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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# CLIMATE LITIGATION IN INDIA: EMERGING TRENDS AND JUDICIAL RESPONSES

AUTHORED BY - AARCY AGGARWAL  
B. Com (Honors), LLB, Punjabi University, Patiala

## **Abstract**

Climate litigation has emerged globally as a strategic legal tool to hold governments, corporations, and institutions accountable for climate inaction or environmentally harmful practices. In India, a country particularly vulnerable to the adverse impacts of climate change, the judicial system especially the higher judiciary has played a transformative role in shaping climate jurisprudence. This paper explores the evolution of climate litigation in India, analyzing the constitutional and statutory foundations, landmark judicial decisions, and the increasing public interest litigation (PIL) movement addressing environmental degradation and climate risks. Furthermore, it examines the emerging trends in litigation strategies, role of scientific evidence, engagement of youth and civil society, and the use of international legal principles within Indian courtrooms. Finally, the paper highlights the challenges and opportunities for mainstreaming climate litigation as a legitimate and robust mechanism to promote climate justice in India.

**Keywords:** *Climate Litigation, Climate Jurisprudence, PIL, Climate Change*

## **1. Introduction**

Climate change represents one of the gravest existential challenges of the 21st century, transcending geographical and legal boundaries (IPCC, 2021). The adverse consequences of global warming rising temperatures, erratic monsoons, increased frequency of extreme weather events, melting glaciers, sea-level rise, and desertification have disproportionately impacted developing countries like India (Shyam, 2001). According to the Intergovernmental Panel on Climate Change (IPCC), India is among the nation's most vulnerable to climate-induced disasters, yet its greenhouse gas emissions continue to increase due to industrialization, urbanization, and energy demands (GoI, 2015: NGT, n.d.).

Legal discourse on climate change has evolved globally with the rise of climate litigation a

form of judicial intervention wherein affected individuals, communities, NGOs, and even governments seek redress for climate-related harm or the failure of authorities to act in accordance with climate responsibilities (UNFCCC, 1992; Rajamani, 2020). Although India does not have a standalone climate change law, its constitutional framework, environmental statutes, and dynamic judicial interpretations have laid a fertile ground for climate litigation.

The Indian judiciary, particularly the Supreme Court and various High Courts, have invoked Articles 21 (Right to Life), 48A (Protection of Environment), and 51A(g) (Fundamental Duties) of the Constitution to promote environmental justice (Johl, 2020; Cullet, 2011). Over the last three decades, Indian courts have evolved into environmental sentinels, creating an expansive jurisprudence that often intersects with climate concerns despite not explicitly labeling cases (Dutta, 2018; Khosla, 2022) as “climate litigation.”

This paper aims to examine the state of climate litigation in India, identifying landmark judgments, underlying legal principles, and recent trends that mark a shift from conventional environmental litigation to climate-specific legal activism. It will also evaluate how Indian courts are responding to new challenges posed by climate change, including the admissibility of climate science, use of international law, intergenerational equity, and the precautionary and polluter pays principles.

## 2. Constitutional and Legislative Framework Supporting Climate Litigation in India

### 2.1. Constitutional Provisions

However, it provides a strong foundation for environmental protection, which forms the legal bedrock of climate litigation:

- **Article 21:** Interpreted expansively by Indian courts, the “Right to Life” includes the right to a clean and healthy environment, a livable climate, and protection against ecological degradation.
- **Article 48A:** A Directive Principle of State Policy obligates the State to protect and improve the environment and safeguard forests and wildlife.
- **Article 51A(g):** Imposes a fundamental duty upon every citizen to protect the natural environment, including forests, lakes, rivers, and wildlife.

## 2.2. Key Environmental Statutes

- **Environment (Protection) Act, 1986:** Considered an umbrella legislation for environmental governance in India, it empowers the central government to take measures to address environmental pollution and hazards, including those arising from climate-related activities.
- **Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974:** These statutes regulate pollution and contribute to climate mitigation indirectly by controlling greenhouse gas precursors like carbon monoxide, methane, and particulates.
- **Forest Conservation Act, 1980 and Wildlife Protection Act, 1972:** This help maintain ecological balance, sequester carbon, and protect biodiversity, thus contributing to climate resilience.
- **National Action Plan on Climate Change (NAPCC), 2008**
- **State Action Plans on Climate Change (SAPCCs)**
- **Energy Conservation Act, 2001**
- **National Green Tribunal (NGT) Act, 2010:** A landmark legislation that established a specialized judicial body to handle environmental disputes. NGT has played a pivotal role in climate-sensitive adjudication.

While these legal frameworks are not explicitly climate-centric, courts have creatively interpreted them to accommodate climate justice claims. For instance, greenhouse gas emissions have been brought under the umbrella of “air pollutants,” enabling the judiciary to extend regulatory oversight under the Air Act.

