

ENVIRONMENTAL JUSTICE

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Environmental justice refers to the fair and equitable treatment of all people, regardless of race, ethnicity, income, or socio-economic status, in matters related to environmental policies, regulations, and decision-making. It recognizes that historically, certain communities lack equal access to environmental benefits and resources as they were born with burden of environmental pollution, degradation, and hazards.

As Rigveda Mentioned

“The Sky is like Father,
The Earth is like Mother, and
The Space as their Son;

The Universe consists the Three,
Is like a Family, and
Any kind of damage done to any One of the Three,
Throws the Universe
Out of Balance.”

I. HISTORY OF ENVIRONMENTAL JUSTICE

The history of environmental justice can be traced way back to the times of civil rights movement and the ever-growing awareness of environmental issues in the United States during the 1960s and 1970s. Here are some of the key milestones and events that shaped the emergence and development of the environmental justice movement:

- **Civil Rights Movement:** The civil rights movement which took its origin in USA in the 1950s and 1960s played a crucial role in raising awareness about racial inequalities and discrimination in various aspects of life. As this movement gained momentum, activists started drawing attention to the disproportionate burden of pollution and environmental hazards faced by minority and low-income communities.
- **Warren County, North Carolina (1982):** One of the earliest and most significant environmental justice campaigns occurred in Warren County, North Carolina. In 1982, the state government decided to dump toxic waste, including PCBs, in a land fill

in Warren County, which had a predominantly African American population. Residents and environmental activists protested against this decision, highlighting the discriminatory siting of hazardous waste facilities in minority communities.

- **Toxic Wastes and Race Report (1987):** The United Church of Christ Commission for Racial Justice published a very critically acclaimed report called "Toxic Wastes and Race in the United States." This ground breaking report revealed a clear pattern of hazardous waste facilities being disproportionately located in communities inhabited by people of color and low-income residents.
- **First National People of Color Environmental Leadership Summit (1991):** In 1991, representatives from various minority communities gathered in Washington, D.C., for the First National People of Color Environmental Leadership Summit. During this event, they coined the term "environmental justice" and adopted 17 principles that called for the fair treatment and involvement of all people in environmental decision-making.
- **Executive Order 12898 (1994):** In 1994, President Bill Clinton put pen to paper and signed an Executive Order 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." This order of the president of United States of America directed federal agencies to identify and address the disproportionately high and adverse environmental effects on minority and low-income communities.
- **Environmental Justice Movement Growth:** Throughout the 1990s and 2000s, the environmental justice movement gained momentum across the United States. Grassroots organizations and activists worked to address environmental injustices in their communities, often using advocacy, protests, and legal action.
- **Global Impact:** The environmental justice movement in the United States influenced and intersected with similar movements worldwide. Many countries started adopting principles of environmental justice to address environmental inequalities and protect vulnerable communities.

2. Key Aspects of Environmental Justice Include

- **Equitable Distribution of Environmental Benefits and Burdens:** Environmental policies and decision-making should ensure that all communities have equal access to clean air, water, and land, and are protected from harmful environmental impacts.
- **Inclusivity and Public Participation:** Environmental decision-making processes should include meaningful involvement of affected communities, allowing them to voice their concerns and participate in shaping environmental policies.
- **Elimination of Discrimination:** Environmental justice calls for addressing any form of discrimination that may lead to unequal environmental protection, such as racial, ethnic, or socioeconomic discrimination.

- **Health and Social Implications:** Environmental justice recognizes that environmental issues have far-reaching impacts on public health and social well-being, and these factors must be considered when developing policies and regulations.
- **Sustainability and Long-Term Planning:** Solutions to environmental issues should be sustainable, taking into account the needs of future generations and the preservation of natural resources.

Environmental justice advocates work to raise awareness about the importance of addressing environmental inequalities and advocate for policies that prioritize the needs and rights of vulnerable communities. This might include promoting clean energy sources, enforcing stricter environmental regulations in affected areas, conducting environmental impact assessments, and empowering communities to actively participate in decision-making processes.

