

A Gender Responsive Legal Approach to Green Recovery for A Sustainable Future

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ABSTRACT:

Amidst the hustle and bustle of our daily lives, we have somewhat failed to prioritize the recovery of our planet which is eventually deteriorating. The world is in the midst of an impending global environmental crisis, and it is essential that we all feel motivated and equipped to play a part in uniting to take an immediate action for our shared home. An inclusive and sustainable path towards achieving a healthy and suitable environment, can be achieved with a gendered approach to the green recovery. From the beginning of time, women have always played a crucial role in managing the natural resources and protecting our environment in several ways. It has become important that women take the lead in shaping and driving a gender-responsive development that is geared towards attaining long-term sustainability and goals for combating environmental degradation. A successful green recovery depends on ensuring women's full and equal involvement and emphasizing their significant contribution to various developmental programmes that are compatible with the climate and can help in mitigating damages caused to our ecosystem. Achieving gender equality, empowering women, and appreciating their role in environmental protection and sustainable development are the critical priorities that every State must consider at present.

Keywords: Environmental degradation, Environmental enforcement mechanisms, Gender-responsive development, Green recovery, Sustainable developmental goals.

I. Introduction

Human beings have always sought to learn a wide range of things, and this zeal for learning has even gone so far as to endanger him and other living and nonliving things. Urbanization has changed society and produced numerous socioeconomic benefits, but it has also put significant barriers in the way of the ecosystem's ability to sustain itself. The intricate interplay between global urbanization and environmental conservation is one of the most contentious issues of our day-to-day existence. A plethora of factors, ranging from unplanned and haphazard human activities to natural disasters, have somehow effected the environment in an unbelievable detrimental way.

When we discuss about the gender perspective on development and the environment, it can be perceived that women perform a significant role in promoting sustainable and nature friendly development and preserving the planet's ecosystem within their countries or communities. They perform different responsibilities in the environment all over the world ranging from maintaining plants and animals, forests, and farms, thus having the full charge over the natural resources. In doing so, they not only support the growth of their families and communities by giving of their time, effort, skills but also are a great source

of information and experience on environmental management and suitable measures because of their vast experience.¹

In addition to being a matter of social justice and fundamental human rights, gender equality and equity are indispensable for sustainable development. Looking at the contributions that women make, it is necessary that we recognize their role in green growth, and green recovery of our planet. We can unleash women's full potential by getting them involved in fields like renewable energy, conservation, and sustainable practices. They might contribute to more comprehensive and successful ways to solve social and environmental issues.

II. A Need for Change: Addressing the Gender Gap in Environmental Protection

The nation's natural resources and the environment are always under stress due to uncontrollable population growth and technological innovation. Women are known to be in direct contact with nature's resources and are in charge of utilizing them to meet their families' basic requirements. Long time ago women were shunned in all significant domains of life and were seen to have no role in the field of environmental advocacy. However, when people deliberately attempted to speak out about their rights, responsibilities and their protection, they started becoming aware of their surroundings. Woman even played a leadership role for conservation and enhancement of environment such as Stri Mukti Sangarsh and the Chipko Movement etc.²

There is a strong argument that women's empowerment and gender equality are necessary not only for progress in a variety of spheres of life but also for attaining sustainable development globally. It has been argued that, better environmental protection policies can result from improving equality among genders and women's overall empowerment and decision-making. In order to maintain and preserve the resources that are essential to our well-being, women may play a significant role in promoting economic growth and development. Green growth seeks to provide a practical and flexible approach to achieving significant, measurable advancements by striking a balance between economic and environmental stability while taking into account the social implications. Additionally, it guarantees that natural resources reach their maximum economic potential in a sustainable way.

Gender inclusivity plays a critical role in the success of environmental enforcement mechanisms, particularly when aiming for sustainable and equitable green growth and green recovery. These days, it is absolutely essential to create an environment that supports women's equal access to the economy and environment protection. In order to assist so, green initiatives seek to enable women workers and entrepreneurs to participate in various activities like designing, manufacturing, and delivery of green technology, goods and services. Eventually these gender responsive initiatives will help in a much needed green recovery and sustainable development.³

But the unfortunate truth is that gender discrimination against women persists in many nations, particularly in India and as gender inequalities impede their access to decision-making opportunities, it provide obstacles to successful sustainable development. The relationship between gender-based discrimination and the environment is complicated, but new study from the International Union for Conservation of Nature (IUCN) shows that power inequalities in controlling land and natural resources, particularly when

¹ P. Mago, Dr. I. Gunwal, [2019] 'Role of Women in Environment Conservation' <<https://papers.ssrn.com>> accessed 4 October 2024

² Gyanashree Dutta, Dr. Upankar Chutia, 'A Gender-Inclusive Legal Approach On Environment And Women In Rural India: A Nexus To The Concept Of Poverty Feminisation' (2022) II Vishwakarma University Law Journal 1

³ 'Gender Equality: A Cornerstone For A Green Economy' [2017] <<https://www.jstor.org/>> accessed 8 October 2024

those assets are limited, can have an impact on gender-based violence.⁴ Women and their voices, against these unplanned or haphazard activities of man causing environmental degradation, are often ignored or not given importance. Placing women in their proper context and integrating them into programs for development and policy is very important.

