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Climate Litigation and Human Rights: Emerging Global Trends and the Scope for Judicial Adoption in India

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ABSTRACT

The study examines the emerging convergence between climate change litigation and human rights jurisprudence, with a particular focus on its relevance and potential application within the Indian legal framework. Climate change has traditionally been addressed through environmental regulatory mechanisms but now exists as a human rights issue that affects fundamental rights which include the right to life health equality and dignity. The paper uses doctrinal and comparative legal research methods to study important court cases which include Urgenda Foundation v. Netherlands Asghar Leghari v. Federation of Pakistan and Milieudefensie v. Royal Dutch Shell alongside international human rights instruments and evolving global norms. The research shows how courts from different jurisdictions have moved away from project-specific environmental claims to enforceable structural rights-based methods which create mandatory requirements for both states and certain businesses.

The study shows that Indian courts use their doctrinal authority to handle climate issues as human rights violations through their broad application of Article 21 and public trust doctrine. The study shows how Indian judges now recognize the relationship between climate change and human rights through their recent judicial decisions. The paper examines the judicial potential for transformative change while showing how justifiability and separation of powers together with enforcement constraints and institutional limits create obstacles to this process. The study proposes calibrated judicial strategies which include scientific benchmarks together with structural remedies and institutional monitoring mechanisms to establish effective and legitimate climate governance. The study demonstrates that a human rights-based climate litigation approach provides India with a strong constitutional foundation for climate justice who protects both institutional equilibrium and democratic authority.

Keywords: *Climate Change, Litigation, Human Rights, Article 21, Climate Justice*

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I. INTRODUCTION

Decades ago, climate change was not considered outside the very strict paradigms of environmental regulations or nature conservation. It is now, however, a giant human right issue. The effects of warming Earth have been very diverse and quite severe, among them extreme weather conditions, the rise in ocean levels, worsening air pollution, desertification, and slow onset processes like glacial retreat, or the decrease of biodiversity. All of these consequences have been threatening human rights directly.[3] The enumeration of the rights that are jeopardized goes from the one of life to that of health, nutritional and housing security, water for personal usage with the highest degree of cleanliness, and even the persistence of cultures, in particular, those of the native peoples and of the ones that are most vulnerable to climate changes.[4]

Litigants in different jurisdictions have over time become conversant with this reality and their strategies transformed accordingly. The environmental aspect of the problem, that was the main concern in their arguments, gave way to the ones based on violations of constitutional guarantees and internationally acknowledged human rights. This modification has allowed the courts to avail climate change not only as an issue of foreign policies, but also as their immediate and enforceable legal obligation of states and under certain conditions, of corporations.[5]

Some of the major judicial decisions taken in Europe, South Asia, and the Americas reflect the judge's mindset. Following the Urgenda case in the Netherlands[6], courts have issued mandates for governments to set more targets for emission reduction that are ambitious. In the Leghari v. Federation of Pakistan case[7], the climate policy at the national level was given legal backing, and the court went further to Milieudefensie v. Royal Dutch Shell case[8] where they held the multinational companies legally responsible for their part in polluting the atmosphere besides just the emitted gases by their operational activities. With these historical court decisions, the issue of climate protection is no longer in the hands of the politicians only but rather it is shifting

[3] Savaresi, A. (2020). Human rights and the impacts of climate change: Revisiting the assumptions. 11(1), 231–253. https://doi.org/10.35295/OSLS.IISL/0000-0000-0000-1143

[4] Humphreys, Stephen (2008) Climate change and human rights: a rough guide. . International Council on Human Rights Policy, Versoix, Switzerland. ISBN 2940259836. http://eprints.lse.ac.uk/id/eprint/26036

[5] Preston, B. J. (2018). The Evolving Role of Environmental Rights in Climate Change Litigation. 2(2), 131–164. https://doi.org/10.1163/24686042-12340030

[6] Urgenda Foundation v. State of the Netherlands (Ministry of Infrastructure and the Environment), ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands, Dec. 20, 2019).

[7] *Leghari v. Federation of Pakistan*, W.P. No. 25501/2015 (Lahore High Court, Sept. 4, 2015).

[8] *Milieudefensie et al. v. Royal Dutch Shell plc*, (District Court of The Hague, May 26, 2021).

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to justice that is increasingly acknowledging it as a requirement connected with giving full and fair protection to the basic rights of people and human dignity.[9]

This work globally frames such changes in the Indian legal system. It examines the ways in which the Indian courts that have already been characterized by a comprehensive approach to constitutional interpretation, especially under Article 21 of the Constitution, can take over, re-shape, and human-rights-based be the new way of solving climate-related problems[10]. In the light of comparative jurisprudence and newly adopted international human-rights doctrines, the Indian courts have the capacity, both from a doctrinal and an institutional point of view, to close the gap existing between environmental protection and climate justice. However, while doing so, it indicates the troubles and obstacles that the court's reception of these ideas may cause, particularly with reference to justiciability, separation of powers, and enforcement measures. Through the conjunction of these global and domestic trends, the work attempts to provide a complete picture of the opportunities and the limits of climate litigation finally being part of the human rights framework in India.

