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INDIA'S CLIMATE CHANGE COMMITMENTS: LEGAL CHALLENGES IN IMPLEMENTING THE PARIS AGREEMENT

AUTHORED BY - MANSI DALAL

ABSTRACT

This paper examines India's legal and institutional framework for implementing its climate commitments under the Paris Agreement. It explores key challenges, including weak regulatory mechanisms, coordination gaps between the central and state governments, and financial constraints. Through a doctrinal analysis of statutes, case laws, and policy documents, this paper demonstrates the role of judicial activism in shaping environmental governance. While India has made strides in renewable energy and afforestation, effective implementation remains hindered by enforcement limitations and conflicting development priorities. It concludes with recommendations to strengthen India's climate policy and legal framework.

Keywords: Climate law, Paris Agreement, judicial activism, regulatory challenges, policy implementation.

INTRODUCTION

Climate change is one of the most pressing challenges of our time, affecting ecosystems, economies, and human rights worldwide. The Paris Agreement, adopted in 2015, aims to limit global temperature rise to below 2°C, and India, as the third-largest emitter of greenhouse gases, plays a crucial role in this effort. India has committed to reducing its emissions intensity by 33–35% by 2030 and ensuring 40% of its energy comes from non-fossil fuels.¹ However, achieving these goals is challenging due to legal and institutional hurdles. Internationally, India follows the UNFCCC's principle of "common but differentiated responsibilities," which recognizes that developed nations should take greater responsibility for climate action.² Domestically, India relies on laws like the Environment Protection Act (1986), the Energy Conservation Act (2001), and the Electricity Act (2003), along with policies like the National

¹ Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104.

² United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107.

Action Plan on Climate Change (2008), to drive climate action.³ Despite these efforts, weak enforcement, overlapping jurisdictions, and financial constraints hinder progress.⁴ India's updated 2021 targets, including net-zero emissions by 2070 and a 45% reduction in emissions intensity by 2030, require stricter regulations, better coordination, and more funding.⁵ Balancing climate action with development goals like poverty alleviation adds complexity. While India has shown global leadership through initiatives like the International Solar Alliance, addressing domestic challenges—such as strengthening institutions, improving climate finance, and streamlining laws—is essential to meet its commitments and ensure a sustainable future.⁶ By tackling these issues, India can achieve meaningful climate action while supporting its growth and development.

SCOPE AND METHODOLOGY

This research is exploratory as well as inferential nature based on a doctrinal methodology whereby elucidation of the legal sources provides for comprehension of India's domestic climate change framework and how such a framework could be read in light of international obligations under the Paris Agreement.⁷ The review entails primary sources that include statutes, case law, and policy documents, together with secondary sources providing insights on the effectiveness and implications of the laws, such as academic articles, reports, and commentaries from the experts.⁸ The study evaluates India's Nationally Determined Contributions (NDCs) and the domestic legislative framework, judicial interpretations, and policy measures taken by India to implement climate commitments. Though international climate agreements provide the broad context, this paper focuses only on the manner in which India is making an attempt to achieve its NDCs, thus identifying the gaps, challenges, and room for improvements in its legal and policy landscape. Elaborating upon the methodology, this research adopts one that takes a doctrinal view in evaluating India's climate governance, compliance with international obligations, and the efficacy of domestic legal instruments leading to developments in environmental law scholarship as well as policy discourse.

³ The Environment (Protection) Act, No. 29 of 1986, INDIA CODE.

⁴ Navroz K. Dubash & Ninan Joseph, *India's Climate Policy: Towards a Progressive Framework*, 51(3) ECON. & POL. WKLY. (Jan. 16, 2016)..

⁵ Aaron Atteridge, Manish K. Shrivastava, Neha Pahuja & Himani Upadhyay, *Climate Policy in India: What Shapes International, National and State Policy?*, 41(S1) AMBIO 68, 68–77 (2012).

⁶ *Id*

⁷ Gurdip Singh, *Environmental Law in India* (E. Book Co. 2013).

