

CLIMATE CHANGE AND ITS IMPACT ON THE LEGAL WORLD

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ABSTRACT

Climate change is the gradual alteration of both the global and local climates. This development demonstrates the atmosphere's variability throughout a range of timescales, from a few decades to millions of years. As a result, society faces a wide range of risks but a few opportunities have risen on a political, social, and economic level. The judicial system is likewise facing difficulties that are accompanied by climate change. The judiciary has evolved over the past years to accommodate various provisions that deal with climate change. There have been legally enforceable treaties both on the national and international levels which have direct forbearance on the legal sector. All members of society will be impacted by these issues, not only attorneys. This research short article will discuss climate change and its effects on the legal world using various authorities and official judgments and analyze the ways the legal profession can tackle it and the role lawyers can perform.

Keywords: Article 48A, Article 5, Human Rights, Sdgs.1a, Climate Change Litigations.

INDIA AND CLIMATE CHANGE

India is one of the countries which are most susceptible to the consequences of climate change. Large segments of the Indian populace have historically relied on the agriculture industry and other industries that are inherently climate-sensitive. Almost 20% of India's landmass is vulnerable to flooding, while 16% is vulnerable to droughts. India is now the third-largest emitter of greenhouse gases, behind the US and China. India's yearly emissions nearly quadrupled between 1990 and 2009, rising from 600 to approximately 1700 metric tonnes. According to projections, India's net carbon dioxide emissions would probably grow 2.5 times between 2008 and 2035. And therefore, energy and climate change are top priorities for the federal, state, and municipal governments. India did not contribute to the former era's greenhouse gas emissions since it was a developing country with a low per capita emission rate. Given that India is now a major actor in international discussions, this reality has altered. To address the energy situation, India has started implementing a large and varied array of

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national and state-level initiatives to create greener energy sources and increase the country's efficiency. India also makes preparations for the potential effects of climate change both technologically and legally. India had several regulations dealing with climate and the environment but these were not enough and there was still a need for a national guiding plan that outlined the country's growth while both mitigating and adapting to the problems brought on by climate change. This strategy was established as the foundation for 2008's "National Action Plan on Climate Change (NAPCC)". Eight subsidiaries were further separated into this structure. Other measures have also been put in place to mitigate the challenges of climate change.

WHAT DOES THE INDIAN CONSTITUTION SAY ABOUT THE ENVIRONMENT:

India's constitution is one of the few that includes a specific caveat about the environment. The DPSPs chapters and the basic obligation both state India's commitment to preserving and enhancing the climate.

- (a) Article 48A states that "the state shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the nation"
- (b) Article 51A has established that "it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and the wildlife and to have compassion for living creatures".¹

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ROLE OF THE JUDICIARY

Owing to the Supreme Court of India and the High Courts' rational judicial consideration of the relevant pre-existing laws, ecological law in India has advanced significantly over the past thirty years. When making decisions regarding these cases, the Supreme Court of India has established a novel judge-driven implementation strategy. By the interpretation of statutes and the Indian Constitution, courts were crucial in the interpretation of such legislation and were able to isolate the principles of environmental laws. The courts also exhibited a liberal attitude to ensure that human rights were upheld and social justice and rights are not compromised in the process. There have been various judgments where the principles of environmental laws have been recognized and upheld by the courts.

¹ Article 51A of the Constitution of India.

