



## LEGAL FRAMEWORKS FOR CLIMATE JUSTICE: ANALYZING THE ROLE OF INDIAN ENVIRONMENTAL JURISPRUDENCE IN SAFEGUARDING MARGINALIZED COMMUNITIES

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### ABSTRACT

*The paper explores the changing legal and judicial ecology of climate justice in India, including the assessment of the ways environmental jurisprudence offers protection to the marginalized groups that are disproportionately affected by the climate change. Grounded on constitutional rights, and complemented by statutory mechanisms like the Environment (Protection) Act, 1986, and Forest Rights Act, 2006, the law system of India has increasingly moved to embrace this nexus between environmental degradation and unfairness. The judiciary especially landmark judgment and Public Interest Litigation has played a critical role in leading a rights based approach to environmental protection. However, there is still much ground to be covered when it comes to legal enforceability, a participatory approach to governance, and overall implementation at the ground level despite programmatic initiatives such as the National Action Plan on Climate Change (NAPCC) and India managing to be part of the ratification of the Paris Agreement. The paper states the need of a more participatory, fair, and legally binding framework so that climate action can really serve those that are most at risk.*

**Keywords:** Climate Justice, Environmental Jurisprudence, Marginalized Communities, Indian Constitution, Public Interest Litigation, Forest Rights Act, Environmental Law, Climate Policy.

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## 1. INTRODUCTION

Climate change is one of the top issues in the world that need to be addressed in the 21<sup>st</sup> century, which goes past environmental compartments to sinking extensively in economic balance, health, and societal structures. These effects are however not equally distributed. Socio-economically weak and vulnerable populations (including aboriginal populations, poor rural communities, urban slum dwellers, etc.) are more affected by climatic disasters than others because they are vulnerable and have limited access to adaptive resources. Their lives and their livelihoods are threatened by increased temperatures, unreliable rainfall, rising sea levels, and abnormal weather etc., hence further contributing to existing disparities and socio-political marginalization. With that said, climate justice in this context is something that does not only attempt to reduce environmental damage but also endeavors to safeguard the rights of the most vulnerable to it.

The diverse landscape and long-standing socioeconomic stratification of India make the country particularly vulnerable to each of these forces. Since the early 1980s, environmental degradation has prompted a legislative and policy reaction; nevertheless, the rhetoric surrounding environmental law has evolved to prioritise equity, sustainability, and human rights. Environmental jurisprudence in India has taken a unique shape according to the country's constitution, laws, and courts. It is commonly believed that Article 21 of the Constitution guarantees the right to a clean and healthy environment, with the overarching goal of protecting human health, natural resources, and ecological harmony. The onus remains, meanwhile, on ensuring that the nation's most vulnerable populations benefit from these safeguards.

This paper takes a critical look at how the Indian environmental law embraces the notion of climate justice and how effectively it addresses the rights of the underprivileged citizens. It examines constitutional requirements, legislative structures, judicial, and policy bases in determining the legal reaction to climate-related vulnerability. By doing this analysis, this paper will be able to shed light on both the robustness of the legal framework in India regarding climate equity and the gaps as this paper will provide recommendations on how India needs to take the inclusive and justice-seeking approach toward environmental governance.



## 2. LITERATURE REVIEW

**Atapattu (2019)** highlighted the need of protecting vulnerable states and communities through a justice-based legal system, while also addressing climate justice, environmental justice, and constitutionalism. It looked at the potential application of constitutional principles to protect the rights of those most threatened by climate change, particularly in the South of the world. Climate constitutionalism, according to Atapattu, offers a rights-based approach to environmental governance, and he argues for more inclusive constitutional provisions to ensure the safety and inclusion of marginalised communities.

**Atapattu (2020)** explored the new phenomenon of displacement prompted by climate change, the legal weakness of existing international laws in addressing and safeguarding so-called climate refugees. The author took the angle of viewing displacement through a justice and human rights lens, pushing to establish legal safeguards that would take into consideration the disproportionate weight that a vulnerable community would take based on displacement. The paper explored the weaknesses of the current models and mechanisms of dealing with climate migration and emphasized the adoption of a legal-rights-based, equitable approach to forced environmental migration.