II. GLOBAL TRENDS IN CLIMATE–HUMAN RIGHTS LITIGATION

A. From Environmental Torts to Human-Rights Frames

One of the main characteristics of the first wave of climate-related cases was the reliance on traditional environmental law frameworks, which are based on statutory obligations, regulatory compliance, planning permissions, and, to some extent, tort claims such as public nuisance or negligence.[11] Most such cases aimed only at stopping particular activities (e.g., coal mines or power plants), or at making sure that environmental impact assessments were carried out, or at local levels of damage getting compensated. But in fact, these methods became inadequate in dealing with the climate crisis that was seen as systemic and transboundary, and thus, going beyond individual projects or local harms.[12]

The youth movements, indigenous communities, NGOs, and municipalities collectively decided to refashion the climate crisis as a human-rights crisis.[13] Through this reframing, the following

[9] Peel, J., & Osofsky, H. M. (2017). A Rights Turn in Climate Change Litigation. *Transnational Environmental Law*, *7*(1), 37–67. https://doi.org/10.1017/S2047102517000292

[10] Rajamani, L. (2013). Rights Based Climate Litigation in the Indian Courts: Potential, Prospects & Potential Problems. *Social Science Research Network*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2464927

[11] Rydberg, A. V. (2024). Climate Change Litigation: General Perspectives and Emerging Trends. *International Community Law Review*, *26*(4), 347–366. https://doi.org/10.1163/18719732-12341504

[12] Mustafa, F. (2024). *Legal Responses to Climate Change: A Review of Environmental Law Frameworks Across Jurisdictions*. *2*(4), 73–79. https://doi.org/10.36676/ijl.v2.i4.44

[13] Gasparri, G., Imbago-Jácome, D., Lakhani, H., Yeung, W., & El Omrani, O. (2022). Adolescents and youth are prioritising human rights in the climate change agenda. *BMJ*, *379*, o2401. https://doi.org/10.1136/bmj.o2401

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three major changes take place:

- Focuses on dignity as a source of the damage: By associating climate change with rights to life, health, culture, and, in fact, food and housing, plaintiffs are moving beyond arguments of the environment as a steward and are revealing the existential levels of the game for individuals and communities.
- Overcomes the limitations of interest: When climate change is presented from a human-rights perspective, the number of participants in a case is not as restricted as before. Children, future generations, and vulnerable groups may speak for themselves by saying that their rights are uniquely threatened because of climate inaction. This step has allowed for strategically planned youth-led cases such as Juliana v. United States to be on the scene.
- Insists on structural changes: Human-rights-based litigation most of the time asks for proactive structural changes instead of compensation only for the past harms committed. That is why governments are forced to take up ambitious emissions targets, put mitigation plans into action, or restructure climate governance frameworks. [14]

These were the changes that had their bases in developments at the international level. The United Nations Human Rights Council (2021) and the UN General Assembly (2022) recognized the right to a clean, healthy, and sustainable environment as a universal human right.[15] y giving courts more normative legitimacy when considering climate protection as a judicially enforceable rights-based duty, this recognition has had an impact.[16] Consequently, human rights are not at the periphery of climate litigation any longer; they are the leading legal framework through which rights holders argue their cases and judges decide the relief to be granted.

B. Representative Landmark Cases

1. Urgenda Foundation v. Netherlands (2019, Supreme Court)[17]

The Dutch Supreme Court supported the idea that the State is obliged to protect its citizens from climate change that can be dangerous by cutting the emission of greenhouse gases by 25% or

[14] Gradoni, L., & Mantovani, M. (2023). Youth-Led Climate Change Litigation: Crossing the North-South Divide. *Verfassung Und Recht in Übersee*, *56*(2), 274–298. https://doi.org/10.5771/0506-7286-2023-2-274

[15] Limon, M. (2022). United Nations recognition of the universal right to a clean, healthy and sustainable environment: An eyewitness account. *Review of European, Comparative and International Environmental Law*, *31*(2), 155–170. https://doi.org/10.1111/reel.12444

[16] Fitzmaurice, M. (2024). *The Human Right to a Clean Environment and the Jurisprudence of International Courts and Tribunal* (pp. 459–482). Oxford University Press. https://doi.org/10.1093/oso/9780192848086.003.0024

[17] *Urgenda Foundation v. State of the Netherlands (Ministry of Infrastructure and the Environment)*, ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands, Dec. 20, 2019).

more below the 1990 level by 2020, at the very least.[18] What is more, the Court, apart from domestic tort law, also took into consideration international human rights obligations under the European Convention on Human Rights (Articles 2 and 8—right to life and right to family/private life) while making its decision. The case has become a global model, which shows that courts can define the mandatory measurable reduction of emissions in accordance with scientific consensus and international agreements.[19]

2. Milieudefensie et al. v. Royal Dutch Shell[20]

One of the historic first moves was when the court ordered Royal Dutch Shell to cut down its carbon emissions all over the world by 45% by 2030 (compared to 2019). Whereas Urgenda was about a state, this case held a private multinational corporation accountable, standardizing the logic that Shell was responsible to the Dutch people and the world at large for a breach of the duty of care. The case is memorable for showing how climate action by companies can be mandated by the courts. However, it is an appealed case that represents the trend in which courts are increasingly challenging corporate human rights responsibilities in the climate context.

