e-ISSN 2582-4570

THE ROLE OF COURTS IN CONTROLLING CLIMATE CHANGE: JUDICIAL RESPONSES AND CONTINUING CHALLENGES WITH SPECIAL REFERENCE TO INDIA

Dr. Leena Jha*
Saujanya Sarkar**

ABSTRACT

The paper covers the aspect that climate change is no longer only an environmental issue but a question of justice, violation of human rights and constitutional governance and how courts globally and in India are increasingly being called upon to fill gaps and eradicate the issue of climate crisis. The paper draws on international jurisprudence, where it studies the various judgments being passed by the courts to deal with the issue of climate change. It also highlights how we are reframing climate harm as a violation of fundamental rights, embedding duties of mitigation, adaptation, and intergenerational equity into constitutional and human rights frameworks, and extending obligations to powerful private actors. The paper then moves within the landscape of India and traces the evolution from the foundational environmental jurisprudence to the more explicitly climate-oriented turn, where the Supreme Court had explicitly recognised the idea of right against the adverse effects of climate change under the Constitution of India and ordered inter-ministerial relationships to deal with the issue of climate governance. Using doctrinal and policy analysis, the paper compares these judicial developments with India's executive-led climate architecture that ultimately highlights the persistent gap between orders passed by courts and their partial implementation to regulate climate change. The paper highlights the challenges and proposes a way forward based on comprehensive climate legislation, strengthened climate institutions, enhanced judicial follow-up mechanisms, and deeper civil society participation and transparency to make judicial climate governance more effective, democratic, and durable.

Keywords: *Climate Change, Crisis, Justice, Fundamental Rights, Governance.*

I. Introduction

"Climate change is not merely an environmental issue; it is a question of justice, human rights, and survival". In the present time, the climate crisis is a prominent issue mainly driven by greenhouse gas emissions in the environment from human activity. The problem not only affects the ecosystem but also harms fundamental human rights and social stability. According to the Intergovernmental Panel on Climate Change (IPCC), human-induced emissions are the primary cause of global warming, leading to extreme weather, rising sea levels, and biodiversity loss. In India, the picture is no different, from intensifying heatwaves and erratic monsoons to glacier melt that ultimately affects society and expands the deeply existing

* Assistant Professor, Vivekananda Institute of Professional Studies-Technical Campus, Guru Gobind Singh Indraprastha University, Delhi
** Student, Vivekananda School of Law and Legal Studies, Vivekananda Institute of Professional Studies - Technical Campus, Guru Gobind Singh Indraprastha University, Delhi.

e-ISSN 2582-4570

poverty and inequality in the society. To counter the issue of climate crisis and environmental degradation, the Supreme Court of India has recognised the issue and has expanded the scope of constitutional guarantees, particularly under the ambit of right to life under Article 21 of the Constitution, to include the right to a clean and healthy environment. The court in 1986, in the case of *Subhash Kumar v. State of Bihar*[1], 1991, held that the right under Article 21 encompasses the enjoyment of pollution-free air and water. Over the years, cases such as *M.C. Mehta v. Kamal Nath*[2] and *Virender Gaur v. State of Haryana*[3] ultimately laid the strong foundation of environmental jurisprudence in India.

Around the world, to counter the issue of the climate crisis, climate litigation has emerged as a vital tool for accountability that allows courts to protect the rights of individuals living in society. A recent UNEP/Sabin report[4] notes that climate change lawsuits more than doubled globally from 2017 to 2022, making "litigation a key mechanism for securing climate action and promoting climate justice". Courts in several countries are now recognising that governments and corporations bear legal duties under constitutional, human rights, and environmental frameworks to mitigate climate change and protect vulnerable communities, which clearly highlights the role of the judiciary to counter the issue of the climate crisis. The paper explores and examines how judicial intervention, both at international and Indian levels, is ultimately feeling the governance gaps in the global climate response. The paper is mainly divided into 4 sections, where the first section covers the review of existing literature, section 2 deals with international judicial developments, section 3 deals with India's national jurisprudence, section 4 compares judicial rulings with policy actions and section 5 deals with analysing the ongoing challenges. The paper concludes with recommendations to strengthen the legal and institutional response to climate change.

The litigation in India reveals a jurisprudential path that diverges strongly from the private law-centric strategy in the global north. In the global ecosystem, the scholarship commonly bifurcates climate litigation into "horizontal" private actions against corporations (tort, contract, property, corporate law) and "vertical" public law claims against the State for regulatory or policy failures to protect the environment. In the Indian context, where private law principles have been absorbed, reinterpreted, and frequently operationalised within public law adjudication, the environmental crisis matters. The blend of horizontal and vertical public law produces a hybridised body of doctrine that both addresses environmental harms and creates new avenues for climate governance. The structural functioning of the judiciary, where, unlike many jurisdictions, in which plaintiffs pursue standalone tort or corporate law strategies, in India, private law remains largely dormant as an independent vehicle for climate claims and

1 Subhash Kumar v. State of Bihar (1991) 1 SCC 598 (Supreme Court of India).
2 *M.C. Mehta v. Kamal Nath* (1997) 1 SCC 388 (Supreme Court of India).
3 *Virender Gaur v. State of Haryana* (1995) 2 SCC 577 (Supreme Court of India).
4 Sabin Centre for Climate Change Law – Columbia Law School, 2023. *Global Climate Litigation Report: 2023 Status Review*. United Nations Environment Programme and Sabin Centre. Available at: UNEP Sabin Centre for Climate Change Law – Columbia Law School, 2023. *Global Climate Litigation Report: 2023 Status Review*. United Nations Environment Programme and Sabin Centre. Available at: Climate litigation more than doubles in five years, now a key tool in delivering climate justice (accessed 12 November 2025).

e-ISSN 2582-4570

more focus is put forward towards a system that ultimately blurs the segregation between the private and public law structure in India.

Decades of Indian case laws have anchored the idea of the right to a pollution-free environment in Article 21's protection of life. To uphold the idea the Supreme Court's recent decision in *M.K. Ranjitsinh v. Union of India*[5] Represents a doctrinal leap by recognising a distinct "right against the adverse effects of climate change" and explicitly linking it to the existing ecology of environmental rights jurisprudence. The action of the Supreme Court is considered consequential for two related reasons. Firstly, it sustains and extends an established trajectory in which the higher courts have been willing to innovate remedies that compensate and remediate environmental injury; secondly, it empowers the idea of horizontal enforcement of constitutional climate rights against private actors. The idea becomes stronger with the precedent set by the court in the case of *Kaushal Kishor v. State of Uttar Pradesh.*[6]In the case court endorsed the possibility that fundamental rights may, in certain circumstances, be enforced against non-State actors, which ultimately puts liability on the private players harming the environment by their actions. Together, these strands create a legal architecture in which claimants may choose the writ jurisdiction of High Courts or the Supreme Court to pursue redress by electing public law routes that bypass procedural and evidentiary constraints common in ordinary civil litigation.

The structural preference followed in India is not merely technical or tactical, but it reflects a deeper institutional reality in India where the constitutional benches and tribunals possess the discretion, resources, and precedent-building capacity to fashion broad, remedial orders that ordinary private suits typically cannot achieve.

It also highlights how constitutionalisation is playing a very important role in the redeployment of tort law principles through public law litigation. The record highlights a series of watershed Supreme Court decisions to establish the principle. It begins with *M.C. Mehta (the oleum leak case)*[7], where the court established a stricter principle to protect the environment. In this case, the court transformed the long-standing common law doctrines of strict liability held in the case of *Rylands v. Fletcher.*[8] Into the idea of absolute liability, where the hazardous industries are required to pay compensation based on how big and rich they are, so the bigger and more powerful companies are required to pay more because they have more resources and a greater responsibility. The jurisprudential turn paved the way for the court to articulate and entrench the polluter pays principle and precautionary principle in the case of the *Indian Council for Enviro-Legal Action* and *Vellore Citizens Welfare Forum.*[9] Thereby importing environmental protective principles into the mainstream of constitutional adjudication. A prominent theme in

---

5 *M.K. Ranjitsinh v. Union of India* (2024) SCC Online SC 446 (Supreme Court of India).

6 *Kaushal Kishor v. State of Uttar Pradesh* (2023) 4 SCC 1 (Supreme Court of India).

7 *M.C. Mehta v. Union of India*, (1987) 1 SCC 395. Available at: M.C. Mehta And Anr vs Union Of India & Ors on 20 December, 1986 [Accessed 14 Nov. 2025].

8 United Kingdom. House of Lords. (1868) *Rylands v. Fletcher*, (1868) LR 3 HL 330. Available at: Case Analysis of Ryland v. Fletcher [1868] UKHL 1, (1868) LR 3 HL 330 [Accessed 14 November 2025].

