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FROM RIO TO PARIS: WHAT HAVE DEVELOPING COUNTRIES REALLY ACHIEVED?

Niranjan E V*
R Divya Meenakshi**

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Abstract

One of the main tensions within the debate of climate change is concerned with how the developing countries have been victims of the damage caused by the developed nations, resulting in violation of environmental justice in the global context. This became the main point of contention that influenced their claims and proposals during the course of negotiation of agreements to combat the issue. The role and participation of developing countries in global agreements on environmental issues, primarily revolving around climate change, has witnessed a significant transition over the years as their position has evolved from that of mere spectators to main actors. It is important to trace this progression to assess the current status and analyse their futuristic roles, so as to measure the extent to which the essence of intergenerational equity, distributive justice, democracy and accountability have found a place within the principles governing international environmental governance. This paper has attempted to provide an overview of the incentives available to the developing countries towards commitment, magnitude of implementation of the obligations and prescribed practices, measures taken towards accountability and the challenges in relation to these. Through this means, the following research has also identified the precise, present day needs of the developing nations and priorities that have emerged, with specific reference to capacity building, financial support, technology transfer, power sharing and burden sharing. The research

* LLM Student, Gujarat National Law University, Gandhinagar.
** BA LLB Student, 5th year, Christ (Deemed to be a University) Bangalore.

concludes by asserting that the members of the UNFCCC have a long road ahead to reap the benefits of their negotiations on mitigation from climate crisis and adaptation to ecological responses.

***Key words**: Environmental Justice, Climate Change, Burden sharing, Negotiation, Developing nations*

I. Introduction

Environmental justice acts as a 'guiding philosophy' in combating the present disruption of environmental harmony.[1] While it is understood as a concept in correlation with problems of pollution and environmental sustainability, many believe that environmental injustice in a much wider connotation has varied political and moral symptoms.[2] The politics associated with environment and sustainable development is complex, leading to inadequacy in efforts towards conservation of natural resources and protection of the environment. In recent times, there have been discourses about environmental hazards due to 'anthropological consequences,' that result in violation of environmental justice.[3] Climate change is one such consequence affecting the quality of people's lives and the environment.

The concept of environmental justice can be linked to social and economic justice.[4] There is a need to contemplate this on the lines of 'redistributive justice' insofar as justice is served to future generations also. As far as climate justice is concerned, the Paris agreement must be analysed in depth so as to have a sound understanding and enhancement of the method of working of the agreement. The progressive states talk about climate more than they act on it. It is critical to see that their excuse about scarcity of funds is a self-fulfilling prophecy.[5] But little do they realize that longer duration of inaction leads to increase in cost of action. So, prevention and treatment are the two main facets of climate justice where the former focuses on mitigation of climate change by reducing emissions and treatment is nothing

1 Asghar Ali, *A conceptual framework for environmental justice based on shared but differentiated responsibilities,* CSERGE Working Paper EDM, No. 01-02, University of East Anglia, The Centre for Social and Economic Research on the Global Environment (CSERGE).

2 UNFCCC, REPORT OF THE CONFERENCE OF THE PARTIES ON ITS TWENTY-FIRST SESSION, DECISIONS ADOPTED BY THE CONFERENCE OF THE PARTIES, (December, 2015)

3 Peter Singer, *A fair deal on climate change*, PROJECT SYNDICATE, (June 2007) May 15, 2021, 3:19 P.M https://www.projectsyndicate.org/commentary/a-fair-deal-on-climate-change?barrier=true.

