INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

CONSTITUTIONAL CONTRADICTIONS IN THE ANTHROPOCENE: BALANCING THE FUNDAMENTAL RIGHT AGAINST CLIMATE CHANGE WITH THE IMPERATIVE OF RENEWABLE INFRASTRUCTURE

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Abstract

The emergence of the Anthropocene has prompted a significant transformation in environmental constitutionalism, particularly the acknowledgment of climate change protection as a basic right. However, executing this mandate requires the swift implementation of utility-scale renewable energy infrastructure, resulting in a significant "Green vs. Green" structural dilemma. This study analyzes the constitutional conflict between the overarching requirement for global climate reduction and the essential need to protect local biodiversity and socio-ecological justice. This research employs the Indian Supreme Court's pivotal M.K. Ranjitsinh ruling and the conservation crisis of the Great Indian Bustard as a primary case study to underscore the rising threats of "Constitutional Extractivism," in which state-driven decarbonization initiatives unintentionally displace marginalized rural populations and harm fragile ecosystems. The analysis dismisses dependence on ad-hoc judicial balancing via the Proportionality Test or the Precautionary Principle to address this deadlock. It promotes the interpretive principle of "Harmonious Construction," alongside a "Just Transition" framework that emphasizes localized renewable energy infrastructure. The paper ultimately concludes that incremental judicial interventions are insufficient, advocating for the establishment of a comprehensive "Climate Change Act" to institutionalize cross-sectoral carbon budgeting, mandate integrated socio-environmental impact assessments, and guarantee participatory grassroots governance.

Introduction

The Anthropocene Epoch: A Jurisprudential Rupture

The Anthropocene is a proposed geological epoch that marks the beginning of a time when human activities have had a deep, widespread, and often permanent effect on the Earth's

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ecosystems. This has fundamentally changed the basic ideas behind traditional legal systems.[1] Environmental law was created during the Holocene, a time when the climate was relatively stable. As a result, traditional legal doctrines were based on a reactive, localized, and human-centered way of thinking.[2] The legal frameworks that have been developed over the past century have primarily been designed to prevent localized point-source pollution, regulate certain hazardous substances, or safeguard particular regions, viewing the natural world as a static, limitless backdrop to human activity.[3] However, our understanding of environmental constitutionalism needs to drastically shift in the Anthropocene.[4] Humans are now more than just inhabitants of Earth; they are a force that affects the planet's geology. This has led to changes on a planetary scale, such as climate change, ocean acidification, and faster mass extinction events.1[5] During this unprecedented socio-ecological crisis, domestic and international legal systems must contend with intricate, non-linear environmental dynamics.[6] Traditional rights frameworks, which are based on liberal individualism and Westphalian territorial sovereignty, have a hard time dealing with the climate crisis's collective, transboundary, and intergenerational aspects.[7] As a result, environmental constitutionalism has come about as a new legal response that wants to make ecological needs a part of the highest level of government.[8] States want to make ecological survival a fundamental right by adding environmental protections to the Constitution, either directly or by broadly interpreting fundamental rights. This gives the judiciary the constitutional power to enforce climate change mitigation and adaptation strategies against both public and private entities. This changes environmental protection from a policy goal to a constitutional duty.

Problem Statement: The "Green vs. Green" Paradox

While the constitutionalization of climate rights represents a vital evolutionary step in legal theory, it concurrently introduces a profound structural paradox. The urgent, scientifically

[1] Louis J. Kotzé, Six Constitutional Elements for Implementing Environmental Constitutionalism in the Anthropocene, in IMPLEMENTING ENVIRONMENTAL CONSTITUTIONALISM: CURRENT GLOBAL CHALLENGES 13 (Erin Daly & James R. May eds., 2018).
[2] Transformative Environmental Constitutionalism's Response to the Setting Aside of South Africa's Moratorium on Rhino Horn Trade - MDPI, accessed on February 26, 2026, https://www.mdpi.com/2076-0787/6/4/84
[3] Grzegorz Libor & Piotr Żuk, *New Environmental Controversies: Towards a Typology of Green Conflicts*, 15 SUSTAINABILITY 1914, 1–18 (2023).
[4] Supra Note 1.
[5] Supra Note 1.
[6] Does Nature Need Rights? | Oxford Journal of Legal Studies, accessed on February 26, 2026, https://academic.oup.com/ojls/article/45/4/839/8162991
[7] Lael K. Weis & Robert Mullins, *Does Nature Need Rights?*, 45 Oxford J. Legal Stud. 839 (2025).
[8] Louis J. Kotzé, *Environmental Constitutionalism*, IUCN Acad. Env't L.: Essential Readings in Env't L. (Feb. 2013), https://www.iucnael.org/en/documents/1275-environmental-constitutionalism.

