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RESEARCH ARTICLE

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC) AND ROLE OF UNITED STATES OF AMERICA

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Abstract

Man is a creator and molder of his environment which vests him with physical sustenance and affords him an opportunity for overall growth and development. Development is a perpetual process enabling a man to realize his potentialities to achieve his targets by exploiting nature's resources. Sustainability is a pattern of socio structural economic transformation which optimizes the benefits without compromising or jeopardizing the interest and potentiality of future generations but ensuring the evolution of a common principle so that human beings can survive for a long time with the natural environment. People are one of nation's greatest resources for enforcement of environment laws and regulations are intimately related to the natural attributes as citizens are omnipresent, motivated and interested in environment quality. But at present time advanced use of science and technology or of manufacturing process has disturbed the ecological balance. Since 1972 many attempt has been made to reconcile this imbalance. The United Nations Framework Convention on Climate Change (UNFCCC) was an attempt to bring both these elements i.e. use of technology and maintenance of ecological fairness together and try to tackle the issues of sustainable development, environment degradation and climate change effectively. The UNFCCC was an idea which caused all the countries of the world to come together and look for a solution to this world problem. In this paper it has been attempted to understand the effectiveness of UNFCCC with respect to role of United States of America. The author has mentioned two particular conferences of parties which were proved to be two milestone steps for protecting our environment under international legal regime.

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Introduction:-

"Humans have turned ignorant to save the environment which opened doors for environment degradation and converted us into a follower of punitive laws or actions to save the environment from a vigilant, active and responsible citizen"

Environmental problems springs from two principal kinds of human activities. First the indiscriminate use of natural resources at intolerable levels and contaminating the environment through pollution and secondly discharge of the pollutant or wastes irresponsibly at in a manner which beyond the capacity of earth and our environment to absorb

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them or render them harmless results in ecological damage and environmental degradation. Industrialisation and economic development has resulted into gruesome environmental consequences human has to pay for its economic progress in form of pollution of air water and soil.¹ This Development and environment are closely related to each other. While in developed countries environmental problems are as a result of industrialization and technological development , in poor countries these problems arise due to less development. Developed countries are combating the environmental crisis so they argued that the developing countries will also have to combat the same problem because they make the same development. Developing countries cannot afford to ignore the environmental consequences of the process of development. Consequently, a wide range of environmental problems has emerged these problems include global warming , depletion of ozone layer causing ozone hole , the acidification of surface waters i.e. acid rain , the deforestation of tropical forests , the depletion and extinction of wildlife and the decline of biodiversity etc. Yet, while all of these problems have physical (environmental) manifestations their causes - and their effective solutions - are invariably bound up with human attitudes, beliefs, values, needs, desires, expectations, and behaviours.²

Hence , there has always been grey line of problem and that is to maintain harmony between development and environment. The future of the developing countries greatly depend on better international understanding of the right of development because this right depends on several other human rights. Article 55 of UN charter provides for economic development and respect for human rights as the twin foundations of friendly and peaceful relations among nations.³ Economic development and Human Rights are intimately connected with each other. Development is linked with human rights through the acceptance of social and economic rights. In simple words Human Rights and economic development are clearly complementary to each other. This complementarity necessitated the birth of mutual understanding at international level to protect the environment while keep developing which ultimately led to different conventions and treaties in that regard.

Historical Background of UNFCCC

Initially legal developments for the purpose of protecting the environment were confined to defining its nature and scope. All the Legal steps mostly focused on particular issues like regulation of fisheries, watercourses and birds (e.g. Convention between France and Great Britain Relating to Fisheries, 1867 and Convention for the Regulation of Whaling, 1931). In the 1930s, the transboundary consequences of air pollution were acknowledged in arbitral proceedings which led to establishment of arbitral tribunal. Initially two famous arbitrations happened , the Trail Smelter Arbitration Case between Canada and the United States and the Lac Lanoux Arbitration Case between France and Spain. The former dealt with the obligation not to cause transboundary pollution and the latter dealt with procedural obligations of prior notification, consultation, and negotiation in case of transboundary pollution. These decisions led to have a global undertaking on international environmental law. A number of treaties and declarations had been also adopted the principle laid down in Trail Smelter Case.⁴

