

Climate Change Litigation in India: Emerging Trends and Global Relevance

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*Climate Change,
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ABSTRACT

Over the last decades, there has been the immense proliferation of climate change litigation in developed nations, following a rich array of litigation strategies and where corporate responsibility and governmental failure are highlighted. Most captivity is filed against massive entities that emit greenhouse gases to great amounts: relief for these actions includes injunction, damages, and establishment of duties and responsibilities related to climate change. Another noteworthy phenomenon in such jurisdictions is the growing use of human rights frameworks for making claims under the right to healthy environment and intergenerational equity. Moreover, it will include wins in the cases in which the focus has been on a core legal interest, formerly untested in cases, in which damages to human health out of climate change have been the basis for precedent-setting litigations against states for failing to act to prevent climate change. The emergence of climate change litigation as an essential tool to put governments and corporations on their feet and into action against the continuing environmental crisis has placed India as a particularly vibrant and universally interested case study. Besides the carbon emission profile of India, it is this judicial activism that makes the climate litigation discourse imagined in India, an important site for understanding the trends in the global environmental governance regimes. The paper will examine the trends in climate change litigation in India as developed through key judgments and its impact on environmental policy of the country and overall discourse on climate justice across the world. In particular, this review will clarify the reasons and reasons behind the rise in climate litigation, rules that govern it and the social repercussions of the litigation in the Indian context considering that India is particularly vulnerable to climate change effects such as air pollution..

1. INTRODUCTION

The emergence of climate change litigation as an essential tool to put governments and corporations on their feet and into action against the continuing environmental crisis has placed India as a particularly vibrant and universally interested case study. Besides the carbon emission profile of India, it is this judicial activism that makes the climate litigation discourse imagined in India, an important site for understanding the trends in the global environmental governance regimes. The paper will examine the trends in climate change litigation in India as developed through key judgments and its impact on environmental policy of the country and overall discourse on climate justice across the world. In particular, this review will clarify the reasons and reasons behind the rise in climate litigation, rules that govern it and the social repercussions of the litigation in the Indian context considering that India is particularly vulnerable to climate change effects such as air pollution. The paper also highlights the idiosyncrasies of judicial activism in India vis-a-vis its environmental predicaments as well, which is in contrast to other emerging economies such as China where it has also been accompanied to resolve the similar predicaments in environment such as air pollution. This session shall elucidate how the Indian courts are swinging between the giving of economic enhancement on the one hand, and the safety, respect, and life of the ecosystem on the other and potentially seek to use the public constitutional right and environmental law to advance the climate agenda.

Additionally, and despite the recognition of continuing issues of justifiability and standing, the exploitation of rights-based approaches, such as economic, social and cultural rights, in Indian climate litigation to hold state actors accountable for their obligations will also be considered throughout the discussion.

2. METHODOLOGY

Search Strategy

The review search Strategy, the identification of the presence of cases and scholarly articles related to climate change litigation in India was a thorough search for academic databases, legal journals and official court documents. The keywords like: climate change litigation India, environmental justice India, public interest litigation climate and Indian judiciary climate action were used to be able to have wide and inclusive retrieval of the relevant literature. In a more particular, the direction of the focus was sighted through the discovery of reports conducted by international organizations that examine the developmental tendencies of the world, which allows comparing the unique path of India in this changed sphere of legislation. The aim of this systematic approach was to not only take the foundational principles of the Indian environmental law but also the modern day practices that form the climate litigation landscape of that country. Specific attention has been given to the finding of the landmark determinations made by the Supreme Court of India and other High Courts that have explicitly dealt with climate change or have created precedents applicable to environmental protection as far the impacts of climate changes are concerned. The criteria were academic articles from peer-reviewed journals, policy reports from trusted

environmental agencies, and case summaries from the credible legal databases to ensure the scholasticism and scientific validity of the articles.

