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CLIMATE LITIGATION AND PUBLIC TRUST **DOCTRINE: LEGAL ACCOUNTABILITY IN** **HUMAN-INDUCED DISASTERS**

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ABSTRACT

Disasters are growing in an alarming frequency. Disasters like floods, landslides, sea erosion are not just mere natural processes but rather they are accelerated by human activities on ecological systems. Particularly uncontrolled deforestation, urbanisation, encroachment on riverbeds and improper environmental regulations are all factors aiding to this increased rate. This paper tries to analyse the Public Trust Doctrine (PTD) as one of the least used tools in holding the State accountable in matters of human-induced disasters in the broader spectrum of climate litigation. The Doctrine is based on the principle that several natural resources like rivers, coastline, water and air are under the trust of the State and this is for the benefit of general population. This places a fiduciary obligation on the Government to protect and conserve these resources. The paper proposes that state negligence in these instances may result in the occurrence of disasters and subsequent displacement of people. Several landmark cases along with many recent cases worldwide shows the growing development of the Doctrine and its widespread use in environment related jurisprudence. Additionally, the paper tries to analyse how the principle of Public trust doctrine have been integrated into climate litigation across the world, effectively broadening the definition to include accountability in case of disasters. Furthermore, the paper tries to identify the gaps in enforcement, judicial inconsistency and lack of international standards and suggest reforms to bridge these gaps. The paper concludes that the Doctrine when used in a consistent, purposeful way, can be a vital tool to enforce accountability in matters of Human-induced disasters.

INTRODUCTION

India has experienced a significant increase in disasters which are not solely the outcome of natural processes. Landslides, cyclones and floods in the country are increasing at a high rate not only because of extreme weather events but human-interference with delicate ecosystems plays an important role in this such as deforestation, uncontrolled urbanisation and building in ecologically vulnerable areas. The Himalayan city of Joshimath provides a great example, institutions commissioned by the Uttarakhand government following its 2023 land subsidence crisis discovered that significant damage was done by man-made factors, particularly due to unplanned construction above the capacity of the region, blocked natural drainage systems and huge infrastructure development undertaken without conducting sufficient geological examination.¹

The Wayanad landslide of 2024 is one of the deadliest landslides in the history of Kerala. The district had already been identified by the Disaster Management Authority as highly vulnerable after the 2018 floods, with authorities warning that unsustainable land-use practices that were in contravention of current standards were escalating the threat of landslides.² India has recurring problem of hazard being identified by scientific and administrative authorities, but it is not always accompanied by the required enforcement of action. It leads to a question that, in the case where the severity of a disaster is increased by the negligence or inaction of the state itself, such as by failing to act in response to its own assessments of hazards, can the state be held legally responsible. The Public Trust Doctrine (PTD) is one of the under-utilized legal provisions that can be used in this question.

The doctrine believes that the state holds resources such as rivers, forests, coastline and air in trust on behalf of the people, making it a fiduciary responsibility to preserve those resources. In 1996, *M.C. Mehta v. Kamal Nath*, the Supreme Court of India acknowledged the doctrine, which is that the Himachal Pradesh government violated this trust by distributing delicate forest land along the riverbank to private parties.³ The doctrine has since found extensive application in Indian environmental law to prevent encroachment and pollution of particular resources. Its application to disaster accountability, whether a breach of trust has a direct effect to a landslide or flood, is much less established. There are already precursors of this principle in other courts:

¹ Mishra, Praveen. 'Joshimath Subsidence Linked to Human Activity'. The Secretariat, The Secretariat, 3 November 2023. <https://thesecretariat.in/article/five-reasons-why-joshimath-subsidence-is-a-man-made-tragedy-not-a-natural-disaster>.

² Pandey, Kiran. 'Wayanad District Is Highly Vulnerable to Disaster — Data and History Are Testament'. Down To Earth, Down To Earth, 2 August 2024. <https://www.downtoearth.org.in/natural-disasters/wayanad-district-is-highly-vulnerable-to-disaster-data-and-history-are-testament>.

³ LawBhoomi. *M.C. Mehta v. Kamal Nath* (1996). <https://lawbhoomi.com/m-c-mehta-vs-kamal-nath-and-others/>

the Lahore High Court in Pakistan used the doctrine in 2015 to impose liability upon the government based on climate policy inaction.⁴

This paper argues that the Public Trust Doctrine, though rarely employed in disaster litigation in India, provides a logical framework of state responsibility in man-made disaster cases. Furthermore, this paper analyses the foundations of the doctrine, its evolution, gaps in application and suggest reforms.

