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INDIGENOUS RIGHTS AND ENVIRONMENTAL PROTECTION: LEGAL CHALLENGES IN SAFEGUARDING INDIA'S NATIVITY

AUTHORED BY - AISHWARY THAPLIYAL & ANIL RAJ

Abstract

This paper examines the importance of indigenous people in the management and protection of the environment and the sustainable uses of land resources. Despite populating a large proportion of the earth's surface, indigenous people suffer from a range of problems arising from climate change, loss of biodiversity, social and economic pressures. Exploring history clearly shows that Indigenous people always have been inextricably linked with their geographical surroundings; however, the processes of the contemporary world destroy such associations. In response to the study, the writer especially stresses the need to respect Indigenous peoples' rights and have their voices in policy issues. Solutions to increase Indigenous representation and mitigate climate change consequences are suggested; stressing that the changes should be made by and for Indigenous people.

Introduction

At least a quarter of the world's land area is owned, managed, used, or occupied by Indigenous Peoples. Despite this significant presence, the lands they steward are not immune to the pervasive effects of climate and ecosystem change. As nature degrades more slowly in these regions compared to others, Indigenous Peoples are still grappling with the profound impacts on their livelihoods and environments.

Aim of the Article

To enhance Indigenous participation in environmental management and policy-making to address climate impacts effectively.

Historical Context and Global Challenges¹

The historical relationship between Indigenous Peoples and their lands is deeply rooted in their traditional knowledge and cultural practices. Indigenous knowledge, acquired over centuries, has guided their interactions with nature, ensuring the balance of ecosystems.

This relationship is characterized by a reverence for the interconnectedness of life, with nature often regarded as sacred and humanity viewed as an integral part of it.

In ancient and medieval times, many civilizations around the world, including those in India, developed sophisticated environmental management systems. In India, ancient texts such as the Vedas and Upanishads reveal a deep understanding of ecological balance and sustainable practices.

For example, traditional water management systems like the step-wells and tank irrigation systems showcase a holistic approach to resource management that balanced human needs with environmental conservation.

However, the impact of climate changes, biodiversity loss, and ecosystem degradation has intensified in recent decades. Philip Alston, said that, the United Nations Special Reporter on extreme poverty and human rights, we are at risk of a “climate apartheid” scenario by 2100. In this dire projection, the wealthy will escape the worst effects of climate changes, such as overheating, hunger, climate degradation and conflict, while the rest of the world, including many Indigenous communities, will face severe hardships, potentially forced into stark choices between starvation and migration.

The Indian Context: Indigenous Peoples and Their Struggles

In India, Indigenous Peoples, often referred to as Adivasis, have a rich history of connection to their lands. They have traditionally managed their environments through sustainable practices rooted in their cultural and spiritual beliefs. Despite their deep understanding of local ecosystems, Adivasis face significant challenges due to modern developmental pressures and climate change.

¹ Drishti IAS (2023) Climate change performance index 2024, Drishti IAS. Available at: <https://www.drishtiias.com/daily-updates/daily-news-analysis/climate-change-performance-index-2024> (Accessed: 30 September 2024).

“Earlier, the Adivasis of India have cultivated proper organic food, organic planting swidden agriculture, aboriginal forest husbandry approaches that sustained the primordial organic environments. However, large-scale industrial development, deforestation and land However, largescale industrial development, deforestation and land The following encroachments have been a disrupt to these practices. The given development policies of the Indian government rather frequently act in the best interest of economic development and ignore Indigenous peoples’ rights and culture. which leads to conflict and displacement².”

Data on indigenous land ownership, biodiversity loss, and impacts of climate change in indian regions.

Statistic	Value
Indigenous Killings	34% of environmental defenders killed are Indigenous
Extreme Poverty among Indigenous Peoples	Nearly 19% of the world's extreme poor
Life Expectancy	Up to 20 years lower than non-Indigenous peoples
Forest Management	Indigenous peoples manage 36% of remaining intact forests
Global Indigenous Population	Approximately 476 million (6% of global population)
Poverty Rate	15% of the world's poor

Forest Rights Act of 2006 was was taken a significant step to social recognition and legal legitimation of the land rights of Adivasis. However, the difficult challenges have been observed in the implementation process of this act. bureaucratic structure, opposition from the lobby, and inadequate backing for Indigenous autonomization³.

