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CLIMATE CHANGE LITIGATION IN INTERNATIONAL LAW FOR ACHIEVING SUSTAINABLE DEVELOPMENT

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ABHIJEET SINGH & *TEJ BHADUR

Abstract

The changing color of the sky is the most soothing experience for everyone. The dark clouds are the enticing charm for the people but the regular change of colors of sky raised the concern. The global era is witnessing global concern for the climate. The devastating effects of climate change are in front of everyone. Our surroundings must be safe for the present generation and the upcoming generations. The concept of sustainable development is part of SDG's goal. These goals aim for a sustainable environment for the present and not compromise for future generations. Individual efforts have a significant place, but global efforts are unbeatable in this aim. The aim for a clean and green environment is part of many international and national documents.

The concern for climate change is talked about on the global platforms. The provisions for the protection of the climate are mentioned in the environmental conventions starting from the United Nations' formation. The special conference starting from the Stockholm conference has raised concern for international and national organizations. The role of the court is appreciated when these dynamic issues related to the environment are brought before them and they deal with these issues with utmost care and caution. In this regard only, the role of climate change litigation has seen a rise over the last 30 years. Green Litigation is helpful in this climate change issue and has contributed to the rise of climate change litigation.

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In this article, the authors have focused on the evolving concerns for climate change and the role of climate change litigation at the global level. The authors will provide vital solutions in this area for the interested stakeholders.

Keywords- Climate Change Litigation, International, National, Global concerns, Environment and United Nations

Introduction

Climate Change is the current concern around the globe. Everyone is aware of the devastating effects of the global environment. A clean and green environment has a direct positive impact on stress relief.¹ Spending some time in the natural environment has a plethora of positive impacts on both physical and mental health. So, the benefits of a clean and green environment can't be explained in a few words. The world is witnessing sudden environmental changes in this contemporary world². The world wants to breathe in a clean and green environment. Among the various concerns of the environment, climate change is the most important topic that needs to be addressed by the national and international institutions³. In this regard, the mere discussion is of no use. The mere document and no effective implementation of those documents, end the importance of that document. In this effective implementation of international or national norms, the door of courts and law-making bodies needed to be knocked. The need for strict action towards climate change is the need of the hour. The plethora of conventions are there for the environment, but the implementation part is lagging. Now the people are turning to the courts for the solution or fast action. In this article, the authors will be talking about the role of litigation in climate change issues.

The Need for Climate Change Litigation

In today's era of rapid growth and development, mankind has overused the environment to such an extent that it has become a problem of concern in the current times. The number of cases relating to climate change has doubled in recent years resulting in widening the scope of

¹ Tyrväinen, L., Ojala, A., Korpela, K., Lanki, T., Tsunetsugu, Y. and Kagawa, T., 'The influence of urban green environments on stress relief measures: A field experiment. *Journal of environmental psychology*', (2014) 38, 1-9.

² It is undeniable that human activities have produced the atmospheric gases that have trapped more of the Sun's energy in the Earth system. This extra energy has warmed the atmosphere, ocean, and land, and widespread and rapid changes in the atmosphere, ocean, cryosphere, and biosphere have occurred. Evidence <<https://science.nasa.gov/climate-change/evidence/>> accessed 27 December 2024

³ Ibid.

climate change litigation.

Climate Change Litigation will be a useful tool to make corporations, firms, governments, or NGOs responsible for their actions harming the environment and contributing to climate disturbances⁴. The environmental impact and climate change both go hand in hand. If anyone is contributing to the emissions of greenhouse gases, then the entity is directly responsible for the climate change impact. When any entity is not following the decided rules and regulations and manipulating the international law loops, those also need to be punished. We know that human survival is directly dependent on the environment. The rise of natural calamities or the increase of the ozone hole, all affect healthy human lives. Thus, Climate Change Litigation is the need of the hour.