The year 1972 was historic, because for the first time countries across the world came together to identify and address environmental problems. The United Nations Conference on the Human Environment, held in Stockholm in 1972, was the first international inter governmental conference to focus on environmental problems. The Stockholm Conference paved a way for a new era of multilateral environmental cooperation and treaty-making process. Stockholm's Plan of Action covered many important issues such as human settlements, natural resource conservation, land, sea, and air pollution and education. The conference did give rise to the UN environment Programme (NEP) which worked for Knowledge acquisition and assessment and International supporting actions. Soon this mega conference lost its momentum.⁵ Little progress had been made since 1972 in developing international law regarding liability and compensation for "adverse effects of environmental damage" and in the meantime, the environmental movement continued to grow worldwide. The UN General Assembly adopted a

¹] Global Environmental Issues and Human Wellbeing *available at* : <https://link.springer.com/chapter10> (last visited on 14th July 2021).

²] Climate Change *available at* : <https://www.downtoearth.org.in/climate-change> (last Visited on 14th July 2014).

³] Article 55 *available at* : <https://www.un.org/en/about-us/un-charter/chapter-9> (last visited on 14th July 2021).

⁴] International Pollution Issues *available at* : <https://intlpollution.commons.gc.cuny.edu/an-international-environmental-law-case-study-the-trail-smelter-arbitration> (last visited on 15th July 2021)

⁵] A Failure Reveals Success : A Comparative Analysis of Environmental Education, Education for Sustainable Development, and Industrial Ecology Education *available at* : <https://onlinelibrary.wiley.com/doi/pdf/10.1111/jiec.12049> (last visited on 16th July 2021)

resolution calling for a UN Conference on Environment and Development (UNCED) in 1992 informally known as Earth Summit held in Rio de Janeiro, which amounted to a return to the mega conference. It aimed at wide-ranging assessment of social and economic sectors with goals for improving environmental and developmental impact of each. In this conference five major agreements on global environmental issues were signed. One of these was United Nations Framework Convention on Climate Change.⁶

United Nations Framework Convention on Climate Change

The UNFCCC, signed in 1992 at the United Nations Conference on Environment and Development also known as the Earth Summit, the Rio Summit or the Rio Conference. The UNFCCC entered into force on March 21, 1994, and has been ratified by 197 countries. The objective of the Convention is “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”.⁷ It contains 26 Articles of which main articles can be well understood as follow –

Principles

Article 3 of Convention contains following five principles –

1. The Member States to this convention should protect the climate for the benefit of present and future generations of human on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.
2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.
3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.
4. The member states have a right to promote sustainable development. Schemes and steps to protect the climate system against human-caused change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.
5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all the countries.

Commitments

Article 4 of the convention contains following major commitments for the signatory states. There are two types of commitments general and specific. Article 4(1) contains the commitments which are general in nature and Article 4(2) provides specific commitments for the developed countries and countries which are specifically mentioned in Annex I.

General Commitments

Article 4(1) provides that all the member states, taking into account their common but differentiated responsibilities and their own specific national and regional development priorities, objectives and circumstances, shall -

Develop, update regularly, publish and make available to the Conference of the Parties (COP), in accordance with Article 12, national inventories of human caused emissions by sources and removals by sinks of all greenhouse gases.

⁶] Ibid.

⁷]What is UNFCCC available at : <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change> (Last visited on 16th July, 2021)

Formulate, implement, publish and periodically update national and, where proper, regional programmes containing steps to reduce climate change by addressing human caused emissions by sources and removals by sinks of all greenhouse gases.

Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent human caused emissions of greenhouse gases.

Promote sustainable management, and promote and cooperate in the conservation and enhancement of sinks and reservoirs of all 11 greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.

Cooperate in preparing for the harmonizing the impacts of climate change. Develop and elaborate proper and integrated plans for coastal zone management (CZM), water resources and agriculture, and for the protection and rehabilitation of areas which are affected by drought and desertification, as well as floods.

Take climate change documents into account, to the extent as possible, in their relevant social, economic and environmental policies and actions and shall employ proper methods. For example impact evaluation, formulated and committed nationally, with a view to minimizing bad effects on the economy, on public health and on the quality of the environment.

Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies.

Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies.

Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations.

Communicate to the Conference of the Parties (COP) information related to implementation in accordance with Article 12.