4 Marine de Oliveira Finger & Felipe Bortoncello Zorzi, *Environmental Justice,* UFRGS MODEL UNITED NATIONS JOURNAL 222 (2013)

5 Alice Kaswan, *The Paris Agreement and Theories of Justice,* THE CENTRE FOR PROGRESSIVE REFORM, (December 2015), http://progressivereform.org/cprblog/the-paris-agreement-and-theories-of-justice/ (Last visited May 16, 2021, 12:30 A.M).

but the adaptation to inevitable effects of climate change like coastal flooding etc. In this way, there can be a realization of the relational aspect of access to justice; in this case the between the human-environment conflict.[6]

The focus of this research article is to analyze the attributes in relation to climate justice, across the globe in light of the Paris Agreement of 2015 and its impact on climate change mitigation. The paper will briefly discuss the historical perspectives of climate change concerns and the multilateral treaties that were formulated to bring in a uniform climate governance regime across the globe. International covenants starting from the Rio Declaration in 1992 to the Paris Agreement paved the way to solve these issues, and the discussions in the following sections attempt to trace the extent to which these instruments have succeeded.[7]

II. The Journey from Kyoto to Paris

Climate change not only affects the natural environment, but also takes a toll on livelihood because of its impacts on food security, health, availability of freshwater, housing, and the other basic resources. However, the consequences of this phenomenon are not borne by the population in an equitable manner, resulting in environmental and climatic injustice. The economically weaker section, children, women, residents of island nations, indigenous people and such other categories of the global population confront disproportionate risks as compared to the others. Moreover, they are often marked by lack of capacity to adapt to such risks or develop resilience. The Kyoto Protocol came about as an extension of the United Nations' Framework Convention on Climate Change (UNFCCC), to address this issue.[8]

1. An endeavour to foster environmental justice:

The Kyoto Protocol recognized and put forth on paper, binding targets on greenhouse emissions for the first time, and came into effect in 2005. It was considered a 'game changer' as far as long-term consequences were concerned. The Protocol was a result of a marathon of negotiations in order to fight against climate change and its effect on

6 Barbara Adams & Gretchen Luchsinger, *Climate Justice For A Changing Planet: A Primer For Policy Makers And Ngos* (UN Non-Governmental Liaison Service, 2009)

7 The Rio Declaration on Environment and Development, *Facing Finance,* May 13, 2021, 4:55 P.M., https://www.facing-finance.org/en/database/norms-and-standards/the-rio-declaration-on-environment-and-development/

8 Jeremy Baskin, *The Impossible Necessity of Climate Justice*, 10 MELBOURNE JOURNAL OF INTERNATIONAL LAW 424 (2009)

humanity.[9] It was after 8 years that the Kyoto Protocol was finally tabled to the signatories; being the first binding treaty in the field of international law that was formulated to reduce emissions, it was considered as a milestone in the field of international climate change law. With UNFCCC underlining the beginning of responsibility for greenhouse emissions, the Kyoto Protocol laid down a concrete idea as to how emitters should be highly precautious against global climate change.[10] There were 140 parties to the protocol in the year 2005 and the treaty committed thirty-eight countries that are industrially sound by reducing their emission levels by around 5% by 2012; including the EU and US. This was considered the first-ever international law facet that was binding to an extent that set commitments to states.[11] During the Earth Summit, 1992, India supported the notion that developed countries were responsible for "carbon colonialism." However, a shift in this stance was visible in 2002, when it ratified the Kyoto Protocol, wherein it seemed to have a more realistic outlook towards the benefits and tradeoffs in its place, in the global climate change policy. The Indian government encouraged entrepreneurs to adopt CDM stipulations. Developing countries have to consider that climate discourse is accompanied by co-benefits such as alleviation of poverty, economic welfare and social development, in furtherance of environmental justice, which is often not adhered to, due to improper implementation of the stipulated CBDRs.[12]

2. Lack of execution and other limitations:

The challenges in the implementation of the Kyoto Protocol primarily came in the form of private sector bottlenecks and domestic politics along with the lack of wholesome agreements regarding certain aspects of the Protocol. Many nations failed to genuinely domesticate the contents of the Protocol through appropriate legislation. It was also recorded that the companies present in the Annex I countries conveyed their dissent with respect to emissions cuts. These private sector bottlenecks happened by way of lobbying lawmakers and their venalities. On account of such hindrances, many nation states failed

