

Access to Green Justice by Deprived Population in a Globalised Era

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Abstract: Human consumerism and production trends have changed the global scenario. Globalization has eased the trade links and helped us to develop. However, the development rate of global south nations and global north nations differ drastically and so does the quality of life in the two sections. Globalization has opened many doors to humans but at the same time has also led to several environmental hazards. The impact of these hazards are more on deprived section of the society as they lack appropriate resources to overcome them. The access to green justice is not easy for the deprived population. The path to achieve green justice is full of thorns and obstacles. Thus, until these basic issues are solved the SDG to achieve green justice for all can never be achieved. The aim of the researcher is to study the impact of globalization on environment and to analyse the concept of green justice. Further, the researcher aims to find different barriers faced by the deprived population in accessing green justice and to find solution for the same. This research work does not aim to lay any standards of poverty or to define poor or poverty, as it depends on various external factors.

Keywords: *Green Justice, Access to justice, Globalization, Environmental hazards.*

1. Introduction

We are in a globalizing era, wherein every human being from the womb to the tomb is caught in a rat race to achieve economic stability. Last few decades witnessed massive changes around the world. This era is the age of modernization, liberalization and privatization. Global trades are touching new heights. Human has conquered the barriers of location and communication and weaved a huge web connecting the entire world through globalization. The World Health Organization defines globalization as “increasing interconnectedness and interdependence among individuals and nations. It is generally understood to include two interrelated components: opening up international borders for an increasingly rapid flow of goods, services, money, people and ideas; and changes in institutions and policies nationally

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and internationally that facilitate or promote such flows.”¹

However, these activities have also led to some far-reaching consequences. “World Human activities motivated by an attitude of rampant consumerism and unsustainable patterns of production and consumption have never been as inhumane and callous towards the environment as in the modern era of scientific and technological innovations.”² On one hand globalization has contributed a lot in providing better environmentally friendly technologies while on the other hand it is causing severe environmental degradation. The situation is even bleaker for the population below the poverty line. Rich is getting richer and poor is struggling for basic amenities. Environmental degradation is affecting everyone but its impact on poor population is grave. Further, when it comes to seeking green justice, this marginalized section, face different kinds of obstacles in barriers. It is not a cake walk for them, as it is for us.

In this research work we will be focussing on access to green justice by the deprived and the underprivileged population. Green justice is a contemporary term dealing environmental justice. Environmental justice is a key step to ensure sustainability. However, access to justice is not easy. There are certain major issues on the international plane like difficulty of access, exploitation of disadvantaged group, discrimination in providing justice and issues on a domestic level like lack of infrastructure, lack of expertise, lack of proper forum etc. The rights of the vulnerable are in danger due to environmental degradation. The ‘already developed’ are developing but it is the marginalized people who are facing the brunt of this situation. At times it costs them their access to water, food, energy and at times even their homes. Thus, this is disturbing the balance of development vs environment thereby highlighting the need of environmental justice. Green justice attempts to juxtapose the goal to preserve the environment with the need of economic development. It aims to achieve basic rights for all at the local, national, and global levels.

2. What is Globalisation?

Globalization is defined ‘the growing interdependence of the world’s economies, cultures, and populations, brought about by cross-border trade in goods and services, technology, and

¹ World Health Organization ‘Globalization and health: Bulletin of the World Health Organization’ (DOI: 10.2471/BLT.06.038869, WHO, 2007).

² Global Humanitarian Forum ‘Human Impact Report: Climate Change - The Anatomy of a Silent Crisis’ (GHF, 2009) <http://www.gci.org.uk/Documents/GHF_2009_.pdf> accessed on 02 October 2023.

flows of investment, people, and information.’³ In the modern world paradigm, it is “the compression of the world and the intensification of consciousness of the world.”⁴ It is an ever-growing trend. As countries and regions become more intertwined politically, culturally, and economically, through trade, investment, information flows, and cultural exchange; the world becomes more globalized. Metaphorically, the world is like a web weaved out of silken threads which enables movement of goods, money, people etc.

There is a general rule of nature that whenever anything is progressing and developing, it is generally at a cost. Globalization, even though is benefitting the world in becoming a developed economy, there are many prices to pay. It “accelerates structural change, thereby altering the industrial structure of countries and hence resource use and pollution levels.”⁵ Environmental harm is one such thing.

