

# Role of Environmental Justice in Climate Making Policy

Vivek Kumar

Research Scholar, Meerut College, Meerut

## ABSTRACT

Environmental justice has become a foundational principle in climate law and policymaking, emphasizing fairness in the distribution of environmental benefits and burdens. This paper examines the legal dimensions of environmental justice in shaping climate policy in India and at the international level. In India, environmental justice is rooted in constitutional provisions such as Articles 14 and 21, which guarantee equality and the right to life, and has been strengthened through judicial interpretations by the Supreme Court and the National Green Tribunal. Landmark judgments have expanded the scope of environmental rights to include the right to a clean and healthy environment, thereby influencing climate-related governance. Legislative frameworks such as the Environment (Protection) Act, 1986, and policy instruments like the National Action Plan on Climate Change reflect evolving commitments to equitable development and sustainable resource management.

Internationally, environmental justice is embedded in climate agreements and principles, particularly the doctrine of Common but Differentiated Responsibilities (CBDR) under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. Issues of climate finance, technology transfer, and loss and damage further illustrate the legal recognition of historical responsibility and vulnerability. The study argues that integrating environmental justice into climate law enhances accountability, participatory governance, and protection of vulnerable communities. It concludes that a justice-oriented legal framework is essential to ensure that climate policies are not only environmentally effective but also socially equitable at both national and global levels.

**Keywords:** Environmental Justice, Climate Law, India, UNFCCC, Common but Differentiated Responsibilities

## INTRODUCTION

Climate change has emerged as one of the most profound legal and governance challenges of the twenty-first century. Rising temperatures, extreme weather events, sea-level rise, biodiversity loss, and disruptions to food and water systems have transformed climate change from a purely environmental concern into a multidimensional crisis affecting human rights, development, public health, and social equity. While climate change is global in its causes and consequences, its impacts are distributed unevenly. Vulnerable communities—particularly indigenous peoples, coastal populations, informal workers, women, and economically marginalized groups—bear a disproportionate share of climate-related harms despite contributing least to greenhouse gas emissions. This inequitable distribution of environmental burdens has brought the concept of environmental justice to the forefront of climate policymaking and legal discourse.

### Concept and Evolution of Environmental Justice

Environmental justice, originally articulated in the context of civil rights movements in the United States, rests on the principle that all individuals and communities are entitled to equal protection under environmental laws and equal participation in environmental decision-making.<sup>1</sup> Over time, the concept has evolved into a broader normative framework that addresses distributive justice (fair allocation of environmental benefits and burdens), procedural justice (inclusive and participatory governance), and intergenerational equity (protection of future generations).<sup>2</sup> In the context of climate change, environmental justice demands that mitigation and adaptation policies account for historical responsibility, socioeconomic disparities, and the differentiated capacity of states and communities to respond to environmental risks.

### Constitutional Foundations of Environmental Justice in India

In India, environmental justice is deeply intertwined with constitutional guarantees and judicial innovation. The Constitution of India does not explicitly mention climate change; however, Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the Supreme Court to include the right to a wholesome and pollution-

---

<sup>1</sup> United States Environmental Protection Agency, *Environmental Justice*, available at: <https://www.epa.gov/environmentaljustice> (visited on 23 February 2026).

<sup>2</sup> United Nations Environment Programme, *Environmental Rule of Law: First Global Report* (2019), available at: <https://www.unep.org/resources/report/environmental-rule-law-first-global-report> (visited on 23 February 2026).

free environment.<sup>3</sup> Through a series of landmark judgments, the Court has incorporated principles such as sustainable development, the precautionary principle, and the polluter pays principle into Indian environmental jurisprudence.<sup>4</sup> These judicial developments have laid the foundation for recognizing climate-related harms as threats to fundamental rights, thereby embedding environmental justice within the broader constitutional framework.

### Legislative and Policy Framework in India

The legislative architecture in India further reflects this evolving commitment. The Environment (Protection) Act, 1986, enacted in the aftermath of the Bhopal Gas Tragedy, empowers the central government to take measures to protect and improve environmental quality.<sup>5</sup> While the Act predates contemporary climate discourse, it provides a flexible framework through which climate-related regulations can be implemented. Additionally, policy instruments such as the National Action Plan on Climate Change (NAPCC), introduced in 2008, articulate national strategies for mitigation and adaptation across sectors including solar energy, energy efficiency, water, agriculture, and sustainable habitat.<sup>6</sup> Although primarily policy-driven rather than statutory in nature, these initiatives increasingly incorporate equity considerations, particularly in relation to energy access and livelihood protection.

### Role of Public Interest Litigation and the National Green Tribunal

Environmental justice in India is also shaped by grassroots activism and public interest litigation (PIL). Civil society organizations and affected communities have invoked constitutional remedies to challenge environmentally harmful projects, demand stricter regulatory oversight, and seek compensation for displacement and pollution-related harms.<sup>7</sup> The National Green Tribunal (NGT), established under the National Green Tribunal Act, 2010, provides a specialized forum for expeditious environmental adjudication and has contributed to strengthening environmental governance.<sup>8</sup> Through these mechanisms, environmental justice has moved beyond theoretical discourse to become an operational principle influencing climate-sensitive decision-making.