9 Marcelo Santos, *Global justice and environmental governance: An Analysis of the Paris Agreement,* 60(1) REVISTA BRASILEIRA DE POLÍTICA INTERNACIONAL (2017)

10 UNFCCC, *What is the Kyoto Protocol?,* https://unfccc.int/kyoto_protocol#:~:text=In%20short%2C%20the%20Kyoto%20Protocol,accordance%20with%20agreed%20individual%20targets (Last visited May 16, 2021, 12:30 A.M)

11 Dominique van der Mensbrugghe, *A (Preliminary) Analysis of the Kyoto Protocol: Using the Oecd Green Model*, OECD (1998), May 17, 2021, 6:30 P.M, https://unfccc.int/kyoto_protocol#:~:text=In%20short%2C%20the%20Kyoto%20Protocol,accordance%20with%20agreed%20individual%20targets.

12 Aniruddh Mohan, *From Rio to Paris: India in global climate politics*, ORF OCCASIONAL PAPER (December, 2017) https://www.orfonline.org/research/rio-to-paris-india-global-climate-politics/ (Last visited May 18, 2021, 4:30 P.M.)

to abide by the Compliance Mechanisms specified under Articles 4 and 12 of the protocol, according to which every party had to present its yearly GHG inventory. This was subject to examination. However, this was not backed by any penalties. In addition to this, multiple propositions did not match all the parties' interests in 2005, when it came into force.[13] There are varying notions about the extent of success of the Protocol. On one hand it has been viewed as an institutional failure that failed to achieve its targets, as it came out as a wrong solution at a crucial time. Paradoxically, statistics indicate that the instrument has played a noteworthy role in reducing the ill effects of emissions in the nations that ratified it. Nonetheless such reductions are insignificant on a global scale.[14] Hence, despite the shortfalls of the Protocol, it acted as an estrade for further negotiations and formulation of instruments, such as the Paris Agreement. A major drawback of the Kyoto Protocol was that the developing countries showed less interest in fulfilling the targets. While there was steep economic growth during this time in countries like India and Indonesia, the emission rates also rose rapidly. Hence, is it crucial to note that half of these emissions come only from developing nations where the economics incline steadily. According to the principles of the protocol, developed nations were also obliged to keep a track of their emission rates, but the Paris Agreement 2015 surpassed the same. This showcases how the Protocol was undermined. According to the Paris Agreement, all nations across the globe had agreed upon the core norm of reducing the global average temperature below 2 degrees Celsius, eventually tackling the rise in global temperature leading to climate change.[15]

Theorists of public international law opine that a norm will not have the effect of force unless there are incentives to upkeep the same by way of reciprocity, so as to ensure peaceful coexistence. A sense of mutual responsibility is the ideal yardstick to achieve an illustrative standard of behaviour. The jolting presence of this element in the Paris Agreement as compared to the Kyoto Protocol is the reason behind the fact that the former was welcomed with open hands by more nation states.[16]

III. The Paris Agreement - Projections and Actions

The concept of climate justice has been recognized in the preamble of the Paris Agreement under Art.2, which reiterated the principle of 'equity and cooperation' along with the

13 KHENG-LIAN KOH, et al., CRUCIAL ISSUES IN CLIMATE CHANGE AND THE KYOTO PROTOCOL (World Scientific Publishing Co., 2009)

14 Jorge E. Viñuales, *Balancing Effectiveness and Fairness in the Redesign of the Climate Change Regime,* 24 LEIDEN JOURNAL OF INTERNATIONAL LAW 223 (2011)

15 *Supra* note 5.

