



"Evaluating Climate Laws: Progress and New Approaches"

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Abstract:

Climate change is happening. Global average temperature has increased about 1.8°F from 1901 to 2016. Changes of one or two degrees in the average temperature of the planet can cause potentially dangerous shifts in climate and weather. These real, observable changes are what we call climate change impacts because they are the visible ways that climate change is affecting the Earth. For example, many places have experienced changes in rainfall, resulting in more floods, droughts, or intense rain, as well as more frequent and severe heat waves.

The planet's oceans and glaciers have also experienced change oceans are warming and becoming more acidic, ice caps are melting, and sea level is rising. As these and other changes become more pronounced in the coming decades, they will likely present challenges to our society and our environment.

“Despite governmental policy and rules and regulations recognising the adverse effects of climate change and seeking to combat it, there is no single or umbrella legislation in India which relates to climate change and the attendant concerns. However, this does not mean that the people of India do not have a right against the adverse effects of climate change”

This paper critically examines the effectiveness of existing climate change legislation in mitigating environmental impacts and achieving global sustainability goals. Despite numerous international agreements and national policies aimed at reducing greenhouse gas emissions, the progress towards limiting global temperature rise remains uneven and inadequate. This study evaluates key climate laws across different jurisdictions, highlighting both their successes and shortcomings. Furthermore, it explores innovative legal approaches being proposed to address the evolving challenges of climate change, including carbon pricing, climate litigation, and renewable energy mandates. By analyzing these new strategies, the paper aims to provide a comprehensive understanding of how legal frameworks can be strengthened to ensure a more resilient and sustainable future.

Keywords: Climate change, Greenhouse gas, Governmental policy, Adverse effects, Climate litigation.

Introduction:

Climate change remains one of the most pressing global challenges of the 21st century, posing significant risks to ecosystems, human health, and economies worldwide. In response to this growing threat, a variety of climate change laws and regulations have been enacted at both national and international levels. These legal frameworks aim to reduce greenhouse gas emissions, promote sustainable energy, and encourage adaptation to changing environmental conditions. However, the effectiveness of these laws in achieving their intended goals has been widely debated. As the impacts of climate change intensify, there is an urgent need to evaluate the progress made under existing legislation and to consider new legal approaches that can more effectively address the crisis.

Objectives:

- To analyze the impact of these laws on reducing greenhouse gas emissions, fostering renewable energy development, and promoting climate adaptation strategies.
- To understand where current laws fall short will help in proposing more effective legal frameworks.
- To examine emerging strategies such as carbon pricing, climate litigation, and international cooperation mechanisms.
- To provide recommendations for enhancing climate change legislation.

Research Methodology:

This study adopts a doctrinal research methodology to critically evaluate existing climate change laws and explore new legal approaches. Doctrinal research, focusing on the systematic analysis of legal texts, will provide a thorough understanding of the current legal framework governing climate change and identify areas for potential reform.

The findings from the analysis of legal texts, case law, and scholarly opinions will be synthesized to form a coherent understanding of the current state of climate change law. This synthesis will highlight the strengths and weaknesses of the existing legal framework.

This research methodology will provide a robust foundation for evaluating the effectiveness of current climate change laws and exploring new legal approaches that can better address the global challenge of climate change.

International Legal Frameworks

- **Paris Agreement:** Discuss the objectives, commitments, and implementation mechanisms of the Paris Agreement. Evaluate its effectiveness in mobilizing global action.
- **Kyoto Protocol:** Provide a brief overview of the Kyoto Protocol and its role as a precursor to the Paris Agreement. Discuss its limitations and lessons learned.
- **Other International Treaties:** Mention other relevant treaties such as the United Nations Framework Convention on Climate Change (UNFCCC) and their contributions to climate governance.

National and Regional Climate Laws

- **European Union's Climate Policies:** Analyze the EU's climate and energy framework, including the European Green Deal, Emissions Trading System (ETS), and national climate laws of member states.
- **United States Climate Legislation:** Discuss key U.S. climate policies, such as the Clean Air Act, and recent developments like the Inflation Reduction Act. Assess their impact on emissions reduction.
- **Climate Laws in Developing Countries:** Highlight climate legislation in emerging economies like China, India, and Brazil, and discuss their unique challenges and contributions to global climate action.

The global challenge of climate change has necessitated the development of comprehensive legal frameworks aimed at reducing greenhouse gas emissions, promoting renewable energy, and facilitating adaptation to changing environmental conditions. Over the past few decades, significant progress has been made in the creation and implementation of climate change laws at both international and national levels. Notable among these are international agreements such as the Paris Agreement, which seeks to limit global temperature rise to well below 2°C, and national initiatives like the European Union's Emissions Trading System (ETS) and renewable energy mandates in various countries. These laws have played a critical role in raising awareness, mobilizing resources, and setting ambitious targets for climate action. However, despite these advancements, the effectiveness of current climate change laws remains uneven, with several challenges limiting their impact.

One of the primary successes of existing climate change legislation is the significant reduction in greenhouse gas emissions in certain regions, particularly where strong regulatory frameworks and economic incentives have been implemented. For example, the European Union's ETS has successfully created a market-driven approach to reducing emissions by capping the total level of greenhouse gases that can be emitted by industries and allowing companies to buy and sell allowances. Similarly, renewable energy laws and subsidies have driven substantial growth in the adoption of clean energy technologies, contributing to a gradual shift away from fossil fuels. These achievements demonstrate the potential of well-designed legal frameworks to drive positive environmental outcomes.