PUBLIC TRUST DOCTRINE: ORIGIN AND EVOLUTION

The Public Trust Doctrine is based on the idea that certain natural resources such as air, water, sea, and coastline belong to all people and cannot be possessed individually or by the state itself. This doctrine have its roots in Roman law, in the Institutes of Emperor Justinian, these resources were proclaimed common to mankind.⁵ The idea was later stated in English common law through the Magna Carta of 1215 which guaranteed common usage of navigable and tidal waters by the public for commerce, navigation and fishing but did not permit monopolies.⁶ According to this principle, the sovereign did not own these resources but is a custodian (trustee) and all these resources had to be preserved for the public.

This doctrine was a narrow, almost dormant common-law principle until an article in the Michigan Law Review in 1970 by Professor Joseph Sax suggested it could be broadened into an effective means of environmental litigation.⁷ Sax suggested that the courts have to approach state-action limiting access by the public to natural resources with doubt, by repositioning the doctrine as a restraint on state-action that may damage environmental resources.

The application of this doctrine in India is a relatively new and it made its way into Indian law with the 1996 case of M.C. Mehta v. Kamal Nath. The ruling defined certain fundamental aspects that still influence the Indian environmental jurisprudence. Mainly, that certain natural resources are in the trust of the state which are to be used by public. Secondly, the state has positive responsibility towards the preservation of these resources.

This fiduciary framing is what sets the PTD apart as compared to other environmental regulations. This is what makes the doctrine an important tool in the context of disasters. The only thing required is that the state has failed in its fiduciary obligation to preserve a resource

⁴ Heri, Corina. 'Leghari v. Pakistan'. Climate and Human Rights Litigation Database, 25 January 2018. <https://climaterightsdatabase.com/2018/01/25/leghari-v-pakistan/>.

⁵ Duke.Edu. 2026. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1073&context=delpf>.

⁶ Duke.Edu. 2026. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1073&context=delpf>.

⁷ Chung, Jeanie. 'Precedent Setting'. The University of Chicago Magazine, 2020. <https://mag.uchicago.edu/law-policy-society/precedent-setting>.

that is in trust and that the harm that is caused by it is foreseeable and demonstrably caused by this breach.

HUMAN INDUCED DISASTERS IN INDIA

In India, some disasters occur not only due to natural factors. They do occur due to human factors as well, such as deforestation, constructing in unstable areas and disregarding the known risks. One such event is the 2023 land subsidence in Joshimath. Studies have discovered that the damage was primarily due to anthropogenic factors, such as development beyond the safe carrying capacity of the region, blocked drainage and infrastructural projects constructed without effective geological assessment.⁸

The same trend can be observed in the Western Ghats as well. It had been cautioned by expert panels, including the Gadgil Committee in 2011 and the Kasturirangan Committee in 2013, which warned that unregulated construction and deforestation in this ecologically sensitive area would increase the chances of landslides.⁹ The 2024 landslide in Wayanad, Kerala occurred in a district that had already been identified as high-risk following the 2018 floods in the state. These incidents have a common pattern, the danger is usually predictable beforehand with the help of scientific investigation and warnings, yet the authorities does not necessarily act on this information.

This possesses two legal issues, The former concerns the occurrence of the disaster itself as to who bears the responsibility when a landslide or a flood kills, injures or displaces people. The second is regarding the role of the government prior to the disaster, which is ignoring known warnings and failing to enforce regulations amount to negligence.

This is where the Public Trust Doctrine comes in to action. When the state is the trustee of forests, rivers and coastlines for the public, then any damage to them because of unregulated construction or ineffective enforcement, may be a breach of that trust. When that violation subsequently causes a disaster, it strengthens the argument that the state could be held responsible, not simply for environmental damage, but for the human harm also.

⁸ Mishra, Praveen. 'Joshimath Subsidence Linked to Human Activity'. The Secretariat, The Secretariat, 3 November 2023. <https://thesecretariat.in/article/five-reasons-why-joshimath-subsidence-is-a-man-made-tragedy-not-a-natural-disaster>.

⁹ Pandey, Kiran. 'Wayanad District Is Highly Vulnerable to Disaster — Data and History Are Testament'. Down To Earth, Down To Earth, 2 August 2024. <https://www.downtoearth.org.in/natural-disasters/wayanad-district-is-highly-vulnerable-to-disaster-data-and-history-are-testament>.

