British Institute of International and Comparative Law

Banks and Climate Litigation: India Report

Shyam Divan, Ria Singh Sawhney, Sugandha Yadav, and Shaishir Divatia



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Introduction

This report forms part of the British Institute of International and Comparative Law (BIICL)'s ***Banks and Climate Litigation Project***, which examines emerging legal pathways for climate litigation against banks and, separately, claims concerning other environmental impacts of activities or projects financed by banks, in selected jurisdictions. It builds on BIICL's 'Global Toolbox on Corporate Climate Litigation', applying a similar analytical focus to the banking sector.

Climate litigation continues to develop globally, with the Grantham Research Institute identifying 249 new cases in 2025.[1] To date, however, relatively few climate cases have been brought against banks. This is notable given the role that the banking sector plays in climate change and in the transition to a low-carbon economy through the allocation and pricing of capital. Through lending, banks directly provide capital to borrowers; through underwriting and other financial services, they can also facilitate access to capital markets. The availability, cost and conditions of finance can in turn help enable, constrain or shape capital expenditure on both high-emitting and low-carbon activities. In capital-intensive sectors, continued access to finance may therefore support the development, expansion or continuation of long-lived assets associated with future greenhouse gas emissions, although the real-world effect of any particular financing decision will depend on factors including the financing structure and the availability of alternative sources of capital. The scale of bank financing to the fossil fuel sector remains substantial. According to the *Banking on Climate Chaos 2026* report, the world's 65 largest banks committed $906 billion to fossil fuel companies in 2025, including $508 billion to companies expanding fossil fuel developments and related infrastructure.[2]

The project examines the potential causes of action that may arise in each jurisdiction, together with relevant procedural, evidentiary and remedial issues. Each national report reflects the particular features of the relevant legal system, existing and emerging litigation, and applicable legal and regulatory frameworks.

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[1] Joana Setzer and Catherine Higham, *Global Trends in Climate Change Litigation: 2026 Snapshot* (Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science 2026) 6.

[2] Rainforest Action Network and others, *Banking on Climate Chaos: Fossil Fuel Finance Report 2026* (Banking on Climate Chaos Coalition 2026) 8.

In India, climate litigation involving banks remains largely unexplored, notwithstanding the development of constitutional environmental rights, corporate duties and regulatory frameworks relevant to climate-related risks and responsibilities. Although no publicly reported Bank Climate Claim has been identified as pending before Indian courts, the country's evolving environmental jurisprudence may provide a foundation for future claims involving financial institutions. In particular, the Supreme Court of India has recognised the right to be protected from the adverse effects of climate change as part of the fundamental rights guaranteed by the Constitution. Indian law also expressly requires company directors to consider environmental protection in the discharge of their statutory duties, while banking and securities regulation increasingly addresses sustainability-related governance, disclosures and financial activities.

Against this background, the report identifies several potential legal pathways for Bank Climate Claims in India. These include public interest litigation before the Supreme Court or High Courts, proceedings before the National Green Tribunal, and shareholder actions under the Companies Act, 2013. Depending on the legal pathway pursued, potential claims may concern climate-related regulatory compliance, disclosure obligations, corporate governance or environmental harm associated with financed activities. The analysis also considers the potential relevance of the Reserve Bank of India's supervisory powers and the obligations applicable to banks in relation to climate-related financial risks and green finance. While these developments may create opportunities for litigation, significant questions remain concerning the extent to which existing legal duties can be applied to banks' financing decisions, the attribution of climate-related harm to particular financial activities, and the availability of effective remedies.

Specifically, this report:

- provides an overview of the Indian legal system and the constitutional, statutory and regulatory framework relevant to climate change and banking activities (Section I);
- examines key judicial decisions, emerging trends and relevant legal literature concerning climate and environmental litigation in India, with particular attention to developments that may inform claims against banks (Section II);
- identifies and analyses potential causes of action for Bank Climate Claims under Indian law, including their doctrinal foundations, limitations and prospects for future development (Section III); and

- examines the procedural and evidentiary considerations relevant to such claims, including standing, jurisdiction, litigation costs and access to evidence (Section IV), as well as the availability and strategic significance of monetary, injunctive and other remedies (Section V).

For analytical purposes, the project uses the term "Bank Climate Claims" broadly to refer to any form of litigation or complaint against banks that predominantly concerns climate change. This includes, without limitation, claims concerning a bank's alleged contribution to climate-related impacts through its financing activities, as well as claims concerning a bank's climate-related governance, risk management, disclosure and other legal obligations. The term "Bank Local Impact Claims" refers to any litigation or complaint against a bank concerning localised environmental impacts, other than climate-related impacts, arising from activities or projects financed by the bank. The category does not require the claim to have any climate-related dimension. These terms are analytical categories developed for the purposes of the project and do not represent established legal classifications.

I. Background on the Legal System

A. General Overview of the Legal System

The Constitution of India is the principal source of legal authority in India. The Constitution establishes a federal system of governance.[3] Legislative authority is divided between the Parliament of India at the national level and state legislatures at state level.[4] The authority is categorised in subject matters listed under the Seventh Schedule of the Constitution.[5] In case of conflict, laws made by Parliament prevail over state legislation, to the extent of the conflict.[6] The Constitution guarantees human rights, referred to as fundamental rights.[7] Laws inconsistent with or in derogation of fundamental rights are void to the extent of their inconsistency or derogation.[8] In addition to the Constitution of India, statutes passed by Parliament, state legislatures, and subordinate legislation passed by the executive branch at the national and state level, respectively, make the primary sources of law.

The Supreme Court of India is the apex court, exercising original, appellate, and advisory jurisdiction.[9] Decisions of the Supreme Court bind all courts in the country.[10]

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[3] See generally, Part XI ('Relations between the Union and the States'), Chapter I ('Legislative Powers') and Chapter II ('Administrative Relations'), Constitution of India, 1950 <https://www.indiacode.nic.in/bitstream/123456789/19150/1/constitution_of_india.pdf> accessed 30 June 2026.

[4] Article 245 ('Extent of laws made by Parliament and by the Legislatures of States'), Constitution of India. See generally, Part XI ('Relations between the Union and the States'), Chapter I – Legislative Relations ('Distribution of Legislative Powers'), Constitution of India.

[5] The subject matter of laws made by Parliament and state legislatures are set out in List I, II and III of the Seventh Schedule to the Constitution in terms of Article 246 (subject to Article 249, 250). This is in addition to the power of Parliament to make laws on matters not set out in the three lists in terms of Article 247.

[6] Articles 254 and 251, Constitution of India.

[7] Part III ('Fundamental Rights'), Constitution of India.

[8] Article 13, Constitution of India.

[9] Article 131 ('Original jurisdiction of the Supreme Court'), Article 132 ('Appellate jurisdiction of Supreme Court in appeals from High Courts in certain cases'), Article 133 ('Appellate jurisdiction of Supreme Court in appeals from High Court in regard to civil matters'), Article 134 ('Appellate jurisdiction of Supreme Court in regard to criminal matters'), Article 143 ('Power of President to consult Supreme Court') of the Constitution of India. See generally, Chapter IV – The Union Judiciary, of the Constitution of India.

[10] Article 141, Constitution of India. Judgements of the Supreme Court may be reviewed by the Court in terms of Article 137, read with Part IV, Order XLVII and XLVIII of the Supreme Court Rules, 2013 <https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2024/01/2024011691-1.pdf> accessed 30 June 2026. On dismissal of a review, a curative petition may be filed on limited grounds.

The Constitution provides for a High Court in each state.[11] Articles 32 and 226 of the Constitution provide for the powers of the Supreme Court and High Courts to issue writs for the enforcement of fundamental rights. India's legal system also comprises statutory tribunals to be approached in the first instance in certain areas of law. Relevant for the present purposes, these include: (i) The National Company Law Tribunal for resolution of disputes relating to the Companies Act, 2013,[12] and, (ii) the National Green Tribunal for resolution of disputes relating to the environment and certain listed environmental statutes.[13] Judicial interpretation has played a key role in the expansion of the content and meaning of fundamental rights under the Constitution. These include the right to a healthy environment and the right to be protected from adverse consequences of climate change. This evolution is significant in the Indian context to analyse the potential Bank Climate Claim, in the context of limited legislative or regulatory restrictions on fossil fuel development as well as the limited growth of private law remedies for such harms. This is discussed in detail in Part II below.

B. The Climate Law Framework

1. National climate framework

India has no independent parliamentary statute that addresses climate change. India's key policy document outlining a national strategy to adapt to climate change is laid out in the National Action Plan on Climate Change, first launched in 2008.[14] The action plan lays out the guiding principles and outlines eight core focus missions, on a range of issues including water security, energy efficiency, solar power, and

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[11] Article 214, Chapter V – The High Courts in the States, of the Constitution of India. An appeal from an order of the High Court lies at the Supreme Court in terms of Articles 132-137. In terms of Article 231, Parliament may also establish a common High Court for two or more states, or for two or more states and a Union Territory. For jurisdiction and seat of High Courts see Annexure A, Jurisdiction, High Courts <https://www.sci.gov.in/jurisdiction/>.

[12] Section 408, Companies Act, 2013 <https://www.indiacode.nic.in/bitstream/123456789/2114/5/A2013-18.pdf> accessed 30 June 2026. An appeal from orders of the National Company Law Tribunal may be filed in the National Company Law Appellate Tribunal (NCLAT) in terms of section 421 of the Companies Act 2013. An appeal from NCLAT may be filed in the Supreme Court under section 423.

[13] Section 14, National Green Tribunal (NGT) Act, 2010 <https://www.indiacode.nic.in/handle/123456789/2025> accessed 30 June 2026. Appeal from an order of the National Green Tribunal may be filed before the Supreme Court in terms of section 22 of the NGT Act, 2010.

[14] National Action Plan on Climate Change (2008) <https://moef.gov.in/uploads/2018/04/Pg0152.pdf> accessed 30 June 2026.

agriculture, among others. While the Action Plan is not directly enforceable, it lays out the guiding policy framework for India's efforts to counter the causes and consequences of climate change. Out of 36 states and union territories in India, 33 also have State Action Plans on Climate Change.[15] As key policy documents in the area the plans will bear on climate adjudication and help shape litigation outcomes.

India ratified the Paris Agreement in October 2016.[16] The latest Nationally Determined Contributions (NDCs) for 2031 – 2035 submitted with respect to the United Nations Framework Convention (UNFCCC) and the Paris Agreement,[17] sets out national emission targets and other climate commitments. India committed to reduction of emissions intensity of its Gross Domestic Product by 47 per cent from 2005 levels; to achieve 60 per cent of cumulative electric power installed capacity from non-fossil sources by 2035; and creating a carbon sink of 3.5-4.0 billion tonnes of CO_2 equivalent through forest and tree cover by 2035, from 2005 levels. The key institutional bodies entrusted with climate change governance are the Ministry of Environment, Forest and Climate Change, the Ministry of Power, the Ministry of New and Renewable Energy, and the Ministry of Science and Technology.

In addition, the Greenhouse Gases Emission Intensity Target (Amendment) Rules, 2025 (GHG Amendment Rules) issued under the Energy Conservation Act, 2001 and Carbon Credit Trading Scheme, 2023 set out emission reduction targets for specific obligated entities, for the financial years 2025-26 and of 2026-27.[18] These obligated entities are specific industrial units across various sectors, including cement, petrochemicals, etc., listed in the rules. In case the concerned entity fails to comply, the Central Pollution Control Board is empowered to impose an order to pay environmental compensation in terms of Rule 6.[19]

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[15] State Action Plans on Climate Change <https://moef.gov.in/state-action-plan-on-climate-change> accessed 30 June 2026.

[16] United Nations Framework Convention (UNFCCC), *India Deposits Instrument of Ratification of Paris Agreement*, (19 September 2016) <https://unfccc.int/news/india-deposits-instrument-of-ratification-of-paris-agreement> accessed 30 June 2026.

[17] PM India, *Cabinet approves India's Nationally Determined Contribution (2031-2035) to be communicated to the United Nations Framework Convention on Climate Change,* <https://www.pmindia.gov.in/en/news_updates/cabinet-approves-indias-nationally-determined-contribution-2031-2035-to-be-communicated-to-the-united-nations-framework-convention-on-climate-change/> accessed 30 June 2026.

[18] Ministry of Environment, Forest and Climate Change, Greenhouse Gases Emission Intensity Target Rules, 2025 <https://egazette.gov.in/WriteReadData/2025/266804.pdf> accessed 30 June 2026. Banks are not obligated entities.

[19] Rule 6 states: "*Environmental Compensation* (1) In case an obligated entities fail to comply with or contravene any provisions of the paragraph 4 of these rules; the Central Pollution Control Board

2. Directors' duties and disclosure obligations

Section 166 (2) of the Companies Act, 2013 provides: "(a) director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment." [20] Accordingly, Companies Act, 2013 mandates a 'triple-bottom line', where duties owed are beyond the traditional duty to the shareholders.[21] These duties have been applied by the Supreme Court in issuing directions against companies to remedy environmental harm, as explained in Part II below.[22] Independent directors have additional duties to keep themselves informed about the company, the external environment, including climate change-related risks to the company.[23] Section 1(4)(c) of the Companies Act 2013 provides that provisions of the Companies Act

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shall impose environmental compensation Order on such obligated entities for the shortfall in the respective compliance year which shall be equal to twice of the average price at which carbon credit certificate is traded during the trading cycle of such compliance year." Rule 4 states: "*Responsibilities of the Obligated Entities:* The obligated entity shall, – (1) achieve the greenhouse gases emission intensity targets in the respective compliance year as per the Schedule; (2) meet its greenhouse gases emission intensity target under paragraph 11 and detailed procedure under (3) (4) (5) the said Scheme; surrender the banked carbon credit certificates or carbon credit certificates purchased in the respective compliance year equivalent to the shortfall to comply with the greenhouse gases emission intensity target; register on the portal under Indian Carbon Market Framework; submit all the documents in the manner as stipulated in the detailed procedure under the Scheme: Explanation: For the removal of the doubts, it is hereby clarified that the obligated entities fail to submit the documents, the shortfall shall be calculated as the carbon credit certificate to be purchased as provided in the formula under the paragraph 5 of these rules, where achieved greenhouse gas emission intensity shall be considered as baseline greenhouse gas emission intensity;". ("Rule" and "paragraph" are used interchangeably in this footnote).

[20] Further, "(T)here is no fixed hierarchy in the duties owed to the company and other stakeholders identified under section 166. A decision taken seemingly in the financial interest of the company and its shareholders, but which is detrimental to the environment, may transgress section 166. Such a decision may additionally expose the company to litigation risk, transition risk from tightening regulations, and render the company's assets stranded." Shyam Divan, Sugandha Yadav, & Ria Singh Sawhney, *Legal Opinion: Directors' obligations to consider climate change-related risk in India*, Commonwealth Climate and Law Initiative (September 7, 2021) at page 13 <https://commonwealthclimatelaw.org/publication/legal-opinion-directors-obligations-to-consider-climate-change-related-risk-in-india/> accessed 30 June 2026. Hereinafter, CCLI Opinion.

[21] Page 12, CCLI Opinion, citing SEBI Circular of 2015. This has been described as the Indian Companies Act's "pluralist approach". Umakanth Varottil, *The Regulatory Progression of ESG in India*, January 14, 2023 <https://indiacorplaw.in/2023/01/the-regulatory-progression-of-esg-in-india.html> accessed 30 June 2026; Umakanth Varottil, *The Legal and Regulatory Impetus Towards ESG in India: Developments and Challenges* (January 13, 2023). NUS Law Working Paper No. 2023/003.

[22] See discussion on *M.K. Ranjitsinh v. Union of India* in Part II below.

[23] Page 4, CCLI Opinion.

apply to banking companies, except provisions inconsistent with the Banking Regulation Act, 1949. There is no inconsistency between the two Acts with respect to directors' duties.

In terms of recently enforced RBI directions on matters to be placed before Boards of banks, RBI reiterated 'the ultimate responsibility for the bank's performance, conduct and control rests with board.' While certain matters listed in the directions may be delegated, the board cannot delegate matters related to risk management, (credit risk, investment and related risk) and green deposits. The directions, together with the judicial development of director's duties to the environment set out below, inform the content of the fiduciary duties of directors of banking companies under the Companies Act.[24]

3. Disclosure obligations applicable to banking companies

Securities and Exchange Board of India (SEBI) is the country's market regulator. The SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 mandate ESG disclosures under a 'Business Responsibility and Sustainability Report (BRSR)', to be submitted by the top 1000 listed entities based on market capitalization under Regulation 34(2)(f).[25] The disclosures to be made include 'essential' or mandatory disclosures and 'leadership' or voluntary disclosures.[26] It is mandatory to disclose the break-up of energy consumed from renewable and non-renewable sources,[27]

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[24] Reserve Bank of India (Commercial Banks – Governance) Amendment Directions, 2026, RBI/2026-27/177 dated 14 July 2026, paragraph 19B(i) <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT1772C9F82D1FE8E4ADF8864A476A7523BA9.PDF>. The Amendment Directions of 2026 amend Reserve Bank of India (Commercial Banks - Governance) Directions, 2025. The Directions of 2025 provide guidance on issues such as constitution of the boards of concerned banks, appointment of directors, appointment of risk officers, among others. The concerned banks include private sector banks and foreign banks.

[25] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (last amended on July 14, 2026), <https://www.sebi.gov.in/legal/regulations/jul-2026/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-july-14-2026-_102974.html> accessed 22 October 2026.

[26] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at paragraph 1.3, page 24 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[27] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at page 170 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-

Scope 1 and 2 green-house gas emissions,[28] and projects undertaken to reduce green-house gas emissions.[29] Entities may voluntarily disclose Scope 3 emissions.[30]

In addition to the Business Responsibility and Sustainability Report, SEBI requires concerned in-scope entities to have a core set of disclosures verified by a third party and undertaken as per the specified standards.[31] Referred to as BRSR Core, these are a sub-set of disclosures under BRSR called Key Performance Indicators (including Scope 1 and 2 emissions) for top 1000 listed entities by market capitalization.[32] These must be accompanied by assessment or assurance from financial year 2026-

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provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[28] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at page 173 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[29] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at page 174 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026. In terms of the Master circular at page 205, *"(s)cope 1 emissions are direct GHG emissions from sources that are owned or controlled by the entity. Source refers to any physical unit or process that releases GHG into the atmosphere. Further, any emissions that are not physically controlled but result from intentional or unintentional releases of GHGs, such as equipment leakages, methane emissions (eg: from coal mines), shall also be included in the calculations."* The Master circular describes Scope 2 emissions as *"...indirect emissions that result from the generation of purchased or acquired electricity, heating, cooling, and steam consumed by the entity."*

[30] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at page 178 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026. In terms of the Master circular at page 207, Scope 3 emissions are, "indirect GHG emissions (not included in energy indirect (Scope 2) GHG emissions) that occur outside of the organization, including both upstream and downstream emissions."

[31] Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 at paragraph 2.1, page 25 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[32] Master Circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Section IV-B, paragraphs 2.1, 2.4.2, at pages 25-27 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

27 for the top 1000 listed entities.[33] Disclosures for the value chain comprising up to 75% of purchases/sales by value are voluntary, for the top 250 listed entities.[34]

Banks as issuers of green bonds, must be guided by the SEBI circular to avoid greenwashing in 'green debt securities.'[35] The circular provides initial disclosure requirements, post-listing disclosure requirements, and project specific reporting of environmental impact. The SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 under Chapter VII sets out the procedure undertaken by SEBI in case of violations.

4. Statutes and regulations governing banks

The Banking Regulation Act, 1949,[36] is the principal statute for the regulation of banks in India.[37] The Banking Regulation Act sets out key provisions, including the statutory definitions of a banking company and what constitutes the business of banking companies.[38] These include banks registered as companies under the

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[33] Master Circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Section IV-B, paragraph 2.4.2, at pages 25-27 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[34] Master Circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, Section IV-B, paragraphs 3.1, 3.4.1, at page 26 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[35] Chapter IX, IX-A, IX-C SEBI, Master Circular for issue and listing of Non-convertible Securities, Securitised Debt Instruments, Security Receipts, Municipal Debt Securities and Commercial Paper (15 October, 2025) <https://www.sebi.gov.in/legal/master-circulars/oct-2025/master-circular-for-issue-and-listing-of-non-convertible-securities-securitised-debt-instruments-security-receipts-municipal-debt-securities-and-commercial-paper_97343.html> accessed 30 June 2026; The SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 defines 'green debt securities' at Regulation 2(1)(q) <https://www.sebi.gov.in/legal/regulations/aug-2021/securities-and-exchange-board-of-india-issue-and-listing-of-non-convertible-securities-regulations-2021_51764.html> accessed 30 June 2026.

[36] Hereinafter, Banking Regulation Act <https://www.indiacode.nic.in/bitstream/123456789/1885/1/aa1949-10.pdf> accessed 30 June 2026.

[37] To be read with The Banking Regulation Companies Rules, 1949. In terms of section 5 (b) of the Banking Regulation Act: *"banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise*." See generally, M.L. Tannan: Banking Law and Practice in India (29th edn., 4 Vols.), Chapter 3: The Banking (Regulation) Act, 1949 – Main Provisions.

[38] Section 5, Banking Regulation Act 1949, extracted in its relevant part: *"(c) "banking company" means any company which transacts the business of banking in India; (d) "company" means any*

Companies Act, 2013. Section 10A of the Banking Regulation Act especially provides that the board of a banking company must include persons with professional or other experience in areas including agriculture and economics.[39]

The Banking Regulation Act also sets out the supervisory role of the Reserve Bank of India (RBI). RBI is the central bank of the country, responsible for formulating the national monetary policy and to perform related functions. In terms of Section 5(ca) of the Banking Regulation Act, RBI specifies the banking policy. Section 35A of the Banking Regulation Act provides for RBI's power to give directions in public interest, in the interest of banking policy, and to protect the interest of depositors.

