



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 4 AND ISSUE 1 OF 2024

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 1 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-1-of-2024/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



ILE Publication House is the  
**India's Largest**  
**Scholarly Publisher**

© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserved with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>



## DOUBLE DISCRIMINATION OF INDIGENOUS COMMUNITIES WITH RESPECT TO CLIMATE CRISIS

**AUTHOR** – B.TANUJ GOUD, STUDENT AT SCHOOL OF LAW, CHRIST (DEEMED TO BE UNIVERSITY), BANGALORE

**BEST CITATION** – B.TANUJ GOUD, DOUBLE DISCRIMINATION OF INDIGENOUS COMMUNITIES WITH RESPECT TO CLIMATE CRISIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (1) OF 2024, PG. 298-304, APIS – 3920 – 0001 & ISSN – 2583-2344.

### **ABSTRACT:**

Indigenous communities, already marginalized and discriminated against as minorities, face a double burden with the escalation of the climate crisis. Indigenous communities across the world are disproportionately affected by the adverse impacts of climate change, as they depend heavily on natural resources for their livelihood and have a strong cultural and spiritual connection to their land. In India, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, also known as the Forest Rights Act (FRA), and various International Conventions. They recognize and upholds the rights of forest-dwelling indigenous communities. The Act provides for the recognition and vesting of forest rights including land and resources, in order to empower these communities and protect their cultural, livelihood, and habitat rights. The legal safeguards, indigenous communities in India continue to face discrimination and human rights violations in the face of the climate crisis. Their ancestral lands and resources are increasingly threatened by deforestation, land encroachments, mining activities, and other ecological disturbances. Additionally, they often lack access to adequate healthcare, education, and socio-economic opportunities, further exacerbating their vulnerability. To address this issue, it is crucial to strengthen the implementation of the Forest Rights Act and ensure that indigenous communities have effective participation in decision-making processes related to climate change adaptation and mitigation efforts. It is important to recognize and respect their traditional knowledge and practices, as they have proven to be sustainable and resilient over centuries. Efforts should also be made to raise awareness and sensitize the broader society to the unique challenges faced by indigenous communities in the climate crisis. This can be achieved through education campaigns, capacity-building initiatives, and promoting cultural diversity and inclusivity. In conclusion, the discrimination faced by indigenous communities due to their indigenous status and the climate crisis is a pressing issue that requires urgent attention. Empowering these communities through stronger legal frameworks and proactive measures will not only ensure their resilience in the face of climate challenges but also uphold their human rights.<sup>624</sup>



<sup>624</sup> [How is climate change affecting indigenous communities? | World Economic Forum \(weforum.org\)](https://www.weforum.org)

Indigenous peoples are disproportionately affected by the climate crisis, facing both direct and indirect impacts. This is due to a number of factors, including their reliance on natural resources, their marginalization in society, and their lack of access to resources and decision-making.

The direct impacts of the climate crisis on indigenous communities are Food insecurity, Indigenous communities often rely on traditional food systems, which are highly vulnerable to climate change. For example, rising sea levels can inundate coastal communities, while droughts can destroy crops. Loss of land and livelihoods, Indigenous communities often live in areas that are particularly vulnerable to climate change, such as coastal communities, low-lying islands, and arid regions. Climate change can force indigenous communities to relocate, and can also destroy their traditional livelihoods. Health impacts, Indigenous communities are more likely to experience a range of health impacts from climate change, such as heat stress, respiratory problems, and infectious diseases. This is due to a number of factors, including their exposure to extreme weather events, their lack of access to healthcare, and their underlying health conditions.<sup>625</sup>

Coming to the indirect impacts of the climate crisis on indigenous communities includes various reasons like Increase poverty and inequality, Indigenous communities are already more likely to live in poverty than non-indigenous communities. Climate change is exacerbating this poverty and inequality, as it disproportionately impacts indigenous livelihoods and food security. Human rights violations, The climate crisis is leading to a number of human rights violations against indigenous communities, including violations of their rights to food, water, health, and culture.

Double discrimination faced by the Indigenous communities in the context of the climate crisis. First, they are disproportionately affected by the direct and indirect impacts of climate change. Second, they are often marginalized in society and lack access to the resources and decision-making needed to adapt to climate change.

The different ways in which the indigenous communities face discrimination are firstly, Indigenous communities are often excluded from decision-making on climate change policies and programs. This means that their needs and priorities are not taken into account, and that they may not have a say in how resources are allocated. Secondly, Indigenous communities often lack access to the resources and technologies needed to adapt to climate change. This includes things like access to drought-resistant crops, early warning systems for extreme weather events, and climate-resilient housing. Thirdly, Indigenous communities are often disproportionately affected by the negative impacts of climate change mitigation measures. For example, the construction of dams can inundate indigenous communities, and the development of renewable energy projects can disrupt their traditional livelihoods.