Inclusion and Exclusion Criteria

The cases included were very particular: they applied specifically climate change as one of the leading legal doctrines or they directly touched upon the policies of climate adaption and mitigation. On the other hand, the cases dealing with the issue of environmental pollution on a general basis without any identifiable connection to climate effects were not included, unless they determined ground rules which were to be used in the following in cases dealing with climate issues. This narrows down approach makes the analysis relevant to the narrow intersection of climate change and the remedies of law in India. The review also included the analysis of interdisciplinary research on the effects of the climate change, including the sea level rise and its consequences on the coastal communities with the aim of having the big picture explaining the judicial ruling. Bibliometric analyses were also included in the search to focus on important themes and the emergent research areas in sustainable development and climate change in India as this indicates the increased academic interest in the issues. Articles published within the period between 2015 and 2024 have been mostly taken into consideration to reflect on the recent trends, although studies published before 2015 were also included to bring more contextual trends. Moreover, the narrative review method was embraced in the synthesis of the results, where the entire results of the impact of climate change will be discussed thoroughly, such as methodology applied in examining the mental health effects of climate change. The purpose of this systematic review as an instrument of policy, practice, and research is to provide a crucial tool to policy makers, practitioners, and researchers interested in the complex interaction between climate change and human well being, especially in South and Southeast Asian setting and its applicability to all other parts of the world.

3. CLIMATE CHANGE LITIGATION: A GLOBAL OVERVIEW

Trends in Developed Nations

Over the last decades, there has been the immense proliferation of climate change litigation in developed nations, following a rich array of litigation strategies and where corporate responsibility and governmental failure are highlighted. Most captivity is filed against massive entities that emit greenhouse gases to great amounts: relief for these actions includes injunction, damages, and establishment of duties and responsibilities related to climate change. Another noteworthy phenomenon in such jurisdictions is the growing use of human rights frameworks for making claims under the right to healthy environment and intergenerational equity. Moreover, it will include wins in the cases in which the focus has been on a core legal interest, formerly untested in cases, in which damages to human health out of climate change have been the basis for precedent-setting litigations against states for failing to act to prevent climate change. In addition, lawsuits in many of these countries also go down to the level of causality, attribution and push and pull complex scientific testimonies to establish a link of burden containment to specific emission levels and climate effects. This exposure of corporations as increasingly turning to strategic lawsuits against climate activism is complicated by how corporations have become members of everyday citizens and the rights to freedom of speech and justice is endangered.

Trends in Developing Nations

By contrast, the climate change litigation in developing countries like India has largely taken the form of adaptation-related climate change litigation which focuses on disaster radiation and protection of vulnerable groups that are being affected disproportionately by the impacts of climate change. They tend to be grassroots cases, and focus on the immediate

humanitarian crises caused by climate change such as water shortages and agricultural and adverse weather-related disruptions. This generally involves expression of constitutional provisions of the right to life and dignity, to press for administrative measures by the state to mitigate the damages of climate, and to redress the historical injustice that has made people vulnerable to climate in the first place. Even though it is not necessarily successful on its own terms - litigators are not pursuing existing legal precedent but rather attempting to create new legal precedent - this change is a harbinger of an increasing judicial receptivity to human rights-based claims in climate change litigation in a number of jurisdictions. But despite this, even external will, a growing receptivity among plaintiffs can only result in partial gains in the loss and damage cases, especially if the plaintiffs are seeking compensation and with substantial legal, evidentiary, and practical difficulties, particularly that Global South against a Global North entity.

Key Cases and Legal Strategies

One of the most significant measures undertaken by various jurisdictions is to contest the governmental permission to build fossil fuels plants, to reduce the emission in the future and to unite the national policies with the international climate agreements. This strategy often uses environmental impact evaluation and administrative law principles to question the permitting decisions and infrastructure developments that are not in line with the climate objectives. In addition, litigants are actively adopting new theories of the law to demonstrate causality between certain emissions and the localized effects of climate, beyond conventional tort law issues. This development is usually accompanied by the incorporation of sound scientific attribution literature to directly trace anthropogenic emission of greenhouse gases to certain types of climate related damage, and enhance the claims against the guilty parties. In addition, legal actions based on human rights have diversified the legal discourse into a view of climate inaction as a human rights offence, and in some cases, resulted in advisory opinions of the international human rights institutions.