⁸ *Id*

LITERATURE REVIEW

Climate commitments of India and the legal difficulties therein have been established as subjects of extensive scholarly examination. They emphasise the role of judicial activism, the strength of policy frameworks, and gaps in coordination between the centre and state governments.⁹ In this review, we synthesize key findings of the academic articles and journals, focusing on the legal and institutional mechanisms for climate action in India, the role of the judiciary, and challenges met in fulfilling its Paris Agreement commitments. The courts of India have substantially contributed significantly in evolving environmental jurisprudence. Rights to a clean environment as being part of the right to life under Article 21 of the Constitution of India have been pronounced upon by the Supreme Courts of India through landmark judgments. Besides, in the landmark *MC Mehta v. Union of India* (1987), the right to life was stated to include the right to a pollution-free environment so as to create a precedent for the environmental litigation.¹⁰ In *Vellore Citizens Welfare Forum v. Union of India* (1996), the Court envisages principles of sustainable development and the precautionary principle with emphasis on the need to strike a careful balance between economic growth and environmental protection.¹¹

Although the National Green Tribunal (NGT), which was created by the National Green Tribunal Act of 2010, has also played a significant role in resolving environmental disputes, the judiciary still faces obstacles that impede effective climate action, such as delayed proceedings and limited enforcement capacity.¹² Scholars such as Gurdip Singh (2013) have studied the NGT's role in enforcing environmental laws and its impact on climate governance.¹³ The National Action Plan on Climate Change (NAPCC), which was introduced in 2008, is the main document that governs India's climate policy. To combat climate change, the NAPCC lists eight missions, such as the National Mission on Enhanced Energy Efficiency and the National Solar Mission. The NAPCC's role in mainstreaming climate action into national development planning is highlighted by research by Dubash and Joseph (2016).¹⁴ But they also note that the NAPCC's efficacy is constrained by its lack of finance and legally binding aims. Scholarly analysis has also focused on the Intended Nationally Determined Contributions

⁹ *Id*

¹⁰ *M.C. Mehta v. Union of India*, AIR 1987 SC 1086 (India).

¹¹ *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715 (India).

¹² The National Green Tribunal Act, No. 19 of 2010, INDIA CODE.

¹³ Gurdip Singh, *Environmental Law in India* (E. Book Co. 2013).

¹⁴ Government of India, *National Action Plan on Climate Change* (2008).

(INDCs), which were submitted under the Paris Agreement.¹⁵ India's INDCs demonstrate a commitment to sustainable development, but their implementation is hampered by institutional and financial barriers. A 45% decrease in emissions intensity by 2030 and net-zero emissions by 2070 are the goals of the revised NDCs, which were unveiled in 2021. But as Chakrabarty (2021) points out, accomplishing these goals will necessitate substantial legislative and policy changes. India's climate action faces significant legal and financial challenges due to its fragmented legal framework, which includes laws like the Environment Protection Act (1986)¹⁶ and the Energy Conservation Act (2001)¹⁷. These laws, while foundational, lack coherence and strong enforcement, leading to delays in implementation. Overlapping jurisdictions between central and state governments further complicate matters, as highlighted by scholars like Lele et al. (2018). Financial constraints also pose a major hurdle, with investments in renewable energy and climate adaptation falling short of what's needed, despite efforts to secure international funding through mechanisms like the Green Climate Fund. Coordination between central and state governments remains uneven, with states like Gujarat and Karnataka making progress in renewable energy, while others lag due to limited resources. Non-state actors, including civil society and private companies, play a complementary role by driving innovation, but regulatory barriers and funding shortages often limit their impact. Existing research overlooks critical areas, such as the role of local governments, the impact of climate change on rural communities, and the effectiveness of policies at the grassroots level. Addressing these gaps is essential to creating a more inclusive and effective climate governance framework in India, ensuring that climate action aligns with the needs of its most vulnerable populations.