9 *Indian Council for Enviro-Legal Action v. Union of India*, (1996) 3 SCC 212.

e-ISSN 2582-4570

the literature and the idea highlighted by Varottil is that the principles established by the courts were not merely rhetorical in nature, but the principles are operational in nature, which emphasised restitution, remediation, and deterrence. The drafting of the National Green Tribunal Act 2010 and the establishment of the National Green Tribunal ultimately allowed the judiciary to implement the idea of sustainable development, the precautionary principle, and the polluter-pays principle in its decisions, thus institutionalising the doctrinal synthesis of tort ideas into statutory adjudication.

While the expansion in the judiciary, changes in the expansion of liability standards, and remedial tools have provided India with a robust repertoire for environmental litigation, the literature is emphatic about the doctrinal and practical challenges that persist mainly for private law-based climate suits. The three main problems associated with it are the identification of appropriate causes of action, the proof of causation in scientifically complex chains of causation inherent to climate harms, and the quantification of damages. Globally, the courts and commentators have wrestled with whether existing tort categories can accommodate diffuse, cumulative, and temporally extended harms; the Indian judges have sidestepped some of these difficulties by invoking public law powers and flexible standards that relax strict causation requirements and permit imaginative measures of compensation. The literature highlights certain serious uncertainties, such as the quantification methodologies used by the Supreme Court and the NGT vary widely from the range of "deep pockets" assessments (linking liability to the industrial capacity of the defendant) through percentage-of-project or percentage-of-sale-proceeds formulas, to the appointment of ad hoc expert committees or the delegation to regulatory agencies, it ultimately produces an inconsistency and sometime even opaque awards are being passed.

The role of the national green tribunal plays a pivotal role that both reflects and amplifies the Supreme Court's doctrinal experiments. It promotes the idea of implementation of sustainable development, the precautionary principle and the polluter-pays principle in society, and thus functions as a specialist forum that mitigates some of the resource and delay constraints afflicting ordinary civil courts. The scholarship also records criticisms of the NGT's practice, which includes the inconsistent damage calculation mechanism and occasional reductions in initial compensation estimates, which raise questions about the Tribunal's evidentiary rigour and methodological standardisation process. Despite these criticisms, commentators broadly agree that having a specialised forum with statutory backing for applying novel environmental remedies materially improves access to justice in the climate sphere and provides a more hospitable venue for complex, multi-party, and scientifically intense disputes than the regular court system.

The corporate law and the idea of Corporate Social Responsibility (CSR) ultimately place an obligation on the private bodies to act as vectors through which climate accountability can be advanced. The Companies Act also puts a lot of effort on the directors of the company to protect the environment. Section 166(2) of the act [10]Deals with the obligation of the director to act in the best interests not only of the company and shareholders, but also of employees, the

[10] Companies Act 2013, s 166(2) (India).

e-ISSN 2582-4570

community and for the protection of the environment. The scholar interprets that the statute language signals a distinctively stakeholder-oriented corporate law regime that compels directors to integrate environmental and climate considerations into strategic decision-making rather than treating them as mere financial risks to be disclosed. Complementarily, section 135 of the Companies Act,[11] the CSR mandate requires certain large companies to spend at least 2% of their average net profits on defined social and environmental objectives, further cementing corporate responsibility into a statutory architecture. The literature recognises the corporate law not only as a private regulatory instrument but as a public law matter. The court has recognised that corporate law, especially the companies' law, provides a public dimension to the private companies and hereby reinforces the cross-pollination where corporate governance norms buttress environmental protection and vice versa.

The contract law plays a silent but very important role in climate regulation; the contractual rules, such as the force majeure, frustration, and change-in-law, determine how climate impacts affect ongoing contracts. In India, the bigger influence comes from the governmental regulations that force the companies to support clean energy through renewable energy agreements. The Supreme Court in the case of *Hindustan Zinc Ltd v. RERC*[12] Has refused to change renewable-energy agreements even when companies asked the court to do so. The action clearly shows that the Court prioritises environmental goals over business convenience. As scholars note, these regulatory pushes turn private contracts into tools for promoting clean energy, again mixing private and public law. Even though contract law itself has not developed much in climate cases, it still helps support India's renewable-energy transition.

The Indian legal system is strongly connected between private law ideas and public law remedies. Principles like polluter-pays, absolute liability, directors' environmental duties, CSR rules, and contract frameworks all support the development of constitutional and public law solutions. At the same time, the Supreme Court and the tribunals have adapted private law by loosening strict rules on causation and damages to make remedies more flexible and effective. Varottil argues that India's climate accountability will mainly progress through constitutional and public law cases rather than private lawsuits, though private law will still play an important supporting role. This means climate litigants in India should focus on constitutional and regulatory avenues while also strengthening private law arguments for future use.

II. International Judicial Developments

Over the last few decades, the courts around the world, as well as the international justice system, have strongly addressed climate change under human rights and environmental law. The prominent international case laws and advisories issued by the International Court of Justice on climate change and crisis highlight the active role of the judiciary in protecting and dealing with environmental issues.

[11] *Id.*, s 135 (India).
[12] *Hindustan Zinc Ltd v. Rajasthan Electricity Regulatory Commission*, (2015) 12 SCC 611.

e-ISSN 2582-4570

International Court of Justice – Advisory Opinion on Climate Change (2025)

In July 2025, the ICJ delivered a landmark advisory opinion on states that puts obligations on the states regarding climate change and the issue of the climate crisis based on the question posed by the UN General Assembly[13]. The court unanimously held that the international laws and principles established in the treaty, like the Paris Agreement and customary law, impose binding obligations on the states to prevent significant climate harms, act with precaution and due diligence and also regulate the private players' actions regarding emissions and harming the environment. The court held that the affirmed target of 1.5°C under the Paris agreement is legally binding and the failure to mitigate foreseeable harm can trigger state responsibility. The ICJ critically recognised that climate change hurts the fundamental human rights, including the right to life, health and access to a healthy environment and if the state fails to adapt or mitigate action plans, then they ultimately violate the rights of the individuals.[14]. The opinion also establishes that environmental and human rights are enshrined in international law and domestic policies, such as fossil fuel licensing, subsidies, which may violate the global duties of the state to follow the principles. While the advisory is highly persuasive, analysts expect it to strengthen the legal foundation for climate action worldwide and influence national courts to promote actions to reduce the environmental crisis.

Inter-American Court of Human Rights – Advisory Opinion

In 2025, the Inter-American Court of Human Rights (IACtHR) issued a significant advisory opinion[15], in which the court clearly highlighted the connection between human rights, the right of nature and the need to address climate change. The court reaffirmed that people have an autonomous right to a healthy environment, and for the first time, the court also recognised a healthy environment as a separate right, where the court interpreted the idea of a healthy environment as to live in a climate system that is not dangerously affected by human activities. The court also stated that countries are legally required to reduce greenhouse gas emissions, prepare for climate impact, and promote sustainable development. The court highlighted that these duties must be performed under the ambit of the precautionary principle and the idea of intergenerational equity. The court in the opinion also acknowledged that Nature itself, not just human beings, has rights. It gave ecosystems such as the Amazon rainforest a kind of legal personhood, meaning they can be treated as subjects with legal rights. It further held that causing permanent or irreversible harm to the climate or nature is now considered a jus cogens norm and is a violation of international law that no country is allowed to do. The court instructed the governments to regulate corporate activities, evaluate climate-related activities and protect ecosystems and ultimately, related climate obligations firmly within the broader

[13] International Court of Justice (ICJ), 2025. *Advisory Opinion on the Obligations of States in Respect of Climate Change*. The Hague: ICJ. Available at: Historic International Court of Justice Opinion Confirms States' Climate Obligations | International Institute for Sustainable Development (accessed on 14 November, 2025).

[14] Columbia Law School Climate Law Blog**,** 2025. *Initial Reflections on the ICJ Advisory Opinion on Climate Change*. [online] Available at World's Highest Court Embraces the Right to a Healthy Environment - Climate Law Blog (accessed on 14 November, 2025).

[15] Inter-American Court of Human Rights (IACtHR), 2025. *Advisory Opinion OC-32/25 on Human Rights and the Climate Emergency*. San José, Costa Rica. Available at: Analytical Summary of Advisory Opinion OC-32/25 by the Inter-American Court of Human Rights – Climate emergency, human rights and the rights of Nature – Observatoire Nature (accessed on 14 November, 2025).

e-ISSN 2582-4570

human rights framework. The opinion marks a turning point in international law as it introduces a new, more holistic legal approach where there is a proper blend of environmental, human, and ecological rights.