3. Asghar Leghari v. Federation of Pakistan[21]

A farmer's lawsuit argued that Pakistan's failure to put its climate policy into practice was a violation of the basic rights under the Constitution. The Court agreed and held that the refusal to take climate adaptation measures had infringed upon the rights to life, dignity, and property. It established a Climate Change Commission to supervise adherence, a typical example of how South Asian courts resort to constitutional rights and structural remedies to compel governments to implement rather than just announce their obligations.

4. Juliana v. United State[22]

The child plaintiffs filed a lawsuit against the U.S. federal government, accusing it of climate negligence that resulted in a breach of their constitutional rights and violation of the public trust doctrine. The District Court allowed the establishment of a plausible claim, but the Ninth Circuit later rejected most of it on justiciability grounds, stating that the setting of climate policy is the task of the political branches. This case delineates the eventual human rights climate litigation

[18] Cavalcanti, M. F., & Terstegge, M. J. (2020). *The Urgenda case: the dutch path towards a new climate constitutionalism*. *43*(2). http://www.dpceonline.it/index.php/dpceonline/article/view/966

[19] Nollkaemper, A., & Burgers, L. (2020). *A New Classic in Climate Change Litigation: The Dutch Supreme Court Decision in the Urgenda Case*. https://pure.uva.nl/ws/files/50327941/ejiltalk.org_A_New_Classic_in_Climate_Change_Litigation.pdf

[20] *Milieudefensie et al. v. Royal Dutch Shell plc*, ECLI:NL:RBDHA:2021:5337 (District Court of The Hague, May 26, 2021).

[21] *Leghari v. Federation of Pakistan*, W.P. No. 25501/2015 (Lahore High Court, Sept. 4, 2015).

[22] *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020).

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successes in systems with a strong separation-of-powers doctrine as well as the limits thereof.[23] Juxtaposing these cases together accentuates the multifaceted nature of the understanding of rights claims, scientific evidence, state obligations, and judicial authority by means of different jurisdictions.

III. INTERNATIONAL INSTRUMENTS AND THE HUMAN-RIGHTS BASIS

Among the human rights consequences of climate change is the great acceleration that has been the recognition by various international institutions, whose statements, decisions, and jurisprudence increasingly link the environment with the enjoyment of fundamental rights. These events present an essential normative connection that strengthens the positions of litigants in domestic courts and sends the message that environmental protection is not only a matter of policy but a legal obligation based on human rights.

The turning point in 2022 was when the United Nations General Assembly (UNGA) adopted Resolution 76/300 acknowledging "the human right to a clean, healthy, and sustainable environment." Even though it is not binding in a formal sense, this resolution is an important moral and persuasive one, as it reflects almost universal consensus among the states. Courts, and litigants, can rely on this recognition to show the emergence of opinio juris—the sense of legal obligation regarding environmental rights—and as a link between international soft law and domestic constitutional adjudication. In a similar manner, the UN Human Rights Council (HRC) had earlier adopted Resolution 48/13 (2021), also confirming the same right. All these indicate a growing trend in anchoring environmental rights within the framework of international human rights law.[24]

The International Covenant on Civil and Political Rights (ICCPR) protects the right to life (Article 6) and the right to privacy and family life (Article 17), both of which have been used in environmental cases. The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides for the right to health (Article 12), food (Article 11), and adequate housing (Article 11), all of which are threatened by climate change.[25] The Committee on Economic, Social, and Cultural Rights, in its General Comment No. 15 on the right to water and No. 14 on the right to health, has identified the responsibility of the states to prevent environmental degradation that leads to these rights being undermined.

[23] Bobeck, K. J. (2024). Right to Breathe: A Constitutional Path to Environmental Justice & Equity. *University of Pittsburgh Law Review*, *85*(2). https://doi.org/10.5195/lawreview.2023.998

[24] Arman, P. (2024). United Nations Recognition Of The Right To A Clean, Healthy And Sustainable Environment As A Human Right. https://doi.org/10.58733/imhfd.1451533

[25] Trigo González, M. (2023). Human rights, indigenous communities and climate change. The Torres Strait islanders case. *Actualidad Jurídica Ambiental*. https://doi.org/10.56398/ajacieda.00345

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Regional human rights systems have made more progress in connecting climate change with enforceable obligations. The European Court of Human Rights (ECtHR), as an illustration, has started to accept climate cases under Articles 2 and 8 of the European Convention on Human Rights that deal with the right to life and the respect for private and family life.Klima Seniorinnen v. Switzerland[26], the case awaiting decision in which a lawsuit by senior women claiming that the climate policy is insufficient and that it violates their rights may have a recasting of regional climate obligations jurisprudence. Correspondingly, in its 2017 Advisory Opinion on the environment and human rights, the Inter-American Court of Human Rights (IACtHR) asserted that environmental protection is the basis for the full enjoyment of human rights and that the states have a double duty, which is domestic and foreign, to stop major environmental damage.[27]

The input of UN Special Rapporteurs, especially the one for human rights and the environment (currently David Boyd), has been significant as well. By publishing the theme reports and sending letters to governments, they have been very clear that the failure to act on climate is a breach of the human rights obligations; thus, they create the soft-law authority that domestic courts use as interpretative guidance.