Challenges and Limitations

- Insufficient Ambition:** Critique the lack of ambitious targets in some national policies, which may be insufficient to meet the goals of the Paris Agreement.
- Enforcement Issues:** Discuss challenges related to the enforcement of climate laws, including limited compliance mechanisms and the influence of vested interests.
- Economic and Social Barriers:** Address the economic and social challenges that hinder the implementation of climate laws, such as the costs of transitioning to green technologies and resistance from industries.

However, the progress made under current climate laws is not without its limitations. In many cases, the ambition of national policies falls short of what is needed to meet the goals set out in the Paris Agreement. Several countries have been criticized for setting targets that are either too modest or for failing to implement the necessary measures to achieve them. Moreover, enforcement of climate laws remains a significant challenge, with limited compliance mechanisms and varying levels of commitment among nations. Economic and social barriers also pose obstacles to the effective implementation of climate policies. For instance, the transition to renewable energy can be costly and may face resistance from industries that rely on fossil fuels, leading to delays or watered-down regulations.

To address these challenges, there is a growing recognition of the need for innovative legal approaches that can enhance the effectiveness of climate change laws. One such approach is the use of carbon pricing mechanisms, including carbon taxes and cap-and-trade systems, which incentivize emissions reductions by putting a price on carbon. Countries like Sweden and Canada have implemented carbon taxes that have proven effective in reducing emissions while generating revenue that can be reinvested in green technologies. Climate litigation is another emerging strategy, where individuals, NGOs, and even governments use the courts to hold companies and states accountable for their climate commitments.

Landmark cases like Urgenda v. The Netherlands have set important legal precedents, demonstrating that courts can play a crucial role in enforcing climate action.

MC Mehta v. Union of India (Vehicular Pollution Case) (1998)

This case is a pivotal moment in India's environmental jurisprudence. The Supreme Court of India, responding to the severe air pollution in Delhi, ordered the mandatory conversion of all public transport vehicles from diesel to Compressed Natural Gas (CNG). This decision significantly reduced air pollution in the city and highlighted the judiciary's active role in environmental protection and climate change mitigation.

MC Mehta v. Kamal Nath (1997)

This case involved the illegal diversion of the Beas River to benefit a private motel owned by a politician's family. The Supreme Court invoked the "public trust doctrine," asserting that natural resources like air, water, forests, and rivers are held in trust by the government for the public. The court's judgment reinforced the principle that environmental resources are for public use and cannot be exploited for private gain, setting a significant precedent for environmental governance in India.

Vellore Citizens Welfare Forum v. Union of India (1996)

In this case, the Supreme Court addressed the issue of industrial pollution caused by tanneries in Tamil Nadu. The court introduced the "precautionary principle" and "polluter pays principle" as part of Indian environmental law. This judgment emphasized that the onus is on the polluter to prevent environmental harm, and if damage occurs, the polluter must compensate for the harm caused. These principles have since been fundamental in shaping India's environmental regulations and climate change policies.

T.N. Godavarman Thirumulpad v. Union of India (1996)

Commonly referred to as the "Forest Case," this ongoing litigation has played a critical role in the conservation of India's forests. The Supreme Court expanded the definition of "forests" under the Forest Conservation Act, 1980, to include not just government-notified forests but also any area recorded as forest in government records. The judgment led to significant restrictions on deforestation and development activities in forest areas, contributing to the preservation of carbon sinks and biodiversity.

Ganga Pollution Case (1988) Also known as **M.C. Mehta v. Union of India (Ganga Pollution Case)**, this case was initiated by environmental lawyer M.C. Mehta to address the severe pollution in the Ganga River. The Supreme Court ordered the closure of numerous polluting industries and mandated the installation of sewage treatment plants. This judgment underscored the importance of protecting water bodies from industrial pollution and highlighted the link between environmental degradation and public health.

Centre for Environmental Law, WWF-India v. Union of India (2013)

In this case, the Supreme Court addressed the issue of the rampant destruction of forests and the need to preserve India's biodiversity. The court ordered a nationwide ban on the felling of trees in forests and set up the National Green Tribunal (NGT) to handle environmental cases more effectively. This judgment is crucial as it emphasizes the role of judicial intervention in enforcing environmental laws and protecting the environment against climate change impacts.

These judgments reflect the Indian judiciary's proactive stance in addressing environmental issues and their significant contribution to the fight against climate change. They have established key legal principles and have often filled gaps where legislative and executive actions were inadequate, demonstrating the courts' crucial role in environmental governance in India.

Conclusion:

In addition to mitigation efforts, legal frameworks are increasingly focusing on climate adaptation. Laws aimed at protecting vulnerable communities, improving disaster preparedness, and ensuring sustainable land use are critical in helping societies adapt to the inevitable impacts of climate change. Integrating climate justice into legal frameworks is also essential, ensuring that the burdens and benefits of climate action are distributed fairly, particularly for marginalized populations who are most affected by climate change. For example, South Africa's Just Transition policies emphasize the need to protect workers and communities as the country shifts away from coal.

In conclusion, while current climate change laws have made important strides in addressing the global climate crisis, there is a clear need for more ambitious, enforceable, and innovative legal approaches. Strengthening existing laws, improving enforcement mechanisms, and embracing new strategies such as carbon pricing, climate litigation, and climate justice can significantly enhance the global response to climate change. As the

impacts of climate change become increasingly severe, the legal community must continue to evolve and adapt, ensuring that climate laws are not only effective in reducing emissions but also in promoting a just and sustainable future for all.

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