The pursuit of environmental justice is a critical component of building a more just and sustainable society, as it seeks to ensure that no one is disproportionately burdened by environmental hazards and that everyone can enjoy a healthy and safe environment.

II. SUPREME COURT JUDGEMENT ON ENVIRONMENT JUSTICE

Global

1. Regents of the University of California v. Bakke (1978)

- Although not solely an environmental justice case, this landmark decision by the Supreme Court addressed affirmative action in university admissions. The ruling highlighted the importance of diversity and equal opportunities for minority communities in educational institutions, which is relevant to the broader principles of environmental justice.

2. United States v. Bestfoods (1998)

- This case involved the liability of a parent company for environmental contamination caused by its subsidiary. The Supreme Court ruled that corporate entities could be held liable for environmental cleanup costs if they were actively involved in the management of hazardous substances. This decision had implications for environmental justice by ensuring that responsible parties could not evade cleanup obligations and potentially leave affected communities with contaminated sites.

3. Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc. (2000)

- In this case, the Supreme Court addressed issues related to standing, allowing citizen groups to bring environmental lawsuits under the citizen suit provisions of the Clean Water Act. The ruling reinforced the role of citizen involvement in environmental protection and provided communities with a means to address environmental violations that impact their health and well-being.

4. Massachusetts v. Environmental Protection Agency (2007)

- In a landmark decision, the Supreme Court ruled that the Environmental Protection Agency (EPA) had the authority and obligation to regulate greenhouse gas emissions from vehicles under the Clean Air Act. This decision recognized the potential harm of climate change to vulnerable communities and affirmed the role of government agencies in addressing environmental issues that disproportionately affect marginalized populations.

5. County of Maui v. Hawaii Wildlife Fund (2020)

- In this case, the Supreme Court addressed the issue of pollution via indirect discharge into navigable waters. The Court established a new test to determine when a permit under the Clean Water Act is required for discharges through groundwater, which could have implications for environmental justice cases involving water pollution and its impact on disadvantaged communities.

India

1. M.C. Mehta v. Union of India (1986)

- In this landmark case, the Supreme Court took suo moto cognizance of the hazardous situation arising from the pollution caused by industries in Delhi. The court ordered the closure of certain industries, including those operating in residential areas, and established the concept of "absolute liability" of industries for environmental damage.

2. Subhash Kumar v. State of Bihar (1991)

- In this case, the Supreme Court addressed the issue of environmental pollution caused by the improper disposal of dead bodies on the banks of the River Ganges. The court emphasized the importance of protecting and maintaining the purity of the Ganges, considering its cultural and religious significance.

3. Rural Litigation and Entitlement Kendra (RLEK) v. State of U.P. (1985)

- In this case, the Supreme Court dealt with the environmental degradation of the Shivalik Hills in Uttarakhand due to limestone quarrying. The court recognized the "public trust doctrine" and held that the state is the trustee of natural resources and must protect them for the benefit of the public.

4. Vellore Citizens Welfare Forum v. Union of India (1996)

- In this case, the Supreme Court addressed the issue of pollution caused by tanneries in and around Vellore, Tamil Nadu. The court laid down strict guidelines for the prevention and control of water and air pollution, emphasizing the "precautionary principle" to protect the environment and public health.

5. T.N. Godavarman Thirumulpad v. Union of India (1997)

- This case involved the preservation of forests and wildlife in India. The Supreme Court issued various orders and guidelines to protect forests and prevent illegal encroachments and deforestation. The court appointed a committee to oversee the implementation of its orders and protect the environment.

6. Sterlite Industries (India) Ltd. v. Union of India (2013)

- In this case, the Supreme Court addressed environmental concerns regarding the operation of the Sterlite copper smelter plant in Tuticorin, Tamil Nadu. The court upheld the decision of the Tamil Nadu Pollution Control Board to close the plant due to environmental violations and pollution concerns.

