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Judicial Responses to Renewable Energy and Environmental Protection in India

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ABSTRACT

The accelerated growth of renewable energy projects, fueled by international climate pledges such as the Paris Agreement, has resulted in new environmental and legal issues. The shift to green power in India has not been without its ecological impacts, which have targeted wildlife, biodiversity, and indigenous communities. This dualism of renewable energy, both being a cause and a cure for environmental problems, has seen earnest judicial intervention. Indian courts and the National Green Tribunal have been instrumental in incorporating global environmental norms such as the "precautionary principle" and "polluter pays" into national law, thus framing environmental jurisprudence in the energy transition scenario. Climate litigation has become a key instrument to tackle the responsibilities of governments and business entities for environmental destruction, inducing accountability and governance changes. Around the world, nations are experiencing an upsurge in climate cases, indicative of increasing legal awareness of the negative effects of climate change. At the same time, the idea of a "just energy transition" has become more prominent, with the need for a fair transition that protects vulnerable groups and transitions to clean energy. Judicial statements across the world recognize the fine balance between encouraging renewable energy and environmental justice. The developing jurisprudence highlights the need for strong regulatory frameworks, participatory government, and creative legal tools to enable a sustainable and fair energy transition.

Keywords: *Climate change, Climate litigation, National Green Tribunal, just energy transition, renewable energy.*

I. INTRODUCTION

Over the past few decades, there has been a discernible increase in environmental issues related to the growth of renewable energy projects.³ In India, the growth of such energy projects has become increasingly influential in the natural environment, ranging from wildlife to plant life.

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³ Panwar NL, Kaushik SC and Kothari S, "Role of Renewable Energy Sources in Environmental Protection: A Review" (2011) 15 Renewable and Sustainable Energy Reviews 1513.

This escalating problem is traced back to the need to meet Paris Agreement commitments, requiring a radical shift in the energy sector. Addressing this issue calls for consistent oversight and a well-structured action plan to mitigate environmental damage.⁴

India, being a signatory to the Paris Agreement, has been proactive in pursuing its climate objectives, with the aim of curbing carbon emissions and reducing ecological damage. While Indian courts have already laid down a number of guidelines and doctrines with an environmental protection focus, there remain doubts about the applicability of principles like the "polluter pays" and the "precautionary principle" in the context of renewable energy development. Courts have already considered some ecologically destructive practices to be negligent and incompatible with the objective of maintaining ecological balance, such as protecting wildlife.

II. CLIMATE LITIGATION

Climate litigation is a general term for legal proceedings that are specifically related to matters of climate change mitigation, adaptation, or the science of climate change. This concept is useful in demarcating disputes arising from the fast and massive changes taking place in the global energy and industrial sectors.⁵

The basis of climate litigation is the concept of liability.⁶ It originates from increasing recognition on the part of civil society that human-caused environmental degradation specifically the release of greenhouse gases has extensive and negative impacts on environment⁷ property and public health.⁸ That recognition has created opportunities for litigation against governments as well as corporations involved in environmentally destructive commercial activities. As these lawsuits develop, they should pose new and challenging legal issues for both plaintiffs and defendants.

Climate change litigation can arise from several legal fronts, including but not limited to:

(a) Tortious claims, like those founded upon nuisance or negligence, where climate change is cited as a direct or contributory causal factor. Such cases can be aimed at imposing liability for

⁴ Kochtcheeva LV, 'Renewable Energy: Global Challenges' <<https://www.e-ir.info/pdf/63511>> accessed 25 March 2025.

⁵ Owusu PA and Asumadu-Sarkodie S, 'A Review of Renewable Energy Sources, Sustainability Issues and Climate Change Mitigation' (2016) 3 Cogent Engineering 3.

⁶ Peel J and Osofsky HM, *Climate Change Litigation* (Cambridge University Press 2015) <<https://www.cambridge.org/core/books/climate-change-litigation/DB1A948D69FE080EBFFB938EE2D58545>> accessed April 1, 2025.

⁷ Wilby RL, "A Review of Climate Change Impacts on the Built Environment" (2007) 33 Built Environment 31.

⁸ D'Amato G and Cecchi L, "Effects of Climate Change on Environmental Factors in Respiratory Allergic Diseases" (2008) 38 Clinical & Experimental Allergy 1264.

environmental damage caused due to particular actions or inactions.

(b) Administrative and public law claims, such as they might include challenges against inaction by the government, wrongful action, or breach of statutory and constitutional obligations. These types of claims tend to seek redress on the part of public authorities for failing to properly regulate greenhouse gas emissions or for the failure to enforce environmental obligations under domestic or international law.

