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CLIMATE JUSTICE IN INDIA: CONSTITUTIONAL MANDATE AND STATUTORY FRAMEWORK FROM ARTICLE 21 TO NET-ZERO 2070

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ABSTRACT

This article examines India's legal response to climate change through the lens of constitutional law and statutory regulation. It argues that while the Constitution of India does not expressly mention climate change, the Supreme Court has read climate protection into the fundamental right to life under Article 21 through an expansive interpretation supported by Articles 48A, 51A(g), 14 and 19. The paper traces the development from early environmental jurisprudence to the recent recognition of freedom from adverse effects of climate change as a distinct facet of Articles 14 and 21 in M.K. Ranjitsinh v. Union of India (2024). It critically analyses the fragmented statutory regime comprising the Environment (Protection) Act 1986, Air Act 1981, Water Act 1974, Forest Conservation Act 1980, Wildlife Protection Act 1972, Biological Diversity Act 2002, and the National Green Tribunal Act 2010. The study further evaluates India's international commitments under UNFCCC, Kyoto Protocol, Paris Agreement and its Nationally Determined Contributions and domestic missions under NAPCC. It concludes that India needs a dedicated Climate Change Act moving from sectoral laws to a rights-based integrated framework.

Keywords: *Climate Justice, Article 21, Article 48A, Sustainable Development, Paris Agreement, NGT*

INTRODUCTION

Climate change is described by the United Nations as the defining crisis of our time. The Sixth Assessment Report of the Intergovernmental Panel on Climate Change noted that human influence has unequivocally warmed the climate system and India is among the most vulnerable nations due to its long coastline, Himalayan ecosystem and dependence on monsoon

agriculture.¹

India does not currently have one comprehensive law dealing with every aspect of climate change. Instead, its climate framework is spread across several laws, policies and government programmes. An important example is the Energy Conservation Act 2001, which was amended in 2022. The amendment created a legal basis for a carbon-credit trading system and strengthened measures relating to energy efficiency and the transition towards cleaner energy. India's climate commitments are also expressed through its Nationally Determined Contribution (NDC) under the Paris Agreement.²

India contributes about 7% of global emissions but houses 18% of world population. Its legal response has evolved from common law nuisance principles to a complex constitutional and statutory web. Unlike the United Kingdom which enacted a Climate Change Act in 2008,³ India relies on a colonial era sectoral approach. This paper asks whether this approach can achieve India's pledge of Net-Zero by 2070.⁴

CONSTITUTIONAL FOUNDATIONS OF CLIMATE PROTECTION

Article 21: Right to Life Includes Right to Stable Climate

The Supreme Court in *Subhash Kumar v. State of Bihar*⁵ held that right to life includes right to enjoyment of pollution free environment. This was expanded in *Virender Gaur*⁶ where the Court observed that environmental degradation violates Article 21.

In a path-breaking judgment in *M.K. Ranjitsinh v. Union of India* a three-judge bench expressly held that citizens have a right to be free from adverse effects of climate change and that this right flows from Article 14 and Article 21. The Court connected climate change with right to equality as the poor and coastal communities face disproportionate impacts.⁷

Directive Principles and Fundamental Duties

Article 48A, inserted by 42nd Amendment 1976, directs the State to protect and improve environment and safeguard forests and wildlife.⁸ Article 51A(g) makes it a fundamental duty

¹ IPCC, Climate Change 2023: Synthesis Report (2023).

² Government of India, Energy Conservation (Amendment) Act 2022; Ministry of Environment, Forest and Climate Change, India's Nationally Determined Contribution under the Paris Agreement.

³ Climate Change Act, 2008, c. 27 (U.K.).

⁴ Government of India, India's Updated First Nationally Determined Contribution (2022).

⁵ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

⁶ *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577.

⁷ *M.K. Ranjitsinh v. Union of India*, 2024 SCC OnLine SC 899.