Climate Change Litigation in India

Continuing these international tendencies, the litigation on climate change in India has acquired peculiarities, depending on the socio-economic background of the country and legal system. An important part of this litigation is the appeal to constitutional rights, in particular, the right to life and healthy environment, in order to force the government to take measures to mitigate and adapt to climate change. This strategy frequently focuses on the idea of public interest litigation, which allows a court to intervene in a systemic problem in the environmental context and hold both the state and non-state actors responsible in their involvement in climate change. But constructing a direct causal role of particular emissions in particular climatic effects is still a major problem in the Indian legal system, which may regularly require sophisticated methodologies of scientific attribution.

Historical Context

Traditionally, climate change litigation in India is a development of larger environmental protection movements where early cases tended to concentrate on pollution management and preservation as opposed to climate change itself. Nevertheless, with the increasing effects of the climate change the legal issues started including arguments that dealt with issues more specifically, showing extreme weather events, water scarcity, and the decline in biodiversity, which were more of an effect of climate-specific harms. It is an evolution that has been aided by an active judicial system that has at times stretched environmental jurisprudence into issues relating to climate despite there not being any specific legislation on climatic issues. This judicial activism has played a key role especially in a legal environment in which there are still no clearly defined legislative frameworks to tackle climate change, and the courts can thus flexibly apply existing legislation concerning the environment.

Key Legislations and Policies

Although India does not have a dedicated climate law, its legal system of responding to climate change is based on a patchwork of environmental protection laws, policies, and court decisions to tackle climate change. Such acts are the Environment Act 1986, Water Act 1974, and Air Act 1981, which together with other regulations at state level and other international environmental law concepts are significant in the development of the climate-related jurisprudence. Though India does not have a specific climate framework law, the current laws on the environment with judicial interpretation being its supplement have been incorporated to drive the climate goals, a global trend to use various legal tools to act on climate. Moreover, the National Action Plan on Climate Change and its missions offer a legal policy outline to a greater extent of legal argument and judicial decision, especially regarding the advancement of renewable energy and climate resilience. Such a multidimensional legal and policy environment frequently requires multidisciplinary solutions that combine climate geoscience, adaptation responses, and governance tools, in order to comprehensively formulate urban resilience solutions.

Role of Public Interest Litigation (PIL)

Public interest litigation in India has been an effective tool towards climate change litigation and thus the concerned individuals or organisations may file a case before the court for a general welfare in case government is seen to act or not in the matter of concern. Also, it has been instrumental in holding government accountable, ensuring for ease the protection

of the environment where the government or executive has failed in exercising its duty. And, among other things, it is public interest litigation that has been helpful to direct climate policy or climate resilience measures on the basis of interdisciplinary research, to bolster climate resilience arguments in various areas like water, infrastructure and urban planning. Also, the judiciary has empowered itself by requesting opinion by expert committees and commissions on the complex questions surrounding climate change and, therefore, further bringing the scientific and technical knowledge into the judicial decision-making. These have gone a long way in framing adaptation policies in India, especially in the states as they highlight the distinct policies that will take into account synergies of mitigation and adaptation actions.