**Colombo and Giadrossi (2019)** presented a comparative study of international climate change adaptation litigation by paying close attention to the aspect of access to justice. The authors of the research analyzed legal obstacles through case studies where the affected communities turned to courts to petition the damages caused by the effects of climate change. They pointed out the fact on the unequal abilities to apply the law in different jurisdictions and the need to build upon the institutional mechanisms to enable justice in adaptation issues. Their article added to the debate on global climate litigation by raising the following issues of unfairness of procedures and the need to develop stronger legal routes as a means of promoting human rights of climate-vulnerable groups.

**Ghosh (2019)** detailed account of its development, legislative systems and court interferences. The highly focused component of the work was passing judgment on how the statutes on the



environment were being enacted and interpreted in India, and how the Indian system of law was frequently faced with the problem of striking a compromise between the goals of development and that of conservation. Ghosh similarly highlighted the value of litigation through public interest, and the roles of judiciary in developing environmental justice in law, but has also observed the intermittent enforcement and lack of responsibility that preserved an incapability to deliver practical environmental justice to discriminated communities.

**Giacomini (2022)** analyzed the role of Indigenous Peoples according to the principle of international human rights law and climate governance, in the context of climate justice at the global level. The following point that the author made was that the current apparatus of international law tended to push through the voices of Indigenous people by treating them as inactive recipients of climate change, but not as active agents of climatic resilience. Giacomini indicated the importance of alternative climate policies based on Indigenous knowledge systems, land rights and community based governance. The research proposed the redesign of governance systems so that Indigenous rights can be embraced and safeguarded as part and parcel of the global climate justice agenda.

### **3. CONCEPTUAL FRAMEWORK: CLIMATE JUSTICE AND MARGINALIZATION**

Climate justice is an ideology that aims at dealing with the unfairness faced by the population that contributes the least to causes of climate change. It is based on the principles of environmental ethics and human rights and focuses on equity in treating effects of climate and those that can be used in developing mitigation and adaptation policies. Although most carbon emissions have been associated with industrialized countries and wealthy citizens, it is the needy and the underprivileged that bear the brunt of effects, such as loss of livelihood, displacement, food insecurity and health disaster. The climate justice framework formally recognizes fair access to environmental resources, right of participation to decision-makers, and special protection to the vulnerable population.



The phenomenon of climate injustice in India is closely connected to the historical and structural injustices. The marginalized communities (i.e. Scheduled Tribes, Scheduled Castes, landless agricultural laborers, fisherfolk, urban slum dwellers), are most vulnerable to the vagaries of climate and live in the regions which are the most vulnerable to stress, floodplains, forest regions, drought-prone regions as well as in the coastal belts. They frequently lack the resilience to respond and bounce back in case of a climate-related shock due to their social and economic marginalization. In addition to this, such policies and projects that affect the environment often neglect to consult or compensate these people properly, which continues to displace them and makes them even weaker.

In such a way, climate justice in India requires the structural approach which integrates environmental protection and social equality. It should not only focus on technological solutions, but it should also take into account the lives of oppressed communities. The legal frameworks and policy-making instruments should capture the nexus between environmental sustainability as well as human rights so that the advantages of climate action can be distributed across the board and the most vulnerable become suitably empowered through having roles, protection of the law, and channels of justice. It is upon this conceptual grounding that the way in which Indian environmental jurisprudence has reacted to these colliding and overlapping challenges will be examined.

#### **4. CONSTITUTIONAL AND STATUTORY FRAMEWORKS**

The legal and constitutional environment of India has been highly dedicated to environmental safeguarding in the form of both fundamental rights and directive principles. These frameworks not only put forth the legal provisions of ecological governance in place, but also acknowledge the rights of citizens, particularly those who are marginalized, to existence with nature.

- The right to life and liberty is contained in Article 21 of the Constitution of India. This has been widely construed by the superior court of India as the right to healthy environment; hence with this being the case, the environment protection has been an element of the fundamental rights offered to the nationals regardless of the same. The



judiciary has sent out numerous landmark rulings defining that pollution-free water and air are necessary components of the enjoyment of this right.