Most of the time, these international agreements, decisions, and readings are not directly implemented in the jurisdictions, but they have a significant role in influencing the logic of national courts. The Dutch Supreme Court in Urgenda is one of the examples where the European Convention on Human Rights and international climate commitments were explicitly referred to in order to give a legal basis for the state's duty to cut emissions. Also, courts in South Asia, such as the one in Leghari v. Pakistan, have quoted international human rights obligations while extending domestic constitutional responsibilities.

The gradually expanding international recognition of the right to a healthy environment is, therefore, supporting the rights claims made at the local level by:

- Normative authority being provided—indicating a global consensus that these rights exist and have to be protected.
- Interpretive guidance being offered—Facilitating judges to interpret constitutional provisions (e.g., the right to life or dignity) by reference to international human rights

[26] *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, Application No. 53600/20, European Court of Human Rights, Grand Chamber, 9 April 2024.
[27] Heri, C. (2024). Too Big to Remedy?: What Climate Cases Tell Us About the Remedial Role of Human Rights. *European Convention on Human Rights Law Review*, 1–23. https://doi.org/10.1163/26663236-bja10101

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norms.

- Helping to achieve a better coordination of the different rulings— Domestic court decisions become consistent with the international climate justice standards.

Essentially, this international human rights regime is now a key resource for the plaintiffs and judges who want to locate climate change mitigation within the realm of legal rights that can be enforced, thus overcoming the gap between the global consensus and domestic adjudication.

IV. THE INDIAN CONSTITUTIONAL AND DOCTRINAL LANDSCAPE

A. Existing constitutional tools

Climatic changes are not simply part of the Indian constitutional architecture or judicial traditions. On the contrary, they are the underlying concerns raised by these issues. Over the last four decades, the Supreme Court of India, through Public Interest Litigation (PIL) and the broad interpretation of Article 21, has practically evolved one of the world's most progressive environmental jurisprudence bodies. These successes can now be utilized to provide extended protection from climate-related disasters.

Article 21, which talks about the right to life and personal liberty. The Supreme Court has all along interpreted Article 21 in a very flexible and creative way, thus adding to it a wide range of socio-economic and environmental rights. In Subhash Kumar v. State of Bihar[28], the Court declared that the right to life includes the right to enjoyment of pollution-free water and air. Later, in Virender Gaur v. State of Haryana[29] and M.C. Mehta v. Union of India [3], the Court reiterated that a clean environment is essential for the full enjoyment of life. With the inclusion of ecological balance, health, and environmental quality into Article 21, the judiciary allowed climate declaration to be considered as a breach of the most fundamental constitutional guarantee. Very recent judicial decisions have begun to explicitly link Article 21 with the protection of individuals and communities against the adverse consequences of climate change, such as heat waves, flooding, and deteriorating air quality.[30]

Public trust doctrine and ecological jurisprudence of the past

The Indian courts, relying on the precedent established in the landmark case M.C. Mehta v. Kamal Nath[31], have declared the state as the trustee of natural resources for the benefit of people

[28] Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598 (Supreme Court of India).*
[29] Virender Gaur v. State of Haryana*, (1995) 2 SCC 577 (Supreme Court of India).*
[30] Meduri, A. (n.d.). Article 21 of Indian Constitution - Mandate for Life Saving. https://doi.org/10.2139/ssrn.906704
[31] *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (Supreme Court of India).

living today and in the future. The public trust doctrine in conjunction with the polluter-pays principle and precautionary principle has been the key basis of court interference in the governance of the environment. In situations related to climate, similar logic may also be used to assign the state the obligation to take the role of the trustee in cutting down the emissions, protecting the forests, and preparing for climate risks so as to safeguard the rights of the future generations.[32]

Procedural rights and changes in Public Interest Litigation

The Indian judiciary has also created distinct procedural rights, which have practically made it easier to file climate change lawsuits. The PIL system practically enables any concerned citizen to file a suit in the name of the affected communities and even future generations. Climate cases are a good example where the said feature becomes indispensable since the grounds for impact are widespread and the victims, as a rule, do not possess the capacity to approach courts individually. Besides that, the regimes of transparency, such as the Right to Information Act and the environmental impact assessment procedures, provide litigants with the power to dispute the executive decisions relating to projects that have serious climate implications. These procedural rights are kind of entry points through which climate is embedded in the governance and judicial review.[33]

B. The newest Indian court decision (2024-2025)

In the last two years, the jurisprudential shift in India towards recognizing the explicit climate–rights nexus has been very noticeable. Commentaries and case notes report that in a 2025 Supreme Court decision, the decision explicitly acknowledges that the inclusion of Article 21 and 14 rights is that relief from the negative effects of climate change. This event is an enormous step in the movement of doctrine: while previously the establishment of direct ties between environment and life had mostly been by implication, the Court has now explicitly connected climate harms to both the right to life and the right to equality.

