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Eco-Legal Advocacy in India, Key Flaws in Supreme Court Rulings, International Precedents, how they Shape Climate Litigation, Conflicts with Renewable Energy, Events related to Earth's Jurisprudence

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Questioning the Supreme Court's judgments is paramount when it comes to the right against harmful effects on the environment. Even with the right intention, some judgments set an extremely problematic pathway in the long run. Eco-legal advocacy dives into this question of how and to what extent we need to think of humans while passing our rulings related to the environment and wildlife. To not make this paper biased against humans and to honour the human rights perspective along with key initiatives taken in the past to address the problems of climate change, we delve into national and international milestones. These perspectives led to less thought on flaws in renewable energy and rampant unchecked development, which eventually led to concerns like disturbed eco-flow of rivers, for one. The whole perspective of putting Anthropocene development first and how it loses the cause is questioned here. Thinking that saving humans from the adverse effects of climate change does not include saving the environment first is a problematic initial stance. This results in island nations approaching international courts for advisory opinions, but what good is that if the solutions to them are prescribed as aggressive development of renewable energy sources again? Then we delve into the solution and conclusion, which includes decoupling, a process that aims to decrease emissions along with increasing the economy of the country. This proves that economic upgradation does not warrant environmental degradation.

Keywords: *anthropocentrism, climate change, renewable energy, decoupling, advisory opinion.*

INTRODUCTION

The Right to a Healthy Environment is prescribed by Human Rights organisations and environmental organisations to advocate for the protection of the ecological system that contributes to human health. The Right is interconnected with Human rights, and it uses human rights to address the environmental harm done by individuals in exercising their rights and to preserve environmental quality. The Right to a healthy environment was adopted in the 48th session of the United Nations Human Rights Council in October 2021[1], and it was later adopted by the United Nations General Assembly on 28 July 2022. These Rights override the traditional aspect of environmental rules and regulations, where the focus was more on states and less on individuals.

Three components of the environment have to be clean to be categorised under a healthy environment, i.e. Physical, Biological and Psychosocial. The physical environment contains Air, water, soil, climate, etc. The biological environment contains animals, plants, eukaryotic organisms (cell contains a nucleus), bacteria, viruses, etc., whereas the psychosocial environment contains poverty, hunger, inequality, alcoholism, etc.

There are basic human necessities such as Air quality, Water security, Soil and Food safety, Balanced Ecosystem and Biodiversity, Sanitation and Hygiene, a stable climate, protection from Radiation, etc., which should be addressed to maintain a healthy environment.[2]

There is a wider scope of the right to a healthy environment, which includes climate change measures for controlling pollution, biodiversity and natural loss, which will eventually lead to achieving the Sustainable Development Goals (SDGS), which include public health. Climate change mitigation is crucial for stabilising ecosystems, which protect communities that are vulnerable to climate change, thus linking with human rights. Controlling pollution is vital for ensuring clean air, water and soil, which is essential for human health. Preserving biodiversity

[1] Yann Aguila, 'The Right to a Healthy Environment' (*ICUN,* 29 October 2021) <https://iucn.org/news/world-commission-environmental-law/202110/right-a-healthy-environment> accessed 01 February 2025
[2] *Ibid*

and combating natural loss places special emphasis on ecological balance, which is crucial for human health, sustainable development and intergenerational justice.[3]

Human rights and environmental health can't be seen from different views, as they are intertwined. A safe, clean, sustainable ecosystem is crucial for enjoying human rights in society. If the environment is not suitable for living, then how will we exercise our rights?

The Right to a healthy environment recognises that the environment has basic rights that are to be given for their protection, and it will help human live with dignity and well-being while enjoying their rights. If rights that are guaranteed to the environment are compromised, then both humans and the environment will suffer a decline in health and well-being. There has been a gradual but transformative evolution in human rights to include environmental rights. These shifts were seen early in the 1970s during the UN Conference on the Human Environment in Stockholm in 1972. It was the first event in which the significance of environmental protection for human well-being was raised.

Later, the Earth Summit in Rio in 1992 laid special emphasis on sustainable development. More like this, other summits happened, but their resolutions are not legally binding to other countries. These summits signify the dire need for robust global cooperation from the countries to combat environmental degradation, which affects vulnerable populations.