The Reserve Bank of India Act, 1934,[40] section 2(e) defines a 'scheduled bank' i.e. a bank included in the Second Schedule of the 1934 Act. These banks are included in the Schedule following a notification in the Gazette of India directed by the RBI.[41] The subject banks are required to maintain a statutorily mandated cash reserve and meet certain other criteria, including registration under the Companies Act for banks referred to as commercial banks.[42] RBI provides a regularly updated list of such Scheduled Commercial Banks.[43] These banks are the relevant types of banks for the purposes of this brief.

Reserve Bank of India (Commercial Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025 were issued in terms of powers conferred by Sections 21 and 35A of the Banking Regulations Act.[44] The Directions provide

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company as defined in section 3 of the Companies Act, 1956 (1 of 1956); and includes foreign company within the meaning of section 591 of that Act."

[39] In addition to statutes and regulations set out in this section, outcomes from G20 Sustainable Finance Working Group reflect the pathway for likely upcoming regulations in the area that may inform a subject bank's obligations in the near future. 2023 G20, *Sustainable Finance Report Vol. I* <https://rbidocs.rbi.org.in/rdocs/Content/PDFs/01COMMGOVERNACE08042026467B2AD29FE34C77912A2B94C618D076.PDF> accessed 30 June 2026.

[40] Hereinafter, Reserve Bank of India Act <https://www.indiacode.nic.in/bitstream/123456789/2398/1/a1934-2.pdf> accessed 30 June 2026.

[41] Section 42(6), Reserve Bank of India Act.

[42] Section 42 and 42(6), Reserve Bank of India Act.

[43] Reserve Bank of India, List of Scheduled Commercial Banks <https://rbidocs.rbi.org.in/rdocs/Content/PDFs/LSCBSC925ABF8A7E04824BA04596DF5C44006.PDF> accessed 30 June 2026.

[44] Reserve Bank of India (Commercial Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025, <https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=13138> accessed 30 June 2026. Hereinafter, the Climate Finance Directions.

the framework for acceptance of green deposits by commercial banks.[45] The Directions provide for direct oversight by the board for green deposit framework formulated by the bank.[46] It is not mandatory for commercial banks to provide green deposits. Should commercial banks provide such deposits, the Directions must be followed.[47] The Directions do not provide for any specific penalties.[48] The RBI retains broad powers of enforcement of its directions under the Banking Regulation Act, including the general power to impose penalties for non-compliance.[49]

The Directions provide definitions for green activities/projects, green deposit, green finance, and greenwashing.[50] The Directions further provide categories of projects where proceeds raised from green deposits may be used.[51] These include renewable energy projects, climate change adaptation projects, among others.[52] Projects expressly excluded are fossil fuel extraction, production, and distribution, among others. Allocation of funds is subject to independent third-party verification/assurance for end-use of funds.[53] The Directions also require impact assessment of funds used in terms of selected impact indicators including – Greenhouse Gas emissions avoided, renewable energy capacity contributed etc.[54] Both, the third-party verification/assurance report and the impact assessment report

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[45] Chapter I, Part B, Climate Finance Directions. Chapter II – Role of the Board, Climate Finance Directions. All terms and conditions of green deposits are subject to the Reserve Bank of India (Commercial Banks – Interest Rate on Deposits) Directions 2025; Reserve Bank of India (Commercial Banks - Credit Risk Management) Directions 2025; Master Directions - Reserve Bank of India (Priority Sector Lending - Targets and Classification) Directions, 2025; Reserve Bank of India (Commercial Banks - Financial Statements; Presentation and Disclosures) Directions, 2025.

[46] Chapter III, Part C, paragraph 11, Climate Finance Directions.

[47] Chapter III, Part, Paragraph 9 (1), Climate Finance Directions.

[48] Chapter III, Part C, 11(4)(i), Climate Finance Directions.

[49] Section 35A, Banking Regulation Act gives the RBI broad powers to issue directions in the public interest, and Section 46, Banking Regulation Act, 1949 the power to impose penalties. Section 46(4) provides for penalties if: "…any other provision of this Act is contravened or if any default is made in… (i) complying with any requirement of this Act or of any order, rule or direction made or condition imposed there under…"

[50] Part C, Definitions, Climate Finance Directions.

[51] Part D, Chapter III – Framework for Acceptance of Green Deposits, Climate Finance Directions.

[52] In terms of paragraph 14, allocation of proceeds raised from green deposits is to be based on the official Indian green taxonomy. The draft taxonomy has been issued and is subject to finalization. The categories of projects set out above are recommended in the interim. See, Ministry of Finance, Department of Economic Affairs, *Draft Framework of India's Climate Finance Taxonomy* <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/may/doc202557551101.pdf> accessed 30 June 2026.

[53] Part E – Third Party Verification/Assurance, Chapter III – Framework for Acceptance of Green Deposits, Climate Finance Directions.

[54] Part F – Impact Assessment, Chapter III – Framework for Acceptance of Green Deposits, Climate Finance Directions.

are to be published on the website of banks, as well as be placed before its board of directors.[55]

In terms of recently enforced RBI directions, the requirement for a board-approved policy on green deposits is not a decision that can be delegated by the board to any committee or other body in the concerned bank.[56]

[55] Both, the third-party verification/assurance report and the impact assessment report are subject to Reserve Bank of India (Commercial Banks - Financial Statements; Presentation and Disclosures) Directions, 2025.

[56] Reserve Bank of India (Commercial Banks – Governance) Amendment Directions, 2026, RBI/2026-27/177 dated 14 July 2026, Appendix I, S. No. 9.

II. Relevant Cases, Trends and Literature

A. Key Relevant and Analogous Cases

1. Key environmental law principles recognised in statute and common law

Fundamental environmental law principles have been consistently upheld and applied by the judiciary in disputes before it and have been recognised in domestic statutes.[57] These include the principles relevant for the purposes of this brief: principle of sustainable development, the precautionary principle, the polluter pays principle.[58] The Supreme Court has, in addition, applied the doctrine of public trust in environmental cases to invoke the duty to protect and use natural resources in the larger interest of the public.[59] Recognising the "Environmental Rule of Law" as an underlying principle of environmental governance, the Supreme Court has emphasised transparency, accountability, inclusivity, as essential elements of environmental decision making under the Environment (Protection) Act, 1986 and

[57] Section 20 of the National Green Tribunal Act, 2010.

[58] A series of judgements of the Indian Supreme Court have recognised these principles, as set out below. *Vellore Citizens Welfare Forum v. Union of India* (1996) 5 SCC 647 at paragraphs 10-14; judgement dated 28.08.1996 in Writ Petition (Civil) No. 914 of 1991 at pages 11-13 <https://api.sci.gov.in/jonew/judis/15202.pdf> accessed 30 June 2026. *A.P. Pollution Control Board v. Prof. M.V. Nayudu* AIR 1999 SC 812 at paragraphs 31-33, 35 and 38; judgement dated 27.01.1999 in Civil Appeal No. 368 of 1999 at pages 11 to 13 <https://api.sci.gov.in/jonew/judis/17022.pdf> accessed 30 June 2026. *Karnataka Industrial Area Development Board v. C. Kenchappa* (2006) 6 SCC 371 at paragraphs 77-79, 87; judgement dated 12.05.2006 in Civil Appeal No.7405 of 2000 at pages 10-15 <https://api.sci.gov.in/jonew/judis/29856.pdf> accessed 30 June 2026. *Research Foundation for Science (18) v. Union of India* (2005) 13 SCC 186 at paragraph 27; judgement dated 05.01.2005 in Writ Petition (c) No. 657 of 1995 (and others) pages 9-13 <https://api.sci.gov.in/jonew/judis/26698.pdf> accessed 30 June 2026. *Arjun Gopal v. Union of India* (2017) 16 SCC 267 at paragraph 4; judgement dated 09.10.2017 in Writ Petition No. 728 of 2015 at pages 3 and 4 <https://api.sci.gov.in/supremecourt/2015/32461/32461_2015_Judgement_09-Oct-2017.pdf> accessed 30 June 2026. *N.D. Jayal v. Union of India* (2004) 9 SCC 362 at paragraphs 21-22, 25-26; judgement dated 01.09.2003 in Writ Petition No. 295 of 1992 at pages 6-8 <https://api.sci.gov.in/jonew/judis/20864.pdf> accessed 30 June 2026.

[59] *M.C. Mehta v. Kamal Nath (Span Motels Case)* (1997) 1 SCC 388 at paragraphs 24-25, 30-34, and 39; judgement dated 13.12.1996 in Writ Petition No. 182 of 1996 <https://api.sci.gov.in/jonew/judis/14611.pdf> accessed 30 June 2026; *Intellectuals Forum v. State of A.P.* (2006) 3 SCC 549 at paragraphs 74-76, 66; judgement dated 23.02.2006 in Civil Appeal No. 1251 of 2006 <https://api.sci.gov.in/jonew/judis/27498.pdf> accessed 30 June 2026.

the Environmental Impact Assessment Rules, 2006.[60] Finally, the principle of inter-generational equity has also received judicial recognition in various judgments.[61]

2. Expansion of the right to life under Article 21

The right to life under Article 21 of the Constitution of India has been interpreted in various decisions to include the right to a healthy environment.[62] This has been crucial in providing direct access to Constitutional courts (the High Courts and the Supreme Court) to remedy violations of the right in various factual contexts relevant to private parties as set out further below.

3. Fundamental rights under the Constitution can be enforced against private parties

A Constitution Bench[63] of five judges of the Supreme Court in *Kaushal Kishor v. State of U.P.,* found that among other rights, the right to life under Article 21 of the Constitution of India can be claimed against private entities and not just the state and its entities.[64] The Constitution Bench judgment supports the possibility of utilising the writ jurisdiction for seeking directions against a private party. This is a critical development for Bank Climate Claims and Bank Local Impact Claims, as the writ jurisdiction is institutionally and procedurally accessible for public-interest organisations and individuals to seek judicial remedy for environmental harms.

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[60] *Hanuman Laxman Aroskar v. Union of India*, (2019) 15 SCC 401 at paragraphs 142-157; judgement dated 29.03.2019 in Civil Appeal No. 12251 of 2018 at Part J <https://api.sci.gov.in/pdfdate/index1.php?filename=supremecourt/2018/43379/43379_2018_Judgement_29-Mar-2019.pdf&dno=433792018&dt=2019-03-29> accessed 30 June 2026.

[61] *Samaj Parivartana Samudaya v. State of Karnataka* (2013) 8 SCC 154; judgement dated 18.04.2013 in Writ Petition No. 562 of 2009 <https://api.sci.gov.in/jonew/judis/40304.pdf> accessed 30 June 2026.

[62] *Subhash Kumar v. State of Bihar* (1991) 1 SCC 598 at paragraph 7; judgement dated 09.01.1991 in Writ Petition No. 381 of 1988 <https://api.sci.gov.in/jonew/judis/12854.pdf> accessed 30 June 2026; *Virender Gaur v. State of Haryana* (1995) 2 SCC 577 at paragraphs 4-7; judgement dated 24.11.1994 in Civil Appeal No. 9151 of 1994; *Mantri Techzone Pvt. Ltd. v. Forward Foundation*, 2019 SCC OnLine SC 322 at paragraph 40; judgement dated 05.03.2019 in Civil Appeal No. 5016 of 2016 <https://api.sci.gov.in/supremecourt/2016/16740/16740_2016_Judgement_05-Mar-2019.pdf> accessed 30 June 2026.

[63] Supreme Court of India, History, <https://www.sci.gov.in/about-department/history/>. Constitution benches decide matters involving a conflict of decisions of the Supreme Court or issues regarding interpretation of the Constitution.

[64] *Kaushal Kishor v. State of U.P.*, 2023 INSC 4 (judgement dated 03.01.2023) at paragraphs 73, 74, 76, 78, 155 <https://api.sci.gov.in//pdfdate/index1.php?dt=2023-01-03&dno=271562016&filename=supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf> accessed 30 June 2026.

Advantages of accessible procedures, simplified rules of evidence, and flexible modes of remedy, for Bank Climate Claims and Bank Local Impact Claims are explained below in Parts IV and V.

4. Companies and company directors have a duty to protect the environment and a responsibility to remedy any harm

In *M.K. Ranjitsinh & Others v. Union of India* a public interest petition under Article 32 of the Indian Constitution was filed to protect two species of critically endangered birds, the Great Indian Bustard (GIB) and the Lesser Florican. The petitioners sought directions from the Supreme Court to the national government, the concerned state governments, and concerned private and state-owned power generation companies. Overhead transmission lines owned and operated by the companies were proven a significant cause of the deaths of the GIB.

Several findings of the Supreme Court on private party obligations are relevant to potential Bank Climate Claims and Bank Local Impact Claims. In a set of interim and final judgments, the Supreme Court:

(i) interpreted the nature of provisions on fiduciary duties and corporate social responsibility under the Indian Companies Act, 2013. The provisions make express reference to a company director's duty to the environment. The Court concluded that the word "environment" in the Companies Act has the same meaning as given to it in the principal environmental statute in the country – the Environmental (Protection) Act, 1986.[65] The expansive definition of the word in the 1986 Act means that every type of environmental harm is likely covered.

[65] *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 (judgement dated 19.04.2021) at paragraph 12 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf> accessed 30 June 2026. The Court noted: "The word "environment", though not defined in the Companies Act, has to be given the meaning assigned to it under the Environment (Protection) Act, 1986. Section 2(a) of the Environment (Protection) Act, 1986, defines the word "environment" to include the "interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, microorganisms and property."

(ii) the Court found that corporations as legal persons must adhere to the fundamental duty under Article 51A(g) of the Constitution of India to protect and improve the natural environment;[66]

(iii) the Court under writ jurisdiction issued directions to state and private parties to address violations attributable to overhead transmission lines owned and operated by them;[67]

(iv) the Court recognised that the right to life under Article 21 includes the right to be protected from the adverse consequences of climate change.[68]

5. Ecocentrism and Species Best Interest standard

Several judgments of the Supreme Court including *T.N. Godavarman Thirumulpad v. Union of India,*[69] have held that the principle of ecocentrism, as opposed to anthropocentrism, must be followed when giving effect to the various provisions of domestic environmental law, including the Wild Life (Protection) Act, 1972, the National Wildlife Action Plan (2002-2016), and the National Wildlife Action Plan (2017-2031). This is particularly relevant for potential nature-related risks in operations of private entities and expected oversight by their boards, including commercial banks.

6. *Ridhima Pandey v. Union of India*

A petition filed before the National Green Tribunal in 2017 sought several directions to the government including the direction to assess climate change related concerns when appraising projects for environmental clearance under the Environment Impact Assessment Regulations, 2006 and ensuring actions taken under other national statutes are in line with India's Nationally Determined Contributions under the Paris

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[66] *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025), at paragraph 38 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

[67] *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025) at paragraph 76 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

[68] *M.K. Ranjitsinh v. Union of India*, 2024 INSC 280 (judgement dated 21.03.2024) at paragraphs 19-35 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf> accessed 30 June 2026.

[69] (2012) 3 SCC 277.

Agreement. The petition was dismissed by the National Green Tribunal and an appeal is now pending before the Supreme Court of India.[70] The Supreme Court agreed to hear the petition.[71] In subsequent orders, the Court directed concerned ministries of the national government to be impleaded as defendants,[72] and directed parties to make submissions on addressing carbon emissions in the power sector.[73] Orders issued in the case would be relevant for a potential Bank Climate Claim.

B. Trends in Climate and Environmental Litigation

On the date of submission of this report there is no publicly reported Bank Climate Claim or Bank Local Impact Claim pending judicial consideration in India. This is likely a result of some of the following economic, social, political, and legal factors:

i. A significant part of India's economy and population still depends on coal. Coal accounts for 79% of total energy supplied domestically,[74] and five million people are directly or indirectly dependent on coal mining for their livelihood.[75] Coal contributes Rs. 70,000 crores annually (over USD 7 billion) to the national and

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[70] Sabin Centre for Climate Change Law, Climate Case Chart <https://www.climatecasechart.com/document/ridhima-pandey-v-union-of-india_5ebc> accessed 30 June 2026.

[71] *Ridhima Pandey v. Union of India and Ors.* Civil Appeal No. 388 of 2021, order dated 12.02.2021 <https://api.sci.gov.in/supremecourt/2019/14040/14040_2019_38_1_26137_Order_12-Feb-2021.pdf> accessed 30 June 2026.

[72] *Ridhima Pandey v. Union of India* order dated 21.02.2025 <https://api.sci.gov.in/supremecourt/2019/14040/14040_2019_11_41_59641_Order_21-Feb-2025.pdf> accessed 30 June 2026.

[73] *Ridhima Pandey v. Union of India* order dated 22.07.2025 <https://api.sci.gov.in/supremecourt/2019/14040/14040_2019_7_9_62562_Order_22-Jul-2025.pdf> accessed 30 June 2026.

[74] Government of India, Ministry of Statistics and Programme Implementation, Energy Statistics (India, 2026), <https://www.mospi.gov.in/uploads/publications_reports/publications_reports1774859128428_05e8ebb5-0598-4112-844c-bbe00e04aab8_33rd_Edition_of_ES-2026_Final.pdf> accessed 30 June 2026. International Energy Agency, India <https://www.iea.org/countries/india/energy-mix#how-is-energy-used-in-india> accessed 30 June 2026.

[75] PTI, *India says 50 Lakh people directly dependent on Coal mining* (Indian Express, May 2023) <https://indianexpress.com/article/business/economy/indian-people-coal-g20-energy-tansition-8610605/#> accessed 30 June 2026. Ministry of Coal, Annual Report (2025-26) at page 104 <https://www.coal.nic.in/sites/default/files/2026-02/chap8AnnualReport2026en.pdf> accessed 30 June 2026.

state government's revenue.[76] India's development and energy needs have shaped the country's domestic energy policy and its foreign policy on climate mitigation and adaptation.[77]

ii. In line with India's position in international climate fora, emphasizing Common but Differentiated Responsibility and Respective Capability (CBDR-RC), India's energy transition policy has focused on diversification of energy production and investment, and not the immediate phase-out of fossil fuels. Renewable energy investment and generation have nonetheless increased significantly.[78] The majority of new electricity generation in 2024-25 came from non-fossil sources.[79]

iii. Regulations by the national financial regulator and the securities market regulator complement India's energy and foreign policy, focusing on encouraging a just and sustainable transition to more "green energy", rather than urgent phase out of fossil fuels. As a result, there is no express or mandatory requirement for commercial banks to consider, report, or reduce climate change-related risk and climate change-related impacts from greenhouse gas emissions yet. In contrast, the widely reported impacts of climate change by government bodies, the scientifically backed link between fossil fuel emissions and extreme climate events, growing soft law instruments on banks and climate risk mitigation, and consistent acknowledgements by the Reserve Bank of the increasing risk for banks, are important countervailing factors against these hurdles to a potential Bank Climate Claim. These will be relevant for a court to consider in a potential action, explored in Part III below.[80]

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[76] Ministry of Coal, India's Coal Boom (4 April 2025) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2118788&reg=3&lang=2> accessed 30 June 2026.

[77] Navroz K. Dubash, 'Climate politics in India: three narratives' from: *Handbook of Climate Change and India, Development, Politics and Governance* (2011) Routledge. Navroz K. Dubash, Radhika Khosla, Ulka Kelkar, and Sharachchandra Lele, 'India and Climate Change: Evolving Ideas and Increasing Policy Engagement', *Annu. Rev. Environ. Resour.* 2018. 43:395–424.

[78] International Energy Agency, *World Energy Investment 2025* <https://www.iea.org/reports/world-energy-investment-2025/india> accessed 30 June 2026.

[79] Climate Action Tracker, India (24 September 2025) <https://climateactiontracker.org/countries/india/> accessed 30 June 2026; Reuters, India hits 50% non-fossil power milestone ahead of 2030 clean energy target (15 July 2025) <https://www.reuters.com/business/energy/india-hits-50-non-fossil-power-milestone-ahead-2030-clean-energy-target-2025-07-14/> accessed 30 June 2026.

[80] Ministry of Earth Sciences, Office of Climate Research and Services, India Meteorological Department <https://imdpune.gov.in/hazardatlas/abouthazard.html> accessed 30 June 2026; R. Krishnan, J. Sanjay, Chellappan Gnanaseelan, Milind Mujumdar, Ashwini Kulkarni, Supriyo Chakraborty, 'Assessment of Climate Change over the Indian Region - A Report by the Ministry of Earth Sciences (MoES), Government of India' (2020); Ministry of Earth Sciences, *Changes in*

iv. The National Green Tribunal (NGT) Act, 2010 bars any civil suit under section 29 in environment related actions on which the Tribunal has jurisdiction.[81] A cause of action in private law for such cases becomes unlikely as a result of this statutory bar. This is a barrier to private claims in addition to the otherwise limited growth of tort-based actions since the evolution of public interest litigation.[82]

v. It may be argued that as the consequent factual harm from climate change may have a wider scope than environmental harm alone, possible climate claims may fall outside the scope of environmental legislation and thus beyond the scope of NGT's jurisdiction.[83] In a dynamic regulatory environment, this may mean more litigation pathways in the future. Based on claims in other jurisdictions, this could include for instance claims on whether dividends distributed to shareholders were unlawful for failure to account for climate risks and consequent overvaluation of

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Weather Cycle due to Climate Change, 19 March 2026 <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2242357&lang=2&reg&reg=48> accessed 30 June 2026; Foley Hoag LLP and United Nations Environment Programme Finance Initiative (UNEP FI), *Banks and Human Rights: A Legal Analysis* (UNEP FI 2015) <https://www.unepfi.org/industries/banking/banks-and-human-rights-a-legal-analysis-2/> accessed 30 June 2026; Organisation for Economic Co-operation and Development (OECD), *Due Diligence for Responsible Corporate Lending and Securities Underwriting* (OECD Publishing 2019) <https://doi.org/10.1787/71fd2895-en> accessed 30 June 2026; The Equator Principles <https://equator-principles.com/about-the-equator-principles/> accessed 30 June 2026; Reserve Bank of India, Department of Regulation, *Discussion Paper on Climate Risk and Sustainable Finance* <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/CLIMATERISK46CEE62999A4424BB731066765009961.PDF> accessed 30 June 2026; Reserve Bank of India, Annual Report 2019-2020 <https://rbidocs.rbi.org.in/rdocs/AnnualReport/PDFs/0RBIAR201920DA64F97C6E7B48848E6DEA06D531BADF.PDF> accessed 30 June 2026.