7. Alembic Pharmaceuticals Ltd. v. Rohit Prajapati (2019)

- In this case, the Supreme Court addressed the issue of hazardous waste management in the pharmaceutical industry. The court directed the Central Pollution Control Board to conduct a study on the disposal of pharmaceutical waste and to take appropriate measures to prevent environmental pollution.

III. TYPES OF ENVIRONMENTAL JUSTICE

Environmental justice encompasses various dimensions, and different types of environmental justice issues can be identified. Here are some key types of environmental Justice

- 1. Distributive Environmental Justice:** This type of environmental justice focuses on the fair distribution of environmental benefits and burdens across different communities and social groups. It advocates for equitable access to clean air, water, and natural resources while challenging the disproportionate exposure of marginalized communities to environmental hazards and pollution.
- 2. Procedural Environmental Justice:** Procedural environmental justice emphasizes the importance of inclusive and participatory decision-making processes. It seeks to ensure that all individuals and communities have a meaningful say in environmental policy development, project planning, and regulatory decisions that affect them. This type of justice aims to prevent the exclusion of marginalized groups from decision-making forums and promotes transparency in environmental governance.
- 3. Intergenerational Environmental Justice:** Intergenerational environmental justice concerns the well-being of future generations. It focuses on the ethical responsibility of the present generation to protect and preserve the environment for the benefit of those who will come after us. This type of justice calls for sustainable practices and policies that consider the long-term implications of current environmental decisions.
- 4. Social Environmental Justice:** Social environmental justice addresses the intersectionality of environmental issues with social inequalities. It recognizes that

vulnerable communities, such as those based on race, ethnicity, income, or gender, often bear a disproportionate burden of environmental harm. Social environmental justice seeks to address these structural inequalities and advocates for fair treatment and opportunities for all communities.

5. **Environmental Health Justice:** Environmental health justice is concerned with the impacts of environmental pollution and hazards on public health, particularly on vulnerable populations. It seeks to address the unequal distribution of health risks and disparities in access to healthcare services in community's affected by environmental pollution.
6. **Climate Justice:** Climate justice relates to the disproportionate impacts of climate change on vulnerable communities, both within and between countries. It advocates for climate policies that consider the differing capacities of nations and address the needs of communities most affected by climate-related disasters and disruptions.
7. **Global Environmental Justice:** Global environmental justice goes beyond national boundaries and considers environmental issues that have transboundary or global implications. It addresses issues such as environmental degradation, resource extraction, and climate change, recognizing that the actions of one country can have significant impacts on others, especially developing nations.

IV. CONSTITUTIONAL PROVISIONS WITH REFERENCE TO ENVIRONMENTAL JUSTICE

India's Constitution contains several provisions that address environmental justice and protection. While the term "environmental justice" is not explicitly used in the Constitution, various articles and principles in the Constitution lay the foundation for environmental protection and the promotion of a just and sustainable environment. Some of the key constitutional provisions relevant to environmental justice in India are:

1. Article 21 - Right to Life

- Article 21 of the Indian Constitution guarantees the fundamental right to life and personal liberty. The Supreme Court of India has interpreted this right expansively to include the right to a healthy environment. This interpretation forms the basis for environmental justice, as it ensures that every individual has the right to live in a pollution-free environment.

2. Article 48A - Protection and Improvement of Environment

- Article 48A was added to the Constitution through the 42nd Amendment Act in 1976. It states that the State shall endeavour to protect and improve the environment and safeguard the forests and wildlife of the country.

3. Article 51A(g) - Fundamental Duties

- Article 51A(g) of the Constitution imposes a fundamental duty on every citizen of India to protect and improve the natural environment, including forests, lakes, rivers, and wildlife.