### Environmental Justice in International Climate Law

At the international level, environmental justice is embedded in the architecture of global climate law. The United Nations Framework Convention on Climate Change (UNFCCC), adopted in 1992, acknowledges the principle of “common but differentiated responsibilities and respective capabilities” (CBDR-RC), recognizing that developed countries bear a greater historical responsibility for greenhouse gas emissions.<sup>9</sup> This principle reflects a distributive justice approach, requiring equitable burden-sharing in mitigation efforts and financial contributions. The Paris Agreement of 2015 builds upon this foundation, emphasizing nationally determined contributions (NDCs), climate finance, technology transfer, and capacity-building to support developing countries.<sup>10</sup>

### Climate Justice, Loss and Damage, and Global Negotiations

The concept of climate justice has gained prominence in negotiations concerning loss and damage, adaptation finance, and the operationalization of the Green Climate Fund. Developing nations, including India, have consistently advocated for enhanced financial and technological support from developed countries, arguing that equitable climate governance must account for historical emissions and developmental disparities.<sup>11</sup> The recognition of a Loss and Damage Fund at the twenty-seventh Conference of the Parties (COP27) marked a significant milestone in acknowledging the justice dimension of climate impacts.<sup>12</sup> Such developments illustrate the gradual institutionalization of environmental justice within international climate regimes.

---

<sup>3</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

<sup>4</sup> *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>5</sup> The Environment (Protection) Act, 1986, available at: <https://legislative.gov.in/sites/default/files/A1986-29.pdf> (visited on 23 February 2026).

<sup>6</sup> Government of India, *National Action Plan on Climate Change* (2008), available at: <https://moef.gov.in/wp-content/uploads/2018/04/NAPCC.pdf> (visited on 23 February 2026).

<sup>7</sup> Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* (2nd edn., Oxford University Press, 2001).

<sup>8</sup> National Green Tribunal Act, 2010, available at: <https://legislative.gov.in/sites/default/files/A2010-19.pdf> (visited on 23 February 2026).

<sup>9</sup> United Nations Framework Convention on Climate Change, 1992, available at: <https://unfccc.int/resource/docs/convkp/conveng.pdf> (visited on 23 February 2026).

<sup>10</sup> Paris Agreement, 2015, available at: [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf) (visited on 23 February 2026).

<sup>11</sup> Lavanya Rajamani, *Differential Treatment in International Environmental Law* (Oxford University Press, 2006).

<sup>12</sup> UNFCCC, *COP27 Sharm el-Sheikh Implementation Plan* (2022), available at: <https://unfccc.int/documents/624444> (visited on 23 February 2026).

## **Human Rights Dimensions of Climate Justice**

In addition to treaty-based mechanisms, human rights bodies have increasingly linked climate change to fundamental rights. The United Nations Human Rights Council has recognized the right to a clean, healthy, and sustainable environment, thereby reinforcing the normative basis for climate justice claims.<sup>13</sup> Courts in various jurisdictions have also begun to entertain climate litigation grounded in constitutional and human rights principles, compelling governments to adopt more ambitious mitigation measures.<sup>14</sup> These judicial interventions highlight the convergence between environmental law and human rights law in advancing climate justice.

## **Persistent Challenges in India and Internationally**

Despite these advancements, significant challenges persist. In India, climate policy remains largely executive-driven, with limited statutory codification of climate-specific obligations. The absence of a comprehensive climate change legislation creates uncertainties regarding accountability, enforcement, and long-term planning. Furthermore, while renewable energy expansion and energy transition policies have accelerated, concerns remain regarding land acquisition, displacement, and the socio-economic impacts of large-scale infrastructure projects. Ensuring that the transition to a low-carbon economy does not reproduce existing inequalities is a central concern of environmental justice.

Internationally, disparities in climate finance commitments and implementation gaps undermine the realization of justice-oriented objectives. Developed countries have struggled to meet pledged financial contributions, and negotiations over carbon markets and transparency mechanisms often reveal tensions between equity and efficiency. Moreover, the voluntary nature of nationally determined contributions under the Paris Agreement raises questions about enforceability and ambition. The principle of CBDR, while foundational, continues to be contested in its interpretation and application.

## **Integrating Environmental Justice into Climate Policymaking**

The integration of environmental justice into climate policymaking thus requires a multi-layered approach. At the domestic level, it demands legislative clarity, institutional accountability, participatory governance, and judicial vigilance. At the international level, it necessitates equitable burden-sharing, robust financial mechanisms, and meaningful representation of vulnerable states and communities in decision-making processes. Importantly, environmental justice must also incorporate intergenerational considerations, recognizing that present policy choices will shape the rights and well-being of future generations.