Environment as a whole is degrading because of extensive human activities. This environmental is effecting all of us but situation is worse in the case of Global south countries. While developed countries face environmental problems like pollution, disposal of effluents and harmful wastes, loss of bio diaspora etc., the developing countries struggle with issues like inadequate shelter, absence of basic rights like access to clean air, fresh water, loss of habitat etc. "The evidence today is overwhelming that the poor in cities suffer disproportionately from environmental problems".⁶ While developed countries are struggling with the rapid pace of industrialization, the developing countries are still trying to manage basic rights. This poverty-stricken population suffers a financially, economically and physically due to globalization, however, the environmental harm caused by globalization robs them off their basic rights. They are struggling with basic issues like inadequate shelter due to habitat loss and unavailability of land for low income groups, access to clean environment and proper infrastructure and waste disposal facilities.

The main aim of globalization is to achieve interconnectedness between nations to ensure better trade and commerce. The extensive manufacturing and production processes undertaken in the name of globalization to enhance economic growth, leads to a high level of

³ Peterson Institute of International Economics, ‘What Is Globalization? And How Has the Global Economy Shaped the United States?’ (PIIE, 29 October, 2018) <<https://www.piie.com/microsites/globalization/what-is-globalization>> accessed on 18 October 2023.

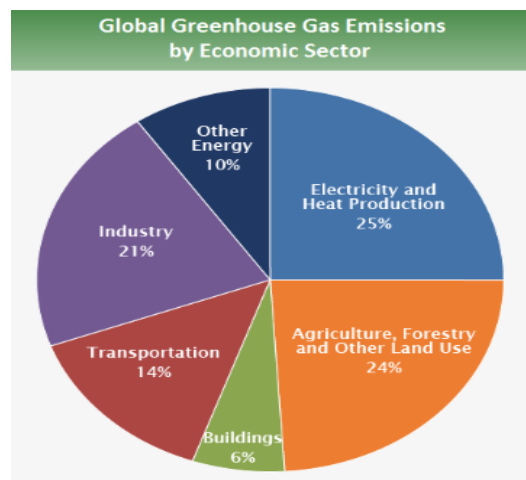
⁴ Roland Robertson, *Globalisation: Social Theory and Global Culture* (1 Sage, 1992).

⁵ Shahbaz, Muhammad, Mallick, Hrshikesh and Loganathan, Nanthakumar, *Does Globalization Impede Environmental Quality in India?* (2015) MPRA <https://mpra.ub.uni-muenchen.de/67285/1/MPRA_paper_67285.pdf> accessed on 20 October 2023.

⁶ PorusOlpadwala, William Goldsmith, ‘The Sustainability of Privilege: Reflections on the Environment, the Third World City, and Poverty’ [1992] 20 *World Development* 627, 630.

emissions of toxic gases which leads to environmental quality depletion. The sudden leap in establishments of industries, factories, mechanization of production practices, infrastructural development etc. have aided more to the problem of emissions. If we compare the amount of time, money and energy spent on travelling from a place to another place 20 years back and now, we will find a great difference. The transportation is much more efficient, less time consuming and comfortable now. “In 1950 the world emitted 6 billion tonnes of CO₂. By 1990 this had almost quadrupled, reaching more than 22 billion tonnes. Emissions have continued to grow rapidly; we now emit over 34 billion tonnes each year.”⁷ “Global carbon dioxide emissions from fossil fuels and industry were 37.12 billion metric tons in 2021. Emissions are projected to have risen to 37.5 billion metric tons.”⁸

Chart 1: (attached below) provides the major factors which aid to the depletion of environment.⁹



The major effect of globalization is change in environmental statistics. According to the World Meteorological Organization, since the 1980s, “each decade has been warmer than the previous one leading to global warming and other long-term climate change trends as a result of record levels of heat-trapping greenhouse gases in the atmosphere.”¹⁰ “There is a

⁷ Hannah Ritchie and Max Rosner, ‘CO₂ Emissions’ (Our world in data, 2022) <<https://ourworldindata.org/co2-emissions>> accessed on 25/08/2023.

⁸ Ian Tiseo, ‘Annual global emissions of carbon dioxide 1940-2022’ (Statista, November, 2022) <<https://www.statista.com/statistics/276629/global-co2-emissions/>> accessed on 25/08/2023.

⁹ ‘Global Greenhouse Gas Emissions Data’, (United States Environment Protection Agency, 2022) <<https://www.epa.gov/ghgemissions/global-greenhouse-gas-emissions-data>> accessed on 25/08/2023.