² India – climate performance ranking 2024: Climate change performance index (2023a) Climate Change Performance Index | The Climate Change Performance Index (CCPI) is a scoring system designed to enhance transparency in international climate politics. Available at: <https://ccpi.org/country/ind/> (Accessed: 30 September 2024).

³ Samvaad, D. (no date) Ministry of Tribal Affairs, Government of India, Ministry of Tribal Affairs - Government of India. Available at: <https://tribal.nic.in/FRA.aspx> (Accessed: 30 September 2024).

Global Impact of Environmental Changes

Globally, Indigenous Peoples face disproportionately adverse effects from environmental changes. Their subsistence economies and spiritual connections to their lands mean that they are highly vulnerable to biodiversity loss and environmental degradation. Large-scale industrial activities, toxic waste, conflicts, and land-use changes such as deforestation for agriculture and extractives threaten their survival and development.

Stat Statistics on the impact of industrial activities and climate change on Indigenous communities globally.

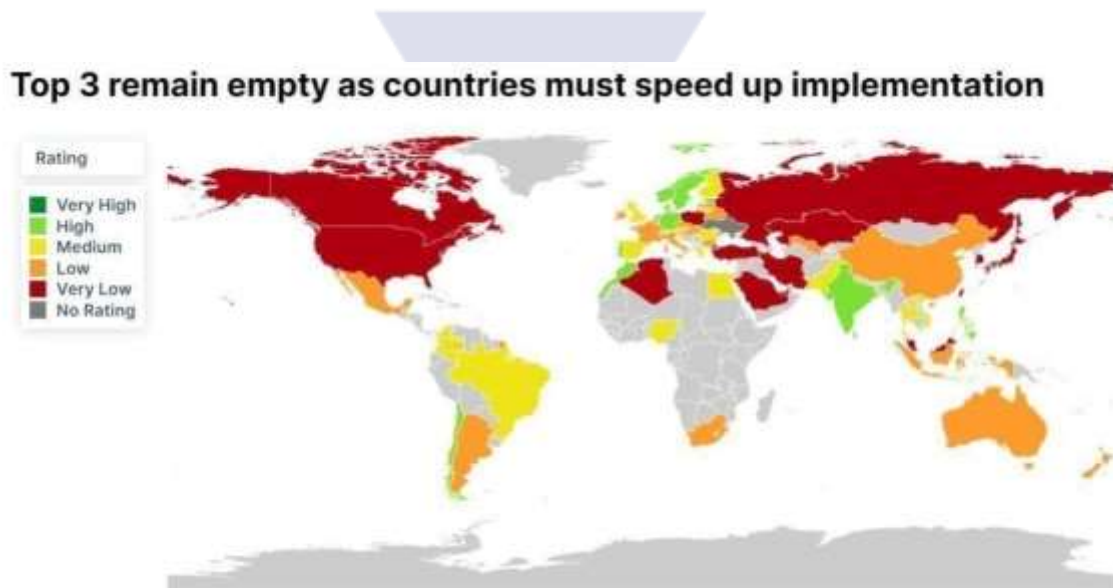


Figure 1⁴

Climate change exacerbates these issues, with extreme weather events, altered growing seasons, and disrupted ecosystems further endangering Indigenous livelihoods. Some mitigation measures, intended to address climate change, have inadvertently increased threats to Indigenous territories.

For example, biofuel initiatives designed to reduce greenhouse gas emissions can lead to monoculture crops, harming biodiversity and local food and water security.

⁴ India – climate performance ranking 2024: Climate change performance index (2023a) Climate Change Performance Index | The Climate Change Performance Index (CCPI) is a scoring system designed to enhance transparency in international climate politics. Available at: <https://ccpi.org/country/ind/> (Accessed: 30 September 2024).

Conversely, when Indigenous Peoples' rights to land, territories, and resources are recognized and protected, their cultures and the environments they steward thrive.

Indigenous knowledge systems offer invaluable insights into sustainable ecosystem management and climate adaptation strategies.

The Role of Indigenous Knowledge in Ecosystem Management

Indigenous Peoples play a crucial role in managing and protecting natural spaces and ecosystems. Their traditional knowledge is instrumental in designing and implementing solutions for environmental conservation and restoration. For instance, traditional food practices contribute to sustainable resource management, healthier diets, and climate change mitigation.