In the Indian context, climate vulnerability is closely linked to developmental challenges. A large segment of the population depends on climate-sensitive sectors such as agriculture, fisheries, and forestry. Urbanization, air pollution, and water scarcity exacerbate climate risks, particularly for economically disadvantaged groups. Climate adaptation strategies must therefore align with poverty alleviation, public health, and sustainable development objectives. The Sustainable Development Goals (SDGs), adopted in 2015, reinforce this integrated approach by linking climate action (Goal 13) with goals relating to inequality, clean energy, and sustainable cities.<sup>15</sup>

Environmental justice also compels a re-examination of energy policy. India's commitment to renewable energy expansion and net-zero targets reflects an effort to balance developmental imperatives with environmental responsibility. However, equitable access to affordable energy remains a pressing concern. Policies promoting decentralized renewable energy, community participation, and just transition frameworks for fossil fuel-dependent workers are essential to ensure that climate action advances social justice rather than exacerbates disparities.

Ultimately, the role of environmental justice in climate policymaking lies in its capacity to bridge environmental sustainability with constitutional morality, human rights, and democratic governance. By foregrounding equity and participation, environmental justice enhances the legitimacy and effectiveness of climate policies. In India and internationally, the incorporation of justice principles into legal frameworks can foster more inclusive, accountable, and resilient climate governance systems. As climate impacts intensify, the normative and legal integration of environmental justice will be indispensable in shaping policies that are not only environmentally sound but also socially transformative.

---

<sup>13</sup> United Nations Human Rights Council, Resolution 48/13 (2021), available at: <https://documents.un.org/doc/undoc/gen/g21/289/50/pdf/g2128950.pdf> (visited on 23 February 2026).

<sup>14</sup> *Urgenda Foundation v. State of the Netherlands*, Supreme Court of the Netherlands, 2019, available at: <https://www.urgenda.nl/en/themas/climate-case/> (visited on 23 February 2026).

<sup>15</sup> United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development* (2015), available at: <https://sdgs.un.org/2030agenda> (visited on 23 February 2026).

## **Objectives**

1. To examine the role of environmental justice principles in shaping climate policymaking in India and at the international level.
2. To analyse how legal frameworks integrate equity, human rights, and distributive fairness into climate governance and implementation.

## **RESEARCH METHODOLOGY**

This study adopts a doctrinal, analytical, and comparative research methodology to examine the role of environmental justice in climate-making policy in India and within the international framework. The research is primarily based on secondary sources, including constitutional provisions such as Articles 14, 21, 48A, and 51A(g), which collectively provide the normative basis for environmental protection, equality, and sustainable development. A detailed examination is undertaken of key legislative instruments, including the Environment Protection Act (EPA), 1986; Water (Prevention and Control of Pollution) Amendment Act, 2024; Environment Audit Rules, 2025; Environment Protection (Management of Contaminated Sites) Rules, 2025; Anti-Greenwashing Guidelines; Wildlife (Protection) Act, 1972 and its 2022 Amendment; Forest (Conservation) Act, 1980 and its 2023 Amendment; Biological Diversity Act, 2002; National Green Tribunal Act, 2010; Jan Vishwas (Amendment of Provisions) Act, 2023; Plastic Waste Management (Amendment) Rules, 2022–2025; and industrial classification reforms (2016 onwards).

Landmark judgments of the Supreme Court and the National Green Tribunal are analysed to assess judicial interpretation of environmental justice principles in climate-related governance. Select case studies are incorporated to evaluate implementation challenges and community-level impacts. International environmental conventions, climate agreements, and global regulatory guidelines are comparatively reviewed to contextualize India's climate justice framework. Using qualitative and interpretative analysis, the study argues that aligning climate action with justice requires legislative reform, increased access to legal aid, and expanded participatory rights to strengthen inclusive and equitable climate policymaking.

### **Analysis**

#### **I. Constitutional Foundations of Environmental Justice in Climate Policy**

The role of environmental justice in climate-making policy in India must first be examined through the constitutional lens. Although the Constitution of India does not expressly refer to climate change, its environmental jurisprudence has evolved through expansive judicial interpretation of Articles 14 and 21. Article 21, guaranteeing the right to life and personal liberty, has been interpreted to include the right to a clean and healthy environment. This interpretation transforms environmental protection from a policy preference into a constitutionally enforceable right.

Article 14 ensures equality before the law, which is critical in the climate context because climate impacts disproportionately affect marginalized populations. Climate-making policy must therefore satisfy not only environmental objectives but also constitutional equality standards. Additionally, Article 48A directs the State to protect and improve the environment, while Article 51A(g) imposes a fundamental duty on citizens to safeguard natural resources.<sup>16</sup> Together, these provisions provide a normative constitutional framework that anchors environmental justice within climate governance.

The Supreme Court's recognition of sustainable development, precautionary principle, and polluter pays principle in *Vellore Citizens' Welfare Forum v. Union of India*<sup>17</sup> embeds justice principles into environmental decision-making. These principles directly influence climate policy by justifying preventive action, liability allocation, and equitable burden-sharing.