(c) Regulatory and corporate claims, which are a reflection of the growing public scrutiny of climate-related disclosures. These cases can involve claims of deceptive advertising, failure by directors or corporate officers to disclose climate-related risks, or inadequate environmental governance. These can lead to shareholder derivative suits or regulatory enforcement actions with wider implications for corporate accountability.⁹

The intersection of energy transition and climate change creates a complex set of legal, financial, and reputational risks for the stakeholders in the energy and industrial sectors.¹⁰ There has been a notable surge in climate-related cases across the world over the past few years, which whether successful or not have encouraged parallel litigation in other jurisdictions. Climate change talk, sustainability, and compliance with the law have therefore become central to contemporary corporate governance and risk management models.

India is no exception in this regard. With its aggressive plans for renewable energy (RE) deployment to meet the objective of carbon emissions reduction.¹¹ India is increasingly seeing a emergence of climate litigation. This development in law is both substantial and imperative, particularly in response to the International Energy Agency's (IEA) claim that reaching net-zero emissions by 2050 will necessitate a "complete transformation of the global energy system." Although this transition holds many prospects for sustainable growth, it also raises possible disputes and regulatory concerns that necessitate strong legal readiness.¹²

According to latest statistics, the United States takes the lead internationally in climate-related litigation with 1,745 reported cases. The United Kingdom ranks second, having reported 124 cases, followed by Brazil with 82 cases and Germany with 60 cases. Australia has 132 climate

⁹ Arindam Basu, "Climate Change Litigation in India: Seeking a New Approach through the Application of Common Law Principles" (2011) 1 ELPR 35.

¹⁰ Hoppe T and van Bueren E, "Guest Editorial: Governing the Challenges of Climate Change and Energy Transition in Cities" (2015) 5 Energy, Sustainability and Society 1.

¹¹ Springer and Cham, *Comparative Climate Change Litigation: Beyond the Usual Suspects*. GSCL, vol 47 (Springer, Cham 2021) 347.

¹² "Climate Change and Sustainability Disputes: Energy Sector Perspectives" (Norton Rose Fulbright, July 2021) <<https://www.nortonrosefulbright.com/en-in/knowledge/publications/5a4387f4/climate-change-and-sustainability-disputes-energy-perspective>> accessed March 18, 2025.

litigation cases, though just six have officially gone to court. Most importantly, Panama, Portugal, Hungary, and Namibia have reported first-time climate litigation cases, demonstrating an increased worldwide interest in legal developments linked to climate change. There has been a notable year-to-year surge in the number of climate cases compared to the figure reported in the 2023 report, suggesting an enhanced legal awareness and a broadening jurisprudence in this branch of law.¹³

III. ROLE OF NATIONAL GREEN TRIBUNAL AND INDIAN COURTS

The Indian judiciary has performed a foundational and transformational function in the evolution of environmental law. It has greatly assisted in incorporating international environmental principles, including the precautionary principle and the polluter pays principle, into domestic law. The international norms have been fashioned to fit the national legal order and have helped enable strong reforms in Indian environmental jurisprudence. Before the advent of the phrase "climate change litigation" into common usage, the Indian legal system was already dealing with a host of environmental issues. Courts have always remained the custodians of environment rights, and through their orders, they formulated cornerstones of environmental jurisprudence. The Supreme Court and some High Courts interpreted the right over a clean and healthy environment as an integral component of the right to life under Article 21 of the Constitution of India.¹⁴

This meaning has been affirmed through various landmark judgments. In such matters as *M.C. Mehta v. Union of India*,¹⁵ *Vellore Citizens Welfare Forum v. Union of India*,¹⁶ *T.N. Godavarman Thirumulpad v. Union of India*,¹⁷ *Indian Council for Enviro-Legal Action v. Union of India*,¹⁸ and *M.C. Mehta v. Kamal Nath*,¹⁹ not only did the judiciary enforce environmental protection but also expounded upon key doctrines such as the public trust doctrine, absolute liability, and precautionary and polluter pays principles. Most of these judgments arose from public interest litigations, reflecting the judiciary's dedication to solving societal issues.

The Supreme Court has frequently taken suo motu cognisance of environmental concerns,

¹³ Setzer J and Higham Catherine, "Global Trends in Climate Change Litigation: 2024 Snapshot" (Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science .2024) <<https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2024/06/Global-trends-in-climate-change-litigation-2024-snapshot.pdf>> accessed March 29, 2025.

¹⁴ The Constitution of India 1950, art 21.

¹⁵ *MC Mehta v. Union of India*, AIR 1987 SC 1086.

¹⁶ *Vellore Citizens Welfare Forum v. Union of India*, AIR 1996 SC 2715.

¹⁷ *T. N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.

¹⁸ *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

¹⁹ *M. C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

evidencing judicial activism and a wider vision for sustainable development. Although this has at times raised concerns regarding judicial overreach, such interventions have frequently plugged institutional loopholes in environmental regulation. Ever since India ratified the Paris Agreement, the judiciary has remained committed to national goals relating to environmental protection and the shift towards sustainable energy.

