

Authored by Davinder Sandhu, Co-Founder & Chairperson, Primus Partners

Human Rights challenges from Climate Change: Will the Courts rescue us?



Article Content:

As we head into another World Human Rights Day, it is important to ponder one of the most pressing human rights issues that plagues the world today- Climate Change. The relationship between climate change and human rights, and the concept of climate rights as fundamental human rights is finally starting to gain ground. Recently, this came to a head in India in the landmark ruling pertaining to M.K. Ranjitsinh & Ors. v. Union of India & Ors. In this landmark judgment, the Hon'ble Supreme Court of India recognised the right to an environment free of the adverse effects of Climate change as a fundamental human right under Articles 14 and 21 of the Constitution of India. The 50-page judgement highlighted not only the adverse effects of climate change and the right to live in an environment free of its negative effects, but also highlighted the link between climate change, health, food security, gender, geographic and socio-economic inequality.

Essentially, the Hon'ble Supreme Court stated climate change can affect an individual right to life and personal liberty (article 21) by negatively affecting their health and their access to food, as well their right to equality (article 14) with marginal and vulnerable populations more likely to be affected by the adverse effects of climate change. The recognition of the right to live without the adverse effects of climate change underscores its far-reaching implications. Climate change disrupts essential elements of human life, from clean air and water to food security and health.

Rising temperatures, erratic rainfall, and extreme weather events disproportionately affect the marginalized—those already grappling with poverty, geographic vulnerabilities, and systemic inequality.

This ruling expands the definition of Article 21, to include climate rights as a fundamental right under life and liberty. In doing so the court has legitimised climate change as an aggressor against the right to live a life of dignity, highlighting the effects on health and food security that come as a natural consequence of climate change. Human health is a major sufferer due to climate change, especially amongst vulnerable populations. Changing crop cycles also hampers food security. Increased incidence of disease and related food scarcity that come as a result of adversely changing climate patterns are a threat to an individual's ability to live a life of dignity as is guaranteed under article 21.

The court's emphasis on Article 14 is particularly notable. Climate change, as indicated in the ruling exacerbates inequality by affecting those in the most vulnerable position with minimal recourse and ability to adapt to the effects of climate change. This includes women, children, rural populations, and indigenous communities who are the at the receiving end for brunt of the environmental degradation. Indigenous communities, especially those that are dependent on forests and local environments to maintain their traditional ways of life are uniquely affected by the loss of flora and fauna due to climate change.

This judgement follows similar judgements by apex courts across the world, namely in Netherlands and Switzerland, that have expanded on human rights to include climate rights and the right to live in a clean environment. In the Urgenda case in Netherlands, the court's ruling compelled the government to cut greenhouse gas emissions. In a similar case in Switzerland, the courts upheld the right to a clean climate for current and future generations. With this ruling, the Indian Supreme court has not only joined the growing ranks of similar ruling, but also, become the first apex court in the region to make such a ruling, emerging as a leader in the region.

This judgement sets a legal precedent for more climate litigation by citizens allowing them to approach the courts and participate more actively in fighting for their own rights viz a viz climate change and health and asserting decisive action from policymakers. It also recognises the State's duty to protect its citizens from the effects of climate change.

The Legislature now has an opportunity better understand the threat to human rights that come with climate change and its effect on health, food security and inequality. To stand with the vision of a cleaner and greener future for the globe, India must put into action what the supreme court set in motion. This is an opportunity to enact concurrent policies and programmes specifically aimed to addressing these human rights concerns.