
CLIMATE CHANGE GOVERNANCE IN INDIA AND BEYOND: POLICIES, LEGAL DEVELOPMENTS, CHALLENGES, AND THE PATH FORWARD

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ABSTRACT

Climate change has emerged as one of the most complex and urgent global challenges, with far-reaching implications for environmental sustainability, economic development, and human rights. India, as a rapidly developing nation with diverse ecological systems and socio-economic disparities, faces the dual challenge of sustaining economic growth while ensuring environmental protection. This article undertakes a comprehensive analysis of climate change governance in India by examining constitutional provisions, policy frameworks, legislative developments, and recent judicial trends. Particular emphasis is placed on the evolving role of the National Green Tribunal (NGT) and the Kerala High Court in shaping climate jurisprudence. The study adopts a doctrinal methodology and critically evaluates the effectiveness of existing legal mechanisms. It argues that despite progressive judicial interventions, India's climate governance remains fragmented due to the absence of a comprehensive legislative framework. The article concludes with recommendations for strengthening climate governance through legal reform, institutional capacity-building, and enhanced public participation.

KEYWORDS: Climate Change, Environmental Law, NGT, Kerala High Court, Climate Litigation, Sustainable Development, India.

1. INTRODUCTION

Climate change has transitioned from a purely environmental concern into a multidimensional legal and governance issue. Rising temperatures, erratic monsoons, sea-level rise, and extreme weather events increasingly threaten human life, biodiversity, and

economic stability. In India, these challenges are particularly acute due to high population density, dependence on agriculture, and regional ecological vulnerabilities.

The legal discourse surrounding climate change has evolved significantly in recent decades. Courts now recognize environmental protection as a component of fundamental rights, thereby transforming climate governance into a constitutional obligation rather than a mere policy choice.¹ This shift is evident in both national and international jurisprudence.

2. Research Methodology

This research adopts a doctrinal and analytical methodology, focusing on the interpretation of legal texts and judicial decisions.

2.1 Sources of Data

- **Primary Sources:** Constitution of India, statutes, judicial decisions (Supreme Court, NGT, High Courts.)
- **Secondary Sources:** Government reports, international agreements, academic literature.

2.2 Method of Analysis

The study employs qualitative legal analysis, examining statutory provisions and case law to evaluate the effectiveness of climate governance mechanisms.

3. Research Hypothesis

The study is based on the following hypothesis:

India's climate governance framework, though constitutionally robust and judicially progressive, remains fragmented due to the absence of comprehensive climate legislation, resulting in gaps in implementation and enforcement.

4. Constitutional and Legal Framework

India's Constitution provides a strong foundation for environmental protection.

4.1 Directive Principles and Fundamental Duties

- **Article 48A:** Obligation of the State to protect the environment
- **Article 51A(g):** Duty of citizens to safeguard natural resources

4.2 Expansion of Fundamental Rights

Judicial interpretation has expanded **Article 21 (Right to Life)** to include environmental rights. In *Subhash Kumar v. State of Bihar*, the Supreme Court held that the right to life includes the right to enjoy pollution-free air and water.²

This interpretation has laid the groundwork for climate-related litigation.

5. Policy Framework on Climate Change

5.1 National Action Plan on Climate Change (NAPCC)

India's climate policy is guided by the National Action Plan on Climate Change (2008), which includes eight missions targeting renewable energy, water conservation, and sustainable agriculture.³

5.2 State Action Plans (SAPCCs)

State governments have developed region-specific plans to address local climate vulnerabilities, though implementation remains uneven.

5.3 International Commitments

India is a signatory to the Paris Agreement, committing to emission reduction and sustainable development goals.⁴

6. Legislative Framework

India lacks a dedicated climate change law and instead relies on environmental statutes such as:

- Environment Protection Act, 1986
- Air Act, 1981
- Water Act, 1974

6.1 Environmental Impact Assessment (EIA)

The EIA Notification, 2006 serves as a key regulatory tool. However, recent amendments have raised concerns regarding reduced public participation and weakened environmental safeguards.⁵

7. Doctrinal Analysis of Climate Jurisprudence

Indian environmental law is guided by key legal doctrines:

7.1 Sustainable Development

Balancing economic growth with environmental protection.

7.2 Precautionary Principle

Preventive action in the face of scientific uncertainty.

7.3 Polluter Pays Principle

Ensuring that polluters bear the cost of environmental damage.

7.4 Intergenerational Equity

Protecting the rights of future generations.

These doctrines have been consistently applied in judicial decisions, strengthening climate governance.⁶

8. Role of Judiciary in Climate Governance

8.1 Supreme Court

In *M.K. Ranjitsinh v Union of India*, the Supreme Court recognized protection from climate change impacts as a fundamental right under Articles 14 and 21.⁷

This judgment represents a paradigm shift towards rights-based climate governance.

9. National Green Tribunal (NGT): Recent Developments

The National Green Tribunal has emerged as a key institution in climate governance.

9.1 Enforcement of Environmental Compliance

In *Paryavaran Suraksha Samiti v. Union of India*, the Tribunal emphasized strict compliance with environmental norms and accountability of authorities.⁸

9.2 Pollution Control and Restoration

The NGT has issued directions for pollution control and ecological restoration in multiple cases, reinforcing environmental accountability.