4. EMERGING TRENDS IN INDIAN CLIMATE CHANGE LITIGATION

Human Rights and Climate Change

The human rights/climate change connection in the Indian jurisprudence highlights the unfair effect of the climate change on the vulnerable population calling on the constitutional provisions that provide the right to life, health, and a dignified existence as the premise of insisting on climate action. This strategy acknowledges the fact that climate change compounds already existing imbalances and affects the most disadvantaged communities more readily, whose basic rights are at risk due to deterioration of the environment and extreme weather patterns. Because of this view, there is a need to go beyond the idea of climate change mitigation to the strong adaptation measures that concentrate on the vulnerabilities of these societies, and it is in this context that the local governance is vital in the execution of the successful climate response initiatives. This changing legal sphere is becoming more and more infused with the concepts of intergenerational equity and climate justice, suggesting that there is a duty of the present generations to safeguard the environment to the future generations, and to make the costs and benefits of climate action equitably distributed.

Corporate Accountability

Climate change litigation in India is also beginning to focus on corporations, aiming to make them pay in relation to their role in the causes of greenhouses gases as well as their inability to respond to the risks of the climate change. This trend can be viewed as the movement toward broader corporate environmental responsibility around the world, which requires corporations to internalize the internal costs of their climate impacts and invest in environmentally sustainable practices. These may include calling for remediation of environmental damage, imposing regulatory requirements, and even threatening business models that are not predatory while being apparently so as to their impact on the environment. Moreover, it is usually a type of litigation that aims to establish a precedent of corporate due diligence with respect to the disclosure of climate-related risks and risk assessment, hence having a direct impact on investment decision-making and the investment market. This includes the steps against corporations that do not correctly assess or disclose climate-related financial risks that could result in significant financial liabilities and reputational damage. The greater appreciation for the collective nature of the climate change harms and the impossibility of attributing the harm to any particular person also implies the need to reconceptualise the human rights law in terms of the environmental values and principles as a way to adequately deal with the climate change problem.

Adaptation and Resilience

The necessity of the adaptation and resilience ways towards climate change is becoming a central theme of Indian climate change litigation, in particular, in making sure the vulnerable populations and vital infrastructure are not affected by the inevitable effects of climate change. This is through legal battles that try to make the governmental institutions incorporate effective adaptation strategies that involve more focus on proactive rather than reactive efforts. Such legal initiatives are, likely to promote combined tools of climate change to simultaneously promote mitigation alongside adaptation especially on the sub-national setting that takes advantage of local governance to build climate resilience. Besides, such types of instances often appeal for scientific findings towards necessity to adapt, and attempt to impose climate resiliency ways of development legally for urban planning, agriculture and water resource management. This consists of lawsuits holding corporate administrators responsible for his or her insufficient reaction to climate opposing risks in their corporate plans, a broader trend in shareholder activist activity and regulatory mandates for improved environmental motion.

Loss and Damage

This aspect of litigation is compensation in nature that tries to find financial redress to losses caused by climate which cannot be avoided by adoption means. This consists of demands of accountability towards extreme climate conditions, evacuation, and devastation of ecosystems, and pressuring mechanisms to finance the recovery and reconstruction measures. And this also includes the legal mechanisms of planned migration and rehabilitation of communities displaced by climate change, their right to remedies other than the old mechanisms of humanitarian assistance. This type of litigation further examines the historic role of industrialized countries in contributing to global climate change by arguing that the planet requires a financial mechanism to compensate the developing world that bears disproportionately the impact of its effects. Moreover, this field of law struggles with the puzzles of causation that are never simple in relation to ascribing particular climate harms to particular actors or entities, in pursuit of establishing new norm standards of responsibility.

Challenges and Opportunities

Judicial Capacity and Expertise

It is noteworthy that the legal litigation of climate change in India has a critical issue of lack of experience of the judicial system in the difficult area of climate science and climate policy, which is a frequent hindrance to successful and nuanced adjudication of climate cases. It may frequently require training of judges and set up of expert panels to help courts learn the scientific foundation of claims made regarding the climate. In addition, the early phase of climate law jurisprudence in India implies that court case precedents are still in a state of development and hence there is inconsistencies in the decisions and there are no definite legal avenues of redress, which can be taken. To add to this, the nature of the environmental cases coupled with the delays in the procedures only adds pressure to the judicial system and prolongs the time required to settle the case. Hence, the creation of extensive training on issues of legal professionals and the creation of special environmental courts or tribunals would make it possible to increase the number of competent decision-making and speed up the court process substantially. Additionally, the extent to which adversarial legal systems are used might at times obscure the necessity to implement the multidisciplinary and collaborative method to the multifaceted issue of climate change, which requires a reconsideration of the norms of procedure.