16 *Supra* note 14.

responsibilities of all states in their respective capabilities; however, they are differentiated and in accordance with national circumstances. Although the principle was subject to many interpretations by state parties as a result of normative debates and negotiations, through the Paris Agreement of 2015, the United Nations Framework Convention on Climate Change (UNFCCC) featured the sentence "in the light of different national circumstances" in the agreement in order to emphasize on and recognize the changing circumstances of the member states for successful operation of the principles.[17] The COP 21 of the UNFCCC was adopted on December 12, 2015, which was seen as a turning point in the history of climate action. With around 195 nations across the globe coming to a consensus, it was aimed to combat climate change effects, mitigate the perils of climate disasters and adapt to the impacts of the disasters.

In 1997, the concept of 'common by differentiated responsibilities' was contented mainly because of the proposal that Brazil submitted to the Berlin Mandate's Ad Hoc committee, (UNFCCC, 1997).[18] The 'Polluter Pays Principle' was the basis of the proposal, which stipulates that the burden of environmental responsibility is to be distributed amongst all the nations as specified under Annexure I of the proposal i.e. the industrialized countries in accordance to their impact on climate change.[19] The UNFCCC has placed the opinion that "it is the developed countries that have the largest share in the current emission standards globally." The responsibility approach was also envisaged upon during COP 16, held in Cancun in the year 2010 and was observed that the global emission rates of greenhouse gases are seen to be contributed by most developing countries and hence they must come forward in taking the lead to combat the adverse effects of global climate change (UNFCCC, 2010).[20] Through this, it was interpreted that the normative application of these observations and principles acted as the grassroots of division of developed and developing countries as far as proportional compensation mechanism was concerned; it was recommended by developing countries, but was later rejected by the developed countries.

17 Tian Wang & Xiang Gao, *Reflection and operationalization of the common but differentiated responsibilities and respective capabilities principle in the transparency framework under the international climate change regime*, 9(4) ADVANCES IN CLIMATE CHANGE RESEARCH 253 (2018)

18 Mathias Friman, *Historical Responsibility: The Concept's History in Climate Change Negotiations and its Problem-solving Potential*, Master thesis in Environmental History, Linköping University, Faculty of Arts and Sciences, Tema V (2006)

19 Idovu Ajibade, *Distributive justice and human rights in climate policy: the long road to Paris*, JOURNAL OF SUSTAINABLE DEVELOPMENT LAW AND POLICY (2016)

20 *Cancún Climate Change Conference - November 2010,* UNFCCC, May 19, 2021, 7:10 P.M, https://unfccc.int/process-and-meetings/conferences/past-conferences/cancun-climate-change-conference-november-2010/cancun-climate-change-conference-november-2010-0

The Final document of the Paris Agreement that was signed in New York City reinstated the long-run objective, which was introduced in Copenhagen and confirmed during the assembly at Cancun; reducing the average global temperature to 2 degrees Celsius and stimulating the member countries to restrict the rise in temperature to 1.5 degree Celsius. While this was the important necessity of most developing countries, following the European Union, most of about 106 other states agreed to join hands in achieving the goal.[21] Looking through a normative standpoint perspective, the reiteration by various states turned the attention of the world to mitigating the problem by sharing the responsibility through fairness and equity. The 2014 assessment report by Intergovernmental Panel on Climate Change (Assessment Report No.5),[22] acted as a complex and comprehensive evidence in showing the scientific grounds on which the global temperature is increasing at an alarming rate and the goal of 2 degree Celsius can be achieved only if the carbon emission rates are kept below 'one trillion of tons' i.e. 1.000 Gt. of Carbon-dioxide.[23] The document acted as a clear-cut carbon budget of the planet earth.