## 2.3 Constitutional Underpinnings of Climate Litigation

The Indian Constitution provides a robust foundation for environmental and climate-related claims. The judicial interpretation of Article 21 has been pivotal in this regard. Through a series of landmark rulings, the right to life has been expanded to include:

- The right to a healthy environment
- The right to clean air and water
- The right to ecological balance
- The right to sustainable development

In *Subhash Kumar v. State of Bihar* (1991), the Supreme Court held that the right to life includes the right to pollution-free water and air. Similarly, in *M.C. Mehta v. Union of India* (1987 onwards), the apex court laid down expansive doctrines such as the precautionary

principle, polluter pays principle, and public trust doctrine each of which is now integral to Indian environmental jurisprudence and forms a fertile ground for climate claims.

#### **2.4 The Role of the Judiciary in Climate Governance**

Indian courts have assumed a proactive role in environmental governance, often stepping into regulatory vacuums left by the executive and legislative branches. This judicial activism, while occasionally critiqued as judicial overreach, has often functioned as a vital counterbalance in ensuring environmental accountability. Some core contributions of the judiciary include:

- Interpreting environmental rights as fundamental rights
- Enforcing international environmental norms and soft law through domestic judgments
- Instituting continuing mandamus for long-term environmental monitoring
- Establishing specialized bodies like the National Green Tribunal (NGT) for expeditious disposal of environmental matters

The judiciary has also created institutional precedents that facilitate climate-related litigation, such as recognising locus standi broadly in environmental PILs, permitting epistolary jurisdiction, and acknowledging intergenerational equity as a guiding principle.

### **3. Global Influence on Indian Climate Litigation**

Though rooted in domestic constitutional and statutory frameworks, Indian climate litigation is increasingly informed by global jurisprudence and international treaties. Instruments such as:

- United Nations Framework Convention on Climate Change (UNFCCC)
- Paris Agreement (2015)
- Stockholm Declaration (1972)
- Rio Declaration (1992)

These have been frequently referenced in Indian courts to bolster the legitimacy of climate-related claims. For instance, courts have invoked Principle 10 of the Rio Declaration, which guarantees public access to environmental information and justice. The Supreme Court in *Vellore Citizens' Welfare Forum v. Union of India* (1996) integrated international environmental principles into domestic law through the “international environmental law as part of domestic law unless contradictory” doctrine.

### **3.1 Relevance of Climate Litigation in Indian Socio-Economic Context**

India is uniquely vulnerable to climate change due to its:

- Dense population
- Agrarian dependence
- Rapid urbanisation
- Fragile ecosystems

These factors amplify the socio-economic repercussions of climate impacts. Climate litigation, therefore, has the potential not only to enforce environmental accountability but also to address climate justice ensuring that vulnerable and marginalised communities are not disproportionately affected or ignored.

Cases have increasingly focused on issues such as:

- Deforestation and loss of carbon sinks
- Renewable energy obligations
- Coastal regulation and sea-level rise
- Urban heat islands and extreme heat
- Flood mismanagement due to illegal constructions

Thus, the litigation terrain in India is moving toward incorporating climate equity, climate adaptation, and just transition into the legal framework.

## **4. Landmark Cases and Judicial Responses**

### **4.1 MC Mehta v. Union of India (1987 onwards)**

Although not directly climate-related, the MC Mehta series laid the foundational jurisprudence for environmental rights under Article 21. The “Polluter Pays” and “Precautionary Principles” emerged from this corpus.

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

Reinforced the application of strict and absolute liability in environmental harm a principle that is now being expanded to include climate impacts.

### **4.3 Navroz Mody v. Union of India (1994)**

Addressed climate-related health issues due to industrial air pollution, recognizing environmental justice as an extension of Article 21.

#### **4.4 Himachal Pradesh Bus Stand Management v. Central Empowered Committee (2010)**

Upheld the public trust doctrine, stating that natural resources, including air and climate systems, are held in trust by the state for future generations

#### **4.5 Mohammad Salim v. State of Uttarakhand (2017)**

Granted legal personhood to the Ganga and Yamuna rivers, indirectly recognizing ecological rights a jurisprudential milestone with implications for climate ecosystems

#### **4.6 In Re: Court on its Own Motion v. State of Delhi (2017)**

Dealt with severe air pollution in Delhi and led to court-mandated shutdowns, fuel restrictions, and monitoring of PM2.5 and PM10 levels — effectively becoming climate-linked litigation due to the carbon dimension of the problem.

#### **4.7 Ridhima Pandey v. Union of India (2017)**

This case involved a nine-year-old girl filing a petition before the NGT against government inaction on climate commitments under the Paris Agreement. Although dismissed on procedural grounds, it remains symbolic of rights-based climate litigation.

#### **4.5 Navroz Mody v. Union of India (2019)**

Focused on coastal regulation zone violations in Mumbai. The court emphasized the need for climate-resilient infrastructure, integrating climate science into judicial decision-making.

## **5. Role of the National Green Tribunal (NGT)**

### **5.1 Establishment and Mandate**

The NGT, established under the National Green Tribunal Act, 2010, provides a specialized forum for environmental disputes. It ensures expeditious disposal of cases with a focus on environmental justice.