PUBLIC TRUST DOCTRINE IN INDIAN JURISPRUDENCE

Since the Kamal Nath decision of 1996, Indian courts and tribunals have gradually begun applying the Public Trust Doctrine in various environmental cases. One case is a National Green Tribunal (NGT) case concerning water bodies in Gurgaon, Haryana. The Tribunal directed the district to find and clear its water bodies, assign each a special ID, and prevent the dumping of waste into the water bodies in the society and treat water bodies as social assets the state should preserve.¹⁰

However, the doctrine was not consistently applied in all cases. In a seaport project case on a coastal site in Kerala which was ecologically sensitive, the NGT did not apply the doctrine to this case. The court provided two reasons, firstly because the doctrine could not be applied where a law or regulation had already dealt with the case and secondly, because the project was for the larger public good and no private interest was being promoted.¹¹ Studies have indicated that such an argument is inconsistent with how the Supreme Court viewed the doctrine in Kamal Nath case when the Supreme Court clarified that it continues to perform its role despite the presence of other laws. This indicates that Indian courts are not always consistent regarding the circumstances and the timing of usage of this doctrine.

This discrepancy is of particular concern to disaster cases. Mostly the doctrine has been employed to prevent harmful usage of a resource such as preventing the construction of an illegal structure or the restoration of a water body or the cancellation of an illegal lease. This raises a significant gap, did the failure of the state to protect a resource such as a forest or river, subsequently result in a disaster. It is this gap that the paper tries to address, the doctrine is defined to prevent harm to resources, but it is still not an effective tool that can be used against the state when that harm turns into a disaster.

ENFORCEMENT GAPS AND JUDICIAL INCONSISTENCY

Even where Indian courts acknowledge the Public Trust Doctrine, enforcement is a different issue. There are various parts related to this gap.

To begin with, fragmented authority a significant aspect of this gap. In India environmental enforcement is a joint responsibility between the State Pollution Control Boards and the Central Ministry of Environment, Forest and Climate Change. Considering this division of

¹⁰ Verma, Ayush. 'Public Trust Doctrine in India'. iPleaders, 22 August 2023. <https://blog.ipleaders.in/public-trust-doctrine-india/>.

¹¹ Ghosh, Shibani. *Indian Environmental Law Key Concepts and Principles*. Orient BlackSwan, 2019. <https://www.orientblackswan.com/pdfs/opaccess/html/9789352875795/chapter6/chapter6.html>.

responsibility, where nobody is completely accountable, results in ineffective enforcement.¹² The lack of coordination among Central, State and Local authorities also creates overlapping of responsibilities and uneven standards between one state to another.¹³

In addition to this, there is a resourcing issue. There are usually not enough trained personnel, funding or technical skills to carry out their work properly by the regulatory bodies responsible for environmental monitoring.¹⁴ Even basic procedures, such as factory inspection or monitoring of pollution rates, occur much rarer than what the law mandates.¹⁵

Moreover, Court orders themselves are not always followed. There are numerous environmental protection and urban planning court cases in India that are partially or not entirely enforced. In 2017, the Uttarakhand High Court was an example, granting the rivers Ganga and Yamuna the status of a legal person, with similar legal protections as a living person, after the government did not respond to its earlier directions, but within months the order was stayed on appeal by the Supreme Court, and did not come into force. This demonstrates that sometimes even powerful court order may not achieve long-term protection.¹⁶

Furthermore, another aspect of this gap is the inconsistency in how courts apply the doctrine. The Public Trust Doctrine has been accepted by the National Green Tribunal in certain instances, such as requiring the restoration of water bodies in Gurgaon, Haryana. But it was not applied in a case of a coastal seaport project, as the court framed the doctrine far more narrowly than the Supreme Court had done in Kamal Nath's case. Such inconsistency renders it difficult to determine when the doctrine will be invoked, which defeats its purpose as a reliable legal tool, especially in times of disasters.

In conclusion, these gaps show that mere recognition of the doctrine is not sufficient. Stronger coordination between authorities, adequate resource allocation, consistent judicial application are factors that strengthen this doctrine especially in the context of disasters.

¹² IndianRepublic.in. 'Enforcement vs Law — The Indian Governance Gap'. Writesaket, Blogger, 14 May 2026. <https://www.indianrepublic.in/2026/05/enforcement-vs-law-indian-governance-gap.html>.