#### **II. Statutory Architecture and Climate Justice**

##### **A. Environment Protection Act, 1986 as Umbrella Legislation**

The Environment Protection Act (EPA), 1986 serves as the backbone of India's environmental governance framework.<sup>18</sup> Enacted under Article 253 to fulfill international environmental obligations, the Act empowers the central government to regulate emissions, hazardous substances, and environmental standards. Although it predates climate discourse, its broad regulatory authority enables issuance of climate-relevant notifications such as emission standards and environmental impact assessment (EIA) requirements. The EPA facilitates distributive justice by allowing the State to impose obligations on polluters and prevent environmental harm that disproportionately affects vulnerable communities.

---

<sup>16</sup> Constitution of India, Arts. 48A & 51A(g), available at: <https://legislative.gov.in/sites/default/files/COI.pdf> (visited on 23 February 2026).

<sup>17</sup> *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>18</sup> Environment Protection Act, 1986, available at: <https://legislative.gov.in/sites/default/files/A1986-29.pdf> (visited on 23 February 2026).

**B. Environment Audit Rules, 2025 and Contaminated Sites Rules, 2025**

The Environment Audit Rules, 2025 introduce compliance monitoring, reporting transparency, and third-party auditing mechanisms. Environmental justice requires access to information and accountability; therefore, audit-based regulation enhances procedural justice by enabling communities to scrutinize industrial compliance.

Similarly, the Environment Protection (Management of Contaminated Sites) Rules, 2025 establish structured liability and remediation frameworks. By mandating polluter responsibility for site clean-up, these Rules operationalize the polluter pays principle and prevent marginalized populations from bearing remediation costs.

**C. Water (Prevention and Control of Pollution) Amendment Act, 2024**

Water insecurity is intensified by climate change. The Water Amendment Act, 2024 strengthens compliance and enforcement mechanisms.<sup>19</sup> By reinforcing regulatory oversight, it indirectly contributes to climate adaptation justice, particularly for agrarian and rural communities dependent on clean water resources.

**D. Industrial Classification Reforms (2016 Onwards)**

The red–orange–green–white industrial categorization system introduced in 2016 ensures differentiated regulatory scrutiny based on pollution potential. Such stratified oversight aligns with environmental justice by focusing regulatory resources on high-risk sectors and preventing disproportionate environmental harm.

**III. Forest, Wildlife and Biodiversity Laws in Climate Justice**

Forests and biodiversity are central to climate mitigation through carbon sequestration and ecosystem resilience.

**A. Forest (Conservation) Act, 1980 and Amendment Act, 2023**

The Forest (Conservation) Act, 1980 regulates diversion of forest land for non-forest purposes.<sup>20</sup> The 2023 Amendment seeks to streamline certain approvals but has raised concerns regarding community participation and forest-dependent populations. Environmental justice requires that forest governance incorporate prior informed consent and equitable rehabilitation mechanisms.

**B. Wildlife (Protection) Act, 1972 and 2022 Amendment**

The Wildlife (Protection) Amendment Act, 2022 strengthens species protection and aligns domestic law with international obligations under CITES.<sup>21</sup> Biodiversity conservation supports climate resilience; however, relocation or habitat regulation must ensure procedural fairness for local communities.

**C. Biological Diversity Act, 2002**

The Biological Diversity Act promotes conservation through local Biodiversity Management Committees.<sup>22</sup> It embodies procedural justice by institutionalizing community participation and recognition of traditional ecological knowledge, which is vital for climate adaptation strategies.

**IV. Plastic Waste, Greenwashing and Corporate Climate Accountability**

**A. Plastic Waste Management (Amendment) Rules, 2022–2025**

Extended Producer Responsibility (EPR) under the Plastic Waste Management framework reinforces the polluter pays principle.<sup>23</sup> By shifting waste management responsibility to producers, the Rules contribute to climate mitigation (given plastics' fossil fuel origins) and distributive justice.

**B. Anti-Greenwashing Guidelines**

Anti-Greenwashing Guidelines ensure truthful corporate sustainability disclosures. Environmental justice demands transparency so that consumers and investors are not misled by false climate claims. Regulatory integrity strengthens climate governance legitimacy.

---

<sup>19</sup> Water (Prevention and Control of Pollution) Amendment Act, 2024, available at: <https://egazette.nic.in> (visited on 23 February 2026).

<sup>20</sup> Forest (Conservation) Act, 1980, available at: <https://legislative.gov.in> (visited on 23 February 2026)

<sup>21</sup> Wildlife (Protection) Amendment Act, 2022, available at: <https://legislative.gov.in> (visited on 23 February 2026).

<sup>22</sup> Biological Diversity Act, 2002, available at: <https://legislative.gov.in/sites/default/files/A2003-18.pdf> (visited on 23 February 2026).

<sup>23</sup> Plastic Waste Management Rules (as amended), available at: <https://moef.gov.in> (visited on 23 February 2026).