A number of international agreements have acknowledged the connection between the environment, development and women. Such as Agenda 21 which depends on women's active involvement in the environmental and development fields as managers, workers, planners, consultants, and decision-makers⁵ and The Convention on Biological Diversity, 1992 emphasizing on the necessity for full involvement of women policy formulation and implementation for the biological diversity⁶. However, in India, though equality is a foundation of Indian democracy, women are still enslaved and held in submissive roles leading to unequal participation of women in the governance and in various decision-making processes. In India, there are several laws and policies that address environmental protection and women's rights, but specific provisions explicitly focusing on the engagement of women in environmental protection might not be explicitly stated in all laws. The Indian Constitution has anti-discrimination and equality-promoting clauses that obliquely encourage women's participation in a range of professions, including environmental protection. Similarly, The National Environment Policy (2006) highlights sustainable development and local community involvement in environmental management, without explicitly concentrating on women. Gender equality should be seen from a broader aspect. It should also focus on inclusion of women in every possible field where equal opportunities are being given. Specific laws or provisions promoting gender diversity in environmental bodies or community consultations may be beneficial. While some of the gender related difficulties may be partially addressed by India's current laws, but more specific and focused regulations are required that ensures consistency in the application and enforcement of rules.

III. Women's Voices: Amplifying their Contributions and Leadership

In order to achieve gender-responsive green growth and promote a sustainable future, women's contribution is crucial and it is imperative to acknowledge and increase their involvement. It is evident that various legal instruments emphasize the importance of gender equality and women's participation in environmental conservation. Green growth is the creation of a clean environment, high-quality and environmental friendly economic growth, and a robust governance structure to support the upkeep of a superior-quality environment. Involvement of female activists in the creation of governmental policies and suggestions can successfully promote green and sustainable development. It is evident that women's effect on green development rises in tandem with their level of social and resource allocation power.⁷

From time immemorial, women have played a predominant role in conserving nature and contributed selflessly in the various conservation movements. India's first known female environmental activist, Amrita Devi, opposed the removal of trees to build a palace for the Maharaja of Jodhpur. Parbati Barua another environmental specialist, who has worked on upgrading and promoting relationship between human and elephants. Medha Patkar, an environmentalist, who is well known for leading an influential

⁴ 'Gender and the environment: What are the barriers to gender equality in sustainable ecosystem management?' (23 January 2020) < <https://www.iucn.org/> > accessed 10 October 2024

⁵ Buckingham-Hatfield Susan. 'Gender Equality: A Prerequisite for Sustainable Development' (2024) 87 Geography 227

⁶ Suman Sahai, 'TRIPS and Biodiversity: A Gender Perspective' (2004) 12 Gender and Development <<https://www.tandfonline.com/>> accessed 17 October 2024

⁷ Xin-Yu Peng, Yu-Hao Fu, Xing-Yun Zou, 'Gender equality and green development: A qualitative survey' (2024) 3 Innovation and green development < <https://www.sciencedirect.com/> > accessed 19 October 2024

movement, i.e., Narmada Bachao Andolan, to forbid the construction of dams on river Narmada. Another well-known woman is Menaka Gandhi, an environmental and animal-welfare activist, who administered several remarkable measures to protect and preserve our environment. Professor Wangari Maathai, another environmental activist from Kenya, known for establishing the GBM (Green Belt Movement) that focusses on planting more trees, preserving the environment, and providing women with uniform rights and opportunities.⁸ Around the world, there are numerous well-known female environmentalists and activists who have demonstrated their leadership abilities and consistently taken the lead when environmental issues arose. Although they have undoubtedly received recognition on a global scale and their achievements have been acknowledged for ages, the difficulties and hardships they encountered as women will never be fully valued.

Despite the global understanding of the gender components of sustainable development, social and economic inequalities persist. Women bear the brunt of suffering in many fields, even though they occupy a major place in the society. There are a lot of instances which highlights the present gender imbalances, discrimination and violence faced by the women in India, as a result of various social, political and environmental issues. People are affected by environmental challenges in different ways. In addition to being viewed as the most vulnerable segment of society, women are known to have been more affected by environmental difficulties than men.

