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Climate Change & the Right to Human Health: A Legal Overlook of the Climate Health Crisis

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Abstract

All facets of society are impacted by the threat that climate change poses to human health, both locally and worldwide. Human health will be impacted by the environmental effects of climate change, both those that have already been seen and those that are yet to come, including sea level rise, changes in precipitation that cause flooding and drought, heat waves, stronger hurricanes and storms, and deteriorated air quality. It is particularly difficult to address how climate change affects human health since both the external environment and individual behaviours have an impact on health. That climate change is currently a public health emergency is supported by substantial scientific data. International human rights, environmental, and climate laws and regulations are being used in climate lawsuits taken against governments and businesses to demand accountability for activities that affect the environment and human health. Climate change's effects on human health make litigation a crucial tool for pursuing justice and successfully overturning established legal frameworks.

This paper is to aims to provide a vision and way forward on how the country and its health community need to respond to environmental health risks and challenges, and to ensure safe, enabling and equitable environments for health by transforming our way of living, working, producing, consuming and governing.

Keywords: climate change, human health, environmental legal framework, sustainable development.

'We spray our elms, and the following spring, trees are silent of robin song,
not because we sprayed the robins directly but because the poison
traveled step by step through the now familiar elm-earthworm-robin cycle'

– Rachael Carson

Introduction

The Public health is being endangered by continuously environmental and other global dangerous environmental related activity and it disturb to the biodiversity and eco- system. In many places, climate change is increasing the frequency and severity of heat waves, droughts, excessive rains, and strong cyclones. It is also changing how food-borne, water-borne, and zoonotic infectious diseases are transmitted, all of which have significant negative effects on human health. People who are at danger include those who live on small islands, in the Arctic, in water-stressed and low-lying areas, as well as those who reside in the least developed nations and regions. Water shortage and forced migration, together with the political difficulties they bring, are two more possible effects. The fast loss of biodiversity and ecosystem stability, which jeopardizes food and water security, protection from harsh weather, and the development of novel treatments are only a few examples of the vast range of effects of global environmental change. Climate change directly affects five components of the environment: water, air, weather, oceans, and ecosystems. Changes in rainfall and other precipitation, changing temperatures, and melting of summer ice caps are already occurring and will create changes in the availability and quality of water across much of the planet over the next 30 years.

Humans and the communities in which we live depend on the natural environment for the resources

we need to live lives of dignity and wellbeing. These resources include clean air to breathe, clean water to drink, food to eat, fuels for energy, protection from storms, floods, fires, and drought, regulation of the climate and the prevention of disease, as well as places to congregate for aesthetic, recreational, and spiritual enjoyment. These environmental gifts often referred to as ecosystem services are crucial to both human wellbeing and basic existence and these are protected by the various legislations.

World Health Organization defines "environment" as "all modifiable physical, chemical, and biological factors external to the human host, and all related behaviors that are critical to establishing and maintaining a healthy livable environment". Within this definition, it is likely that the environment can affect most human diseases and illnesses. Generally speaking, Environment includes the external conditions, physical resources and sounding situation of a particular location. The Preamble of the United Nations Declaration on Human Environment, states,

"Man is both creature and moulder of his environment, which gives him physical substance and affords him the opportunity for intellectual, moral, social and spiritual growth".

Despite solid scientific evidence and the efforts of many, global greenhouse gas emissions are not reducing. Similar to how a sixth mass extinction is occurring despite environmental protection legislation, environmental harm is clearly increasing as ecosystems deteriorate. Infected environments make it impossible for the human species to thrive. Human existence depends on a steady climate and wholesome environs. Human health is directly harmed when they are disrupted.

In 1992, the UN Conference on Environment and Development (UNCED) at Rio de Janeiro led to FCCC (Framework Convention on Climate Change), which laid the framework for the eventual stabilization of greenhouse gases in the atmosphere, recognizing the common but differentiated responsibilities and respective capabilities, and social and economic conditions. The Convention came into force in 1994. Subsequently, the 1997 Kyoto Protocol, which came into force in 2005, reasserted the importance of stabilizing greenhouse gas concentrations in the atmosphere adhering to sustainable development principles. The Protocol laid out guidelines and rules regarding the extent to which a participating industrialized country should reduce its emissions of six greenhouse gases, viz., carbon dioxide, methane, nitrous oxide, chlorofluorocarbon, hydrofluorocarbons and perfluorocarbons.