IV. The Paris Agreement - A Paper Tiger?

The Paris Agreement came into force as a landmark instrument that attempted to transform the views on roles of nations in mitigating climate change. It stipulated that, parties had the responsibilities to prepare and enhance separate plans in the form of Nationally Determined Contributions (NDCs) every five years, wherein such parties had to be accountable for the implementation of the NDCs.[24] The manner in which the commitments specified under the UNFCCC shall be discharged by the countries, laid the groundwork for the Paris Agreement. COP 19, that took place in 2013. It happened to be a spur for the parties to convey their potential NDCs (i.e., self defined goals for mitigation of climate change) under the Agreement, much before COP 21. In this respect, the developed nations have submitted targets relating to emission control, covering all economic activities. An array of approaches was adopted by the developing nations, such as economy-wide objectives, cutbacks in the magnitude of emissions and commutations in the per capita emissions. However, there is no legally binding compulsion upon the parties to achieve these NDCs.[25]

21 *Supra* note 19.

22 Climate Change 2014 Synthesis Report, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE (2014)

23 Paris Agreement, United Nations Framework Convention on Climate Change 2015, art. 2.

24 Paris Agreement, United Nations Framework Convention on Climate Change 2015, art. 4.

25 Lavanya Rajamani and Jutta Brunnee, *The Legality of Downgrading Nationally Determined Contributions under the Paris Agreement: Lessons from the US Disengagement*, 29 JOURNAL OF ENVIRONMENTAL LAW 537, 542 (2017)

1. The Dark Realities in implementation:

Unlike the transparency system followed by the UNFCCC that placed different mandates for the developing and developed nations, the framework under the Paris Agreement provided a system of "built in flexibility" so as to establish a sense of inclusivity amongst the parties that had different competencies. The mechanism adopted by it to promote compliance, is in the form of a "non-adversarial" committee, that shall endeavour to aid nations that face difficulties living up to their commitments. Nevertheless, there are no specifications regarding penalties in the instance of non-compliance.[26] At the COPs 24 and 25, no agreements were reached amongst the nation states, regarding the manner in which Article 6 was to be implemented, which discusses the idea of carbon markets.[27] Moreover developing nations that are marked by copious vulnerability, put forth their concerns about the lack of adequate availability of resources for building resilience in the event of a climate catastrophe. On account of the Covid-19 pandemic of 2020, many parties had fallen behind on their deeds in keeping up the existing NDCs and formulating new ones. However, the invitation in COP 26 for presenting climate friendly recovery plans in the context of the pandemic showcases the veracity of the Paris Agreement.[28]

The question, to what extent the Agreement actually pushes the developed nations to provide financial assistance and technology transfer to the developing countries and risk-prone island nations for initiating adaptation plans, remains unanswered. To gain such assistance, developing nations must pin down priority sectors that are highly in need of integration with strategies and plans for addressing the distress concerned with climate change in these sectors. During the course of offering and receiving such aid, various kinds of disputes may arise amongst the parties. Hence the WTO has to table a proper mechanism to settle any such disputes, that primarily involve an intersection of climate change and trade.[29]

'The Common but Differentiated Responsibility and Respective Capacities' (CBDRRC) as enshrined through UNFCCC, and its Kyoto Protocol, was taken forward in the Paris Agreement. This is considered as a sound 'action plan' mechanism to realize 'distributive

26 *Paris Agreement Q&A*, CENTRE FOR CLIMATE AND ENERGY SOLUTIONS, May 15, 2021, 9:30 A.M https://www.c2es.org/content/paris-climate-agreement-qa/.

27 *COP25: Key outcomes agreed at the UN climate talks in Madrid,* CARBON BRIEF, (May 15, 2021, 9:30 A.M) https://www.carbonbrief. org/cop25-key-outcomes-agreed-at-the-un-climate-talks-in-madrid

28 *Supra* note 25.