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incontrovertible mandate to mitigate climate change requires the rapid and massive deployment of renewable energy infrastructure, such as utility-scale solar parks and wind farms.[9] But striving to achieve these low-carbon technology sometimes goes against traditional ideals for safeguarding the environment, which leads to intense "Green vs. Green" confrontations.[10]

For instance, a mega-solar project could hurt a local population or a delicate ecosystem by breaking up habitats, killing birds, or taking away common grazing area. But the project's advantages for the climate would be felt all around the world. This situation pits two sets of environmental values against each other: macro-level climate change mitigation and micro-level biodiversity protection and social-ecological justice.[11]

The legal issue is clear: what should a constitutional court do when the "solution" to a proven rights violation (the grave threat of climate change) also violates other core human and environmental rights? Using renewable energy isn't good for the environment because it takes up a lot of land, alters how water flows in the area, and breaks up animal corridors.[12] The State often employs a bigger story about a "national climate imperative" to ignore local environmental problems and launch long legal fights when it buys land for these projects.[13]

Thesis: Proposing a "Harmonious Construction" Approach

This research posits that the contemporary environmental constitutional state cannot resolve "Green vs. Green" conflicts through a rigid hierarchy of rights, wherein climate mitigation automatically trumps biodiversity, or vice versa. Nor can it rely on a zero-sum adjudicative model that sacrifices local ecosystems at the altar of global carbon sinks. Instead, the resolution of the green-energy-rights conflict necessitates the rigorous application of the "Harmonious Construction" doctrine.

Rooted deeply in Indian constitutional interpretation, the doctrine of Harmonious Construction posits that conflicting provisions or in this context, conflicting ecological and developmental imperatives must be read together to give maximum effect to both.[14] Courts must avoid

[9] Chloe Brenner, Green vs Green: Conflict Between Renewable Energy and Biodiversity Loss, U.S. Env't Pol'y: Nicholas Sch. of the Env't at Duke Univ. (Apr. 16, 2024), https://blogs.nicholas.duke.edu/env212/green-vs-green-conflict-between-renewable-energy-and-biodiversity-loss-chloe-brenner/.

[10] Id.

[11] Id at 3.

[12] Adaptation of solar energy in the Global South: Prospects, challenges and opportunities - PMC, accessed on February 26, 2026, https://pmc.ncbi.nlm.nih.gov/articles/PMC10979074/

[13] Hasdeo Arand: Why is the Chhattisgarh Forest at the Center of a Coal Mining Controversy?, **BBC News** (Jan. 5, 2024), https://www.bbc.com/news/world-asia-india-67860481.

[14] Sri Venkataramana Devaru v. State of Mysore, AIR 1958 SC 255 (India)

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interpretations that render either objective a "dead letter" or "useless lumber".[15] When applied to environmental constitutionalism, this doctrine demands that the right to a stable climate and the right to a pristine local ecology must be harmonized.[16]

To operationalize harmonious construction in the Anthropocene, courts, and legislatures must pivot from an anthropocentric paradigm of utilitarian climate mitigation toward an ecocentric model of sustainable development. This requires moving beyond mere judicial deference to executive bodies. It requires the incorporation of rigorous proportionality assessments, the implementation of decentralized energy transition frameworks, and the formulation of comprehensive, statutory climate legislation that reconciles abstract constitutional rights with the tangible realities of infrastructure deployment.

The Constitutionalization of Climate Rights

From Environment to Climate: An Evolutionary Trajectory

The acknowledgment of a fundamental right against climate change in Indian jurisprudence is not an abrupt judicial innovation but the result of a protracted evolution of environmental constitutionalism spanning decades. At first, the Constitution of India, 1950, did not clearly protect an environmental right. However, after the Stockholm Declaration of 1972[17] and the 42nd Constitutional Amendment in 1976[18] Articles 48A and 51A(g) became part of the Constitution. Article 48A set up a Directive Principle of State Policy that required the state to "endeavour to protect and improve the environment and to safeguard the forests and wild life," and Article 51A(g) put a similar Fundamental Duty on every citizen.[19]

The Indian Supreme Court utilized these provisions as interpretive tools to expand the scope of Article 21, which guarantees the fundamental right to life and personal liberty.[20] In important cases like Subhash Kumar v. State of Bihar (1991)[21] and Virender Gaur v. State of Haryana (1995)[22], the Court made it clear that the right to life is not just a protection against being deprived of life; it also includes the right to live with dignity, which means having a clean, safe, and pollution-free environment.[21] For nearly four decades, this generalized "right to a clean environment" served as the bedrock for public interest litigation addressing localized

[15] Comm'r of Income Tax v. M/S. Hindustan Bulk Carriers, (2003) 3 SCC 57 (India).
[16] M.K. Ranjitsinh v. Union of India, (2024) INSC 280 (India).
[17] Declaration of the United Nations Conference on the Human Environment, June 16, 1972, 11 I.L.M. 1416
[18] The Constitution (Forty-second Amendment) Act, 1976 (India).
[19] India Const. art. 48A; id. art. 51A, cl. (g)
[20] Id. art. 21.
[21] Subhash Kumar v. State of Bihar (1991) 1 SCC 598
[22] Virender Gaur v. State of Haryana, (1995) 2 S.C.C. 577 (India).