IV. International Framework on Gender Inclusivity

Gender equality, women's involvement in climate change and the topic of gender justice in climate decisions are important issues acknowledged by the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.⁹ Goal 5 of Sustainable Development Goals, highlight the importance of empowering women and girls. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a crucial instrument which does not explicitly focus on environmental issues, it recognizes the interconnectedness of gender and the environment. At the international level, achieving gender equality is seen as crucial for environmental sustainability and addressing climate change.

Every significant international human rights convention forbids discrimination based on gender. According to CEDAW, States are required to take action to amend or contemplate repealing legislation, customs and practices that constitute any form of gender based discrimination. Article 5 of CEDAW mandates that states take steps to eradicate gender-based stereotypes and notions of superiority or inferiority of any sex. Such preconceptions can pose severe obstacles in the pathway of achieving environmental sustainability.¹⁰ Gender inclusivity in environmental policy making has received impetus at the international level and is an obligation on all the states to encourage and incorporate gender inclusive environmental governance and policy making within their territories. Even then there is still a gap in its actual implementation.

⁸ Rashmi Mathur, Roma Katyal, Vandna Bhalla, Lakshmi Tanwar, Payal Mago, Isha Gunwa, 'Women at the Forefront of Environmental Conservation' 2023 18(2) Current World Environment
< <https://www.cwejournal.org/> > accessed 22 October 2024

⁹ Gururaj Devarhubli, 'Women Participation in the Fight for Climate Justice: India's Future' (2022) 17(3) Current World Environment < <https://www.cwejournal.org/> > accessed 22 October 2024

¹⁰ 'Human Rights, The Environment And Gender Equality' <<https://www.ohchr.org/>> accessed 22 October 2024

V. Examining India's Legal Landscape: A National Perspective

In India, women contribute significantly and in a variety of ways to environmental protection. Their interest in environmental concerns and sustainable development is seen in their diverse range of contributions across multiple sectors and activities. We have many examples which shows how rural women work daily in conserving environment whether knowingly or unknowingly. They have been known to be protector of biodiversity and natural resources because of what they have contributed in this field. Even in the modern times women can be seen to be an equal contributor in various fields along with men including environmental conservation. But still in many places women particularly female environmental activists face discrimination and ignorance when they attempt to raise their voice and suggest opinions regarding environmental matter.

When we look into the national framework regarding gender equality, The Constitution of India adheres to a democratic social order, encouraging the rights of women, as equality is a foundation of Indian democracy mentioned under Article 14. Article 15 of the Constitution of India also strictly prohibits any discrimination on the basis of gender. There are some instances where women-led groups have been involved in advocating for environmental issues. They frequently take the lead in opposing unsustainable development initiatives and for the protection of natural resources, however their efforts are still not legally recognized.

Gender inclusion in conservation policies is one problem that needs particular consideration since there is still a gap between policy and regulation in the areas of environmental protection. Effective environmental management and enforcement mechanism require the knowledge, skills, and capacities that women, including many indigenous women possess. There are no specific laws solely dedicated to the role of women in environmental protection even today. In managing natural resources, men and women frequently have distinct roles, responsibilities, and experiences, therefore a gender responsive approach towards green growth can affect the results of sustainable development. A more inclusive, efficient, and fair approach to environmental governance requires the inclusion of strict provisions in the Environment Protection Act, 1986 and other legislations, that encourage women's participation. The right to live in a healthy environment is often considered an integral part of human rights, and it encompasses women's rights in the context of environmental protection. Despite being extremely progressive, many laws have not specifically included women as participants in the management and protection of local biodiversity.

Women are already at the forefront of climate and environmental initiatives at all levels, but their voice, and involvement are not given enough resources, support, or recognition. One longstanding problem is the rise in violence against female environmental advocates, including indigenous women. Many women have acted globally to safeguard lands, water, wildlife, communities, and human rights against environmental damage and climatic consequences, frequently at considerable personal danger. They have faced threats, stigmatisation, assault, criminalisation, and even death. As mentioned in General Recommendation No. 35 of the Committee on the Elimination of Discrimination against Women, gender-based inequality and violence is averse to international human rights law.¹¹ Environmental lawyer Arpitha Kodiveri, pointed out that environmental defenders in India do not have adequate legal protection. Meena, an environmental activist, was struck by a car in 2020. Later on she discovered that her assailant had

¹¹ *Ibid*

purportedly acted on behalf of the few local proponents of zinc mining, against whom she had battled for decades.¹²

When it comes to passing legislation, creating policies, carrying out plans and initiatives, the government should fully consider gender disparities and women's unique interests. In all spheres of life including political, economic, cultural and social spheres, men and women ought to have equal rights and responsibilities. Many international agreements though, emphasize the importance of women's participation in environmental sustainability but its inclusion in national legislation is necessary to demonstrate a nation's dedication to fulfilling its global responsibility of protecting women from violence and discrimination.