29 Pradeep S. Mehta & Rashid Kaukab, *Paris Agreement: A pact of solidarity for developing countries?,* 5(3) GREAT INSIGHTS MAGAZINE, ECDPM (2016) https://ecdpm.org/great-insights/from-climatecommitments-to-action/paris-agreement-pact-solidarity-developing-countries/ (Last visited May 16, 2021, 12:30 A.M)

justice.'[30] This principle was applied to developed and developing nations in different methods through Annex 1 and Annex 2, respectively. The Paris Agreement, replaced the Kyoto Protocol in 2015, and the Kyoto Protocol, expires in 2020, but it does not expressly mention the differential treatment. Instead, it softens the principle of equity laid down in Kyoto Protocol. The Paris Agreement puts forth the idea of equity and CBDRRC in terms of 'differentiable national circumstances', which totally disregards the injustice, caused by climate change effects and faintly heavier mitigation responsibilities on developed nations. Hence there is a disproportionate burden of the mitigation mechanism, e.g. on countries in the African subcontinent that have least resources that will be least responsible, but more likely to be the victims of the climate crisis.[31]

No matter how mitigation works, adaptation as a part post disaster recovery process is a need that cannot be ignored. Initially, the UNFCCC through the Kyoto Protocol envisaged the fact that the developed nations are obligated to assist and help the developing countries for the purpose of adaptation through financial needs, capacity building related programmes and transfer of technology.[32] An Adaptation fund was also set up in the year 2001 in order to financially assist committed projects relating to adaptation in the developing countries that are party to the protocol, especially to those countries that are more vulnerable to climate disasters. Thereafter, adaptation at national level is perceived as the ability to get accustomed to the climate change consequences. This requires sound governance strategies at domestic and provincial level amongst different communities belonging to different social and economic living conditions wherein the distribution mechanism must be reactive and responsive to the challenges faced due to climate change. The states should also take into consideration the prevailing issues such as economic globalization, social, political, and environmental barriers, institutional capacities, and historical disadvantages while applying their responsiveness.[33]

Next, the financial arrangement to be set up under the Paris Agreement appears to be unclear. Article 6(6) of the Agreement states the share of proceeds procured from a new mitigation mechanism used for combating greenhouse emissions and achieving sustainable

30 Rosemary Lyster, *Justice, Adaptation and the Paris Agreement: A Recipe for Disasters?*, Legal Studies Research Paper No. 16/104, Sydney Law School, The University of Sydney, 20 May, 2021, 8:58 A.M. http://ssrn.com/abstract=2883910

31 Anika Molesworth, *Climate Justice and its Role in the Paris Agreement,* THE CONVERSATION (April 2016), https://theconversation.com/climate-justice-and-its-role-inthe-paris-agreement-57798 (Last visited May 20, 2021, 9:45 A.M)

32 *Supra* note 9.

33 DANIEL KLEIN et al., *THE PARIS AGREEMENT ON CLIMATE CHANGE: ANALYSIS AND COMMENTARY* 70 (Oxford University Press 2017)

development can be used to help the countries that are at jeopardy and vulnerable to disasters; to assist them and cover their adaptation costs.[34] On the other hand, Article 6(1) of the Agreement promotes contributions into the new funds on a voluntary basis, without specifying any targets, which is seen to be succeeding the CDM (Clean Development Mechanism).[35] However CDM has been criticized for contributing to development of hydroelectric projects, which led to human rights violations through displacement of indigenous communities, lack of transparency, non-disclosure of adverse effects and poor public consultation processes. Hence, it can be argued that there is no clarity on whether the future generations would hold good in the hands of such as environmental rights regime, and if those would act as co-relative duty on the present generations to achieve environmental justice.[36] The signatories of the Paris Agreement are committed to the targets of national climate and 'carbon dioxide reduction mechanism' that they came up with, out of their own accord. However, no country has lived up to these obligations. Since 1990, the greenhouse emission rate across the globe has risen by 41% and is still continuing. Upon continuation of such a rise, global warming would increase by 3 degree Celsius by the end of the 21st century. Scholars believe that the consensus that was meant to help in handling the climate crisis has failed and is failing as years pass by quoting examples of non-compliance of any real action by fossil fuel rich states like Saudi Arabia, USA, Australia, and Russia.[37] Hence, the new agreement of 2015 that was believed to serve the purpose that was earlier aimed for in the earlier instruments, turned out to be futile.

