

# Environmental Jurisprudence: Impact of Climate Change on Human Rights

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**Abstract:** *Climate change is starting to constitute a serious threat in Human Rights of our current era. The probability of a severe threat towards fundamental rights due to climate change has increased to the highest level of hazard, risking not only human life but also a suitable condition of livelihood of the individuals and communities across the globe. A clean, safe, healthy and functional environment is an integral part of human rights which makes human life sustainable. This paper will focus on various Indian laws and regulations regarding the Environmental conditions and various methods to overcome climate change and its risks.*

**Keywords:** Right to life, Environmental Permit, National Green Tribunal, E-Waste Management.

## 1. Introduction

It has been recognized that a clean, healthy and functional environment leads to adequate and sustainable living standards for the human being leading to secure their human rights that includes the right to live, right to health, right to food, right to housing, right to development, etc. However, the particular fundamental right has been implemented in 1948, when the Universal Declaration of Human Rights was created focused mainly on the ideal status of the people living with dignity, freedom, equality, justice and peace, allowing Human Rights a place as the protector of livelihood environment of the people. Leading to future connectivity between climate change and human rights.

Human rights is a way to express the issues faced by people causing any harm to their integrity, safety and freedom which should be protected by the government.

Climate Change is a natural calamity which response to the environment by harming the surrounding either due to natural reasons or human interference, subliminally threatening the life of the people and infringing their rights.

### 1.1. Climate change a threat to Human Rights

As we acknowledged earlier, Human Rights is an entitlement to provide protection to people's integrity, safety and freedom; so how come a natural calamity like climate change can threaten people's integrity, safety and freedom?

The above question can be answered by a simple example, i.e., Flood. Flood is a natural disaster that causes an overflow of water on the land. The recent disastrous flood in Mumbai caused by heavy rain is one such example of climate change affecting people's livelihood and challenging Human Rights.

Climate changes can be temporarily in nature but it has a permanent effect on people's lives and health. Not only the condition of the livelihood is affected but in most cases, it also leads to deaths and permanent damage to the human body.

It is the negative impact of climate change that leads to the infringement of Human Rights leading Government to take

different measures in order to avoid any such situations and providing protection to the people.

## 2. The Influence of Human Rights on Climate Change

Human Rights have developed in various aspects which also includes environmental issues and its interrelation with the rights of people and climate change. It also allowed the Government to recognize the aspect of climate change as a threat to fundamental and human rights. Initially, the Government focused on providing protection to people and take pre-measure regarding any climate change that could infringe on the rights of people.

The influence itself has various aspects, which are described further below.

### (a) Impact on Natural Resources and Ecosystem:-

Our Ecosystem consists of many different resources like Freshwater Resource, Terrestrial System, Coastal System, Ocean System and Food Security System. Before the establishment of Industrialisation in our society, the scarcity of our resources was at a minimal level.

The scarcity in the existence of freshwater in society is one of the major impacts of climate change which leads to harm of human beings and against their rights to live. It has been recently reported that within the coming years the existence of freshwater will be extinct in nature. Already in our current generation, billions of household not been able to get a proper supply of freshwater. Leading to a danger of human existence in the near future.

The Terrestrial System is at high risk due to the impact of Climate change. Due to the scarcity of water and proper habitat number of species migrated from one area to another in order for their existence. The scarcity of the resources in their areas also influenced people to migrate from one place to another especially tribal people. This is not only risking towards the endangerment but also risking the balance of the ecosystem at a major level.

Another region which has been affected by climate change and leading risk to human life are at Coastal areas. The

increasing amount of floods and tsunamis destroy a number of livelihood of the people and causes serious damage to their health. Even during any such calamity, it is difficult to provide any medical attention in the areas required.

Resources of Freshwater are many for instance Groundwater. One such resource also includes Ocean system. The water flowing from the ocean areas to rivers and groundwater are highly contaminated after the establishment of industrialization in our society. The contamination of the ocean water and disturbance in the mid-high latitudes lead to endangerment of marine life and infringement of human rights as the balance of the ecosystem is at high risk.