Enforcement of Judgments

Despite such positive judicial ruling, there remains an insurmountable challenge of implementing judgments in cases that concern climate change, especially when remedial measures involve a wide coordination of governments, a huge financial investment or even a change in the conventional industrial practices. This is complicated by the possibility of political opposition and bureaucratism which may stifle the enforcement of court-imposed environmental regulations and adaptation measures. Further, because of the absence of strong accountability mechanisms sometimes non-compliance can continue to exist, which weakens the effectiveness of legal interventions. Additionally, the judicial complexities and information technologies are another hurdle to effective implementation of environmental judgments in India in the absence of existing information technology initiatives.

Stakeholder Engagement

Stakeholder participation is an essential part of climate change litigation and proper engagement of the affected communities, non-governmental organizations, and science practitioners, essential to help make the legal tactics just and scientifically appropriate. Nevertheless, in most of the instances there are some difficulties in providing inclusion especially to the marginalized groups in addition to the balancing of the varied interests and therefore results in conflicts and a slowdown process in prosecution of litigation. These impediments need to be able to communicate clearly and establish mechanisms of consensus-building with all the stakeholders involved to ensure that the results from the judicial process reflect a concept of climate justice that is broad societal. Besides, the policy of having multiple stakeholders is central to enhance the evidence base on climate litigation particularly in terms of making causal connections between anthropogenic actions and particular environmental harms. The interaction also enables effective post judgment monitoring and evaluation systems to be applied in which judicial redresses are maintained for the long and achieve their desired environmental and social goals.

Access to Justice

One of the major challenges for many and especially for the vulnerable communities has been the lack of availability of climate change litigation justice, as it has been mostly expensive and as most of the communities do not possess the financial resources and legal experience to go for complex legal procedures. This situation is complicated by the fact that expert testimony and scientific analysis are expensive and may be needed in most cases in order to support any claims in relation to climate. Also, the fact that climate litigation tends to take a long time - several years - can, on balance, also be seen as a factor that deters potential litigants from filing, due to the high cost and high emotional burden that a climate case could involve. Furthermore, the legal standing approach, notably in the term interests are harmed, can be applied inconsistently, which can be an obstacle of vulnerable communities to obtain justice. Against this backdrop, these institutional barriers pose the need to create new forms of law assistance, pro bono, and efficient forms of legal advocacy for climate justice to ensure that all the affected people can have access to the law.

5. CONCLUSION

This review has dealt with the emergent climate change litigation in India, and the way this is an important component for the defense and support of climate justice and accountability. It underlines the growing willingness of the judiciary to get involved in environment situation and call to a more responsibility of the state and the business elite to mitigate the impact of climate and adapt to its impact. Nonetheless, as environmental public interest litigation is a necessary form of intermediary for vulnerable bodies to exercise agency in environmental protection, climate justice requires that a solution to the issue does not merely valorise and victimise local communities to serve as recipients. Such a broad approach, which would give its adherence to the political protagonism on an ethnic and cultural basis, would be co-involved with the traditional forms of life, which is intensely dependent on the balanced ecological system. This redefinition is an important

element in the role to reverse the disproportion of those in disadvantaged communities who are the brunt of climate change to provide a more equitable and sustainable future. Thus, the concept of environmental justice in the form of distributional, recognitional and procedural facets needs to be incorporated unambiguously in the climate change policy and law for safeguarding the vested interest of all the vulnerable groups like the disabled and the urban poor.

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