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RIGHT AGAINST CLIMATE CHANGE

The current climate crisis is already noticeable, and its impacts are not the same for everyone. Women and girls, especially those who are in poverty and limited by traditional roles, duties, and cultural expectations, experience a greater burden of health problems. According to the United Nations Development Programme (UNDP), women and children are 14 times more likely to die in disasters compared to men. The Supreme Court has conveyed on the rights against the adverse effects on the climate change as a distinct fundamental change in the constitution. This may be because their rights and their right to a clean are two sides of the same coin. As the devastation arise year by year, it becomes necessary to consider this distinct right. This right is identified as Article 14 (right to equality) and Article 21 (right to life).¹

“The right against climate change to Article 14 and 21, right to environment cannot be fully realized without a clean and safe environment”, said Chief Justice Chandrachud.

The recognition of climate change as a fundamental entitlement has legal consequences, influencing the direction of environmental policies and administration in India. Chief Justice D Y Chandrachud emphasized the importance of considering equality and the right to life in the context of the wider scientific agreement on climatic change and its adverse effects.

Climate change and Human rights

Correlating the both rights Article 14 and 21, Supreme Court observed that the right to environment cannot be fully realized without a clean and safe environment.

The right to health within is included in entitlement to life in Article 21 is affected due to factors such as air pollution, shift in vector -borne diseases, droughts, rising temperatures, shortages in food supplies due to crop failure, storms, floods. The inefficiency of undeserved

¹ Dr. Ageya Tripathi, “Climate Change recognized as a fundamental right in India”, <https://timesofindia.indiatimes.com/blogs/ageyeya/climate-change-recognized-as-a-fundamental-right-in-india-implications-and-solutions> (April)

communities to transform to climate change or coping with its consequences infringes upon both the right to life and the right to equality. “In the event of climate change and environmental deterioration causing acute shortage of food and water in a specific region, less affluent communities will endure greater hardships compared to wealthier ones”, Supreme court observed.

The court underscored the significant correlation between climate change and a range of human rights including the gender rights, right to health, indigenous people gender equality and right to development. It stated that having a healthy environment free from the negative impacts of climate change is a fundamental human right.

The judgment highlighted breaches to the entitlement of a healthy environment can impact other rights, including the right to life, personal integrity, health, water, housing, as well as procedural rights like information, expression, association, and participation. The court also highlighted the disparities in access to energy to have a great impact on women and girls primarily because of their gender specific roles and obligations such as the significant time they dedicated to domestic tasks and unpaid caregiving duties. Furthermore, the court stressed the significant role that solar power can play in addressing the challenges posed by climate change.²

Furthermore, the court gave importance of bearing in mind the rights of communities affected by the implications including their right to not be replaced. This holistic method to environmental justice underscores the interrelationship of the climatic change with broader socio-economic and human rights issues.

ENVIRONMENT ENFORCEMENT AND COMPLIANCE

To effectively tackle the difficult problems presented by climate change, it is necessary for countries to work together at the national, regional, and global levels. India, being a participant in numerous international agreements and conventions, must fulfil its guarantees to diminish greenhouse gas output, adjust to the effects of climate change, and safeguard the basic rights of all people to reside in a clean and sustainable environment.

²The Hindu, "Right Against Fundamental Right, A distinct fundamental and human right", <https://www.thehindu.com/news/national/right-against-climate-change-a-distinct-fundamental-and-human-right-sc-judgment/article68041693.ece>(April.14)

By raising environmental issues to the constitutional level, a strong policy tool has provided to its citizens to secure the environment. Apart from its constitutional directive, India possesses several national policies that oversee environmental management, including The National Policy on Pollution Abatement (NPPA 1992) and the National Conservation Strategy and Policy Statement on Environment and Development (NCS/PSED, 1992).

Although they are not legally binding, government strategies function as guiding principles for both national and state level. The NPPA promotes the utilization to complement traditional command and control approaches to pollution abatement. The policy integrates environmental concerns into decision making at all levels by prioritising pollution prevention at its sources, adopting the best available technology, upholding the polluter pays principle, and fostering public engagement in decision making processes.

National Environment Policy of 2006, (NEP) is the latest declaration of the government's interest in improving the environmental conditions while fostering economic conditions nationwide.

The key objectives are preservation of crucial environmental resources, fairness within the current generation, ensuring livelihood security for the impoverished, integrating environmental conditions into economic optimising the use of environmental resources, environmental management and increasing the use of resources for environmental preservation. The policy advocates for the integration of environmental issues into all development activities, promoting important environmental principles and pinpointing legislative and material adjustments.

India possesses a comprehensive legal framework comprising more than two hundred laws concerning environmental conservation.

National Environmental Appellate Authority Act of 1997 empowers the central and State pollution control authorities to enforce emission and effluent standards for industries discharging pollutants into air and water.

Throughout the last twenty years, the Supreme Court of India had specific High Courts at state level has led the implementation of environmental laws via Public Interest Litigation (PIL) instigated by the citizens. This legal action finds its foundation in the constitutional guarantee of a clean and healthy environment. Through such judicial activism, the courts have issued directives with precise implementation guidelines, not only resolving individual cases but also

establishing new norms and procedures with broad reaching effects on both regulated entities and regulatory bodies.