When Human civilization was discovered there were many varieties of food and crops available to them for their consumption. As per the documentary 'Seeds: The Untold Story', 94% of our seed diversity has disappeared. The foods and crops available in our generation is only 6% of the whole. Artificial cropping or Man-made cropping is one such way which changed the nature and authenticity of the food itself.

The impact on our natural resources by climate change is one of the major risk areas of human life.

#### **(b) Impacts on Human Settlement:-**

Human settlement is divided into two areas, i.e., Urban Areas and Rural Areas. Both the areas have their own negative impact due to climate change leading to infringement of the Rights of the people.

A climate-related phenomenon like rising sea levels, coastal storms, extreme precipitation, etc has an intense impact on a wide range of city functions, infrastructures and services causing high-level stress to people livelihood. The stigmas associated with urban climate change are growing, with extensive adverse effects on individuals and their health, livelihoods and resources and also on local and national economies and ecosystems. These threats are increased for those living in urban slums and dangerous regions that often lack vital facilities and adaptive capability, as well as for those who are more susceptible due to age, earnings, disability or other variables.

Climate change in rural regions will impact water source, food security and farm income. This will affect human health, livelihoods, income and patterns of migration. Some of the main effects that generate danger for rural populations include: increasing temperatures and heatwaves, changing patterns of precipitation and extreme weather events and effects on human health, water supply, ecosystems, natural resources, plants and physical buildings. India is one of the developing countries in the world which put the most significant amount of risks to the people of the country due to lack of adaptive ability and heavy dependence on agriculture and natural resources.

#### **(c) Impacts on Livelihoods, Health and Security:**

The impact on Livelihoods, Health and Security of Climate change is one of the major negative roles on infringement of human rights.

Climate risks, including incremental changes and extreme weather events, directly affect people's livelihoods through negative effects such as crop yield losses; the disintegration of natural resources, homes, and properties; and impoverishment.

This also affect livelihoods indirectly by alleviating other stress factors, for instance- Rises in food, energy and other crucial resources rates; political instability and widespread conflict; and collisions between individuals and households. Poverty, political instability and conflict also erode peoples and communities capacity to mitigate climate change. Climate change is therefore one of many variables capable of perpetuating a vicious cycle of poverty, deprivation, and inequality.

There are indications that climate change has already contributed to health issues in some areas, and if climate change remains in different situations, the significant health effects which includes- excessive risk of injury, illness and death arising from heatwaves and fires; enhanced risk of under-nutrition arising from decreased food production in bad areas; health effects arising from loss of job ability and decreased labor productivity in susceptible communities; and an enhanced risk of food, water and vector-borne illnesses.

Climate change will threaten human security by raising the scarcity of important assets, undermining livelihoods, endangering culture and identity, reducing the capacity of the nation to provide the needed circumstances for human protection. All of these influences can impact human security instantly, as well as lead to political instability and violent conflict.

### **3. Constitution of India on Climate Change**

The Indian Constitution lays down various laws, rules and regulations that should be followed in order to maintain balance in our environment. The basic foundation of environmental law can be found in Indian Constitution itself. In the late 1980s and early 1990s, the indian judiciary system has certainly undertook new policy stating as environmental policies which clearly focused on the connection between environment and fundamental right.

The main area of focus that regards the connection between the human and environment in Indian Constitution comes under the fundamental right to life. The fundamental right to life which has enriched under Article 21 of the Constitution, clearly states **right to clean, healthy and pollution-free environment**.