The increasing of the Climate issues related cases

A significant rise has been seen in the case filing related to climate in the last few decades⁵. The growing concern for the environment has shown a positive impact. These growing cases directly link the intention of the global citizens towards achieving a sustainable present and future. The 21st century has proven to be a milestone in the upliftment of mankind in innumerable spheres, for instance, Technological advancements, literature, medicine, legal, etc. are just a few to be named along with so many unexplored territories yet to be claimed, but a crucial question arises in between to which all of us has conveniently let go i.e., What about the climate and the catastrophic situations arose in the environment due to the meddling of man.? The answer isn't as sophisticated as we think it'll be, with the consistent nexus between superpowers and challengers ultimately creating the Blackhole that is devouring our Earth. Tsunamis, Earthquakes, droughts, floods, etc. are just the alarms for the final version of destiny that awaits us if we don't act in time. According to recent data from the United Nations

⁴ Climate policies are far behind what is needed to keep global temperatures below the 1.5°C threshold, with extreme weather events and searing heat already baking our planet,” said Inger Andersen, Executive Director of UNEP. “People are increasingly turning to courts to combat the climate crisis, holding governments and the private sector accountable and making litigation a key mechanism for securing climate action and promoting climate justice.” Climate litigation more than doubles in five years, now a key tool in delivering climate justice (27 Jul 2023) <<https://www.unep.org/news-and-stories/press-release/climate-litigation-more-doubles-five-years-now-key-tool-delivering#:~:text=%E2%80%9CPeople%20are%20increasingly%20turning%20to,action%20and%20promoting%20climate%20justice.%E2%80%9D>> accessed 25 December 2024

⁵ Climate litigation more than doubles in five years, now a key tool in delivering climate justice (27 Jul 2023) <<https://www.unep.org/news-and-stories/press-release/climate-litigation-more-doubles-five-years-now-key-tool-delivering#:~:text=%E2%80%9CPeople%20are%20increasingly%20turning%20to,action%20and%20promoting%20climate%20justice.%E2%80%9D>> accessed 25 December 2024

Environment Programme (UNEP) & Sabin Centre at Climate Change Law at Columbia University, climate litigation has doubled since 2017 and has grown rapidly ever since⁶.

Climate change litigation around the globe

Climate change litigation has seen a great rise around the globe. The government must come forward to providing free access and necessary resources to the concerned authorities that are initiating the climate litigation. The resources must be free and easily available.⁷

In this new journey, the initiative to protect the environment, the role of climate litigation played a crucial role. Climate litigation is the answer to all the tussle for climate change. The Global Climate Litigation Report 2023⁸ status review shows that people are getting concerned about the climate change issue and want a solution to it. The Global Climate Litigation Report 2023⁹ the report portrays how to combat the global environment crisis people have started turning towards the courts and the numbers are increasing day by day. The jurisdictions have not only stretched to the national and regional level but also to the international courts and tribunals. For contesting these issues relating to the climate change crisis women, children, indigenous communities and other groups have played an active role in the same.

The report cumulatively compiles a review of the previous reports and how various NGOs, researchers, and organizations have come forward to discuss the various important issues relating to climate change litigation. It further puts out there in the public domain how the rules of environmental law help in contesting the crisis of climate change, loss of biodiversity, and increasing pollution. Access to justice helps in armouring the protection of environmental law as it also guards the human rights of the people and makes public institutions accountable for their actions.

As of December 2022, around 2180 climate-related cases were filed in 65 jurisdictions, including the tribunals, courts, quasi-judicial bodies, national and international courts, and other adjudication bodies such as Special Procedures at the United Nations. The increase can

⁶ Ibid.

⁷ Climate Change Litigation, <<https://climate.law.columbia.edu/content/climate-change-litigation>> accessed 26 December 2024

⁸ Report, Global Climate Litigation Report: 2023 Status Review, (27 July 2023). <<https://www.unep.org/resources/report/global-climate-litigation-report-2023-status-review>> accessed 27 December 2024

⁹ Ibid.

be seen as 884 cases in 2017 and increased to 1550 cases in 2020¹⁰. Everyone who came forward for this work, including the children, groups, local communities, organizations, etc., played a significant role in reaching the appropriate authority to act in the mode of climate litigation. This report explains the increasing awareness of the environment. The accountability of the public authorities is increasing towards the public regarding the issues of climate change.¹¹ This report shows the global concerns towards the environment.