Although India has made efforts to incorporate gender equality aspects into a number of environmental and climate-related policies, there have been a number of obstacles to their practical implementation on the ground. As a signatory to the UNFCCC Gender Action Plan, which focuses on advancing gender-responsive climate policies, India has made notable strides in integrating gender-responsive approaches within its environmental and climate policies.¹³ However, there is still a scope for improvement in creating a more holistic and dedicated gender inclusive environmental protection action plan. Indian courts have approached the intersection of women's rights and environmental protection in the past but have not dealt specifically with gender equality in environment protection. Socio-cultural barriers and lack of awareness make it difficult to put gender-inclusive policies into practice, particularly at the grassroots level.

The present situations demand for a comprehensive national policy that only concentrates on gender-responsive environmental action. Specific gender inclusive laws is a necessity to send strong signal to institutions and organizations about the importance of gender inclusivity. Legal recognition must align with global frameworks like the Sustainable Development Goals (SDGs), particularly SDG 5 that discusses about Gender Equality and SDG 13 as these frameworks emphasize the requirement for gender-sensitive approaches to climate resilience and sustainable development.

VI. Conclusion

Despite India's membership in numerous international instruments, the establishment and maintenance of gender-responsive environmental rights at the national level continue to be a source of concern. Courts have the authority to interpret and implement current legislation to uphold a woman's right to environmental protection through judicial rulings. Legal precedents can help ensure that women's rights are taken into account when making environmental decisions and that the gender aspects of environmental challenges are recognized. Women activists may experience gender-specific forms of harassment, threats, violence due to their advocacy work, including sexual harassment. Legal provisions can act as a deterrent, discouraging individuals or entities from retaliating against women activists for their environmental advocacy.

There is a growing recognition of the need to include gender considerations into environmental policies and laws. Amending the Environment Protection Act 1986 and incorporating a specific section to explicitly incorporate gender responsive environmental governance is very crucial. Similarly, it is necessary to amend Forest Conservation Act, 1980 to recognize and incorporate the role of women in

¹²Johanna Deeksha, Nolina Minj & Vaishnavi Rathore, 'How three women turned into environmental defenders in India'(13 December 2023) <<https://scroll.in/>> accessed 25 October 2024

¹³ 'Learning From Gender-Responsive National Adaptation Plan Processes: Insights from countries to inform the review of the UNFCCC Gender Action Plan' <<https://www.iisd.org/>> accessed 25 October 2024

sustainable forest management and provide protection to them. It is absolutely essential to integrate gender considerations into the Environmental Impact Assessment (EIA) process to assess the uneven outcomes of projects on all genders. The already existing Mahatma Gandhi National Rural Employment Guarantee Act should focus more on creating and implementing gender responsive green employment. A good percentage of their projects should focus on achieving green growth prioritizing women workers.

Long-term environmental sustainability depends on acknowledging and utilizing the critical role that women play in green growth, sustainable development. By involving women in sustainable sectors, green recovery strategies can address gender disparities and promote economic opportunities for women as they are equipped with the right knowledge and abilities. Empowering women to engage in environmental decision-making places them as agents of change, capable of affecting beneficial environmental outcomes within their domains of influence. It is imperative that judges acknowledge gender equality in the context of environmental protection. All environmental policy-making bodies at the national, regional, and local levels shall be composed of equal percentage of representation from each gender.

A society that values and encourages women's involvement in decision-making roles can be established by introducing and reiterating gender equality ideals at a young age. For women to be included in important, a cultural shift towards acknowledging and valuing their abilities must be promoted. Integrating women in the leadership positions can help in building a more sustainable, wealthy, and egalitarian world. Legal frameworks must recognise and consider women's representation in environmental governance and policy-making. It is necessary to incorporate Gender Equality into Climate Finance Law to ensure that funds support women-led climate solutions and organisations. Countries can make more inclusive and well-rounded decisions by ensuring gender quotas or guaranteeing women's representation on environmental boards and councils. By promoting ecofeminism and recognizing the interconnectedness of environmental sustainability and gender justice, we can ensure a holistic and gender inclusive legal approach towards sustainability.