9.3 Mining and Infrastructure Regulation

Recent NGT decisions have upheld strict compliance with environmental clearance requirements, rejecting projects that fail to meet sustainability standards.

10. Kerala High Court: Emerging Climate Jurisprudence

The Kerala High Court has played a significant role in balancing development and environmental protection.

10.1 Environmental Clearance Jurisprudence

In *All Kerala River Protection Council v. State of Kerala*, the Court emphasized adherence to environmental norms while allowing development projects.⁹

10.2 Procedural and Technical Review

The Court has consistently held that:

- Judicial review should be limited to procedural aspects
- Technical decisions should be left to expert bodies

10.3 Sustainable Development Approach

Kerala High Court decisions reflect a balanced approach, integrating environmental protection with economic development.

11. Global Climate Jurisprudence

The International Court of Justice has recognized climate change as an existential threat, emphasizing state obligations.¹⁰

Similarly, *Lliuya v RWE AG* highlights corporate accountability in climate governance.¹¹

12. Challenges in Climate Governance

12.1 Fragmented Legal Framework

Absence of a comprehensive climate statute.

12.2 Implementation Deficit

Weak enforcement and institutional coordination.

12.3 Economic Pressures

Conflict between development and environmental protection.

12.4 Climate Inequality

Disproportionate impact on vulnerable communities.

13. Recommendations

13.1 Enactment of Climate Change Legislation

A unified legal framework is essential.

13.2 Institutional Strengthening

Enhancing the capacity of regulatory bodies and the NGT.

13.3 Public Participation

Encouraging transparency and community involvement.

13.4 Technological Integration

Use of digital tools for monitoring compliance.

13.5 Climate Justice

Prioritizing vulnerable populations.

14. CONCLUSION

Climate change governance in India is best understood as the product of a continuous interaction between constitutional values, policy initiatives, and judicial intervention, each shaping and reinforcing the other. The Constitution provides the normative foundation by embedding environmental protection within its framework. Through Articles 21, 48A, and 51A(g), environmental preservation has evolved from a directive principle into an enforceable right. Judicial interpretation has been central to this transformation, with courts expanding the scope of the right to life to include the right to a clean and healthy environment. This constitutionalization of environmental protection has allowed climate concerns—though not explicitly mentioned in the Constitution—to be addressed within a rights-based framework.

Alongside constitutional mandates, India has developed an extensive policy architecture to respond to climate change. Instruments such as the National Action Plan on Climate Change and various State Action Plans reflect an attempt to integrate environmental considerations into economic planning. These policies emphasize renewable energy, sustainable agriculture, water conservation, and climate adaptation. Moreover, India's commitments under the Paris Agreement demonstrate its engagement with global climate governance, particularly through the principle of common but differentiated responsibilities. However, these policy measures often operate in silos and lack the binding force necessary for uniform implementation across sectors and regions.

In this context, the judiciary and specialized tribunals have emerged as key drivers of climate governance. The Supreme Court and bodies like the National Green Tribunal have played a proactive role in enforcing environmental norms, interpreting constitutional provisions expansively, and holding both state and non-state actors accountable. Recent decisions, such as *M.K. Ranjitsinh v Union of India*, illustrate a shift toward recognizing climate change as a direct threat to fundamental rights. Similarly, the National Green Tribunal has strengthened compliance mechanisms by imposing environmental compensation, ensuring restoration measures, and scrutinizing environmental clearances. High Courts, including the Kerala High Court, have contributed by maintaining a balance between developmental needs and environmental safeguards, often emphasizing procedural integrity and reliance on expert bodies.

Despite these progressive developments, a significant limitation persists in the form of the absence of a comprehensive and dedicated climate change legislation. India's current legal framework relies on a patchwork of environmental laws—such as the Environment

Protection Act, Air Act, and Water Act—which were not originally designed to address the complexities of climate change. This fragmented approach leads to overlapping jurisdictions, inconsistent enforcement, and gaps in accountability. Without a unified legal framework that clearly defines institutional responsibilities, emission targets, and enforcement mechanisms, policy implementation remains uneven and often ineffective.

Furthermore, challenges such as administrative inefficiency, lack of coordination between central and state authorities, limited public participation, and economic pressures complicate the governance landscape. Climate change also raises issues of equity and justice, as its impacts disproportionately affect vulnerable communities, including coastal populations, farmers, and economically weaker sections. Addressing these concerns requires more than reactive judicial intervention; it demands proactive legislative and institutional reform.

Therefore, a coordinated and integrated approach is essential for strengthening climate governance in India. This would involve enacting a comprehensive climate change law that consolidates existing regulations, establishes clear accountability frameworks, and aligns national policies with international commitments. Institutional strengthening, improved inter-agency coordination, and the use of technology for monitoring and enforcement are equally important. Additionally, enhancing public participation and embedding principles of climate justice into policymaking can ensure that governance mechanisms are both inclusive and effective.

In conclusion, while India's climate governance framework demonstrates significant progress through constitutional interpretation, policy innovation, and judicial activism, its long-term effectiveness depends on transitioning from a fragmented system to a cohesive, legally binding, and institutionally robust framework. Only through such integration can India achieve the dual objectives of sustainable development and climate resilience.

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