To maintain the environmental laws and policies in the states different government authorities were established like the Ministry of Environment & Climate Change, Central Pollution Control Board in the national capital region and State Control Boards were set up in each 29 states in India. Separate regulatory bodies for various environmental laws were established, for instance- Ozone cell, Forest Officers in context to India's Forest Act, National and State-level Coastal Zone Management Authorities, etc. National Green Tribunals were set up in 2010 which lead towards the

regional division of India into certain judicial areas, with the main NGT in Delhi and four other NGTs in Bhopal, Pune, Kolkata and Chennai for the quick processing of instances involving a significant environmental conflict and for the relief and compensation of individual and assets damage.

### 3.1. The Approach of the authorities to impose environmental law

These authorities mainly maintain an environmental compliance record. The authorities provide the required material and information data to the agencies working in the field, no formal guidelines are followed in relating to these situations. Even though the voluntary disclosure and no formal guidelines to the disclosure, certain companies lack the confidence to approach enforcement agencies.

There are certain new approaches by the agencies to impose environmental law, for instance- "self-declaration" law under E-Waste Management Rules, 2016, allowing the companies to take certain measures by themselves if required for environmental sustainability and betterment.

Some States have allowed environmental permits that allows a self-certification of no increase in the overall production capability and pollution load. Also State Pollution Control Boards tend to issue show cause notice in the event of non-compliance, giving companies 15-30 days to respond and provide an explanation on why they are not obligated to start any criminal prosecution or why their electricity/water supply shouldn't be stopped by them. The cut off of the power supply of the companies by the State Pollution Control Boards seems to be unnecessary sometimes but is the only method that seems to work to enforce environmental laws. Environmental laws also allow companies a right to be heard before taking any such measure. But if the State Control Pollution Board found the site to be in grave non-compliance, they have the right to report to the National Green Tribunal with the request to impose a fine and in some criminal prosecution, the directors and management of the company is also initiated.

### 3.2. Public Authorities and Environment related Information

Right to Information Act, 2005, allows a citizen to request all government authorities to provide information which they retain, at a minimum fee. There are exceptions under the act which limits the power of a citizen to retain any personal or confidential information from the government authorities. But it also have a clause that if certain information under certain circumstances is under the interest of large number of public, the government authority may share the required information.

## 4. Environmental Permits

A permit is an authorized and sanctioned license that allows a person or company to carry on an activity by law. An Environmental permit is a permit that allows a person or company to carry out activities which may have an impact on the environment or human health and what limitations are followed to minimize environmental and human health

harm. Sometimes multiple permits are made depending on the type of activities administered by the company. Since 2016, the Ministry of Environment, Forests and Climate Change has adopted a fresh technique of classifying the sectors it controls and has launched a fresh category of "white industries." Under the Environmental Impact Assessment Notification, these white industries are anti-polluting industries that actually not require a need of a Consent to Operate. They simply need to notify the appropriate State Pollution Control Board instead.

### 4.1. The Necessity of the Permit

The environmental permits allows the State Pollution Control to have the data on the required industries. It also allows them to divide into their basic categories, i.e.,

- 1) White category industries:- do not need to secure a Consent To Operate.
- 2) Green category industries:- A streamlined Consent To Operate request can typically be submitted. Their initial Consent To Operate in many states are legitimate for 15 years.
- 3) Orange category industries:- Consent To Operate are valid upto 10 years.
- 4) Red category industries:- Consent To Operate are valid upto 1-5 years.

It gives the power to authority to take measures regarding the safe-guarding of the environment by providing the permit to limited industries. It also allows them to take notes on the regarding industry on whether proper rules and regulations are being followed. If there is a non-compliance issue the State Pollution Control Board have the right to revoke the permit and reissue only when the issue is rectified. In such kind of situations, company is only provided with 1 year consent to operate under a close watch of the State Pollution Control Board and the ongoing compliance.

Therefore, Environmental Permit is a kind of clearance to the industry to do their required activities making sure no human health is being under any kind of danger and precautionary measures have been taken in order not to violate any human rights.