[81] Section 29 of the NGT Act provides: "*Bar of Jurisdiction*: (1) With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction. (2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal, and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court." <https://www.indiacode.nic.in/handle/123456789/2025#collapsezainbelowsection3> accessed 30 June 2026.

[82] See, Sujit Choudhry, Madhav Khosla, Pratap Bhanu Mehta (Eds.) *Oxford Handbook of Indian Constitutional Law* (OUP, 2016), Chapter 38, Shyamkrishna Balganesh, The Constitutionalisation of Indian Private Law.

[83] For e.g., climate impacts requiring cities to adapt may fall outside NGT remits since town planning laws are not covered by the NGT Acts. The authors thank Prof. Umakanth Varottil for this observation.

assets;[84] or for violation of fiduciary and statutory duty for failure to consider climate risk and subjecting pension contributions to undue financial risk.[85]

vi. A limiting factor for private law claims in India is the popular preference for writ procedure and constitutional remedies with the low costs of litigation, permissive standing requirements, and streamlined evidentiary process. This has been a key hurdle in the development of tort law remedies in India, while tort actions remain the preferred doctrinal fit for bank climate accountability cases as seen in other jurisdictions.[86] Some threshold hurdles within domestic legislation restrict private claims and shareholder activism of the kind seen in other jurisdictions.[87]

For instance, company directors may be in breach of their fiduciary duties under section 166 for material failure to disclose and address climate risks under the Companies Act.[88] In terms of the Companies Act such a breach may be actionable by way of a shareholders' action for mismanagement of the company's affairs in a manner 'prejudicial to public interest' under section 241 or a class action under section 245. For an action under section 241, the shareholders must have the right to apply to the subject statutory tribunal under section 244, requiring a minimum number of shareholders.[89] As for the class

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[84] Sabin Centre for Climate Change Law, Climate Case Chart, *Métamorphose v. TotalEnergies* (2023) <https://www.climatecasechart.com/document/metamorphose-vs-totalenergies_7384> accessed 30 June 2026.

[85] Sabin Centre for Climate Change Law, Climate Case Chart, *Aliya Hirji, Travis Olson, Ravneet Singh et Chloe Tse v. Canada Pension Plan Investment Board* (2025) <https://www.climatecasechart.com/document/aliya-hirji-travis-olson-ravneet-singh-et-chloe-tse-v-canada-pension-plan-investment-board_4e82?q=Aliya+Hirji> accessed 30 June 2026.

[86] Discussed further in Parts IV and V below.

[87] Sabin Centre for Climate Change Law, Climate Case Chart, *Kim et al. v. KOGAS* (2025) <https://www.climatecasechart.com/document/kim-et-al-v-kogas_c235> accessed 30 June 2026; *Kang et al. v. KSURE and KEXIM* (2022) <https://www.climatecasechart.com/document/kang-et-al-v-ksure-and-kexim_b51c> accessed 30 June 2026; *Just Share NPC, Aeon Investment Management (Pty) Ltd, Fossil Free South Africa v. Thungela Resources limited, Companies and Intellectual Property Commission* (2025) <https://www.climatecasechart.com/document/just-share-npc-aeon-investment-management-pty-ltd-fossil-free-south-africa-v-thungela-resources-limited-companies-and-intellectual-property-commission_d9bb> accessed 30 June 2026.

[88] CCLI Opinion.

[89] The section provides: "(*1*) The following members of a company shall have the right to apply under section 241, namely:— (*a*) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one-tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares; (*b*) in the case of a company not having a share capital, not less than one-fifth of the total number of its members: Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (*a*) or clause (*b*) so as to enable the members to apply under section 241."

action, sub-section (9) of section 245 sets out a statutory bar on such an action in case of a banking company.

vii. In 2018, the National Green Tribunal directed the sealing of factories operating in residential areas without required environmental clearances. A bank which held a mortgage on one of the properties intervened and asked for the property to be de-sealed.[90] In appeal, the Supreme Court found that the National Green Tribunal should not entertain petitions holding a bank or concerned financial institution responsible for actions of a borrower in contravention of environmental laws.[91] In view of the dynamic regulatory environment, the evolving climate litigation space, and with strategic cases emerging in other jurisdictions, this order of the Supreme Court may not operate as a general bar for future climate litigation.[92]

viii. Environmental defenders have come to face increasing challenges to their work in recent times. These include limits imposed on funding, facing investigative agencies empowered to investigate financial crimes, forcing some international civil society organizations to shut their India offices.[93] This is likely one of the

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[90] M.A.No. 08/2023 in O.A.13/2017, order dated 3 March 2023 <https://www.greentribunal.gov.in/gen_pdf_test.php?filepath=L25ndF9kb2N1bWVudHMvbmd0L2Nhc2Vkb2MvanVkZ2VtZW50cy9ERUxISS8yMDIzLTAzLTAzLzE2Nzc5MjY5MTkxNjUwMDUzMzA1NjQwMzIyMDdkMzA0MC5wZGY=> accessed 30 June 2026.

[91] *Punjab National Bank v. Govt. of NCT Delhi & Ors.* (Supreme Court of India, Civil Appeal No. 3127 of 2023, order dated 09.02.2024) <https://api.sci.gov.in/supremecourt/2023/15846/15846_2023_2_38_50283_Order_09-Feb-2024.pdf> accessed 30 June 2026.

[92] Sabin Centre for Climate Change Law, Climate Case Chart, *OECD complaint by faith groups against HSBC* (2026), <https://www.climatecasechart.com/document/oecd-complaint-by-faith-groups-against-hsbc_da39>; *Milieudefensie v. ING Group and ING Bank* (2024) <https://www.climatecasechart.com/document/milieudefensie-v-ing-group-and-ing-bank_bc48>; *Notre Affaire à Tous Les Amis de la Terre, and Oxfam France v. BNP Paribas* (2022) <https://www.climatecasechart.com/document/notre-affaire-a-tous-les-amis-de-la-terre-and-oxfam-france-v-bnp-paribas_1736> accessed 30 June 2026.

[93] Global Witness, *How states use criminalisation to target land and environmental defenders,* (6 January 2026), <https://globalwitness.org/en/campaigns/land-and-environmental-defenders/how-states-use-criminalisation-to-target-land-and-environmental-defenders/> accessed 30 June 2026; Simran Sirur, *Crackdown on civil society and environmental NGOs continues* (Mongabay, 2024) <https://india.mongabay.com/2024/07/crackdown-on-civil-society-and-environmental-ngos-continues/> accessed 30 June 2026; Valerie Volcovici, India detains environmental activist over anti-fossil fuel work (Reuters, 2026) <https://www.reuters.com/sustainability/cop/india-arrests-environmental-activist-anti-fossil-fuel-work-2026-01-07> accessed 30 June 2026; Reuters, 'Greenpeace India Shuts Two Offices, Cuts Staff after Donations Row' (2 February 2019) <https://www.reuters.com/article/us-india-greenpeace/greenpeace-india-shuts-two-offices-cuts-staff-after-donations-row-idUSKCN1PR0BT> accessed 30 June 2026; Yogita Limaye, 'Amnesty

primary factors why such a claim has not been brought to court yet, despite widely known and publicly reported harms to the environment and human health in the country from increasing reliance on fossil fuels.[94]

ix. A more positive outlook is made possible by the recent orders of the Supreme Court in the case of *Ridhima Pandey v. Union of India and Others*. The Court's latest directions as discussed above, indicate the possibility of wide-ranging orders in the proceedings. Subject to the Court's final judgment, these proceedings may lay the groundwork for a variety of claims against public bodies for higher climate ambition. This may incrementally strengthen the possibility of a successful Bank Local Impact Claim and Bank Climate Claim. For instance, a petition may request directions from the court to require banks lending to carbon intensive projects to exercise heightened environmental scrutiny in their internal appraisal processes in line with duties under section 166 of the Companies Act, 2013. This could include lending to public projects by state development bodies, and lending to state owned coal companies, for instance.

C. Relevant Literature and Doctrine

1. Commonwealth Climate and Law Initiative (CCLI), *Directors' Duties Navigator: Climate Risk and Sustainability Disclosures, India* (Fourth edition, September 2024).
2. Shyam Divan, Chapter 4, *The Environment, the Constitution, and the Legal Framework at the National Level* in Philippe Cullet, Lovleen Bhullar, and Sujith Koonan (eds), *The Oxford Handbook of Environmental and Natural Resources Law in India* (OUP, 2024).
3. Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India – Cases and Materials* (OUP 2022).

International to Halt India Operations' BBC News (29 September 2020) <https://www.bbc.com/news/world-asia-india-54277329> accessed 30 June 2026.

[94] Purnima Sah, Fossil fuel-driven air pollution claimed 1.72 million lives in India in 2022: *The Lancet* report (The Hindu, 30 October 2025), <https://www.thehindu.com/sci-tech/energy-and-environment/fossil-fuel-driven-air-pollution-claimed-172-million-lives-in-india-in-2022-the-lancet-report/article70216242.ece> accessed 30 June 2026; Pandey A, Brauer M, Cropper M et al. Health and economic impact of air pollution in the states of India: the Global Burden of Disease Study 2019 The Lancet Planetary Health, 2020; 5, e25-e38, <https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(20)30298-9/fulltext> accessed 30 June 2026.

4. Shyam Divan, Sugandha Yadav, & Ria Singh Sawhney, *Legal Opinion: Directors' obligations to consider climate change-related risk in India*, Commonwealth Climate and Law Initiative (September 7, 2021).
5. Navroz K. Dubash, Aditya Valiathan Pillai, and Anirudh Sridhar, Chapter 28, *Climate Change: Policy, Institutional, and Legal Frameworks* in Philippe Cullet, Lovleen Bhullar, and Sujith Koonan (eds), *The Oxford Handbook of Environmental and Natural Resources Law in India* (OUP, 2024).
6. Richa Roy, Aayushi Bindal, *Greening Bank Deposit: RBI releases Framework for Green Deposits* India Corporate Law (Cyril Amarchand Mangaldas, April 14, 2023).
7. Richa Roy, Aayushi Bindal, *Climate Finance for Regulated Entities – Upcoming Trends* India Corporate Law (Cyril Amarchand Mangaldas, April 19, 2023).
8. Richa Roy, Aayushi Bindal, *Green Central Banks and Financial Regulators – Are they Legally Mandated?* India Corporate Law (Cyril Amarchand Mangaldas, May 11, 2023).
9. Geetanjoy Sahu, *Environmental Jurisprudence and the Supreme Court: Litigation, Interpretation, Implementation* (Orient Blackswan, 2014).
10. Umakanth Varottil, *Director's Liability and Climate Risk: White Paper on India* (October 4, 2021, Commonwealth Climate and Law Initiative).
11. Umakanth Varottil, *The Legal and Regulatory Impetus Towards ESG in India: Developments and Challenges* (January 13, 2023), NUS Law Working Paper No. 2023/003.
12. Umakanth Varottil, *Corporate Climate Litigation in India: Traversing the Private-Public Law Divide* (June 5, 2025). NUS Law Working Paper No. 2025/009, Chapter in "Douglas Kysar and Ernest Lim (eds), *The Oxford Handbook of Climate Change and Private Law* (OUP, 2026)."
13. Nawneet Vibhaw, *Environment, Energy, Climate Change and ESG: Cases and Material*, Mohan Law House (First Edition, 2026).

III. Causes of Action

A. Most Promising Causes of Action

This Report identifies three potential causes of action for a Bank Climate Claim or Bank Local Impact Claim in India:[95]

I. Writ petition in the Supreme Court and/or High Courts against a private commercial bank via public interest litigation (PIL) for breach of public, constitutional, or statutory environmental duties under Articles 32 and 226 of the Constitution;

II. A petition before the National Green Tribunal, against the Reserve Bank of India, asking it to take action to ensure banks are making the necessary disclosures against financed emissions;

III. Shareholder action in the National Company Law Tribunal against a bank board for breach of directors' environmental and fiduciary duties under sections 166(2) and 241 of the Companies Act, 2013.

In addition, an ancillary cause of action has been outlined against the financial regulator, Reserve Bank of India, as a future development. Potentially, this would be:

IV. A petition in the Supreme Court or High Courts, against the Reserve Bank of India, asking it to discharge its statutory supervisory function under sections 21 and 35A of the Banking Regulation Act, 1949, in relation to climate-related financial risk, by implementing the Draft Disclosure Framework on Climate-related Financial Risks, 2024 or issuing equivalent binding directions to regulated banks.

[95] For the reasons explained in Part II, private law claims in tort are not treated as freestanding causes of action in this Report, as the limited development of tortious remedies alongside public interest litigation make such claims structurally unlikely.

B. Legal Bases and Doctrinal Foundations

I. Writ Petition in the Supreme Court or High Courts of India, via Public Interest Litigation (PIL) against Private Commercial Banks

1. *Legal and Factual Basis*

This cause of action is a writ petition filed in the Supreme Court, under Article 32, or in a High Court under Article 226 against a private commercial bank for financing a project which has contributed to major environmental and climate change harms.

Standing requirements

As further discussed in Part IV below, this could be filed by any individual or organisation acting in good faith for the general public interest – such as, public interest groups, non-profit organizations, activists, respected academics, and concerned citizens.

The writ's primary demand would be to seek enforcement of the right to a clean environment, now considered a facet of the right to life under Article 21 of the Constitution.[96]

Under Indian jurisprudence, commercial banks could be amenable to writ jurisdiction. In the case of *Federal Bank Ltd. v. Sagar Thomas* (2003),[97] the Supreme Court clarified that a writ can be issued against a private entity, including a private company or bank, if it is found to be discharging a "statutory function" or a "public duty."[98] Crucially, the Supreme Court in *Federal Bank* indicated that private entities could be held accountable under writ jurisdiction for matters concerning public health or the environment, with reference to Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 in particular.[99]

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[96] *Subhash Kumar v. State of Bihar* (1991) 1 SCC 598 at para 7; *Virender Gaur v. State of Haryana* (1995) 2 SCC 577 at paras 4-7; *Rural Litigation and Entitlement Kendra, Dehradun v. State of UP* 1985 INSC 49; *Mantri Techzone Pvt. Ltd. v. Forward Foundation*, 2019 SCC OnLine SC 322 at para 40.

[97] *Federal Bank Ltd. v. Sagar Thomas & Ors.*, Civil Appeal No. 106 of 2001 decided on 26.09.2003 (SC) <https://api.sci.gov.in/jonew/judis/19392.pdf> accessed 30 June 2026.

[98] *Federal Bank (supra)* at para 18.

[99] *Federal Bank (supra)* "27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned

High Courts have relied on this precedent to entertain writs against private banks, particularly concerning the enforcement of binding directions issued by RBI. For instance, the Karnataka High Court in *Velankani Information Systems Ltd. v. Secretary, MHA* (2020)[100] allowed a writ petition against private banks by a company seeking enforcement of an RBI Circular which granted a temporary moratorium on repayment of loans during the Covid-19 pandemic. Similarly, the Calcutta High Court in 2025 allowed a writ petition against private banks for failure to implement an RBI framework for revival of statutorily defined "small enterprises."[101]

These precedents establish that a private commercial bank's compliance (or lack thereof) with binding RBI directions is amenable to writ jurisdiction, where it may impinge on the exercise of fundamental rights. Applied to the climate context, this type of claim is at its strongest where the bank is alleged to be in breach of a specific RBI or SEBI direction. As elaborated below, the risk determination obligations under the RBI Internal Capital Adequacy Assessment Process,[102] the RBI (Commercial

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including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions..."

[100] *Velankani Information Systems Ltd. v. Secretary, Ministry of Home Affairs & Ors*, Writ Petition No. 6775 of 2020 decided on 08.07.2020 (Karnataka HC).

[101] *Mahua Bhaumik v. Union of India & Ors*, Writ Petition No. 27289 of 2025 decided on 16.12.2025 (Calcutta HC).

[102] See *Reserve Bank of India (Commercial Banks – Prudential Norms on Capital Adequacy) Directions, 2025* (Updated as on June 16, 2026) <https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=13159> accessed 30 June 2026. Under this framework, all scheduled commercial banks (excluding regional rural banks) are required to meet the Basel III framework, which sets out minimum capital, liquidity, and risk management standards. Basel III has three pillars: Pillar 1, sets a 'Minimum Capital Ratio' against credit, market, and operational risks; Pillar 2 sets out the RBI's 'Supervisory Review Process,' under which banks are required to assess and hold capital against risks not captured under Pillar 1. The Internal Capital Adequacy Assessment Process (ICAAP) sits under this pillar. Pillar 3, on 'Market Discipline,' requires public disclosure of capital adequacy and risk exposures. Banks must maintain a Board-approved ICAAP Policy, under which they assess whether their capital is adequate to cover all "material risks," beyond the Pillar 1 minimum in their business, and undertake stress testing. This assessment is submitted annually and reviewed by RBI as part of its Supervisory Review and Evaluation Process. While incorporating climate-related risk into ICAAP is not currently mandatory in India, in its 2022 discussion paper on Climate Change, the RBI has flagged it as a consideration for banks' internal capital and risk assessments. This is consistent with international standards, which treat climate risk as a driver of all existing risk categories. See Reserve Bank of India (Commercial Banks - Prudential

Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025,[103] and the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015[104] would be obligations of this nature.

In *Kaushal Kishor v. State of U.P.,* (2023)[105] a constitution bench of the Supreme Court held by a majority of four to one that the fundamental right to life under Article 21 "can be enforced even against persons other than the State and its instrumentalities".[106] This would include private parties, such as banks. As discussed in Part II, the constitutional "right to life" under Article 21 of the Constitution, which has been interpreted by the courts, over nearly four decades, to include the right to a healthy environment,[107] and in *M.K. Ranjitsinh v. Union of India* (2024) as a distinct right against the adverse effects of climate change.[108]

This could open a route for a writ against a commercial private bank whose conduct is alleged to violate this broad right.[109]

Norms on Capital Adequacy) Directions, 2025 (Updated as on June 16, 2026) Circular No. RBI/DOR/2025-26/151; *also see* Reserve Bank of India. Discussion paper on Climate Risk and Sustainable Future. (2022) <https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/CLIMATERISK46CEE62999A4424BB731066765009961.PDF> accessed 30 June 2026.

[103] Reserve Bank of India. Reserve Bank of India (Commercial Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025, <https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=13138> accessed 30 June 2026.

[104] Securities and Exchange Board of India. Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 <https://www.sebi.gov.in/legal/master-circulars/jan-2026/master-circular-for-compliance-with-the-provisions-of-the-securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-by-listed-entities_99432.html> accessed 22 October 2026.

[105] *Kaushal Kishor v. State of U.P.,* W.P.(Crl) 113 of 2016 (SC), decided on 03.01.2023, at paragraphs 73, 74, 76, 78, 155 <https://api.sci.gov.in/supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf> accessed 30 June 2026.

[106] Beyond its original conception as a remedy to be exercised against the State or its agents in terms of Article 12 of the Constitution. *Kaushal Kishor v. State of U.P.*, 2023 INSC 4 (judgement dated 03.01.2023) at paragraphs 73, 74, 76, 78, 155 <https://api.sci.gov.in//pdfdate/index1.php?dt=2023-01-03&dno=271562016&filename=supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf> accessed 30 June 2026.

[107] *Rural Litigation and Entitlement Kendra, Dehradun v. State of UP* 1985 INSC 49 (1985).

[108] *M.K. Ranjitsinh v. Union of India*, 2024 INSC 280 (judgement dated 21.03.2024), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf> at paragraph 19.

[109] While the primary argument for a Bank Climate Claim would be that a writ against a private party is possible for violation of a fundamental right even in the absence of a statutory basis identifying

Basis of the claim

The argument for this claim is that directors of banks are now under a statutory obligation and a public duty to consider the environmental and climate change impacts of their business decisions. This obligation arises from the following:

- First, the Supreme Court's judgment in *M.K. Ranjitsinh v. Union of India* (2021) held that section 166(2) of the Companies Act, 2013 requires directors to act in good faith for, among other interests, the protection of the environment, which encompasses climate-related risks and impacts.[110]
- Second, commercial banks are subject to layered risk disclosure and management obligations, which either explicitly or implicitly include climate change considerations. These obligations are described in Part I, and include: (i) Sections 134(3)(n) and 177(4)(vii) of the Companies Act, 2013,[111] which require disclosure of risks which may 'threaten the existence of the company'; (ii) Part D of Schedule II of SEBI's 2015 Listing Obligations and Disclosure Requirements Regulations, requires that, for private commercial banks which fall within the category of the top 1000 listed entities by market capitalisation, the mandatory Risk Management Committee also address ESG risks;[112] (iii) the RBI's Internal Capital Adequacy Assessment Process (ICAAP) under the

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that right, Nagarathna J., dissenting on this specific point in *Kaushal Kishor* (2023), found that horizontal enforcement of a fundamental right requires a statutory hook by which the right is identified. We argue that this statutory hook may be supplied by the duty outlined under section 166(2) of the Companies Act, 2013, read with the risk-determination framework imposed on banks. This would be further strengthened when the Draft Disclosure framework is adopted. *See: Kaushal Kishor v. State of U.P.*, W.P. (Crl) 113 of 2016 (SC) decided on 03.01.2023 <https://api.sci.gov.in/supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf>, Justice Nagarathna's concurring opinion, dissenting on this point.

[110] *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 (judgement dated 19.04.2021), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf> at para 12.

[111] Under Section 134, Companies Act 2013, the "Financial statement, Board's report, etc." includes, under sub-clause 3(n): "a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company;"; Under Section 177(4)(vii) Companies Act, 2013, the responsibilities of the Audit Committee includes "(vii) evaluation of internal financial controls and risk management systems."

[112] As discussed in Part II, the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 mandate ESG disclosures under a 'Business Responsibility and Sustainability Report (BRSR)', to be submitted by the top 1000 listed entities based on market capitalization. Schedule II lays out corporate governance obligations.