Specific Commitments

Article 4(2) provides that the developed member states and other member states as included in Annex I of the convention shall commit themselves specifically as provided for in the following –

Each of these member states shall adopt national schemes and take respective steps on the reduction of climate change rate, by limiting its human caused emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These national schemes and steps will determine that developed countries are taking the lead in framing longer-term methods in human caused emissions in consonant with the objective of the Convention. These Parties need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective of the convention. These member states may formulate and enact such schemes and steps jointly with other member states and may assist member states in contributing to the achievement of the objective of the Convention.

Calculations of emissions by sources and removals by sinks of greenhouse gases should take into account the best available scientific knowledge, including of the effective capacity of sinks and the respective contributions of such gases to climate change. The Conference of the Parties(COP) shall consider and agree on methods adopted for these calculations at its first session and review them.

Each of these member states shall

Coordinate as appropriate with other such Parties, relevant economic and administrative instruments developed to achieve the objective of the Convention and Identify and regularly review its own policies and practices which encourage activities that lead to greater levels of human caused emissions of greenhouse gases.

Conference of Parties (COP)

Article 7 provides that Conference of the Parties is established. According to Article 7 The Conference of Parties is the supreme decision-making body of the Convention. All States that are Parties to the Convention are represented at the COP, at which they review the implementation of the Convention and any other legal instruments that the COP adopts and take decisions necessary to promote the effective implementation of the Convention, including institutional and administrative arrangements. Since 1995 (1st Conference of Parties held at Berlin, Germany) to 2019 (25th Conference of Parties held at Madrid , Spain) 24 COPs have been held. Two of these are much important i.e. COP03 held at Kyoto in which Kyoto Protocol was adopted and second COP21 held in Paris in which Paris Agreement was adopted.

Conference of Parties – 3 , 1997 (Kyoto Protocol)

The Kyoto Protocol is an international agreement linked to the UNFCCC, which provides mechanism for its parties by setting internationally binding emission reduction targets. The Kyoto Protocol was adopted in Kyoto, Japan in 1997 and entered into force in 2005. It recognized that developed countries are principally responsible for the current high levels of Green House Gas emissions in the atmosphere as a result of more than 150 years of industrial activity.⁸

The detailed rules for the implementation of the Protocol were adopted at COP-7 in Marrakesh, in 2001 and are referred to as the Marrakesh Accords. The aimed reduction was to be achieved into to phases.

Kyoto Protocol Phase-1 (2005-12) gave the target of cutting down emissions by 5%.

Phase- 2 (2013-20) gave the target of reducing emissions by at least 18% by the industrialized countries.

Mechanisms to reach the objectives of protocol

The protocol provided flexibility to the signatories in achieving the reduction targets in the sense that countries must meet their targets primarily through their own national measures. However, the Protocol also offers them three additional means to meet their targets.

First approach was **Joint Implementation**. Joint Implementation project provides a reduction in emissions by sources, or an enhancement of removals by make use of natural processes, called “sinks,” that remove greenhouse gases from the atmosphere. The planting of trees, which take up carbon dioxide from the air, would be an example.

Second approach was the international program called the **Clean Development Mechanism (CDM)**, which encouraged developed countries to invest in technology and infrastructure in less-developed countries, where there were often significant opportunities to reduce emissions. Under the CDM, the investing country could claim the effective reduction in emissions as a credit toward meeting its obligations under the protocol. An example would be an investment in a clean-burning natural gas power plant to replace a proposed coal-fired plant.

A third approach was **Emissions Trading** , which allowed participating countries to buy and sell emissions rights and thereby placed an economic value on greenhouse gas emissions. European countries initiated an emissions-trading market as a mechanism to work toward meeting their commitments under the Kyoto Protocol. Countries that failed to meet their emissions targets would be required to make up the difference between their targeted and actual emissions, plus a penalty amount of 30 percent, in the subsequent commitment period, beginning in 2012 , they would also be prevented from engaging in emissions trading until they were judged to be in compliance with the protocol. The emission targets for commitment periods after 2012 were to be established in future protocols.

⁸]Kyoto Protocol available at : <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/kyoto-protocol> (Last visited on 20th July 2021)

On December 8th 2012, at Doha in Qatar, the Doha Amendment to the Kyoto Protocol was adopted for a second commitment phase of protocol, starting in 2013 and lasting until 2020. However, the Doha Amendment has not yet been entered into force because a total of 144 instruments of acceptance are required for entry into force of the amendment.

