

## Climate Litigation

### Why in news?

Recent Supreme Court's ruling on right against climate change could energise climate litigation in India.

### Climate Litigation

- Climate litigation means legal action that aims to **combat climate change** and involves arguments which are related to climate change.
- It is one tool communities and individuals are using to force governments and corporations to do more to prevent dangerous climate change.
- **Categories-**
  - Cases relying on human rights enshrined in international law and national constitutions
  - Challenges to domestic non-enforcement of climate-related laws and policies
  - Litigants seeking to keep fossil fuels in the ground
  - Advocates for greater climate disclosures and an end to greenwashing
  - Claims addressing corporate liability and responsibility for climate harms; and
  - Claims addressing failures to adapt to the impacts of climate change.

### What is the Supreme Court's recent ruling on right against climate change?

- The Supreme Court of India has made a [significant ruling](#) that acknowledges the fundamental right of people to be free from the adverse impacts of climate change, it is seen as an extension from the *right to life* (Article 21) and *equality* (Article 14) under Indian Constitution.
- The court has recognized that the *right to a clean environment* is well established in Indian jurisprudence, and given the increasing damage caused by climate change, it is essential to establish a distinct right to be protected against its negative effects.
- This landmark decision came about in a case concerning *the conservation of the Great Indian Bustard*, an endangered species.
- The central government sought to modify a 2021 order related to the bird's conservation, arguing that it was impractical and could hinder India's renewable energy development and its climate change commitments.
- The Supreme Court agreed to amend the order but also took the opportunity to address the broader issue of climate change risks.
- The ruling is expected to energize climate litigation in India, as it sets a precedent for the legal recognition of the right to be protected from climate change.
- It also reflects a global trend where courts are increasingly being approached to address climate-related issues.

### Why there is global surge in climate litigation?

*Global Climate Litigation Report 2023 by UNEP identified 2,180 climate-related cases being heard by courts, tribunals and other adjudicatory bodies in 65 countries.*

- **Diverse actors**- Children and youth, women's groups, local communities, and Indigenous Peoples are taking prominent role in bringing climate litigation cases.
- **Awareness generation**- Due to involvement of diverse actors, it fosters climate change governance reforms in many countries around the world.
- **Environmental rule of law**-Access to justice enables the protection of environmental law and human rights, promoting accountability in public institutions.
- **Connection with human rights**- Many cases brought before the courts show concrete links between human rights and climate change.

*UN General Assembly's recognises the human right to a clean, healthy and sustainable environment*

- **Global impact**- While most cases have been brought in the United States, climate litigation is taking root worldwide. About 17% of cases are now reported in developing countries, including Small Island Developing States.
- **Vulnerable voices**- Vulnerable groups, including children and youth, are making their voices heard globally. For instance, cases have been brought by and on behalf of children as young as 7 and 9 years old in Pakistan and India.
- **Role of judiciary**- Sensitization of courts due to climate related issues due to increased litigation, it further enhances the accountability in government and corporate climate actions.

### **What is the status of climate litigation in India?**

*As per Global climate litigation report India ranks 14<sup>th</sup> globally with 11 cases*

- **Role of judiciary**- National Green Tribunal deals exclusively with environmental matters, is the main forum for climate related cases but petitions routinely land in the High Court and Supreme Court.
- **Potential for new jurisprudence**- Supreme Court's ruling on right against climate change could lead to a new jurisprudence that balances human and socio-economic development with environmental and climate considerations.
- **Effectiveness of court rulings**- There is a question about the effectiveness of court rulings on climate change, particularly in enforcing rights related to climate change impacts.
- **Challenges**- The court may not be proactive in climate change cases as they are with other environmental issues due to complex nature of climate change and its socio economic implications.

## What lies ahead?

- Climate change is a complex issue that may not be fully addressed through litigation alone, as it involves multi-dimensional problems that exceed the capabilities of local, regional, or national governments.
- Courts may encourage the government to develop mitigation and adaptation strategies but are less likely to enforce such measures strictly.

### National Green Tribunal

- **Year-** 2010.
- **Statutory body-** It is established under *National Green Tribunal Act, 2010*.
- **Ministry-** Ministry of Law and Justice
- **About-** It is a specialized body equipped with the necessary expertise to handle environmental disputes involving multi-disciplinary issues.
- Its dedicated jurisdiction in environmental matters shall provide speedy environmental justice.
- **Mandate-** To endeavour for disposal of applications or appeals finally *within 6 months* of filing of the same.
- **Governing principles-** The Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908, but shall be guided by *principles of natural justice*.
- NGT applies the principles of *sustainable development*, *precautionary principle*, and *polluter pays principle*.
- **New Delhi-** It is the Principal Place of Sitting of the Tribunal.
- Bhopal, Pune, Kolkata and Chennai are the other four place of sitting.
- India is the *3<sup>rd</sup> country in the world*, after Australia and New Zealand, to set up a statutory body for environmental protection.

## References

1. [Indian Express- Climate litigation in India](#)
2. [NGT- About NGT](#)
3. [Down To Earth- Climate action in India](#)