Basel III framework, under Pillar 2, under which all banks must maintain a Board-approved assessment of all material risks.[113]

- Third, banks are required by SEBI to disclose their climate-related risk position, including Scope 1 and Scope 2 greenhouse gas emissions, in their mandatory Business Responsibility and Sustainability Report and BRSR Core filings. Separately, banks who choose to offer green deposits are mandated, under RBI's Climate Finance Directions, 2025, to ensure third-party verification of the green deposits offered, conduct an impact assessment, and publicly disclose the same.[114]

A bank that fails to discharge this risk determination and disclosure obligations could be said to have breached both the specific regulatory framework that gives them effect and, by the same conduct, the general duty under section 166(2). As the Supreme Court has recognised that the right to life under Article 21 includes the right against the adverse consequences of climate change (*MK Ranjitsinh*, 2024), and because the Constitution Bench in *Kaushal Kishor v. State of U.P.* (2023) has confirmed that the Article 21 right is enforceable against private parties, a writ could lie in the constitutional courts to compel a bank to comply with these obligations.

Possible objections

A bank is likely to object that there is as yet no climate statute imposing explicit statutory duties on banks regarding financed emissions, and Indian jurisprudence has not yet recognised lender liability for human rights or environmental impacts.[115] Existing Indian environmental statutes (such as the Environment (Protection) Act, 1986, the Water Act, 1974, and the Air Act, 1981) regulate the polluting entities themselves but do not currently impose direct restrictions, due diligence requirements, or checks on their financiers or lenders.[116]

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[113] Reserve Bank of India (Commercial Banks - Prudential Norms on Capital Adequacy) Directions, 2025 (Updated as on June 16, 2026) Circular No. RBI/DOR/2025-26/151.

[114] Reserve Bank of India. Reserve Bank of India (Commercial Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025, Chapter III, Sub-sections F and G <https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=13138> accessed 30 June 2026.

[115] Amitanshu Verma & Nancy Pathak. *By financing environmentally damaging projects, can Indian funders be held liable?* Scroll.in (04.04.2024) <https://scroll.in/article/1065582/by-financing-environmentally-damaging-projects-can-indian-funders-be-held-liable> accessed 30 June 2026.

[116] *Punjab National Bank v. Govt. Of NCT of Delhi & Ors*, (Supreme Court Civil Appeal No. 3127 of 2023 order dated 09.02.2024) <https://api.sci.gov.in/supremecourt/2023/15846/15846_2023_2_38_50283_Order_09-Feb-2024.pdf> accessed 30 June 2026.

However, the cause of action proposed in this Report does not ask the court to hold the bank vicariously liable for the borrower's pollution. It asks the court to hold the bank to account for its own breach of its own duties, pointing to the bank's failure to assess and disclose material climate-related risk under the SEBI and RBI frameworks, its breach of section 166(2) of the Companies Act, and the violation of the constitutional climate right that follows from that conduct. The impact of the borrower's project (being assumed here) is the evidentiary context that demonstrates that the bank's risk determination failure was real, foreseeable, and consequential; it is not the harm for which the bank is being held liable.

Support from international standards

The current lack of statutory basis laying out more specific climate duties on banks could be also bolstered by relying on international soft law principles and instruments. International soft law instruments do not bind Indian banks but could be used to demonstrate that the standard of care for banks in the climate context is internationally established and accepted. The petitioners could establish a normative gap with reference to the risk assessments that banks in other jurisdictions are required to make prior to lending. For example, the Equator Principles, adopted by financial institutions internationally, require a climate change risk assessment for designated categories of project finance before financing is extended.[117] No major Indian-incorporated commercial bank is presently a signatory. A claim could also point to the OECD's Due Diligence for Responsible Corporate Lending and Securities Underwriting, and the UNEP Finance Initiative's guidance on banks and human rights, as evidence of widely adopted industry standards against which a bank's conduct may be measured.[118] An example could also be drawn from multilateral development bank practice – for example, where the Asian Development Bank finances a project in India, its Environmental and Social Framework requires the sovereign borrower (ordinarily the Government of India) to undertake project-level

[117] The Equator Principles (EP4), effective 1 October 2020, available at <https://equator-principles.com/app/uploads/The-Equator-Principles_EP4_July2020.pdf>, adopted by approximately 140 financial institutions in 39 countries as of 2026.

[118] This "normative gap" technique, using non-binding standards to give content to an otherwise open-textured duty, was deployed by the Hague District Court in *Milieudefensie v. Royal Dutch Shell* to derive an unwritten duty of care from, among other sources, the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

climate risk assessment and greenhouse gas monitoring.[119] Indian courts are receptive to international law principles, in line with India's constitutional commitment to foster respect for international law.[120]

A Bank Climate Claim would also reference national policy instruments, like the National Action Plan on Climate Change and the State Action Plans, to establish that climate transition is a recognised national priority. The Supreme Court in *M.K. Ranjitsinh* (2024) expressly mentioned India's Nationally Determined Contributions and broader international climate commitments in recognising the constitutional climate right, illustrating that such instruments, although not independently enforceable, already inform judicial understanding of the content of climate-related constitutional obligations.[121] While the framework does not commit to fossil fuel phase out, a claimant could invoke the sectoral targets and timelines set by the National Action Plan and State Action Plans to demonstrate that a bank's continued financing of fossil fuel expansion is inconsistent with the climate trajectory the State has itself acknowledged as necessary; second, the petitioner could argue that the State's recognition that climate-related transition risk is foreseeable indicates that it is a material risk. These commitments are reinforced by the mounting scientific and government evidence of rising extreme weather events affecting Indian communities and infrastructure, which further establishes the foreseeability and materiality of climate-related risk for banks operating in India.

Illustrative Fact pattern A: portfolio-level disclosure failure.

A large listed commercial bank that has a significant proportion of its loan book exposed to fossil fuel companies: coal mining, thermal power, or comparable emissions-intensive industries. In addition:

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[119] *Asian Development Bank, Environmental and Social Framework*, approved by the ADB Board of Directors on 22 November 2024, effective 1 January 2026, Environmental and Social Standard 9 <https://www.adb.org/who-we-are/environmental-social-requirements/environmental-social-framework> accessed 30 June 2026.

[120] Lavanya Rajamani, *International Law and the Constitutional Schema*, in *The Oxford Handbook of The Indian Constitution* (OUP 2016) "Indian courts have internalised norms of international law in the light of the constitutional guidance to 'foster respect for international law and treaty obligations'," referring to Article 51(c), Constitution of India.

[121] *M.K. Ranjitsinh v. Union of India*, 2024 INSC 280 (judgement dated 21.03.2024) at paragraphs 11 to 18, <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf> accessed 30 June 2026.

- The bank's Annual Report under section 134(3)(n) of the Companies Act, 2013 does not identify climate-related regulatory or transition risk as a risk that may threaten the existence of the company.
- Its Risk Management Committee has no ESG component in its terms of reference, in breach of the obligations under Regulation 21, read with Part D of Schedule II of SEBI's Listing Obligations and Disclosure Requirements (LODR).[122]
- Its filings under the Internal Capital Adequacy Assessment Process, with the RBI, do not contain a physical or transition risk assessment despite the RBI's own 2022 Discussion Paper and 2024 Draft Disclosure Framework having identified climate risk as a material category for Indian banks.[123]
- Its BRSR filings do not disclose financed emissions or characterise transition risk in any operational sense.
- Its disclosures on green deposits under the Climate Finance Directions are found to be materially false.

The cause of action here is failure of risk determination and disclosure: the bank has breached specific obligations imposed on it as a regulated banking company and listed entity, and that breach is itself a breach of section 166(2). The remedy sought is a direction compelling compliance with the requirements of the statute, or a direction to the RBI to exercise its supervisory powers under sections 35A and 46 of the Banking Regulation Act.

Illustrative Fact pattern B: financed local harm.

The same bank has financed a specific emissions-intensive project, such as a coal-fired power plant, a cement plant, or comparable facility, that causes documented localised environmental harm: air pollution exceeding permissible limits, water or soil contamination, or greenhouse gas emissions materially affecting an identifiable community. The bank financed or renewed credit facilities to the project despite ongoing enforcement action against the borrower under environmental statutes, and

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[122] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (last amended on July 14, 2026), <https://www.sebi.gov.in/legal/regulations/jul-2026/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-regulations-2015-last-amended-on-july-14-2026-_102974.html> accessed 22 October 2026.

[123] RBI Draft Disclosure framework on Climate-related Financial Risks, 2024. See further discussion at "Future Developments," below, noting that the adoption of these disclosure guidelines has been deferred.

despite public reporting of the harm. The bank's ESG disclosures do not mention this exposure. The cause of action here combines the regulatory failure (because the bank's risk determination obligations would have required it to flag this exposure as high-risk) with a substantive breach of section 166(2) (because the financing decision is not consistent with the duty to act for the protection of the environment) and a violation of the constitutional climate right of the affected community. The remedy sought may include directions for future compliance, and where harm is shown, prohibitory relief under Article 21, and an injunction restraining or unwinding the financing.

The claim is stronger still where the bank has refinanced the project or extended the term of an existing loan after the violations became publicly known. At the point of first lending, the bank can rely on whatever internal due diligence it in fact conducted. At the point of renewal, it has the benefit of the intervening public record, such as enforcement action against the borrower, published studies, or representations made by affected communities or those acting on their behalf. A decision to extend further finance in the face of that record, without any evidence of a renewed risk assessment, is difficult to reconcile with the directors' obligation under section 166(2) to act in good faith for the protection of the environment, or with the standard of care, skill and diligence required by section 166(3). The evidentiary advantage is significant: the breach is established by comparing the date of the renewal against the public record, rather than by proving the causal contribution of the bank's financing to the harm.

This is the stronger of the two fact patterns because the local environmental harm gives the court an acute, justiciable injury rather than a diffuse policy question about aggregate emissions, and it aligns with the strategic assessment in Part V that claims focused on targeted financed projects, are more viable than systemic challenges to portfolio composition.

2. *Types of Evidence*

The evidentiary requirements in public interest litigation are met by evidence on affidavit, as explained in greater detail in Part IV. For a Bank Climate Claim or Local Impact Claim to succeed under writ proceedings, the claim will have to show (i) the existence of a public duty imposed on banks in relation to climate change, and (ii) factual evidence of how the bank is in breach of that duty.

Following that, the key types of evidence that would be useful for such a claim are:

Disclosures made by banks:

- Annual Report
- Annual ESG Reports[124]
- ESG Policy[125]
- Annual Business Responsibility and Sustainability Report under SEBI Regulations[126]
- Annual Reports published under 2025 Climate Change Directive[127]
- Minutes of Board Meetings
- Basel III Disclosure Reports[128]

Reports showing impacts

- Public Studies showing climate change impacts or environmental damage caused by financed projects[129]
- Reports on local environmental/ human rights violations

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[124] For example, see: HDFC Bank. ESG report <https://www.hdfc.bank.in/esg> accessed 30 June 2026; State Bank of India, ESG Report 2024-2025 <https://sbi.bank.in/documents/17826/0/Sustainability+Report+FY+2024-25.pdf/600d0a64-b30b-c23e-7b71-5cb1e3fbb299?t=1751026510426> accessed 30 June 2026; ICICI Bank. Annual ESG Report 2024-2025 <https://www.icici.bank.in/content/dam/icicibank/managed-assets/docs/investor/annual-reports/2025/icici-bank-esg-report-2024-25.pdf> accessed 30 June 2026.

[125] ICICI Bank, <https://www.icici.bank.in/managed-assets/docs/personal/general-links/ESG_Policy.pdf?ITM=nli_aboutUsOtherPolicies_aboutUsOtherPolicies_na_na_11_na_na_NLI > accessed 30 June 2026.

[126] For example, see, ICICI Bank. (2024-2025) <https://www.icici.bank.in/content/dam/icicibank/managed-assets/docs/investor/annual-reports/2025/icici-bank-brsr-2025.pdf>; State Bank of India Sustainability Report 2024 – 2025 <https://sbi.bank.in/documents/17826/35696/Sustainability+Report+FY+2025.pdf/48510dee-bdba-2c6b-7cb7-bb8c315fd0d8?t=1747844241950> accessed 30 June 2026.

[127] For example, see, HDFC Bank, *Independent practitioner's limited assurance report on allocation of proceeds raised through, and impact reporting with respect to Sustainable Bonds,* <https://www.hdfc.bank.in/content/dam/hdfcbankpws/in/en/personal-banking/discover-products/about-us/corporate-governance/codes-and-policies/Final-Report-Sustainable-Bonds-Signed.pdf> accessed 30 June 2026.

[128] For example, see, ICICI Bank, Basel III Disclosures <https://www.icici.bank.in/content/dam/icicibank/missing-assets/basel-pillar-3-disclosure-march-2026.pdf> accessed 30 June 2026.

[129] For example, see, Down to Earth, India's climate apocalypse? New scientific update paints stark picture on country's accelerating crisis <https://www.downtoearth.org.in/climate-change/indias-climate-apocalypse-new-scientific-update-paints-stark-picture-on-countrys-accelerating-crisis> accessed 30 June 2026.

- Affidavit of a general climate scientist/expert explaining the background science, and the impact of bank lending, and the imperative to control financed lending.
- Where environmental or human rights harm for a particular financed project is being pleaded, reports of enforcement action against the borrower for environmental or human rights harm, published studies, or representations made by affected communities relating to this harm.

Sources of international law

- Laws and regulations from other jurisdictions
- UN Special Rapporteur reports,[130] and allegation letters[131]
- ICJ Advisory Opinion[132]

While public interest litigation has evolved to be procedurally flexible, one hurdle which could be faced at the threshold is that Courts have held consistently that where extensive evidence is required to resolve disputed questions of fact, which cannot be addressed through affidavits, writ jurisdiction is not the appropriate forum.[133] Therefore, a potential claim would be bolstered where the petitioners are able to provide factual evidence of how a bank is in breach of a duty. This is more straightforwardly established where the duty is one of disclosure, for example, where there is a statutory requirement to, and failure to disclose financed emissions, or where a bank can be proven to have made materially false disclosures regarding environmental metrics in ESG disclosures, or "greenwashing". The RBI's 2025 Climate Finance Directions define and, by implication, prohibit "greenwashing" in connection with a bank's green deposit and financing framework. The Directions provide for no specific penalty for a breach of this prohibition, but are regulator enforced mechanisms. However, they could be used to demonstrate materially false disclosures.

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[130] Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera. A/HRC/59/42: The imperative of defossilizing our economies. 15.05.2025 <https://www.ohchr.org/en/documents/thematic-reports/ahrc5942-imperative-defossilizing-our-economies-report-special> accessed 30 July 2026.

[131] Letters to the governments of Saudi Arabia, Japan, France, the USA, and the UK regarding Saudi Aramco <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28094> accessed 30 June 2026.

[132] International Court of Justice. Obligations of States in Respect of Climate Change. 23.06.2025 <https://icj-cij.org/case/187> accessed 30 June 2026.

[133] *Chairman, Grid Corporation of Orissa Ltd v. Sukamani Das,* Civil Appeal No. 5074 of 1999 decided on 15.09.1999 (SC); *SDO, Grid Corporation of Orissa Ltd., & Ors v. Timidu Oram* (2005) 6 SCC 156; 2005 SCC OnLine SC 1102; *Subhash Jain v. Rajeshwari Shivam* (2021) 20 SCC 454, Civil Appeal No. 2848 of 2021 decided on 2021 (SC). *Aarsuday Projects & Infrastructure (P) Ltd. v. Jogen Chowdhury & Ors.* 2026 SCC OnLine 122 Civil Appeal 2920 of 2018.

For a broader claim that goes beyond disclosures, proving causation is also a substantive element of the cause of action itself – whether a bank's financing can properly be said to have caused or contributed to the relevant climate or environmental harm, rather than merely a question of how that element is to be evidenced. Given the diffuse impact and cumulative nature of greenhouse gas emissions, and the intermediated nature of bank financing (given that a bank typically does not itself emit greenhouse gases in the concerned fossil fuel project or cause local environmental harm, but funds a borrower that does), establishing a sufficiently direct causal link between a bank's financing decision and a specific climate or local impact is likely to be a significant substantive hurdle for any Bank Climate Claim, or a Bank Local Impact Claim. However, this also provides an opportunity. Indian courts have not yet had occasion to consider the concept of financed emissions causation in a climate matter. This could leave room for innovation along the lines already seen in the development by Indian courts of the absolute liability and polluter pays principles.[134] Although Indian case law has not recognised the concept of financed emissions yet, the Draft Disclosure framework provides a potential scaffolding for the concept, and several banks refer to the concept in their reports. This is better suited to localised harm that can be demonstrated – for example, emissions which violate air quality standards.[135]

II. A petition in the National Green Tribunal asking the Reserve Bank of India to take action towards climate change

1. *Legal and Factual Basis*

Legal basis

The National Green Tribunal (NGT) was established as a specialised forum for the effective and expeditious disposal of civil cases relating to the environment, including the enforcement of legal rights relating to the environment and the grant of relief and compensation for environmental damage.[136] It would, in principle, be the natural forum for a Bank Climate Claim.

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[134] Umakanth Varottil, Corporate Climate Litigation in India: Traversing the Private-Public Law Divide (5 June 2025) NUS Law Working Paper No. 2025/009, section 3.2, noting that "[t]hus far, while Indian courts have adhered to the general principles of causation in customary tort actions, they have not had the occasion to expound on the matter in environmental or climate-related actions."

[135] Some banks have already started referring to the concept of financed emissions.

[136] National Green Tribunal Act, 2010: "An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating

The principal difficulty is jurisdictional. The Tribunal's jurisdiction is not at large: under Section 14 of the NGT Act it extends only to civil cases that raise a "substantial question relating to environment" arising out of the implementation of one of the seven enactments listed in Schedule I to the Act.[137] The absence of a specific statutory obligation on banks to consider, disclose and address climate change related risk, makes bringing such claims to this Tribunal challenging, but, for the reasons that follow, not insurmountable.

The route through this difficulty lies in the Environment (Protection) Act, 1986 (EPA), which is item 5 of Schedule I. The EPA is an umbrella statute under which the Central Government may make subordinate legislation on all aspects of the environment, and the expression "environment" is defined expansively to include the inter-relationship between water, air and land and human beings and other living creatures. On this footing, a case could be made that even in the absence of a dedicated climate statute, the NGT's jurisdiction extends to climate change-related issues.[138]

The Supreme Court's reluctance to attribute a borrower's breach to its financier is another vulnerability of a claim against a bank for financed emissions.[139] An easier

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to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto". The preamble also records that, in judicial pronouncements in India, the right to a healthy environment has been construed as part of the right to life under Article 21. The Supreme Court had earlier emphasised the need for specialised environmental courts: see *A.P. Pollution Control Board v. Prof. M.V. Nayudu,* AIR 1999 SC 812 (27 January 1999) (Civil Appeal No.-000368-000371-1999) <https://api.sci.gov.in/jonew/judis/17022.pdf>; *Indian Council for Enviro-Legal Action v. Union of India (1996) 3 SCC 212* (W.P.(C) No. 967 of 1989) (Judgement dated 13 February 1996) <https://api.sci.gov.in/jonew/judis/16012.pdf>; *M.C. Mehta v. Union of India* (1987) 1 SCC 395 W.P.(C) No. 3727-003727 of 1985 Judgement dated 22 September 1987 <https://api.sci.gov.in/jonew/judis/8590.pdf>.

[137] Section 2(m) of the National Green Tribunal Act 2010, defines claims that raise "a substantial question relating to the environment." Section 14 lays out the jurisdiction: "The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I." That its powers are restricted to the enforcement of the statutes listed in the Schedule has been affirmed by the Supreme Court. *State of Madhya Pradesh v. Center for Environment Protection Research & Development* 2020 INSC 516 paragraphs 39, 40, 41 <https://api.sci.gov.in//pdfdate/index1.php?dt=2020-08-28&dno=335602015&filename=supremecourt/2015/33560/33560_2015_32_1501_23699_Judgement_28-Aug-2020.pdf>.

[138] CCLI Opinion (2021), see footnote 20.

[139] *Punjab National Bank v. Govt. of NCT of Delhi & Ors.,* Civil Appeal No. 3127 of 2023 (Supreme Court of India), order dated 9 February 2024,

case could be made by impleading the regulator, the Reserve Bank of India, and holding the duties that it imposes against international norms. The framing of such a claim should target the relevant authorities' duty to act, and any of the bank's own statutory obligations, rather than vicarious liability for a borrower's breach.

Even if the Tribunal declines relief, the remedy is not exhausted. An appeal lies to the Supreme Court under Section 22 of the NGT Act on a substantial question of law,[140] which enjoys plenary remedial power. As discussed in Part II, in *Ridhima Pandey* although the original application was dismissed by the NGT, the Supreme Court admitted the appeal, appointed two amici curiae, and impleaded additional Government ministries, directing them to place on record what each ministry is doing to combat climate change, in response to the petitioner's submission that the various ministries concerned with climate change are working in silos.[141]

Standing and territorial reach

The NGT's standing rules are wide and rest on a statutory footing broadly comparable to writ jurisdiction. An application may be made not only by a person who has sustained injury but by "any person aggrieved, including any representative body or organisation"; a petitioner therefore need not be personally affected.[142] Standing requirements are similarly wide, and the NGT's powers to even exercise suo motu jurisdiction has been upheld.[143]

<https://api.sci.gov.in/supremecourt/2023/15846/15846_2023_2_38_50283_Order_09-Feb-2024.pdf>.

[140] Section 22, National Green Tribunal Act, 2010. *Mantri Techzone Pvt Ltd. v. Forward Foundation* (2019) 18 SCC 494, 2019 SCC OnLine SC 322 at paragraph 40; judgement dated 05.03.2019 in Civil Appeal No. 5016 of 2016 <https://api.sci.gov.in/supremecourt/2016/16740/16740_2016_Judgement_05-Mar-2019.pdf> accessed 30 June 2026.

[141] *Ridhima Pandey v. Union of India* Civil Appeal No. 388 of 2021 (SC) Order dated 21 February 2025 <https://www.climatecasechart.com/documents/ridhima-pandey-v-union-of-india-order_3e39> paragraph 8. "The operationalization of climate policies mandates the convergence of ideas, collaborative governance, and institutional synergy."