The reason for the rise of climate change litigation is due to the increasing research work in the field of climate change. For the last 30 years, the concerns have been on every aspect of the environment. Lawsuits across the globe are the direct result of the increasing availability of work in climate change concerns. The increasing debates on this issue and quality literature grabbed the attention of courts.¹²

International Union for Conservation of Nature (IUCN) role

IUCN was created in the year 1948 and has become the world, 's largest environmental network¹³. It has reached more than 1400 authorities around the world. It is now the authority with the expertise related to the environment. This has made a membership union intending to bring all the leading players who can contribute to the protection of the environment under an umbrella. It is known as the global network of experts. IUCN has a large membership which has contributed to the creation of a repository of new ideas and tools for the protection and safeguarding of the environment and to achieve sustainable development. This platform brings together NGOs, governments, public entities, private entities, environmentalists, scientists, experts, and others who contribute to bringing ideas and solutions for the protection and safeguarding of the environment¹⁴. Thus, IUCN is a helping platform to know the global environmental issues. The reports and information of experts are available on this platform. Even the experts from the global world are available in this common roof.

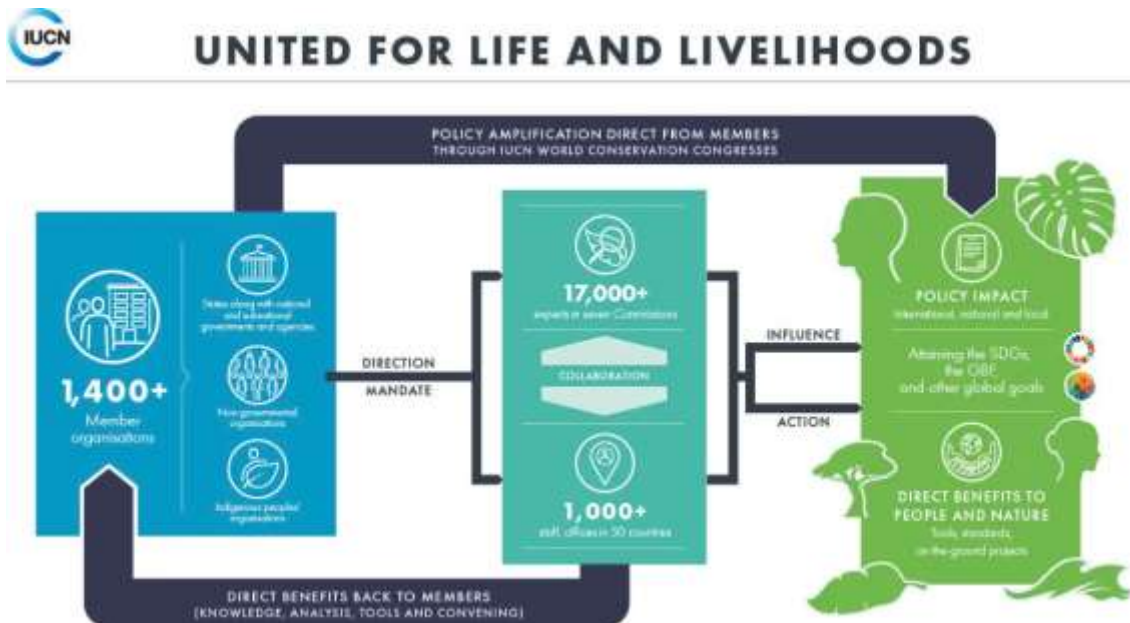
¹⁰ Report, Global Climate Litigation Report: 2023 Status Review, (27 July 2023). <<https://www.unep.org/resources/report/global-climate-litigation-report-2023-status-review>> accessed 27 December 2024

¹¹ Ibid.

¹² Setzer, J. and Vanhala, L.C., 2019. Climate change litigation: A review of research on courts and litigants in climate governance. *Wiley Interdisciplinary Reviews: Climate Change*, 10(3), p.e580.

¹³ About IUCN- IUCN (International Union for Conservation of Nature) is a membership Union of government and civil society organisations. Together, we work to advance sustainable development and create a just world that values and conserves nature.

¹⁴ Ibid.