Urgenda Foundation v. The Netherlands (Dutch Supreme Court, 2019)

In the Urgenda case, a Dutch environmental organisation sued the government for not doing enough to reduce greenhouse gas (GHG) emissions. The case made history when the Supreme Court of the Netherlands ruled that the government must reduce emissions by at least 25% compared to 1990 levels by the year 2020[16]. The court said that the climate crisis is not just a political issue but also a legal duty of the government to protect people's fundamental rights, especially the right to life and the right to private and family life, as guaranteed by Articles 2 and 8 of the European Convention on Human Rights. Importantly, the court rejected the government's argument that the country's share of global emissions was too small to make a difference. The court said that even a bit of pollution contributes to global warming and leads to the climate crisis, and therefore every country has a duty to act, regardless of how big or small its emissions are. The decision is seen as a turning point in the climate litigation, where, for the first time, a high court anywhere in the world ordered a government to cut emissions based on human rights. The reasoning in *Urgenda* could help strengthen the case that the government has a constitutional obligation to take strong climate action.

Leghari v. Pakistan (Lahore High Court, 2015)

In the present case, a farmer from Punjab took the government to court for not putting its National Climate Change Policy into action[17]. The Lahore High Court agreed with him and strongly criticised the delay and lethargy shown by the government. The court held that failure of implementation of the policy ultimately violates the fundamental rights of citizens, especially the right to life and dignity protected under Articles 9 and 14 of the Pakistani constitution. The court ruled that these rights include the right to live in a clean and healthy environment, while reaching into the judgement the court referred to important environmental principles such as sustainable development, the precautionary principle, inter- and intra-generational equity (fairness to future and current generations), and the public trust doctrine (the idea that the state holds natural resources in trust for the public). What made the case especially groundbreaking was that the court didn't just stop at declaring rights, but it took practical steps to implement the idea. The court ordered the government to appoint a focal person in key ministries. The court also held that to establish a climate change commission to implement and regulate the policy, it must be made up of environmental experts and members of civil society. The court also introduced the idea of "climate justice", a term used to show that climate change is not just an environmental issue but also a matter of fairness and human

[16] Supreme Court of the Netherlands, 2019. *Urgenda Foundation v. State of the Netherlands (Ministry of Infrastructure and the Environment)*, Case No. 19/00135. [online] Environmental Law Alliance Worldwide (ELAW). Available at: Urgenda Foundation v. The State of the Netherlands - ELAW: Environmental Law Alliance Worldwide(accessed on 14 November, 2025).

[17] Lahore High Court, 2015. *Asghar Leghari v. Federation of Pakistan*, W.P. No. 25501/2015. [online] Climate Change Litigation Database, Sabin Centre for Climate Change Law. Available at: Leghari v. Federation of Pakistan - The Climate Litigation Database (accessed on 14 November, 2025).

e-ISSN 2582-4570

rights. Although this ruling was specific to Pakistan, the *Leghari* case shows that courts can play an active role in forcing governments to carry out their climate promises and hold them accountable for inaction.

Neubauer et al. v. Germany (German Federal Constitutional Court, 2021)

In the present case[18]A group of young climate activists went to court to challenge Germany's Climate Protection Act of 2019[19]. The youth argued that the law, which was introduced by the government to reduce greenhouse gas emissions, where the government sets a target of reducing emissions by 55% by 2030, was not strong enough. The court in the case passed a unanimous decision, where the German constitutional court agreed and declared the law as unconstitutional. The court ordered the government to set stricter climate goals for the future, especially for the period after 2030. The judges based their decision on Article 20a of the German Basic Law (Germany's Constitution)[20], which says the state must protect the natural foundations of life for both present and future generations. The Court introduced the idea that this duty must be fulfilled "intertemporally", meaning over time. The court emphasised the idea that if today's generation uses up too much of the world's remaining budget, that is, the amount of CO_2 that can be safely emitted, it will ultimately put an unfair burden on future generations. The court also said that the law violates the young people's constitutional rights, such as the right to life and freedom. The court thought the ruling established the idea of intergenerational equity as a constitutional principle, where the idea states that we must care for the rights of future generations. It also made clear that climate laws must be based on science and fairness, and Governments cannot simply delay action or pass on the problem to future generations.

Massachusetts v. Environmental Protection Agency

In the landmark case of *Massachusetts v. Environmental Protection Agency* court passed a ruling that greenhouse gases (GHGs) include carbon dioxide and must be treated as air pollutants under the U.S. Clean Air Act. The decision meant that the Environmental Protection Agency (EPA) has the legal authority and even the duty to regulate GHG emissions if they are found to threaten public health or welfare. The court found that Massachusetts had standing in the present issue because the rising sea levels caused by climate change threatened its coastal areas, and that this harm was both real and scientifically supported. The court then examined the Clean Air Act, which defined the "air pollutants" in very broad terms, and it concluded that carbon dioxide and other GHGs would fall under the ambit of the definition and that the EPA could not avoid regulation simply by arguing that climate change was a global or political issue. The most important part of the judgement was when the court made the statement that every small reduction in emissions matters, where even if he emissions from one state or one vehicle are small, they still contribute to the global problem of climate change and will ultimately lead

[18] Federal Constitutional Court of Germany, 2021. *Neubauer et al. v. Germany*, 1 BvR 2656/18. [online] Climate Change Litigation Database, Sabin Centre for Climate Change Law. available at: Neubauer et al. v. Germany - The Climate Litigation Database (accessed on 14 November, 2025).

[19] Germany's Climate Protection Act of 2019. Available at: Federal Climate Protection Act (KSG) | UNEP Law and Environment Assistance Platform (accessed on 14 November, 2025).

[20] Germany. (1949) *Basic Law for the Federal Republic of Germany (Grundgesetz)*, Art. 20a. available at: https://www.gesetze-im-internet.de/gg/ (accessed on 14 November, 2025).

e-ISSN 2582-4570

to the climate crisis. The decision highlighted the active role of the judiciary, where the court expanded the definition in the act to ultimately protect the environment as well as to tackle the climate crisis at the world level.

PSB v. Brazil (Brazilian Supreme Federal Court, 2022) – "Climate Fund Case"

The Supreme Federal Court of Brazil delivered an important judgment in the case of *PSB v. Brazil.*[21], where the court held that the Brazilian government had violated its constitutional environmental duties by failing to properly fund the National Climate Fund. The fund was to be used for the country's climate change policies, and the lack of financial assistance from the government had made the fund inactive. The court brought the Brazilian constitution, which holds that all citizens have a right to a healthy environment, and it is the duty of the executive branch to prevent environmental harm. The case became particularly significant because the Court held that international environmental treaties, such as the Paris Agreement.[22], are not just policy goals but are "human rights" treaties. This gives them a "supralegal" status, which means they are stronger than regular laws and are almost as powerful as the Constitution itself. The interpretation by the court made the international agreement legally binding and prevented the government from claiming that fulfilling its climate promises is optional. As a result, the court ordered the reactivation of the National Climate Fund so that the country could move forward on its obligations to reduce greenhouse gas emissions and tackle climate change. This case is important for international climate law because it shows that a climate treaty can be treated as having constitutional importance. The case also shows that when a country signs a climate treaty, its courts can hold the government accountable for implementing it.

Korean Constitutional Court – Carbon Neutrality Act (2024)

In the present case, the Constitutional Court of South Korea delivered a major judgment on climate change and citizens' rights. The court reviewed section 8(1) of the Carbon Neutrality Act[23] of Korea as unconstitutional[24], which sets a goal for reducing greenhouse gas emissions.

---

[21] Supreme Federal Court of Brazil, 2022. *PSB et al. v. Brazil (Climate Fund Case)*, ADPF 708. [online] Clifford Chance. Available at: Brazilian Supreme Court recognises the Paris Agreement as a "human rights treaty" (accessed on 14 November, 2025).

[22] United Nations. (2015) *Paris Agreement*. UN Doc. FCCC/CP/2015/10/Add 1. Available at: https://unfccc.int/process-and-meetings/the-paris-agreement (accessed on 14 November, 2025).

[23] South Korea. (2021) *Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis* (Carbon Neutrality Act), Art. 8(1). Available at: Statutes of the Republic of Korea (accessed on 14 November, 2025).

[24] South Korea. (2024) *Constitutional Court of Korea, Do-Hyun Kim et al. v. Korea*, decision of 29 August 2024. Case No. 2020Hun-ma799. Unanimous ruling declaring Article 8(1) of the Framework Act unconstitutional. Available at: South Korean Constitutional Court Ruling: A Landmark Decision in Climate Litigation (accessed on 14 November, 2025).

e-ISSN 2582-4570

The law set by the act required a 40% cut in emissions by the year 2030, but the act lacked a clear target beyond that year. The court found the lack of clarity and the gap unacceptable and ruled that it violated the South Korean Constitution, especially the government's duty to protect people from the dangers of climate change. In this case, the judges' protection against climate change is a constitutional right issue; the court also recognised the right of future generations to have access to a clean environment. The court held that a legally binding system is required to be implemented to reduce emissions to their lowest level by 2050. The court, through the judgment, ordered the government to revise the law and include science-based, enforceable targets that are in line with global climate goals, like the 1.5°C limit set by the Paris Agreement[25]. The Korean Court made it clear that climate policy is not just political—it is a legal matter tied to basic human rights, and necessary steps are required to be taken to counter the issue of the climate crisis in the present time.