[142] Sections 14 and 18(2), National Green Tribunal Act, 2010. Under Section 18(2), an application for relief, compensation or settlement of a dispute may be made, among others, by "any person aggrieved, including any representative body or organisation" (Section 18(2)(e)).

[143] Affirmed in *Samir Mehta v. Union of India* Original Application No. 24 of 2011 decided on 23 August 2016; (2016) SCC OnLine NGT 479; MANU/GT/0104/2016. Suo motu jurisdiction was upheld in *Municipal Corporation v. Ankita Sinha* Civil Appeal No. 12122-12123 of 2018 07.10.2021 (SCC OnLine SC 897), at paragraphs 24.4, 24.5 <https://www.scobserver.in/wp-content/uploads/2021/10/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf>.

Doctrinal basis

In passing any order, the Tribunal is bound by Section 20 to apply the principles of sustainable development, the precautionary principle and the polluter pays principle. These principles, together with the public trust doctrine and the precept of inter-generational equity recognised by the Supreme Court, supply the doctrinal foundation for a climate claim. In *Municipal Corporation v. Ankita Sinha,* the Supreme Court invoked the "Seventh Generation" sustainability principle, the "Great Law of the Iroquois", to underscore the need for a flexible mechanism to address environmental damage and resultant climate change for the benefit of future generations.[144]

Illustrative fact pattern

An environmental organisation or public-spirited individual applies to the NGT under section 14 of the NGT Act, read with the Environment (Protection) Act, 1986 impleading the RBI (and, in the alternative, the concerned Bank) as respondents. The application does not seek to fix a specific bank with liability for a borrower's environmental contravention.[145] Instead, it is framed around the RBI's own continuing failure to discharge its statutory functions, arguing that notwithstanding the RBI's 2022 Discussion Paper acknowledging the systemic risk that climate change poses to financial stability, its 2024 Draft Disclosure Framework on Climate-related Financial Risks, which would have required Scheduled Commercial Banks to disclose financed emissions and climate governance arrangements, remains unfinalised more than two years after publication, and its finalisation has reportedly been deferred indefinitely. To ground the "substantial question relating to environment" required for jurisdiction under section 14, the application may be anchored in a specific, well-

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[144] *Municipal Corporation v. Ankita Sinha* Civil Appeal No. 12122-12123 of 2018 07.10.2021 (SCC OnLine SC 897), at paragraph 32 <https://www.scobserver.in/wp-content/uploads/2021/10/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf>. "This Court to advert to what is termed as the 'Seventh Generation' sustainability principle, or the 'Great Law of the Iroquois' (as it originates from the Iroquois Tribe) which requires all decision making to withstand for the benefit of seven generations down the line. It is vital for the wellbeing of the nation and its people, to have a flexible mechanism to address all issues pertaining to environmental damage and resultant climate change so that we can leave behind a better environmental legacy, for our children, and the generations thereafter."

[145] This route would be foreclosed by the Supreme Court's decision in *Punjab National Bank v. Govt. of NCT Delhi & Ors.* (Supreme Court of India, Civil Appeal No. 3127 of 2023, order dated 09.02.2024) <https://api.sci.gov.in/supremecourt/2023/15846/15846_2023_2_38_50283_Order_09-Feb-2024.pdf> accessed 30 June 2026.

documented financed project, for example, continued lending by one or more Banks (State Banks may meet the threshold easier) to a new or expanding coal-fired power project or coal mine, evidencing measurable air, water, or land impacts within the meaning of the EPA, used to demonstrate the real-world consequences of the regulatory gap, rather than as the basis for a claim against the financing bank itself. The relief sought would be a direction that the RBI, in exercise of its powers to specify banking policy and issue directions in the public interest, finalise and notify binding climate-related financial disclosure and risk management norms within a defined period, coupled with interim reporting directions and continued monitoring by the Tribunal, applying the precautionary principle or the public trust doctrine to shift the evidentiary burden onto the RBI and the impleaded banks to show that the absence of such norms does not itself perpetuate environmental harm. Should the Tribunal decline relief, an appeal would lie to the Supreme Court under section 22 of the NGT Act, which, as in *Ridhima Pandey*, retains the discretion to admit the matter, appoint amici curiae, and implead further Government ministries.

2. *Types of evidence*

The Tribunal is not bound by strict rules of evidence or procedure: under Section 19 it is guided by the principles of natural justice rather than the Code of Civil Procedure, 1908, and is not bound by the Bharatiya Sakshya Adhiniyam, 2023 (which repealed the Indian Evidence Act, 1872). It nonetheless enjoys the powers of a civil court, with the power to summon and examine witnesses, require the discovery and production of documents, receive evidence on affidavit, requisition public records, and constitute commissions for the examination of witnesses or documents.[146]

Examples of evidence that would be useful for such a claim include the following (similar to those listed for the PIL route described in Part III.A, above):

- Board Documents (Annual Reports, ESG Reports, Meeting Minutes)
- Evidence of harm through news reports, environmental impact studies
- Laws and regulations from other jurisdictions
- Affidavit of a general climate scientist/expert explaining the background science and the impact of a financed project.

[146] Section 19, National Green Tribunal Act, 2010. The Tribunal is not bound by the procedure in the Code of Civil Procedure, 1908 (section 19(1)) or by the Indian Evidence Act, 1872 (section 19(3)), but is guided by the principles of natural justice and enjoys the powers of a civil court, including to summon and examine witnesses, require the discovery and production of documents, receive evidence on affidavit, requisition public records, and issue commissions for the examination of witnesses or documents (section 19(4)).

III. Shareholder Action for Breach of Directors' Duties under the Companies Act, 2013

1. *Legal and Factual Basis*

This cause of action is an application under section 241 of the Companies Act, 2013, brought before the National Company Law Tribunal (NCLT) by qualifying shareholders of a commercial bank, alleging that the affairs of the bank are being conducted in a manner "prejudicial to public interest" by reason of the directors' systematic failure to identify, assess, and disclose material climate-related risk in breach of their duties under section 166(2) of the Companies Act, and the risk disclosure and determination framework applicable to banks. While the term conduct 'prejudicial to public interest' has featured in the statute since section 397 of the Companies Act, 1956, it has been largely untested as a vehicle for a claim of this kind.

The NCLT is a specialised tribunal constituted under section 408 of the Companies Act, with original jurisdiction over the matters specified in the Act, including applications under section 241.

This cause of action is presented as complementary to the writ / PIL route discussed above. The PIL route is available to environmental rights organisations, affected communities, and other public-interest claimants who lack a shareholding, the section 241 route is available to institutional investors or shareholder coalitions seeking corporate governance reform. They share the underlying substantive analysis of section 166(2) and the risk determination obligations, and a single fact pattern of board inaction may give rise to parallel proceedings in both forums brought by different claimants seeking different relief.

This cause of action would require the claimant to establish that the bank's directors breached the duty imposed on them under section 166(2) of the Companies Act, 2013 by failing, in good faith, to act in the best interests of, among other stakeholders, "the community and for the protection of environment". As discussed in Part II.A above, the Supreme Court's interpretation of section 166(2) in *M.K. Ranjitsinh* (2021), including its conclusion that "environment" bears the same expansive meaning as under the Environment (Protection) Act, 1986, would inform

the content of this duty in the climate context, notwithstanding that the case itself arose in public, not private, law.[147]

Standing requirements

Section 244(1) of the Companies Act sets out the standing requirements for a section 241 application. In a company having a share capital, the applicants must consist of either (a) not less than 100 members of the company, or (b) not less than one-tenth of the total number of its members, whichever is less, or (c) any member or members holding not less than one-tenth of the issued share capital of the company. The Tribunal also has discretion under the proviso to section 244(1) to waive the standing requirements on application; the proviso has been used sparingly but provides a route by which a single committed institutional investor, or a smaller coalition of retail shareholders unable to assemble 100 members, may seek admission of a claim.[148]

The substantive and specific contours of the duty

The Supreme Court in *M.K. Ranjitsinh v. Union of India* (2021) confirmed that the environmental limb of section 166(2) is a substantive duty imposed on directors, not an aspirational statement.[149] The Supreme Court's recognition, in *Tata Consultancy Services Limited v. Cyrus Investments Pvt. Ltd.*,[150] that section 166(2) ordains "a

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[147] *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 (judgement dated 19.04.2021), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf> at para 12.

[148] An avenue not available for a Bank Climate Claim is section 245 of the Companies Act, which provides a class action mechanism through which members may apply to the NCLT for relief on grounds including, materially, the conduct of the company's affairs in a manner prejudicial to its interests or those of its members. Section 245(9), however, expressly excludes banking companies from the operation of section 245. The consequence is that section 241, which is subject to the more restrictive standing requirements under section 244, is the only private statutory mechanism available to shareholders of a banking company. The exclusion is a material structural constraint on private climate litigation against banks and must be borne in mind when assessing the practical viability of the cause of action.

[149] *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 decided on 19.04.2021, at paragraph 12 (SC), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf>.

[150] *Tata Consultancy Services Ltd. v. Cyrus Investments Private Ltd.*, Civil Appeal 440-41 of 2020, decided on 26.3.2021, at paragraphs 19-30 (SC) <https://api.sci.gov.in/supremecourt/2020/212/212_2020_31_1503_27229_Judgement_26-Mar-2021.pdf> accessed 30 June 2026.

combination of private interest and public interest" provides further support for treating directors' environmental duties as enforceable, and not merely aspirational.

A director's material failure to disclose or address climate-related risk may constitute a breach of the duty under section 166(2) of the Companies Act, 2013 to act in the best interests of, among others, "the community and for the protection of environment". Such a breach may, in principle, found a shareholders' action for relief under section 241, on the basis that the conduct is "prejudicial to public interest".[151] It should be noted that this application of "prejudicial to public interest" is as yet untested in the courts.

Independent directors bear an additional duty, beyond that of executive directors, to remain informed of the external environment in which the bank operates, including climate change-related risks[152] A failure by independent directors to inform themselves of material climate-related financial risk and to bring it to the attention of the board could constitute a separate and reinforcing breach of section 166(2), strengthening a section 241 claim. The National Action Plan on Climate Change and related policy instruments discussed above may also be relevant here.[153]

The risk management framework applicable to all Indian companies and banks may supply a possible duty for this cause of action. RBI and SEBI guidelines, impose a risk management framework on Indian companies. Section 134(3)(n) of the Companies Act, 2013 requires every Board's Report to include a statement on the development and implementation of a risk management policy, including identification of "elements of risk, if any, which in the opinion of the Board may threaten the existence of the company"; section 177(4)(vii) separately requires the Audit Committee's terms of reference to include evaluation of risk management systems.[154] For listed banks within the top 1,000 entities by market capitalisation, SEBI's Listing Obligations and Disclosure Requirements Regulations go further: Schedule II requires the mandatory Risk Management Committee to formulate a risk identification framework with "a special focus to financial, operational, sectoral, ESG and cyber risks". The RBI's Internal Capital Adequacy Assessment Process (ICAAP) requirement, applicable to all commercial banks similarly requires a Board-

[151] Umakanth Varottil, section 4, discussing directors' duties under section 166(2) and corporate social responsibility under section 135 of the Companies Act, 2013 as a source of climate-related obligations on corporate boards.
[152] Companies Act, 2013, Schedule IV para II (3).
[153] These statutory provisions also have their own penalties for breach. See Part II.
[154] Companies Act, 2013, sections 134(3)(n), 177(4)(vii).

approved process to assess "all material risks to which the bank is exposed", including risks not captured by the Pillar 1 capital categories.[155] This should not exclude climate related risks in two ways: physical risks caused by climate change, and transition risks.

Elements of the claim: the substantive limb[156]

Success on the substantive limb would depend on three elements. First, breach of duty: that the board has failed to discharge its duties under section 166(2), read with the specific risk-determination requirements above. For example, a failure to identify climate risk in the Board's Report, the absence of any ESG component in the Risk Management Committee's framework, the absence of any climate-risk assessment in the ICAAP process, or materially misleading climate disclosures in the BRSR or BRSR Core filings. Second, absence of bona fide enquiry: that the board formed no view on climate risk at all, or formed a view without any reasonable basis of inquiry, a matter apparent on the face of the public record where the bank's own filings disclose no engagement with climate risk. Third, prejudice to public interest: that a board which systematically fails to consider climate risk conducts the company's affairs in a manner prejudicial to public interest, in that it exposes a systemically important financial institution to undisclosed material risk, deprives investors and the market of information required for informed capital allocation, and contributes to the broader climate harm against which Article 21 affords protection. It could also be argued that the board's failure to account for climate risks, could cause possible financial harm to the shareholders.

Potential barriers

(i) Satisfying the conditional limb

Under section 242(2), the NCLT has the power to grant a wide range of reliefs in addition to winding up, which includes regulation of the future conduct of the company's affairs, purchase of shares, removal of directors and setting aside of agreements. However, this is only if the NCLT is additionally of the opinion that the

[155] Reserve Bank of India (Commercial Banks - Prudential Norms on Capital Adequacy) Directions, 2025 as amended July 2026 <https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=13159> accessed 30 June 2026. See footnote 102.

[156] See Umakanth Varottil. Unpacking the Scope of Oppression, Prejudice and Mismanagement under Company Law in India. NUS Law Working Paper 2020/020 (July 2020) <https://law.nus.edu.sg/wp-content/uploads/2020/07/020_2020_Umakanth.pdf> accessed 30 June 2026, for a discussion on the substantive and conditional limbs of these types of actions.

facts would justify winding the company up on 'just and equitable' grounds, and that winding up would unfairly prejudice the members.[157] Thus a claim would have to show that the bank's affairs are in a state serious enough to warrant winding up, but that winding up would be too harsh, so that the Tribunal would substitute a less stringent order instead. Therefore, while the relief of 'regulation of the future conduct' would be the most natural vehicle for the governance reform or transition type order a climate claim would ask for, this is potentially available only if the conditions of S. 242(1)(b) are also met. However, the Court has clarified that it's remedial powers can be exercised with the aim of putting an end to the conduct complained of.[158]

(ii) Materiality

What counts as a "material" risk under section 134(3)(n) of the Companies Act, is left to the Board's own judgment (under the section, "which in the opinion of the Board may threaten the existence of the company").[159] A board that considered climate risk and rationally decided it was not yet material may not be found to have breached the provision merely because a claimant disagrees. However, the Securities Appellate Tribunal has leaned in favour of disclosure even when the issuer doubts materiality, so that "only facts or events which the issuer is undoubtedly sure of having no relevance" may be excluded. The principle has been applied to environmental risk – in *Electrosteel Limited v. SEBI*,[160] the Securities tribunal found that the failure to disclose a rejection of environmental clearance, in an "initial public offering" (IPO) prospectus,[161] was a failure to disclose a material fact, and a penalty of Rs 50 lakh was imposed.

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[157] Section 242(1)(b), Companies Act, 2013.

[158] *Tata Consultancy Services Ltd. v. Cyrus Investments Private Ltd.,* (Supreme Court, Civil Appeal 440-41 of 2020, decided on 26.3.2021) at paragraph 90 <https://api.sci.gov.in/supremecourt/2020/212/212_2020_31_1503_27229_Judgement_26-Mar-2021.pdf> accessed 30 June 2026. "...Therefore, at the stage of granting relief in an application under these provisions, the final question that the court should ask itself is as to whether the order to be passed will bring to an end the matters complained of."

[159] Section 134, Companies Act 2013.

[160] See discussion on materiality in CCLI (2021) paragraphs 38 – 46, referring to *Electrosteel Limited v. SEBI* 2019 SCC OnLine SAT 244 at paragraph 16, upheld by the Supreme Court in Civil Appeal No. 830 of 2020 Order dated 7 Feb 2020. The Supreme Court admitted the appeal only on the point of quantum of penalties.

[161] An IPO prospectus is the document that any company has to submit to the Securities and Exchange board of India before it

(iii) Supplanting regulator-enforced powers

The duties claimed stem from provisions which are primarily disclosure and governance-process requirements, supervised by SEBI and the Registrar of Companies. Whether a private claimant (in this case, a shareholder) can convert a regulator-supervised process requirement into a substantive breach under section 241 has not been tested.

Illustrative fact pattern

A coalition of 100 members of a large listed commercial bank, or, in a suitable case, a smaller group of members granted a waiver of the section 244 threshold by the Tribunal, files an application before the National Company Law Tribunal under section 241 of the Companies Act, 2013. The petition shows that:

- The bank's Board Report under section 134(3)(n) does not identify climate-related regulatory or transition risk as a risk, and/or
- Its Risk Management Committee's terms of reference contain no ESG component, in breach of Schedule II, Part D of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015, and/or
- Its ICAAP filing with the RBI contains no physical or transition risk assessment, and/or.
- Its BRSR/BRSR Core filings make materially false claims.

The petitioners do not allege oppression of their own interests as members; instead, the cause of action is that the affairs of the bank are being conducted in a manner prejudicial to public interest, within the meaning of section 241(1)(a). The remedy sought is an order under section 242 directing the bank to adopt a board-approved climate risk policy, incorporate an ESG mandate into the Risk Management Committee's terms of reference, and disclose financed emissions.

2. *Types of Evidence*

A claim would be best placed when adducing evidence that: (i) the bank's board failed to consider, or materially misrepresented, climate-related risks, the impacts of the bank's lending on climate, in its decision-making, including, specifically, a failure to address climate risk through the existing section 134(3)(n) or SEBI risk-identification processes described above; (ii) the board failed to consider the climate and/or environmental impact of its financing decisions, contrary to the duty in section 166(2) to act in the interests of the community and for the protection of the

environment; (iii) this failure was not bona fide or otherwise fell short of the good faith standard under section 166(2).

A section 241 climate claim will succeed only where the petitioner can demonstrate not a disagreement with the bank's financing strategy but a clear, evidenced, and serious breach of the directors' duty under section 166(2) that is also prejudicial to public interest. The strongest factual pattern is one in which the petitioner can point to (i) demonstrable inaction at the level of the risk determination framework, not merely a different commercial choice, but the absence of any considered process, and (ii) misleading or materially false statements in the bank's mandatory disclosures.

C. Future Developments

The viability of Climate Claims against private banks for climate-related failures is contingent on impending regulatory developments, most notably from the Reserve Bank of India, as well as the Supreme Court's guidance in the pending case, *Ridhima Pandey v. Union of India*.

- A key regulatory development is the final form of the RBI's *Draft Disclosure framework on Climate-related Financial Risks, 2024* which acknowledges the implications of climate change on financial stability and regulated entities, including commercial banks.[162] The Draft Framework notably defines climate-related financial risks[163] and financed emissions.[164] The Draft Framework requires disclosure of the oversight of the climate related risks by the concerned regulated entities, their short, medium, and long term strategy to manage the financial risk.[165] The Draft Framework requires disclosure of Scope 1, 2, and 3 greenhouse gas emissions (GHG), as well as the metrics used to calculate them. According

[162] Draft Disclosure framework on Climate-related Financial Risks, 2024 (RBI/2023-24; DOR.SFG.REC. /30.01.021/2023-24) <https://rbidocs.rbi.org.in/rdocs/Content/PDFs/DRAFTDISCLOSURECLIMATERELATEDFINANCIALRISKS20249FBE3A566E7F487EBF9974642E6CCDB1.PDF> accessed 30 June 2026.
[163] Paragraph 6(a), RBI Draft Disclosure framework on Climate-related Financial Risks, 2024.
[164] Paragraph 6(d), RBI Draft Disclosure framework on Climate-related Financial Risks, 2024. This refers to emissions by borrower attributable to the concerned bank's loan or investment.
[165] Paragraph 7, RBI Draft Disclosure framework on Climate-related Financial Risks, 2024.

to latest reports on the issue, the finalisation of the Draft Framework has been deferred.[166]

- The Reserve Bank of India (Commercial Banks – Governance) Amendment Directions, 2026,[167] confirm that risk management decisions (including credit risk, investment risk, and related risk) and the board-approved policy on green deposits are non-delegable board responsibilities. These Directions strengthen the section 241 cause of action by hardening the board's collective responsibility for the matters covered by the risk determination framework discussed above. A board that has not engaged with climate risk at the full board level (delegating it instead to a sub-committee will be in breach of a specific RBI direction, in addition to the general duty under section 166(2).
- The *Draft Indian Climate Finance Taxonomy* released by the Ministry of Finance in May 2025 provides the operational reference against which 'green' and 'transition' financing activities are to be classified.[168] The RBI (Commercial Banks-Climate Finance and Management of Climate Change Risks) Directions, 2025 expressly anticipate this taxonomy at paragraph 14, which provides that allocation of proceeds raised from green deposits is to be based on the official Indian green taxonomy. Once finalised, the Taxonomy will supply the standard against which a greenwashing claim under the Climate Finance Directions can be assessed, giving operational content to the prohibition on greenwashing that the Directions presently define but do not, in practical terms, fully enforce.
- The pending appeal in *Ridhima Pandey v. Union of India* before the Supreme Court[169] presents an opportunity for the expansion of the constitutional climate right. The Supreme Court has agreed to hear an appeal, has impleaded concerned ministries of the national government, and has directed parties to make submissions on addressing carbon emissions in the power sector. A ruling that expands the scope of Article 21 in the climate context, particularly any ruling

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[166] Business Standard, RBI likely defers plan to mandate climate risk disclosures by banks, (29 January 2026) <https://www.business-standard.com/finance/news/rbi-likely-defers-plan-to-mandate-climate-risk-disclosures-by-banks-126012900785_1.html> accessed 30 June 2026.

[167] Reserve Bank of India (Commercial Banks – Governance) Amendment Directions, 2026, RBI/2026-27/177 dated 14 July 2026 <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=13555&Mode=0> accessed 22 October 2026.

[168] Government of India, Ministry of Finance, Department of Economic Affairs, *Draft Framework of India's Climate Finance Taxonomy* <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/may/doc202557551101.pdf> accessed 30 June 2026.