⁸ INDIA CONST. art. 48A.

of every citizen to protect natural environment.⁹ Though non-justiciable, the Court in *L.K. Koolwal v. State of Rajasthan* held that these provisions can be used to interpret fundamental rights.¹⁰

Federal Structure and Treaty Making Power

Environment is not expressly in Seventh Schedule. However, Parliament has legislated under Article 253 to implement international decisions.¹¹ The Environment Protection Act 1986 was enacted to implement Stockholm Declaration 1972. Similarly, Entry 13 of Union List gives power to implement treaties including Paris Agreement.¹²

Doctrines Developed by Supreme Court

1. **Absolute Liability:** Absolute liability means that if a company carries out a dangerous or hazardous activity and that activity causes harm to people or the environment, the company is fully responsible for the damage. The important point is that the company generally cannot defend itself by saying that it took reasonable care or that the accident was unavoidable. For Example, suppose a chemical factory releases poisonous gas and nearby people are injured. Under the principle of absolute liability, the factory can be held responsible for the harm caused by its hazardous activity.

In *M.C. Mehta v. Union of India*¹³ (Oleum Gas Leak case), the Court replaced strict liability with absolute liability for hazardous industries. The Court held that industries carrying out hazardous activities have an absolute and non-delegable duty to ensure that no harm is caused to people because of those activities.

2. **Polluter Pays and Precautionary Principle:** The Polluter Pays Principle means that the person or company responsible for environmental pollution should pay for the damage caused by the pollution. The money may be required for compensating people who suffered damage, cleaning up polluted land or water, restoring the damaged environment or taking measures to prevent further pollution. For example, if a factory releases untreated chemicals into a river, the factory may be required to pay the cost of cleaning the river and compensating affected people. The Precautionary Principle means that when an activity could cause serious or irreversible damage to the

⁹ INDIA CONST. art. 51A, cl. (g).

¹⁰ *L.K. Koolwal v. State of Rajasthan*, AIR 1988 Raj 2.

¹¹ INDIA CONST. art. 253.

¹² INDIA CONST. art. 246, Seventh Schedule, List I, Entry 13.

¹³ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

environment, we should take preventive measures even if there is not yet complete scientific proof of the damage. In other words, we should not wait for environmental damage to happen before taking action. For example, suppose scientists are uncertain whether a new chemical will seriously harm groundwater. If there is a reasonable possibility of serious damage, authorities can take preventive measures or restrict its use while the risks are investigated. In *Vellore Citizens Welfare Forum v. Union of India*¹⁴, the Court held these principles are part of Indian environmental law.

3. **Public Trust Doctrine:** The Public Trust Doctrine means that certain natural resources, such as rivers, lakes, forests, seashores and other important environmental resources, are held by the government for the benefit of the public. The government is not supposed to treat these resources as if they were its private property. It has a responsibility to protect them for present and future generations. For example, a government should generally not allow a public lake or river to be destroyed simply for private commercial development if doing so harms the public interest. In *M.C. Mehta v. Kamal Nath*¹⁵, the Court held that natural resources are held by State as trustee.
4. **Inter-generational Equity:** Inter-generational equity means that the present generation should use natural resources in a way that does not unfairly deprive future generations of those resources.

We have inherited the environment from previous generations, but we also have a responsibility to leave a healthy environment for people who will live in the future. For Example, if we completely destroy forests, use up groundwater or heavily pollute rivers today, future generations may not have enough clean water, forests or other natural resources. Therefore, development should be balanced with environmental protection. This is recognised in *State of Himachal Pradesh v. Ganesh Wood Products*¹⁶.

STATUTORY REGIME FOR ENVIRONMENT AND CLIMATE

1. Environment (Protection) Act, 1986 - The Umbrella Legislation

Enacted after Bhopal tragedy, Section 3 gives sweeping powers to Central Government to take all measures for environment protection.¹⁷ Under this Act, the EIA Notification 2006 mandates prior environmental clearance for developmental projects.¹⁸ The draft EIA 2020 was criticized

¹⁴ *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

¹⁵ *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

¹⁶ *State of H.P. v. Ganesh Wood Products*, (1995) 6 SCC 363.

¹⁷ The Environment (Protection) Act, 1986, § 3, No. 29, Acts of Parliament, 1986 (India).

