



CLIMATE LITIGATION AGAINST CORPORATIONS: THE NEXT WAVE OF PUBLIC INTEREST LITIGATION IN INDIA

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ABSTRACT

Climate change is one of the most immediate challenges facing humanity in the 21st century and it's taking its disproportionate toll on ecosystems, economies and human rights. Governments used to be the main target of environmental lawsuits, but with corporations playing a greater part in filling the atmosphere with carbon and poisoning ecosystems, global scrutiny has swivelled towards private liability. In India, a country where Public Interest Litigation (PIL) has historically been an enabler of social and environmental reform, it could be that climate litigation under the company law against private parties would form the next epochal chapter. This article undertakes a discussion on the emerging jurisprudential framework relating to climate litigation in India and assesses whether corporate accountability litigations could emerge as the 'next wave' of public interest litigations. It also considers comparative developments from other global jurisdictions, outlines methodology for assessing corporate responsibility and concludes by providing legal and policy suggestions to enhance India's climate justice framework.

Keywords: Climate litigation, Public Interest Litigation (PIL), Corporate accountability, Environmental law, Climate justice, India.

INTRODUCTION

Climate change is a multi-level crisis — scientific, economic, ethical, and legal. With India witnessing more extreme weather events such as floods, droughts and heatwaves, the judiciary has come under pressure to deal with the corporate role in environmental degradation.

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India's judiciary has, in the past, been active as a policy maker through several path-breaking PILs like M.C. Mehta v. Union of India and Vellore Citizens Welfare Forum v. Union of India in environmental governance. These cases broadened the scope of Article 21 by incorporating the right to a clean and healthy environment in it.

But the next wave of environmental litigation is flowing beyond state actors. The Role of Corporations. And with corporations responsible for so many greenhouse gas emissions and resource extraction, public interest litigants are increasingly setting their runway sights on corporate targets when they consider who to sue over climate harm. This trend is reflective of similar moves around the world, where companies face lawsuits over their carbon footprints, greenwashing and lack of disclosure regarding climate risks.

LITERATURE REVIEW

The academic and policy literature on climate litigation has grown dramatically over the last decade. Worldwide, climate cases have been brought in more than 70 jurisdictions, addressing actions by both governments and private actors. The Urgenda Foundation v State of Netherlands (2019) and Milieudefensie v Shell (2021) cases are setting a path for corporate accountability as precedents that show that private actors can be obliged to ensure their operations match global climate goals.

But in India, academia has largely covered government apathy and environmental clearances instead of corporate responsibility. Few papers—such as those by Shibani Ghosh (2021) and Lavanya Rajamani (2020)—have addressed how Indian environmental jurisprudence could develop to include climate accountability claims against private entities.

LEGAL FRAMEWORK IN INDIA

Constitutional Provisions: The Indian Constitution has recognized the right to a healthy environment in Articles 21, 48A and 51A(g) and set out the responsibility of citizens as well as states, for the protection of a clean environment.

Statutory Regime: Environmental governance in India is predominantly governed by the Environment (Protection) Act, 1986; the Air Act, 1981; the Water Act, 1974 and other legislations. These laws impose certain competencies upon the corporations, without mentioning climate change or greenhouse gas emissions.

Judicial Appliances: The Supreme Court and High Courts, in exercise of PIL jurisdiction under Articles 32 and 226, respectively, have played a vital role in the enforcement of environmental norms. The National Green Tribunal (NGT) is also a specialised forum for environmental disputes, but its jurisdiction over climate matters remains narrow. The level of engagement of Indian organizations with the law and policy around climate action is noteworthy.

METHODOLOGY

This article follows a qualitative legal research approach. It examines judicial opinions, statutes and constitutions, as well as more colloquial secondary sources such as law review articles and UNFCCC reports. The paper also reflects on cross-jurisdictional learning from climate litigation in jurisdictions such as the Netherlands, Australia and the United States to model what Indian PIL might look like along a path of corporate accountability.

ANALYSIS: CORPORATE ACCOUNTABILITY AND CLIMATE JUSTICE

The Corporate Carbon Footprint: A brewer, steel manufacturer or cement producer are present in India's economy as big offenders. Although India has made commitments under the Paris Agreement, much of Indian business still does not have solid carbon disclosure frameworks.

From Environmental to Climate PIL: The Traditional PILs have been aimed against state apathy. But PILs against companies may invoke principles of 'polluter pays', strict liability and sustainable development.

Potential Legal Avenues:

- (i) Violation of Article 21
- (ii) Negligence and Nuisance
- (iii) CSR under Section 135 of the Companies Act
- (iv) Greenwashing and Consumer Protection.

Role of the NGT The NGT, in cases such as Indian Council for Enviro-Legal Action v. Union of India, has been underlining corporate responsibility. If the NGT's jurisdiction is expanded in climate-related cases, it can play a crucial role in delivering climate justice.

CHALLENGES AND LIMITATIONS

Despite these robust constitutional and statutory supports, there are many obstacles to climate litigation against corporations in India: the causation problem, lack of climate-specific laws, regulatory capture bias of courts, as well and limited access to emission data.

Comparative Perspective: Global Lessons for India

The Netherlands, Australia, and the US set global rules on climate duty. The Shell and Urgenda cases show courts can order cuts. India can use their lessons to set rules on how companies are held to account, based on a duty in the constitution and the law of justice for the earth.

Future Prospects: Toward a Climate-Conscious PIL Regime

India's judicial innovation in PIL provides a good place for climate court cases to grow. Climate PILs on big firms can ask for things to be shown, check emissions, and find a new right against climate harm under Article 21.

CONCLUSION

This next area of PIL in India must focus on the climate-related harm that corporations have caused. Given the rights of future generations and the impact of climate change on equity, it is time for the courts to think creatively to compel Corporations to act.

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