¹⁰ Paul Strauss, ‘2021 joins top 7 warmest years on record: WMO’ (UN News, 19 January, 2022) <<https://news.un.org/en/story/2022/01/1110022>> accessed on 30/08/2023.

66% likelihood that the annual average near-surface global temperature between 2023 and 2027 will be more than 1.5°C above pre-industrial levels for at least one year.”¹¹ Further, according to NASA, “since 1993, the water level has risen by 98 mm.”¹²

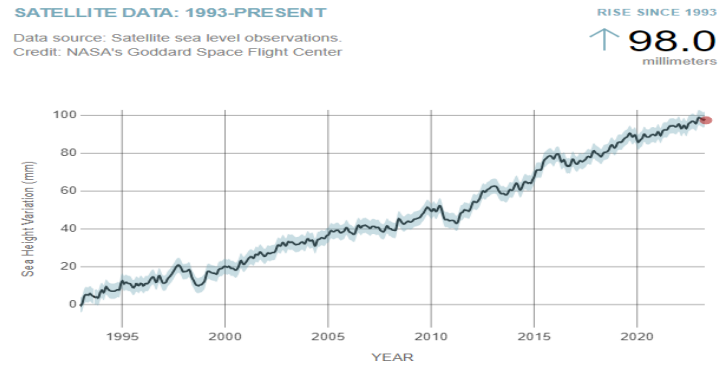


Chart 2: Representation of rise in sea level between years 1996 to 2020¹³

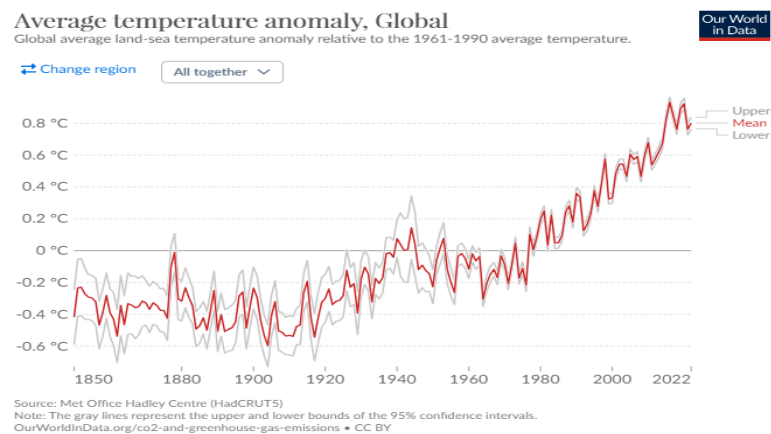


Chart 3: The increase in Global average temperature between the years 1850 to 2022.¹⁴

The statistics of the environment is rapidly changing because of human activities. It is leaving a far-reaching impact on the lives of all. However, the situation is bleaker for the downtrodden section of society. As per WHO’s survey in Africa, by 2020, “411 million lacked basic water services, 779 million lacked basic sanitation services and 839 million still

¹¹ ‘Global temperatures set to reach new records in next five years’, (World Meteorological Organization, 2021) <<https://public.wmo.int/en/media/press-release/global-temperatures-set-reach-new-records-next-five-years#:~:text=There%20is%20a%2066%25%20likelihood,be%20the%20warmest%20on%20record>> accessed on 30/08/2023.

¹² Global Climate change, (NASA) <<https://climate.nasa.gov/vital-signs/sea-level/>> assessed on 30/08/2023.

¹³ *ibid.*

¹⁴ Hannah Ritchie and Max Rosner, ‘CO2 Emissions’ (Our world in data, 2022) <<https://ourworldindata.org/co2-emissions>> accessed on 25 October 2023.

lacked basic hygiene services.”¹⁵ “Lack of infrastructure and services—piped water supplies, sewage connections, garbage collection and basic measures to prevent disease and provide health care... ensure that many diseases are endemic among poorer households.”¹⁶ As per the data of CPCB, “around 67.4% of pollution of Yamuna is due to textile industries near it.”¹⁷ Slums in India faces the problem of less availability of clean water. In areas where water is available, at times it is too expensive for the poor population to afford.