¹⁸ Ministry of Env't & Forests, EIA Notification, S.O. 1533(E) (Sept. 14, 2006).

for diluting public consultation.¹⁹ The Environment (Protection) Act, 1986 (EPA) is one of India's most important environmental laws. It was enacted after the Bhopal gas disaster and gives the Central Government broad powers to protect and improve the environment.²⁰

The Act allows the Central Government to prescribe standards for emissions and discharges, regulate hazardous substances, restrict certain industrial activities and take measures to prevent environmental pollution.²¹ It also provides the legal basis for several important environmental rules and notifications, including rules relating to hazardous substances, environmental standards and environmentally sensitive areas.²²

Impact on the environment

The EPA has had a broad impact because it provides a general legal framework for controlling different forms of environmental pollution. Unlike the Water Act and Air Act, which focus mainly on particular types of pollution, the EPA covers the environment more broadly. For example, the government can establish standards for industrial emissions and discharges and regulate activities that may cause environmental harm. This helps reduce pollution of air, water and land.

Impact on climate change

The EPA was not originally enacted as a climate-change law. However, its broad regulatory powers can support climate-related environmental protection. Rules and notifications made under the Act can regulate activities involving industrial emissions, hazardous substances, energy-intensive activities and environmentally sensitive areas. Therefore, its contribution to climate change is mainly indirect: by regulating environmentally harmful activities and supporting environmental standards, it can also help reduce some activities that contribute to greenhouse-gas emissions.

2. Air and Water Acts

The Water Act 1974 and Air Act 1981 create Central and State Pollution Control Boards with penal powers.²³ However, enforcement is weak and penalties are nominal, leading to calls for

¹⁹ Ministry of Env't & Forests, Draft EIA Notification (2020).

²⁰ The Environment (Protection) Act, 1986, Act No. 29 of 1986, Preamble and §§ 3–5.

²¹ Id., §§ 3–7.

²² Ministry of Environment, Forest and Climate Change, Government of India, Environment Protection, listing rules and regulatory measures made under the Environment (Protection) Act, including environmental standards, hazardous-substance management and environmentally sensitive areas, <https://www.moef.gov.in>

²³ The Air (Prevention and Control of Pollution) Act, 1981, No. 14, Acts of Parliament, 1981; The Water

amendment in 2023. The Water (Prevention and Control of Pollution) Act, 1974 was one of India's first major environmental protection laws. Its main purpose is to prevent and control water pollution and to maintain or restore the quality of water.²⁴ Industries that discharge sewage or trade effluents are subject to regulatory requirements, and the authorities have powers relating to monitoring and enforcement.

Impact on the environment

The Water Act has helped create a legal system for controlling the discharge of polluted water from industries and other sources. It has made pollution control boards important regulators of industrial wastewater. For example, an industry cannot simply discharge untreated industrial effluent into a river without complying with the requirements of environmental law. The Act therefore contributes to the protection of rivers, lakes, groundwater and other water resources.

Impact on climate change

The Water Act is primarily a pollution-control law rather than a climate law. Its direct effect on greenhouse-gas emissions is therefore limited. However, climate change is closely connected with water resources. Climate change can increase water scarcity, alter rainfall patterns and increase risks to freshwater systems. By controlling pollution and protecting water quality, the Water Act helps make water resources more resilient to environmental pressures.

The Air (Prevention and Control of Pollution) Act, 1981 was enacted to prevent, control and reduce air pollution. It gives powers to pollution control boards to regulate air pollution from industries and other sources.²⁵

The Act allows authorities to declare areas as air pollution control areas and regulate certain industrial activities within those areas. It also provides mechanisms for setting and enforcing emission standards.²⁶

Impact on the environment

The Air Act has helped establish a legal system for controlling emissions from industrial activities. It enables pollution control authorities to monitor emissions and take action against activities that do not comply with prescribed standards. This is particularly important for reducing pollutants such as particulate matter, sulphur dioxide and nitrogen oxides, which can

(Prevention and Control of Pollution) Act, 1974, No. 6, Acts of Parliament, 1974.