The United Nations Environment Programme (UNEP) acknowledges the importance of Indigenous knowledge and collaborates with the UN Permanent Forum on Indigenous Issues to promote traditional practices for ecosystem restoration. This includes supporting the sustainable production of traditional crops and pastoralism and advocating for the use of Indigenous knowledge in environmental assessments.

On a broader scale, UNEP's efforts include publishing work on traditional knowledge for ecosystem resilience and restoration, which will be highlighted in the fifth UN Environment Assembly and the UN Decade for Ecosystem Restoration (2021-2030). These initiatives aim to integrate Indigenous perspectives into global environmental policies and practices⁵.

Policy and Inclusion: Ensuring Indigenous Participation

The UN Declaration on the Rights of Indigenous Peoples mandates that the free, prior, and informed consent of Indigenous Peoples be obtained for matters affecting their rights and well-being. This includes respecting local governance structures, conducting consultations in Indigenous languages, and ensuring the process is free from coercion.

⁵ Indigenous peoples and the nature they protect (no date) UNEP. Available at: <https://www.unep.org/newsand-stories/story/indigenous-peoples-and-nature-they-protect> (Accessed: 30 September 2024).

Despite these international standards, Indigenous Peoples often remain marginalized at national and local levels. UNEP has established policies to protect environmental defenders, advocating against attacks, torture, and intimidation, and supporting responsible resource management. Additionally, UNEP's Interfaith Rainforest Initiative engages with religious leaders and communities to work with Indigenous Peoples, recognizing the sanctity of life and nature and reconciling historical conflicts between religions and Indigenous spiritualities.

Data on the inclusion of Indigenous Peoples in policymaking and the protection of environmental defenders.