Conference of the Parties – 21, 2015 (Paris Agreement)

The COP 21 was held in Paris from 30 November to 12 December 2015. Negotiations resulted in the adoption of the Paris Agreement on 12 December, governing climate change reduction measures from 2020. The adoption of this agreement ended the work of the Durban platform, established during COP-17. The agreement will enter into force (and thus become fully effective) on 4 November 2016. On 4 October 2016 the threshold for adoption was reached with over 55 countries representing at least 55% of the world's greenhouse gas emissions ratifying the Agreement. It went much further than the Kyoto Protocol of 1997. 190 signatories have ratified the Paris Agreement.⁹

Objectives of Agreement:-

1. A long-term goal of keeping the increase in global average temperature to well below 2°C above pre-industrial levels.
2. To aim to limit the increase to 1.5°C since this would significantly reduce risks and the impacts of climate change.
3. On the need for global emissions to peak as soon as possible, recognising that this will take longer for developing countries.
4. To undertake rapid reductions thereafter in accordance with the best available science, so as to achieve a balance between emissions and removals in the second half of the century.

Mechanisms to reach the objectives of agreement

The Paris Agreement works on a **5- year cycle** of climate action carried out by countries. By 2020, countries submit their plans for climate action known as **nationally determined contributions (NDCs)**.

Nationally Determined Contributions

In their NDCs, countries communicate actions they will take to **reduce their Greenhouse Gas emissions** in order to reach the goals of the Paris Agreement. Countries also communicate in the NDCs actions they will take to **build resilience to adapt** to the impacts of rising temperatures.

Long-Term Strategies

To better frame the efforts towards the long-term goal, the Paris Agreement invites countries to formulate and submit by 2020 **long-term low greenhouse gas emission development strategies (LT-LEDS)**. LT-LEDS provide the **long-term horizon to the NDCs**. Unlike NDCs, they are not mandatory. Nevertheless, they place the NDCs into the context of countries' long-term planning and development priorities, providing a vision and direction for future development.

Role of United States of America

1992 - United Nations Framework convention on climate change was agreed at Rio Earth Summit. United States of America signed and ratified the convention. President George HW Bush said that "The America way of life is not up for negotiation". US was the first Nation to update its climate change strategy according to UNFCCC and also first nation to lay out its action plan which could reduce projected level of net greenhouse gas emissions.¹⁰

1997 – COP-3 adopted the Kyoto Protocol which committed developed countries to reduce greenhouse emissions. President Clinton signed Kyoto Protocol but the US Senate declines to ratify it. They then passed a resolution declining to ratify any treaty which mandates new commitment to limit or reduce emissions for developed countries unless commitments are also mandated for developing countries or would cause serious harm to the US economy.¹¹

⁹] Paris Climate Agreement available at : <https://www.c2es.org/content/paris-climate-agreement> (last visited on 22nd July 2021)

¹⁰] Public Papers available at : <https://bush41library.tamu.edu/archives/public-papers> (last visited on 24th July, 2021)

¹¹] Why the United States did not become a party to the Kyoto Protocol: German, Norwegian, and US perspectives available at : <https://journals.sagepub.com/doi/full/10.1177/1354066110380964> (last visited on 24th July 2021)

2001 President Bush opposed Kyoto Protocol and withdrawal US signature this is consistent with US not signing a major agreement.¹²

2007 - Cop13 adopted Bali Action Plan which mandated negotiation of an agreed outcome, to be adopted at the Copenhagen Conference in 2009. Upon U.S. insistence, the plan referred to “commitments *and actions*” by developed countries, setting the stage for the U.S. to undertake “actions” rather than legally binding “commitments”. U.S. opposed Bali Action Plan, but reconsidered it when Papua New Guinea demanded it leads or “get out of the way”.¹³

2009 – All these mess were raised by Europeans that the U.S. is seeking to weaken the Copenhagen deal. Analysis shows U.S. and other developed countries using flawed methodology to demonstrate funds which were delivered. At COP-15 President Obama announced the Copenhagen Accord , a non-binding deal , negotiated outside the formal UN process. The Accord and process were criticized and COP15 was widely considered a setback.¹⁴

2010 - US set emissions reduction target of 17% by 2020 from 2005 levels rather than 1990 levels which was targeted at just 4%. Leaked US communications strategy indicated that US government tried to reinforce the perception that the US is constructively engaged in UN negotiations in an effort to produce a global regime to combat climate change.¹⁵