LEGAL FOUNDATIONS IN INDIA AND KEY CASE STUDIES

Indian society has been mostly untouched regarding environmental legislation until the Environment Protection Act 1986. After which, nothing has stopped the Indian Parliament from passing multiple acts and the Supreme Court from taking cases questioning the sanctity of the environment. The eco-legal sphere of India transformed to a greater degree when the Supreme Court read down the adverse effects of climate change under Article 21 of the Indian Constitution. The case will be discussed separately, but the sheer neglect of the Supreme Court in giving direction without thinking about its implementation is something to be pondered upon.

[3] David R. Boyd, 'The Right to a Healthy Environment A User's Guide' (*OHCHR,* 22 April 2024) <https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/2024-04-22-stm-earth-day-sr-env.pdf> accessed 01 February 2025

The confusion created in eco-legal studies across the Indian environmental jurisprudence can be understood by tackling the cases of M.C. Mehta v UOI.[4] and the Great Indian Bustard case of M.K. Ranjitsinh v UOI[5].

Now, looking at these two cases, we can move ahead to understand the problems of eco-legal rulings given by the Supreme Court, though benevolent, but maybe overarching to the principles of green energy.

CASE STUDY

1. M C Mehta v UOI: Shriram, a subsidiary of Delhi Cloth Mills, was being inspected by a firm appointed by the central government to find out the chances of a leak from the plant. Later, it was discussed in the parliament. When the inspection was done and the dangers of leakage were being discussed, an escape of oleum gas occurred. M.C. Mehta, before the leakages, filed a civil writ petition in 1985, and during the pendency of this petition, the leak happened.

The question is whether the plant should be permanently closed or made to comply with strict regulations to prevent any subsequent leakage. There were people in the vicinity of the plant. This point alone influenced the whole decision taken by the Supreme Court. The workers of the factory protested that if the factory were closed, it would throw about 4000 men into unemployment.

The main question here is choosing between an anthropocentric and eco-centric lens to view the situation. There was no doubt that chlorine was a dangerous gas being used in heavy amounts for production in the factory, and there was always an imminent danger of leaving the plant running. But, keeping the humans at the centre of development, the plant was allowed to run with strict precautions. On the condition that the workers would be a part of regular drills on what to do when a leak happens, they saved their employment. The development of environmental law was influenced directly by the Bhopal Gas Tragedy[6]. The views that keep human development at the centre and ignore the environment as if they are somehow sub-

[4] *M.C. Mehta and Anr v Union of India* 1987 AIR 1086
[5] *M.K. Ranjitsinh v Union ofIndia* (2024) INSC 280
[6] Abraham, C. M. and Sushila Abraham, 'The Bhopal Case and the Development of Environmental Law in India' (1991) 40(2) The International and Comparative Law Quarterly <http://www.jstor.org/stable/759728> accessed 01 February 2025

human and do not need to be cared for have specifically influenced the decisions taken by the Supreme Court. This is talked about by Ramchandra Guha in his book 'The Origins of Indian Environmentalism'[7].

Eco-legal rulings by the Supreme Court have focused on how to prevent any problems for the people living in the vicinity of that factory and people working in the factory and not on the environmental hazards in isolation as if the Hon'ble Court thinks that environmental degradation in places where it does not affect a population directly is perfectly okay and does not pose challenges.

2. M K Ranjitsinh v UOI: The case of the Great Indian Bustards may be one of the first cases where the Supreme Court thought and decided about the meagre 125 GIBS.[8] Living in 2013[9]. Being mentioned in the vulnerable categories, these birds have a slow breeding process and leave their eggs buried in the sand without any care. Their lives are in danger because of the high-voltage electricity lines that run through the desert habitat. The court issued orders for their conservation by installing bird diverters, dismantling solar power lines and wind turbines and immediate embargo on new projects. A prohibition on the use of insecticides and pesticides in a radius of 5 km was also imposed.

The anthropological problems associated with these directions soon came up in the form that the undergrounding of transmission lines in all cases was not possible, and hence, the court was asked to allow implementation of this direction on a case-by-case basis. The other problem was India's commitment to the reduction of carbon emissions in various International Conferences. This made it even more difficult to dismantle solar grids and wind turbines, as deserts are an important source of both heat and open wind. The judicial importance was lost as soon as the Union Government started with data and futuristic plans that would ensure the conservation of these birds. The judgments that should have been about protecting wildlife were again turned into the same song of humans.