LEGAL FRAMEWORK

1. Domestic Legal Framework:

India's domestic legal framework for climate action is built on key legislations addressing environmental protection, energy efficiency, and forest conservation. These laws provide a structural foundation for climate governance but face systemic challenges in implementation and enforcement.

a) The Environment (Protection) Act, 1986

This Act serves as the backbone of India's environmental regulatory system. It

¹⁵ Government of India, *India's Intended Nationally Determined Contributions* (2015).

¹⁶ The Environment (Protection) Act, No. 29 of 1986, INDIA CODE.

¹⁷ The Energy Conservation Act, No. 52 of 2001, INDIA CODE.

grants the central government authority to regulate emissions, set industry standards, and combat pollution. While its broad mandate allows for comprehensive environmental governance, its effectiveness is undermined by overlapping regulations and weak enforcement. For example, industries often bypass emission standards due to lax monitoring and negligible penalties. The Act's centralized structure also clashes with state-level policies, creating jurisdictional conflicts. States like Tamil Nadu and Maharashtra have occasionally resisted federal directives, citing regional economic priorities, which highlights the tension between national environmental goals and local development agendas.¹⁸

b) National Green Tribunal Act, 2010

The National Green Tribunal (NGT) was established as a specialized judicial body to expedite environmental disputes. It has delivered landmark rulings, such as banning polluting diesel vehicles in Delhi and penalizing industries for illegal waste disposal. However, the NGT struggles with delayed proceedings and inconsistent enforcement. For instance, its order to shut down industries dumping toxic waste into the Ganga River saw partial compliance due to political interference and economic pressures. State governments often contest the NGT's authority, arguing that environmental decisions should align with local economic needs, which weakens the tribunal's impact.¹⁹

c) Forest Conservation Act, 1980

This Act mandates central government approval for diverting forest land for non-forest use, aiming to curb deforestation and promote afforestation. Despite its intent, illegal logging and encroachments persist, particularly in biodiversity-rich regions like the Western Ghats and Northeast India. Large infrastructure projects, such as highway expansions and mining operations, frequently bypass the Act's provisions, leading to habitat destruction. The lack of community participation in decision-making further limits its effectiveness, as indigenous communities—who are often forest custodians—are excluded from conservation strategies.²⁰

d) Energy Conservation Act, 2001

This Act promotes energy efficiency through initiatives like mandatory energy audits for industries and appliance standards. The Bureau of Energy Efficiency

¹⁸ Environment (Protection) Act, 1986, No. 29, Acts of Parliament, 1986 (India).

¹⁹ The National Green Tribunal Act, No. 19 of 2010, INDIA CODE.

²⁰ The Forest Conservation Act, No. 69 of 1980, INDIA CODE.

(BEE) oversees these measures, but implementation gaps persist. For example, while large industries are required to conduct energy audits, many small and medium enterprises (SMEs) evade compliance due to high costs and lack of incentives. The Act's focus on voluntary participation and insufficient penalties for non-compliance has slowed progress toward renewable energy adoption, particularly in rural and industrial sectors.²¹

POLICY FRAMEWORK

India's climate policy is guided by strategic national plans and international pledges, which outline ambitious goals but face operational and structural challenges.

1. *National Action Plan on Climate Change (NAPCC)*

Launched in 2008, the NAPCC comprises eight missions targeting climate mitigation and adaptation. The National Solar Mission aims to expand solar energy capacity, contributing to India's position as a global leader in solar power. The National Mission on Sustainable Agriculture promotes climate-resilient farming techniques, such as drought-resistant crops and water-efficient irrigation. However, the NAPCC's non-binding nature and fragmented funding hinder its execution. Missions often operate in isolation, with poor coordination between ministries and states. For instance, the National Water Mission struggles to address inter-state water disputes, while the National Mission for a Green India faces delays in afforestation due to bureaucratic red tape.²²

2. *Intended Nationally Determined Contributions (INDCs)*

India's INDCs under the Paris Agreement include reducing emissions intensity by 33–35% by 2030 and sourcing 40% of energy from non-fossil fuels. While renewable energy capacity has surged—particularly in solar and wind—challenges like land acquisition disputes, grid instability, and financing gaps persist. For example, solar parks in Rajasthan face opposition from local communities over land rights, delaying projects. The INDCs also overlook sector-specific emissions, such as methane from agriculture and particulate matter from transportation, which account for a significant

²¹ The Energy Conservation Act, No. 52 of 2001, INDIA CODE.

