CLIMATE CHANGE LITIGATION: COMPARATIVE PERSPECTIVES ON ENVIRONMENTAL JUSTICE ACROSS JURISDICTIONS

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Abstract

This study aims to analyze the development of climate change litigation from a comparative perspective, emphasizing how environmental justice principles are interpreted and applied across jurisdictions. Using a literature review, the study examines court decisions, legal frameworks, international instruments, and academic research addressing the role of litigation as a means of accountability in addressing the climate crisis. The study demonstrates that, despite differences in social, economic, and political contexts across countries, global climate change litigation demonstrates a trend of strengthening the position of civil society and vulnerable groups in demanding equitable environmental protection. A comparison across jurisdictions reveals that countries with robust environmental legal frameworks and responsive judicial systems are better able to utilize litigation as an effective tool to encourage commitments to climate mitigation and adaptation. Furthermore, the study finds that the concept of environmental justice is increasingly becoming a central focus in climate litigation, particularly regarding the protection of the rights of future generations, the equitable distribution of climate risks, and the responsibilities of states and corporations. This literature review confirms that climate change litigation functions not only as a legal mechanism but also as a social process that drives public policy transformation. Therefore, a comparative understanding across jurisdictions can provide important insights for strengthening global climate governance and more comprehensively protecting environmental justice.

Keywords: Climate change litigation, environmental justice, comparative jurisdictions, environmental law, climate change.

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INTRODUCTION

Climate change has become one of the most complex global challenges in modern human history, causing multidimensional environmental, social, economic, and political impacts. The increasing frequency of natural disasters, loss of biodiversity, rising sea levels, and disruptions to health and food security are clear evidence that the climate crisis is no longer an abstract threat, but a reality that impacts the sustainability of life worldwide (Alogna & Clifford, n.d.). In this context, states, corporations, and the international community face increasing demands to improve policies, increase accountability, and ensure protection for vulnerable groups most affected. However, not all efforts can be implemented through executive or legislative policy mechanisms, leading civil society and various non-state actors to increasingly rely on litigation to demand accountability and justice. This phenomenon has given rise to significant developments in climate change litigation.

Climate change litigation not only aims to hold people accountable for environmental damage but also plays a crucial role in driving transformation of legal systems and public policy (Alogna et al., 2021). In various countries, courts have become a strategic arena for environmental activists, indigenous groups, non-governmental organizations, and citizens to demand stronger action against governments and the private sector. Using a variety of legal frameworks, from human rights, administrative law, environmental law, to corporate fiduciary obligations, climate litigation has created new precedents that broaden understandings of ecological and social responsibility. This development demonstrates that the climate crisis is not merely a scientific or technical issue, but also a justice issue concerning the rights to life, health, and sustainability of future generations.

However, legal responses to climate litigation are not uniform across jurisdictions. Differences in legal systems, socio-political contexts, institutional capacities, and the standing of environmental law in each country create variations in how courts assess and adjudicate climate change cases. Some countries, such as the Netherlands, the Philippines, and Colombia, have demonstrated a progressive approach by accepting human rights-based arguments as a basis for demanding more ambitious actions by states to mitigate climate change. On the other hand, several jurisdictions continue to limit the scope of climate litigation due to legal standing, judicial limitations, or because they consider climate policy to be the domain of the executive and legislative branches. These differences raise important questions about how

legal systems in different countries can contribute to promoting environmental justice more effectively and consistently (Romaniszyn, 2020).

Globally, environmental justice issues are at the center of attention because the impacts of climate change are not felt evenly. Poor communities, indigenous communities, and marginalized groups tend to bear a greater burden due to long-standing structural vulnerabilities. Meanwhile, large industrial sectors and developed countries are often the largest contributors to greenhouse gas emissions throughout history. This disparity underscores the need for a more justice-sensitive approach when formulating and enforcing climate policy. Thus, climate change litigation provides a crucial opportunity to position environmental justice issues as a central element of legal processes in both domestic and international contexts (Peel & Osofsky, 2020). Through litigation, vulnerable groups can fight for their rights to a healthy environment, their rights to protection from disaster risks, and their rights to participate in policymaking that impacts their lives.