The main reason for the double discrimination of indigenous communities with respect to the climate crisis is colonialism and its legacy. Colonialism is a system of oppression and exploitation in which one country dominates another country and its people. Colonial powers often exploit the resources of colonized countries and displace their indigenous peoples. This has led to a number of injustices, including, Indigenous peoples have been dispossessed of their traditional lands and livelihoods. This has made them more vulnerable to the impacts of climate change. Indigenous peoples have been marginalized in society and denied access to education, healthcare, and other essential services. This has made it difficult for them to adapt to climate change. Indigenous peoples have been

<sup>625</sup> <https://www.bing.com>

excluded from decision-making on climate change policies and programs. This means that their needs and priorities are not taken into account, and that they may not have a say in how resources are allocated. The legacy of colonialism continues to impact indigenous communities today. Indigenous peoples are more likely to live in poverty and to lack access to basic services. They are also more likely to live in areas that are vulnerable to the impacts of climate change.

In addition to colonialism, there are a number of other factors that contribute to the double discrimination of indigenous communities with respect to the climate crisis, including. Racism, Indigenous peoples often face discrimination and prejudice because of their race and ethnicity. This can make it difficult for them to access the resources and support they need to adapt to climate change. Lack of political representation, Indigenous peoples are often underrepresented in government and other decision-making bodies. This means that their voices are not heard when it comes to developing and implementing climate change policies and programs. Lack of awareness, Many people are not aware of the unique challenges faced by indigenous communities in the context of the climate crisis. This can lead to policies and programs that are ineffective or even harmful.<sup>626</sup>

Here are some ways to cut down on the double discrimination of indigenous communities with respect to the climate crisis. By educate the public about the unique challenges faced by indigenous communities in the context of the climate crisis. This will help to raise awareness and understanding of the issue, and it can also help to dispel harmful stereotypes and myths about indigenous peoples. Support indigenous-led initiatives to address the climate crisis. Indigenous communities are often the experts on their own land and culture, and they are well-positioned to develop effective climate

solutions. By supporting indigenous-led initiatives, we can help to ensure that the needs and priorities of indigenous communities are taken into account. Hold governments and the private sector accountable for their actions. Governments and the private sector have a responsibility to address the climate crisis in a way that is just and equitable. We can hold them accountable by demanding that they adopt human rights-based approaches to climate change policies and programs, and by ensuring that indigenous communities are not disproportionately affected by the negative impacts of climate change mitigation measures. Advocate for the rights of indigenous communities. Indigenous communities have the right to self-determination, the right to culture, the right to a healthy environment, and other fundamental human rights. We can advocate for their rights by speaking out against discrimination and injustice, and by supporting indigenous communities in their efforts to protect their rights.

The government can also take an initiative of Adopting human rights-based approaches to climate change policies and programs, Provide financial and technical support to indigenous communities to help them adapt to climate change. Ensure that indigenous communities are not disproportionately affected by the negative impacts of climate change mitigation measures. Consult and involve indigenous communities in all stages of climate change decision-making. Ratify and implement the United Nations Declaration on the Rights of Indigenous Peoples.

Many civil society organizations can also work on supporting indigenous communities to advocate for their rights and to hold governments and the private sector accountable. Raise awareness of the climate crisis and its impacts on indigenous communities, Conduct research on the climate crisis and its impacts on indigenous communities. Develop and promote climate solutions that are just and equitable for indigenous communities.

<sup>626</sup> [Indigenous Peoples: Traditional knowledges, climate change, and health | PLOS Global Public Health](#)

The research paper does a comprehensive study that delves into the shared experiences and vulnerabilities of diverse indigenous communities facing the consequences of climate change. It highlights the cultural and geographical diversity among indigenous groups worldwide. Despite their distinctiveness, they are bound by common challenges and experiences resulting from climate change. The indigenous peoples often bear a disproportionate burden of the impacts, given their reliance on natural resources and close connection to the land. The study explores how climate change disrupts indigenous communities' traditional practices, cultural identity, and access to essential resources such as water, food, and medicine. It highlights how these changes undermine their socioeconomic well-being and traditional knowledge systems, leading to increased vulnerability and marginalization.<sup>627</sup>

The certain indigenous groups have valuable ecological knowledge and sustainable practises that can help with climate change mitigation and adaptation efforts. However, they often face barriers to having their knowledge recognized and integrated into mainstream climate policies. The paper advocates for inclusive and equitable climate policies that respect the rights and knowledge of indigenous peoples. It calls for recognizing their unique contributions to climate change resilience and integrating their perspectives in global efforts to address this pressing environmental crisis.