The process of globalization has also led to infrastructural development. It’s but obvious that we can’t develop new land in order to expand. Hence the only option left to humans is to clear forests and establish new industries. This leads to a lot of destruction not just to flora but also to fauna. WWF’s 2020 Living Planet Report held some alarming news: “The world has seen an average 68% drop in mammal, bird, fish, reptile, and amphibian populations since 1970. Much of the loss is caused by habitat destruction due to unsustainable agriculture or logging.”¹⁸ Forests are home to numerous species and they suffer because of such activities. Excessive reliance on cash crops, such as coffee, rubber, fruits, timber etc. has led to habitat loss.

The prime example of habitat loss in India, was the development of a car shed for the metro by Mumbai Metro Rail Corporation Limited (MMRCL) in the Aarey forest region in Mumbai. They have demanded the de notification of 165 Ha of forest land for this purpose.¹⁹ Supreme Court in, *In Re: Felling of Trees in Aarey Forest (Maharashtra)*²⁰ imposed a fine on MMRCL as they didn’t follow the order of Bombay HC which permitted only partial clearance of the required areas.

Due to excessive trade practices, the mishaps are also a common phenomenon. The Chernobyl disaster, the Bhopal Gas tragedy etc. are known to all. This was an incident that garnered a lot of media attention due to the gravity however, almost every day such mishaps happen around the world and it is the poor labourers working in such establishment who become the lamb to the slaughter. The people who die in such mishaps are mostly either the

¹⁵ UNICEF, ‘WHO/UNICEF JMP snapshot of progress on drinking water, sanitation and hygiene in Africa 2015-2020: Five years into the SDGs’ (UNICEF, 2021) <<https://data.unicef.org/resources/progress-on-drinking-water-sanitation-and-hygiene-in-africa/>> accessed on 03/09/2023> accessed on 25 October 2023.

¹⁶ J.E. Hardoy, D. Mitlin and D. Satterthwaite, ‘Environmental Problems in Third World Cities’ (Earthscan Publications, 1992).

¹⁷ Central Pollution Control Board, ‘Study group on Increase in Pollution in Yamuna’ (Ministry of Environment, Forest & Climate Change, Govt. of India, 2021) <<https://cpcb.nic.in/NGTMC/Study-Group-report-River-Yamuna.pdf>> assessed on 19 October 2023.

¹⁸ World Wide Fund, ‘Living Planet Report 2020 - Bending the curve of biodiversity loss’ (WWF, 2020) <<https://www.worldwildlife.org/publications/living-planet-report-2020>>, accessed on 02 October 2023.

¹⁹ *In Re: Felling of Trees in Aarey Forest (Maharashtra)*, 2023 LiveLaw (SC) 334.

²⁰ *ibid.*

labourers working in the factory or people living in slums nearby. The poor are always the most affected people in any mass accident or industrial mishap because of their vulnerability.

3. Green Justice: A Conceptual Analysis

Green justice is a contemporary term coined to combat environmental injustice. Environmental justice is defined as “the fair treatment and meaningful involvement of all people regardless of race, colour, national or income with respect to the development, implementation enforcement of environmental laws regulation.”²¹ The concept of green justice relates “human rights with development to achieve a human-centred approach, safeguarding the rights of the most vulnerable and sharing the burdens and benefits of climate change and its resolution equitably and fairly.”²² It means “no group - including racial, ethnic or socioeconomic groups - should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal program.”²³ Green justice, thus, is a diverse mechanism.

In the beginning it was conceived as nothing more than environmental dispute resolution, but it is actually much more multifaceted. “Environmental justice is relevant to the health and survival of all-natural beings and systems, though it particularly emphasizes how assaults on nature adversely affect humans. It incorporates many different aspects but is, fundamentally, about achieving a healthy environment for all, now and in the future.”²⁴ It includes rights and coexistence of other species as well. Human life is definitely important but alongside it is the plants, animals, birds etc. which also needs protection. All the species are also in a way so much interconnected that injustice to one will yield injustice to the other as well but sometimes this may go in an opposite direction as well. “The guarantee of basic rights rooted in respect for the dignity of the person which is at the core of this approach makes it an indispensable foundation for action on climate justice.”²⁵

²¹ United States Environmental Protection Agency, ‘The EPA's Environmental Justice Strategy’ (USEPA Washington, D.C., 1995).

²² Mary Robinson Foundation, ‘Principles of climate justice’ (MRFCJ, 2011)
<<https://www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf>> accessed on 30 October 2023.

