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From Reservation Rights to Environmental Rights: Linking Social Protests and Climate Action

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ABSTRACT:

Climate change presents a pressing global challenge that transcends geographical boundaries, impacting ecosystems, economies, and human well-being. This research paper explores the intersection of environmental rights and social justice, emphasizing their critical relationship in the context of escalating climate crises. It argues that climate change is not solely an environmental issue but a profound human rights concern, disproportionately affecting vulnerable populations, including Indigenous communities, marginalized groups, and those living in poverty.

The paper analyzes the role of social protests in advocating for climate action and environmental justice, focusing on the voices of those directly impacted by climate issues. Indigenous-led movements and nonviolent civil disobedience have amplified demands for systemic change, fostering global solidarity and influencing policy at various levels.

Furthermore, the research examines the historical context and evolution of reservation rights in India, connecting them to broader environmental rights. Through case studies, legal frameworks, and an assessment of social movements, the paper advocates for inclusive, rights-based approaches to climate action that uphold human dignity and equity. It discusses the challenges and opportunities in bridging reservation rights and environmental rights, offering recommendations for collaborative and sustainable solutions. Ultimately, the paper underscores the need for a holistic approach where environmental stewardship is inseparable from social justice, emphasizing policies that safeguard both the environment and the rights of all communities.

Keywords: Climate change, Environmental rights, Social justice, Indigenous movements, Reservation rights, Linkage of social protest.

INTRODUCTION

Climate change is an urgent global challenge that transcends borders, affecting ecosystems, economies, and human well-being. As the world grapples with rising temperatures, extreme weather events, and ecological disruptions, the intersection of environmental rights and social justice becomes increasingly critical.

The Climate Crisis and Human Rights

Climate change is not just an environmental issue; it is fundamentally a human rights concern. Its impacts disproportionately affect vulnerable populations, including Indigenous communities, marginalized groups, and those living in poverty. These effects are evident in the displacement and loss of livelihoods due to rising sea levels, droughts, and extreme weather events, which disrupt lives and livelihoods, particularly for coastal communities, small-scale farmers, and Indigenous peoples. The right to health is also threatened by climate-related health risks, such as heatwaves, air pollution, and the spread of infectious diseases, disproportionately affecting vulnerable groups like children and the elderly.



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Furthermore, climate change erodes cultural heritage, traditional knowledge, and spiritual connections to the land, jeopardizing Indigenous peoples' rights to self-determination and cultural expression.

The Role of Social Protests

Social protests are crucial in addressing climate change and advocating for environmental rights. They amplify the voices of those affected by climate issues, drawing public attention to urgent matters and demanding action from policymakers through large-scale marches, sit-ins, or grassroots movements. Indigenous-led protests focus on defending land, water, and sacred sites, highlighting the interconnectedness of environmental and cultural rights while challenging dominant narratives. Nonviolent civil disobedience, exemplified by movements like Extinction Rebellion, calls for systemic change by disrupting the status quo and urging governments and corporations to prioritize environmental justice. Additionally, social protests promote global solidarity, with youth-led movements like Fridays for Future, inspired by Greta Thunberg, transcending borders and sparking climate action worldwide.

Bridging Reservation Rights and Environmental Rights

This research paper examines the connection between reservation rights, traditionally linked to Indigenous communities, and broader environmental rights. Through an analysis of successful case studies, legal frameworks, and the challenges faced by social movements, the paper argues for inclusive, rights-based approaches to climate action. It delves into historical contexts, assesses the impact of social protests, and suggests pathways toward a more just and sustainable future. The goal is to bridge the gap between reservation rights and environmental rights, ensuring that climate action upholds human dignity, equity, and the shared well-being of our planet.

Historical Context: The Beginning of Reservations

India's reservation policies have their roots in historical injustices and systemic discrimination faced by certain sections of society. During colonial rule, communities such as Scheduled Castes (SCs) and Scheduled Tribes (STs) endured social exclusion and caste-based discrimination. Here are significant turning points in the evolution of reservations in independent India:

1. The Champakam Dorairajan Case (1951):

The Champakam Dorairajan Case (1951) is a pivotal moment in the history of India's

reservation system, significantly influencing affirmative action policies. The case arose when Champakam Dorairajan, a student, challenged the Madras government's policy of reserving college admissions based on caste. The legal issue at hand was whether the government could allocate educational seats based on caste criteria. The Supreme Court ultimately ruled against caste-based reservations, prioritizing individual rights over group rights. This judgment led to the First Amendment of the Indian Constitution in 1951, introducing Articles 15(4) and 16(4), which allowed for the expansion of reservations.