It took a turn in Article 48a of the constitution, which directs the state to conserve the environment and safeguard wildlife. We want to protect the environment for us, and not for the

[7] *Ibid*
[8] *Ibid*
[9] *M.C. Mehta And Anr v Union of India* 1987 AIR 1086

fact that nature has an equal right to exist. Various other cases explain the same, and they explain the eco-legal theatrics in India.

The case of M.C. Mehta v Kamal Nath[10] mentioned, any disturbance of the basic environment elements, namely air, water and soil, which are necessary for life, would be hazardous to life within the meaning of Article 21 of the Constitution. The case of Virender Gaur v State of Haryana expresses the same human value.[11]

Any counter acts or actions would cause environmental pollution. Environmental, ecological, air, water, pollution, etc., should be regarded as amounting to a violation of Article 21. Therefore, a hygienic environment is an integral facet of the right to a healthy life, and it would be impossible to live with human dignity without a humane and healthy environment.

It is somehow expressed that the right of wildlife exists only through a human with no independent existence. Yes, the right against adverse effects of climate change is important, but that should be ensured for wildlife and the environment, too.

INTERNATIONAL FRAMEWORK, JUDICIAL PRECEDENTS, AND HUMAN RIGHTS IMPLICATIONS ON CLIMATE CHANGE

Climate change is not only related to its harmful effects on the environment and biodiversity issues, but it also affects people. As climate change will affect people, it will create hindrances to exercising their basic human rights, which makes it a harmful issue that needs to be addressed urgently. The fundamental right of right to life of people is at stake as it is being continuously violated, and other rights such as the right to health, right to food security, right to clean water and sanitation, right to self-determination, right to housing, etc. being critically threatened by the impact of climate change. All these rights that have been pointed out are essential for human survival and are mentioned in the Universal Declaration of Human Rights.

To safeguard the above-mentioned rights, the United Nations Human Rights Commission (UNHRC) has recognised a right that aims to interconnect human rights and the environment to protect and have a sustainable environment to exercise the right to life of a person, named the

[10] *M.C. Mehta v Kamal Nath* (2000) 6 SCC 213
[11] *Virender Gaur v State of Haryana* (1995) 2 SCC 577

right to a healthy environment. Linking human rights violations with climate change can provide justice for the people, especially vulnerable communities who contribute the least to it but suffer the most. A rights-based approach prioritises the individual over the state, unlike the traditional approach, which focuses more on the state than the individual and can encourage people to actively participate in matters related to climate change.

The international recognition of climate change's effect on human rights has come a long way, from the first world climate conference to the establishment of the Intergovernmental Panel on Climate Change (IPCC) to the first Earth Summit and adoption of the Kyoto Protocol. Further, the assessment report by IPCC, to many meetings of COP, to the signing of the Paris Agreement, and lastly, the passing of a resolution by UNHRC all led to acknowledging the impact of climate change on human rights.;

The series of landmark rulings by several courts worldwide has emphasised the obligation of governments to safeguard the human rights that are being violated by climate change. In Europe, the European Court of Human Rights (ECtHR) has made many judgments that it found a violation of the European Convention on Human Rights (ECHR) due to the inefficiency of the state in mitigating the effects of climate change. Like in Lopez Ostra v Spain, ECtHR ruled for the first time in its history that it is the failure of the state to protect its citizens' private and public life from industrial pollution, which violates Article 8 of ECHR. [12]

Similarly, in Verein KlimaSeniorinnen Schweiz and Others v Switzerland, the ECtHR held that Switzerland failed to implement sufficient major to combat climate change, which resulted in a violation of Article 8 (right to respect for private and family life) and Article 6(1) (access to court) of ECHR.[13] Like Europe, the Inter–American Court of Human Rights (IACHR) delivered an advisory opinion OC - 23/17, in which the court made it clear that the right to a healthy environment is a human right. The court acknowledged this right by asserting that there is an interrelationship between human rights and the environment, and that human right is infringed by the adverse effects of climate change. Further, the court stated that the state must ensure the protection of this right and make policies that take measurable steps to preserve this right.