Both the World Health Organization (WHO) and the Intergovernmental Panel on Climate Change (IPCC) support that climate change affects health directly and indirectly. The WHO currently estimates that the global health costs of climate change, by 2030, amounts to approximately 2-4 billion USD annually. Moreover, between 2030 and 2050, already 250,000 additional annual deaths are estimated to occur: 38, 000 due to heat exposure (in elderly people), 48, 000 due to diarrhoea, 60, 000 due to malaria and 95, 000 due to childhood under nutrition.

What are pollutants?

When there is an undesirable change in the surrounding that has harmful effects on plants and animals, it leads to environmental pollution. A pollutant is defined as any form of energy or matter or action that causes imbalance or disequilibrium in the required composition of natural objects such as air, water, etc. a pollutant creates damage by interfering directly or indirectly with biological process of an organism. This happens when humankind's long-term ecological advantages are sacrificed in favor of short-term economic profits. No other natural event has caused more ecological alterations than human activity. We have polluted various waste items into the air, water, and soil that support life during the past few decades.

There are pollutants which can be degraded and rapidly broken down by natural processes similar to the degradation of vegetables. We have also pollutants which take decades to degrade, once released can't be easily removed.

On the ecological perspective pollutants can be classified as follows:

1. Degradable or non-persistent pollutants: These can be rapidly broken down by natural processes. Eg: domestic sewage, discarded vegetables, etc.

2. Slowly degradable or persistent pollutants: Pollutants that remain in the environment for many years in an unchanged condition and take decades or longer to degrade. Eg: DDT and most plastics.

3. **Non-degradable pollutants:** These cannot be degraded by natural processes. Once they are released into the environment they are difficult to eradicate and continue to accumulate. Eg: toxic elements like lead or mercury.

The Challenges and Right to Health

1. First of all, we should adopt a suitable mechanism to safeguard our environment with respect health and well- being. As a developing country, we are not in a position to utilize sustainably physically recourses and efficiently reducing environmental risk to the public health.

2. We have not strong legislative mechanism to curtail such type activities. Powerful persons misuse the loop holes of the enactment and utilize the resources as they want for their profit.

3. Climate change directly affects five components of the environment: water, air, weather, oceans, and ecosystems. Changes in rainfall and other precipitation, changing temperatures, and melting of summer ice caps are already occurring and will create changes in the availability and quality of water across much of the planet over the next 30 years.

4. The health problems that arise in human beings due to the environmental problems are;, Heat illness, Heat cramps and heat stroke, Malnutrition, Fat deposition and body weight, Obesity, Breathing problems.

Risks to health will arise by direct and indirect pathways and will reflect changes in both average climate conditions and in climatic variability. The main risks are:

a. Effects of heat waves and other extreme events (cyclones, floods, storms, wildfires)
b. Changes in patterns of infectious disease
c. Effects on food yields
d. Effects on freshwater supplies
e. Impaired functioning of ecosystems (for example, wetlands as water filters)
f. Displacement of vulnerable populations (for example, low lying island and coastal populations)
g. Loss of livelihoods

Indian Constitution & Environmental Issues

Safe and pollution free environment is the basic need of the every human society. In India, the parliament has enacted various provisions under the constitution and make to responsible to the State governments for the protection of health and environment as laid down under of Indian Constitution, as follows:

"The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country". And Indian Constitution create a fundamental duty upon every citizen as follows: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."

After the implementation of the Stockholm Declaration in the year of 1972, the Indian Parliament has amendment Indian constitution in 1976 and changed Article 48- A and Article 51- A (G) for safeguard and protection policy in India. The Supreme Court of India has adopted sustainable approach and evolved the concept of 'Creative Interpretation' with regarding to the Indian Constitution to protection the fundamental rights and matters relating to the environmental concern.