4. Directive Principles of State Policy (DPSP)

- Several Directive Principles of State Policy (Part IV of the Constitution) are relevant to environmental justice. These principles are not enforceable by courts but are considered fundamental in the governance of the country. DPSPs that address environmental concerns include:
 - **Article 39(b):** Equal distribution of material resources to promote the common good.
 - **Article 47:** The Duty of the State to raise the level of nutrition and the standard of living and to improve public health, which indirectly relates to environmental health.

5. Article 246 : Distribution of Legislative Powers

- Environmental protection comes under Concurrent List (List III) of the Seventh Schedule of the Constitution. Both the Central and State governments have legislative powers to enact laws on environmental matters. The concurrent list allows for coordinated efforts between the central and state authorities to address environmental issues.

6. National Green Tribunal (NGT)

- The National Green Tribunal was established by National Green Tribunal Act, 2010. It is a specialized judicial body dedicated to hearing and adjudicating environmental cases. The NGT plays a crucial role in ensuring access to environmental justice and expediting environmental dispute resolution.

V. GLOBAL INITIATIVES FOR ENVIRONMENTAL JUSTICE

1. **United Nations Framework Convention on Climate Change (UNFCCC):** The UNFCCC, established in 1992, is an international treaty aimed at addressing climate change. It has brought nations together to negotiate and take collective action to mitigate greenhouse gas emissions and adapt to climate change impacts. The Paris Agreement, adopted in 2015 under the UNFCCC, emphasizes the principle of "common but differentiated responsibilities," recognizing the historical responsibility of developed countries in causing climate change and the need to support developing countries in their climate actions.
2. **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP):** It is adopted in the year 2007, UNDRIP recognizes the rights of indigenous peoples to self-determination, land, resources, and cultural heritage. It also includes provisions related to environmental protection and consultation on decisions affecting their lands and resources. UNDRIP is significant for environmental justice, as indigenous communities often bear the brunt of environmental degradation and are important stewards of natural resources.

3. **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their**

- **Disposal:** The Basel Convention, which is adopted in the year 1989, aims to minimize the generation of hazardous wastes and regulate their transboundary movements. It seeks to protect human health and the environment, especially in developing countries that may be more vulnerable to improper disposal of hazardous wastes.

4. **United Nations Convention on Biological Diversity (CBD):** The CBD is a global agreement established in the year 1992 to promote the conservation and sustainable use of biodiversity. It recognizes the intrinsic value of biological diversity and the rights of communities, particularly indigenous and local communities, to access and use traditional knowledge related to biodiversity.

5. **International Labor Organization (ILO) Convention 169:** ILO Convention 169, adopted in 1989, focuses on the rights of indigenous and tribal peoples. It requires governments to consult and involve these communities in decision-making processes that may affect their lands, resources, and traditional ways of life, including those with environmental implications.

6. **Aarhus Convention:** The Aarhus Convention was adopted in the year 1998 which is a regional treaty in Europe that grants the public rights regarding access to information, public participation, and access to justice in environmental matters. It seeks to ensure that citizens can be actively involved in environmental decision-making processes.

7. **Sustainable Development Goals (SDGs):** The UN (United Nations) adopted 17 Sustainable Development Goals in 2015, which include goals related to environmental protection, climate action, and reducing inequalities. Goal 10 (Reduced Inequalities) and Goal 13 (Climate Action) are particularly relevant to environmental justice, aiming to address inequalities and combat climate change.

VI. INITIATIVES TAKEN BY INDIA FOR ENVIRONMENTAL JUSTICE

1. **National Action Plan on Climate Change (NAPCC):** The NAPCC is launched in the year 2008, outlining India's strategy to combat climate change and promote sustainable development. It includes eight missions covering various sectors like solar energy, energy efficiency, water, sustainable agriculture, and afforestation. These missions aim to address climate change while ensuring social and environmental justice.

2. **National Clean Air Program (NCAP):** This program is launched in the year 2019, aiming to tackle air pollution in Indian cities and regions, to reduce particulate matter (PM10 and PM2.5) concentration by 20-30% in a specified time frame. The program emphasizes more on public participation and the involvement of local communities in air quality management.