Milieudefensie et al. v. Royal Dutch Shell

In the present case, the District Court of The Hague (Netherlands) delivered a historic ruling.[26] Several Dutch environmental organisations and citizens sued Shell, one of the world's largest oil and gas companies, for not doing enough to fight the climate crisis. The court made a groundbreaking decision where it held that even though Shell Oil Company is a private entity, it still has a legal duty to reduce greenhouse emissions in the environment. The court held that this duty comes from the unwritten standards of care under Dutch civil law, which are informed by European Union law.[27] and the European Convention on Human Rights (ECHR)[28]. The court also referred to Articles 2[29] and 8 of the ECHR[30], which protect the right to life and the right to private and family life. The court stated that the issue of climate change effects is to be protected under the same rights. As a result, the court ordered the company to reduce its global CO2 emissions by 45% by 2030, compared to the level realised in 2019. The order covers both

[25] United Nations. (2015) *Paris Agreement*. UN Doc. FCCC/CP/2015/10/Add 1. Available at: https://unfccc.int/process-and-meetings/the-paris-agreement (accessed on 14 November, 2025).

[26] Netherlands. District Court of The Hague. (2021) *Milieudefensie et al. v. Royal Dutch Shell plc*, C/09/571932 / HA ZA 19-379. Judgment of 26 May 2021. English translation available at: Landmark decision ordering Shell to cut CO2 emissions from its global operations by 45% overturned by Hague Court of Appeal - Human Rights Law Centre (accessed on 14 November, 2025).

[27] European Union. (2000) *Charter of Fundamental Rights of the European Union*. 2000/C 364/01. Available at: EUR-Lex - 12012P/TXT - EN - EUR-Lex (accessed on 14 November, 2025).

[28] Council of Europe. (1950) *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR). Rome, 4 November 1950. Available at: https://www.echr.coe.int [Accessed 14 Nov. 2025].

[29] Council of Europe. (1950) *European Convention on Human Rights*, Art. 2 (Right to Life). Available at: https://www.echr.coe.int (accessed on 14 November, 2025).

[30] Council of Europe. (1950) *European Convention on Human Rights*, Art. 8 (Right to Respect for Private and Family Life). Available at: https://www.echr.coe.int (accessed on 14 November, 2025).

e-ISSN 2582-4570

Shell's own operations and the emissions from the use of its products, such as the fuel it sells. The reason behind the decision of the court was that Shell is a major contributor of greenhouse gases, and the company has the ability as well as the resources to make a meaningful difference in the fight against global warming. Although this decision was later partially overturned on appeal as the higher court found the 45% target to be too rigid, the core message about corporate duties and human rights remains influential. This ruling was historic because it was the first time a court directly imposed climate targets on a private corporation, not just on governments. The court linked corporate responsibility to human rights, arguing that big polluters have a precautionary duty to avoid contributing to climate harm.

Friends of the Irish Environment v. Ireland

In the present case, the Irish Supreme Court reviewed Ireland's national mitigation plan (2017-2022)[31]. The plan was brought to outline how the country would reduce greenhouse gas emissions in line with its long-term 2050 low-carbon goal. The court in the present case found the plan too vague and general in nature, and it observed that it does not meet the legal standards set by Ireland's Climate Action and Low Carbon Development Act 2015[32]. The judges unanimously agreed that the plan failed to explain clearly how the government intended to meet its climate goals, as it did not include any specific measures or interim targets that could be used as a goal and a move could be made towards it. It also observed a lack of details that are required to achieve the environmental goal; at the same time, it was non-compliant with the law. As a result, the Supreme Court struck down the plan put forward by the government and asked the government to prepare a new plan covering a more practical goal goal-oriented approach and a more detailed and vision vision-oriented path. The case did not force the government to adopt a new climate target, but the judgment made it clear that climate policies must be legally sound, transparent, and specific. The judgment also emphasised the idea of environmental democracy, the principle that promotes the idea that the public has a right to understand and evaluate government plans that affect the environment. It also reinforces the state's duty of care in addressing climate change through legally enforceable means.

Earth Life Africa Johannesburg v. Minister of Environmental Affairs, South Africa

---

[31] Ireland. Supreme Court. (2020) *Friends of the Irish Environment CLG v. The Government of Ireland & Ors*, [2020] IESC 49. Judgment of 31 July 2020. available at: Supreme Court quashes Government's 'excessively vague' climate plan (accessed on 14 November, 2025).

[32] Ireland. (2015) *Climate Action and Low Carbon Development Act 2015*, No. 46 of 2015. Available at: https://www.irishstatutebook.ie/eli/2015/act/46/enacted/en/html (accessed on 14 November, 2025).

e-ISSN 2582-4570

In the Thabametsi case, the Pretoria High Court reviewed the approval granted by the government for constructing a 1,200 MW coal-fired power plant. The project faced strong criticism from environmental activists and civil society, who argued that the government had approved it without properly assessing its impact on climate change, particularly regarding greenhouse gas emissions. At that time, South Africa's environmental laws did not explicitly mandate a climate assessment for large projects. In the current case, the court ruled that climate change is a relevant factor that must be considered before granting environmental clearance. The court stated that approving a high-emission project without evaluating its long-term climate impact was unlawful, especially considering South Africa's international commitments under the Paris Agreement. The court invalidated the approval because the government had effectively ignored the environmental assessment, which could lead to a climate crisis. This case is significant because it demonstrates the judiciary's active role in protecting the environment and combating climate change by applying principles like the precautionary principle and sustainable development.

Oposa, Ltd. v. Factoran (Philippines, 1993)

In the landmark case of *Oposa v. Factoran*,[33] The Supreme Court of the Philippines delivered a historic ruling that recognised the rights of future generations in environmental matters. A case was filed by a group of children, represented by their parents, where the lawsuit asked the court to pass an order to cancel all timber license agreements that allowed large-scale logging in the country's forests. The argument put forward by the party was that deforestation is ultimately creating an environmental crisis and violating the constitutional right to a "balanced and healthful ecology." The court stated that the children had made a powerful legal statement, where the court held that the young generation has the right to sue, not only for protecting their rights themselves but also on behalf of future generations, a view later developed as the doctrine of intergenerational responsibility. The court explained that the current generation has both legal as well moral duty to protect the environment for those yet to be born. The judgment emphasised the idea that environmental rights are fundamental and inalienable in nature, and they belong to all the people living in the society. It also made clear that natural resources are held in trust by each generation for the benefit of the next, and this trust creates enforceable

[33] Philippines. Supreme Court. (1993) *Oposa v. Factoran*, G.R. No. 101083, 30 July 1993. available at: Case Law Database | University College Cork (accessed on 14 November, 2025).

e-ISSN 2582-4570

legal obligations. The case law recognised the legal rights of future generations and the importance of youth participation in environmental protection.

III. National Judicial Developments: India

The Indian judiciary has always shown a keen interest while dealing with matters of environmental litigation, and in recent years, the court has also begun to address the issue of climate crisis and change through its observations in the cases. The intervention of the Supreme Court in environmental jurisprudence began from the 1980s onwards and has progressively evolved to expand constitutional protection of ecological rights. The landmark cases like various *M.C. Mehta* cases from the 1980s – 90s and the *Subhash Kumar v. Bihar*[34] ultimately recognised that the right to life under Article 21of the Constitution of India.[35] Guarantees a "healthy environment" to the citizens of the country. *The Vellore Citizens' Forum case*[36] also applied the precautionary principle and polluter-pays doctrine and held that sustainable development obligations arise from Article 21 of the Constitution. In the Landmark cases, such as *M.C. Mehta v. Kamal Nath*[37] and *Virender Gaur v. the* court, cemented the principles like "polluter pays" and the precautionary approach, and ultimately promoted the idea of environmental protection and obligations to safeguard public health and ecological balance.

Foundational Doctrines, early precedents that enable climate reasoning

Municipal Council, Ratlam v. Vardichand (1980)

The Supreme Court in the *Ratlam* case[38] Held that the municipal authorities are strictly accountable for taking care of public health and sanitation, and a lack of funds cannot justify exposing citizens to health hazards. The case is considered a foundation for climate reasoning because, in the present case, the Supreme Court expanded the scope of Article 21 of the Constitution.[39] This guarantees the right to life. The Court interpreted this right broadly to include the right to live in a clean and safe environment, at the same time putting a positive obligation on the state to take necessary actions to prevent threats to life and health caused by poor civic infrastructure. The present case is relevant in the climate context because it shows

[34] India. Supreme Court. (1991) *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.
[35] India. (1950) *Constitution of India*, Art. 21.
[36] India. Supreme Court. (1996) *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.
[37] *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.
[38] *Municipal Council, Ratlam v. Vardichand*, (1980) 4 SCC 162.
[39] The Constitution of India, Art. 21.

e-ISSN 2582-4570

that the courts are willing to hold public authorities accountable when administrative inaction harms public well-being and causes damage to the environment.