In addition to the judiciary, the National Green Tribunal (NGT) has developed into a specialized institution for adjudicating environmental disputes.²⁰ Established by the National Green Tribunal Act, 2010,²¹ the NGT consists of legal and environmental professionals and is an efficient forum for settling ecological concerns. Yet its jurisdiction is limited to cases listed in Schedule I of the Act, applying Section 14,²² which restricts its ambit to that of constitutional courts. The NGT applies different, more limiting procedural constraints compared to the locus standi applied by the Supreme Court and High Courts. Section 15²³ of the Act elaborates on the tribunal's powers to award relief, compensation, and restitution for damage caused to the environment or affected individuals. Section 16²⁴ further outlines the procedural framework under which aggrieved parties can approach the NGT to challenge government orders. Despite these limitations, the NGT has adopted a progressive interpretation in several cases. For example, in *Samir Mehta v. Union of India*²⁵, the tribunal highlighted that environmental justice must not be curtailed and has to involve all the affected individuals and groups due to environmental degradation. In the same manner, in *Samata v. Union of India*,²⁶ the NGT broadened the scope of locus standi so that a larger segment of society can seek legal remedy against environmental damage. These choices highlight the NGT's growing commitment to environmental justice and its potential to serve as a corrective mechanism in cases of administrative failure or ecological neglect. Nevertheless, some elements of environmental governance are still contentious. One of them is the public consultation process under Environmental Impact Assessment (EIA), which is frequently manipulated by different stakeholders, including government officials. *The Hanuman Laxman Aroskar and Others v. Union of India and Others*²⁷ case brought to the fore how indispensable public concerns were excluded in the course of environmental hearings, more so those of the sensitive ecology of the Western Ghats. The suppression of such objections made serious questions of the transparency

²⁰ National Green Tribunal Act 2010.

²¹ *Ibid*

²² *Ibid.* s.14.

²³ *Ibid.*s.15.

²⁴ *Ibid.*s.16.

²⁵ *Samir Mehta v. Union of India*, 330.A. No. 24 of 2011 MANU/GT/0104/2016.

²⁶ *Samata v Union of India* (National Green Tribunal, Appeal No. 10 of 2010, 13 December 2013).

²⁷ *Hanuman Laxman Aroskar v. Union of India*, (2019) 15 SCC 401.

and accountability of the EIA procedures and cast skepticism on the effectiveness of the institutions in charge. This case is still closely relevant to the increasing debate surrounding environmental governance, particularly in renewable energy projects that tend to skip thorough environmental testing despite their eco-friendly tag. The judiciary's and NGT's role to address such lapses is fundamental in ensuring sustainable development does not compromise ecological integrity.

IV. ENVIRONMENT PROTECTION AND JUST ENERGY TRANSITION

The integration of energy transition with the notion of a just transition has already been made and is progressing steadily.²⁸ The concept of Just Transition means "ensuring the protection of the planet, people and the economy through the local and global climate action". The UNFCCC mentions the "just energy transition" as a key component in combating climate change issues, associating it with sustainable development that incorporates social and economic aspects. The "just energy transition" also focuses on the vulnerable populations and the detrimental effects of climate change on nature. This is critical in achieving low-emission levels and promoting development that is resilient to climate risks. It entails stepping up gradually cleaner, newer technologies and weaning itself from reliance on high-emission sources. The advent of the "just energy transition" represents a paradigm shift towards a greener, more sustainable tomorrow.²⁹ With ever-growing demand for renewable energy around the world, the contribution of fossil fuels in the energy mix is likely to come down. In the short term, the transition could perturb the economic and social structures of coal mine-dependent regions. But in the long run, the prosperity of these regions need not be sacrificed if the transformation is undertaken based on the principles of just transition.

National and international legal systems, as well as global institutions and civil society, need to be proactive in interacting with the dynamic principle of "just transition" and specifically focus on the "just energy transition" to tackle climate change and provide a sustainable future for generations yet to come. A pragmatic approach would be to settle the current conflicts pertaining to renewable energy in a manner that meets the interests of all parties concerned. This two-pronged effort should progress in parallel. The issue of transitioning from a "just transition" to a "just energy transition" has been an increasingly global topic.³⁰ Major global

²⁸ Michael Jakob and Steckel JC, "The Just Energy Transition " (WWF International Background Paper) <https://wwf.it.awsassets.panda.org/downloads/jakobsteckel_2016_jet.pdf> accessed March 30, 2025 .

²⁹ Heffron RJ, "Applying Energy Justice into the Energy Transition" (2022) 156 *Renewable and Sustainable Energy Reviews*.