On the basis of Article 14, the Court highlighted the fact that climate change is a main cause for the violation of the equal protection clause of the Constitution, as it affects the less privileged—poor, women, children, and people living in climate-sensitive areas—whereby the issues of climate justice and distributive equity emerge. Such a stance is in accord with the worldwide

[32] Lou, L. (2022). *The public trust doctrine, property, and society* (pp. 240–251). Routledge eBooks. https://doi.org/10.4324/9781003139614-24

[33] *Public Interest Litigation* (pp. 199-C7.N60). (2022). Oxford University Press eBooks. https://doi.org/10.1093/oso/9780192865458.003.0007

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trend where courts recognize that climate-related harms should not only be treated as environmental degradation but also as a cause of social and economic inequalities as well.

Furthermore, an interpretation made in 2025 has the role of sending a signal to the Court that it is ready to give structural relief, and in this case, the state could be asked to not only adapt its policies but also reduce emissions or provide regular reports with respect to climate action. Even though the acknowledgment itself is a confirmation of a jurisdictional leap marking the movement from India to the camp of other progressive jurisdictions, it is still the way enforcement is exercised that is left for further testing.

Such development can be compared with the Indian judiciary's previous history of radical interpretation of the text of the constitution, i.e., the right to education, shelter, and health was already read into Article 21, and the court had recognized the principles of sustainable development. This essentially means that courts in India are ready to revise their methods of case handling in the new climate era and thus, provide the parties a rich legal basis to present their claims for the enforcement of rights against the climate crisis.

V. How Indian Courts Can Adopt Human-Rights Based Climate Remedies

A. Doctrinal pathways

In the past, Indian courts have regularly relied on Article 21 of the Constitution as the main source for several implied rights that have not been explicitly mentioned in the Constitution but are necessary for leading a life with dignity, like the right to good health, accessible clean water, proper housing, and a means of livelihood. The Court can decide that the right to life and dignity actually includes protection from the probable negative effects of climate change.[34] This doctrinal step will lead to positive duties being placed on the state for implementing both mitigation (i.e., activities aimed at reducing the emission of greenhouse gases both domestically and globally) as well as adaptation (community assistance programs for people affected by various climate disaster incidents, who have already been displaced, or lost their progress in the way of livelihood). Ultimately, this reading of the Constitution will represent not a novel judicial leap but rather a respectful acknowledgement of India's era of rights-expansion practices.

[34] Meduri, A. (n.d.). *Article 21 of Indian Constitution - Mandate for Life Saving*. https://doi.org/10.2139/ssrn.906704

Enforcement through standards and watchdogging

The challenge with climate litigation is deciding on the limit where the court's role in intervention ends and that of policy-making begins. Indian courts can solve this issue by providing wide constitutional standards backed by scientific consensus (for example, IPCC reports and India's Nationally Determined Contributions under the Paris Agreement), and at the same time, they allow the executive to handle the implementation details. The courts have in the past been issuing ongoing mandamus orders, i.e., where implementation is monitored through the submission of progress reports, court-appointed expert committees, or supervisory benches. In this instance, the authority is kept at a minimum, which is less likely to achieve full accountability.[35]

Remedies calibrated to separation of powers

The experience of federal systems such as the United States (Juliana v. United States) demonstrates that detailed judicial orders are at risk of being thrown out for lack of justiciability. Indian courts are empowered to circumvent such trouble by providing relief that goes beyond the mere ordering of specific economic instruments (for instance, carbon pricing) to the requirement of time-bound policy action, public disclosure of implementation progress, or the conducting of independent audits of climate programs. This method acts as a midpoint: it acknowledges the legislature's supremacy over the matter of economic governance while at the same time ensuring that the executive performs its constitutional duty of protecting life and equality against climate-related harms.[36]

Corporate Accountability

The courts of India may further extend the scope of responsibility for the state beyond the latter by the invocation of tort law principles (e.g., public nuisance, negligence), statutory corporate duties, and progressing standards of environmental due diligence along with them. Let us say that a company's works are substantially contributing to the climate crisis (things like coal-based power generation or deforestation); then the courts can mandate that such companies' emissions should be in line with the Paris Agreement and the affected communities be paid back. Indian courts are already on board with corporate liability in environmental law in Vellore Citizens' Welfare Forum v. Union of India, 1996, applying the "polluter pays"principle[37]. The logic can be further utilized to ensure that corporations are held responsible for their part in

[35] Wentz, J. (2024). *Climate science and litigation* (pp. 164–183). Edward Elgar Publishing. https://doi.org/10.4337/9781800889781.00015
[36] Blattner, C. (2024). *Separation of Powers and KlimaSeniorinnen*. https://doi.org/10.59704/3f49776eda0e8e72
[37] *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647 (Supreme Court of India

climate change, more so when there are transboundary impacts and local livelihood disruptions are affected and can be foreseen.

B. Procedural and evidentiary strategies

- Standing and locus standi.

India's PIL regime is probably the most plaintiff-friendly model to access justice in the climate field worldwide. Any member of the public, NGOs, or community leaders can submit a petition on behalf of society's most vulnerable or excluded segments, on behalf of tomorrow's inhabitants, or, in fact, the whole biosphere. The extensive description of standing rights is particularly applicable to climate litigation, the nature of which makes the victims scattered and, as a rule, not able to contact the court directly.[38]

- Scientific evidence and causal chains.