- Article 48A specifies the State's responsibilities with regard to the protection and improvement of the environment, including the preservation of forests and wildlife. The Directive Principles of State Policy include such responsibilities. As a moral obligation to the government and a loose framework for the implementation of legislation and policymaking, these principles cannot be enforced in a court of law.
- To complete this is Article 51A(g), which is one of the Fundamental Duties embodied in the Constitution. It places an obligation on all citizens to conserve and enhance the natural environment, forests, lakes, rivers, wildlife as well as compassion towards living beings. This is a provision that emphasizes the participation of individuals in the conservation of the environment.
- The Environment (Protection) Act, 1986 that was passed after the Bhopal Gas Tragedy is an exhaustive act giving powers to the central government to control any causes of environmental pollution. It enables development of the standards on emissions, discharges, coordination of activities of different central and state agencies, and enforcement and penalty clauses on noncompliance.
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (also known as the Forest Rights Act or FRA) is an important law that gives legal recognition to the needs of indigenous communities. It gives legal recognition to the historical rights of communities who live and use forests, mainly the Scheduled Tribes, to forests and forest resources. The Act seeks to redress the injustice that was meted to such communities due to exclusionary conservation strategies and places them at the center of their efforts to conserve and sustainably manage forests.

These constitutional provisions alongside the statutory laws constitute what can be considered as a multidimensional legal framework associated with supporting environmental justice and climate resilience. They also note the importance of having an inclusive governance by making



sure that the groups that are vulnerable and marginalized are also heard when it comes to environmental decision-making process.

## 5. ROLE OF JUDICIARY IN ADVANCING CLIMATE JUSTICE

Courts in India have played an important role in shaping environmental and climate justice: when efforts at the legislative or executive level have otherwise been weak, legal action in courts has succeeded on several occasions. The courts have achieved this by adopting a rights-based approach grounded on innovative doctrines of the law that have widened the atmospheric shield and at the same time brought justice to the most vulnerable parts of society. The judicial branch, and especially, the Supreme Court and other High Courts has been transformative in the aspect of assimilating ecological issues in line with constitutional considerations of equality, dignity and right to life.

### 5.1. Landmark Judgments

- **M.C. Mehta v. Union of India:** Amongst the very first acts of environmental jurisprudence in India, it was a sequence of public interest litigations spearheaded by environmental lawyer M.C. Mehta. The Supreme Court has initiated and imposed the crucial environmental principles in diverse scenarios, including regulation of industrial pollution in the Ganga river, vehicle pollution in Delhi, and so on:
  - Public Trust Doctrine: This is the validity that nature resources such as air, water and forests are under the custodial powers of the state; and these resources cannot be exploited towards personal possessions.
  - Precautionary Principle which requires preventive measures in the event of environmental hazard despite that all the cause effect correlations may not be conclusively scientifically settled.
  - Polluter Pays Principle, whereby financial liability of polluting and harming the environment is placed in the hands of those who have done it with compensation being paid to those who are affected.



- **Indian Council for Enviro-Legal Action v. Union of India (1996):** This became a landmark case where the Court found the chemical manufacturing companies responsible in degrading the environment in a little village in Rajasthan. The verdict was a boost to strict liability of industrial pollution and the limits of pollution to the rural and the marginalized communities whose effects cannot be as immense as they are because they do not suffer as traffic pollution to the urban dwellers does to them and therefore, the prediction of environmental justice to the vulnerable groups.
- **Banwasi Seva Ashram v. State of Uttar Pradesh:** The feared forceful eviction of forest dwellers on the back of a government development project was the case here. When the Supreme Court came in they were trying to safeguard the rights of the tribal people and people who depended on the forest and stressed more on the topic of rehabilitation and preservation of livelihood and identity of the people. The case heralded the social equity consciousness that the Court was embracing over the environmental issues.