2. Recommendations

The measures taken against climate change must be marked by economic efficiency, in pursuance of which every nation must fix their efforts towards emission reduction on the basis of the marginal gains of circumventing damages arising from global warming. This is known as the "social cost of carbon." The determination of the manner in which adaptability can be fostered and quantified is an important need, along with identification of potent approaches in order to ensure such adaptability. Reinforced assessment and observation will aid in accountability of these systems.[38]

34 Paris Agreement, United Nations Framework Convention on Climate Change 2015, art. 6(6).

35 Paris Agreement, United Nations Framework Convention on Climate Change 2015, art. 6(1).

36 Daniel Bodansky, *The Paris Climate Change Agreement: A New Hope?*, 110(2) AMERICAN JOURNAL OF INTERNATIONAL LAW 288 (2016)

37 Tarun Gopalakrishnan, *Climate Targets: The Paris Agreement legally requires better targets this year*, DOWN TO EARTH (February 2020), https://www.downtoearth.org.in/blog/climate-change/2020-climate-targets-the-paris-agreement-legally-requires-better-targets-this-year-69332

38 NICHOLAS STERN, THE ECONOMICS OF CLIMATE CHANGE: THE STERN REVIEW (London School of Economics and Political Science, 2006)

As nations are connected with one another through international trade, the policies adopted by each country towards climate change affect the other nations. As a result, concerns about possible "carbon leakages" arise, paving the way for realisation of the need for harmonization of action taken against climate change. The CDM is a good example of this. On this note, it is also vital to be guided by the fact that wholesome efforts for intercepting climate change are compatible with economic welfare and growth. Appropriate policy execution and an environment to nurture investment are cardinal to ensure that the financing regimes are in consonance with emission reduction and development that is climate resilient.[39]

V. Intergenerational Equity and Distributive Justice

The 'intergenerational equity' principle envisages the fact that every generation on this planet, in common, holds the resources available with the members of the present generation as well as the past and future generations. This principle specifically puts forth the notion of utilization of environmental and natural resources in a fair and equitable manner so that the generations to come also have the accessibility and availability to the same quantity of resources that's being used at present; applied predominantly in the context of sustainable development is often coupled with social and economic problems associated with people at large. The failure of the prevailing international instruments to combat climate change results in the violation of intergenerational equity.[40]

In the context of climate change and environmental law, the application of distributive justice revolves around equitable distribution of the risks arising as a result of climate change and its impacts. It also emphasizes on appropriate sharing of the technology designed to tackle the issue and the beneficial measures taken to repair environmental damage, degradation and the harm occurring due to global warming. This rationale behind this emphasis lies in the fact that the encumbrances endured due to climate change are disproportionately borne by some specific groups of the population, developing countries and vulnerable nations.[41]The Preamble of the Paris Agreement states that the parties of the agreement should respect, contemplate and promote their corresponding obligations in terms of human rights, right to environment, human health and rights of indigenous and local communities along with the

39 *Id.*

40 James M. Nguyen, *Intergenerational Justice and the Paris Agreement,* E-INTERNATIONAL RELATIONS (May 2020), https://www.e-ir.info/2020/05/11/intergenerational-justice-and-the-paris-agreement/ (Last visited May 20, 2021, 9:45 A.M)

41 Alice Kaswan, *Distributive Justice and the Environment*, 81(3) NORTH CAROLINA LAW REVIEW 1031 (2003)

rights of migrants and children, while addressing the issue of Climate change.[42] Moreover, the obligations should also recognise the "protection of people with disabilities, people who are in vulnerable conditions, gender equality, women empowerment and inter-generational equity."