The major problem in climate change-related lawsuits all over the globe is, however, the issue of proof of a direct link between emission and the harm done. The Indian judiciary may embrace the probabilistic and attribution-based approach for demonstrating climate change, whereby it is acknowledged that even in the cases of climate change, which apparently happens through gradual and indirect pathways, the main idea still holds.[39] Some climate studies are conducted in such a way as to identify precisely what portion of the human-caused emission total is responsible for a particular disaster (e.g., floods, heatwaves). Such expert witnesses can be allowed by Indian courts, and their testimony can be complemented by court-appointed technical committees to provide an adequate scientific explanation of the qualified causal linkage. This, indeed, lessens the likelihood of the court rejecting climate claims only for the reason that it fails to demonstrate direct one-to-one causation while at the same time satisfying the required scientific standards.

C. Institutional innovations

- Climate compliance benches and monitoring committees.

Courts may create specialized climate benches or appoint independent monitoring committees to oversee climate change-related judicial decision compliance by taking a leaf out of the book of the environmental benches and National Green Tribunal (NGT). These entities can organize

[38] Ghosh, S. (2021). *Climate Litigation in India* (pp. 347–367). Springer, Cham. https://doi.org/10.1007/978-3-030-46882-8_18

[39] Banda, M. L., & Fulton, C. S. (2017). Litigating Climate Change in National Courts: Recent Trends and Developments in Global Climate Law. *Social Science Research Network*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3134517

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sittings and solicit progress reports at will, and thereby, continuous judicial supervision maintains the continuity and hence rectifies the institutional strategies that just serve to increase the practicality of the structural climate problem solutions.[40]

- Inter-branch coordination.

Climate governance goes beyond one ministry, as it involves multiple ministries and sectors such as environment, energy, transport, agriculture, and finance. Officiating courts can, among other things, order inter-ministerial task forces to be constituted, mandate periodic public reporting, and command joint accountability mechanisms. By this, judicial standards become not only the coordinated executive action but also the proper administration far from isolated departmental responses.[41]

- Integration with existing environmental institutions.

Indian courts might as well empower the National Green Tribunal (NGT) and State Pollution Control Boards to become the principal authorities to implement climate change obligations. Through the embedding of climate-specific mandates into the jurisdiction of these bodies, courts would thus be establishing a mechanism for long-term monitoring without causing too much work for the judiciary.[42]

VI. JUDICIAL PATHWAYS: LESSONS LEARNED AND POTENTIAL PITFALLS

A. Lessons from global practice

It is really possible to achieve quantified targets, but the condition is that such targets have to be enforceable. The Urgenda lawsuit in the Netherlands is one of the examples that show how judicially mandated quantitative targets can have a positive and far-reaching effect. Turning the government's commitment to cut greenhouse gas emissions by at least 25% below 1990 levels into strict legal obligations, the Dutch courts went beyond mere political promises and thus set the state in motion.[43] This way it was established that concrete and precise judicial orders are capable of evoking sizeable climate policy. Nevertheless, along with quantification, there arises

[40] Kartikasari, I. V., Pramudita, D. A., & Cahyanti, S. T. (2024). Rejuvenating the Judicial Power to Represent Environmental Justice Amid the Climate Crisis: The Establishment of the Environmental Court. Jurist-Diction, 7(3), 519–540. https://doi.org/10.20473/jd.v7i3.51441

[41] Nielsen HO, Russel D, Kirsop-Taylor N. Climate change and sustainable development governance. In: Edward Elgar Publishing eBooks [Internet]. 2022. p. 30–47. Available from: https://doi.org/10.4337/9781789904321.00010

[42] Paul, S. R. (2023). *Climate Change and Renewable Energy Consumption Obligations: Response of the Indian Judiciary*. *5*(2), 45–48. https://doi.org/10.69974/glslawjournal.v5i2.103

[43] Nollkaemper, A., & Burgers, L. (2020). *A New Classic in Climate Change Litigation: The Dutch Supreme Court Decision in the Urgenda Case*. https://pure.uva.nl/ws/files/50327941/ejiltalk.org_A_New_Classic_in_Climate_Change_Litigation.pdf

a problem that courts, while designing their enforcement mechanisms such as periodic reporting, penalties for non-compliance, or detailed implementation timetables, should be credible. Numerical targets without that kind of support may end up as mere symbols rather than binding mandates.

On the other hand, corporate-related lawsuits help in extending the scope of those who are held responsible but bring with them difficulties in the matter of attributing responsibility. The Milieudefensie v. Royal Dutch Shell is the first of several judicial attempts to hold corporations directly accountable for their global emissions footprints. By ordering Shell to restructure its business model in order to align it with the Paris Agreement objectives, the Dutch district court made it clear that private actors, not only states, have a role in the climate sphere. In this way, lessening the accountability landscape, the court's decision has stimulated the rise of further climate-related cases against corporate actors throughout the world.[44]

On the other hand, such issues as attribution are also raised in these lawsuits; that is, the problem of how responsible the company is as a part of the global emissions pool and, accordingly, which share of responsibility is put on them from a scientific and legal point of view. Despite this, the symbolic and normative power of corporate liability is large, and even reconsidered in the light of appellate decisions, the principle that the accountability of the climate problem does not refer only to states but also to private actors gets reaffirmed and continues.