Indian Council for Enviro-Legal Action v. Union of India

In the landmark case of *Indian Council for Enviro-Legal Action v. Union of India* Supreme Court dealt with a serious case of chemical pollution caused by private industrial units that ultimately contaminated the soil and water in rural areas. The court, while passing the judgment, reaffirmed the principle of polluter pays, where the court held that the industries are responsible for the damage caused to the environment by the actions performed by the industries, and they are legally obligated to pay for the environmental remediation and compensate the affected communities. The case ultimately portrayed the idea of strict liability for the hazardous activities performed by the industries, regardless of whether the polluter intended the harm to the environment or not. The case ultimately cemented the idea of environmental liability in India being absolute and compensatory in nature, where the Court clarified that once pollution is proven, the burden to remediate lies entirely with the polluter. The judgment shows the initial development of the courts towards the idea of protecting the environment protect public health, natural resources, and the constitutional right to life under Article 21.

T.N. Godavarman Thirumulpad v. Union of India

The *T.N. Godavarman Thirumulpad v. Union of India*[40] *The* Case was initiated as a petition filed to prevent illegal deforestation in the Nilgiris, but the case slowly evolved into one of the most significant environmental law cases in Indian judicial history. The Supreme Court in the present case interpreted the term forest broadly under the Forest (Conservation) Act, 1980[41], and then issued a series of continuing mandamus orders that established binding directions to the executive, including Suspension of Tree Felling Across India, Formation of Central Empowered Committee, Regulation of Forest Clearance and Mining Activities, Fund Management, and Control Over State Action regarding environmental matters. *Godavarman* is doctrinally important because it established that the judiciary can actively supervise environmental governance through long-term and structured engagement, and the approach showed that public interest litigation can serve as an instrument of ongoing environmental

[40] *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.
[41] Forest (Conservation) Act, 1980, Act No. 69 of 1980.

e-ISSN 2582-4570

reform, particularly where executive inaction is persistent, and the mandamus model developed in *Godavarman* offers a strong legal template for addressing climate change.

Landmark environmental jurisprudence that enables climate claims

M.C. Mehta v. Union of India & Ors

In the series of landmark judgments under the banner of *M.C. Mehta v. Union of India*[42]The Supreme Court of India addressed grave environmental threats to the Taj Mahal and surrounding regions (Taj Trapezium Zone or TTZ). The court found that the emissions from the nearby industries, particularly from the industries using coal and coke, were ultimately damaging the white marble of the Taj Mahal by means of acid rain and particulate pollution. To counter the issue, the court issued a sweeping remedial order that includes shifting industries from the nearby areas and ordered the industries to use cleaner fuels like CNG to cause less pollution and mandating the installation of pollution-control technologies. The case laid down procedural and substantive innovations that are directly relevant to climate governance today, which includes Feasibility-based remedies where the court directed the industries to adopt cleaner fuels and control the emissions from the industry to protect the environment. Scientific evidence and engineering solutions were taken into consideration, where the court relied heavily on the technical studies, expert reports and government data to issue orders that show the court's keen interest to protect and conserve the environment as well as deal with the issue of the climate crisis. The judgments also showed that the courts can act as catalysts for state action when regulatory inertia threatens public health or the environment, an approach particularly important in the face of climate inaction.

Recent climate-era cases (2019–2025) confrontation with climate governance

Ridhima Pandey v. Union of India:

The *Ridhima Pandey v. Union of India*[43] It is generally referred to as a landmark case in the Indian judiciary in the present time that illustrates the evolving role of Indian courts in addressing the issue of the climate crisis. In 2017, a petitioner approached the National Green Tribunal (NGT) seeking judicial intervention against what she described as the Indian government's failure to adequately respond to the challenges of climate change. The petition was deeply rooted in key environmental and constitutional doctrines such as the Public Trust Doctrine, the principle of intergenerational equity, and India's binding obligations under

[42] *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.
[43] *Supra note* at 43.

e-ISSN 2582-4570

international frameworks, including the United Nations Framework Convention on Climate Change (UNFCCC)[44] and the Paris Agreement[45]. The petitioner argued that the inaction and insufficient climate mitigation plan put forward by the government are ultimately leading to the climate crisis and amount to a violation of her and the future generations that covers fundamental rights to life and a clean environment under Article 21 of the Constitution.[46]. The petition was dismissed by the national green tribunal, holding that the climate-related obligations are already addressed within the framework of the Environment (Protection) Act, 1986[47]. The tribunal further highlighted the idea that international treaties like the Paris agreement, while being ratified by India, do not automatically give rise to enforceability rights within the jurisdiction of the NGT unless the right is explicitly mentioned under the ambit of domestic law.

The matter then moved to the Supreme Court of India, and in a significant development in February 2025, the Court converted the pending appeal into a writ petition under Article 32 of the Constitution, signalling its recognition of the constitutional gravity of the issues raised. The court in the present case appointed a panel of amici curiae with the duty to assist in complex technical and legal aspects of the case, and the court also directed the Union government to submit detailed "climate rulebooks," outlining how India's domestic environmental policies align with its international climate commitments and treaties that India is a signatory to. The court also made an observation of the fragmented nature of climate policymaking in India, where the climate issues are generally left unsolved due to a lack of coordination across various departments and ordered eight key ministries, including Environment, Energy, Transport, and Finance, to ensure inter-ministerial accountability and holistic policy integration.

Doctrinally, this case represents a profound shift in Indian environmental jurisprudence, where earlier the cases addressed environmental protection through the lens of pollution control and sustainable development, but in the present case, the court directly engaged climate change as a justiciable constitutional issue. In this case, the court engaged the foundational pillars of the Constitution, that is, Article 21, Article 14, Articles 48A and 51A(g) of the Constitution of

[44] United Nations. (1992) *United Nations Framework Convention on Climate Change (UNFCCC)*. available at: https://unfccc.int (accessed on 14 November, 2025).
[45] United Nations. (2015) *Paris Agreement*. UN Doc. FCCC/CP/2015/10/Add 1. available at: https://unfccc.int/process-and-meetings/the-paris-agreement (accessed on 14 November, 2025).
[46] The Constitution of India, 1950, Art.21.
[47] The Environment (Protection) Act, 1986, Act No. 29 of 1986.

e-ISSN 2582-4570

India. The active participation of the court shows the acknowledgement of the court in the matter of the climate crisis and environmental protection.

M.K. Ranjitsinh & Ors. v. Union of India

In the case of *M.K. Ranjitsinh & Ors. v. Union of India* Supreme Court of India delivered a very transformative judgment that marks a very significant development in the idea of constitutionalisation of climate rights in India. The case was originally filed by the petitioner through a PIL mainly focusing on biodiversity conservation and specifically seeking protection for the critically endangered Great Indian Bustard. While delivering the judgment, the court expanded the scope of its address and covered the issue of the climate crisis and ecological imbalance in the environment. In the judgment, the court categorically declared that there is a right to be free from the adverse effects of climate change. The court effectively recognised climate harm as an independent and justifiable ground to get protection under the Indian Constitution.

The court in the present case for the first time explicitly highlighted the issue of climate change as a discrete constitutional concern rather than treating it as an implied subset of environmental degradation. The court recognised both Article 21 (protection of life and personal liberty) and Article 14 (right to equality)[48], thereby creating a robust constitutional framework that elevates climate protection from the realm of policy discretion into the sphere of enforceable rights. The shift also indicates the affirmation of positive State obligations to prevent and mitigate climate-related harm. The court also reaffirmed the idea that climate change does not affect all citizens equally and that vulnerable populations such as the poor, tribal communities, and marginalised groups disproportionately bear its consequences of the environmental crisis. It ultimately allowed the path of the litigants to challenge discriminatory or inequitable climate policies. The court, by linking climate protection to constitutional equality the court effectively placed a legal obligation on the State to ensure that mitigation and adaptation measures are inclusive, participatory, and just.

State of Maharashtra v. Government of India

In *State of Maharashtra v. Government of India*[49]*The* National Green Tribunal was called to resolve a dispute concerning the environmental clearance granted for a major development project. The central government highlighted that the project was passed following all the

[48] The Constitution of India, 1950 Arts. 14 and 21.
[49] *State of Maharashtra v. Government of India*, (1995) 3 SCC 646.

e-ISSN 2582-4570

required statutory compliances, and by conducting a study on the environmental impact assessment process. The court on the under hand made a significant observation where it held that there is a need to explicitly recognise the urgent and pressing reality of climate change in the environment, the court held that infrastructure and development projects must be evaluated not only for their conventional environmental impacts (such as deforestation, biodiversity loss, and pollution) but also on the parameter of "climate footprint" which includes anticipated greenhouse gas (GHG) emissions and their cumulative impact on climate systems.