### **5.2 Climate Litigation before NGT**

- *Rohit Choudhary v. Union of India (2012)*: Mining and deforestation in Assam linked to climate vulnerability.
- *Society for Protection of Environment and Biodiversity v. Union of India (2019)*: Linked hydropower development to glacial melting and climate disruption in Uttarakhand.

## 6. Judicial Innovations in Climate Jurisprudence

### 6.1 Expansion of Locus Standi

Courts have relaxed the traditional rule of standing, allowing NGOs, social activists, and affected communities to file climate-related PILs.

### 6.2 Precautionary Principle

Emphasized in *Vellore Citizens Welfare Forum v. Union of India (1996)*, this principle has been invoked in various climate-impact cases.

### 6.3 Polluter Pays Principle

Reiterated in multiple rulings, this principle imposes liability on those contributing to carbon emissions and environmental degradation.

### 6.4 Intergenerational Equity

Recognized in *State of Himachal Pradesh v. Ganesh Wood Products (1995)* the notion that current generations owe a duty to preserve the environment for future generations.

## 7. Climate Change and Human Rights Nexus

Judicial recognition of climate change as a human rights issue is rising. Cases increasingly highlight the intersectionality of climate vulnerability with poverty, gender, caste, and tribal rights.

- *Court on its own motion v. State of Himachal Pradesh (2012)*: Linked climate-induced landslides to negligence in afforestation policy, endangering tribal settlements.

## 8. Emerging Trends in Climate Litigation

### 8.1 Youth-led Climate Suits

Inspired by global cases like *Juliana v. United States*, Indian youth activists have begun filing suits demanding stronger climate action.

### 8.2 Corporate Climate Accountability

Litigations now target corporations with high carbon footprints, pressing for disclosures, mitigation commitments, and damages.

### 8.3 Climate Refugees

Though not yet codified, emerging litigation focuses on those displaced due to climate-induced events like floods and desertification.

### 8.4 Just Transition Litigation

Litigations are now challenging state policies that ignore the social costs of transitioning to green economies e.g., livelihood impacts on coal miners.

## 9. Challenges in Climate Litigation

- **Lack of Climate-Specific Laws:** Existing laws are not tailored for climate justice.
- **Scientific Uncertainty:** Difficulty in attributing specific harms to climate change.
- **Institutional Limitations:** NGT and courts are often overburdened and under-resourced.
- **Corporate Pushback:** Legal arm-twisting by powerful carbon-emitting industries.

## 10. Recommendations

1. **Draft a Climate Change Law:** Codify obligations and liabilities specific to climate change.
2. **Strengthen NGT's Capacity:** Provide resources and expand jurisdiction.
3. **Enhance Climate Literacy among Judges:** Judicial academies should integrate climate law training.
4. **Foster Public Participation:** Encourage climate litigation as a tool of democratic accountability.
5. **Support Legal Aid for Climate Victims:** Ensure access to justice for vulnerable populations.

## Discussion

Climate litigation in India represents a rapidly evolving intersection of environmental activism, legal advocacy, and judicial innovation. While the Indian judiciary has historically played a proactive role in upholding environmental rights under Article 21, the complexity of climate-related harms introduces new challenges. Courts are now expected not only to interpret existing environmental laws but to stretch them to address transboundary, intergenerational, and cumulative impacts of climate change.

The discussion around climate litigation must consider the broader socio-political context of India, which is marked by development pressures, energy needs, and economic disparities. The invocation of Public Interest Litigations (PILs) in climate cases remains a significant driver of environmental justice, but the success of such litigations often hinges on judicial discretion and scientific clarity. Moreover, a lack of standardized metrics for assessing climate damage and accountability mechanisms complicates judicial interventions.

There is also a growing shift in the types of petitioners and defendants involved in climate litigation from traditional NGOs and activists to affected communities and private individuals, and from government bodies to corporate polluters. This indicates a democratization of environmental claims but simultaneously demands enhanced legal expertise and procedural clarity.

Additionally, international climate jurisprudence particularly from jurisdictions such as the Netherlands, Germany, and Australia is beginning to influence Indian environmental law. Courts in India are cautiously receptive to foreign precedents, often using them to bolster the argument for recognizing a right to climate stability.

Despite these advancements, a coherent national climate litigation strategy is still lacking. Fragmented regulatory frameworks, overlapping jurisdictional authorities, and inconsistent policy implementation hinder the effectiveness of judicial pronouncements. Therefore, while Indian climate litigation is promising, it requires institutional backing, legislative refinement, and cross-sector collaboration to be truly transformative.

## Conclusion

Climate litigation in India is undergoing a metamorphosis. From a reactive mechanism to a proactive catalyst for climate governance, it is shaping legislative agendas, empowering civil society, and compelling the State to uphold intergenerational justice. Indian courts have, through progressive interpretations, carved out a distinctive path in the Global South, blending constitutional morality with environmental pragmatism. Yet, to realize its full transformative potential, climate litigation must be backed by comprehensive legislation, institutional fortification, and a rights-based paradigm that centres on justice, equity, and sustainability.

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