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environmental degradation, industrial pollution, and deforestation.[25]

However, the diffuse, systemic, and non-linear nature of the Anthropocene necessitated a more targeted jurisprudential tool. The critical jurisprudential rupture arrived in 2024 with the Supreme Court of India's landmark judgment in *M.K. Ranjitsinh & Ors. v. Union of India & Ors*[23], presided over by Chief Justice D.Y. Chandrachud. In a historic decision, the Court made it clear that people have a separate "right to be free from the bad effects of climate change."

The Court said that the right to a clean environment and the right against climate change are "two sides of the same coin," but it made a clear distinction between the two. This change in the law recognizes that climate change brings about unique and life-threatening dangers, including extreme weather events, changing monsoon patterns, glacial lake outbursts, and systemic food and water insecurity that go beyond traditional, localized environmental pollution. It firmly establishes climate governance not merely as a statutory obligation, but as a paramount constitutional safeguard.

Article 21: Dignified Existence in a Stable Climate

The way that Article 21[24] talks about climate is very important legally. The Supreme Court said that a stable climate is necessary for a dignified human existence by linking it directly to the right to life.[25] The Court said that the chaos caused by climate change, such as rising global temperatures, the spread of diseases carried by insects, and severe food and water shortages, directly violates the right to health, the right to a job, and the right to a home, all of which are established parts of Article 21.

This line of thought comes from global climate litigation, especially the Dutch Supreme Court's decision in Urgenda Foundation v. The Netherlands[26]. In Urgenda, a citizen's group used Articles 2 (right to life) and 8 (right to private and family life) of the European Convention on Human Rights (ECHR)[27] to make the Dutch government take strong steps to cut greenhouse gas emissions by 25% from 1990 levels. The Urgenda court decided that the State had a legal duty to protect its citizens from dangerous climate risks because of the serious risks of climate change.

[23] Id at 17.
[24] India Const. art. 21.
[25] Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647 (India).
[26] Hoge Raad der Nederlanden [HR] [Supreme Court of the Netherlands], 20 Dec. 2019, ECLI:NL:HR:2019:2007 (Neth.).
[27] Convention for the Protection of Human Rights and Fundamental Freedoms arts. 2, 8, Nov. 4, 1950, 213 U.N.T.S. 221.

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The Indian Supreme Court's use of Article 21 also moves climate governance from a policy area where the government has a choice to make to a set of state obligations that must be followed by law. It stresses that the government has a positive, affirmative duty to protect the biological substrate of life for its citizens by stopping climate harm that can be predicted. This means that if the government doesn't do anything to reduce emissions or prepare for climate risks, it's not just a policy failure; it's also a violation of a basic constitutional right.

Article 14: Equality and Climate Justice

Perhaps the most innovative and far-reaching aspect of the *Ranjitsinh* judgment is its anchoring of the right against climate change within Article 14 the right to equality before the law and equal protection under the law. Environmental degradation and climate volatility are not distributed equitably; their effects are inherently asymmetrical, disproportionately affecting socio-economically vulnerable populations.

The Court took a complex, recognition-based approach to climate justice. It made it clear that indigenous peoples, forest dwellers, tribal communities, agricultural workers, and people who live in ecologically fragile areas (like the Lakshadweep islands) do not have the financial, social, and infrastructure strength to deal with climate shocks. When states do nothing or don't do enough to stop climate change, the resulting crop failures, droughts, and forced displacements are a systemic denial of equality.

The Court made this intersectionality very clear: if a region experiences severe water shortages or environmental damage, wealthy people have the money to find other resources, move, or use new technologies. In stark contrast, poor communities suffer huge, often permanent losses to their health and livelihoods. Consequently, the inability of underserved communities to cope with climate impacts violates the fundamental right to equality under Article 14. By weaving Article 14 into its climate jurisprudence, the Court established that climate justice is intrinsically linked to constitutional equity. It demands that state policies must not only reduce aggregate emissions but must prioritize the protection and capacity-building of those populations most vulnerable to the Anthropocene's extremes.

Constitutional Provision	**Traditional Environmental Interpretation**	**Anthropocene Climate Jurisprudence (M.K. Ranjitsinh)**
Article 21 (Right to Life)	Right to clean air, water, and sanitation against localized,	Right against the adverse, systemic effects of climate

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	point-source pollution (*Subhash Kumar, Virender Gaur*).	change (extreme weather, disease vectors, food/water scarcity).
Article 14 (Right to Equality)	Equal application of environmental regulations and pollution control standards across industries.	**Climate Justice:** Protection against the disproportionate vulnerability and systemic inequality exacerbated by climate shocks on marginalized communities.
Article 48A & 51A(g) (Duties)	State and citizen duties to protect forests, wildlife, and localized ecosystems.	Foundational constitutional mandate to actively pursue national climate mitigation and uphold international environmental commitments.