2. Mandal Commission (1980):

The Mandal Commission, tasked with assessing backwardness, made significant recommendations regarding Other Backward Classes (OBCs). It proposed reservations for OBCs in education and employment. Although implementation sparked controversy and protests, it ultimately increased OBC representation. Today, OBC reservations continue to play a vital role in India's social justice landscape.

3. The 'Indra Sawhney' Judgment (1992):

In the 1992 'Indra Sawhney' Judgment, the Supreme Court upheld reservations while imposing a 50% cap on total reserved seats. Notably, this ruling introduced key aspects: the 50% cap ensured that no more than half of the seats could be reserved, the concept of the "creamy layer" excluded affluent OBC individuals from reservation benefits, and separate quotas were allocated for Economically Backward Classes (EBCs). Overall, the judgment aimed to balance individual rights with social justice imperatives.

4. EWS Quota (2019):

In response to economic disparities, the government introduced a 10% quota for Economically Weaker Sections (EWS) in general category seats. This reservation applies to education and government jobs, aiming to provide opportunities for those facing economic challenges.

5. The EWS Judgment (2020):

The Supreme Court's validation of the EWS (Economically Weaker Sections) quota confirmed its constitutionality. As a result, EWS reservations now provide expanded opportunities for economically disadvantaged individuals. It indicates that India's history with reservations—from the Champakam Dorairajan case in 1951 to the EWS Judgment in 2020—reflects the nation's complex and dynamic journey toward achieving social justice and equal opportunities.

EMERGENCE OF ENVIRONMENTAL RIGHTS IN INDIA

India's journey toward recognizing and safeguarding environmental rights has evolved over time. Here are key aspects that highlight this emergence:

1. Constitutional Provisions:

The Indian Constitution, established in 1950, forms the basis for environmental protection. Article 21 recognizes the right to life and personal liberty, encompassing the right to a healthy environment. Courts have interpreted this as a fundamental entitlement to environmental well-being. Additionally, Article 48A, introduced through the 42nd Amendment (1976), underscores the need for environmental safeguarding and enhancement.

2. Judicial Activism:

Indian courts have significantly influenced environmental jurisprudence. Through Public Interest Litigation (PIL), citizens can pursue court intervention in environmental matters. Notably, landmark cases like the Vellore Citizens Welfare Forum v. Union of India (1996) underscored the polluter pays principle and the precautionary principle. Additionally, the tragic Bhopal Gas Tragedy Case prompted discussions on communal liability and the right to compensation for environmental harm.

3. Environmental Legislation:

India introduced key environmental legislation to address specific issues. These laws include The Water (Prevention and Control of Pollution) Act, 1974, The Air (Prevention and Control of Pollution) Act, 1981, and The Environment (Protection) Act, 1986. Their drive is to regulate pollution, conserve natural resources, and foster sustainable development.

4. Principles and Precedents:

India's environmental principles encompass sustainable development, where economic growth harmonizes with environmental protection. The "Polluter Pays Principle" holds industries accountable for environmental harm resulting from their actions. The "Precautionary Principle" advocates cautious decision-making in the face of potential risks. Additionally, the "Public Trust Doctrine" recognizes that natural resources are held by the State for the collective benefit of the public.

5. Environmental Movements:

Grassroots movements like the Chipko Movement, Narmada Bachao Andolan, and Silent Valley Movement played a crucial role in raising awareness about ecological conservation and human rights. Their impact extended beyond awareness—they influenced policy decisions and led to legal reforms.

6. International Commitments:

India's commitment to global environmental agreements, including the United Nations Framework Convention on Climate Change (UNFCCC) and the Convention on Biological Diversity (CBD), underscores its responsibility to safeguard the environment.

This indicates, India's environmental rights journey involves constitutional provisions, judicial activism, legislation, principles, grassroots movements, and international cooperation. As we move forward, the balance between development and environmental stewardship remains a critical challenge.

CASE STUDY

1. Standing Rock: A Case Study in Civil Disobedience:

Background: In 2016, young Native Americans from the Standing Rock Sioux Reservation led resistance against the construction of the Dakota Access Pipeline (DAPL). The pipeline ran within 1,500 feet of the reservation, endangering sacred sites and Lake Oahe.

Legal Issues: Many protesters did not consider their actions illegal, asserting that the land belonged to the Lakota people. The response to the protests involved private security forces using tactics developed for fighting terrorists.

Impact: The Standing Rock protests galvanized global attention and raised novel legal questions about land ownership, environmental justice, and indigenous rights.

2. Indigenous Rights in Environmental Justice:

- This research emphasizes the necessity of indigenous inclusion in environmental movements.