For the purpose of realizing redistributive justice, the principle of 'intergenerational equity' proposes an exclusive perspective on how to regulate International Environmental Law in order to fetch an equitable outcome for the developing nations. Although there is a need for comprehensive operative and executional techniques for the same, the international community at large has developed an understanding of the emission level contributions in both developed and developing nations, eventually pushing the states to address the socio-economic problems resulting out of "disproportional-retroactive" pollution trends.[43] In this respect, the Paris agreement through COP 21, has enshrined upon 'ethical and legal duties' that ought to be flowed by states; this is inferred from Para 52 of Article 8 of the agreement (COP-21 decision) which says that the provisions pertaining to loss or damage under Art. 8 do not act as a basis for any liability or compensatory mechanism.[44] As described above, the Paris Agreement is not bereft of shortcomings. However, through its emphasis on international cooperation and integrated efforts with the motive of achieving climate justice, its attempts to secure the essence of intergenerational equity are commendable.[45] Peer pressure on a global level and incentives for future governments to take steps that are positively aligned with that of the previous governments' must be induced by way of explicit recommendations to meet the objectives of attaining distributive justice.[46]

VI. Conclusion

In spite of the attempts made by the Paris Agreement to address the vicious effects of climate change, the setbacks in the arrangement of the Paris Agreement result in violation of the principle of environmental justice. The theory on redistribution of justice, and the deadlocks that were tried to be resolved through the Paris Agreement clearly shows that

42 *The Paris Agreement: Process and Meetings,* United Nations Climate Change, UNFCCC, https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement (Last visited May 21, 2021, 9:30 A.M)

43 Jason F. Moeller, *Distributive Justice And Climate Change: The What, How, And Who Of Climate Change Policy,* Graduate Student Theses, Dissertations, & Professional Papers 10699 (2016), https://scholarworks.umt.edu/etd/10699

44 *Supra* note 5.

45 Cinnamon P. Carlarne. JD Colavecchio, *Balancing Equity And Effectiveness: The Paris Agreement & The Future Of International Climate Change Law,* 27 NYU ENVIRONMENTAL LAW JOURNAL (2019)

46 Keshab Chandra Ratha, *Paris Climate Deal: A Bumpy Road Ahead*, 32 INDIAN JOURNAL OF ASIAN AFFAIRS 67 (2019)

there has been an attempt in balancing the provisions of the Agreement, and a striking responsibility on the ability to realize the needs and bearing the costs in order to procure the needs. Moreover, the developed countries also assure to keep up to the reduction of emission standards more firmly than the developing countries, which will then in turn undertake responsibilities in those particular areas, especially the countries that have high emissions. There is need for strict adherence towards this positive trend. Finally, the under-developed countries and other small island countries must be treated on priority basis amongst the set of developing countries. Flexibility is the attribute inducing equity and cooperation amongst different nations. However, responsibilities rendered based on their capabilities and other intergovernmental decisions prove to be insufficient without lack of sanctions. On the other hand, it also acts as a restriction in the agreement's scope on 'equity and justice' because of the non-binding factor of most of the complex dimensions of the agreement. It is hence important to address the increase in emission standards through strong mechanisms of financing, adaptation, transfer of climate technology, capacity building in developing countries, making environmental governance easier with regard to justice and equity.[47] All the stakeholders of a society must be engaged to involve them in the implementation of the Agreement at local, state and national levels, for improvement in execution. Non-governmental organisations must take efforts to create sensitisation about the importance of the participation of the general public in the action for implementation, taken by the government. The efforts of the developed countries must be channelized in such a manner that the impact of their actions directly benefit the underdeveloped and developing countries, rather than placing emphasis on the wide-scale objective of their actions, such as reduction of global average temperature.

47 Adams H, Adger WN, *Changing places: migration and adaptation to climate change* in SYGNA L, O'BRIEN K, WOLF J, THE CHANGING ENVIRONMENT FOR HUMAN SECURITY: TRANSFORMATIVE APPROACHES TO RESEARCH, POLICY, AND ACTION (Routledge-Earthscan, 2013)