[12] *Lopez Ostra v Spain* [1994] 303-C Eur. Ct. H.R. (ser. A)
[13] *Verein Klima Seniorinnen Schweiz and Ors v Switzerland* [2024] ECHR 304

Moreover, the Lahore court in Lehgari v Federation of Pakistan ruled that fundamental rights given by the Constitution grant Pakistani people safeguards against the ravages of climate change.[14] In the ruling of Neubauer v Germany, the German Federal Constitutional Court affirmed that failure to protect the upcoming generation from climate change could violate constitutional rights and ordered the government to mitigate the effects of climate change.[15]

Further, in Urgenda Foundation v Kingdom of the Netherlands, the Supreme Court held that managing the country's carbon dioxide emissions is the responsibility of the Dutch government, and they had to ensure the protection of human rights.[16] By highlighting recent rulings, we can notice that in the worldwide climate, litigation is on trend and significantly rising, and the courts are showing great interest in environmental matters beyond their jurisdiction. By linking human rights with the effects of climate change, courts are pressuring and making the government accountable for environmental concerns and implementing effective policies to address the challenge posed by climate change.

Apart from these legal precedents, international treaties and agreements played a vital role in focusing on the mitigation of the effects of climate change. These treaties provide the right to sue or litigate environmental concerns. Primarily, international treaties and agreements related to climate change found their roots in annual meetings of the United Nations Framework Convention on Climate Change (UNFCCC), i.e., the Conference of the Parties (CoP).

UNFCCC is itself an outcome of Agenda 21 of the Earth Summit in Rio de Janeiro in 1992. UNFCCC alone is not only the outcome, but the Convention on Biological Diversity (UNCBD) and the Declaration on the Principles of Forest Management were also set up. As of today, 29 CoP meetings have been held, starting in 1995 in Bonn (Germany) and recently in Baku (Azerbaijan). All these CoP meetings gave some meaningful and key outcomes like action programs, policy development, global cooperation, and finance mechanisms. Crucial outcomes come from CoP3 (Kyoto Protocol), CoP13(Bali Action Plan), CoP15(Copenhagen Accord), CoP21(Paris Agreement). Cop3 In 1997, the Kyoto Protocol was adopted, an agreement that was

[14] *Asghar Leghari v Federation of Pakistan* WP No 25501/2015
[15] *Neubauer v Germany* [2021] 1 BvR 2656/18
[16] *Urgenda Foundation v The Netherlands* [2015] HAZA C/09/00456689

legally binding on the reduction of greenhouse gas emissions by 5.2% below the 1990 level to be achieved between 2008-2012.

It was a top-down approach as emission reduction was imposed by international organisations on countries. While CoP 13 in 2007 adopted the Bali action plan that recognises four pillars – (i) mitigation, (ii) adoption, (iii) finance, and (iv) transfer of technology. CoP 15 in 2009 adopted the Copenhagen Accord, which recognised the call to limit global warming to 2°C above the pre-industrial era, but it was not a legally binding treaty. It became legally binding in CoP 21 in 2015, which resulted in the adoption of the Paris Agreement, which aims to limit global warming below two °C, with efforts to limit it to 1.5°C pre-industrial era. The Paris Agreement marked a shift from the Kyoto Protocol as it imposed a bottom-up framework where countries set their emission reduction targets.[17]

CONFLICTS IN RENEWABLE ENERGY

The global progression towards renewable energy sources is to assist in addressing climate change, reducing dependency on fossil fuels and achieving environmental health excellence. Renewable energy is energy derived from natural sources that are replenished at a higher rate than they are consumed.[18]

Primarily, there are five types of renewable energy: Solar energy from the sun, wind energy harnessed from the movement of air, hydroelectricity energy generated from flowing water, biomass energy from plants and other wastes, and geothermal energy from heat within the earth.[19] The world is in transition towards renewable energy, and India is not behind the world, as India is the fourth largest producer of renewable energy, while China remains first.[20] India has exceeded its target of the Paris Agreement by generating 46.3% of its power capacity from non-fossil fuel sources (most from solar and wind power).[21]

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[17] *Ibid*
[18] *Ibid*
[19] Krishna Kumar Jaiswal et al., 'Renewable and sustainable clean energy development and impact on social, economic, and environmental health' (2022) 7 Energy Nexus <https://doi.org/10.1016/j.nexus.2022.100118> accessed 01 February 2025
[20] Maya Derrick, 'Top 10: Countries Using Renewable Energy' (*Energy Digital,* 28 August 2024) <https://energydigital.com/top10/top-10-countries-using-renewable-energies> accessed 01 February 2025
[21] 'India's Renewable Energy Capacity Hits 200 GW Milestone' (*PIB,* 14 October 2024) <https://pib.gov.in/PressNoteDetails.aspx?NoteId=153279&ModuleId=3&reg=3&lang=1> accessed 01 February 2025

It can't be deniable that renewable energy offers various advantages, including no emission of greenhouse gases, not being created by products that harm the environment, relying on natural sources that will not run out, being cost-effective, less dependency on imported fossil fuels, etc.