²² Government of India, *National Action Plan on Climate Change* (2008).

share of India's carbon footprint.²³

JUDICIAL PRECEDENTS

India's judiciary has been pivotal in advancing environmental jurisprudence, setting precedents that integrate climate action with constitutional rights.

1. *M.C. Mehta v. Union of India (1987)*

This case marked a turning point by recognizing the right to a clean environment as integral to the right to life under Article 21. It empowered citizens to challenge environmental violations through Public Interest Litigation (PIL). The judgment led to transformative measures, such as the shift to Compressed Natural Gas (CNG) for Delhi's public transport, significantly reducing vehicular pollution. Subsequent rulings in the case addressed industrial pollution in the Ganga Basin, though enforcement remains inconsistent.²⁴

2. *Vellore Citizens Welfare Forum v. Union of India (1996)*

The Supreme Court introduced the precautionary principle and sustainable development as legal doctrines, mandating that economic activities must not compromise ecological balance. This decision influenced later cases, such as restrictions on mining in ecologically sensitive zones. However, industries often exploit loopholes, such as obtaining ex-post facto environmental clearances, undermining the principle's intent.²⁵

3. *Indian Council for Enviro-Legal Action v. Union of India (1996)*

This case reinforced the "polluter pays" principle, holding industries financially liable for environmental damage. The Court ordered chemical plants in Rajasthan to compensate for groundwater contamination, setting a benchmark for corporate accountability. Despite this, many industries continue to externalize environmental costs, citing economic growth and employment generation.²⁶

²³ Government of India, *India's Intended Nationally Determined Contributions* (2015).

²⁴ *M.C. Mehta v. Union of India*, AIR 1987 SC 1086 (India).

²⁵ *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715 (India).

²⁶ *Indian Council for Enviro-Legal Action v. Union of India*, AIR 1996 SC 1446 (India).

4. *T.N. Godavarman Thirumulpad v. Union of India (1997)*

The Supreme Court expanded the legal definition of forests to include all ecosystems with natural vegetation, regardless of ownership. This halted deforestation for commercial projects in areas like the Aravalli Hills and protected biodiversity hotspots. However, illegal mining and urbanization continue to threaten forests, as seen in Goa and Chhattisgarh, where political interests often override conservation mandates.²⁷

5. *Arjun Gopal v. Union of India (2016)*

This case addressed Delhi's severe air pollution, leading to bans on firecrackers and stricter vehicle emission norms. The Court's intervention highlighted the health impacts of air quality on vulnerable groups, such as children and the elderly. However, seasonal stubble burning in neighbouring states and industrial emissions remain unresolved, reflecting the limits of judicial orders without systemic policy changes.²⁸

INTERNATIONAL OBLIGATIONS

India's climate strategy is shaped by global commitments that emphasize equity and shared responsibility.

1. *Paris Agreement (2015)*

India's updated NDCs aim for net-zero emissions by 2070 and a 45% reduction in emissions intensity by 2030. While renewable energy adoption is accelerating, coal remains a dominant energy source, complicating decarbonization. Climate adaptation measures, such as flood-resistant infrastructure in coastal states, are underfunded, leaving marginalized communities at risk.²⁹

2. *UNFCCC and CBDR Principle*

India advocates for the common but differentiated responsibilities (CBDR) principle, arguing that developed nations must lead climate action due to their historical emissions. It has pushed for financial and technological transfers to support developing countries, but commitments from wealthier nations remain inadequate. India's stance in international forums, such as its opposition to coal phase-out demands at COP26,

²⁷ T.N. Godavarman Thirumulpad v. Union of India, A.I.R. 1997 S.C. 1228 (India).