The court laid down an important groundwork for the future generation in the field of environmental governance in India. The court's observation shows a judicial shift towards mainstreaming climate risk into statutory environmental process, and it also put forward the idea that climate change should not be an afterthought but a core component of decision-making at all levels of infrastructure planning and environmental approvals, as it ultimately aligns with the emerging global standards such as integrating climate impact assessments as part of environmental due diligence.

IV. Comparative Analysis: Court Decisions vs Government Responses

In the last few decades, the Indian judiciary has actively participated in addressing the issue of climate change and protecting the environment. To do so, the court has not treated it merely as a policy issue but as a matter of constitutional rights and the protection of the fundamental rights of the citizens. The trend can be seen in landmark cases of *Ridhima Pandey v. Union of India.*[50]Originally dismissed by the National Green Tribunal (NGT) in 2019 because climate obligations were already integrated into domestic environmental policies under the Environment Protection Act, the Supreme Court took a different stand on the issue and observed that the existing statutory framework requires reform to incorporate "climate-centric mandates." The court also ordered the eight key ministries to be impleaded as parties to ensure inter-ministerial coordination and policy coherence on climate governance.

If we make a shift towards the case of *M.K. Ranjitsinh & Ors. v. Union of India*[51] The Supreme Court issued a judgment explicitly declaring that the "right to a clean environment" and the "right to be free from the adverse effects of climate change" are constitutionally protected under Article 21 (right to life) and Article 14 (right to equality)[52]. The judgments by the court clearly

[50] *Supra note* at 43.
[51] *Supra note* at
[52] The Constitution of India 1950, Arts. 14 and 21.

e-ISSN 2582-4570

showed the active participation of the courts towards environmental matters. At the same time, the evolution where climate change is recognised not just as an environmental concern but as a rights-based issue embedded within India's constitutional framework.

Judicial Directives and Mandates

Indian courts have issued several climate-related directives to counter the issue of the climate crisis and environmental issues that creating a robust constitutional response to the climate crisis. The court has mandated inter-ministerial coordination. In the case of *Ridhima, the* court integrated eight ministries to overcome fragmented policy efforts and promote a cohesive national climate strategy. The court had also directed a meticulous review of all existing environmental statutes, such as those governing pollution control, forests, and biodiversity, with a view to embedding climate-oriented provisions and mandates. The process will ultimately help in transforming India's environmental laws into more climate-responsive legal instruments to deal with the prevailing issue, as well as to it will also help in dealing with international commitments. The judiciary has unequivocally recognised the constitutional dimensions of climate harm. In the *M.K. Ranjitsinh & Ors,* the court found that climate protection is subsumed within the fundamental rights under articles 14 and 21 of the Indian Constitution[53], ultimately creating a powerful legal foundation for future climate litigation. These interpretations have ultimately allowed the courts and tribunals to routinely invoke these articles to assess whether governmental climate inaction constitutes a rights violation of the citizens. Finally, the court had also established an institutional mechanism for oversight and keeping the governmental organisation in check in environmental matters. In the Ridhima Pandey case, the court, apart from appointing expert amici, the Court directed the government to file updated reports on emissions regulations. At the same time, the court also asked for periodic status updates from the ministries. These measures mark a shift toward continuous judicial monitoring and accountability, similar to continuing mandamus models used in earlier environmental cases.

Government Climate Policy and Implementation

India's climate strategy is primarily driven by the executive action of the central and state governments through the process of national missions, sectoral programs and policy guidelines, rather than through a dedicated climate-change statute. The foundational plan launched by the government to counter the issue of climate change is the National Action Plan on Climate

[53] The Constitution of India 1950. Arts. 14 and 21.

e-ISSN 2582-4570

Change (NAPCC)[54], launched in 2008. The plan outlined eight core missions, which include the National Solar Mission, National Mission for Enhanced Energy Efficiency, Sustainable Habitat Mission, Water Mission, Himalayan Ecosystem Mission, Green India Mission, Sustainable Agriculture Mission, and the National Mission on Strategic Knowledge for Climate Change. These missions are led by respective nodal ministries, which implement the schemes within the allocated departmental budgets. The state government have also initiated State Action Plans on Climate Change (SAPCCs)[55], to counter the issue of the climate and environmental crisis. The state department focuses more on the regional environmental priorities, such as drought resilience, agricultural sustainability, water security, and coastal vulnerability.

At the national level, the national solar mission has been a flagship success, where the original target set by the government was 100GW of solar capacity by 2022; India achieved the target in July 2025 by achieving the solar capacity of 119GW[56]. As of 2025, renewable energy, which includes wind and solar energy, accounts for 50.1% of the country's 484.8 GW.[57] Total power generation capacity, thereby surpassing India's COP26 commitment to reach 50% non-fossil electricity capacity by 2030, ahead of schedule. The government have also initiated Transport decarbonization through the National Electric Mobility Mission Plan[58] (NEMMP 2020) and related schemes. While the policy initially aimed to deploy 6 to 7 million electric and hybrid vehicles by 2020 and to achieve the target India have adopted a more ambitious target in COP26[59], where the government have adopted the target of reaching the 30% of new passenger car sales, 70% of commercial vehicles, and 80% of two- and three-wheelers to be electric by 2030[60]. To support the plan, the government have also implemented policies such as the FAME

[54] Government of India. (2008) *National Action Plan on Climate Change (NAPCC)*. Prime Minister's Council on Climate Change. available at: doc202112101.pdf [(accessed on 14 November, 2025).

[55] Government of India. (Various years) *State Action Plans on Climate Change (SAPCCs)*. Ministry of Environment, Forest and Climate Change.

[56] Government of India. (2025) *The Solar Surge: India's Bold Leap Toward a Net Zero Future* (Press Note). Press Information Bureau, 19 August 2025. available at: Press Note Details: Press Information Bureau (accessed on 14 November, 2025).

[57] Government of India. (2025) *The Solar Surge: India's Bold Leap Toward a Net Zero Future* (Press Note). Press Information Bureau, 19 August 2025. available at: Press Note Details: Press Information Bureau (accessed on 14 November, 2025).

[58] Government of India. (2013) *National Electric Mobility Mission Plan (NEMMP) 2020*. Ministry of Heavy Industries. Available at: https://heavyindustries.gov.in (accessed on 14 November, 2025).

[59] Government of India. (2021) *India's Commitments at COP26 – Electric Mobility Targets*. Ministry of Environment, Forest and Climate Change. available at: https://moef.gov.in (accessed on 14 November, 2025).

[60] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. Available at: https://climateactiontracker.org/countries/india/ (accessed on 14 November, 2025).

e-ISSN 2582-4570

(Faster Adoption and Manufacturing of Hybrid and Electric Vehicles) scheme[61] and the PM-E-DRIVE incentive program[62]. India has also launched the National Green Hydrogen Mission, with a target to produce 5 million tonnes of green hydrogen annually by 2030, supported by 125 GW of renewables and energy-efficiency programs[63]. The actions clearly demonstrated the government's active participation in environmental protection. India's Updated Nationally Determined Contribution (NDC), submitted in 2022[64] under the Paris Agreement, commits to reducing the emissions intensity of GDP by 45% by 2030 compared to 2005 levels. The government also highlighted the idea of creating carbon sinks of 2.5–3 billion tonnes of CO_2 through afforestation and reforestation by 2030[65].

Key Climate Data to understand the real situation

India, in the last few decades, has made visible progress in expanding the scope of using clean energy to fulfil the energy requirement of the country, yet the action plan initiated by the government is insufficient to meet the long-term goals and ideas set under various treaties and charters signed at the international level. According to the report of Climate Action Tracker (CAT)[66] The current climate policies and Nationally Determined Contributions (NDCs) are rated "Highly Insufficient.". the county has achieved some of the goals that they had set to be achieve by 2030 ahead of the schedule, then also the country is still on a pathway where the emission is projected to rise beyond 2030 and coal to continue as a dominating player for electricity production. India's total emission in 2024 was around 3,900 $MtCO_2e$, the highest amount globally, out of which coal contributes more than 75% which is used for the process of electricity generation despite dropping to 47% of installed capacity[67]. Though 2024-25 marks a turning point in the energy system of India, with a shift being made by the government towards non-fossil fuel sources contributing massively towards new electricity generation,

[61] Government of India. (2015) *Faster Adoption and Manufacturing of Hybrid and Electric Vehicles (FAME) Scheme*. Ministry of Heavy Industries. available at: https://fame2.heavyindustries.gov.in (accessed on 14 November, 2025).

[62] Government of India. (2024) *PM-E-DRIVE Scheme*. Ministry of Heavy Industries. available at: https://heavyindustries.gov.in (accessed on 14 November, 2025).

[63] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. Available at: https://climateactiontracker.org/countries/india/ (accessed on 14 November, 2025).

[64] Government of India. (2022) *India's Updated Nationally Determined Contribution (NDC) under the Paris Agreement*. Ministry of Environment, Forest and Climate Change. available at: Press Release: Press Information Bureau (accessed on 14 November, 2025).