The Renewable Imperative & Ecological Trade-offs

The Paris Agreement Goals and State Duty

The acknowledgment of a constitutional right to combat climate change demands prompt and vigorous state intervention to reduce greenhouse gas emissions. India is a major global economy and a key signatory to the United Nations Framework Convention on Climate Change (UNFCCC)[28] and the Paris Agreement.[29] It has also promised to make very ambitious Nationally Determined Contributions (NDCs). At COP26 in Glasgow, the Indian government promised to cut the emissions intensity of its GDP by 45% by 2030 (compared to 2005 levels) and to reach a huge goal of 500 GW of installed electrical capacity from non-fossil fuel sources by 2030. This is in line with the global goal of keeping the average temperature rise to 1.5°C above pre-industrial levels.[30]

To reach this goal of 500 GW, we need to build up our renewable energy infrastructure on a scale that has never been seen before, almost like in wartime. The Central Electricity Authority

[28] United Nations Framework Convention on Climate Change, May 9, 1992, S. Treaty Doc No. 102-38, 1771 U.N.T.S. 107.

[29] Paris Agreement to the United Nations Framework Convention on Climate Change, Dec. 12, 2015, T.I.A.S. No.
16-1104, 3155 U.N.T.S. 79.

[30] *A Breath of Fresh Air: Indian Supreme Court Declares Protection from Climate Change a Fundamental Right*, HHR J. (Apr. 20, 2025), https://www.hhrjournal.org/2025/04/20/a-breath-of-fresh-air-indian-supreme-court-declares-protection-from-climate-change-a-fundamental-right/.

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has made detailed plans that show that adding this huge amount of renewable energy will require building more than 50,000 circuit kilometers of high-capacity transmission lines and buying large, connected pieces of land for solar parks and wind farms.[31] The government sees building this infrastructure not only as an important economic goal for the country, but also as a legal duty to do so and a constitutional duty to make the newly recognized right against climate change a reality. It is absolutely necessary to move away from a power grid that relies on coal in order to protect the Article 21 rights of current and future generations.

Case Study: The Great Indian Bustard (GIB) Conflict

The conflict between the macroeconomic push for renewable energy infrastructure and the microeconomic need for localized ecological preservation reached its peak in the M.K. Ranjitsinh court case. The case's factual matrix focused on the critical habitat of the Great Indian Bustard (GIB), a bird species native to the dry grasslands of Rajasthan and Gujarat. The GIB is classified as "critically endangered" by the IUCN[32] and is protected under Schedule I of the Wild Life (Protection) Act, 1972[33], with a surviving wild population of fewer than 150 individuals.[34]

The primary proximate cause of the GIB's rapid decline and imminent extinction was identified as overhead high-voltage power transmission lines. The birds, which are heavy and possess poor frontal vision, frequently collide with these lines, resulting in fatal electrocutions and physical trauma. Tragically, the optimal natural habitat for the GIB, The sun-drenched, windswept deserts of western India directly overlaps with the country's most resource-rich zones for solar and wind energy potential.

In an initial order issued in April 2021, the Supreme Court adopted a strict conservationist and precautionary stance. The Court mandated a blanket ban on the installation of new overhead transmission lines across a massive 99,000 square kilometer area (encompassing both priority and potential GIB habitats) and directed the mandatory conversion of existing low and high-voltage lines to underground cables within a year.

However, the Union Ministries of Power, Environment, and New and Renewable Energy subsequently petitioned the Supreme Court for a modification of this 2021 order. The

[31] Id.

[32] BirdLife International, *Ardeotis nigriceps*, IUCN Red List of Threatened Species (2018), https://www.iucnredlist.org/species/22691932/134188105.

[33] Wild Life (Protection) Act, 1972, sch. I (India).

[34] Supreme Court Review 2024: Speaking Green, Acting Grey on Key Environmental Issues, Sup. Ct. Observer (Jan. 10, 2025), https://www.scobserver.in/journal/supreme-court-review-2024-speaking-green-acting-grey-on-key-environmental-issues/.