Comparative studies of climate litigation are highly relevant because each jurisdiction offers valuable lessons on how law can be used as an instrument for social and environmental change. Comparative analysis allows researchers to identify patterns, effective litigation strategies, frequently encountered institutional barriers, and opportunities for developing legal frameworks that are more responsive to global and local needs. A comparative approach also helps understand how international normative influences, such as the Paris Agreement and human rights instruments, can be interpreted differently in national legal structures (Todd, 2020a). Furthermore, such studies can reveal how interactions between judicial institutions, climate scientists, policymakers, and civil society shape the development of climate litigation in different countries.

As it evolves, climate litigation has shown a tendency to become increasingly creative and multidimensional. Plaintiffs are now demanding not only emission reductions or compensation for damages, but also highlight issues such as government negligence in climate adaptation, corporate failure to disclose climate risks to investors, and the protection of indigenous communities' rights to their lands and natural resources. This confirms that climate litigation is a crucial mechanism for building a more adaptive and sustainability-oriented legal structure. Courts, through their decisions, are increasingly becoming a normative force, reinforcing the urgency of climate action and affirming the state's role as a guardian of environmental sustainability (Colby et al., 2020).

Given this complexity and dynamics, research on climate change litigation from a comparative perspective is essential to provide a deeper understanding of how environmental justice is constructed and enforced through legal channels. This research is not only academically relevant but also has practical value for policymakers, environmental lawyers, civil society organizations, and affected communities (Ohdedar*, 2022). By mapping the variations in litigation approaches and outcomes across jurisdictions, this research can help formulate more comprehensive recommendations for strengthening legal mechanisms in addressing the climate crisis. Furthermore, this research contributes to broadening the global discourse on the role of law in addressing environmental injustice, supporting the transition to sustainable development, and ensuring that climate change mitigation and adaptation strategies are implemented in an inclusive and responsible manner.

RESEARCH METHOD

The research method in the study, "Climate Change Litigation: Comparative Perspectives on Environmental Justice Across Jurisdictions," utilizes a literature review approach focused on systematically searching, collecting, and analyzing various scholarly sources related to climate change litigation across various jurisdictions. The data collection process began with identifying primary literature, including international journal articles, academic books, reports from global environmental organizations, court decisions, and policy documents addressing the development of environmental law and ecological justice. All sources were selected based on their relevance, novelty, and contribution to mapping legal argumentation patterns, the role of courts, regulatory instruments, and the social dynamics influencing the emergence of climate change litigation at the national and transnational levels. Using narrative analysis techniques, this study places each finding within its historical, social, and political context to provide a comprehensive understanding of the diverse legal approaches evolving in addressing environmental justice issues.

The literature analysis was conducted through a thematic synthesis process, enabling researchers to identify cross-national similarities, differences, and trends in the implementation of climate change litigation. This synthesis process involved grouping issues based on an environmental justice framework, such as access to justice, protection of the rights of vulnerable communities, the effectiveness of legal instruments, and the role of state and non-state actors in promoting climate accountability. The literature review also aimed to evaluate the extent to which litigation practices in various jurisdictions

have been able to promote climate policy reform and strengthen environmental protection globally. Through this approach, the research yields a deeper understanding of how different legal systems respond to the challenges of climate change and offers a comparative perspective that can inform the development of more equitable and effective litigation and policy strategies.

RESULT AND DISCUSSION

An Environmental Justice Approach to Climate Change Lawsuits

The environmental justice approach to climate change lawsuits has developed in response to the reality that the impacts of the climate crisis are not evenly felt across all groups in society (Todd, 2020b). Climate change lawsuits are no longer viewed simply as legal issues focused on violations of environmental regulations or state responsibility for mitigating emissions, but have become an arena for asserting the rights of vulnerable groups who suffer most from the global ecological crisis. In this context, environmental justice serves as a normative framework that places the dimensions of social, economic, and political inequality as the basis for analyzing inadequate climate policies and state negligence in protecting citizens from climate risks. This approach stems from the understanding that the poor, women, indigenous peoples, and coastal communities often experience disproportionate impacts despite their relatively small contribution to global emissions. Therefore, climate litigation with an environmental justice perspective not only demands legal responsibility but also seeks a redistribution of responsibility and redress proportionate to the vulnerabilities experienced by communities.