### 4.2. The Necessity to Conduct Environmental Audits

As per the guidelines provided by Prior Environmental Clearance Notification, 2006, for certain activities of the company to be issued an Environmental Clearance. Sometimes the Environmental Clearance shall require a detailed Environmental Impact Assessment study which includes all the activities, managing, handling of the respective industry.

These Audits are necessary to provide a full clearance and make sure profound laws are being followed regarding handling and storage of the chemicals under Manufacture, Storage and Import of Hazardous Chemical Rules, 1989. The Audits allows the authorities to be certain that after all the precautions taken by the company the infringement of Human rights is not under any probability or likelihood in any circumstances to happen.

## 5. Private Sector Functions as Human Rights on Climate Change

As per law, states takes care of all the laws and provisions and make sure all the rules and regulations are being followed. Indian also allows Public Interest Litigation, which allows any citizen as a good deed in the interest of public file a case against any authority violating their duties and causing harm to the public. For instance:- If any state Jal Board isn't supplying a proper freshwater to a village, any activist or citizen can file a case against that Jal board for the same as it is violating their human rights.

Many Non-Governmental Organisations has been formed to regard matters relating to human rights, which also focuses on health rights caused due to climate changes. This allows a private sector area to work as a human rights organisation and focuses on different aspects of violation of rights.

Environmental Climate change causes large amounts of damage to the people, as a precaution it is the duty of the government to provide pre-information to the citizens living in the area where such calamity is going to occur if they have any information about it. Failed to do such duty even after having prior information regarding the same is infringement of human rights by the government. In such cases a PIL is filed against the respective authority for the damages and relief of the citizens.

Such ways Private Sector areas function as Human rights on climate change and making sure government authority doing their respective duties as per the law, allowing them to make sure no infringement of rights are taken place for any citizen.

## 6. Factors Leading to Climate Change

The factors of climate change are two-folds. Some of the factors of climate change are natural and some are due to man's negligence towards the environment. All the factors have their own negative impact on the environment whether its due to natural causes or man's negligence. Further we study the different factors of climate change.

### 6.1. Waste

Waste contamination has been a major contribution to climate change in a negative aspect. It had not only contributed as a pollution factor but due to the negligence on keeping the environment clean it had caused major trouble in the balance of the ecosystem. Waste materials are materials which are not useable to people, once it is thrown away, the contaminated or spoiled material of the waste takes over causing a bad odor and also lead to contamination of the environment, which itself goes against the right to live in a healthy environment.

### 6.2. Solar Gases Leading to the Greenhouse Effect

Solar Gases have their own way of formation and have different effects on the environment. As per a recent study conducted by NASA most of the heat by the earth is

absorbed by the greenhouse gases and reflected in all directions, warming the Earth; while some of the energy is reflected back into space and some is absorbed and re-radiated as heat. Gases that contribute to the Greenhouse effect includes water vapour, nitrous oxide, carbon dioxide and methane.

The amplest, but most importantly, greenhouse gas acts as climate feedback is Water Vapour. Water vapor rises as the Earth's atmosphere gets warmer, but so does the probability of clouds and precipitation, making these some of the greenhouse effect's most significant feedback processes.

Carbon dioxide is emitted as a minor but very significant element of the atmosphere through natural procedures such as respiration and volcano eruptions and through human operations such as deforestation, changes in land use and burning of fossil fuels. Since the Industrial Revolution started, humans have increased atmospheric CO<sub>2</sub> concentration by more than a third. This is the climate change's most significant long-lived "forcing."

Methane is a hydrocarbon gas generated through both natural and human operations, including the decomposition of waste in landfills, agriculture, and particularly rice cultivation, as well as the management of ruminant digestion and manure connected with domestic animals. On a molecule-for-molecule basis, methane is a far more active greenhouse gas than carbon dioxide, but also one which is much less abundant in the atmosphere.

Nitrous oxide is a strong greenhouse gas generated through soil cultivation methods, in particular using commercial and organic fertilizers, combustion of fossil fuel, manufacturing of nitric acid, and burning of biomass.

