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Right Against Climate Change Recognized As a Fundamental Right

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On April 5, 2024 the Supreme Court recognized a new Fundamental Right namely, the Right Against Climate Change. Read more about it here!

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Introduction

India is presently dealing with the consequences of severe climate fluctuations. These include El Niño's influence on agricultural productivity, potentially exacerbating inflation, as well as projections from the Indian Meteorological Department (IMD) indicating a heightened risk of heat waves this year. Such conditions could potentially result in unemployment. The idea of considering climate as a fundamental right gained traction as people recognized the interconnectedness between environmental health and human rights.

Supreme Court and the Right Against Climate Change

On April 5, 2024, the Supreme Court of India made history by acknowledging, for the first time, the right to protection against the negative effects of climate change. In the landmark ruling, the Supreme Court acknowledged the right during a verdict delivered by a three-judge bench led by Chief Justice of India DY Chandrachud, as part of a case concerning the preservation of the great Indian bustard and the lesser florican. The Court highlighted the interconnectedness of this right with the rights to life and equality enshrined in the Indian constitution.

The bench overturned a previous ruling from 2021 that had imposed a comprehensive ban on overhead powerlines spanning an area of 99,000 square kilometers across parts of Gujarat and Rajasthan, aimed at safeguarding birds. The court emphasized that restricting transmission to underground cables alone in such a vast region, which also boasts significant potential for renewable energy sources like wind and solar power, would greatly hinder India's transition to

clean energy. Such a restriction could hamper global endeavors to combat climate change, thereby jeopardizing essential rights of Indian citizens, including the right to life, equality, and access to energy.

Chief Justice Chandrachud underscored the connection between the right to protection against climate change and Articles 21 and 14, emphasizing that the rights to life and equality are incomplete without a healthy, sustainable environment.

The judgment said, “The right to health (which is a part of the right to life under Article 21) is impacted due to factors such as air pollution, shifts in vector-borne diseases, rising temperatures, droughts, shortages in food supplies due to crop failure, storms, and flooding. The inability of underserved communities to adapt to climate change or cope with its effects violates the right to life as well as the right to equality… If climate change and environmental degradation lead to acute food and water shortages in a particular area, poorer communities will suffer more than richer ones”.

Need for Recognizing the Right

Elevating the right against detrimental effects of climate change to the status of a fundamental right would provide it with legal protection and recognition at the highest level of the Indian Constitution. This ensures that individuals can seek legal recourse and protection against actions or omissions that contribute to or exacerbate climate change.

Recognizing the right against climate change as a fundamental right would also impose a legal obligation on the government to take proactive measures to mitigate climate change and protect citizens from its adverse impacts. It would hold authorities accountable for their environmental policies and actions, ensuring transparency and accountability in climate governance.

While there are many compliances in place to ensure climate change is given enough priority, they often get caught up in conflicts or aren’t fully implemented at individual levels. Bringing the ‘Right against Climate Change’ under the ambit of ‘Right to life’ under Article 21 might ensure some compliance.

Conclusion

The right against protection from adverse effects of changing climate is intricately linked to other fundamental rights, such as the right to life, health, and a clean environment. By explicitly

acknowledging it as a fundamental right, the interconnectedness of these rights is recognized, emphasizing the holistic approach needed to address climate change and protect human well-being.