The two primary techniques employed by Indigenous leaders in order to acquire political acknowledgment and credibility in climate change discussions. First, they stressed their distinct representation of indigenous environmental knowledge, considering the Earth as a living creature with rights and accepting responsibility for its protection from over-exploitation.

When confronted with United Nations initiatives that may endanger their land rights, several Indigenous leaders took an antagonistic stance. They feared such policies would spread historical trends of marginalization experienced through colonialism and globalization. In such cases, the activists spoke more about their shared histories of political and economic marginalization and land dispossession to seek recognition in climate change debates. The paper could have further explored specific case studies or real-world examples to bolster its arguments but it highlights indigenous peoples' efforts to secure a meaningful role in climate discussions, focusing on their unique strategies for inclusion

The importance of considering co-benefits, which are positive outcomes that arise as a result of implementing climate change mitigation and adaptation measures, in addition to the primary goal of reducing greenhouse gas emissions. By incorporating co-benefits into climate policies, India can address multiple challenges simultaneously, such as air pollution, public health, poverty reduction, and sustainable development.

The paper adeptly discusses the various co-benefits that could be achieved through different policy interventions in key sectors like energy, transportation, agriculture, and forestry. Moreover, it emphasizes the need for integrated policymaking that takes into account the diverse socio-economic and environmental dimensions. It provides a detailed analysis of current policies, identifies gaps and challenges, and offers recommendations for a more effective and inclusive co-benefits approach. Although published in 2009, the paper's insights remain highly relevant for contemporary policymakers. It provides valuable lessons for developing countries like India, struggling to balance economic growth with climate action and social welfare.

This research paper offers a compelling exploration of Native Hawaiians quest for environmental self-determination amidst the

<sup>627</sup> [How marginalisation threatens the survival of indigenous communities - Frontline \(thehindu.com\)](https://www.frontline.in/article/how-marginalisation-threatens-the-survival-of-indigenous-communities-20090901)

challenges of climate change. The historical context and legal frameworks that shape Native Hawaiians' struggle for autonomy over their lands and resources. Sport effectively presents the challenges faced by Native Hawaiians, including rising sea levels, loss of biodiversity, and the erosion of traditional knowledge and practices due to climate change. The arguments that were raised for the recognition of indigenous peoples' right to environmental self-determination as a means to address these issues and foster sustainable development within their communities.

Sport's advocacy for the rights of Indigenous people is evident throughout the text, effectively urging policymakers, legal practitioners, and environmental activists to collaborate and uphold the principles of environmental justice. The paper provides insightful analysis supported by examples and case studies, making a compelling argument for the rights of Native Hawaiians.

Rebecca Tsosie explores the significant challenges faced by indigenous communities in different parts of the world as a result of climate change. Tsosie presents a comprehensive analysis of the impact of climate change on indigenous peoples' sovereignty, focusing on their unique relationship with their lands, resources, and cultural practices. The paper provides an in-depth examination of various comparative models of sovereignty, drawing from case studies of indigenous communities in different countries. Tsosie highlights the importance of recognizing indigenous peoples' inherent rights and their role as stewards of the environment. The author argues that indigenous sovereignty and self-governance are essential for effective climate change adaptation and mitigation.

The highlight the critical interplay between climate change, sustainable development, and India's socio-economic landscape. They present a meticulous analysis of global concerns while emphasizing India's unique challenges and opportunities in tackling climate

issues. The paper successfully integrates both macro-level global perspectives and micro-level national implications, providing a well-rounded understanding of the subject matter. The papers in-depth examination of India's efforts towards sustainable development sheds light on the country's role in the international climate arena.

With its coherent structure, robust data analysis, and compelling arguments, the paper serves as a crucial reference for scholars engaged in climate change and sustainable development studies. Overall, this research offers a nuanced understanding of the complex challenges posed by climate change in the context of India's sustainable development journey.

The paper explores the evolution of these concepts in international climate negotiations and how they have shaped India's stance on climate change. The authors delve into the critical strategic concepts that underpin India's climate policy, analysing how they have evolved over time and the legal frameworks that support their implementation. The paper identifies key concepts such as "Common but Differentiated Responsibilities and Respective Capabilities" (CBDR-RC), "Equity," and "Climate Justice," which have significant implications for India's position in international climate negotiations and domestic policy formulation.