[65] Government of India. (2022) *India's Updated Nationally Determined Contribution (NDC) – Section on Forestry and Carbon Sinks*. Ministry of Environment, Forest and Climate Change. available at: Press Note Details: Press Information Bureau (accessed on 14 November, 2025).

[66] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. Available at: India | Climate Action Tracker (accessed on 14 November, 2025).

[67] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. Available at: India | Climate Action Tracker (accessed on 14 November, 2025).

e-ISSN 2582-4570

renewable generation still only accounts for about 22–25% of total power[68]. This reflects a structural gap between clean energy installation and actual energy generation, due to limited grid storage, policy delays, and transmission constraints.

The National Electricity Plan 2023 (NEP2023) set an ambitious target of 350 GW of electricity produced from renewable sources by 2026-27[69]. But in reality, the progress is slower than required, where over 100 GW of the new capacity is still needed to meet the interim target set by the government additionally the climate crisis and extended summer heatwaves in India have ultimately riven record electricity demand, further increasing reliance on fossil fuels, including coal and gas, especially during peak evening hours when solar is not available. The country continues to develop fossil fuel infrastructure, where over one billion tonnes of coal were produced in FY2024-25; similarly, new coal plants are being constructed beyond NEP thresholds. The government is also promoting the use of cleaner fuels like fossil gas, which can ultimately lead to long-term fossil lock-in. India's EV sector is also showing very slow growth, where the adoption of EVs in the private car segment is below 2.5% similarly, India has yet to adopt a coal phase-out plan or an economy-wide emission reduction target for 2035[70]. The updated Nationally Determined Contributions[71] Aim to strengthen emission-intensity targets, but do not introduce an absolute emission reduction obligation that ultimately acts as a loophole. The update keeps the land use and forestry goals unchanged, which ultimately makes the goal of achieving net zero emissions by 2070 a target hard to achieve due to a lack of near-term, actionable pathways.

IV. Critical Challenges and Gaps in Judicial Climate Governance

Despite the growing momentum in the field of environmental protection, the issue of the climate crisis in India remains a significant challenge. Although the judiciary has emerged as an active participant in addressing this issue, the outcomes have not been effective due to

[68] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. Available at: India | Climate Action Tracker (accessed on 14 November, 2025).

[69] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. available at: India | Climate Action Tracker (accessed on 14 November, 2025).

[70] Climate Action Tracker. (2024) *India Country Snapshot – Policies & Action*. available at: India | Climate Action Tracker (accessed on 14 November, 2025).

[71] Government of India. (2022) *India's Updated Nationally Determined Contribution (NDC) under the Paris Agreement*. Ministry of Environment, Forest and Climate Change. available at: 2022 NDC Synthesis Report | UNFCCC (accessed on 14 November, 2025).

e-ISSN 2582-4570

certain gaps and critical challenges affecting the influence of the judiciary in real-world climate outcomes.

Absence of a Dedicated Climate Law

One of the biggest and most integrated issues is that India does not have a special law made specifically to deal with the topic of climate change. Due to the lack of statute, the court has to depend on general laws of the Environmental Protection Act or on the constitutional rights interpretation made by the court to deal with the matter of the climate crisis and environmental protection. These laws do not specifically deal with the rising issue of climate change and crisis, so they are not always strong or clear enough to address complex climate issues. The Supreme Court, in various judgments, has highlighted the idea that a lack of well-drafted statutes ultimately leads to a scattered and incomplete legal response to climate change, where different cases are treated differently, and there is no single, well-organised system to guide how the government and courts should act. Lack of well well-organised system to guide how the government and the court should deal with the issues of the climate crisis and the changing climate is causing significant adverse effects, it is also forcing the courts to give case-by-case directions, which may not have a long-term or consistent impact.

Limits of Judicial Power

Climate change and crisis are deeply connected with the ideas of economic planning, energy usage by the state and international agreements entered into by the state; all these areas are generally controlled by the government and parliament, not by the courts. In countries like India, the idea of separation of powers is quite prevalent between different organs of the government under Article 50 of the Indian Constitution[72], so the judiciary can only ask the government to take action to control the climate crisis, but the courts cannot actively participate in drafting and managing the policies to counter the problem. The courts also do not have the expert knowledge or resources needed to decide on technical or long-term climate matters. This creates concerns about whether courts are the right place to handle such large-scale policy decisions.

Weak Enforcement After Rulings

Another issue associated with the problem of climate governance is the lack of access to justice. In India, the whole public interest litigation (PIL) framework has allowed several pathbreaking

[72] The Constitution of India 1950. Arts. 14 and 21.

e-ISSN 2582-4570

environmental cases, but not all affected communities in society, such as farmers facing droughts or urban slum dwellers suffering from heat stress, have the resources or legal knowledge to approach the courts to deal with the issue of the climate crisis. Delays in the litigation process also reduce the impact of judicial intervention, as seen in cases like the *Ridhima Pandey* case.[73], for example, which remain undecided years after it was filed. Even when the judgment is passed by the court, the issue of enforcement arises, where a lack of active participation from the government, coordination between ministries, and competing political interests can delay or dilute the implementation of climate-related orders.

Global Problem, Local Powers

Climate change is a transboundary crisis, and it knows no national borders, resulting from cumulative global greenhouse gas emissions over decades. The courts, on the other hand, operate within the limits of national sovereignty. Indian courts, including the Supreme Court, can only deal with the issue of climate crisis within the country, but they cannot conduct a major dissection on the issues of major polluting countries, which makes it harder to deal with global warming fairly, this jurisdictional limitation presents a fundamental challenge in dealing with the issue of climate change and crisis where courts in India may order strong domestic action to deal with the issues of environment but they cannot influence the major emitters such as China, the United States, or members of the European Union, as a result even after taking effective judicial action at the national level the overall impact in the crisis of climate change have limited impact on the overall trajectory of global warming. To deal with the issue, the court in *M.K. Ranjitsinh v. Union of India* Indian Supreme Court explicitly acknowledged CBDR-RC, signalling its willingness to incorporate global environmental justice norms into constitutional interpretation.

Balancing Climate Goals with Development

In developing countries like India climate challenge is uniquely complex in nature, where the government as well as the courts are required to strike a balance between economic development and protecting the environment. In developing counties the governments are required to face the pressing demand for job creation, infrastructure, housing, energy access, and poverty alleviation and to do so the key ingredient required is to have access to energy and for country like India with such a massive population depending on renewable source of energy is real hard as it will ultimately effect the developmental growth of the society so the state is

[73] *Supra note* at 43.

e-ISSN 2582-4570

required to use fossil fuels to meet the present needs of the people. Restricting the use of fossil fuel to counter the climate crisis will harm the economy, where millions of people will lose their jobs that are functioning with the help on fossil fuels.

The judicial balance is evident in several landmark cases passed by the courts, where the court, in various cases, has mandated to use of cleaner fuel and stricter emission control means to deal with the issue of the climate crisis rather than putting a complete ban on industrial activities or in use of fossil fuels. The decisions reflect the Court's attempt to harmonise ecological concerns with India's growth trajectory.

Institutional Fragmentation

The issue of climate change crosses the ambit of multiple sectors, such as power, transportation, agriculture, forestry and industry and each sector has its own ministry and regulatory body and as observed by the Supreme Court in the case of *Ridhima Pandey.*[74] That ministries are working in silos and no single ministry has an overall climate mandate, and even within the departments, the power is divided among various directors, ultimately creating an issue in dealing with the matters of the climate crisis. The lack of coordination between the governmental bodies ultimately creates a situation where neither of the ministers is functioning to deal with the issue of the climate crisis and the changing climate. The court in the case of *M.K. Ranjitsinh v. Union of India*[75] Ordered the eight ministries to come together and make a uniform institutional framework. The decision by the court clearly shows the lack of coordination and unity among the various ministries of the government in dealing with the issue of climate change and crisis.

VI. Conclusion and Suggestions

Given the challenges to deal with and practically counter the issue of climate change and crisis, multiple reforms are required to be brought by the government at the institutional as well as at the societal level to achieve the potential of climate justice. To achieve the goal of climate protection and counter climate cris change is required to bring brought into the institutional, legislative, judicial, and civil society.