Over time, the environmental justice approach has positioned climate change lawsuits as a means to advocate for human rights, particularly the right to a clean and healthy environment, the right to life, and the right to food and water. Numerous landmark decisions from various jurisdictions have affirmed that a state's failure to implement adequate climate policies constitutes a human rights violation. With this concept, the dimensions of distributive justice and procedural justice have become crucial pillars of legal argumentation (Kim, 2021). Distributive justice highlights how climate risks and mitigation burdens are shared unequally, while procedural justice emphasizes the importance of public access to information, participation in decision-making, and fair access to legal mechanisms. Through this approach, affected communities can file lawsuits on the grounds that they are victims of structural injustice stemming

from climate policies that fail to adequately protect them (Ahmed & Uddin, 2025a).

Furthermore, climate change litigation with an environmental justice perspective challenges traditional perspectives that view climate issues as solely technocratic. In court, this approach conveys the narrative that climate change is a moral and social issue requiring judgment about who should bear responsibility and how damages should be redressed. Plaintiffs often argue about the disparity between those who contribute most to emissions, such as large corporations and developed nations, and those most impacted, namely the poor in developing countries. Thus, these lawsuits not only demand the fulfillment of emissions reduction targets but also highlight the global inequities inherent in the geography of climate change impacts (Ahmed & Uddin, 2025a). Many cases involving indigenous communities, for example, demonstrate how the exploitation of natural resources that fuels emissions also leads to the loss of indigenous territories, the loss of traditional livelihoods, and the decline of the socio-cultural resilience of local communities.

An environmental justice approach to climate litigation also expands the use of scientific and social evidence that reveals the link between inadequate climate policies and societal vulnerability. Plaintiffs rely on scientific studies of climate risks to demonstrate that the state has a legal obligation to act on the precautionary principle (Méndez, 2020). Social narratives, on the other hand, are used to demonstrate the structural inequalities that exacerbate climate impacts, such as the inability of economies to adapt, limited access to public services, and dependence on vulnerable natural resources. This multidisciplinary approach enriches legal arguments and makes climate litigation more morally and scientifically sound, making it more difficult for courts to dismiss, which increasingly recognize the urgency and depth of the climate change problem (Setzer & Benjamin, 2020a).

Ultimately, an environmental justice approach to climate litigation focuses not only on legal victories but also on long-term structural change. Rulings derived from this perspective often encourage governments to increase the ambition of climate policies, adopt stricter protection standards, and improve mechanisms for public participation in policymaking. Furthermore, this approach strengthens civil society's role in monitoring and holding accountable those responsible for environmental damage. Thus, climate change litigation becomes a crucial instrument not only for upholding justice for affected communities but also for shaping more inclusive, sustainable, and equitable global environmental governance.

Comparison of Climate Change Litigation Regulatory Frameworks in Global North and Global South Countries

A comparison of climate change litigation regulatory frameworks between Global North and Global South countries reflects historical, political, economic, and institutional capacity differences that shape how each jurisdiction responds to the climate crisis through legal mechanisms (Setzer & Benjamin, 2020b). Global North countries generally have more mature, comprehensive, and structured environmental legal systems, built through the evolution of environmental legislation since the 1970s. These regulations typically provide a strong legal basis for civil society, environmental organizations, and even local governments to file lawsuits regarding the failure of states or businesses to reduce emissions or protect the public's right to a healthy environment. Meanwhile, Global South countries often face structural challenges, including limited institutional capacity, resource-based economic interests, and national development pressures, which make climate litigation regulatory frameworks more fragmented or less robust in terms of enforcement ("CLIMATE CHANGE LITIGATION," 2022).

In the Global North, climate change litigation is largely rooted in a legal framework that provides ample room for judicial review of climate policies. Legislation such as the Environmental Protection Acts, the Climate Change Acts, and an expanded human rights legal framework enable litigation with a clear normative foundation. Jurisprudence from countries such as the Netherlands, Germany, Norway, the United States, and the United Kingdom demonstrates a tendency for courts to recognize state responsibility for setting ambitious emissions targets and assessing whether governments are carrying out these obligations reasonably and proportionately. In this context, courts in the Global North often serve as an arena for testing state commitments to the Paris Agreement and other international standards. The availability of scientific data, government transparency, and a strong litigation culture are also contributing factors to the success of climate lawsuits in the region (Osofsky, 2020).