Furthermore, it is critically analysed that strategic choices made by India and the implications for its climate change response. They discuss the role of domestic politics, international negotiations, and technological advancements in shaping India's stance. The paper effectively explores the legal dimensions of these concepts, their historical development, and their role in shaping India's climate policy and international climate agreements. Additionally, it highlights the complexities and challenges in applying these concepts within the country's diverse socio-economic context.

The author effectively highlights the inherent value of indigenous people's knowledge and practices in maintaining ecological balance

and resilience. Zimmerman adeptly showcases how can Traditional Ecological Knowledge offer unique insights into ecosystem dynamics, adaptation strategies, and sustainable resource management that complement scientific methodologies. The article delves into the challenges faced by indigenous communities due to climate change impacts and examines the potential synergies between modern scientific approaches and indigenous knowledge.<sup>628</sup>

Moreover, Zimmerman advocates for a more inclusive and participatory approach, encouraging policymakers to engage with indigenous communities as active partners rather than passive recipients of climate policies. By acknowledging the importance of the Traditional Ecological Knowledge study proposes a framework for recognizing the contributions of indigenous peoples and their vital role in shaping climate change responses.

The paper demonstrates that indigenous women often bear the brunt of environmental degradation due to their close relationship with nature and their roles as caregivers, knowledge holders, and community leaders. The paper draws attention to the role of traditional ecological knowledge (TEK) held by indigenous women, emphasizing the importance of integrating this knowledge into climate adaptation and mitigation strategies. The incorporation of the wisdom of indigenous women can lead to more context-specific, culturally appropriate, and sustainable solutions to climate-related challenges. The paper explain the intersections of gender, Indigenous rights, and climate change by analyzing the specific challenges faced by Indigenous women and their critical role in climate mitigation, adaptation, and resilience-building efforts.

Furthermore, the study offers valuable insights into the obstacles faced by indigenous women in accessing climate finance, participating in

decision-making forums, and exercising their rights to land and resources. By doing so, the paper effectively calls for gender-responsive and socially just climate policies that empower and elevate the voices of indigenous women.

The cultural and spiritual dimensions of climate change's impact on indigenous communities receive significant attention. Williams sensitively addresses the erosion of cultural identity and practices caused by environmental changes. This approach serves to underscore the profound interconnections between indigenous people and their natural surroundings. Moreover, the paper sheds light on the intrinsic value of indigenous knowledge in adaptation and mitigation strategies, urging policymakers to incorporate this wisdom into climate change policies. The discussion of the economic implications of climate change for indigenous communities is equally compelling. Williams effectively demonstrates the devastating effects of environmental disruptions on traditional livelihoods, such as agriculture and fishing. The study also delves into the socio-economic challenges arising from forced displacement, loss of land rights, and exploitation of resources by external actors.

Incorporating the legal dimension adds depth to the analysis. The examination of international frameworks and domestic legal systems illustrates how these mechanisms often fall short in protecting the rights of indigenous populations. The paper calls for stronger legal safeguards, advocating for the recognition of indigenous land rights and meaningful participation in climate change decision-making processes.

The double discrimination faced by indigenous communities in the context of the climate crisis is a serious human rights issue. Indigenous communities are disproportionately affected by the direct and indirect impacts of climate change, and they are often excluded from decision-making on climate change policies and programs. This double discrimination is a

<sup>628</sup> [Indigenous People's Traditional Knowledge Must Be Preserved, Valued Globally, Speakers Stress as Permanent Forum Opens Annual Session | Meetings Coverage and Press Releases \(un.org\)](#)



violation of indigenous peoples' rights to food, water, health, culture, and self-determination.

It is important to address the double discrimination faced by indigenous communities in the context of the climate crisis. Governments, the private sector, and civil society organizations all have a role to play. Governments should adopt human rights-based approaches to climate change policies and programs, and they should provide financial and technical support to indigenous communities to help them adapt to climate change. The private sector should work with indigenous communities to develop climate-resilient livelihoods and businesses. Civil society organizations can support indigenous communities to advocate for their rights and to hold governments and the private sector accountable.

Indigenous communities are the keepers of ancient knowledge and wisdom. They have a deep understanding of the natural world and how to live in harmony with it. But the climate crisis is threatening their way of life. Indigenous communities are on the frontlines of the climate crisis. They are experiencing its effects more acutely than anyone else. And yet, they are often excluded from decision-making on climate change policies and programs. This is a double injustice. Indigenous communities are not only disproportionately affected by the climate crisis, but they are also denied a voice in how to address it. We must change this. We must listen to the voices of indigenous communities and learn from their knowledge. We must work with them to develop climate solutions that are just and equitable. The climate crisis is a challenge for all of us, but it is especially challenging for indigenous communities. We must stand with them in solidarity and fight for their rights. Only then can we create a future where everyone is safe and prosperous.