes the right on adverse effect of climate change as a part of Articles 14<sup>13</sup> and 21<sup>14</sup>, under the Indian Constitution . This verdict establishes the link between the right to life and the right to food, a healthy environment, health, water, etc. It also emphasizes the immediate actions on policies and other measures dealing with climate change to ensure justice. A collective responsibility towards ensuring climate justice was highlighted by the court. It was clearly observed by the highest court our country that “climate change impact our social justice”.

The verdict in this case is innovative in nature and has the capacity to transform the climate law to ensure climate social justice in India. The revolutionary features of the judgment are as follows:

- The right against the climate change became a distinct fundamental right.
- The court recognizes the interrelationship between climate change and human rights.
- The Court highlighted the importance of climate justice in ensuring social justice.
- Since the right against climate change effects has become a separate fundamental right under Articles 14 and 21 of the Indian Constitution, henceforth, for the violation of human rights due to

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11 M.C. Mehta v. Kamal Nath, (2000) 6 SCC 213

12 M K Ranjitsinh & Ors. v. Union of India & Ors. 2024, March 21, SC  
[https://main.sci.gov.in/supremecourt/2019/20754/20754\\_2019\\_1\\_25\\_51677\\_Judgement\\_.21Mar-2024.pdf](https://main.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_.21Mar-2024.pdf)

13 The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

14 No person shall be deprived of his life or personal liberty except according to procedure established by law.

climate change effects, a writ petition can be filed under Article 32 and 226 to the Supreme Court and High Courts respectively for the appropriate remedy.

- It will bring better clarity to the forthcoming litigation on climate change.
- The court highlighted the interconnection between the climate change and right to health, indigenous right, gender equality and right to development.
- It was observed by the court that social justice is influenced by climate change, and it affects the poorer more.
- The government authorities will be responsible for not taking appropriate measures to mitigate the climate change.

### Major issues in India to combat climate change:

- Rapid Population Growth
- Achieving the target of renewable energy and transitioning to non-fossil fuel sources
- Rapid Urbanization
- Various kind of Pollutions
- Complete Implementation of Sustainable Development

### Major challenges due to climate change in India:

- As per UNICEF's report in 2021<sup>15</sup>, India was placed 26th out of 163 countries that participated in the raking process for children at most "at risk" from the impact of climate change.
- There is a huge impact on our agricultural sector because it is dependent on the climate. As drought is becoming one of the main reasons for the farmer's suicide.
- Due to sea rise, displacement is going to increase in the future.
- Our economic development will be hugely impacted as per the report<sup>16</sup> of the Reserve Bank of India "up to 4.5 percent of India's GDP could be at risk by 2030".

The vulnerable groups in India those who have contributed the least to climate change will be affected more. Almost all of India's sectors are badly affected by climate change and will be worstly affected as per the various predictions in the future if the promises made are not kept by the countries to achieve carbon neutrality and net zero as per the Paris Agreement.

### Conclusion and Suggestions:

It is apparent that the impact of climate change is indeed scary, and those countries that have contributed least to this change are more affected. Unfortunately, those countries are poor and do not have the adequate resources to adapt and mitigate the same. India is also one the severely affected climate change country. The world including India are facing the Climate Emergency situation that results in a violation of the right to life, the right to equality, the right to health, the right to livelihood, etc. Therefore, climate justice is the most urgent requirement to address grievances across the globe, including India. These climate impact-related changes predict an increase in climate litigation in the future. There is no specific law or policy in

<sup>15</sup> <https://www.unicef.org/india/what-we-do/climate-change>

<sup>16</sup> <https://www.forbesindia.com/article/take-one-big-story-of-the-day/how-climate-change-can-impact-gdp-and-jobs/87673/1>

India to address the complaints and provide the proper remedies for the losses that occur due to climate change.

As per the researcher's opinion, there is no doubt that the recognition of the right against climate change by the judiciary is revolutionary in nature and would bring a lot of positive change in the protection of the environment.

From the analysis of the international and foreign court verdicts, it is clear that their judgments on climate justice are more clear, obvious, and forceful in highlighting the responsibility of the state authorities to mitigate the climate change effect.

For ensuring appropriate climate justice in India the researcher would like to suggest the measures as follows-

- Reforming the energy sector in war footage is required by the government to reduce the emission of greenhouse gases. Most importantly, India should reduce its dependency on coal for energy purposes.
- India must develop a good market pertaining to the Carbon Credit.
- As per the report<sup>17</sup> petitions pertaining to the climate justice is almost doubled in 2020<sup>18</sup> compare to 2017<sup>19</sup>. The government should constitute a committee to observe the implementation of the Court's judgment on the environment and climate change.
- As proved by the research, human activities are the major contributors to climate change therefore, it is the responsibility of all human beings to contribute to the decrease of greenhouse gases.
- Collaboration with the private sector on green initiatives should be increased.
- Since climate change is a global issue, it can be handled in the best way by collective efforts globally.
- All the State Parties of the Paris Agreement on climate change should take the appropriate measures to adapt and mitigate the effect of the climate change in a good faith.
- The Constitution of India should be amended to incorporate the right against climate change as a separate article.
- Developed countries should assist and cooperate with developing and least-developed countries financially and technologically to mitigate the climate change effect.

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<sup>17</sup> This Global Climate Litigation Report: 2023 <https://www.unep.org/resources/report/global-climate-litigation-report-2023-status>

<sup>18</sup> 884

<sup>19</sup> 1,550

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