Starting from early 1980s, the Court has developed a body of 'green constitutional law' to safeguard the citizens' health from the deleterious effects of environmental degradation. In M.C. Mehta v Union of India (1987) 1 SCC 395 (Oleum Gas Leakage case), the Supreme Court propounded the standard of 'absolute liability' for payment of compensation to those affected by the accident in case of industries engaged in hazardous or inherently dangerous activities as opposed to the prevalent notion of 'strict liability' under the Rylands v. Fletcher (1865-66) L.R. 1 Ex. 26 standard. The Court has adopted an expanded view of 'life' under Article 21 and enriched it to include environmental rights by reading it along with Articles 47, 48-A and 51A(g) and declaring:

Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental, ecological, air, water, pollution, etc. should be regarded as amounting to violation of Article 21.

After that, the Indian Supreme Court becomes more sincere and strict regarding the environmental issues and enlarges the ambit of the article 21 of the

Indian Constitution with reference to the Right to Health and Environment related issues.

The constitution imposed obligations against to the State under the concept of Green Constitution and environmental principles like polluter pays; precautionary principle, sustainable development, public trust doctrine and intergenerational equity have become trade mark in Indian law. In **Vellore Citizens' Welfare Forum v Union of India & Ors.,** (1996) 5 SCC 647 the Court applied the 'precautionary principle' on the principle of burden of proof in environmental cases against those who want to change the status quo' viz. polluter or the industrialist. In the process, the apex Court has gone beyond the statutory texts to refer extensively to international conventions and obligations of India and even to the historical environmental values reflected in the edicts of Emperor Ashoka and verses of Atharva Veda.

The SC resolve the controversy and adopt a balanced approach is apparent in N.D. Jayal v Union of India, (2004) 9 SCC 362 a case involving construction of a large dam at Tehri in Himalayan foothills, and refused to interfere symbiotic relation between both these rights in the following words:

Right to environment is a fundamental right. On the other hand, right to development is also one. Here the right to 'sustainable development' cannot be singled out. Therefore, the concept of 'sustainable development' is to be treated as an integral part of 'life' under Article 21. Weighty concepts like intergenerational equity, public trust doctrine and precautionary principle, which we declared as inseparable ingredients of our environmental jurisprudence, could only be nurtured by ensuring sustainable development.

In the 20th century, the apex court applies liberal approach of interpretation and extended the scope of the Article 21 in various fields which are directly or indirectly affected the human life at large. In by the various judgments the apex court enumerate various aspects like right to development, right to clean environment, right to clean, hygienic and safe environment.

Conclusion & Suggestions:

The difficulties posed by climate change must be evaluated from multiple angles. The such issues has several effects on people's lives, as well as on the built and natural ecosystems. Following a request from the ICAO and the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer in 1999, the IPCC has reported on the issue's many aspects and relevance. Various connected subjects have been looked into in this study. Approaches to preventing pollution can be used to stop all present and potential pollution-producing activities, including those in the energy, agricultural, government, consumer, and industrial sectors. Preventive measures are necessary to protect wetlands, groundwater supplies, and other important ecosystems, regions where we particularly wish to halt pollution before it starts.

Few suggestions for reducing the impact of environmental change on human health:

a. Health education, hospital staffs and technological advancement should be maintained properly.

b. Preventive measures like proper vaccination, mosquito control, food hygiene and inspection, nutritional supplementation should be regularly checked and maintained.

c. Strong legislative measurement should be implemented and action mode must be executing their responsibilities for the implementation of legal mechanism.

d. Sustainable development and environmental protection should be maintaining balance for future health risks.

e. There should be school sun safety programmes. This should be a collaborative effort of schools, communities, teachers, parents, health professionals, environmental groups, meteorologists, educational organizations and others. It is believed that with everyone's help, sun protection can go beyond classrooms to the entire communities.

f. NGO's must play vital role in the protection and conduct awareness programme between the public and suggest to them how to utilize their physical resources for survivalship.

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