- (a) In *MC Mehta V. UOI*², the Apex Court issued an order prohibiting the sale and registration of specific automobiles with high emission requirements and mandating their replacement with models with lower emission limits. Also, diesel vehicles were prohibited to reduce pollution. Additionally, to compensate victims of the pollution brought on by dangerous enterprises, the apex court created a law body known as absolute liability. The court further shut down various industries in Kanpur that were polluting the Ganges
- (b) In *TN Godavarman Thirumulpad v. UOI and Ors.*³, addressed the problem of the livelihood of forest dwellers in the TN area of Nilgiri who were impacted by deforestation.
- (c) In the case of *Ganesh Wood Works V. State of Himachal Pradesh*⁴, the Apex Court issued a separate order mandating the formation of committees in each state for the classification of forests and the transfer of timber, and this ruling prohibited all deforestation operations without prior clearance from the federal government. The court also recognized the “Intergenerational Equity Principle” as the main focus for protecting trees and for sustainable development, discrediting the business that depends on them.
- (d) In *Vellore Citizen Welfare Forum v. UOI*⁵, the court gave the “Precautionary Principle” to control the subterranean water contamination in Tamil Nadu brought on by lathering factories. Additionally, the court made the “Polluter pays” principle a part of environmental policy.
- (e) In India council for *Enviro-Legal Action v. UOI*⁶, the court held to restore the ecosystems which were destroyed by the release of hyaluronic acid by the industries during the trial phase. The court also said that an SDG is not followed when industrial activity distorts the ecosystem.
- (f) The Indian Supreme Court intervened and ruled that the state had a responsibility to conserve and preserve natural resources, such as rivers, forests, common areas, open spaces, and lakes, as trustees in *MC Mehta V. Kamal Nath*⁷.

² 1987 SCR (1) 819

³ Writ Petition (Civil) 202 of 1995

⁴ 1996 AIR 149

⁵ AIR 1996 SC 2715

⁶ 1996 SCC (3) 212

⁷ (1997) 1 SCC 388

- (g) The “*Public Trust Doctrine*” was applied by the Apex Court of India, which also instructed the city planner to take down a specific subterranean market that had been constructed beneath a significant historical park in the case of *MI Builders Pvt. V. Radhey Shyam Sahu*⁸.
- (h) The Delhi High Court ruled that protecting people's lives and health was in the general public's best interest. Thus, it was mandated that a few urea formaldehyde power plant production facilities shut down any operations in densely populated residential areas in the case of *Enkay Plastic Private Limited V. UOI and Others*.⁹

CLIMATE CHANGE AND THE RULE OF LAW

One notion that seems to have been formed for this sort of situation is the rule of law. Climate change has increased the threats to republican rule of law principles, which implies that when the climate issue worsens and begins to have a significant influence on democratic regimes, the democratic government and the wide rule of law and justice will face ongoing challenges in the years to come. The rule of law validates and limits authority, allows for the use and challenge of power, and in the current situation, it is evident that such components of the rule of law have been rejected. Legal rights are permitted under Rule of Law principles for foreigners to participate in the creation and execution of climate duties. This will be lost if the general public no longer believes that the law will be administered fairly and consistently. The legal institutions of a country are now being questioned in more detail about their responsibilities and their involvement in this catastrophe as a result of the climate change crisis. The rule of law currently serves as the home for institutional norms, practices, and rights that are highly regarded in both social and political organizations. While individual rights, an independent judiciary, decision-maker accountability, open and inclusive governance, etc. are often taken for granted, equal and fair representation before the law is not. If there is a climate catastrophe, this needs to end. Increasingly, the rule of law is a notion that many people need to think about again and where important progress might be made.

HOW DOES CLIMATE CHANGE AFFECT HUMAN RIGHTS?

The effects that changing climate has on human and social rights are still not universally acknowledged by governments since they often view it as an ecological issue, and more lately

⁸ AIR 1999 SC 2468

⁹ 2000 (56) DRJ 828

as an economic one. A wide range of internationally recognized human rights is in danger due to the consequences of climate change. Human rights are frequently impacted by climate change measures intended to lessen its consequences. Some international human rights which are suffering adverse effects due to climate change are:

- **Water right:** Availability of drinking water and adequate sanitation is becoming increasingly difficult as the global temperature rises due to extreme weather and water shortages. Reduced rainfall rates brought on by climate change also have an impact on this.
- **Right to health:** Inevitably, infections and starvation will have a terrible influence on human health, contributing significantly to climate change's various negative effects. A variety of water-borne, vector-borne diseases will be impacted by the global temperature variations including respiratory illnesses.
- **Human Security:** Perhaps, climate change might make previously existent concerns about human rights worse. The population will become increasingly vulnerable to social injustice and poverty as a result of climate change. Individuals whose rights are not adequately safeguarded suffer as well to adapt to climate change's effects.
- **Right to life:** Climate change can have an impact on the right to life by causing deaths from weather-related climate change, or it can have a delayed and cumulative effect by making people's health worse and limiting their access to resources like clean water or increasing their vulnerability to disease.
- **Right to adequate food:** The production of food in a region is often negatively impacted by climate change. Increasing temperatures and altered rainfall patterns will inevitably cause erosion and desertification, rendering formerly productive land infertile resulting in decreased livestock and agricultural output.

CLIMATE CHANGE LITIGATION

This type of litigation is being used to hold public corporations and nations at large to take full responsibility for their endeavors and regulations to reduce the effects of change as well as to make them accountable for their historical efforts to the climate change problem. Climate change litigation has evolved into a regularly occurring and relatively available area of environmental law. There has been a sharp increase in climate change lawsuits in recent years, and the cases that have been filed so far fall largely into one of six categories or a combination of them:

- (a) A rising number of lawsuits seek to compel climate action by using the basic rights and human rights protected by international law and the relevant state constitutions.
- (b) Lawsuits whose main goal is to keep fossil fuels underground.
- (c) Fighting against corporate greenwashing on issues like shifts and climate change while promoting more climate disclosures.
- (d) Legal actions contest the application of laws and policies relating to the environment and climate.
- (e) Lawsuits that focus on the consequences of such modifications and the inability to adapt.
- (f) Corporations assert responsibility for climate impacts and their obligation to take steps to lessen their consequences.

Events related to climate change are so widespread and range in severity that they not only represent a serious risk to investors' physical assets, but they also highlight the danger of an urgent need for a decarbonization economy. It becomes clearer how changing climate has changed from being a physical and transitory risk with extra dimensions into a distinct risk that has to be carefully considered by incorporating these hazards together with the possible legal risk. It is vital that enterprises and investors, as well as owners and managers, address these situations through thorough emission levels and a meticulous reporting system. Such climate change litigations will only increase over the next years as nations, investors, and businesses prepare for the Net Zero transitions.

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WHAT ROLE CAN LAWYERS PLAY

Business organizations and individual people will need to change and adjust their behavior as the planet plans for and gets ready for rapid decarbonization. We require a single framework for shared and individual obligations to do this. The creation and enforcement of the legal structure for the greener world will heavily rely on lawyers. The possibility of climate change is a concern for the legal profession as more harsh weather has an impact on clients and even law companies. Lawyers will need to advise and help their clients to recognize and deal with such ever-growing physical as well as legal hazards, starting with the direct economic costs through the indirect influence on the operations of clients and their responsibilities. Lawyers will have to deal with an increase in multi-jurisdictional and cross-border conflicts since climate change is a global phenomenon. In the modern world, climate litigation may start and occur everywhere, which in a manner enables the claimants to look for the nation whose legal

rules and laws are most appropriate for their situation. To appropriately adapt, lawyers in the domain of climate litigation must be conscious of this practice.

CONCLUSION

The growing trends of natural catastrophe incidences, such as major flooding in Germany, searing heat waves in the US, bushfires in Australia, and typhoons and cyclones in Thailand, have in some ways painted a truly unsettling picture of how much the globe is being impacted by climate change. Complex biophysical processes like climate change have a significant influence on human civilization and, in essence, all life on earth. There is a lot of room for growth and progress, thus the country as a whole has to take significant, moderate-scale, and incremental steps to solve this situation. Every single person can make a difference in this catastrophe; they all have important roles to play. People need to be made aware of how the climate is changing and what has to be done to address this catastrophe.