2011 – COP-17 established Durban Platform and lead to the negotiation of parties agreement in 2015. US envoy opposed the references to the convention’s principles saying - if “equity is in , we are out”. Canada withdrew from the Kyoto Protocol having previously weekend its climate pledge following US example.¹⁶

2013 - COP19 in Warsaw provided for notion of “nationally determined contributions (while US had a consistent interest in avoiding internationally determined plans and binding mitigation targets) also applied the term to developed and developing countries (consistent with U.S. interest in blurring the distinction between developed and developing countries). U.S. opposed outcomes on loss and damage for most vulnerable countries , but ultimately became relent enabling the establishment of the Warsaw International Mechanism on Loss and Damage. Documents leaked by Edward Snowden showed U.S. spied on other countries during Copenhagen Conference, further undermining trust in U.S. and process.¹⁷

2014 - U.S. and China issued joint announcement on climate change, in which U.S. weakened its Copenhagen Accord emission reduction pledge from 30% by 2025 to 26–28% by 2025. 20 countries including the U.S., other developed and some developing countries came forward to financially support the Green Climate Fund.

2015 - Paris Conference concluded the Paris Agreement, which was widely hailed as a diplomatic success. The Agreement, however, consolidated the U.S. position by ensuring contributions would be “nationally determined” and non-internationally binding — effectively gutting the climate regime for wealthy industrialized countries, in favour of a weak international agreement that lacks binding mitigation targets, included weak rules on adaptation, finance, technology, and capacity building, and required the United States to undertake no climate legislation, thus enabled President Obama to sign it through Executive Order.¹⁸

¹²] Bush Kills Global Warming Treaty *available at* : <https://www.theguardian.com/environment/2001/mar/29/globalwarming.usnews> (last visited on 25th July 2021)

¹³] The Bali Roadmap: Climate Change, COP 13 and Beyond *available at* : <https://www.tandfonline.com/doi/full/10.1080/09644010802065807> (last visited on 25th July 2021)

¹⁴] Why did Copenhagen Fail *available at* : <https://www.thehindu.com/opinion/op-ed/Why-did-Copenhagen-fail-to-deliver-a-climate-deal/article16855005.ece> (Last visited on 25th July 2021)

¹⁵] United States association with Copenhagen Accord *available at* : https://unfccc.int/files/meetings/cop_15/copenhagen_accord/application/pdf/unitedstatescphaccord_app.1.pdf (Last visited on 26th July 2021)

¹⁶] Durban : Winners and Losers *available at* : <https://www.bbc.co.uk/news/science-environment-16131111.amp> (Last visited on 26th July 2021)

¹⁷] COP19 Warsaw *available at* : <https://www.c2es.org/content/cop-19-warsaw> (Last visited on 27th July 2021)

¹⁸] Paris Climate Agreement: Everything You Need to Know *available at* : <https://www.nrdc.org/stories/paris-climate-agreement-everything-you-need-know> (Last visited on 27th July 2021)

2017 - President Trump announced withdrawal from Paris Agreement.

2021 – Now , newly elected President of United States of America , Mr. Josheph R. Biden has accepted the paris agreement.¹⁹

Conlusion:-

The vast majority of climate scientists agree that climate change is occurring and manmade. Damage to ecosystems is already occurring and the costs are estimated at 5% of global Gross National Products, now and forever. It is therefore of vital importance that climate change policy as coordinated by the UNFCCC finds a response to this threat in the short term. The effectiveness of UNFCCC can be expressed as the extent to which global policy decisions are implemented in national measures to reduce climate change policies. The UNFCCC has been effective to only a limited extent. Global emissions of greenhouse gases are rising; the Kyoto Protocol covered less than one fifth of these emissions; the Doha Amendment to the Kyoto Protocol has not been ratified and has also become irrelevant with the withdrawal of some large emitters; and the Paris Agreement hinges on the assumption that countries will collectively implement sufficient voluntary emission reduction measures - which is currently not the case. The zigzag attitude of United State towards adoption of policies under UNFCCC and the Paris Agreement has jeopardized the Green Climate Fund. Now again Biden has accepted the convention , hopefully it will take all the countries to a concurrence where all the effort will be made towards saving the planet from bad effects of green house emissions. And that will be true contribution towards the slogan – Save the Earth , Save the Life.

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