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government argued that the blanket undergrounding requirement was technically unfeasible for high-voltage lines (due to transmission losses and fault detection challenges in shifting desert sands), economically prohibitive. The government said that moving all high-voltage lines underground was not possible because of problems with energy loss and finding faults in shifting desert sands. It would also cost too much and make it harder for India to reach its goal of 500 GW of renewable energy as part of the Paris Agreement. The State essentially put forward a profound legal contradiction: delaying the growth of renewable energy in the area to protect one species would keep India dependent on fossil fuels, making the global climate crisis worse and violating the environmental rights of all people under Article 21.[35]

The Supreme Court agreed with the government's argument in its March 2024 decision. The Court changed its 2021 order to lift the blanket ban and limit the undergrounding mandate to a much smaller "priority area" of about 13,163 square kilometers. Furthermore, even within this priority area, the undergrounding of lines was made subject to technical feasibility, to be determined on a case-by-case basis by a newly appointed seven-member expert committee. The Court made it clear that it was important to find a balance between protecting biodiversity and fighting climate change through renewable energy. It ruled that a blanket ban would make it harder for the country to reach its larger environmental goals. This decision exemplifies the archetypal "Green vs. Green" conflict: the authorized sacrifice of local ecological integrity and the potential extinction of a critically endangered species to facilitate infrastructure deemed vital for planetary climate stabilization.[23]

Constitutional Extractivism

The prioritization of large-scale renewable projects over local ecological and community interests has birthed a phenomenon increasingly categorized by academic scholarship as "Constitutional Extractivism" or "Green Extractivism".[36] This concept posits that the transition to low-carbon energy, while technologically distinct from fossil fuel dependency, often replicates the very dynamics of capital accumulation, land dispossession, and socio-ecological marginalization that characterized the carbon economy.

In regions like Rajasthan, the deployment of mega-solar parks (such as the Bhadla Solar Park, the world's largest) requires vast, contiguous tracts of land.[37] These lands are frequently

[35] id.
[36] *Authoritarian Extractivism in India*, Transnat'l Inst. (Nov. 30, 2021), https://www.tni.org/en/article/authoritarian-extractivism-in-india.
[37] id.

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classified by the state apparatus as "wastelands" or "unproductive deserts," an administrative categorization that willfully ignores complex socio-ecological realities. Such spaces, including sacred groves known as *Orans*, are often vital open natural ecosystems and common lands relied upon by agro-pastoralists, nomadic herders, Dalit agrarian laborers, and marginalized Adivasi communities for their livelihoods, fodder, and cultural sustenance.[38]

The state's use of eminent domain, land acquisition laws, and fast environmental clearance processes to take these lands for corporate-led renewable infrastructure is an example of an extractive mechanism. Constitutional extractivism happens when the government uses the idea of a "national climate imperative" and the constitutional requirement to reach "net-zero" goals to justify this systemic dispossession. The newly recognized constitutional rights to a clean environment and stable climate are being used as weapons to justify moving rural people and harming local biodiversity.

This method puts abstract, quantified national emissions targets ahead of localized social justice, community involvement, and ecological sustainability. As a result, the "green transition" could become an exclusionary project that gives corporations more power over energy generation while shifting the social and environmental costs, which economists call "negative externalities," to the most vulnerable groups in society. This would go against the equity principles in Article 14.[39]

Theoretical Frameworks for Resolution

The Precautionary Principle vs. The Proportionality Test

The adjudication of environmental conflicts in India has historically relied heavily on the Precautionary Principle, a foundational norm of international environmental law formally integrated into domestic jurisprudence by the Supreme Court in the *Vellore Citizens Welfare Forum v. Union of India* case.[40] In its robust, 'strong' iteration, the principle dictates that in the face of threats of serious and irreversible environmental damage, a lack of full scientific certainty shall not be used as a reason to postpone preventive measures. Crucially, it reverses the traditional burden of proof, requiring the proponent of an activity (e.g., a solar park developer or the state) to conclusively demonstrate that their project is environmentally benign before proceeding. Under a strict precautionary approach, the mere risk of the GIB's extinction

[38] id.

[39] Pradip Kumar Sarker et al., Actors Involved in Environmental Governance at the National Level, in Local Governance and Resource Management: Case Studies from Bangladesh, 9 Forests 1, 8 tbl.1 (2018), https://www.mdpi.com/1999-4907/9/4/188/htm.

[40] 26 *Vellore Citizens*, 5 SCC at 648.

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would have mandated the absolute cessation of overhead power lines, regardless of the corresponding impact on solar energy capacity.[41]

However, the unprecedented complexities of the Anthropocene and the advent of intractable "Green vs. Green" conflicts have catalyzed a judicial pivot away from strict precaution and toward the Proportionality Test.[42] When competing constitutional imperatives collide such as the Article 21 right to climate mitigation (necessitating power lines) versus the Article 21 right to a healthy local ecosystem (necessitating the absence of power lines) courts increasingly employ proportionality to balance the competing rights. This entails a systematic, multifaceted evaluation assessing: (1) the validity of the state's objective; (2) the appropriateness of the measure to attain that objective; (3) the necessity of the intervention (pursuing the least restrictive alternative); and (4) a rigorous comparison of the benefits obtained against the rights violated.