Like every coin has two sides, renewable energy also comes with certain disadvantages that affect biodiversity, including wildlife, land use, deforestation and displacement of people, and social and economic disruptions, which include uneven distribution of power plants and increasing inequality between multinational companies and Indigenous people.[22]

Hydroelectricity contributes most to renewable energy. As its power plant operates on a dam or reservoir-like structure, it severely impacts the flow of water, which affects the migratory marine species, including blocking fish, preventing breeding, contributing to high mortality rates and preventing species from reaching their spawning sites, which disrupts marine ecology.[23] Besides, the most hazardous impact of the reservoirs or dams is most prone to flooding as large quantities of water are stored in these structures, and they are suddenly released at once, which can lead to flooding that will ravage lives, property and the environment. The best example is the incident of 2016 in central Vietnam, which suffered devastating flooding due to the sudden discharge of water from nearby Ho hydropower reservoirs, resulting in the killing of more than 20 people and displacing thousands of people.[24]

Wind energy is generated through turbines, which are made up of sharp blades, responsible for killing thousands of birds and bats annually through collisions. When the turbines rotate, they create significant noise pollution, which leads to disturbing animals, specifically bats, which rely on sound for communication and navigation and also disrupts their natural behaviour. Throughout a debate in the 2020 U.S. presidential elections, Trump argued that wind turbines kill a lot of birds and that if you want to see a bird graveyard, just go below a windmill someday.[25] As in India, the State bird of Rajasthan, i.e. the great Indian bustard, is categorised as a critically

[22] *Ibid*
[23] Nguyen Quang Huy, 'Severe Flooding hits Vietnam ahead of Typhoon Sarika' (*The Watchers,* 17 October 2016) <https://watchers.news/2016/10/17/vietnam-flood-october-2016/> accessed 01 February 2025
[24] *Ibid*
[25] Kashmira Gander, 'Trump Claims Wind Power Kills All Birds, but this chart shows that's not true' *Newsweek* (23 October 2020) <https://www.newsweek.com/trump-wind-kills-all-birds-chart-not-true-1541597> accessed 01 February 2025

endangered species, and its mortality rate increases primarily due to overhead power transmission lines and wind turbines.[26]

In the case of solar energy, the sun is the ultimate supplier of raw materials to it. Constructing, operating, and maintaining a solar power plant requires a large area of land, which means it will result in deforestation, which will eventually lead to the loss of wildlife and can cause soil erosion, harmful effects on soil health, extensive water use, etc. Further, the solar panel contains a mirror that tends to absorb concentrated beams of sunlight, which can increase temperature and will be sufficient to cause wildlife damage and injure birds.

Biomass is commonly seen as a greener and more sustainable form of energy as it uses human and animal waste as a raw material for its power plant, which leads to carbon emission, but it can be very hazardous as its byproduct is methane, which eventually results in methane emission. Methane is more effective than carbon dioxide in increasing global warming, which is a concern for the environment as it plays a crucial role in ground-level ozone, which is a greenhouse gas and dangerous air pollutant that has led to more than 1 million premature deaths.[27]

The construction of geothermal power plants needs extensive R&D, which is extremely expensive, to identify the sites that are near geologic hot spots where hot molten rock is close to the earth's crust and produces hot water. Geothermal sites emit poisonous gases like hydrogen sulphide, carbon dioxide, ammonia, methane, and boron in the process of drilling. Hydrogen sulphide is an extremely toxic gases that escape from the earth's crust, and when it reaches the atmosphere, it is converted into Sulphur dioxide (SO2), which causes acid rain, affects respiratory organs, causes heart disease, etc. Moreover, in the extraction process, earthquakes happen regularly, and those earthquakes are known as induced seismicity as they occur due to the interference of human activities in the active tectonic movement underground geological environment.[28]

[26] Ajoy Sinha Karpuram, 'How Supreme Court is overseeing conservation of The Great Indian Bustards' *The Indian Express* (27 March 2024) <https://indianexpress.com/article/explained/explained-law/supreme-court-conservation-great-indian-bustard-9234896/> accessed 01 February 2025
[27] *Ibid*
[28] 'Environmental Impacts of Geothermal Energy' (*ucusa, 05* March 2013) <https://www.ucsusa.org/resources/environmental-impacts-geothermal-energy> accessed 01 February 2025

Again, it can't be denied that renewable energy is making a significant difference in the world by playing a crucial role in achieving the net-zero emission target set by UNFCCC to mitigate the adverse effects of climate change. By showing the potential challenges, there is a need for a holistic and balanced approach to nurture clean energy through renewable sources and to protect wildlife and local communities placed there.