In contrast, in the Global South, climate change litigation often develops in a more complex context, particularly because climate issues are closely linked to national development, the economic needs of communities, and dependence on vulnerable or high-emission sectors. Environmental legal frameworks do exist, but their implementation often faces obstacles such as weak enforcement, overlapping regulations, corruption, and power imbalances between local communities and large industrial actors. Nevertheless, climate

litigation in the Global South has its own unique characteristics: it is generally based on the protection of fundamental rights such as the right to a good and healthy environment, the right to life, and the rights of indigenous peoples to land and resources. Examples from countries such as India, the Philippines, Colombia, Pakistan, and South Africa demonstrate how climate litigation is often used as a means to fight for environmental justice, protect vulnerable groups, and challenge development projects that damage vital ecosystems (Tigre & Wewerinke-Singh, 2023).

Another fundamental difference lies in the orientation of claims. Litigation in the Global North tends to focus on mitigation-based claims, such as demanding emission reductions, increased ambition of national targets, or enforcement of clean energy regulations. In contrast, litigation in the Global South is more concerned with adaptation-based claims arising from direct vulnerability to climate change impacts such as flooding, drought, biodiversity loss, and damage to coastal ecosystems and forests. This demonstrates that communities in the Global South are not only fighting for better climate policies but are also engaging with daily sustainability issues far more acutely than those in the Global North (Okedele et al., 2024). While both regions use legal channels for similar purposes, namely increasing state and corporate accountability, the socio-economic contexts create different orientations for litigation strategies and objectives.

The capacity of judicial institutions also plays a significant role in differentiating the regulatory frameworks for climate litigation in the two regions. Courts in the Global North often have stronger resources, scientific expertise, and independence, making them better equipped to handle complex cases requiring technical interpretations of emissions, climate impacts, and the causal relationship between government policies and environmental damage (Pattajoshi, 2023). In the Global South, although some countries have specialized environmental courts or progressive constitutional courts, challenges such as limited public access to legal aid, lengthy judicial processes, and political interference often hamper the effectiveness of climate litigation. However, the emergence of progressive jurisprudence from countries such as Pakistan and Colombia demonstrates that the Global South has significant potential for developing a climate litigation model oriented toward social justice and the protection of vulnerable groups.

This comparison demonstrates that while the Global North has the advantage of a more established regulatory framework, the Global South is enriching climate change litigation practices with a stronger human rights- and

environmental justice-based approach. The two complement each other in the global legal ecology, with developed countries providing technical and structural precedents, while developing countries provide moral and ethical precedents emphasizing state responsibility toward vulnerable groups most impacted by climate change. This emphasizes that climate litigation is not simply a matter of enforcing environmental law but also of expanding the meaning of justice in the context of a global crisis that demands a collective and coordinated response (Hagemann, 2022).

The Development of Legal and Argumentative Strategies in Climate Change Litigation

The development of legal and argumentative strategies in climate change litigation has undergone a significant transformation over the past two decades, as the urgency of the climate crisis and the inadequacy of state and corporate responses to it have increased. In its early stages, climate change litigation tended to grapple with the limitations of a legal framework that did not clearly define responsibility for greenhouse gas emissions, resulting in many cases focusing on procedural issues such as government negligence in enforcing environmental regulations or failure to apply environmental impact assessment standards (Stuart-Smith et al., n.d.). However, recent developments indicate that climate litigation is increasingly moving towards the use of more substantial, progressive, and innovative argumentative strategies, including the use of human rights instruments, environmental justice principles, and increasingly precise approaches to climate science. This reflects a shift from traditional environmental litigation to litigation that demands legal accountability for contributions to climate change, both from states and large businesses (Setzer et al., 2024).

The legal strategy that developed subsequently was heavily influenced by the success of several landmark cases in various jurisdictions, such as Urgenda in the Netherlands, Leghari v. Pakistan, Neubauer v. Germany, and Held v. Montana in the United States. These cases demonstrate that courts are increasingly willing to recognize the link between weak climate policies and violations of citizens' constitutional rights. Consequently, plaintiffs now frequently advance human rights-based arguments, such as the rights to life, health, a clean environment, and the protection of future generations. These arguments are becoming increasingly compelling as the climate crisis has been shown to have real, measurable, and attributable impacts, including increased disaster risk, decreased air quality, and the loss of livelihoods for vulnerable

communities. Thus, climate litigation is moving in a more progressive direction, where courts are asked not only to assess the procedural compliance of governments but also to assess the substantive adequacy of climate policies based on international scientific standards such as the Paris Agreement (Setzer et al., 2024).