²⁸ Arjun Gopal v. Union of India, (2017) 1 S.C.C. 412 (India).

²⁹ Paris Agreement, Dec. 12, 2015, T.I.A.S. No. 16-1104.

reflects its balancing act between climate commitments and developmental needs.³⁰

ANALYSIS

1. *Legal Challenges in Implementing the Paris Agreement*

a) Weak Regulatory Mechanisms

The lack of a comprehensive climate change law creates critical challenges for India as it strives to fulfil its commitments in the Paris Agreement. In contrast to countries such as the UK and Germany, which have comprehensive climate laws in place (Climate Change Act, 2008; Federal Climate Protection Act, 2019, respectively), India responds to climate issues through an assortment of scattered statutes and policies that inadequately address such concerns. The Environment Protection Act (1986), the Energy Conservation Act (2001), and the Electricity Act (2003) lay down a general set of guiding legal principles; there is, however, no comprehensive unifying context for climate governance. This array of the legal specification leads to vagueness in legislation, enforcement difficulties, ambiguity in accountability of different stakeholders, etc. In addition, without a unified legal framework involving legally binding emission reduction targets, India's ability to effectively implement and monitor climate policies is stunted.

India's current climate policies, such as the National Action Plan on Climate Change, do provide pointers in terms of direction but further neglect the creation of such statutory laws and ultimately push towards enforcement through executive action rather than legal obligation. As for the NDCs that India's committed to putting into action—i.e., a 45 percent reduction in emissions intensity by 2030 and net-zero emissions by 2070—these demand a legal framework to ensure compliance. Without enforceable legal obligations, there is always a risk that climate commitments will remain just ink on paper.³¹

b) Coordination Problems

The distribution of powers between the central and state governments under the Seventh Schedule of the Indian Constitution raises a crucial problem since these are the organs by which climate actions unfold in India. While environmental protection is on the concurrent list and can, therefore, be legislated on by both governments, climate change governance is taken up by ministries and agencies

³⁰ United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107.

³¹ Gurdip Singh, *Environmental Law in India* (E. Book Co. 2013).

with overlapping mandates. This fragmentation leads to delays, inefficiencies, and conflicts in policies.

Renewable energy development, for instance, would involve coordinating action between the Ministry of New and Renewable Energy (MNRE), the Ministry of Power, and state electricity regulatory commissions. Climate adaptation measures are similar, as they will have to deal with agencies dealing with agriculture, water resources, and disaster management, complicating implementation even further. Management of renewable energy development cuts across current political boundaries: actions implemented in states such as Gujarat and Karnataka have received considerable preliminary impetus, while others fall behind for want of technical capacity, financial resources, and bureaucratic delays.

Further, the state action plans under the framework of the State Action Plan on Climate Change often face funding shortages and disjointedness from national policies. A more cohesive governance model clearly outlining different governmental levels' roles and responsibilities is needed for the development of a streamlined climate action process in India.³²

c) Financial constraints

India's climate ambitions will require enormous financial resources for renewable energy scale-up, climate adaptation, and emissions-reduction technologies. Although considerable success has been made in mobilizing private investment in solar and wind energy, the international climate finance is still inadequate. The International Energy Agency (IEA) estimates that India will require more than \$10,000 billion worth of investments by 2070 to reach net-zero targets. Yet, domestic budgetary allocations and international climate finance contributions are still lagging far behind this amount.