[169] Civil Appeal No. 388 of 2021 <https://www.climatecasechart.com/documents/ridhima-pandey-v-union-of-india-order_3e39> accessed 30 June 2026.

that mandates climate risk integration into project approvals under the Environmental Impact Assessment Regulations, 2006, would materially strengthen the doctrinal foundation for both Bank Climate Claims and Bank Local Impact Claims.

While this framework is better placed to regulate disclosures, it may still fall short of mandating banks to change their patterns of financing. Given the measured route taken by India to reduce emissions through a just transition, the most likely success in court is strengthening "procedural environmental rights" by securing disclosures, rather than pulling the plug on projects.

Ancillary causes of action

In the absence of current statutory or regulatory requirements mandating climate change related disclosures, a second kind of claim arises - an ancillary claim against the regulator, the Reserve Bank of India, asking it to discharge its statutory supervisory function, under sections 21 and 35A of the Banking Regulation Act, 1949 in relation to climate-related financial risk, in particular by implementing the Draft Disclosure Framework on Climate-related Financial Risks, 2024 (where the deferral of finalisation is itself argued to be a breach of duty), and by enforcing the existing RBI (Commercial Banks - Climate Finance and Management of Climate Change Risks) Directions, 2025 against non-compliant banks. The claimant could bring a potential action in the Supreme Court or the High Court, against the RBI asking it to implement the disclosure framework or bring India to parity with international norms.

There is precedent for this form of action. The Indian Supreme Court has long entertained writs compelling the State and its instrumentalities to take regulatory action in protection of Article 21 rights.[170] In *Kaushal Kishor* the court recognised that the State could be directed to enact measures to regulate private parties, where the right to life is implicated. A more recent application of the principle to the RBI specifically is found in *Himakshi Bhargav v. Union of India*[171] (Delhi High Court, 2026), in which, by an interim order, the Court admitted a public interest petition alleging breach of the RBI's Digital Lending Guidelines and directed the RBI to file

[170] *Vishaka v. State of Rajasthan* (1997) 6 SCC 241, decided on 13 August 1997 (SC) <https://api.sci.gov.in/jonew/judis/13856.pdf>. The Supreme Court directed the state to implement measures to protect women against workplace harassment.
[171] *Himakshi Bhargav v. Union of India* W.P.(C) 118/2026 Order dated 07.01.2026 (Delhi High Court).

an affidavit detailing the enforcement action it had taken against entities found in violation. However, one caveat is that in the realm of economic policy, the Courts have generally deferred to the financial regulators.[172]

D. Summary Assessment

First, and most promising, is a writ petition by way of public interest litigation under Article 32 or 226, in the Supreme Court or a High Court against a specific private commercial bank, with the RBI joined as co-respondent. Relying on the expanded conception of director's duties and the expanded notion of the right to life under Article 21, it would require a well-documented fact pattern such as a bank financing a demonstrably harmful project while making misleading climate disclosures. The petition would seek directions from the bank mandating climate related disclosures, and risk assessments. This framing around localised harm is far likelier to succeed than a systemic challenge to a bank's aggregate fossil-fuel financing, which invites the macroeconomic-policy objection that has proved fatal elsewhere. Its chief weakness remains the absence of a binding statutory climate duty on banks. This can be responded to by showing violations to existing environmental statute and regulation, read with the broader right under Article 21 and section 166 of the Companies Act.

Second, is an application to the National Green Tribunal, impleading the Reserve Bank of India. The application would be based on the regulator's continuing failure to finalise binding climate disclosure and climate-related risk-management norms, despite acknowledging the systemic risk, and be supported by evidence of the detrimental outcomes of a financed project, as evidence of the impact of the regulatory gap. While this avenue is potentially constrained by Section 14, of the National Green Tribunal Act, 2010 which confines the Tribunal's jurisdiction to the statutes scheduled to the Act, the lack of a climate statute could be countered by arguing that the Environment (Protection) Act, 1986, is an umbrella statute with an expansively defined "environment", which extends the Tribunal's reach to climate issues. In addition, the potential barrier posed by the Court's finding in *Punjab National Bank*,[173] that the Tribunal should not fix a financier with liability for a borrower's contraventions, can be met by impleading the regulator for its failure to act, rather than an individual bank. Overall, this cause of action would significantly

[172] *Centre for Public Interest Litigation v. Union of India* (paras 22, 24) decided on 8.4.2016 (SC).
[173] *Punjab National Bank v. Govt of NCT of Delhi*, Civil Appeal No. 3127 of 2023, order dated 09.02.2024 (SC).

depend on the outcome of the appeal in *Ridhima Pandey* currently pending before the Supreme Court.[174]

Third, is an application under Section 241 of the Companies Act, 2013 before the National Company Law Tribunal, by shareholders, against the board of a bank. The key argument of such a claim would be that the board's failure to disclose and consider climate change risks is "prejudicial to public interest" under S. 241 of the Companies Act, 2013. The chief difficulty to this route is posed by Section 242, which in principle confers wide, governance-oriented relief, but is gated by the requirements of Section 242(1)(b), which states that the Tribunal may grant relief only where the facts would also justify winding the company up on "just and equitable" grounds, which is a high threshold to meet. This application is novel, and as yet untested. It is best pursued as complementary to the PIL route.

The final, ancillary route, is a writ petition in the Supreme Court of the High Court, against the RBI, asking it to formulate regulations in line with the policy commitments around climate change. This cause of action is doctrinally the most secure of the three options, supported by an established line of authority compelling regulators to discharge their statutory duties. The route does not directly seek remedy for harm caused by a specific bank, but operates one step removed, at the regulator level. The route is therefore best deployed as an ancillary cause of action that creates the regulatory preconditions on which the three routes depend.

Looking ahead, the rapid expansion of data centre and artificial intelligence infrastructure financing in India, which carries significant and increasingly well-documented local water and energy impacts, may in time provide the factual basis for the first concrete Bank Local Impact Claim brought in this jurisdiction, given that localised harm of this kind is likely to be easier to establish causally than the diffuse harm associated with financed emissions.

[174] *Ridhima Pandey v. Union of India*, Civil Appeal No. 388 of 2021 (SC, pending).

IV. Procedures and Evidence

Part III of this Report outlines three distinct potential causes of action: (I) Public Interest Litigation (PIL) via a writ petition, (II) an application to the National Green Tribunal and (III) shareholder actions under the Companies Act, 2013. The procedural and evidentiary requirements for all three causes of action are set out below.

A. Standing and Jurisdiction

1. Standing

I. Public Interest Litigation (PIL) via a writ petition

Constitutional courts have relaxed conventional standing barriers in PILs, by enlarging the concept of the "person aggrieved" to "litigational competence".[175] The threshold for litigational competence allows any petitioner acting in good faith to approach the court. A petitioner must be genuinely public-spirited and seeking to vindicate a public grievance.[176] Courts evaluate the petitioning individual or organization's *bona fides* by examining their track record, institutional credibility, and history of advocacy.[177] Environmental PILs have been previously brought by a range of petitioners – including public interest groups, non-profit organizations, activists, and concerned citizens.

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[175] *Restatement of Indian Law: Public Interest Litigation* (Universal Law Publishing 2011) 49, 55–59.
[176] *State of Uttaranchal v. Balwant Singh Chaufal*, (Supreme Court of India, Civil Appeal Nos. 1134-1135 of 2002, judgment dated 18.01.2010) paragraphs 164, 176 <https://api.sci.gov.in/jonew/judis/35931.pdf> accessed 30 June 2026. The Court further stated that a petitioner must not act as a "meddlesome interloper" driven by profit, political animosity, or other oblique motives. *See also Kalyaneshwari v. Union of India,* (Supreme Court of India, Writ Petition (Civil) No. 260 of 2004, judgement dated 21.01.2011) <https://api.sci.gov.in/jonew/judis/37413.pdf> accessed 30 June 2026. Even if a cause is valid, courts will not entertain petitioners acting as proxies for extraneous interests. The Supreme Court dismissed an environmental petition with exemplary costs, when it found that the petitioning NGO was in fact a front for rival competitors seeking to shut down the asbestos mining industry in India.
[177] See *Ajaib Singh v. State of Punjab*, (Punjab & Haryana High Court, Writ Petition (Civil) No. 15987 of 2013, judgement dated 26.07.2013) at paragraphs 3-5 <https://new.phhc.gov.in/pdf/view/109158ed-0ce0-4df4-a11d-307dc90fcdc2> accessed 30 June 2026.

II. Application before the National Green Tribunal (NGT)

Standing before the NGT is similarly wide.[178] Any public-spirited individual, an environmental NGO, or a representative body can validly approach the NGT, based on a *bona fide* claim that involves a "substantial question relating to the environment" arising out of the implementation of the specific environmental statutes listed in Schedule I of the NGT Act.[179]

The breadth of this standing is underscored by the NGT's *suo motu* jurisdiction: it may initiate proceedings on its own motion, acting even on a letter, a communication, or a media report, so long as affected parties are given an opportunity to be heard.[180]

III. Shareholder Action under the Companies Act, 2013

Standing in a shareholder action for the breach of directors' duties is comparatively narrow, and strictly governed by statute. Jurisdiction to hear such a claim lies with the National Company Law Tribunal (NCLT) under the Companies Act, 2013.

In order to qualify to file a petition alleging oppression and mismanagement under section 241 of the Companies Act, 2013, petitioners must satisfy the standing requirements under section 244. In a company having a share capital, the applicants must consist of either (a) not less than 100 members of the company, or (b) not less than one-tenth of the total number of its members, whichever is less, or (c) any member or members holding not less than one-tenth of the issued share capital of the company.

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[178] The Supreme Court has commented that standing before the NGT "was made *as wide as is available to the High Courts and the Supreme Court*" in *Municipal Corporation of Greater Mumbai v. Ankita Sinha & Ors.*, 2021 INSC 624 (judgement dated 07.10.2021) at paragraph 16.6 <https://api.sci.gov.in//pdfdate/index1.php?filename=supremecourt/2018/46588/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf&dno=465882018&dt=2021-10-07>.

[179] Section 14, the National Green Tribunal Act, 2010. *See also, Municipal Corporation of Greater Mumbai v. Ankita Sinha & Ors.*, 2021 INSC 624 (judgement dated 07.10.2021) at paragraph 16.6 <https://api.sci.gov.in//pdfdate/index1.php?filename=supremecourt/2018/46588/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf&dno=465882018&dt=2021-10-07>.

[180] *Municipal Corporation of Greater Mumbai v. Ankita Sinha & Ors.*, 2021 INSC 624 (judgement dated 07.10.2021) at paragraph 37 <https://api.sci.gov.in//pdfdate/index1.php?filename=supremecourt/2018/46588/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf&dno=465882018&dt=2021-10-07>.

This numerical threshold may be difficult to overcome. The NCLT has a discretionary power to waive this requirement under the proviso to section 244(1).[181] There is no direct precedent yet to suggest that it would do so to facilitate a Bank Climate Claim.[182]

2. Jurisdiction, Potential Defendants and Extraterritorial Reach

I. Public Interest Litigation (PIL) via a writ petition

Party respondents in public interest litigations are those against whom relief is sought or who are likely to be affected by the outcome of the litigation. While generally fundamental rights are enforced against the state, in certain situations of public duties, they may be enforced against private parties such as banks.[183]

Indian law permits claims to be brought against domestic banks as well as foreign banks operating in India, as addressed below. Moreover, where the damage or harm arising from a climate tort occurs in India, a foreign bank that can be linked to the cause of action would also be amenable to the jurisdiction of Indian courts.

Indian-incorporated subsidiaries of foreign banks

An Indian incorporated subsidiary of a bank is amenable to civil/writ proceedings in the same manner as any other domestic entity given that it is a company registered under the Companies Act, 2013. Scheduled Commercial Banks operating in India - with the exception of foreign banks operating through direct branches - must be incorporated under the Companies Act, 2013. All Scheduled Commercial Banks

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[181] Section 244(1) of the Companies Act, 2013. The proviso to this provision reads "*provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under section 241.*"

[182] See *Somangsu Biswas v. Calcutta Cricket & Football Club,* (National Company Law Appellate Tribunal, Company Appeal (AT) No. 56 of 2024, judgment dated 02.04.2025). The NCLAT has recently upheld the grant of a waiver on the ground of "public interest." The "public interest" in this case pertained to the management of a locally significant sports club, which is arguably a lower threshold for public interest than climate claims. This decision is pending consideration by the Supreme Court in *Somangsu Biswas v. Calcutta Cricket & Football Club*, Civil Appeal No. 6604 of 2025. A positive ruling may present an opportunity for potential claimants who do not otherwise qualify to petition the NCLT.

[183] *Kaushal Kishor v. State of U.P.*, 2023 INSC 4 (judgement dated 03.01.2023) <https://api.sci.gov.in//pdfdate/index1.php?dt=2023-01-03&dno=271562016&filename=supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf> accessed 30 June 2026.

must be licensed by the RBI and are governed by the Banking Regulation Act, 1949.[184]

Foreign banks operating in India

Foreign banks with a business presence and assets in India are also amenable to both RBI oversight and civil/writ proceedings. Branches of foreign banks operating in India are "foreign companies"[185] and are subject to certain accounting, audit, and disclosure obligations[186] and required to maintain prescribed assets within the country.[187]

Foreign banks not operating in India whose financing activities cause harm domestically

Indian law offers two routes to jurisdiction over a foreign bank (with no Indian subsidiary or branch) whose financing causes harm here. Section 20(c) of the Code of Civil Procedure, 1908 permits a civil suit wherever the cause of action arises, in whole or part – and a foreign defendant may be sued for injury caused in India. Article 226(2) uses similar language for writ petitions allowing a High Court to issue a writ to a person outside its territory where the cause of action arises, in whole or part, within it.[188]

As stated in Parts II and III above, the Supreme Court has now held that Article 21 of the Constitution, 1950 (pertaining to right to life) binds private actors, not only

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[184] See, sections 5(c), 5(d), 19 and 22 of the Banking Regulation Act, 1949. Section 5 (c) states: *""banking company" means any company which transacts the business of banking in India."* Section 5 (d) defines a *"company"* as: *"any company as defined in section 3 of the Companies Act, 1956; and includes foreign company within the meaning of section 591 of that Act."* Section 22 mandates all banks must obtain a license from the Reserve Bank of India. Section 22(3) and (3A) govern the grant of a banking license to domestic and foreign companies respectively. Section 19 governs the formation of subsidiary companies.

[185] Section 2(42) of the Companies Act, 2013 states *"2. (42) "foreign company" means any company or body corporate incorporated outside India which– (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and (b) conducts any business activity in India in any other manner;"*

[186] Section 379 and Chapter XXII, the Companies Act, 2013.

[187] Section 11(2) of the Banking Regulation Act, 1949 relates to *"requirement as to minimum paid-up capital and reserves."*

[188] *Kusum Ingots & Alloys Ltd. v. Union of India* (Supreme Court of India, Civil Appeal No. 9159 of 2003, judgement dated 28.04.2004) <https://api.sci.gov.in/jonew/judis/26138.pdf> accessed 30 June 2026.

the State.[189] If a foreign bank's actions can be traced to harm caused in India, it may be amenable to writ jurisdiction.

In practice, the foreign entity is brought before court by impleading it in a petition against the state or the regulator for failing to regulate it. The court may then, along with the state, also issue directions to the foreign respondent. WhatsApp Inc. (USA) and Facebook Inc. (USA) were so impleaded and made to answer in writ proceedings, with the petition resting on the state's duty to protect the privacy of citizens (rather than the companies).[190] A similar structure may allow a foreign bank to be joined to a petition against the state or the RBI, although it remains an untested proposition so far.

Indian banks whose financing activities cause harm abroad

On the date of submitting this report no Indian court has considered a claim against an Indian-incorporated parent for environmental harm caused abroad. In principle, the Indian parent may be sued in India under section 20(a) of the Code of Civil Procedure, 1908 (the place where the defendant resides or carries on business). The substantive and conflict-of-laws questions, including which jurisdiction's law governs the alleged duty, remain untested.

Piercing the corporate veil

Indian courts recognise the principle of piercing the corporate veil to attribute the acts of a subsidiary to its parent. The threshold is high and is generally invoked only where the subsidiary is shown to be an alter ego or a sham, or where the parent's

[189] *Kaushal Kishor v. State of U.P.*, 2023 INSC 4 (judgement dated 03.01.2023) <https://api.sci.gov.in//pdfdate/index1.php?dt=2023-01-03&dno=271562016&filename=supremecourt/2016/27156/27156_2016_3_1501_40744_Judgement_03-Jan-2023.pdf> accessed 30 June 2026.

[190] *Karmanya Singh Sareen v. Union of India & Ors.,* (Supreme Court of India, Special Leave Petition (Civil) No. 804 of 2017, order dated 11.04.2023) <https://api.sci.gov.in/supremecourt/2016/42134/42134_2016_3_501_43462_Order_11-Apr-2023.pdf> accessed 30 June 2026.

control over the subsidiary is coupled with a misuse of the corporate form to evade liability.[191]

II. Application before the National Green Tribunal

The NGT's jurisdiction is broadly similar, differing only in the respects set out below.

Indian banks whose financing activities cause harm abroad

For Indian banks whose financing causes harm abroad, the NGT's jurisdiction is more sharply constrained than under either of the other two causes of action. The NGT's jurisdiction under section 14 is tied to the implementation of the schedule I enactments, which are domestic environmental statutes.[192] Harm occurring entirely outside India is unlikely to invoke any of them.

III. Shareholder Action under the Companies Act, 2013

A company petition is not a public law action against the State or a regulator. It is an internal corporate remedy filed before the National Company Law Tribunal (NCLT) and runs only against the company in which the petitioner is a member and the directors responsible for the impugned conduct.

Indian-incorporated subsidiaries and Indian banks

The position is the same as stated for other two routes above: an Indian-incorporated subsidiary is a "company" within section 2(20)[193] and is amenable to the NCLT's jurisdiction under section 241 of the Companies Act, 2013.

Foreign banks operating in India

Ordinarily, in the case of a foreign company, the courts of its place of incorporation are the appropriate forum for matters relating to the company's internal management.[194] Petitions under sections 241-242 can only be filed in respect of

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[191] *Balwant Rai Saluja v. Air India Ltd.*, (2014) 9 SCC 407 (Supreme Court of India, Civil Appeal Nos. 10264-66 of 2013, judgement dated 25.08.2014) <https://api.sci.gov.in/jonew/judis/41843.pdf> accessed 30 June 2026.

[192] Section 14, National Green Tribunal Act, 2010.

[193] Section 2(20) of the Companies Act, 2013 states ""*company" means a company incorporated under this Act or under any previous company law;"*

[194] *Ramaiya: Guide to The Companies Act, vol 2* (LexisNexis, 19th ed., 2020), [s 242.4.1.51.1] Jurisdiction in respect of foreign company.

companies incorporated under the Companies Act, 2013.[195] The NCLT lacks jurisdiction to entertain such a petition in respect of a foreign-incorporated bank.

Indian banks whose financing activities cause harm abroad

The NCLT's jurisdiction under sections 241-242 follows from the company's incorporation in India, not from where the impugned conduct occurred. An Indian bank's overseas financing forms part of "the affairs of the company"[196] and is justiciable.

B. Litigation Costs and Timeline

1. Costs and Cost Allocation

As a practical matter, Indian courts and tribunals do not award realistic costs.[197] Even where a party is successful, it would have to fund the litigation. This is why in several cases, public interest litigation is handled on a pro bono basis by the legal community.

The costs incurred in complex civil claims – involving voluminous evidence and protracted litigation, in contrast, is likely to be substantial.

2. Funding Mechanisms

Funding mechanisms for climate claims in India rely primarily on support from philanthropists and non-profit groups.[198] Unlike some other jurisdictions, contingency

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[195] Or earlier Indian company laws. See section 241(1) and section 2(20) of the Companies Act, 2013.

[196] Section 241(1)(a) of the Companies Act, 2013 under which a member may complain that "*(a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company;*"

[197] For instance, section 35A of the Code of Civil Procedure, 1908 limits compensatory costs for false or vexatious claims/defences to a nominal maximum amount of INR 3,000. While these strict statutory caps do not apply to public law proceedings, there is a noted judicial tendency in public law proceedings to direct payment of costs toward third parties such as the State, Legal Services Authorities, or environmental relief funds. See, for e.g., *Ashok Kumar Mittal v. Ram Kumar Gupta,* (Supreme Court of India, Special Leave Petition (Civil) No. 30991 of 2008, judgement dated 09.01.2009) at paragraphs 6, 10-11 <https://api.sci.gov.in/jonew/judis/33479.pdf> accessed 30 June 2026.

[198] See, for e.g., *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

fee arrangements are strictly prohibited by the Bar Council of India.[199] Lawyers often represent litigants in public interest litigation on a pro bono basis.[200] If courts find that a deserving cause may suffer due to lack of effective representation, an amicus curiae may be appointed to assist the Court, *pro bono publico*.[201]

The National Legal Services Authority is statutorily mandated to take measures for environmental protection through state sponsored social justice litigation.[202] Economically disadvantaged persons or victims of natural calamity are also entitled to legal aid from the legal aid committees of the Supreme Court and High Courts.[203]

3. Overall Duration of Proceedings:

I. Public Interest Litigation (PIL) via a writ petition

Public interest litigations, although may be swifter in resolution than civil suits, may take several years to resolve.[204]

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[199] Rule 20 of Section II (Duty to the Client) of Chapter II, Part VI of the Bar Council of India Rules <https://upload.indiacode.nic.in/showfile?actid=AC_CEN_3_46_00001_196125_1517807320172&type=rule&filename=BCI%20%20Rules,%20Part-I%20to%20Part%20III.pdf> accessed 30 June 2026.

[200] See, for e.g., *Ridhima Pandey v. Union of India,* order dated 21.02.2025 in Civil Appeal No. 388 of 2021 (SC) <https://api.sci.gov.in/supremecourt/2019/14040/14040_2019_11_41_59641_Order_21-Feb-2025.pdf> accessed 30 June 2026; and *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

[201] Ashok H. Desai and S Muralidhar, 'Public Interest Litigation: Potential and Problems' in BN Kirpal and others (eds) *Supreme but Not Infallible: Essays in Honour of the Supreme Court of India* (OUP 2000) pages 158, 163.