The Court implicitly preferred proportionality to precaution in the Ranjitsinh decision. It weighed the localized, immediate risk to the GIB against the systemic, global risk of not moving away from fossil fuels. The Court said that the 2021 blanket ban on overhead lines was too harsh because it almost stopped the country's progress toward renewable energy, which put the broader human right against climate change at risk. Proportionality provides a practical and adaptable framework for addressing constitutional impasses; however, critical environmental scholars caution that it may undermine essential ecological protections. It enables states to rationalize localized ecological degradation via utilitarian cost-benefit analyses presented as essential climate action, potentially concealing constitutional extractivism beneath the facade of equitable adjudication.

Intergenerational Equity

Intergenerational equity forms the moral and philosophical fulcrum of modern climate litigation. It asserts that present generations do not own the Earth but hold it in trust, and must bequeath the planetary environment to future generations in a state that is no worse than what they got. The Ranjitsinh judgment, along with other cases from around the world, makes it clear that there is a constitutional duty to keep the climate system stable and livable for future generations.

[41] The Indian Supreme Court's Inconsistent Application of the Precautionary Principle, NLUJ L. Rev. (July 10, 2021), https://nlujlawreview.in/constitutional-law/the-indian-supreme-courts-inconsistent-application-of-the-precautionary-principle/.

[42] *Proportionality and Precaution*, Glob. Const. (2020), https://www.cambridge.org/core/journals/global-constitutionalism/article/proportionality-and-precaution/9E48931F3609B7A3ADB6CD9D442BF327.

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In "Green vs. Green" conflicts, intergenerational equity poses a significant ethical dilemma. Is it necessary to quickly and aggressively install renewable infrastructure now to protect future generations from catastrophic global warming, even if it means losing ancient species like the GIB forever? Or does intergenerational equity necessitate the maintenance of comprehensive, unbroken ecological networks, positing that a future lacking biodiversity is as deficient and unsustainable as one devastated by climate change? To solve this problem, we need legal systems that don't see climate change and protecting biodiversity as two separate things. Instead, the law should see them as parts of planetary health that depend on each other and work together to improve it. This is because healthy ecosystems are important carbon sinks and climate regulators.

Eco-centrism vs. Anthropocentrism: Re-evaluating the Public Trust Doctrine

The Public Trust Doctrine (PTD) is a historic legal principle mandating that sovereigns hold specific natural resources traditionally navigable waters, coastlines, and riverbeds in trust for the public, precluding their privatization and ensuring access for common use. The Indian Supreme Court, notably in the landmark case of *M.C. Mehta v. Kamal Nath*, dramatically expanded the scope of this doctrine to encompass all ecologically vital resources, including air, forests, and fragile terrestrial ecosystems.[43]

In the Anthropocene, leading legal scholars advocate for further evolving the PTD into "Atmospheric Trust Litigation," arguing that the state possesses a non-derogable fiduciary duty to protect the Earth's atmosphere from destabilizing GHG pollution.[44] This conceptual expansion strongly aligns with the International Court of Justice's (ICJ) historic 2025 Advisory Opinion on Climate Change.[45] The ICJ unanimously affirmed that states possess binding, *erga omnes* obligations (obligations owed to the international community as a whole) under customary international law to prevent significant harm to the climate system. The ICJ established a "stringent due diligence standard," demanding that states utilize the "best available science" (such as IPCC reports) to limit warming to 1.5°C, effectively operating as a global, customary iteration of the public trust.[46]

However, applying the PTD in domestic "Green vs. Green" scenarios exposes the deep fault

[43] M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (India).
[44] Public Trust Doctrine, Manupatra Acad. (last visited Feb. 26, 2026), .
[45] *The International Court of Justice Issues Advisory Opinion on the Obligations of States in Respect of Climate Change – Overview and Impact*, McCarthy Tétrault: Can. ERA Perspect. (Apr. 15, 2025), .
[46] id.

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lines between anthropocentric and eco-centric legal philosophies.[47] A purely anthropocentric The application of the PTD could justify sacrificing the GIB's habitat to construct large solar farms, prioritizing long-term human survival and utility through climate mitigation. On the other hand, an eco-centric application based on the "Rights of Nature" paradigm would require the protection of the habitat regardless of its usefulness for human climate goals, acknowledging the GIB's inherent right to exist.[48]

Moving forward, constitutional courts must synthesize these approaches. They must recognize that human survival is inextricably reliant on complex ecological biodiversity. This demands the enforcement of infrastructural designs that respect both the atmospheric trust (by reducing carbon) and the terrestrial trust (by preserving habitats), refusing to accept the false binary that one must be destroyed to save the other.[64]