²³ United States Environmental Protection Agency, ‘Guidance for Incorporating Environmental Justice in EPA's NEPA Compliance Analysis’ (USEPA Washington, D.C., 1998).

²⁴ Karen Bell, ‘Achieving environmental justice: A cross-national analysis’, 1 (Bristol Publications, 2014).

²⁵ Mary Robinson Foundation, ‘Principles of climate justice’ (MRFCJ, 2011)
<<https://www.mrfcj.org/pdf/Principles-of-Climate-Justice.pdf>> accessed on 30 October 2023.

4. Access to Green Justice

Access to green justice is a right of “people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards.”²⁶ We are often busy in appreciating the laws and institutions that we often ignore the intricacies of the implementation effects the “ability of a party to recognize [their] legal rights and to defend them adequately”.²⁷ The growing consciousness for the environment is somewhat not in pace with the evolution of laws. When developed countries having robust judicial systems are failing to provide easy access to green justice, then situations in developing and under developed countries are even grimmer. Access to justice is a universal right for all but modes of providing this justice is different for different countries, based on economic, cultural, historical, political factors. Access to justice and environmental dispute resolution is essential for achieving the UN’s 2030 agenda for Sustainable Development and the Sustainable Development Goals. The agenda clearly highlights the goal “to provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”²⁸ Clean environment and access to basic rights is important. Life on Earth is very difficult without clean environment. Similarly, establishment of a peaceful society will be difficult without providing equal access to green justice to all. Absence of basic necessities will make “social environment... equally hostile, at international, national and regional levels.”²⁹ As per the UNDP Report on Access to justice, “lack of access to justice limits the effectiveness of poverty reduction and democratic governance programmes by limiting participation, transparency and accountability.”³⁰

Further, justice does not only mean dispute resolution. It also talks about equality and inclusiveness in procedures. It is the marginalized and disadvantaged groups who always bear the burnt. As per UN data, the poor are marginalized because the law does not recognize their rights.³¹ The entire fight of Narmada Bachao Andolan was as much for the environment as it was for the indigenous people. Often the burden of environmental degradation is put on

²⁶ United States Environmental Protection Agency, ‘Guidance for Incorporating Environmental Justice in EPA’s NEPA Compliance Analysis’ (USEPA Washington, D.C., 1998).

²⁷ Mauro Cappelletti, ‘Access to Justice: Comparative General Report’ (1976) 40 THE RABEL J. COMP. & INT’L PRIV. L. 669, 671.

²⁸ United Nations, The Sustainable Development Goals (2023). <<https://sdgs.un.org/goals>> accessed on 25 October 2023.

²⁹ Peter S. Wenz, *Environmental Justice* (State University of New York Press, 1988).

³⁰ United Nations Development Programme, Access to Justice: Practice Note 3, 4 (UNDP, 2004) <http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dgpublications-for-website/access-to-justice-practice-note/Justice_PN_En.pdf> accessed on 28 October 2023./

³¹ United States Environmental Protection Agency, ‘Guidance for Incorporating Environmental Justice in EPA’s NEPA Compliance Analysis’ (USEPA Washington, D.C., 1998).

disadvantaged members of our society. In a way, we are exploiting the resources to fulfil our economic goals and hindering their basic rights. Thus, access to justice should also “ensure accessibility of civil and political liberties.”³²

5. Barriers in Accessing Green Justice by Poor Population

As iterated before, the struggle to have clean and green environment is tad bit more difficult for marginalized section than for the privileged. We may say that the world is working towards equal justice for all but that is not true. The underprivileged will always face certain extra barriers as compared to the others. Certain political, legal, economical, and psychological factors exist that creates an obstacle in imparting justice.

Political barriers: J.E. Hardoy conducted research on environmental problems in third world countries in 1992 that formed the basis of most of the research in this area. He concluded that “Most environmental problems are political problems.”³³ According to him, the shortage of natural resources is not a problem. The statement holds veracity because the main aim of globalisation is commercialization. It aims to provide goods at a faster pace. Thus, the problem is not the shortage of resources but “environmental, social, economic and demographic factors”³⁴ which influence access to justice.

The attitude of the government is also a big factor that effects the accessibility of justice. The lack of political plays a big role in shaping of a country. The lack of political will by both politicians and bureaucrats to manage urban land to take into account the needs of the urban poor is a key constraint in their access to environmental justice.³⁵ For example, with reference to denial of fresh water supply in slums, it is the absence of efforts by the government. Further, prioritization of economic stability rather than basic rights of all is also responsible for the sufferings of downtrodden. In order to win the race of entering into the Global north, the global south countries often sacrifice the basic interests of their own citizens.