Comprehensive Climate Legislation

[74] *Ibid.*
[75] *Supra note* at 5.

e-ISSN 2582-4570

To deal with the issue of climate change and the crisis in India, developing countries like India are required to adopt a dedicated, overarching national climate change law. The statute would move beyond the current patchwork of policies and notifications issued by the government, scattered across the MoEFCC, various energy and resource-sector regulations, and state-level environmental rules. The climate law would create a coherent, legally enforceable architecture for mitigation, adaptation, and climate governance. The statute will establish clear, binding emission reduction targets, including national carbon budgets aligned with India's long-term decarbonisation pathway. The statute must mandate sector-specific emission trajectories for key areas such as energy, industry, transport, and agriculture, as it will ultimately help the various ministries of the government to deal with the issue of climate change and make policies accordingly. India can also be influenced by Germany's Climate Protection Act of 2019[76], which clearly incorporates the idea of sectoral budget-triggered compulsory corrective measures whenever a sector exceeds its allocated limits. The law will also bind the successive governments to meet Nationally Determined Contributions (NDCs) and prevent policy backsliding, and will also constitute a central climate authority to monitor progress, coordination, and inter-ministerial implementation of the set standards and publish a periodic compliance report. The law will also expand legal standing for citizens, communities, and civil society organisations, enabling them to challenge governmental or corporate non-compliance before courts or specialised tribunals.

Strengthening Institutions

To deal with the issue of climate change in India, a robust long-term climate institution is required to be established that supports the idea of planning, monitoring and enforcement. Effective information cannot be sustained through ad hoc bodies or fragmented departmental mandates, so to deal with the issue, a permanent Climate Commission or a specialised national-level green tribunal with enhanced climate jurisdiction is needed that will be mandated to oversee the implementation of climate policy, track emission pathways, evaluate compliance with India's NDC commitments, and advise the government on corrective measures. The idea was also highlighted in the case of *Leghari v. Federation of Pakistan*[77], where the Lahore High Court asked the government to constitute an independent climate change commission to

[76] *Federal Climate Protection Act (Klimaschutzgesetz – KSG)*. Federal Law Gazette I, p. 2513. available at: https://www.gesetze-im-internet.de/ksg/ (accessed on 14 November, 2025).

[77] Lahore High Court, 2015. *Asghar Leghari v. Federation of Pakistan*, W.P. No. 25501/2015. [online] Climate Change Litigation Database, Sabin Centre for Climate Change Law. available at: Leghari v. Federation of Pakistan - The Climate Litigation Database (accessed on 14 November, 2025).

e-ISSN 2582-4570

monitor the progress on the implementation of the national climate change policy, and this commission will regularly submit a report to the government highlighting the progress and also shortcomings while implementing the policy. The government can also empower the already existing institutions, such as the National Disaster Management Authority (NDMA), Central Electricity Authority (CEA), Central Pollution Control Board (CPCB), with statutory climate mandates, enabling them to integrate climate considerations into disaster preparedness, power planning, industrial regulation, and national development strategies.

Judicial Accountability Measures

Courts always play a very important and centralised role in climate governance, and their effectiveness depends not only on nth clarity of the judgment they have passed but also on the institutional mechanisms they craft to ensure compliance. The Indian courts are required to adopt a well-structured follow-up system, especially in complex environmental and public interest litigations. To do so, the courts can establish specialised climate benches or designated judicial rosters to deal with climate-related issues, similar to the policy followed by the environmental courts to employ dedicated judges, streamlined procedures, and expedited hearings. Such specialisation will enhance judicial expertise, reduce delays, and ensure continuity in monitoring.

The second mechanism is the mandating of periodic status reports. The report will ultimately keep the government accountable, as well as will ultimately force the government to track the process of environmental protection with utmost efforts. The courts must set up interim deadlines directing ministries to file compliance affidavits and requiring time-bound corrective action to initiate the process. Courts are required to institutionalise the use of technical committees, court-appointed advisers, or amicus curiae with climate expertise, enabling judges to evaluate complex scientific data, emission trajectories, and policy trade-offs with greater precision. It will ultimately develop a structured docket system where the climate cases are tracked and reviewed at fixed intervals, and linked to clear milestones and will promote accountability.

Finally, the judges are required to be provided with regular training programmes on climate science, carbon budgeting, mitigation pathways, adaptation frameworks, and international climate obligations, as it will ultimately deepen the judges' understanding of the judges and would ensure that judgments align with administrative and technological constraints, thereby promoting decisions that are both legally sound and practically workable.

e-ISSN 2582-4570

Civil Society and Public Participation

Judicial interventions in climate governance can only achieve their fullest impact when they are supported by active civil society engagement. Courts, through their judgments, can articulate rights, set standards, and mandate compliance, but the enforcement and social legitimacy of those decisions are strengthened when citizens, NGOs, youth groups, and the media collectively monitor and reinforce governmental accountability. India's present climate litigations show the same trend, as in the cases of *Pandey and Ranjitsinh* Petitions themselves have emerged from youth-led and civil society-driven activism, demonstrating how participatory mobilisation can shape high-level judicial action. The role of civil society expands beyond the scope of filing Public Interest Litigations (PILs), the civil society through the means of Environmental organisations, community groups, research institutions, and journalism should actively contribute to implementation of climate protecting ideas to counter the issue of climate crisis at the same time they can also collaborate with the regulators through evidence-based submissions on pollution levels, scrutiny of Environmental Impact Assessments, and participation in public consultations mandated under environmental law. The groups can also exploit the democratic tools such as the Right to Information (RTI) Act to uncover delays, policy gaps, or non-compliance, thereby equipping courts with credible data and maintaining pressure on administrative agencies.

At the same time, enhancing transparency and access to climate information is critical to sustaining this ecosystem of oversight. The government is required to establish a real-time national climate dashboard to track emissions by various sectors, progress made toward NDCs, and the additions made by the government in the field of renewable energy. It will ultimately empower the citizens to verify claims and independently evaluate compliance.

The global and Indian judicial developments reviewed above demonstrate the growing willingness of the courts to deal with the issue of climate change and eradicate the climate crisis, but the change is underlined by enduring obstacles. Internationally, the courts and the tribunals have recognised the environmental stability with human rights and that a state cannot treat the issue of climate protection as an optional measure. Both European as well as in South Asian courts have highlighted the explicit duty of the state to cut emissions and adopt a cleaner alternative. The ruling affirms that both the state and powerful private actors bear legal duties to mitigate emissions, adapt to climate impacts, protect vulnerable communities, and respect the autonomy of nature itself. The courts have begun to close the governance gaps by treating human rights treaties, environmental norms, and climate agreements as binding and justiciable.

e-ISSN 2582-4570

Indian judicial journey to protect the climate crisis fits the border pattern of the world's norm but follows a distinctive trajectory. The courts over the decades related the environmental jurisprudence with the constitution, which ultimately constitutionalised the right to a healthy environment under Article 21 of the constitution. And operationalised principles like polluter pays, absolute liability, sustainable development, and the precautionary principle that ultimately promoted the idea of protecting the changing climate. The Indian courts have shown a gradual shift from "environmental" reasoning to explicitly "climate" reasoning, where, in cases such as *Subash Kumarr* and *MC Mehta* laid the institutional and doctrinal foundations for robust public law intervention. Most recently, the development in the case of *Ridhima Pandey and M.K. Ranjitsinh* is considered a landmark as it ultimately laid down the foundation of recognising a distinct right against the adverse effects of climate change under Articles 14 and 21 of the Constitution, highlighting the idea of intergenerational and distributive justice and insisting on inter-ministerial coordination and climate-sensitive statutory interpretation. These intervention from the side of the court highlights the severity of climate change, not simply a policy failure but a potential constitutional wrong.

The analysis also reveals that the judicial action itself cannot bring such a massive change in society and establish a just and effective climate transition; a continuous structural gap ultimately limits the transformative potential of climate adjudication. The absence of a dedicated climate statute compels the courts to stretch general environmental and constitutional provisions in ways that put over-reliance on case-by-case mandates. The issue of separation of powers also restricts the courts from functioning in a restrictive manner. The Indian economy, on the other hand, is strongly dependent on coal, which fulfils the energy requirements; at the same time, slow EV adoption, infrastructure lock-in, and "highly insufficient" implementation of NDCs underscore the tension between development imperatives and climate justice, and highlight a persistent gap between constitutional promise and material reality.

Against such a challenging backdrop the way forward lies in embracing a model of climate governance in which the legislature, the executive the judiciary and the civil society holds a key role to play, where the state is required to adopt a well-drafted climate law on the back drop of science-based carbon budgets, sectoral trajectories, and binding interim targets that will ultimately provide a normative backbone that is currently missing, converting fragmented policies into a coherent, enforceable framework. The other requirement is to establish a permanent climate commission, empowered green tribunals, and climate-mandated regulatory bodies can ultimately translate the judicial principles into routine administrative practice and

e-ISSN 2582-4570

develop sustained monitoring. Other developments can be made by bringing procedural reforms, which include climate benches, systematic use of expert committees, periodic compliance reporting, and judicial capacity-building in climate science and policy.

Finally the climate governance will depend on vibrant civil society engagement and deeper democratisation of climate information where the youth must actively participate in the issue of climate crisis by means of initiation of petition in the courts, community mobilisation, research-driven advocacy, and the strategic use of transparency tools like RTI will ultimately help in keeping pressure both on the state as well as on the private corporate bodies ensuring that judicial pronouncements do not remain on paper.