Legal Framework / Doctrine	**Application in Traditional Environmental Law**	**The Challenge in "Green vs. Green" Conflicts**	**Proposed Anthropocene Adaptation**
Precautionary Principle	Ban polluting activities if environmental harm is scientifically uncertain but potentially severe.	**Conflict:** Which harm to prevent? The certainty of climate change (inaction) or the certainty of biodiversity loss (action)?	Integrate with Proportionality to force technological innovation that yields the least ecologically destructive climate solution.
Public Trust Doctrine	Protect specific resources (rivers, forests) from corporate privatization and depletion.	**Conflict:** Atmosphere vs. Land. The state must protect both the climate sink and the physical biological habitat.	Evolve into **Atmospheric Trust** balanced by strict eco-centrism (recognizing intrinsic Rights of Nature).
Harmonious Construction	Reconcile competing statutory clauses to maintain legislative intent and prevent	**Conflict:** Reconcile the constitutional right to climate stability with the constitutional right	Mandate infrastructural redesign (e.g., decentralized grids) that fulfills both rights

[47] Melanie Murcott, *Transformative Environmental Constitutionalism's Response to the Setting Aside of South Africa's Moratorium on Rhino Horn Trade*, 6 Arts 84 (2017), .
[48] Id.

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	contradictions.	to localized ecological health.	simultaneously without trade-offs.

Towards a "Just Transition" Framework

Decentralized Renewables: Mitigating Land-Use Conflicts

To unravel the constitutional deadlock between the urgent imperative of renewable energy To protect ecological and community rights for future generations, a strategic, systemic shift in how infrastructure is built is needed. India's current development path strongly favors large, centralized "mega-solar" and wind parks that can be used by many people. Projects of this size need a lot of land to be bought all at once, which leads to constitutional extractivism, displacing farmers' livelihoods, and permanently breaking up important habitats like those of the GIB.[49]

A constitutionally compliant "Just Transition" framework necessitates a shift from this pronounced spatial concentration to decentralized renewable energy systems. Putting a lot of emphasis on distributed energy resources, like big rooftop solar mandates, agro-photovoltaics (putting solar panels on top of farms), localized micro-grids, and only putting installations on industrial land that is already heavily degraded or has already been converted, can greatly reduce the energy transition's geographic footprint.[50]

Decentralization fundamentally transforms the political economy of energy. It turns people in local communities who were once just bystanders into "prosumers" (producers and consumers) of clean energy. This connects the big-picture benefits of fighting climate change with the small-picture benefits of economic growth. Decentralized systems structurally eliminate the main cause of "Green vs. Green" conflicts by reducing the state's never-ending need for contiguous, ecologically sensitive land. This lets national climate goals move forward quickly without hurting local biodiversity or breaking Article 14 rights for rural people who are already at risk.

Judicial Review Standards and Scientific Uncertainty

The adjudication of climate-infrastructure disputes is inherently plagued by deep scientific and epistemological uncertainty.[51] Judges, trained in constitutional interpretation rather than environmental engineering or conservation biology, are frequently tasked with evaluating

[49] Id at 35.
[50] Id at 13.
[51] *Just Energy Transition in India: Policy Modelling and Implementation*, Paper Presented at the American Economic Association Annual Meeting (Jan. 2026),

ISSN: 2582-6433

complex statistical modeling regarding species extinction probabilities, high-voltage transmission loss ratios, and national carbon abatement metrics.

In Indian environmental jurisprudence, the prevalent judicial response to this epistemological deficit is heavy deference to executive-appointed expert committees.[52] In the *Ranjitsinh* modification order, the Supreme Court deliberately refrained from micromanaging the technical feasibility of undergrounding power cables, instead delegating the binding decision-making power to a specialized seven-member committee. Judicial deference is frequently rationalized as a pragmatic imperative to prevent institutional overreach and uphold the separation of powers; however, uncritical dependence on technocratic entities may lead to the infringement of constitutional rights. Expert committees often operate with mandates heavily skewed toward economic viability, grid stability, and technical expediency, potentially sidelining socio-ecological justice and concerns about biodiversity.

For a truly just transition, courts must raise the level of judicial review in cases where there is scientific uncertainty about the environment. The ICJ's 2025 Advisory Opinion called for "stringent due diligence" based only on the "best available science" (like the IPCC consensus).[53] This means that domestic courts must carefully look at expert committee recommendations. Judicial review should actively evaluate whether these expert bodies have sufficiently quantified the concealed environmental costs of renewable projects (e.g., life-cycle emissions of solar panels, long-term habitat loss, transmission inefficiencies) and whether they have thoroughly assessed decentralized, less detrimental alternatives. The courts must ensure that the state does not exploit scientific uncertainty as a tool to prioritize speed over environmental safety.

Participatory Governance

A genuinely "just" energy transition cannot be enforced solely through top-down mandates by central planners and judicial edicts; it must possess procedural legitimacy at the grassroots level. One of the main reasons people are against renewable projects is that they feel like they have no say in the decisions that affect their communities. This is also a key part of constitutional extractivism. The principles of constitutional environmental democracy must guide the building of climate infrastructure. This means that strong participatory governance must go beyond the judicial branch.