Economic barriers: Economic barriers exist on a twofold level. First, with respect to the government. Developing countries have lower GDP, thus, their major focus is always on trade rather than welfare of the citizenry. The desire to attain the ‘Developed Country’ status has driven many underdeveloped countries into a pit of debt. Most of the Global South countries face “diversion of resources in from

³² Mauro Cappelletti, ‘Alternative Dispute Resolution Processes Within the Framework of the World-Wide Access-to-Justice Movement’ [1993] 56 MLR 282.

³³ J.E. Hardoy, D. Mitlin and D. Satterthwaite, ‘Environmental Problems in Third World Cities’ (Earthscan Publications, 1992

³⁴ *ibid.*

³⁵ Joyce Wangui Onstad, ‘Access To Environmental Justice For The Urban Poor’(1997) University College of London 81/1997 <https://www.ucl.ac.uk/bartlett/development/sites/bartlett/files/migrated-files/WP81_0.pdf> accessed on 15 October 2023.

infrastructure needs of their citizens to repayment of debts.”³⁶ Further, in the globalized era, the development of a domestic economy is also effected by external factors like inflation, global recession, shortage of basic amenities as well over development of few countries. In order to overcome with these issues, economies “incur large national debts, a negative balance of payments and shortage of foreign exchange to pay for imports of capital goods whose prices have been continuously rising.”³⁷

Secondly, the economic condition of the aggrieved person also acts like a barrier. One who is already poor and downtrodden would rather adjust in his situation than to pay and get justice. The perception of the marginalized section towards the courts are not very reliant because of the challenges that they face. According to Sen, if equal economic status is given to the deprived section, the barrier will disappear and there will be an ease of “challenging decisions, demanding their rights...gaining effective redressal.”³⁸

Legal barriers: The marginalized section suffer mostly due to inefficiency of substantive law and poor implementation of procedural laws.

Substantive legal barriers consist of the inefficiency of the basic law of the land of their respective countries. On an international level, we have many international instruments to protect the environment. Before 1972, there were unregulated practices that varied throughout the globe. Environmental issues were perceived as a nation’s problem. It was the Stockholm Declaration of 1972³⁹ that for the first time brought 122 countries together to take a pledge -to protect our environment. After this conference, there was a self-induced consciousness and environmental issues took cynosure. Principle 10 of Rio Declaration, 1992 also seeks to ensure “effective access to justice and administrative proceedings.”⁴⁰ Countries like Norway Sweden went ahead to establish a dedicated Ministries in government dedicated to environmental concerns whereas countries like Australia established a specialized environment court. This awareness due to ease of dialogue has led to a growing demand for environmental protection, and has helped to spur the development of new environmental technologies and policies. However, despite these international conventions, environmental laws in many countries aren’t that specific. The attempts to mobilise environmental rights are rare and not much successful. United Nation Development program has time and again

³⁶*ibid.*

³⁷*ibid.*

³⁸ Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford University Press, 1981).

³⁹ United Nations Conference on the Human Environment, Stockholm, 1972, A/CONF. 48/14/ Rev. 1.

⁴⁰ UNCED, *Rio Declaration on Environment and Development*, 1992, Principle 10, para 2

<<http://www.unep.org/documents.multilingual/default.asp?documentid=78&articleid=1163>> accessed on 29 October 2023.

emphasized on the importance of these structural changes in substantive law to ensure justice for all by making justice affordable and allowing “greater access for individuals and NGOs acting in the public interest”; by offering “judicial training and support.”⁴¹

Procedural barriers cover problems like ease of moving to court, expertise of judges, speedy trials, easier accessibility by marginalized sector etc. Since the matter at hand effects lives of many speedy and accurate justice was needed.

On an international level, the growing consciousness of the nations have led to some path breaking changes. The awareness has led many nations to establish specialized courts to deal with climate related issues. “As of December 2022, there have been 2,180 climate-related cases filed in 65 jurisdictions, including international and regional courts, tribunals, quasi-judicial bodies, or other adjudicatory bodies, such as Special Procedures at the United Nations and arbitration tribunals.”⁴² However, not every country has a dedicated specialized environmental forum to provide green justice. Absence of a specialized forum makes it more difficult to access justice. Matters of environmental injustice require quick dispute resolution. In India paradigm, generally a civil case may take as long as 4-5 years in the trial court. Even after a judgment is obtained, it is still appealable. Thus, the entire process takes a long period of time to conclude. It has been said justice delayed is justice denied. Thus, delay in procedure also acts like a barrier in accessing green justice.