Judicial deference and institutional legitimacy remain important. The Juliana v. United States case is an example of the harm that may arise if courts are viewed as interfering too much with policy areas. Although young plaintiffs were able to present climate change as an issue of constitutional rights in a very compelling manner, the Ninth Circuit acknowledged that the claims were non-justiciable and explained that courts do not have the power to issue detailed national climate policy. On the other hand, the court decisions in cases such as Urgenda or Leghari indicate that judges who tread very carefully when it comes to the works they do—by characterizing the works as execution of already-established constitutional or statutory obligations instead of the creation of new ones—are more likely to escape from the charge of overreach. This implies that judicial modesty, along with deliberate framing, raises the chances of climate verdicts being sustainable and legitimate.

[44] Mayer, B. (2022). The Duty of Care of Fossil-Fuel Producers for Climate Change Mitigation. *Transnational Environmental Law*, *11*(2), 407–418. https://doi.org/10.1017/s2047102522000103

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B. Risks and counterarguments

Policy leakage and economic impacts

Climate litigation faces strong opposition, to the point that one problem resulting from a sudden or too tightly defined judicial order would be a national economic plan that is disrupted or a situation called "policy leakage," where companies move to areas with less strict rules.[45] Therefore, courts must find the right balance between urgency and feasibility and give organizations a transition period to comply while also encouraging policy coherence across sectors. A remedy that sets deadlines and calls for gradual changes rather than immediate prohibitions minimizes the chances of economic dislocation and at the same time enforces constitutional duties.[46]

Enforcement fatigue and judicial capacity

The long-term control of climate change programs can be a cause of judicial tiredness and resource depletion. Structural mandates for compliance over multiple decades can be beyond the courts' ability to monitor in reality. To alleviate the pressure, courts can set up enforcement mechanisms that institutionalize: they may entrust oversight to independent agencies, establish climate benches for specialists, or create a panel of experts appointed by a court for a particular case. These vehicles lessen the onus of supervision and guarantee continuation after individual judges finish their terms.[47]

Potential political and institutional backlash

Overly strong judicial intervention might result in a reaction from governments or industries, which in turn would lower the level of both compliance with climate regulations and the moral authority of the climate judgments issued. To minimize this risk, courts are advised to implement remedies that are thoughtfully designed to involve all the stakeholders—state actors, corporate entities, and civil society. Transparent consultation, participatory processes, and ways of compensating that reserve a place for executive policymaking can both lessen the negative reaction and provide for meeting judicial requirements.[48]

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[45] Scotford, E., Peeters, M., & Vos, E. (2019). *Is legal adjudication essential for enforcing ambitious climate change policies* (pp. 191–206). Routledge. https://doi.org/10.4324/9780429446252-14

[46] Branger, F., & Quirion, P. (2014). Climate policy and the 'carbon haven' effect. *Wiley Interdisciplinary Reviews: Climate Change*, *5*(1), 53–71. https://doi.org/10.1002/WCC.245

[47] Kartikasari, I. V. ., Pramudita, D. A. ., & Cahyanti, S. T. . (2024). Rejuvenating the Judicial Power to Represent Environmental Justice Amid the Climate Crisis: The Establishment of the Environmental Court. Jurist-Diction, *7*(3), 519–540. https://doi.org/10.20473/jd.v7i3.51441

[48] Scotford, E., Peeters, M., & Vos, E. (2019). *Is legal adjudication essential for enforcing ambitious climate change policies* (pp. 191–206). Routledge. https://doi.org/10.4324/9780429446252-14

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Risk of judicialization without systemic follow through

Courts can be given the task to recognize the rights and issue structural orders but still lack follow-up actions, which may result in "judicialization of climate policy" that finally has no systemic implementation.[49] Moreover, climate change mitigation through the court system is not only reliant on the courageous proclamations but also on integrating the judicial standards into the routines of administration and policy frameworks. Even the most progressive court decisions run the risk of being only aspirational without institutional embedding.[50]

VII. RECOMMENDATIONS FOR INDIAN JUDICIAL ADOPTION

Indian courts have a special position to incorporate human rights-based climate legal decisions globally in the Indian constitutional framework. Invoking Articles 21 and 14, and India's environmental principles, the courts could plot a moderate way that confirms constitutional rights and maintains the separation of powers. The article consider few suggestion

A. Affirm Human-Rights Linkage While Calibrating Remedies

The courts in India must explicitly state that climate change should be considered as a part of the scope of Article 21 dealing with the right to life and personal liberty and therefore must be seen as a state constitutional duty that cannot be suspended. However, the remedies must be structural and supervisory in nature instead of managerial ones. The courts may decide the standards, deadlines, and rights-based thresholds; for instance, the aspects considering the adaptation of the environment and the emission reduction plan may be worked out without specifically mentioning the economic policy instruments (e.g., carbon taxes or subsidy regimes) that are to be used. Such a move retains the judicial mandate, and, at the same time, obligations that are enforceable remain in place.