Decolonization Theory: Framing indigenous rights within decolonization theory highlights the importance of respecting indigenous knowledge, land tenure, and participation in decision-making.

3. Community Land Rights and Climate Mitigation:

- In Bolivia, Brazil, and Colombia, securing tenure-secure community land promotes forest conservation and climate mitigation.

- In Peru, titling indigenous land significantly reduces deforestation and disturbance³.

4. Effectiveness of Climate Protests:

- Research examines whether climate protests sway policy.

- Questions include motivations for joining protests and pros/cons of different protest methods⁵.

5. The Narmada Bachao Andolan (NBA): NBA is a significant example of how social protests in India can relate reservation rights to environmental rights. Originating in the 1980s, the movement was

led by Adivasi (Indigenous) communities to resist displacement caused by huge dams on the Narmada River. The NBA highlighted the connection between environmental degradation and the violation of the rights of marginalized communities, emphasizing the need for sustainable development that respects these communities' ties to their land and resources. While facing challenges, the NBA succeeded in raising awareness about the environmental and social impacts of such projects, influencing national policies and inspiring other movements. This case illustrates how social justice efforts can evolve to include environmental protection, particularly in the context of climate change.

These case studies illuminate the complex interplay between reservation rights, environmental protection, and social justice. India's environmental case law provides valuable insights for addressing climate change globally, emphasizing the need for robust legal frameworks and proactive judicial intervention. By linking social protests and climate action, India's practice can inform strategies for achieving environmental justice worldwide.

CHALLENGES:

1. Conflict of Priorities:

- Balancing the rights of marginalized communities (such as Indigenous peoples) with environmental conservation can be challenging.
- Reservation rights often involve land use, while environmental rights focus on conservation. Resolving conflicts between these priorities requires nuanced approaches.

2. Legal Complexity:

- Legal battles over land rights and environmental protection can be protracted and complex.
- Determining rightful ownership, especially when traditional practices intersect with modern legal systems, poses challenges.

3. Resource Extraction and Indigenous Lands:

- Extractive industries (mining, logging, etc.) often encroach upon Indigenous lands.
- Protecting both reservation rights and the environment requires addressing resource extraction practices.

4. Climate Change Vulnerability:

- Indigenous communities are disproportionately affected by climate change due to their close connection to natural resources.
- Ensuring their rights while mitigating climate impacts is a delicate balance.

Opportunities:

1. Collaboration and Co-Management:

- Engaging Indigenous communities in co-management of natural resources fosters sustainable practices.

- Traditional ecological knowledge can enhance conservation efforts.

2. Inclusive Policies:

- Developing policies that integrate reservation rights and environmental rights ensures equitable outcomes.

- Examples include community-based forest management and participatory land-use planning.

3. International Frameworks:

- Leveraging global agreements (e.g., the UN Declaration on the Rights of Indigenous Peoples) strengthens advocacy.

- International cooperation can amplify local efforts.

4. Education and Awareness:

- Raising awareness about the interdependence of reservation rights and environmental rights is crucial.

- Education empowers communities to advocate for their rights effectively.

CONCLUSION

The journey from reservation rights to environmental rights is a multifaceted exploration that intertwines social justice, indigenous sovereignty, and ecological well-being. As we wrap up our study, let's reflect on key takeaways:

1. Interconnected Struggles:

- Reservation rights and environmental rights are not isolated domains; they intersect and influence each other.

- Indigenous communities, often at the forefront of both struggles, advocate for land rights, cultural preservation, and sustainable practices.

2. Lessons from the Past:

- Historical cases like the Standing Rock protests remind us that civil disobedience can amplify environmental justice demands.

- The legal battles fought by marginalized communities have paved the way for recognizing environmental rights as fundamental.

3. India's Context:

- India, with its rich diversity of cultures, languages, and ecosystems, faces unique challenges.

- The delicate balance between development, reservation rights, and environmental conservation requires nuanced policymaking.

4. Present-Day Protests:

Maratha Reservation Protests:

- In Maharashtra, the Maratha community has been demanding reservation in education and jobs.

- These protests highlight the struggle for social inclusion and equitable opportunities.

Jat Reservation Agitation:

- The Jat community in Haryana has also sought reservation benefits.

- The tension between reservation rights and broader social dynamics remains a focal point.

5. Moving Forward:

- Collaboration, education, and awareness-building are essential.

- We must recognize that environmental justice is inseparable from social justice.

- Bridging reservation rights and environmental rights requires collective effort.

In conclusion, our research underscores the urgency of holistic approaches—where human rights, cultural heritage, and ecological integrity converge. Let us continue advocating for a world where every voice matters, and where environmental stewardship respects the rights of all.

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