[52] Robert L. Glicksman, Judicial Review of Scientific Uncertainty in Climate Change Lawsuits, 15 Geo. Wash. J. Enge. & Env't L. 1 (2024), .

[53] *Obligations of States in Respect of Climate Change*, Advisory Opinion, 2025 I.C.J. (Apr. 24).

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To do this, the legal requirements for buying land for renewable energy must include strict rules for Free, Prior, and Informed Consent (FPIC) that go beyond the public hearings that are usually required. Local constituencies, especially those that have traditional rights over commons, grazing routes, and Orans (sacred groves), need to have legally binding ways to affect where projects are built, how big they are, and how the benefits are shared over time. Setting up local energy councils and making sure that all projects go through thorough, mandatory socio-environmental impact assessments (SEIAs) before they can start will help make sure that the transition strikes a balance between the macroeconomic need to decarbonize and the need for fairness and environmental protection.[54]

Conclusion and Recommendations

Summary of Findings

The Anthropocene has precipitated an era where the environmental legal frameworks of the Holocene are fundamentally insufficient to manage planetary-scale, interwoven crises. The Indian Supreme Court's landmark 2024 ruling in *M.K. Ranjitsinh v. Union of India* successfully expanded the constitutional horizon by embedding the right to be free from the adverse effects of climate change within the fundamental rights to life (Article 21) and equality (Article 14). It correctly understood that a stable climate is necessary for a dignified and fair human existence, and that state responsibilities to reduce global warming are inherently linked to human rights.

But the forceful realization of this right has caused a serious "Green vs. Green" constitutional deadlock. To meet ambitious international climate goals like the 500 GW non-fossil fuel goal, the State needs to build a lot of new infrastructure. This often leads to "Constitutional Extractivism." The Great Indian Bustard, which is critically endangered, lives in an area that is also perfect for solar energy in India. This is an example of the paradox where climate change strategies physically harm the very local biodiversity and community ecosystems they are meant to protect. Relying solely on post-facto judicial balancing, where courts alternate between the rigid Precautionary Principle and the pragmatic Proportionality Test, places the judiciary in an untenable position of selecting between global carbon sinks and the survival of local species.

[54] Amanat Ali et al., *Renewable Energy and Land Use in India: A Vision to Facilitate Sustainable Development*, 12 SUSTAINABILITY 281 (2020), https://www.mdpi.com/2071-1050/12/1/281.

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Final Call: A Comprehensive "Climate Change Act"

Relying on ad-hoc judicial interventions and piecemeal regulatory changes is not enough to systematically fix this constitutional contradiction. The Energy Conservation (Amendment) Act of 2022 and other recent laws brought important tools like the Carbon Credit Trading Scheme (CCTS) and rules about not using fossil fuels. However, the Act is still mostly a sectoral tool that focuses on energy efficiency instead of a complete climate governance system. The Environment Protection Act of 1986 was mostly meant to stop point-source pollution after the Bhopal disaster. It doesn't have the specific legal tools needed for long-term carbon budgeting and climate adaptation. India urgently needs a broad "Climate Change Act" that will serve as a legal link between abstract constitutional rights and real-world infrastructure development. This framework legislation must combine the right to climate change mitigation with the right to protect the environment. It relies heavily on the idea of Harmonious Construction.

Proposed Pillars of a Comprehensive Climate Change Act	**Functional Objective in Resolving "Green vs. Green" Conflicts**
Statutory Carbon Budgeting & Enforceable Targets	Translates international NDCs (e.g., 500 GW target) into legally binding, cross-sectoral domestic targets, ensuring state accountability without relying solely on reactive judicial activism.
Mandatory Climate & Biodiversity Impact Assessments	Requires all utility-scale renewable projects to undergo rigorous, integrated assessments evaluating both their carbon abatement potential and local ecological costs *before* land allocation and clearance.
Decentralization Subsidies & Incentives	Shifts financial subsidies, tax breaks, and regulatory support away from land-intensive mega-parks toward decentralized, low-impact energy models (rooftop solar, micro-grids).[73]
Independent Scientific Advisory Institution	Establishes an independent, multi-disciplinary expert body to provide transparent, non-partisan data based on the "best available science,"

ISSN: 2582-6433

	guiding both executive policy and judicial review.
Participatory Governance & FPIC Integration	Codifies local community consent and equitable economic benefit-sharing in renewable infrastructure siting, actively combating constitutional extractivism.

By enacting such comprehensive legislation, India can transition from an ad-hoc jurisprudence of crisis management to a proactive, democratic regime of sustainable governance. A dedicated Climate Change Act would provide the requisite epistemological and regulatory tools to ensure that the vital pursuit of a decarbonized future does not come at the devastating expense of the Earth's remaining ecological sanctity.