³⁰ McCauley D and Heffron R, "Just Transition: Integrating Climate, Energy and Environmental Justice" (2018) 119 *Energy Policy* 1.

events have helped propel this agenda forward, such as COP28 and the G20 summit. The G20 summit, in particular, focused on the imperative of addressing energy poverty by increasing access to clean sources of energy. This is seen as a key step towards ensuring environmental conservation as well as energy security.³¹

V. UNJUST TRANSITION TO ENERGY AND PROTECTION OF ENVIRONMENT

The time to act upon fast climate change and pursue environmental justice has arrived at the fore of this age. Developed countries and developing ones alike are gravitating towards the larger movement towards environmental justice that has attracted global attention.³² The principle of environmental justice is, in essence, about two dominant themes. One is the just allocation of the blame for destroying the environment. The second relates to equity in the distribution of the impacts of climate change policies and activities.³³

Today, most of the least developed countries contribute least to the climate problem but suffer most from its worst impacts. These include natural disasters like floods, cyclones and heat waves. In these areas, marginalized and vulnerable populations are particularly disadvantaged and suffer most from both the crisis and the failure of response mechanisms. As indicated by the International Rescue Committee, nations such as Somalia, Syria, the Democratic Republic of Congo, Afghanistan, Yemen and South Sudan are among the nations most vulnerable to climate-related hazards.³⁴

There are efforts being made to cut carbon emissions around the world, and one of the primary aims is switching from fossil fuels to alternative forms of energy. Nonetheless, existing measures still fail to adequately respond to the problem of unregulated emissions, which continue to exacerbate the environmental emergency. What is lacking is an overall framework that focuses on vulnerable countries, which is most needed. Even as they encounter the biggest challenges, such nations tend to wield minimal influence in world decision-making dominated by stronger nations. There is an immediate need for a wider and more equitable response to the climate crisis. The response should be founded on an overarching vision addressing the causative forces of inequality and ecological destruction. Only by way of such system change can the world start experiencing the ideals of justice, equity, inclusion, and sustainability in

³¹ Heffron RJ, "The Just Transition To a Low-Carbon Economy" (2018) 8 Renewable Energy Law and Policy Review 39.

³² Temper L and others, "The Global Environmental Justice Atlas (EJAtlas): Ecological Distribution Conflicts as Forces for Sustainability" (2018) 13 Sustainability Science 573.

³³ Abigail Fleming and Catherine Dremluk, "Armoring the Just Transition Activist Armoring the Just Transition Activist" (2022) 25 Rich. Pub. Int. L. Rev 171.

³⁴ The IRC, "10 Countries at Risk of Climate Disaster" (*The IRC*, March 20, 2023) <<https://www.rescue.org/article/10-countries-risk-climate-disaster>> accessed April 9, 2025.

facing this collective threat.

VI. CONCLUSION

Judicial decisions across the globe have played a crucial role in shaping the development of renewable energy, often acting as catalysts for environmental governance and policy reform. These landmark judgments reflect a shared recognition of the dual objective: reducing greenhouse gas emissions while safeguarding the environment. The cases illustrate how renewable energy, despite its environmental promise, also poses certain ecological and social challenges. Courts have carefully analyzed these intricacies, providing subtle interpretations that support clean energy and call for responsibility for unforeseen consequences.

While renewable energy is so full of promise for a sustainable future, its adoption must be directed by careful mitigation of risks involved. The future calls for innovative technologies, robust regulatory mechanisms, concerted action by governments, the private sector, and civil society, and context-specific solutions that meet local and global needs. It also calls for a shift in focus toward achieving justice in all its forms--procedural, distributive, and climate, and particularly for recognizing and advancing the rights of vulnerable countries and communities most impacted by climate change.

This revolution necessitates a rebalancing of duties and responsibilities. Environmental activists, policymakers, judges, and civil society need to be armed with new tools, views, and legal tools to advance equity and sustainability. Real progress is to pursue energy security objectives in the terms of environmental justice, to ensure that development will not promote only narrow interests but serves the greater planet and its inhabitants.

The court rulings reviewed here reaffirm global action towards achieving the climate objectives set out in such platforms as COP28 and furthering the United Nations Sustainable Development Goals (SDGs). The rulings also emphasize India's increasing commitment to developing renewable energy within a legal framework conducive to equitable transitions. Notably, civil society engagement in environmental decision-making needs to continue to be at the forefront, especially as newer, "green" technologies arise whose long-term consequences are not yet fully comprehended.

Finally, these historic decisions represent not a conclusion but a start, a call to rethink our green future. They open up room for shared governance where excluded voices are not merely heard but are necessary to inform policies that meet energy demands while upholding environmental wholeness. Here in this shared quest, justice becomes both the compass and the shield, positioning humanity to be ready when the fires and storms of climate change inevitably erupt.