[202] Section 4(d), Legal Services Authorities Act, 1987 <https://www.indiacode.nic.in/bitstream/123456789/19023/1/legal_service_authorities_act%2C_1987.pdf> accessed 30 June 2026. "4. Functions of the Central Authority – *The Central Authority shall perform all or any of the following functions, namely: (d) take necessary steps by way of social justice litigation with regard to consumer protection, environmental protection or any other matter of special concern to the weaker sections of the society and for this purpose, give training to social workers in legal skills;"*

[203] *Jurisdiction*, Supreme Court of India, <https://www.sci.gov.in/jurisdiction/> accessed 30 June 2026.

[204] Supreme Court data as of April 2026 indicates that approximately 72,000 civil cases remain pending, with 62.33% more than a year old. *See Supreme Court National Judicial Data Grid*, Supreme Court of India, <https://scdg.sci.gov.in/scnjdg/> accessed 30 June 2026. Timelines are similar for High Courts as well. *Also see National Judicial Data Grid*, High Courts of India <https://njdg.ecourts.gov.in/hcnjdg_v2/> accessed 30 June 2026.

It is difficult to delineate the duration of a public interest litigation. Timelines vary based on urgency and evidentiary complexity. Delays may also be caused by respondents, through filing interlocutory applications or seeking adjournments. Parties may also attempt to expedite the hearing through filing "applications for early hearing" or "urgency memos". The Supreme Court has evolved the mechanism of a "continuing mandamus" where it monitors the governance and progress in a case over a longer period.[205] Should the Supreme Court entertain a climate case and employ the continuing mandamus technique, a case can last a long period of time.[206]

II. Application before the National Green Tribunal

The NGT endeavours to dispose of matters within six months of their filing.[207] However, the NGT faces a considerable backlog of cases.[208] Cases often take longer to conclude, depending on the nature and complexity of the case. There is also a provision for appeal to the Supreme Court under the National Green Tribunal Act, 2010, which may further protract the litigation timeline.[209]

III. Shareholder Action under the Companies Act, 2013

Similarly, NCLTs endeavour to dispose of corporate disputes within 90 days.[210] However, NCLTs are currently severely bottlenecked.[211] Because the tribunal

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[205] See Part V (C) "Innovative or Non-Traditional Remedies" in this report.

[206] As an example, the petition in the case of *M.K. Ranjitsinh v. Union of India* was filed in 2019. The Supreme Court passed its first order a month after, the first substantial order with directions for respondents was passed in 2021, then in 2024 and finally in 2025. See *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 (judgement dated 19.04.2021), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf> accessed 30 June 2026; *M.K. Ranjitsinh v. Union of India*, 2024 INSC 280 (judgement dated 21.03.2024), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf> accessed 30 June 2026; and *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025), <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

[207] Section 18(3), National Green Tribunal Act, 2010.

[208] Bench-wise Institution, Disposal and Pendency of Cases, National Green Tribunal, <https://www.greentribunal.gov.in/bench-wise-institution-disposal-and-pendency-cases-ngt-principal-bench-and-all-zonal-benches> accessed 30 June 2026.

[209] Section 22, National Green Tribunal Act, 2010.

[210] Section 422 of the Companies Act, 2013.

[211] Recent data indicates a backlog of about 20,000 pending cases across the country. National Company Law Tribunal, *Annual Report 2024–2025* (Government of India 2026)

concurrently handles high volumes of high-priority insolvency cases and general company law matters on the same dockets, an oppression and mismanagement petition realistically takes several years to resolve, especially before busier benches like Delhi or Mumbai.[212] Appeals may also be filed against both interim and final orders to the National Company Law Appellate Tribunal (NCLAT) and the Supreme Court.

C. Evidence

1. Evidence processes

The manner of adducing evidence is broadly similar across all three causes of action. Factual evidence is adduced largely by affidavit, with the courts typically according greater weight to documentary and photographic records. Expert evidence is relied on heavily and may be submitted either by affidavit or by a report. Cross-examination is generally not permitted; instead, each party may adduce and answer the other's evidence, and a party is free to put forward its own expert to meet the opposing side's. In assessing conflicting expert evidence, the court looks first for consensus among the experts, and adjudicates only where their opinions diverge. To build that consensus, the court may appoint its own independent expert, whose opinion is usually treated with great deference.

I. Public Interest Litigation (PIL) via a writ petition

A PIL departs from traditional adversarial litigation, so strict evidentiary rules do not apply. There is no formal mechanism for document discovery. Instead, constitutional courts exercise inherent powers to direct the state to disclose relevant documents or appoint court commissioners to gather facts.[213]

Court appointed experts are vital in complex environmental cases: in *M.K. Ranjitsinh*, the petitioners themselves sought the appointment of an expert committee. The Court first appointed a three-member committee by its order dated

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<https://nclt.gov.in/sites/default/files/2026-02/AR%2024-25%20web_file.pdf> accessed 30 June 2026.

[212] The NCLT's latest annual report for 2024-2025 shows an annual disposal rate of 26.17% for company law petitions. National Company Law Tribunal, *Annual Report 2024–2025* (Government of India 2026) <https://nclt.gov.in/sites/default/files/2026-02/AR%2024-25%20web_file.pdf> accessed 30 June 2026.

[213] *Delhi Jal Board v. National Campaign for Dignity & Rights of Sewerage & Allied Workers*, (Supreme Court of India, Civil Appeal No. 5322 of 2011, judgement dated 12.07.2011) at paragraphs 7-9 <https://api.sci.gov.in/jonew/judis/38228.pdf>.

19.04.2021,[214] and later a nine-member Expert Committee by order dated 21.03.2024[215] – drawing on wildlife and forest experts from recognised institutions (including the Wildlife Institute of India, the National Board for Wildlife and The Corbett Foundation) alongside members from the respondent ministries and the power sector. The committee's reports formed the basis of the court's judgments.[216]

II. Application before the National Green Tribunal & Shareholder Action under the Companies Act, 2013

Proceedings before both the NGT and the NCLT rest primarily on written pleadings and affidavits. Neither is strictly bound by the Code of Civil Procedure, 1908; both instead retain specific civil-court powers under the Code for discovery and production of documents and for receiving evidence on affidavit.[217] A petitioner before the NCLT may additionally apply for disclosure of relevant corporate records under the Tribunal's rules.[218]

Parties before both forums may adduce their own expert evidence by affidavit.[219] But the bench's competence to engage with that evidence (in climate claims) differs: the NCLT's Technical Member is qualified in corporate and financial matters, not necessarily scientific or environmental data, whereas the NGT's Expert Members are specifically qualified in environmental science and related technical fields.[220] The NGT may also constitute joint expert committees to investigate factual questions, whose findings it may then assess.[221]

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[214] *M.K. Ranjitsinh v. Union of India*, 2021 INSC 258 (judgement dated 19.04.2021), at paragraph 15 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_31_1502_27629_Judgement_19-Apr-2021.pdf> accessed 30 June 2026.

[215] *M.K. Ranjitsinh v. Union of India*, 2024 INSC 280 (judgement dated 21.03.2024) at paragraph 64 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_1_25_51677_Judgement_21-Mar-2024.pdf> accessed 30 June 2026.

[216] *M.K. Ranjitsinh v. Union of India*, 2025 INSC 1472 (judgement dated 19.12.2025) at paragraph 76 <https://api.sci.gov.in/supremecourt/2019/20754/20754_2019_6_1501_67109_Judgement_19-Dec-2025.pdf> accessed 30 June 2026.

[217] Section 424(2) of the Companies Act, 2013 and section 19 of the National Green Tribunal Act, 2010, both of which contain similar language.

[218] Rule 131, the National Company Law Tribunal Rules, 2016.

[219] Rule 39 (2), the National Company Law Tribunal Rules, 2016 and

[220] Section 5(2), the National Green Tribunal Act, 2010.

[221] *Grasim Industries Limited v. State of Madhya Pradesh & Anr.*, 2024 INSC 926 (judgement dated 27.11.2024) at paragraph 9

2. Burden and Standard of Proof

The standard of proof in Indian civil law, which is applicable to proceedings before the National Green Tribunal and the National Company Law Tribunal, is that of "the preponderance of probabilities." The initial burden of proof lies with the claimant. Writ proceedings work differently. The court decides on affidavit evidence and will not ordinarily resolve seriously disputed questions of fact. Once the petitioner shows a *prima facie* infringement of a fundamental right, the burden shifts to the State, or other respondent, to justify it.

I. Public Interest Litigation (PIL) via a Writ Petition

In an environmental writ petition, once the petitioner makes out a prima facie case the evidentiary burden reverses. If a petitioner shows a prima facie breach of a public duty concerning climate mandates or statutory disclosures, the burden may shift to the financial institution or the State to prove regulatory compliance.

The precautionary principle may shift the burden further, by requiring the financial institution to show that the financed activities cause no environmental harm. The principle is engaged where there is scientific uncertainty about a threatened harm that is serious or irreversible.[222] The burden then rests on the proponent to establish that its activity is environmentally benign, and harm is presumed until it does so. The complainant is therefore not required to establish that the project will cause harm in future. The precautionary principle, coupled with the principle of intergenerational equity, may be considered by a forum in a Bank Climate Claim. However, courts have so far placed this burden only on project proponents. Its extension to a financial institution that finances the project remains untested..

II. Application before the National Green Tribunal

The NGT's position is similar. Section 19 of the National Green Tribunal Act, 2010 states that the Tribunal will be guided by principles of natural justice, and section 20 requires the Tribunal to apply the principles of sustainable development, the precautionary principle and the polluter pays principle in passing any order.

<https://api.sci.gov.in/supremecourt/2021/10863/10863_2021_2_12_57396_Judgement_27-Nov-2024.pdf> accessed 30 June 2026.

[222] *Vellore Citizens Welfare Forum v. Union of India*, (Supreme Court of India, Writ Petition (Civil) No. 914 of 1991, judgement dated 28.08.1996) at paragraphs 10-14 <https://api.sci.gov.in/jonew/judis/15202.pdf> accessed 30 June 2026.

III. Shareholder Action under the Companies Act, 2013

Before the NCLT, no comparable burden-shifting applies. The burden rests on the petitioning shareholder, and is in fact heightened by the courts' deference to the commercial wisdom of the board, provided its decisions are taken in good faith. The NCLT and appellate courts do interfere where the conduct complained of is shown to be oppressive, prejudicial, or lacking in probity.[223]

D. Court Processes and Early Case Termination

Each of the three forums screens a claim at the threshold and can terminate it early where no prima facie case is made out.

I. Public Interest Litigation

A writ petition must be "admitted" at an initial hearing before notice issues to the respondents. The petitioner must show a prima facie breach of public duty and that a substantial public interest is involved; a petition lacking merit is dismissed at the threshold.[224]

The court will also summarily dismiss for abuse of process where the petitioner lacks "litigational competence" – pursuing a hidden agenda, acting as a surrogate for hidden lobbies or seeking commercial gain.[225]

II. Application before the National Green Tribunal

An application is only maintainable where it raises a "substantial question relating to environment" arising from a Schedule I statute.[226] For example, a challenge to

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[223] *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd. & Ors.*, 2021 INSC 217 (judgement dated 26.03.2021) <https://api.sci.gov.in//pdfdate/index1.php?dt=2021-03-26&dno=2122020&filename=supremecourt/2020/212/212_2020_31_1503_27229_Judgement_26-Mar-2021.pdf> accessed 30 June 2026 and *Hindustan Lever v. State of Maharashtra*, (Supreme Court of India, Civil Appeal No. 8232 of 1996, judgement dated 18.11.2003) <https://api.sci.gov.in/jonew/judis/25649.pdf> accessed 30 June 2026.

[224] *State of Uttaranchal v. Balwant Singh Chaufal*, (Supreme Court of India, Civil Appeal Nos. 1134-1135 of 2002, judgment dated 18.01.2010) <https://api.sci.gov.in/jonew/judis/35931.pdf> accessed 30 June 2026.

[225] *State of Uttaranchal v. Balwant Singh Chaufal*, (Supreme Court of India, Civil Appeal Nos. 1134-1135 of 2002, judgment dated 18.01.2010) <https://api.sci.gov.in/jonew/judis/35931.pdf> accessed 30 June 2026.

[226] Section 14(1), National Green Tribunal Act, 2010.

the validity of legislation or subordinate legislation falls outside this gateway and remains the preserve of the writ courts.[227]

III. Shareholder Action under the Companies Act, 2013

The NCLT employs a similar form of initial scrutiny. It conducts an admissibility review based on the standing requirements. A petition may be dismissed at the threshold if the petitioners do not meet the mandatory shareholding requirements, unless the Tribunal waives them under the proviso to section 244(1).[228]

The NCLT is also empowered to dismiss a petition for lack of merit at the threshold.[229] In the context of claims relating to breach of directors' duties, the NCLT may dismiss a petition if it fails to establish a prima facie case of bad faith or a "lack of probity," as opposed to mere dissatisfaction with the board's commercial choices.[230]

E. Section Summary

Across the three causes of action, the procedural and evidentiary hurdles surveyed above differ.

For the PIL route, standing, costs, evidentiary process, and the burden of proof p favour the petitioner. The decisive issue is the substantive strength of the claim. This issue surfaces at the admissibility stage.

For the NGT route, standing is again wide, so the decisive issue is subject-matter jurisdiction: an application is maintainable when a "substantial question relating to the environment" tied to a Schedule I enactment.

For a shareholder action, the primary hurdle is standing: the strict numerical shareholding threshold under section 244 of the Companies Act, 2013 may be a major hurdle before the Tribunal agrees to hear the petition.

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[227] *Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Ltd. & Ors.,* (Supreme Court of India, Civil Appeal Nos. 4763-4764 of 2013, judgement dated 18.02.2019) at paragraphs 40-42 <https://api.sci.gov.in/supremecourt/2013/17302/17302_2013_Judgement_18-Feb-2019.pdf>.

[228] Section 244 of the Companies Act, 2013. The proviso to Section 244 does, in principle, empower the Tribunal to "waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under section 241." *See also* Part IV.A.1 above.

[229] Rule 11, the National Company Law Tribunal Rules, 2016.

[230] *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd. & Ors.,* 2021 INSC 217 (judgement dated 26.03.2021) <https://api.sci.gov.in//pdfdate/index1.php?dt=2021-03-26&dno=2122020&filename=supremecourt/2020/212/212_2020_31_1503_27229_Judgement_26-Mar-2021.pdf> accessed 30 June 2026.

V. Remedies

A. Availability of Monetary and Injunctive Remedies

I. Public Interest Litigation (PIL) via a writ petition

Relief in a PIL is corrective and forward-looking rather than a traditional injunction: the court moulds the remedy to the case, whether mandatory (a direction compelling a public authority or private body to act) or prohibitive (restraining a course of conduct).[231] Both monetary and injunctive remedies may be available for the causes of action outlined in section III of this report. Potential reliefs may include:

- a direction compelling a bank to disclose or to comply with the RBI's directions;[232]
- a declaration that particular disclosures are deficient, misleading, or amount to greenwashing;
- a continuing mandamus supervising compliance over successive reporting periods;[233] or
- a direction to the RBI itself to discharge its supervisory functions.[234]

Notably, the reach of a disclosure order to a bank is illustrated by the *Electoral Bonds* case. The Supreme Court struck down "electoral bonds" (financial instruments developed for anonymous donations to political parties) as a disproportionate

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[231] Sujit Choudhry, Madhav Khosla, Pratap Bhanu Mehta (Eds.) *Oxford Handbook of Indian Constitutional Law* (OUP, 2016), Chapter 37, Shyam Divan, *Public Interest Litigation*.

[232] *Velankani Information Systems Ltd. v. Secretary, Ministry of Home Affairs & Ors*, (Karnataka High Court, Writ Petition No. 6775 of 2020, order dated 08.07.2020). Here, private banks failed to give effect to an RBI circular granting a Covid-19 loan-repayment moratorium, and the Karnataka High Court issued a mandamus directing the banks to comply with the RBI guidelines.

[233] *T.N. Godavarman Thirumulpad v. Union of India & Ors.*, (Supreme Court of India, Writ Petition (Civil) No. 202 of 1995). The Supreme Court has, for over more than two decades, issued and supervised a continuing series of nationwide directions for the protection of forests, retaining the matter on its board and monitoring compliance through successive orders. This case is still pending before the Supreme Court. The history of the writ petition is briefly outlined in the Order dated 13.04.2026 <https://api.sci.gov.in/supremecourt/1995/2997/2997_1995_1_51_70166_Order_13-Apr-2026.pdf> accessed 30 June 2026.

[234] *Himakshi Bhargav v. Union of India & Ors.* (Delhi High Court, Writ Petition (Civil) No. 118 of 2026, order dated 07.01.2026) paragraphs 5-6 <https://delhihighcourt.nic.in/app/showlogo/1767863785_01a30ed0cb7103ce_683_1182026.pdf/2026> The Delhi High Court admitted a public interest petition alleging breach of the RBI's Digital Lending Guidelines and directed the RBI to file an affidavit detailing the enforcement action it had taken against entities found in violation.

restriction on the voter's right to information. It directed the State Bank of India, which administered the scheme, to stop issuing bonds and disclose the particulars of every bond purchased and redeemed to the Election Commission for publication.[235]

In a Bank Climate Claim a petition could seek a direction restraining or unwinding the financing of the concerned project causing harm, along with compensation under the polluter pays principle and Article 21.

Either relief would depend on establishing a sufficient legal basis for attributing responsibility for the financed harm to the bank. This is untested and faces the difficulties set out in Part III. Indian courts have not yet recognised lender liability for a borrower's environmental harm, and the Supreme Court has previously directed National Green Tribunal to not hold a financier liable for a borrower's contravention.[236]

As yet, no Indian court appears to have ordered a bank to disgorge the profits it has made from its financing in such a case, but the remedy may not be foreclosed. Potentially, an argument for a gain or capacity-based quantification may be entertained by courts.[237]

II. Application before the National Green Tribunal

The NGT Act provides a statutory basis for both compensation and injunctive relief, and the Tribunal's powers in this respect are extensive.[238] The Tribunal may award relief and compensation to victims of pollution, restitution of damaged property, and

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[235] *Association for Democratic Reforms v. Union of India*, 2024 INSC 113, (judgement dated 15.02.2024) directions at paragraphs 78-79 <https://api.sci.gov.in/supremecourt/2017/27935/27935_2017_1_1501_50573_Judgement_15-Feb-2024.pdf> accessed 30 June 2026.

[236] *Punjab National Bank v. Govt of NCT of Delhi*, Civil Appeal No. 3127 of 2023, order dated 09.02.2024 (SC).

[237] *Sterlite Industries (India) Ltd. v. Union of India & Ors.* (Supreme Court of India, Civil Appeal Nos. 275-281 of 2007, judgement dated 02.04.2013) at paragraph 39 <https://api.sci.gov.in/jonew/judis/40214.pdf> accessed 30 June 2026. The compensation of INR 100 crore was fixed by reference to the polluter's turnover for deterrent effect, rather than for harm caused.

[238] The preamble to the National Green Tribunal Act, 2010, states that it provides for "*enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.*" This preamble informs the wide scope of jurisdiction exercised by the NGT. <https://www.indiacode.nic.in/bitstream/123456789/2025/1/AA2010__19green.pdf> accessed 30 June 2026.

restitution of the environment itself.[239] It may grant interim injunctions and stays and issue appropriate directions to prevent violation of a scheduled environmental legislation.[240] In fashioning relief, the Tribunal is bound to apply the polluter pays principle, among others.[241]

Illustratively, for a Bank Local Impact Claim, directed at the physical harm of a specific financed project, a petitioner could seek an order restraining continued financing of the project, restitution of the environment or property at the affected site, and compensation quantified under the polluter pays principle. For a Bank Climate Claim, directed more broadly at a bank's financed emissions or climate risk management, the more readily available relief is a direction to comply with disclosure norms, or a direction to the RBI to exercise its supervisory duty, for instance by enforcing climate disclosure directions. Holding the bank directly liable for a borrower's breach faces the vicarious-liability difficulties set out in Part III; and as with the PIL route, a gain-based award is untested but not foreclosed.[242]

III. Shareholder Action under the Companies Act, 2013

The NCLT's remedial powers under section 242 are broad. The Tribunal may make "such order as it thinks fit," and the section gives a non-exhaustive list of specific orders including the regulation of the conduct of the company's affairs in future, the removal of directors, and the appointment of persons to manage the company's

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[239] Section 15(1), National Green Tribunal Act, 2010 states: "*15. Relief, compensation and restitution — (1) The Tribunal may, by an order, provide,— (a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance); (b) for restitution of property damaged; (c) for restitution of the environment for such area or areas, as the Tribunal may think fit.*" *Also see Mantri Techzone Pvt. Ltd. v. Forward Foundation & Ors.*, 2019 INSC 315 (judgement dated 05.03.2019), paragraphs 42-43 <https://api.sci.gov.in/supremecourt/2016/16740/16740_2016_Judgement_05-Mar-2019.pdf> accessed 30 June 2026. The Supreme Court has held that the restitution powers under sections 15(1)(b) and (c) are not tied to the Schedule I nexus requirement, unlike the compensation power under section 15(1)(a), giving the Tribunal an independent basis for environmental restitution orders even where the relation to a Schedule I enactment proves difficult to establish.

[240] Section 19(4), National Green Tribunal Act, 2010.

[241] Section 20, National Green Tribunal Act, 2010 states "*20. Tribunal to apply certain principles — The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle*".

[242] *Rhythm County v. Satish Sanjay Hegde & Ors.*, 2026 INSC 102 (judgement dated 30.01.2026), paragraphs 46.1-46.2 <https://api.sci.gov.in/supremecourt/2022/30735/30735_2022_8_1501_67798_Judgement_30-Jan-2026.pdf> accessed 30 June 2026.

affairs.[243] The powers are structured around corporate governance not specific environmental outcomes. This limit is the structural reason why the section 241 route is complementary to, not a substitute for, the PIL route.