Furthermore, climate science plays a significant role in strengthening argumentative strategies. In the past, one of the greatest challenges in climate litigation was establishing a causal link between the defendant's actions or omissions and the plaintiff's climate change impacts. However, advances in climate attribution science have allowed experts to quantify the probability that extreme events such as major floods, heat waves, or wildfires were exacerbated by human-induced climate change. This evidence allows plaintiffs to present more robust causal arguments, making it increasingly difficult for courts to dismiss the link between inadequate climate policies and public harm. With increasingly strong scientific evidence, many courts are now adopting a "reasonable foreseeability" approach, which holds that damages from climate change are reasonably foreseeable, requiring governments and corporations to take adequate mitigation and adaptation measures (Setzer & Higham, 2025).

The evolution of litigation strategies is also evident in the expansion of the defendant pool. While previously the primary targets, multinational corporations and the fossil fuel industry are now increasingly being sued through civil law approaches such as tort, nuisance, and negligence. The plaintiffs sought to demonstrate that the company had a significant contribution to the accumulation of global emissions, had scientific knowledge of the impact of its emissions for decades, and had failed to take sufficient action to minimize the harm. This development was evident in cases such as Milieudefensie v. Shell, which became a landmark in the push for legal corporate accountability. The arguments used relied not only on domestic legal frameworks but also on ESG principles, human rights-based due diligence obligations, and international standards on corporate social responsibility (Luporini, 2022).

In addition to substantive strategies, climate litigation is also evolving through increasingly creative procedural approaches, including class actions, public interest litigation, and lawsuits filed by young people, indigenous communities, or other vulnerable groups. The use of plaintiffs from disproportionately affected groups helps strengthen environmental justice arguments and demonstrates the unequal impacts of climate change. The presence of child and youth plaintiffs in litigation also promotes

intergenerational equity arguments, namely that states and businesses have a moral and legal responsibility to protect future generations from climate threats. The role of litigation extends beyond winning lawsuits in court; it also serves as a strategic tool to encourage public policy changes, build social pressure, and increase transparency regarding the actions or omissions of stakeholders in climate change issues (Meguro, 2020).

Overall, the development of legal and argumentative strategies in climate change litigation reflects the global dynamics in responding to the increasingly alarming climate crisis. Climate litigation now occupies a crucial position as a governance instrument beyond traditional regulatory mechanisms, with courts serving as arenas for assessing the adequacy of climate policies and demanding accountability. This transformation demonstrates that litigation is no longer merely a corrective measure, but also an interpretive and normative tool for shaping standards of behavior for states and corporations regarding the climate crisis. With growing scientific evidence, civil society support, and changing legal perceptions of climate responsibility, litigation strategies are expected to continue evolving and play a central role in guiding the world toward a more just and responsible low-carbon transition.

Future Prospects for Climate Litigation in Advancing Global Environmental Justice

Climate litigation has emerged in recent years as one of the most strategic instruments in global efforts to address the climate crisis and fight for environmental justice. This development is influenced by growing legal and scientific awareness of the relationship between human activities, environmental degradation, and human rights (Hui & Karim, 2025). Amid the increasing frequency of natural disasters, ecosystem destruction, and unequal access to natural resources, lawsuits against governments and corporations have become an important means of promoting accountability. The future outlook for climate litigation indicates a shift from traditional approaches focused on compensation to broader legal strategies to compel structural policy changes, strengthen the protection of vulnerable communities, and connect climate issues with the obligations of states and corporations at the global level.

Going forward, climate litigation is expected to increasingly focus on establishing transnational legal precedents. Courts in various jurisdictions are beginning to adopt similar legal principles, such as the precautionary principle, protection of future generations, and the right to a healthy environment as a

human right. Landmark decisions such as Urgenda in the Netherlands and Torres Strait Islanders v. Australia's position on the UN Human Rights Committee, as well as Supreme Court decisions in several Latin American countries, have paved the way for other courts to recognize state obligations to reduce emissions and protect populations from the impacts of climate change. This increasing harmonization of norms provides an opportunity for climate litigation to develop as a global legal regime binding both developed and developing countries within a framework of environmental justice. Thus, climate litigation becomes not only a local mechanism but also an arena for international discourse, encouraging states to adhere to global standards for mitigation and adaptation (Ahmed & Uddin, 2025b).