We can't afford to pay the price of our wildlife and local communities to fulfil the energy requirements through cleaner sources than non-renewable ones. Renewable energy offers many of the answers, but their projects must be implemented sensitively, thoughtfully and indiscriminately. And this can be achieved through the practices of sustainable development.

Sustainable development is a process that emphasises that development should take place without harming the environment and doesn't compromise the ability of future generations to meet their need.[29] The practice of sustainable development includes –

- A comprehensive study of the upcoming project should be done that will help in identifying the expected risks to local communities, wildlife, and ecosystems.
- It is crucial to evolve with time, so adaptive framework mechanisms should be adopted to include new technologies or designs that mitigate ecological damage, like floating solar farms, low-noise wind turbines, bird-friendly turbines, small-scale hydroelectric projects, etc.
- Consult with local communities in decision making and planning of projects, as they know more than them about their ecosystem, and it will ensure long-term support to them and can prevent negative impacts. (iv) Prohibition on setting up renewable energy plants in densely populated or wildlife areas and making proper assessments of land. (v) Economic inclusivity should be there in renewable energy projects to ensure that local communities are not left behind, etc.

While several reforms have been recommended, their results can only be seen in effective implementation, but there are instances where the recommendations are confined to paper only.

[29] *Ibid*

Grassroots implementation can only ensure outcomes that can help mitigate the risks or threats posed by the adverse effects of climate change.

THE ROLE OF COURTS IN ECO-LEGAL ADVOCACY

Having gone through the eco-legality of courts in India, it also makes sense to move on to courts all over the world and examine what progress they show concerning our earth. To make this a simpler digest, we divide this into three important advisory opinions on climate change. Nonetheless, advisory opinions are just the start of looking into the problem, and it is not the solution. But, when we are surrounded by climate change illiteracy and how it affects our living conditions, an initiative can also be celebrated.

ICJ on Vanuatu: It was 2021 when Vanuatu, a small country in Oceania in the Pacific Ocean, woke up the world with its problems. They approached the International Court of Justice, headquartered in The Hague, Netherlands. Along with Vanuatu, there were hundreds of states that were facing a similar problem: the problem of disappearing into the ocean due to increasing sea levels. An unprecedented number of states are participating in the proceedings: 91 written statements were filed (the highest number ever filed with the Court), 62 written comments,[30] Writs were filed, and 100 states and international organisations will be presenting oral submissions before the Court. The country of Vanuatu, along with some other countries like the Solomon Islands, has been classified by the World Risk Report 2021,[31] as the most vulnerable nation that could submerge at any time due to sea-level rise.

On 2 December 2024, the advisory opinion proceedings will be stated by the ICJ. A positive response could mean a lot from the point of view of these states and human rights.[32]

COSIS and ITLOS: It was in December 2022 when the Commission of Small Island States approached the International Tribunal for the Law of the Sea to bring attention to the dying

[30] *Ibid*
[31] Institute for International Law of Peace and Armed Conflict, *World Risk Report 2021, Focus: Social Protection* (2021)
[32] 'Chilee and Colombia approach the Inter-American Court of Human Rights' (*CEJIL,* 13 January 2023) <https://cejil.org/en/blog/chile-and-colombia-join-forces-to-ask-regional-human-rights-court-for-guidelines-to-respond-to-climate-emergency/> accessed 01 February 2025

marine life due to climate change. There have been multiple reports of harmful emissions destroying marine life along the coral reefs and the largest barrier reef, the Great Barrier Reef.[33]

Effects like coral bleaching and ocean acidification have resulted in unnatural and unsuitable living conditions for ocean creatures. Coral bleaching[34] is the process of increased heat stress on them, leading to the release of microscopic algae. Bleached corals are not dead, but they are at a far greater risk of disease and starvation. Ocean acidification[35].