Although this is untested, realistic remedies for a section 241 climate claim could be directions requiring the board to adopt and implement a climate risk policy consistent with the SEBI and RBI frameworks; directions requiring the Risk Management Committee's terms of reference to include an ESG component; directions requiring disclosure of climate-related risk, financed emissions, and the methodology used to calculate them; directions for the appointment of an independent observer or expert advisor to the board for a defined period; and, in serious cases, the removal of directors found to have acted in bad faith.

The duties underlying a section 241 claim are separately reinforced by regulator-enforced penalties under the Companies Act, 2013 the Securities and Exchange Board of India Act, 1992 and the Banking Regulation Act, 1949 which operate independently of any section 241 application.

B. Punitive or Exemplary Damages

I. Public Interest Litigation (PIL) via a writ petition

Courts may award damages to penalize egregious environmental harm and deter future violations. To achieve a punitive and deterrent effect, the Supreme Court applies the "deep pocket" theory.[244] The court has held that the measure of compensation must be correlated not only to the magnitude of harm, but also to the capacity of the enterprise. The larger and more prosperous the enterprise, the greater the amount of compensation payable.[245] The *Sterlite* case is an example

[243] Section 242, Companies Act, 2013.
[244] *Sterlite Industries (India) Ltd. v. Union of India & Ors.* at paragraph 39 (Supreme Court of India, Civil Appeal Nos. 275-281 of 2007, judgement dated 02.04.2013) <https://api.sci.gov.in/jonew/judis/40214.pdf> accessed 30 June 2026.
[245] *M.C. Mehta & Anr. v. Union of India & Ors.* (Supreme Court of India, Writ Petition (Civil) No. 12739 of 1985, judgement dated 20.12.1986) <https://api.sci.gov.in/jonew/judis/8858.pdf> accessed 30 June 2026 and *Sterlite Industries (India) Ltd. v. Union of India & Ors.* at paragraph 39 (Supreme Court of India, Civil Appeal Nos. 275-281 of 2007, judgement dated 02.04.2013) <https://api.sci.gov.in/jonew/judis/40214.pdf> accessed 30 June 2026. In M.C. Mehta, the Supreme Court has imposed exemplary damages because it is a case of "absolute liability" involving an "inherently dangerous activity". In contrast, the Supreme Court does not arrive at such a finding of absolute liability in the *Sterlite* case.

where Supreme Court has awarded exemplary damages as compensation based on the turnover of the polluter.[246]

II. Application before the National Green Tribunal

The NGT Act does not provide for punitive or exemplary damages as a distinct head of relief. The Tribunal's remedial jurisdiction under sections 15 and 20 is directed at compensation and restitution.

In practice, however, compensation awards under the polluter pays principle can carry a deterrent effect comparable to that described above for PIL proceedings. The Supreme Court has confirmed that the NGT may quantify compensation by reference to a project's cost or turnover as a proxy for the scale of harm, rather than a precise calculation of damage, provided the award is rational, proportionate, and reasoned.[247] As a result, compensation orders may be deterrent in character, even if they are not doctrinally punitive.

III. Shareholder Action under the Companies Act, 2013

Punitive damages are unavailable. The NCLT's jurisdiction is remedial and equitable, directed at bringing an end to the oppression or mismanagement and regulating the company's affairs. The Tribunal's powers are confined to the architecture of sections 241-242,[248] and section 243 precludes even a claim for compensation for loss of office consequent to an order made under section 242. The only monetary relief of a quasi-deterrent character is restitutionary – the recovery of a director's undue gains under section 242(2)(i), which strips personal profit rather than imposing a penalty.

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[246] *Sterlite Industries (India) Ltd. v. Union of India & Ors.*, at paragraph 39 (Supreme Court of India, Civil Appeal Nos. 275-281 of 2007, judgement dated 02.04.2013) <https://api.sci.gov.in/jonew/judis/40214.pdf>.

[247] *Rhythm County v. Satish Sanjay Hegde & Ors.*, 2026 INSC 102 (judgement dated 30.01.2026), <https://api.sci.gov.in/supremecourt/2022/30735/30735_2022_8_1501_67798_Judgement_30-Jan-2026.pdf>.

[248] *Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd. & Ors.*, 2021 INSC 217 (judgement dated 26.03.2021) at paragraph 17.19 <https://api.sci.gov.in//pdfdate/index1.php?dt=2021-03-26&dno=2122020&filename=supremecourt/2020/212/212_2020_31_1503_27229_Judgement_26-Mar-2021.pdf> accessed 30 June 2026.

C. Innovative or Non-Traditional Remedies

I. Public Interest Litigation (PIL) via a writ petition

A range of procedural innovations distinguish the PIL field from conventional litigation. Some of these, such as the appointment of fact-finding commissions and scientific expert committees to overcome evidentiary barriers, and the appointment of *amicus curiae to* overcome lack of effective representation, have also been addressed in Part IV above.

The most significant innovation developed by the Supreme Court in complex environmental PILs is the "continuing mandamus". Rather than resolving a matter over two stages – interim hearing and the final adjudication, the court retains it and supervises compliance through successive directions over months or years.[249]

Courts have often utilized the continuing mandamus in complex environmental cases where there has been absence of government intervention. Important examples include monitoring the phased transition of industries away from polluting fuels in the National Capital Region (NCR), [250] and overseeing nationwide forest conservation efforts.[251] Applied to a bank, the same technique could support court-supervised implementation of disclosure or climate risk-management obligations across successive reporting periods, rather than a one-time order.

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[249] *Ashwini Kumar Upadhyay v. Union of India,* (Supreme Court of India, Writ Petition (Civil) No. 943 of 2021, judgement dated 29.04.2026) at paragraphs 65-66 <https://api.sci.gov.in/supremecourt/2021/19991/19991_2021_2_1502_70707_Judgement_29-Apr-2026.pdf> accessed 30 June 2026.

[250] M.C. *Mehta v. Union of India* & Ors., 2026 INSC 383 (judgement dated 12.03.2026) <https://api.sci.gov.in/supremecourt/1985/63998/63998_1985_1_44_69169_Judgement_12-Mar-2026.pdf> accessed 30 June 2026. This petition filed in 1985 was closed only on 12.03.2026 – constituting one of the longest pending cases in the history of the Indian Supreme Court. The Court established a "Commission for Air Quality Management in National Capital Region and Adjoining Areas" and oversaw various reforms including a system of coordinated responses to different levels of air pollution called the "Graded Action Response Plan".

[251] *T.N. Godavarman Thirumulpad v. Union of India* & Ors., Writ Petition (Civil) No. 202 of 1995. This case is still pending before the Supreme Court. The court here has enacted a series of measures over several years to protect forest land. This includes expanding the definition of "forest" to cover more land, mandating prior approval for use of such forest land, establishing oversight bodies, and creating a compensatory afforestation fund.

II. Application before the National Green Tribunal

The NGT's most distinctive procedural feature is that, unlike an ordinary civil court, it may mould relief beyond what the parties have specifically prayed for.[252] This gives the Tribunal considerable latitude to fashion remedies suited to the nature of the environmental harm rather than the limits of the pleadings.

The Tribunal has developed a monitoring mechanism functionally similar to the PIL's continuing mandamus. In complex environmental matters it routinely constitutes monitoring committees, requiring periodic reports to be submitted to the Tribunal, and issues successive directions based on those reports – as illustrated by the *Rohtang Pass* case.[253]

The Tribunal has also directed the constitution of dedicated environmental funds for site-specific restoration under Rule 24 of the National Green Tribunal Rules, 2011 to "secure the ends of justice."[254] For a Bank Local Impact Claim, these powers could translate into a monitoring committee overseeing remediation at a financed project's site, funded by the polluter or lender under the polluter-pays principle.

III. Shareholder Action under the Companies Act, 2013

In contrast, the NCLT's powers remain confined to the architecture of sections 241-242, and there is lesser scope for innovative remedies to be fashioned. The nearest analogue is the NCLT's supervisory capacity – under section 242 it may supersede a board, appoint persons to manage the company's affairs, or install an

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[252] *Municipal Corporation of Greater Mumbai v. Ankita Sinha & Ors.*, 2021 INSC 624 (judgement dated 07.10.2021) at paragraph 16.5 <https://api.sci.gov.in//pdfdate/index1.php?filename=supremecourt/2018/46588/46588_2018_42_1501_30657_Judgement_07-Oct-2021.pdf&dno=465882018&dt=2021-10-07>.

[253] *Court on its Own Motion v. State of Himachal Pradesh*, (National Green Tribunal, Application No. 237 of 2013, judgement dated 06.02.2014) paragraphs 38 (viii) – (ix) <https://www.greentribunal.gov.in/gen_pdf_test.php?filepath=L25ndF9kb2N1bWVudHMvRWZpbGluZ19kb2N1bWVudHMvbmd0ZG9jL2Nhc2Vkb2MvMDcwMTExMDAwNjAyMjAxNS8wNC8wMS8yNS8wNF8yNV8wMDFfMTYyODMxMzg3MDI2MC5wZGY=> accessed 30 June 2026. The Tribunal took up *suo motu* the environmental degradation caused by unregulated tourist traffic at Rohtang Pass in Himachal Pradesh, issued detailed directions on vehicle emissions, waste management, and commercial activity, and constituted a monitoring committee required to submit quarterly compliance reports to the Tribunal.

[254] *State of Meghalaya v. All Dimasa Students Union, Dima-Hasao District Committee*, 2019 INSC 721 (judgement dated 03.07.2019) at paragraphs 162-163, <https://api.sci.gov.in/pdfdate/index1.php?filename=supremecourt/2018/39439/39439_2018_11_1501_14662_Judgement_03-Jul-2019.pdf&dno=394392018&dt=2019-07-03> accessed 30 June 2026.

independent administrator or expert; and under section 242(4) it may retain the matter and pass successive interim directions regulating the company's affairs pending final relief. In principle, these powers could support a supervisory order appointing an independent expert to oversee the board's implementation of a climate-risk policy for a defined period.

D. Strategic Assessment of Remedies

The PIL route offers the broadest and most flexible set of remedies. Constitutional courts are not bound by the pleadings and can pass wide-ranging orders. The option of employing a continuing mandamus allows them to supervise compliance over successive reporting periods rather than leaving enforcement to separate proceedings. For a Bank Climate Claim directed at disclosure or regulatory compliance, a mandamus to the bank or the RBI is a realistic and proportionate form of relief, and one that courts have previously granted in analogous regulatory contexts. For a Bank Local Impact Claim, prohibitory and compensatory relief is available and well-established, with compensation quantified by reference to the polluter's capacity where precise harm calculation is difficult.

The NGT route is strategically well-suited to a Bank Local Impact Claim. The statutory compensation and injunction powers under sections 15 and 19 are designed to address site-specific environmental harm, and the Tribunal's Expert Members give it a greater inherent competence to assess environmental evidence than a constitutional court. For a broader Bank Climate Claim, anchoring the claim to a Schedule I enactment may be potentially more difficult in the absence of specific climate legislation, though the expansive definition of "environment" under the Environment (Protection) Act, 1986 and the wide reading given to the NGT's jurisdiction by the Supreme Court mean this is not an insurmountable obstacle. The NGT's monitoring committee mechanism and its power to mould relief beyond the pleadings provide flexible enforcement mechanisms broadly comparable to the PIL's continuing mandamus.

The section 241 route is the most constrained. It is, however, a route that directly reaches the bank's internal governance. Its remedies – climate risk policy adoption, ESG integration into the Risk Management Committee mandate, financed-emissions disclosure – may be specifically directed at changing how a bank manages and reports on its climate exposure. It is best pursued where standing can be satisfied, the bank's own public filings disclose a documented pattern of inaction or

misrepresentation, and the relief sought is a corporate governance direction. It is not a substitute for the PIL or NGT routes, but a complement to them.

There is a common strategic constraint, particularly given that all three causes of action are novel. Courts across all three routes are wary of claims that require them to adjudicate on macroeconomic policy or energy security. Claims seeking blanket prohibitions on fossil fuel financing or sweeping damages for general emissions face a real risk of dismissal at the threshold. The most viable claims before any forum are those targeted at a specific project, a specific financed harm, or a documented failure to comply with an existing regulatory obligation, rather than broad systemic relief.

E. Section Summary

Across the three routes, both monetary and injunctive remedies are available, though the form of relief differs by forum. The PIL route offers the widest set of reliefs: mandamus, declaratory relief, capacity-based compensation, and continuing mandamus for ongoing supervision. The NGT offers comparably broad statutory powers tailored to environmental harm, and a specialist bench to assess it. The NCLT route, though the most constrained, uniquely reaches a bank's internal governance. The overriding strategic consideration is common to all three: because these are novel claims that stray close to the state's energy policy, courts are likely to approach them cautiously. As a result, a claim framed around a specific project, a specific financed harm, or a documented breach of an existing regulatory obligation may stand a better chance than a claim framed as a broad challenge to fossil-fuel financing risks.

Annex: Table of Causes of Action

This Annex provides a concise overview of the causes of action discussed in the report.
Subject to finalisation and enforcement of climate disclosure requirements, the outcome of climate litigation presently pending before the Supreme Court, and evolving jurisprudence on the accountability of banks for financed emissions in other jurisdictions, the following causes of action appear plausible in India:

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
1. Writ petition (PIL) against a private commercial bank under Article 32 (Supreme Court) or Article 226 (High Courts), also impleading the financial regulator, RBI—for a portfolio-level disclosure failure	Any individual or organisation acting in good faith in the public interest (public interest groups, NGOs, activists, academics, concerned citizens); no requirement of personal injury.	Article 21 (right to life, extended to a healthy environment and, per M.K. Ranjitsinh v. Union of India (2024), to protection from the adverse effects of climate change), enforceable against private parties per Kaushal Kishor v. State of U.P. (2023); section 166(2) Companies Act, 2013 (directors' duty to	Existence of a public duty on the bank concerning climate-related risk disclosure or mitigation will strengthen this claim, and factual breach of that duty will have to be proved. (e.g., no climate risk identified in the Board's Report, no ESG mandate in the Risk Management Committee, no risk	Direction compelling the bank to comply with its disclosure obligations, or a direction to RBI to exercise its supervisory powers under sections 35A and 46 of the Banking Regulation Act, 1949, to finalise and enforce the climate disclosure directions.	Moderate. Doctrinally supported by an expanding Article 21 right and section 166(2), but weaker than the local-harm fact pattern because it rests on a diffuse portfolio-wide failure and lacks the force of being coupled with a concrete, justiciable injury, and risks the

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
		act for, inter alia, the community and protection of the environment, per M.K. Ranjitsinh (2021)); risk-disclosure obligations under sections 134(3)(n) and 177(4)(vii) Companies Act 2013, SEBI LODR Regulations 2015 Schedule II Part D, RBI's ICAAP under Basel III Pillar 2, BRSR/BRSR Core filings, and RBI's Climate Finance Directions 2025 on green deposits; and India's international commitments on climate change.	assessment in the ICAAP filing, false BRSR or green-deposit disclosures). Writ jurisdiction is unsuited to resolving disputed facts, the claim is strongest where the duty breached is a disclosure duty mandated by law, and breach thereof is proven in fact on affidavit.		"macroeconomic policy" objection that courts are wary of.

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
2. Writ petition (PIL) against a private commercial bank under Article 32/226 – financing of a project causing documented local environmental harm	As above (public interest groups, NGOs, activists, academics, concerned citizens), or the directly affected community itself.	Same core grounds as above (Article 21; section 166(2); the risk-disclosure framework), combined with a substantive breach arising from financing a project causing measurable localised harm despite ongoing enforcement action against the borrower under environmental statutes.	Evidence of the bank's own risk-determination failure (its obligations would have required flagging the exposure as high-risk) and a substantive breach of section 166(2), together with the affected community's constitutional injury under Article 21. Evidence of localised, documented harm, may mitigate the causation difficulties of financed-emissions claims by grounding the claim in an identifiable,	Directions for future compliance; prohibitory relief under Article 21; an injunction restraining or unwinding the financing; compensation quantified under the polluter pays principle and by reference to the bank's financial capacity (the "deep pocket" theory).	The strongest of the causes of action identified. A concrete, localised injury gives the court an acute, justiciable question rather than a diffuse policy question, consistent with the strategic assessment that claims targeted at specific financed projects are more viable than systemic portfolio challenges. In addition, courts can rely on existing environmental statute and regulation, read with the broader right under Article 21 and

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
			evidenced local impact (including evident environmental law and human rights violations) rather than diffuse portfolio-based financed emissions. This would be further strengthened in case this is a re-financing, when in the second round of financing the bank has the advantage of public reports of environmental and human rights harms.		section 166. This cause of action is bolstered when supported by additional evidence of environmental law and human rights violations attributable to the borrower. Chief weakness remains the absence of a binding statutory climate duty specifically on banks to consider, disclose and mitigate climate related risk and financed emissions.

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
3. Application to the National Green Tribunal under section 14, NGT Act 2010, impleading the Reserve Bank of India (and, in the alternative, the concerned bank as well)	Any person aggrieved, including any representative body or organisation; no requirement of personal injury. The Tribunal may also exercise suo motu jurisdiction.	Section 14, NGT Act, 2010 (jurisdiction over "substantial questions relating to environment" arising under the Schedule I enactments, including the Environment (Protection) Act, 1986); section 20 (obligation to apply sustainable development, precautionary, and polluter pays principles); illustratively framed around RBI's continuing failure to enforce its 2024 Draft Disclosure Framework on Climate-related Financial Risks despite acknowledging	The application is best anchored in a specific, well-documented, financed project (e.g., continued lending to a coal-fired power project) evidencing measurable/specific air, water, or land impacts under environmental law statutes, as well as human rights violations, used to demonstrate the real-world consequences of the regulatory gap rather than as the basis for a claim	A direction that the RBI finalise and notify binding climate-related financial disclosure and risk-management norms within a defined period, with interim reporting directions and continued Tribunal monitoring; if declined, an appeal on a substantial question of law lies to the Supreme Court under section 22 of the NGT Act. A direction to the commercial bank party could also be made to, for	Jurisdictionally constrained (dependent on characterising statutes under which the Tribunal exercises powers as extending to climate issues) and dependent on the outcome of the pending *Ridhima Pandey* appeal before the Supreme Court, but not speculative given the Tribunal's wide standing rules and its doctrinal grounding in sustainable development, precautionary, and

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
		systemic climate risk in its statutory and consultative documents.	against the bank itself – mitigating the burden to show vicarious-liability of the financier for a borrower's contravention}.	example, remedy the environmental law violations, or for discretionary relief including for compensation, restitution of victims of the environmental damage caused.	polluter-pays principles.
4. Application under section 241, Companies Act 2013, before the National Company Law Tribunal (NCLT), by qualifying shareholders against a bank's board	Qualifying shareholders under section 244(1): not less than 100 members, or one-tenth of total members (whichever is less), or members	Section 241, Companies Act 2013 (conduct of the company's affairs "prejudicial to public interest"); section 166(2) (directors' duty to act in good faith for, among others, the community and protection of the environment, per M.K. Ranjitsinh (2021) and	Three elements: (1) breach of duty under section 166(2) read with the risk-determination requirements (e.g., no climate risk in the Board's Report, no ESG component in the Risk Management Committee, no risk assessment in the ICAAP filing,	Orders under section 242 providing for the regulation of the conduct of the company's affairs in the future, imposition of costs as seen fit by the tribunal, directing boards or directors to account for climate change as a risk that	The most constrained of the three primary routes. For the powers of the Tribunal to be exercised in an application for a shareholder's action, the application must show facts that may justify making a

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
	holding not less than one-tenth of issued share capital. The Tribunal has discretion to waive this threshold.	Tata Consultancy Services v. Cyrus Investments (2021)); risk-disclosure obligations under sections 134(3)(n) and 177(4)(vii), SEBI LODR Schedule II Part D, and RBI's ICAAP framework.	misleading BRSR/BRSR Core filings); (2) absence of bona fide enquiry by the board into climate risk; (3) resulting prejudice to public interest. Relief under section 242 is additionally gated by section 242(1)(b), requiring facts that would justify winding up on "just and equitable" grounds (though winding up itself need not be ordered), and possible financial harm to shareholders on account of the board's failure to account for climate risk.	threatens the existence of the company (134) and in line with director's fiduciary duty to the environment. An untested remedy would be seeking order to direct the bank to adopt a board-approved climate risk policy, incorporate an ESG mandate into the Risk Management Committee's terms of reference, disclose financed emissions, or remove directors found to have acted in bad faith.	winding-up order under section 242(1)(b). Over and above the high numerical threshold, this requirement sets a high bar for an application under section 241.

Cause Of Action	Claimant (including the test for standing, if relevant)	Legal Grounds	Causation Standard	Remedies Sought	Conclusions on Viability
5. Writ petition in the Supreme Court or High Courts against the Reserve Bank of India, seeking to compel it to discharge its statutory supervisory function on climate-related financial risk (ancillary cause of action)	Same broad public-interest standing as other writ petitions: any individual or organisation acting in good faith in the public interest.	Sections 21 and 35A, Banking Regulation Act, 1949 (RBI's supervisory powers), sought via implementation of the Draft Disclosure Framework on Climate-related Financial Risks, 2024, or issuance of equivalent binding directions; supported by precedent for writs compelling regulators to discharge statutory duties in protection of Article 21 rights (Kaushal Kishor; Himakshi Bhargav v. Union of India, Delhi High Court, 2026, concerning RBI's Digital Lending Guidelines).	Must show RBI's continuing failure or deferral to finalise binding climate-related disclosure and risk-management norms despite acknowledging systemic climate risk in its statutory and consultative documents, and that this omission itself constitutes a breach of its statutory supervisory duty.	A direction compelling RBI to finalise and implement the Draft Disclosure Framework (or issue equivalent binding directions) and/or enforce the existing RBI Climate Finance Directions, 2025 against non-compliant banks.	Doctrinally the best supported and most immediately available of the routes identified, given the established line of authority compelling regulators to discharge statutory duties; however, courts may defer to financial regulators on questions of national economic policy. The proposed remedy does not itself remedy harm caused by financed emissions, it creates regulatory and adjudicatory preconditions for the other legal routes and causes of action proposed.

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