Beyond states, the future of climate litigation will increasingly place corporations as directly accountable parties. Multinational corporations, particularly in the energy, mining, and agribusiness sectors, are becoming the target of lawsuits due to their significant contribution to greenhouse gas emissions and environmental degradation. Future litigation trends indicate that courts will be more open to the use of scientific data to prove a causal link between corporate activities and climate impacts. Advances in carbon tracking technology, emissions footprint analysis, and increased supply chain transparency will enable plaintiffs to build stronger arguments. This dynamic is also supported by the development of ESG principles in business, which place environmental responsibility as part of good corporate governance. In the long term, climate litigation can encourage companies to transform through technological change, reduced fossil fuel consumption, and the implementation of a green economy (Murcott & Tigre, n.d.).

Amidst these prospects, climate litigation will also play a crucial role in strengthening global environmental justice. The disparity in climate impacts between countries in the Global North and the Global South makes litigation a space to demand a more equitable distribution of burdens and responsibilities. Developing countries, often the most impacted, despite their small contribution to global emissions, are beginning to utilize international forums and non-judicial mechanisms to sue developed countries deemed to be failing to meet their climate commitments. Going forward, the existence of the Loss and Damage Fund, the recognition of environmental rights by international forums, and the increased legal capacity of developing countries will expand opportunities for cross-border litigation. With these mechanisms, the concept of Common but Differentiated Responsibilities (CDRs) is increasingly gaining

ground in legal practice, not only as a policy principle but also as a basis for demands for compensation and reparative justice.

The future prospects of climate litigation will also depend on the interaction between legal innovation and scientific developments. An increasing number of cases rely on scientific evidence, ranging from temperature rise projections and ecological vulnerability analyses to public health impacts, enabling courts to more objectively assess responsibility for climate damage. The integration of science into legal arguments creates a more complex and multidisciplinary form of litigation. This will strengthen plaintiffs' positions and reduce the opportunity for defendants to dismiss climate change claims as speculative. With the support of digital technology, artificial intelligence, and increasingly accurate climate modeling, future litigation will have a more robust epistemological foundation (Murcott & Tigre, n.d.).

Despite its promising prospects, climate litigation still faces structural challenges such as disparities in legal capacity between states, political resistance, and difficulties in enforcing international judgments. Nevertheless, global trends indicate that litigation will continue to develop as an instrument of normative pressure on states and corporations. The role of civil society, environmental organizations, and indigenous communities will become increasingly important in initiating strategic and impactful lawsuits. Ultimately, the future prospects for climate litigation demonstrate a transformation not only within the legal realm but also in the power relations between states, markets, and societies. Through a more inclusive, transnational, and justice-based approach, climate litigation has the potential to become a crucial pillar in building a more just, sustainable, and accountable global environmental governance.

CONCLUSION

The conclusion of the study, "Climate Change Litigation: Comparative Perspectives on Environmental Justice Across Jurisdictions," demonstrates that climate change litigation has evolved into a strategic instrument for holding both states and corporations accountable for environmental damage and violations of the rights of vulnerable communities. The cross-jurisdictional comparison demonstrates that, despite differences in legal foundations, judicial approaches, and regulatory frameworks, there is a consistent pattern in which courts play a crucial role in broadening the meaning of environmental justice, particularly through the recognition of the right to a healthy environment as a fundamental human right. This development marks a

paradigm shift from merely ecological protection to upholding the substantive rights of affected communities, including indigenous communities, coastal communities, and low-income groups disproportionately affected by climate change.

This study also confirms that climate litigation serves as a corrective mechanism for slow or inadequate policy gaps in addressing the climate crisis. Landmark decisions in various countries have served as catalysts for more progressive environmental law and governance reforms, while also promoting transparency, the duty of care, and corporate responsibility. However, challenges remain related to disparities in legal capacity, unequal access to justice, and limited enforcement mechanisms in certain jurisdictions. Therefore, successful climate litigation requires synergy between strengthening regulatory frameworks, empowering communities, and harmonizing international legal approaches to ensure more inclusive and sustainable environmental justice.

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