### **C. Jan Vishwas (Amendment of Provisions) Act, 2023**

While the Jan Vishwas Act decriminalizes minor regulatory offences to enhance ease of doing business, environmental justice requires that decriminalization not dilute deterrence against serious ecological violations. Balancing economic facilitation with climate accountability remains crucial.

### **V. Adjudicatory Mechanisms and Access to Justice**

The National Green Tribunal (NGT) Act, 2010 established a specialized environmental court.<sup>24</sup> The NGT has played a pivotal role in ensuring enforcement of environmental norms and expediting climate-related disputes.

In *M.C. Mehta v. Union of India*, the Supreme Court emphasized environmental protection as integral to Article 21.<sup>25</sup> Judicial activism has thus advanced climate-responsive governance. However, access to legal aid remains uneven. Aligning climate action with justice requires increased access to legal aid and procedural simplification to empower marginalized communities.

## **VI. International Legal Framework and Climate Justice**

### **A. UNFCCC and CBDR Principle**

The United Nations Framework Convention on Climate Change (UNFCCC) institutionalized the principle of Common but Differentiated Responsibilities (CBDR).<sup>26</sup> This principle reflects global distributive justice by acknowledging historical emissions of developed nations.

### **B. Paris Agreement and Climate Finance**

The Paris Agreement operationalizes CBDR through nationally determined contributions and climate finance commitments.<sup>27</sup> Equity is embedded through differentiated capacity expectations. However, funding gaps undermine justice-based implementation.

### **C. Loss and Damage Fund (COP27)**

The recognition of a Loss and Damage Fund at COP27 marks significant advancement in climate justice.<sup>28</sup> It acknowledges that vulnerable nations suffering irreversible climate harm deserve compensation mechanisms.

### **D. Human Rights Recognition**

In 2021, the UN Human Rights Council recognized the right to a clean, healthy, and sustainable environment.<sup>29</sup> This strengthens the human-rights-climate nexus and supports climate litigation grounded in justice claims.

In *Urgenda Foundation v. State of the Netherlands*, the Dutch Supreme Court held that insufficient climate mitigation violated human rights obligations.<sup>30</sup> This landmark case demonstrates judicial enforcement of climate justice principles.

---

<sup>24</sup> National Green Tribunal Act, 2010, available at: <https://legislative.gov.in/sites/default/files/A2010-19.pdf> (visited on 23 February 2026).

<sup>25</sup> *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

<sup>26</sup> United Nations Framework Convention on Climate Change, 1992, available at: <https://unfccc.int/resource/docs/convkp/conveng.pdf> (visited on 23 February 2026).

<sup>27</sup> Paris Agreement, 2015, available at: [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf) (visited on 23 February 2026).

<sup>28</sup> UNFCCC, COP27 Sharm el-Sheikh Implementation Plan (2022), available at: <https://unfccc.int/documents/624444> (visited on 23 February 2026).

<sup>29</sup> UN Human Rights Council Resolution 48/13 (2021), available at: <https://documents.un.org> (visited on 23 February 2026).

<sup>30</sup> *Urgenda Foundation v. State of the Netherlands* (2019), available at: <https://www.urgenda.nl/en/themas/climate-case/> (visited on 23 February 2026).

**Comparative Framework: India and International Approach to Environmental Justice**

Parameter	Indian Framework	International Framework
<b>Constitutional / Foundational Basis</b>	Articles 14, 21, 48A & 51A(g) of the Constitution of India; judicial expansion of right to clean environment	UN Charter principles; Human Rights Council recognition of right to clean, healthy and sustainable environment (2021)
<b>Core Justice Principle</b>	Equality before law; right to life; sustainable development; polluter pays principle	Common but Differentiated Responsibilities (CBDR); intergenerational equity; climate justice
<b>Primary Environmental Legislation</b>	Environment Protection Act, 1986; Water Act (Amendment) 2024; Forest (Conservation) Act, 1980 (Amended 2023); Wildlife (Protection) Act, 1972 (Amended 2022); Biological Diversity Act, 2002	UNFCCC (1992); Kyoto Protocol (1997); Paris Agreement (2015); Convention on Biological Diversity (1992)
<b>Climate-Specific Governance</b>	National Action Plan on Climate Change (NAPCC); sectoral missions; regulatory notifications under EPA	Nationally Determined Contributions (NDCs) under Paris Agreement; global stocktake mechanisms
<b>Accountability Mechanisms</b>	National Green Tribunal (NGT); Supreme Court PIL jurisdiction; environmental audit requirements	Conference of Parties (COP); compliance committees; transparency framework under Paris Agreement
<b>Access to Justice</b>	Public Interest Litigation (PIL); NGT; expanding environmental legal aid	International climate litigation; human rights treaty bodies; advisory opinions
<b>Corporate Responsibility</b>	Plastic Waste Management Rules (EPR); Anti-Greenwashing Guidelines; environmental audit rules	ESG reporting standards; UN Guiding Principles on Business and Human Rights; global disclosure frameworks
<b>Climate Finance &amp; Equity</b>	Domestic green budgeting; renewable energy subsidies; compensation under contaminated site rules	Climate finance commitments; Green Climate Fund; Loss and Damage Fund (COP27)
<b>Community Participation</b>	Biodiversity Management Committees; public hearings under EIA; forest rights recognition	Indigenous participation in COP negotiations; participatory adaptation frameworks
<b>Challenges</b>	Enforcement gaps; balancing development and conservation; limited climate-specific legislation	Funding shortfalls; voluntary NDC enforcement; geopolitical disparities
<b>Justice Orientation</b>	Rights-based constitutional interpretation; judicial activism	Equity-based burden sharing; historical responsibility recognition