India has sought financial assistance from global mechanisms, including the Green Climate Fund (GCF), bilateral arrangements with nations, such as Japan, the USA, and Germany. Nevertheless, delays in disbursements, convoluted eligibility processes, and insufficient grant-based funding have all hindered the efficaciousness of these efforts. Relying solely on public sector funding is also inadmissible for such financing gaps. Immediate attention to the establishment of PPPs and innovative financing mechanisms, such as green bonds, carbon pricing,

³² Navroz K. Dubash & Ninan Joseph, *India's Climate Policy: Towards a Progressive Framework*, 51(3) ECON. & POL. WKLY. (Jan. 16, 2016)..

and sovereign green funds, is paramount to attract resources for climate action.³³

ROLE OF JUDICIAL ACTIVISM

The Indian judiciary has played an important role in evolving environmental jurisprudence in India to enforce climate-related policies. In landmark judgments, the Supreme Court has widened the ambit of environmental rights under Article 21 of the Constitution and forested the right to a clean and healthy environment as an integral component of the right to life.

In *M.C. Mehta v. Union of India* (1987), the Supreme Court stated that the responsibility of the government was to control the pollution coming out of industrial activities by protecting the natural resources.³⁴ Again, the Court in *Vellore Citizens Welfare Forum v. Union of India* (1996) introduced various concepts, namely the precautionary principle and the polluter pays principle. These principles strengthened sustainable development.³⁵

The National Green Tribunal is a special-purpose tribunal aimed at resolving inter-agency, government stakeholder disputes in the enforcement of laws relating to the environment and most sustainable development. But, with its increasingly aggressive activism and approach towards environmental projects, the Indian judiciary has faced issues such as delayed proceedings, limited enforcement capacity, and jurisdictional conflicts between courts and tribunals.³⁶

While judicial activism has been of great assistance in plugging fault-lines in an otherwise tardy and grossly inefficient environmental governance regime, it cannot altogether replace and substitute other supremely important roles of comprehensive legislative policy and its efficient implementation. Also, there is a risk that continued reliance on the judiciary to solve climate problems will contribute to policy uncertainty and aloofness in enforcement at the implementation level. A multi-pronged approach laying equal emphasis on judicial, executive, and legislative processes in order to achieve effective climate governance, is considered appropriate for a sustainable climate.

³³ Aaron Atteridge, Manish K. Shrivastava, Neha Pahuja & Himani Upadhyay, *Climate Policy in India: What Shapes International, National and State Policy?*, 41(S1) AMBIO 68, 68–77 (2012).

³⁴ *M.C. Mehta v. Union of India*, AIR 1987 SC 1086 (India).

³⁵ *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715 (India).

³⁶ Aaron Atteridge, Manish K. Shrivastava, Neha Pahuja & Himani Upadhyay, *Climate Policy in India: What Shapes International, National and State Policy?*, 41(S1) AMBIO 68, 68–77 (2012).

RECOMMENDATIONS

In order to adequately respond to climate challenges, India should produce a full-fledged climate change law that would lay down legally binding emission reduction targets consistent with its NDCs and net-zero targets, define the respective roles of the central, state, local governments, and industry, and introduce mandatory climate risk assessments to infrastructure and industry planning. The coordination between the federal and state governments through a Climate Governance Council under the PMO with capacity development action to harmonize SAPCC with national policies will guarantee effective implementation of climate policies. Long term foreign capital through public-private partnerships, involving mechanisms such as green bonds and carbon pricing to enable accelerated access to international funds, would promote investments in renewable energy, electric mobility, and climate-resilient infrastructure and set up a robust system of deterrents for violations and rewards for innovation.

CONCLUSION

The onus of India's possibility of meeting its commitment to the Paris Agreement rests with the challenges posed by regulatory, financial, and governance models. It notes that an elaborate legal framework exists, but that it is dissociated and unenforceable requiring a proper climate change law. The stringent requirements for coordination between the central and state governments and financing for climate action will also be key to ensuring a swifter response to climate action in India. While judicial activism has been helpful in promoting environmental governance, structural reforms are needed in this area to create sustainable, legally valid climate policy. In pursuing these options, India will be able to strengthen its climate governance framework, meet its international obligations, and secure a resilient future for its people.

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