Source of Image-IUCN Official Website¹⁵

Hindrances in the path of Climate Litigation

There are numerous hindrances in the path of climate litigation¹⁶. The weak enforceability of the international tribunals and failure in the adoption of international treaties and rules in domestic spheres, both contribute to failure in the path of climate litigation. With concern relating to the environment and the advent of climate change litigation, many problems are faced some of them include who shall be responsible for the emissions of greenhouse gases (GHGs) and carbon dioxide which are the main cause of global warming. The issue arises that in no sense any entity, any country, or any large corporation can be held responsible for the emissions as some or in the other way everyone is a substantial contributor to these emissions.

Another issue in litigation is the problem of proof as it becomes very difficult for the plaintiff to establish that the emission of these gases in the specific atmosphere or any facility shall affect climate change. Thus, it becomes a problem whether discussed in Law of Torts or Public International Law as establishing nexus becomes a tyrannous task for the plaintiff. Climate Change Litigation also challenges the decision of the issues and how the response should be given. There is a lack of uncertainty regarding solving the issues of global warming whether locally or globally. There is no clear path when it comes to holding anyone responsible or

¹⁵ About IUCN <https://iucn.org/sites/default/files/styles/webp_style/public/2024-12/iucn_infographic_english-dec_12-highres-print_rezised.jpg.webp?itok=nIYAWvI_> accessed 27 December 2024

¹⁶ Jacqueline Peel, 'Issues in Climate Change Litigation' Carbon & Climate Law Review 5, no. 1 (2011): 15–24. <<http://www.jstor.org/stable/24324007>> accessed 27 December 2024

accountable due to a lack of governance and legal instruments.¹⁷

The future idea

The Climatic issues are on the rise. Thus, the need of climatic change litigation will always be needed. Thus, a special international forum must be developed for the climatic cases and to have speedy judgments. There are numerous factors responsible for climate degradation. The occurrence of natural disasters has increased with time. Thus, it affects the human beings and the resources both simultaneously. Technology has advanced rapidly in the last few decades; this technology must be integrated to solve litigation. The scientific evidence needed to be safeguarded and strengthened with the use of this technology¹⁸. This will help to contribute to a safe and speedy disposal of cases

Suggestions

- The necessary resources related to data & information availability, scientific evidence, fast trial, monetary aid, etc. must be made available for the litigators. The necessary resources must be free and easily accessible to interested stakeholders.
- The special courts must be set up with special procedures to deal with these issues specifically. These Special courts will be helping in increasing the fast disposal of cases.
- The special fund must be released for the litigators to conduct proper research and investigation into climate change issues.
- The new principles which are developed or evolved by the courts must be drafted under the proper legislation.
- The government should initiate special research and development in this area of concern for the environment.

Conclusion

The change of climate is witnessed by everyone. In this context, everyone needs to work on it. The world has come forward for the safeguarding of the earth. The United Nations and various other international and national organizations have come forward for this noble cause to save the environment. Climate Change Litigation has come, and courts played an important role in

¹⁷ Jacqueline Peel, 'Issues in Climate Change Litigation, (May 2012) <https://www.researchgate.net/publication/256019523_Issues_in_Climate_Change_Litigation> accessed 27 December 2024

¹⁸ Patne Sheetal & Prajakta Pimpalshende, 'The Significance of Science and Technology in Legal Proceeding' International Journal of Research Publication and Reviews, Vol 5, no 8, pp 4512-4518 August 2024 <<https://ijrpr.com/uploads/V5ISSUE8/IJRPR32646.pdf>> accessed 26 December 2024

safeguarding the environment. The international and national courts have taken the matter of climate change seriously and given important landmark judgments. The hindrances need to be solved for the better implementation of courts for climate litigation. The increase in climate change litigation has shown the awareness of the people towards the goal of sustainable development. IUCN helps litigators to know the importance of environmental issues and meet the experts in those areas. The legislative and executive gaps of the system are filled by the role of the courts. Climate change litigation not only filled the gaps between legislative and executive wings but even increased the speed of the system by fast implementation of those decisions. The principles developed in these litigations become the basis for the policy reforms to deal with the climate change matter. These policy reforms become the basis for change at the national and international levels. Climate change litigation needs the special attention of international and national agencies. Climate Change Litigation has evolved as a crucial tool in the protection of the environment.