**Key Comparative Observations**

- India’s framework is primarily **constitution-driven and court-enforced**, while the international framework is **treaty-based and negotiation-driven**.
- India relies heavily on **judicial activism and statutory regulation**, whereas international governance depends on **multilateral consensus and climate finance commitments**.
- Both frameworks recognize equity, but India emphasizes **fundamental rights**, while international law stresses **historical responsibility and differentiated obligations**.
- Implementation challenges exist in both systems — domestic enforcement gaps in India and compliance/finance gaps internationally.

**Case studies**

**Rights-based constitutional adjudication: the foundation**

Indian courts have repeatedly transformed environmental protection into a justiciable right, using constitutional guarantees to ground climate and environmental claims. The Supreme Court’s holding that the right to life under Article 21 includes a clean environment established early jurisprudential footing for environmental justice claims (Subhash Kumar).<sup>31</sup> In *Vellore*

<sup>31</sup> *Subhash Kumar v. State of Bihar* (1991). Available: <https://indiankanoon.org/doc/1646284/> (visited on 23 February 2026).

*Citizens' Welfare Forum* the Court imported international principles—precautionary principle, polluter-pays and sustainable development—into domestic law, creating doctrinal tools for climate litigation.<sup>32</sup> These doctrines enable judges to demand preventive or remedial state action when environmental harm threatens fundamental rights.

### **Public interest litigation and proactive judicial remedies**

Public Interest Litigation (PIL) has been a vehicle for systemic remedies. The M.C. Mehta cases (including *Oleum* and a string of pollution and Taj/Ganga interventions) exemplify how Indian courts used PILs to impose novel remedies—direction for relocation, phased shutdowns, emission controls and monitoring regimes—thereby operationalising distributive and procedural justice.<sup>33</sup> The judiciary's remedial creativity often fills legislative or administrative gaps to protect vulnerable populations.<sup>34</sup>

### **Procedural access and specialised tribunals**

Procedural reforms and specialised fora have expanded access to justice. The establishment and jurisprudence of the National Green Tribunal (NGT) institutionalised expert, expedited environmental adjudication, improving enforcement and local redress for communities.<sup>35</sup> NGT rulings and its case backlog and outputs illustrate both increased access and ongoing capacity challenges.<sup>36</sup> Recent NGT orders (for example, on sealing illegal borewells and curbing illegal mining) show continued frontline enforcement.<sup>37</sup>

### **Balancing development, displacement and rights**

The courts have grappled with tensions between development projects and community rights. *Narmada Bachao Andolan* illustrates judicial balancing of large infrastructure benefits against displacement and rehabilitation concerns, reflecting a cautious approach that insists on procedural safeguards and equitable compensation.<sup>38</sup> Similarly, forest-law disputes (*T.N. Godavarman* and related litigation) foreground indigenous and forest-dependent communities' rights in decisions affecting carbon sinks and land use.<sup>39</sup>

### **Preventive principles: precautionary and polluter-pays in climate context**

Judicial adoption of the precautionary and polluter-pays principles has implications for climate policy—courts can require anticipatory mitigation and impose liability on emitters. *Vellore* and subsequent Mehta rulings provided the legal rationale for regulatory and remedial measures that are applicable to industrial contributors to greenhouse gases.<sup>40</sup>

### **Standing, remedy scope and judicial restraint: comparative tensions**

International courts show varied approaches to standing and remedies. The U.S. Supreme Court in *Massachusetts v. EPA* recognised standing for states and obligated administrative regulation of greenhouse gases, opening administrative pathways for climate governance.<sup>41</sup> Conversely, U.S. youth-led *Julianna* litigation illustrates judicial restraint on separation-

---

<sup>32</sup> *Vellore Citizens' Welfare Forum v. Union of India* (1996). Available: <https://indiankanoon.org/doc/1934103/> (visited on 23 February 2026).

<sup>33</sup> *M.C. Mehta v. Union of India* (*Oleum*) (1987). Available: <https://indiankanoon.org/doc/1486949/> (visited on 23 February 2026).

<sup>34</sup> *M.C. Mehta* air pollution interventions (Delhi) (2001). Available: <https://indiankanoon.org/doc/92613/> (visited on 23 February 2026).

<sup>35</sup> *Narmada Bachao Andolan v. Union of India* (2000). Available: <https://indiankanoon.org/doc/1938608/> (visited on 23 February 2026).