B. Use Scientific Benchmarks and National Commitments as Interpretive Aids

The courts may rely on the consensus of scientists from all over the world (for example, IPCC reports) and the pledges made by India in the context of the Paris Agreement to reduce national emissions (NDCs) as a guide when trying to understand the subject matter. These define clear, measurable standards, which make the court's decisions understandable and also in line with international practices. The Indian judiciary can thus require the government to demonstrate how the climate policies it has adopted are in line with the NDC targets of India or to make any

[49] Till, T. (2023). The justiciability of climate and environmental protection.. https://doi.org/10.3790/978-3-428-58981-4

[50] Corzine, K. A. (2022). *Climate litigation in the context of mitigation: an evolving jurisprudence* (pp. 307–336). Edward Elgar Publishing eBooks. https://doi.org/10.4337/9781839101595.00020

deviations clear through public reporting, thereby promoting accountability without going too far.

C. Institutionalize Monitoring Mechanisms

One of the major issues with structural litigation is that compliance is assured over time. Indian courts may set up judicially controlled climate compliance systems, e.g., by empowering an expert commission, special master, or nodal officer with climate expertise. These authorities could be

- Overseeing government execution of judicial orders,
- Offering unbiased technical suggestions,
- Providing the court with the periodic reports, and
- Being instrumental in the correction of the route, where such is the case.

D. Encourage Participatory Remedies

Climate change judicial interventions should safeguard individual rights and, at the same time, be democratically legitimate. The courts may ask for public consultation processes on policies or action plans that have been developed as a result of judicial orders. In this way, affected communities, civil society groups, and industry stakeholders will be able to participate. The participatory approach increases not only the practical feasibility but also the safety against the backlash by embedding remedies in the wider democratic processes.

E. Develop Procedural Norms for Climate Cases

As climate litigation is new and complicated, the courts should come up with procedural innovations that would make evidentiary and procedural clarity stronger. It may include the following:

- Recognizing climate attribution science on a formal basis and accepting probabilistic causation models,
- Broadened utilization of the amicus curiae experts in the fields of climate science and economics,
- Developing climate-related data practice directions for admissibility, and
- Judicial oversight guaranteed continuity due to the procedure (e.g., tagging climate cases to specialized benches). Such procedural clarity would lower barriers for litigants while ensuring decisions rest on robust scientific foundations.

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F. Promote Corporate Due-Diligence Standards

Courts should adopt a similar approach to hold private corporations accountable for climate change alongside the courts. The corporate and tort law lens should be adjusted to be climate-conscious. Corporations, for instance, might be obliged to:

- Make their transition plans from fossil fuels public,
- Show that they comply with the Indian statutory and NDC requirements, and
- Issue reports on the processes of due diligence that are aimed at reducing climate risks. By means of court decisions that incorporate climate accountability into corporate governance, the courts can both support the work of the regulators and keep Indian corporate practice in step with the rapidly developing global ESG (Environmental, Social, and Governance) standards.

VIII. Conclusion

The treatment of the cases related to climate change through the lens of human rights has become one of the most influential ways to ensure the maintenance of promises, to attract responses from both public authorities and corporations, and to set climate policies worldwide. The results of such cases as Urgenda Foundation v. Netherlands, Leghari v. Pakistan, and Milieudefensie v. Shell unambiguously imply that the justice system may be instrumental in turning vague anticlimactic declarations into obligations subject to enforcement. The opposite side of the coin is these lawsuits reveal the dangers of judicial excess, difficulties in pinpointing responsibility, and the necessity of balancing solutions in concord with democratic administration and practical economy.

Environment litigation based on human rights has a very powerful supporting framework in the constitution of India. Article 21 and its wide interpretation to cover the right to a clean environment, the strong doctrine of public trust, and the judiciary's traditionally nonrestrictive attitude towards public interest litigation, all in all, provide not only a legal basis but also a spiritual foundation for the protection of life, dignity, and equality against the negative impacts of climate change. The latest occurrences in the world of law, more exactly in the Supreme Court's judgment (2025) linking climate imposition and Articles 21 and 14, show a progressive understanding of the interrelationship between climate change and human rights by the judges and their readiness to assign systemic remedies.

Here are some things that courts should do in order to properly use this power:

- Avoid micromanagement of policy while reflecting the human rights linkage;

- Take decisions based on the scientific standards and international commitments, thus ensuring that obligations are appropriate and limited to a given time;
- Make provisions for the existence of mechanisms for continuous supervision, e.g., expert commissions or specialized benches that will guarantee compliance and stability;
- Support participatory decision-making at the local level, whereby the communities that are most affected, civil society, and stakeholders can decide on the manner in which a policy is implemented;
- Create procedural norms that make it easier for climate attribution science to be accepted in court and the use of expert amicus curiae inputs;
- Hold private actors accountable by increasing the corporate due-diligence obligations and the statutory climate duties so that they are in line with each other.

By integrating all these measures, Indian courts can avoid the negative impacts seen in other jurisdictions, such as judicial overreach or enforcement fatigue, and still be able to provide rights-protective and practically enforceable remedies.

To sum up, human-rights-based climate litigation in India presents a timing opportunity for the country to protect the weak, propel sustainable growth, and fulfill its constitutional obligations against the backdrop of the rapidly escalating climate crisis. The courts, through the use of doctrinal innovation, institutional mechanisms, and procedural clarity, can transform worldwide patterns into locally meaningful climate abatement, thereby becoming a source of inspiration for other developing countries and giving a mighty blow to the climate justice struggle globally.

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