Further, in reference to the poor population, at times the economic facet of litigation is too much for them to bear and thus, they try to adjust with the degraded environmental status. In order to file a suit, the plaintiff also needs to pay certain amount of fee to the court. As per the Indian Court Fees Act, 1870, the stamp fee is calculated ad valorem. In case of National Green Tribunal in India, for environmental cases where compensation is not claimed, application has to be made along with “a payment of Rs. 1000 and for compensatory application, 1% of the amount claimed.”⁴³ Apart from paying the court fees, the aggrieved also has to bear expenses like documentation expenses, lawyer's fee, travelling costs, court costs etc. Thus, economic considerations involved in the court proceedings scares the aggrieved party existing at the margin from approaching the court.

⁴¹ Michael R. Anderson, *Access To Justice And Legal Process: Making Legal Institutions Responsive To Poor People In LDCs* (1999).

⁴² UNEP, ‘Global Climate Litigation Report: 2023 Status review’ (UNEP, 2023) <<https://www.unep.org/resources/report/global-climate-litigation-report-2023-status-review>> accessed on 25 October 2023.

⁴³ National Green Tribunal, ‘Information Booklet’ (NGT, India, 2014) <https://greentribunal.gov.in/sites/default/files/publication_documents/NGT_Information_Booklet.pdf> accessed on 25 October 2023.

Psychological barriers: The access to justice for poor is an issue because at times, the aggrieved person gets confused and intimidated in approaching courts. The legal formalities and jargons are often confusing for a poor person. The poor are often stressed, anxious and intimidated by this as they cannot afford the guidance of a lawyer to help them navigate the legal system. Further, even though, we make tall claims independence of judiciary and impartiality of judges, some sort of partiality does exist. As per Cole the judicial misconduct by Nigerian magistrates "in a judicial system where the working class are virtually incapacitated economically in challenging judicial abuse of power".⁴⁴ In many legal systems, including Nigeria's, the poor are often presumed guilty before trial. This is because of the stereotype that criminals are poor. This stereotype, which views the poor as undeserving and undignified, justifies what Cole calls "degradation ceremonies." In these ceremonies, the credibility of the accused is undermined through laughter (induced by magistrates' jokes and sarcastic comments), intimidation, abuse, and disgrace.⁴⁵

6. Bridging the Gap: Ensuring access of green justice for the Poor

Since the barriers in access to justice for a poor person is so multifaceted, the solutions also require a multifaceted approach. The victims of environmental degradation are mostly poor people, who also face complex barriers, as iterated above, in order to attain environmental justice. The accessibility of green justice needs to be rectified in multiple tiers. In order to ensure equal access to justice to all, the judicial system may need to be restructured on an international, national, regional and local level.

Judicial specialization is an effective mode to solve structural issues and to provide quick and efficient justice. Environmental matters are complex due to the difficulty of the underlying law and "the technical nature of the facts"⁴⁶ and "uniformity in the interpretation of the law."⁴⁷ The establishment of specialized environment court can be a tool to ensure access to green justice. The specialized courts also aid in relieving the caseload pressures on the existing courts, thereby ensuring speedy trial and preventing pendency of cases. Sensitization about environmental laws and procedure and simplification of procedure will help to curb the psychological barrier. Cost exemptions must be included by countries to help the vulnerable. The efficiency of any right does not depend entirely on the substance and procedure. At

⁴⁴B.A.Cole, 'Rough Justice: Criminal Proceedings in Nigerian Magistrates' Courts' 18 IJSL (1990) 320.

⁴⁵ *ibid.*

⁴⁶ Richard L. Revesz, 'Specialized Courts and the Administrative Lawmaking System' (1990) 138 UPLR 1111.