On the other hand, is the lowering of ph levels of the waters, leading to hostile environments. The studies reflect that the ocean absorbs almost 30 per cent of the CO_2 released into the atmosphere. The acidification means that there is an increase in the number of Hydrogen ions.

This matters because the shell-forming animals need Carbonate ions to form hard calcium carbonate shells. On the contrary, these carbonate ions start bonding with the hydrogen ions, resulting in fewer carbonate ions available for calcifying shells. The island nations, whose major part of GDP and economy is dependent on the seas and oceans, saw no other way other than to approach ITLOS.In May 2024, the advisory they issued was mostly on the lines that they need to ramp up the initiatives and plans made under the Paris Agreement. It is the duty of the nations that have had the longest history of greenhouse gas emissions to protect our oceans and the habitat of the corals. The lackadaisical approach shown by the nations being most responsible for the conditions today may leave us stranded on an island surrounded by acidic water.

Chile and Colombia Inter-American Court Of Human Rights Initiative: Having experienced the consequences of the climate emergency, primarily in the form of landslides, droughts, floods and forest fires, Chile and Colombia moved to the Inter-American Court of Human Rights to seek an advisory opinion.[36] The IPCC's fifth assessment report[37] has raised concerns about decreasing glacial cover on the Andes and perturbed precipitation cycles leading to potable-water shortages, along with perilous conditions in the nearby Andes due to landslides.

[38] *Ibid*
[34] *Ibid*
[35] 'Everything to know about Ocean Acidification' (*NOAA)* <https://www.noaa.gov/education/resource-collections/ocean-coasts/ocean-acidification> accessed 01 February 2025
[41] *Ibid*
[37] United Nations Framework Convention on Climate Change 1988, art 5

It is pertinent to note that though the plea is filed in the court of Human Rights, these changes excessively, if not equally, destroy the flora and fauna in that area. The issues of Colombia and Chile arise under the American Convention on Human Rights (The Convention)[38] and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement)[39]. Under articles 4 and 5 of the convention, the right to life and humane treatment is guaranteed, and the Escazú agreement is the only agreement in the world that explicitly recognises the state's obligations towards the people against the adverse effects of climate change.

CONCLUSION

Having examined the two tropes of eco-legal advocacy, i.e. India and around the world, we are acquainted enough to answer a few questions. First is which method is the best to walk on a middle path so that we keep on with the development along with an equitable environmental jurisprudence, and second, the question of whether the Anthropocene jurisprudence is something to be trusted in the long run or not.

Whether the GIBS deserve protection from the windmills and high voltage electric current, independently from the fact that doing so may be difficult for the government or the business ventures, is paramount. When the apex court, on the mere doubt of budget problems, entertains the government's plea of taking mitigatory steps against the death of these birds, we can say that the earth's jurisprudence is in the ill hands.

If the question about any species on the face of the planet is asked jointly along with its effect on humans, we have come a long way on the central idea of Anthropocene development. If island countries moving to tribunals with the problem of being submerged under the ocean cannot wake us up, then thousands and thousands of animals or birds dying and burning forests can never do that.

The old-standing belief that continuous development wrought environmental pressure may have been true, but the Economic Survey of India[40] (2023-24) report narrates a different story. The Compound Annual Growth Rate (CAGR) of emissions from 2005-2019 has been an aggregate of

[38] American Convention on Human Rights 1969
[39] *Ibid*
[40] *Ibid*

4% while the CAGR of GDP has been 7%. This means that the economy has grown at a rate of almost twice times in comparison to emissions. While this is not the best, it is commendable. This whole phenomenon is called decoupling, and this is what every country should aim for, i.e. growing their economy but not at the expense of the planet. The ideal CAGR for emissions is negative, and if that happens, which is difficult, this will mean that the GDP is increasing with decreasing emissions.

Nevertheless, the whole war of prioritising humans over the environment does not deserve a place because we have no right to decide about it. The encroachment of forest lands to build apartments with scenic views is a cause, as when a leopard enters your home and gets shot. The people should know that development should never come at the cost of thousands of tribal families receiving flash floods. It should never come at the risk of Joshimath's land subsidence. The final instalment of this kind of development is humans getting effaced from the face of the earth along with other species. There were times when we read about Libya being the hottest place with a temperature of 57 degrees Celsius, and now a person living in Delhi feels the temperature of 56 degrees Celsius, and though shocking, getting in air-conditioned rooms isn't the solution to that.