The burning of fossil fuels such as coal and oil has enhanced atmospheric carbon dioxide (CO<sub>2</sub>) concentration over the last decade. This is because the method of carbon or oil burning combines carbon with oxygen in the atmosphere to produce CO<sub>2</sub>. To a smaller part, land clearing has risen greenhouse gas levels for agriculture, business, and other human activities.

It is hard to determine the implications of altering the natural atmospheric greenhouse, but some of the following impacts seem plausible:

- Earth is going to get warmer on average. Some areas may welcome temperatures that are warmer, but others might not.
- Overall, warmer circumstances are likely to result in more evaporation and precipitation, but different areas will differ, some becoming weatherier and others drier.
- A more powerful greenhouse effect will warm the oceans, partly melting glaciers and other ice, raising sea level. If it warms up, ocean water will also grow, further contributing to the increase in sea level.

These are the solar gases as a factor to climate change.

### 6.3. Industrialization

The third most important factor of climate change is the development of industrialization in India. The development



of chemical and toxic industries had already done their share towards harming the environment and infringing human rights. The toxic waste that has been thrown in the environment lead to its degradation which further lead to dangers to human life which itself is an infringement of human rights.

#### 6.4. Pollution

Pollution is one factor that is caused due to human negligence towards the environment and it reverts back by causing negative impact on climate change. Pollution plays a huge role on climate change, due to the polluted environment that has been increasing its rate day-by-day has caused the existence of unhealthy environment leading to the infringement of human rights to live in a healthy environment.

#### 6.5. Global Warming

Global Warming is itself caused by the amount of increase in the rate of pollution in our environment. Though global warming has its major contribution towards the weather which refers to the atmospheric condition that occurs for a short period of time and climate refers to the long-term regional or even global average of temperature, humidity and rainfall patterns over seasons, years or decades. But from short period changed it affects the long-term changes as well. Once the pattern in short period change it will affect the balance in long term period. Small negative changes together will make a large negative change overall, leading to an unhealthy environment for human existence.

#### Methods and Techniques to Control Climate Change

Every problem has a solution. The problem of climate change also have solutions by its own. The government authorities are doing their share in protecting the environment and their citizens. The citizens also have the duty to maintain the environment for their future generations. Start with small by keeping the environment clean, planting more trees, etc, it will lead to small results but as said earlier too many small together will make a larger change in the society.

Utilization of solar energy in a positive aspect will also provide a huge change in climate and environment. Recycling of waste materials, using electronic vehicle or changing means of transportation, etc, will itself improve the environment and lead to a big impact on a healthy environment. Its human rights, so it is the duty of the people to utilise their right but also to do certain steps for not infringement of it in the very first place.

#### 7. Conclusion

Climate change and human rights are inter-connected with each other. The repel effect is a part of everything a person does, the same follows in our environment, if we do negative to environment it will only revert back and cause damage to human livelihood. Climate change occurs in a large scale and is affected by small arenas. The connection between climate change and human rights is simple and straightforward, any change in climate which affects the livelihood

of the human being whether health or shelter or food or any basic necessities for human survival is not available to them is an infringement to their rights. The main question since the beginning has been how can a climate change will affect the livelihood of the human? The answer is simple, the negative impact of climate change causes calamities, skin diseases, scarcity of the availability of food, migration, etc, which leads to the endangerment of the lives of human beings. These kinds of negative impacts have a negative effect on human lives which not only is the cause of permanent damage to their bodies but also an infringement of their rights. To avoid any such implications government are utilising their powers to provide protection to people and to protect the environment. Various environmental laws that has been introduced is the reason why no such implication occurs and cause any damage to human life. But to overcome such a drastic change, the citizens have to be a part of the same and have to fulfil their duties towards the environment to maintain its healthy nature. To achieve something good, we have to do good towards it, to achieve a healthy environment it will require our participation as well to maintain a healthy environment.

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