⁴⁷ Lawrence Baum, 'Judicial Specialization, Litigant Influence, and Substantive Policy: The Court of Customs and Patent Appeals' (1977) 11 LSR 823.

times, sensitivity and awareness among the global conscience plays a pivotal role in popularization of any right. For example, international activism against torture, “[not only] draws upon both national and international legal procedures, but it also operates through aid conditionality, mass demonstrations, publicity drives, education programmes, investigative journalism, letter writing tactics, and artistic expression.”⁴⁸ Similarly, environmental activism has also led to effective recognition as well as enforcement of rights of the marginalized section in some Developed countries like the USA. Even in India, activism proved to be fruitful as in the case of Chipko Andolan or Narmada Bachao Andolan, to name a few. Thus, activism can be used as a tool to provide quick and informal justice.

Further, the national leaders can also opt for the establishment of an informal parallel bodies to provide quick and easy access to justice. Examples for the establishment of such bodies can be drawn from countries like Sri Lanka, Poland and even India. Sri Lanka follows a system of having a conciliatory board that consists of common people from different communities to solve matters in an informal manner free of cost.⁴⁹ It is convenient for the poor population to approach such Board without worrying about the financial burden or psychological anxiety. In India also, people from rural area and marginalized sections of society prefer approaching their Gram Panchayat or informal bodies over courts. Similarly, during the apartheid era, when the courts were shut for the indigenous population and there was a failure of justice. In that scenario a parallel body called ‘street court’ was established consisting of Black South Africans to settle the disputes in an informal manner according to the belief and customs of that particular area.⁵⁰

Further as far as economic barriers are concerned, the Developing countries must also voice up their concerns in international forums rather than settling with monetary aids. “Justice, and not charity must be the driving force in international development discussions.”⁵¹ Developing countries should focus more upon their fulfilling their own demand of natural resources rather than on trade and commerce. The act of a government in maintaining a balance can be incentivised by money lending organizations, in the form of grants and subsidy, in order to

⁴⁸ M.R. Anderson, *Human Rights Approaches to Environmental Protection*, (Clarendon Press, 1996).

⁴⁹ Joyce Wangui Onstad, ‘Access To Environmental Justice For The Urban Poor’(1997) University College of London 81/1997 <https://www.ucl.ac.uk/bartlett/development/sites/bartlett/files/migrated-files/WP81_0.pdf> accessed on 15 October 2023.

⁵⁰ S. Burman, W. Sharf, ‘Creating People’s Justice: Street Committees and People’s Courts in a South Africa City’ 24(3) LSR (1990) 299.

⁵¹ Joyce Wangui Onstad, ‘Access To Environmental Justice For The Urban Poor’(1997) University College of London 81/1997 <https://www.ucl.ac.uk/bartlett/development/sites/bartlett/files/migrated-files/WP81_0.pdf> accessed on 15 October 2023.

inculcate a positive behaviour. The developing countries must also introspect at their regional and local levels to identify the issues faced by the vulnerable. The welfare of the population must be the supreme goal of any government. Governmental institutions and businesses can only thrive if the population is happy and satisfied.

7. Conclusion

The poor and vulnerable section of the global society is struggling with the environmental hazard in their own habitat due to the wishes and desires of the privileged to be more privileged. Their basic rights are in danger and their path to attain justice is filled with obstacles that nobody wants to remove. They are left at the mercy of the developed. The rich are getting richer while the exploited are crying in a corner with nobody to wipe out their tears.

They face multiple barriers like political discretion, economic conditions, legal complications and psychological barriers in accessing justice. We do make tall claims about importance of justice and establish new rules, regulations and at times institutions. However, it is very important to question the efficiency of these mechanisms. Are they even providing justice to the people who actually require it or not? Is that justice being delivered in a timely manner? Are the vulnerable actually equal when it comes to accessing justice? Once, we ask these questions, the fallacy of our belief will be crystal clear.

Through this research, some solutions to the problems are provided like improvements in the current judicial mechanism, the establishment of parallel informal structures, civic centred approach for international negotiations etc. However, there is no guarantee whether these measures will suffice or not. For example, even if a country simplifies its laws and procedure to ensure removal or legal barrier, a lot depends on the mind-set of the political leader of the country and the judge. Similarly, the international negotiations will fail if the local government utilizes the resources in a manner detrimental or unconnected to the plight of the poor. The kind of complexity this problem holds, there cannot be a strait jacket formula to solve it. The efficiency of the solution varies from country to country but one necessary component for that is having an able and forward-thinking government at local and national level. Therefore, quest for climate justice is part of an unfolding process towards a greater degree of unity amongst nations as they endeavour to build a sustainable, just and peaceful society.