3. **Swachh Bharat Mission (Clean India Mission):** The flagship scheme is launched in the year 2014, aiming to make India open-defecation free and ensure solid waste management, to promote sanitation and cleanliness, thereby contributing to

environmental health and justice.

4. **Smart Cities Mission:** Under this mission, launched in 2015, the government aims to develop 100 smart cities with a focus on sustainable urban planning, efficient use of resources, and enhanced quality of life for residents. The mission emphasizes the integration of environmental considerations in urban development.
5. **National Mission for Green India (GIM):** The Green India Mission, launched as part of the NAPCC, aims to increase forest and tree cover across the country, to focus on improving ecosystem services, supporting biodiversity conservation, and enhancing livelihood opportunities for local communities.
6. **Pradhan Mantri Ujjwala Yojana (PMUY):** The scheme was launched in the year 2016 which aims to provide clean cooking fuel (LPG) to poor households in order to reduce indoor air pollution from traditional cooking fuels to benefit women and children.
7. **National Biodiversity Action Plan (NBAP):** The NBAP, prepared in 2008, aims to conserve India's rich biodiversity and traditional knowledge associated with it. The plan promotes community participation in biodiversity conservation and recognizes the importance of traditional practices for environmental justice.

VII. FUTURE PROSPECTS

As we look into the future, environmental justice will likely continue to gain prominence as a critical global issue. Several key prospects and trends are expected to shape the trajectory of environmental justice:

1. **Increased Awareness and Advocacy:** Environmental issues, such as climate change, pollution, and resource depletion, will remain at the forefront of public consciousness. With growing awareness, there will be increased advocacy for environmental justice from communities, civil society organizations, and the general public.
2. **Policy Reforms:** Governments around the world may introduce and strengthen policies to address environmental inequalities and promote sustainable development. This could include stricter environmental regulations, equitable resource distribution, and policies to protect vulnerable communities from environmental harm.
3. **Climate Justice:** Climate change will continue to disproportionately impact vulnerable communities, necessitating climate justice initiatives that consider the social and economic implications of climate policies. This could involve supporting climate-resilient infrastructure, climate finance for developing nations, and empowering marginalized communities to adapt to climate impacts.
4. **Green and Just Transition:** As societies move towards more sustainable practices, there will be a focus on ensuring that the transition to green economies is just and inclusive. Efforts will be made to protect workers in declining industries, ensure access to green jobs, and involve affected communities in decision-making.

5. **Global Cooperation:** Environmental justice is an inherently global issue, requiring international collaboration and cooperation. Nations will need to work together to address transboundary environmental problems, support climate-vulnerable regions, and share best practices in environmental justice.
6. **Technological Advancements:** Emerging technologies may play a significant role in advancing environmental justice. Innovations in renewable energy, green infrastructure, and data analytics can help address environmental challenges while promoting equitable access to environmental benefits.
7. **Strengthening Legal Mechanisms:** Legal frameworks for environmental justice may evolve, granting affected communities greater access to justice, redress, and involvement in environmental decision-making.
8. **Intersectionality:** Environmental justice will increasingly be viewed through an intersectional lens, recognizing the interconnections between environmental issues, social inequalities, and human rights. Initiatives will seek to address overlapping injustices and promote holistic solutions.
9. **Indigenous and Local Knowledge:** The importance of indigenous and local knowledge in environmental conservation and management will be better recognized, leading to greater respect for traditional practices and indigenous rights.
10. **Education and Empowerment:** Environmental education and awareness campaigns will play a crucial role in empowering communities to actively participate in environmental decision-making and demand their rights to a healthy environment.

Overall, the future prospects of environmental justice will depend on concerted efforts from governments, civil society, businesses, and individuals to prioritize equitable and sustainable environmental practices. Achieving environmental justice is essential not only for the protection of ecosystems but also for building a more just and equitable world for all people.

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