<sup>36</sup> *T.N. Godavarman Thirumulpad v. Union of India* (1996/2012). Available: <https://indiankanoon.org/doc/298957/> (visited on 23 February 2026).

<sup>37</sup> Landmark NGT judgments overview. Available: <https://blog.ipleaders.in/ngt-judgments/> (visited on 23 February 2026).

<sup>38</sup> National Green Tribunal official portal. Available: <https://www.greentribunal.gov.in/> (visited on 23 February 2026).

<sup>39</sup> Recent NGT orders (borewells/mining). Times of India reports. Available: <https://timesofindia.indiatimes.com> (visited on 23 February 2026).

<sup>40</sup> *Urgenda Foundation v. State of the Netherlands* (Dutch Supreme Court, 2019). Available: <https://www.urgenda.nl/wp-content/uploads/ENG-Dutch-Supreme-Court-Urgenda-v-Netherlands-20-12-2019.pdf> (visited on 23 February 2026).

<sup>41</sup> *Massachusetts v. EPA*, 549 U.S. 497 (2007). Available: <https://supreme.justia.com/cases/federal/us/549/497/> (visited on 23 February 2026).

of-powers grounds despite substantive sympathy for plaintiffs' claims.<sup>42</sup> These cases show that standing and remedy doctrines significantly shape judicial ability to order ambitious mitigation.

### **Courts compelling policy compliance: strategic climate litigation**

High-profile decisions in Europe demonstrate courts compelling governments to tighten climate commitments. The Dutch *Urgenda* decision ordered greater emissions cuts based on human rights and public law duties; that precedent inspired corporate and state liability suits worldwide.<sup>43</sup> The Irish Supreme Court in *Friends of the Irish Environment* quashed an inadequate national mitigation plan, insisting statutory compliance with climate-planning laws.<sup>44</sup> Germany's Federal Constitutional Court in *Neubauer* emphasised intergenerational equity, ruling parts of the Climate Act insufficient for future generations.<sup>45</sup> These decisions show courts enforcing statutory and constitutional obligations to raise policy ambition.

### **Corporate accountability litigation**

Judicial strategies are moving from state-centric suits to claims against corporations. *Milieudefensie v. Shell* initially imposed concrete emission-cutting obligations on a multinational on human-rights grounds; subsequent appeals illustrate legal and evidentiary limits but underline the judiciary's role in testing corporate climate responsibility.<sup>46</sup>

### **Human-rights framing and transnational petitions**

Human-rights committees and regional courts are increasingly receptive to climate claims. The UN Human Rights Committee's handling of *Teitiota* and Grand-Chamber litigation at the European Court of Human Rights (e.g., *Duarte Agostinho*)<sup>47</sup> indicate an emergent human-rights angle—states may owe procedural and substantive duties where climate risks threaten life and private life.<sup>48</sup>

### **South–North equity and implementation remedies**

Cases like *Leghari v. Pakistan* show courts insisting the state implement national climate policies and institutional mechanisms, reflecting claims that inadequate state action violates constitutional rights in developing countries.<sup>49</sup> International rulings (e.g., COP-linked litigation and Loss & Damage debates) underscore that judicial remedies alone cannot substitute for predictable finance and technology transfer, but litigation pressures can catalyse policy shifts.

### **Emerging themes and constraints**

Across jurisdictions, judicial approaches exhibit common themes: rights-based reasoning, incorporation of precautionary/polluter-pays doctrines, innovative remedies, and increasing willingness to scrutinise national climate plans. Constraints include doctrines of standing, separation of powers, evidentiary thresholds for causation, and enforceability of broad remedial orders. Courts often craft incremental rather than wholesale policy mandates, mindful of democratic legitimacy and technical complexity.<sup>50</sup>

---

<sup>42</sup> *Juliana v. United States* (youth climate litigation). Status reporting: Reuters and Climate Case Chart (visited on 23 February 2026).

<sup>43</sup> *Milieudefensie et al. v. Royal Dutch Shell* (2021). Available: [https://www.climatecasechart.com/document/milieudefensie-et-al-v-royal-dutch-shell-plc\\_c3e4](https://www.climatecasechart.com/document/milieudefensie-et-al-v-royal-dutch-shell-plc_c3e4) (visited on 23 February 2026).

<sup>44</sup> *Neubauer et al. v. Germany* (Federal Constitutional Court, 2021). Available: [https://www.climatecasechart.com/document/neubauer-et-al-v-germany\\_0a3e](https://www.climatecasechart.com/document/neubauer-et-al-v-germany_0a3e) (visited on 23 February 2026).

<sup>45</sup> *Leghari v. Federation of Pakistan* (2015). Available: [https://elaw.org/resource/pk\\_leghari\\_v\\_pakistan\\_2015](https://elaw.org/resource/pk_leghari_v_pakistan_2015) (visited on 23 February 2026).