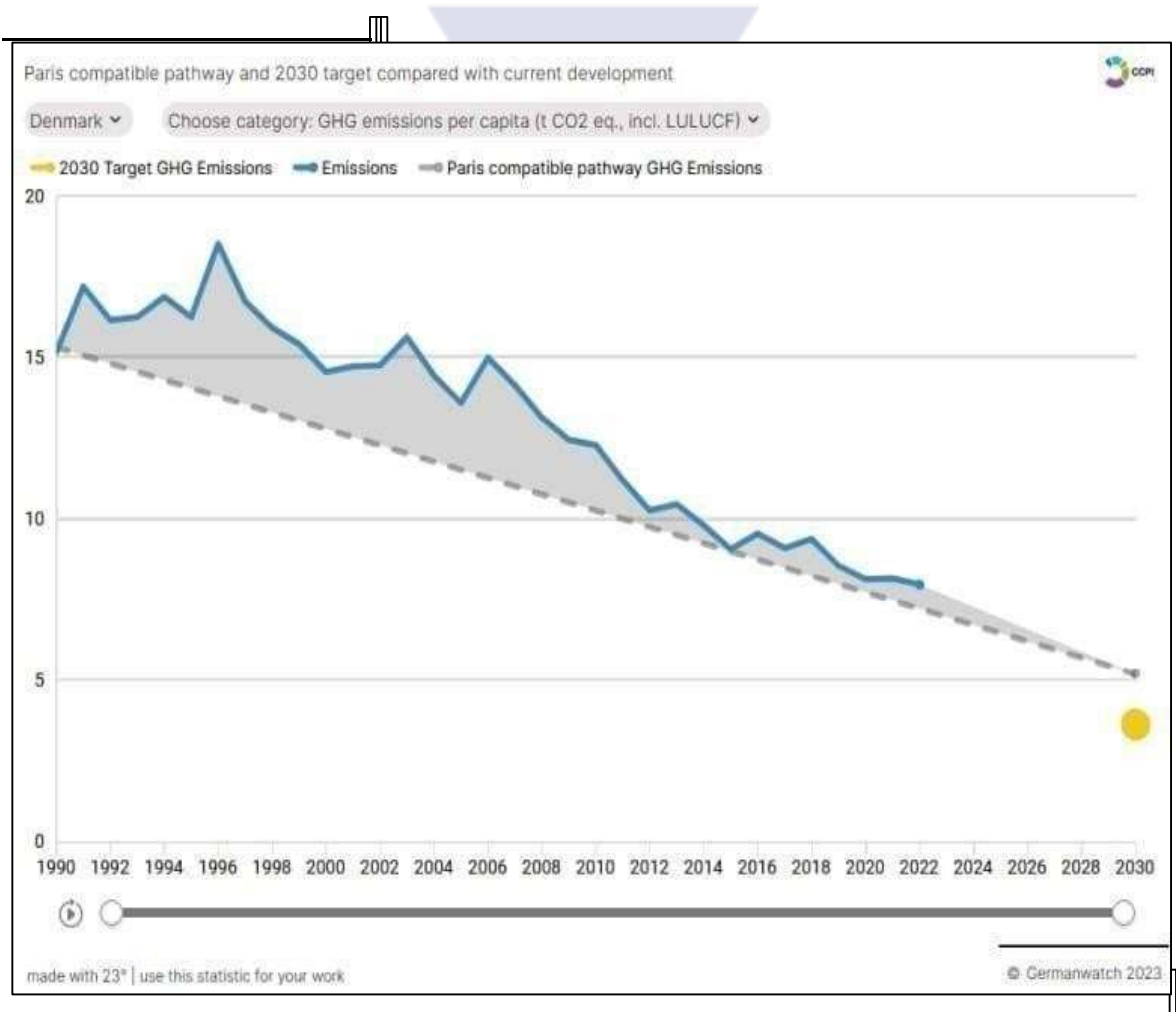


Figure 2⁶

⁶ India – climate performance ranking 2024: Climate change performance index (2023a) Climate Change Performance Index | The Climate Change Performance Index (CCPI) is a scoring system designed to enhance transparency in international climate politics. Available at: <https://ccpi.org/country/ind/> (Accessed: 30 September 2024).

Recommendations for India⁷

To address the challenges faced by Advises and enhance the protection of their lands and cultures, several recommendations can be considered:

1. **Strengthen Implementation of the Forest Rights Act:** Ensure that the Forest Rights Act is fully implemented, with adequate support for Indigenous self-governance and protection of land rights.
2. **Promote Sustainable Development:** Balance developmental policies with the preservation of traditional practices and environmental stewardship of Indigenous communities.
3. **Enhance Participatory Governance:** Include Indigenous Peoples in decisionmaking processes, respecting their traditional knowledge and governance structures.
4. **Support Indigenous Knowledge Systems:** Invest in and promote traditional ecological knowledge and practices as part of national environmental strategies and climate adaptation plans.
5. **Address Climate Change Impacts:** Implement measures to mitigate the effects of climate change on Indigenous communities and support their adaptation strategies.
6. "Prime Minister of India Mr. Modi's announcement at COP26 that India will achieve net-zero emissions by 2070 shows a lack of ambition and political and social will, according to our experts." The experts therefore call for many effective policy and rule implementation that take a many bottom up approach inclusion of demands of tribal and rural communities. overall, our experts emphasize that while India is among the top performers, it need to increase its share of renewable energy and raise its targets.

Personal Reflections: Lessons from the Field

Siham Drissi, Programme Management Officer at UNEP, reflects on her experiences working with Indigenous Peoples worldwide. She highlights the profound insights gained from engaging with Indigenous communities. One notable instance was when an Indigenous representative shared, "When we are not invited to the table, it means we are on the menu." This emphasizes the need for inclusive dialogue and recognizing Indigenous Peoples as equal partners and knowledge holders.

⁷ India – climate performance ranking 2024: Climate change performance index (2023a) Climate Change Performance Index | The Climate Change Performance Index (CCPI) is a scoring system designed to enhance transparency in international climate politics. Available at: <https://ccpi.org/country/ind/> (Accessed: 30 September 2024).

Indigenous groups have long understood the importance of respecting nature and practicing stewardship. Their historical and ongoing observations of environmental changes provide critical knowledge and expertise for addressing climate change and its impacts. Engaging with Indigenous Peoples and incorporating their knowledge into environmental policies and practices is essential for achieving sustainable solutions and protecting our planet's future.

Conclusion

Indigenous Peoples play a vital role in managing and protecting the world's natural resources and ecosystems. Their traditional knowledge and sustainable practices offer invaluable contributions to global environmental efforts. Recognizing and protecting their rights, incorporating their perspectives into policy and decision-making, and addressing the challenges they face are crucial steps toward achieving a sustainable and equitable future for all.

As the world faces unprecedented environmental challenges, the lessons from Indigenous Peoples' deep-rooted knowledge and practices remind us of the importance of respecting and learning from those who have long lived in harmony with nature. It is through collaboration and mutual respect that we can hope to address the pressing issues of our time and ensure a sustainable and just future for all.

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