## 5.2. Public Interest Litigation (PIL)

The Indian legal system has witnessed a legal phenomenon brought about by public interest litigation where individuals and civil society organizations file a case before the judiciary on behalf of the people on issues that touch on the collective welfare especially environmentally and socially just. There is no strict locus standi to file a PIL as opposed to a conventional case representing system-excluded parties.

Courts have used PILs:

- Stalled projects contributing to the destruction of the environment or forced inappropriate resettlement of people.
- Clean- ups of polluted rivers and imposition of emission standards.
- Stepped in land acquiring situations bringing about unfair or insufficient compensation and rehabilitation.
- Guided the exercise of authorities on the technique of sustainable development which takes into consideration the growth of economy and the environment alongside human rights.



The involvement of judiciary in PILs has further demoted the environmental issues to the status of constitutional fights to keep the climate justice at the level of policy dream or at the level of judicial enforceability. By doing this the courts have designed a special niche where social justice collides with environmental protection and thus India is a bench mark in global environmental constitutionalism.

## **6. RECENT POLICY INITIATIVES AND INTERNATIONAL COMMITMENTS**

India has taken a major step forward towards drafting policy frameworks that take into account the problem of climate change in order to find a balance between environmental sustainability and the needs of development and social justice. Nonetheless, although based on the national and international declarations, despite the ambitious declarations, implementation-, inclusiveness-, and enforceability-related issues still prevail -especially when the interests of marginalized communities are involved.

### **6.1. National Action Plan on Climate Change (NAPCC) and State Action Plans (SAPCCs)**

In 2008, India began its strategic planning to address the challenge of climate change with the National Action Plan on Climate Change (NAPCC). Among its eight pillars are the following: the development of renewable energy; the improvement of energy efficiency; the preservation of biodiversity; the management of sustainable resources; and the promotion of sustainable agriculture. The NAPCC focuses on the so-called co-benefits - the implementation of the climate agenda with an emphasis on ensuring equal economic development and poverty alleviation. Nonetheless, opponents believe that it does not offer explicit mechanisms of local enforcement, legal action and responsibility to the vulnerable groups. SAPCCs were drafted to cater specific climate change related vulnerabilities within the regions, and yet face institutional limitations in capacity, weak public engagement or participation, coherent community based strategies, financial deficit, and lack of government departmental coordination.

### **6.2. International Commitments: Paris Agreement and Beyond**

India has pledged to reduce its emissions intensity relative to its gross domestic product (GDP) to 33% to 35% by 2030, boost its capacity to generate electricity from renewable sources to 40%, and promote afforestation and carbon sinks, among other goals, as a signatory to the Paris



Agreement. Nevertheless, India does not give many binding commitments and its internal translation into such principles as rights and climate justice still lacks. Although the country includes wordings of inclusive development in its Nationally Determined Contributions, decisions at the grassroots level do not include much participation, especially of women, indigenous communities, and other informal labor groups. India also has also supported the idea of climate equity and general responsibilities in the international community which means providing financial and technological help in mitigation and adaptation. Nevertheless, the fair share of adaptation finance, especially in the funding of community-based and local resilience initiatives, is lacking and takes away the transformational potential of climate action in most at-risk groups.

## **7. CONCLUSION**

The legal and judicial system of India has been successful in laying down the brickworks in incorporating the aspect of the environment protection with the principle of equity and justice depicting the original model of the environment constitutionalism. Indian law system has created awareness what environmental degradation and changes in climatic conditions mean to the rights of disadvantaged communities with the help of broad interpretations of the constitution, stronger enactment of the statutes, and proactive judicial activities, particularly in the form of Public Interest Litigations. Nevertheless, although there is impressive performance in some landmark litigation and policy frameworks such as the NAPCC and international commitments made within the Paris Agreement, there continues to be a large implementation divide, grassroots engagement and poor access to justice concerns by vulnerable peoples. The practice that should be followed in India to have the spirit of climate justice is to not just confine to the declaratory policies and the judicial activism, but an institutional approach with inclusive, enforceable and participatory approaches should be incorporated upholding climate justice, in particular by ensuring that both the benefits and safeguards of the environment are represented equally among groups who have historically not been included in decision-making and access to resources.



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