<sup>46</sup> *Ioane Teitiota v. New Zealand* (UN Human Rights Committee, 2020). Available: <https://www.refworld.org/jurisprudence/caselaw/hrc/2020/en/123128> (visited on 23 February 2026).

<sup>47</sup> *Duarte Agostinho and Others v. Portugal and 32 Others* (ECTHR Grand Chamber, 2024). Available: <https://hudoc.echr.coe.int/eng?i=001-233261> (visited on 23 February 2026).

<sup>48</sup> *Friends of the Irish Environment v. Government of Ireland* (Climate Case Ireland, 2020). Available: [https://www.climatecasechart.com/document/friends-of-the-irish-environment-v-government-of-ireland\\_ade0](https://www.climatecasechart.com/document/friends-of-the-irish-environment-v-government-of-ireland_ade0) (visited on 23 February 2026).

<sup>49</sup> Plan B Earth / UK litigation (ecHR and domestic challenges). Available: [https://www.climatecasechart.com/document/plan-b-earth-and-others-v-prime-minister\\_1b1e](https://www.climatecasechart.com/document/plan-b-earth-and-others-v-prime-minister_1b1e) (visited on 23 February 2026).

<sup>50</sup> European Court of Human Rights climate docket overview (Carême and others). Available: <https://www.cambridge.org/core/journals/canadian-yearbook-of-international-law-annuaire-canadien-de-droit-international/article/european-court-of-human-rights-and-climate-change-expanding-beyond-traditional-limits/9E006D5F59F1D29DE0EC03ED5396D19D> (visited on 23 February 2026)

### **Critical Evaluation**

The judicial approach toward environmental justice in climate-making policy reflects both progressive innovation and structural limitations. Courts in India and internationally have expanded constitutional and human rights frameworks to incorporate environmental protection, thereby strengthening accountability and advancing climate justice. The incorporation of principles such as sustainable development, precautionary principle, and polluter pays has enabled proactive intervention in cases of environmental harm. Judicial forums like the National Green Tribunal have improved access to environmental remedies and expedited dispute resolution.

However, excessive judicial reliance may risk institutional overreach and policy fragmentation, particularly where legislative clarity is lacking. Enforcement gaps, compliance delays, and limited implementation capacity often dilute the transformative potential of judicial decisions. Internationally, despite landmark rulings compelling stronger climate action, enforcement remains dependent on political will. Therefore, while judicial activism plays a crucial catalytic role, sustainable climate justice ultimately requires comprehensive legislation, robust regulatory institutions, enhanced public participation, and consistent political commitment.

### **CONCLUSION**

The role of environmental justice in climate-making policy has evolved into a central normative and legal principle both in India and internationally. Climate change is no longer treated solely as an environmental concern but as a matter of constitutional rights, human dignity, and equitable development. In India, constitutional provisions such as Articles 14 and 21, supported by judicial interpretation and statutory frameworks like the Environment Protection Act, the National Green Tribunal Act, and biodiversity and forest laws, have progressively embedded justice considerations into environmental governance. Judicial activism has significantly contributed to strengthening accountability, access to remedies, and the incorporation of precautionary and polluter pays principles.

At the international level, climate justice is reflected in the principle of Common but Differentiated Responsibilities under the UNFCCC and the equity-based mechanisms of the Paris Agreement, including climate finance and loss and damage frameworks. However, enforcement gaps, implementation challenges, and financial disparities continue to hinder effective realization.

Ultimately, achieving meaningful climate justice requires harmonizing constitutional values, legislative reform, participatory governance, corporate accountability, and global cooperation. A justice-oriented climate framework ensures that mitigation and adaptation measures are not only environmentally effective but also socially inclusive and intergenerationally equitable.

### **RECOMMENDATIONS**

India should enact a comprehensive Climate Change Act integrating environmental justice principles, clearly defining accountability, mitigation targets, and adaptation responsibilities. Legislative reforms must strengthen enforcement under the Environment Protection Act and related statutes while safeguarding community participation and prior informed consent in climate-related projects. Access to environmental legal aid should be expanded to empower vulnerable communities. Regulatory bodies, including the NGT, require enhanced technical capacity and monitoring authority. Corporate climate disclosures must be strictly regulated to prevent greenwashing. Internationally, developed nations must fulfill climate finance commitments and operationalize loss and damage mechanisms. Integrating equity, transparency, and participatory rights will ensure just and effective climate governance.

### **FUTURE SCOPE**

Future research may explore the development of a comprehensive climate justice framework through dedicated climate legislation in India. Empirical studies assessing the impact of environmental audit mechanisms and contaminated site regulations on vulnerable communities would strengthen policy evaluation. Comparative analysis of emerging climate litigation trends across jurisdictions can further clarify judicial standards for accountability. Greater focus is needed on integrating indigenous knowledge systems into adaptation strategies. Research may also examine the effectiveness of climate finance distribution and corporate disclosure norms. Expanding interdisciplinary approaches combining law, economics, and environmental science will enhance understanding of equitable and sustainable climate governance.