¹³ Reddy, Jyothi. (2026). Climate Law and Environmental Governance in India: Emerging Judicial Trends. Indian JournalofLaw.4.35-52.10.36676/ijl.v4.i1.154.

https://www.researchgate.net/publication/400121601_Climate_Law_and_Environmental_Governance_in_India_Emerging_Judicial_Trends

¹⁴ Reddy, Jyothi. (2026). Climate Law and Environmental Governance in India: Emerging Judicial Trends. Indian JournalofLaw.4.35-52.10.36676/ijl.v4.i1.154.

https://www.researchgate.net/publication/400121601_Climate_Law_and_Environmental_Governance_in_India_Emerging_Judicial_Trends

¹⁵ IndianRepublic.in. 'Why Enforcement Is the Weak Link in Rule of Law'. Writesaket, Blogger, 20 May 2026. <https://www.indianrepublic.in/2026/05/why-enforcement-weak-link-rule-of-law-india.html>.

¹⁶ Saba. 'Uttaranchal High Court's Order Declaring Ganga, Yamuna as Living Entities Stayed'. SCC Times, 8 July 2017. <https://www.scconline.com/blog/post/2017/07/08/uttaranchal-high-courts-order-declaring-ganga-yamuna-as-living-entities-stayed/>.

RECOMMENDATIONS

Considering the gaps mentioned above, few reforms would assist in transforming the Public Trust Doctrine into a more reliable tool of disaster accountability in India.

To begin with, the Courts could explicitly tie claims related to disasters to the Public Trust Doctrine and Article 21. Because the right to life is already safeguarded in the Constitution and courts have interpreted that right to life includes a healthy environment. Disaster-accountability related cases are better presented on these grounds. The 2017 Ganga-Yamuna “legal person” decision indicates the risk of using new legal concepts over an old established doctrine, as it was stayed on appeal within a few months. Grounding disaster-claims on an existing recognised doctrine in connection to a constitutional right, provides more strength to the claim.

Additionally, Court orders in disaster related cases should include a monitoring mechanism to follow through. In *Leghari v. Federation of Pakistan*, it was the Pakistani High Court of Lahore which created the Climate Change Commission comprising of officials, experts and other members to ensure that the government actually followed through.¹⁷ The Indian courts can take a similar path, directing the State authorities to report on a periodical basis on whether the known hazards like those identified during landslide-risk assessment have actually been mitigated.

Moreover, enforcement accountability must be unified. In India, environmental enforcement is divided between the Central Ministry of Environment, Forest and Climate Change and the State Pollution Control Boards and it results in division of accountability between them, as there is no single unified authority. Detailed guidelines on which authority is responsible to act when a particular hazard alert has been received would help to identify the authority responsible for its failure.

Furthermore, the Public Trust Doctrine needs to be consistently applied in courts and tribunals. The National Green Tribunal has applied the doctrine in certain cases, but has refused to apply it in similar cases involving development projects. Clearer directions regarding circumstances when the doctrine is applicable would minimize this uncertainty and make it a more reliable tool for disaster litigation in the future.

All these above reforms or suggestions would help to strengthen the role of Public Trust Doctrine as a tool for climate litigation, especially in the context of human induced disasters.

¹⁷ Heri, Corina. ‘Leghari v. Pakistan’. Climate and Human Rights Litigation Database, 25 January 2018. <https://climaterightsdatabase.com/2018/01/25/leghari-v-pakistan/>.

CONCLUSION

This paper has discussed the question of whether the Public Trust Doctrine in India can be used to impose liability on the State in cases where negligence resulted in occurrence of human-induced disasters. The paper argues that it is possible, but at present it is not followed in a consistently. Joshimath and Wayanad are some of the cases where the same pattern repeats; scientific bodies and authorities document known risks, but most of the time these risks are not acted upon. This shows a gap between that what State notices and what action arises on this behalf. Since 1996 the Public Trust Doctrine has been recognised by the Supreme Court and provides Indian law with the means to address this gap. However, this doctrine has primarily been applied to prevent ongoing harm to a resource and it is rarely used to make the State accountable when the harm results in a disaster.

There are some issues that restrict the effectiveness of the doctrine. To begin with, the enforcement is fragmented and divided across various authorities, as a result sometimes even the decision of a Court is not always followed through correctly. Additionally, the application of this doctrine by the Courts is inconsistent. The papers suggests that combining a Court decision with enforcement mechanisms can mitigate this gap, for example, Pakistan using a monitoring commission.

The main idea of this paper is that, India does not require a new legal theory to attribute State accountability in human induced disasters. It already has one, which is tested and accepted for more than thirty years through various judicial decisions. Its effectiveness depends on the consistency and proper enforcement. In conclusion, Public Trust Doctrine is a significant tool that can be used in climate litigation to hold the State accountable in certain cases of human induced disasters.