²⁴ The Water (Prevention and Control of Pollution) Act, 1974, Act No. 6 of 1974, Preamble.

²⁵ The Air (Prevention and Control of Pollution) Act, 1981, Act No. 14 of 1981, Preamble.

²⁶ Id., particularly §§ 19–22.

damage human health and ecosystems.

Impact on climate change

The Air Act primarily deals with air pollutants rather than greenhouse gases as a separate category. Therefore, it should not be treated as India's main climate-change legislation. Nevertheless, there can be an important connection between air-pollution control and climate action. Many activities that burn fossil fuels release both conventional air pollutants and greenhouse gases. Measures that improve energy efficiency or reduce fossil-fuel combustion can sometimes reduce both types of emissions. However, the two problems are not identical: controlling air pollution does not automatically mean that greenhouse-gas emissions are being reduced.

3. Forest and Wildlife Protection

Forest (Conservation) Act 1980 requires central approval for diversion of forest land. The 2023 amendment, which exempts certain categories of forest land near borders, has been challenged as violative of Godavarman judgment. Wildlife (Protection) Act 1972 protects biodiversity, which is crucial for climate adaptation. The Wild Life (Protection) Act, 1972 provides legal protection to wild animals, birds and plants and regulates activities such as hunting and trade in wildlife.²⁷ The Act also provides for the establishment and management of protected areas such as national parks and wildlife sanctuaries.²⁸ The legislation has been amended several times, including significant amendments in 2022.

Impact on the environment

The Act has helped establish a legal framework for protecting threatened species and their habitats. Restrictions on hunting and illegal wildlife trade help prevent the decline of wildlife populations. Protected areas can also conserve larger ecosystems rather than protecting individual animals alone. This is important because wildlife depends on functioning habitats, forests, grasslands, wetlands and other ecosystems. The law therefore contributes to conservation of endangered species, protection of wildlife habitats, preservation of biodiversity, maintenance of ecological balance and control of illegal wildlife trade.

²⁷ The Wild Life (Protection) Act, 1972, Act No. 53 of 1972, Preamble and provisions concerning protection of wild animals, birds and plants.

²⁸ Id., §§ 18–35.

Impact on climate change

Wildlife protection is connected to climate change because healthy ecosystems are generally more capable of storing carbon and providing ecological services. For example, protecting forests and other natural habitats can preserve carbon stored in vegetation and soils. Wildlife conservation can also improve the resilience of ecosystems to changing temperature and rainfall patterns. At the same time, climate change can itself threaten wildlife by changing habitats, food availability and migration patterns. Therefore, wildlife legislation can support climate adaptation by protecting habitats that allow species and ecosystems to respond to environmental changes.

4. National Green Tribunal Act, 2010

The National Green Tribunal Act, 2010 established the National Green Tribunal (NGT) to provide specialised and relatively speedy adjudication of environmental disputes.²⁹ The NGT has jurisdiction over substantial questions relating to the environment and can hear appeals against certain environmental decisions.³⁰ Under Section 15, it can provide relief and compensation to victims of pollution and environmental damage and order restitution of damaged property and the environment.³¹ Importantly, Section 20 requires the Tribunal to apply the principles of sustainable development, the precautionary principle and the polluter pays principle when deciding cases.³²

Impact on the environment

The NGT has strengthened environmental enforcement by providing a specialised forum where environmental disputes can be considered by a body consisting of judicial and expert members. It can order measures such as environmental compensation, restoration of damaged ecosystems and compliance with environmental requirements. This gives environmental laws a stronger enforcement mechanism because environmental rules are more meaningful when there is an effective legal remedy for violations.

Impact on climate change

The NGT Act does not establish a separate national climate-change regulatory system. However, climate-related disputes can involve environmental issues such as forests, pollution,

²⁹ The National Green Tribunal Act, 2010, Act No. 19 of 2010, §§ 3–4.

³⁰ Id., §§ 14 and 16.

³¹ Id., §§ 15.

³² Id., §§ 20.

industrial development, ecological damage and environmental clearances. The Tribunal's application of sustainable development and the precautionary principle can therefore influence decisions involving activities that have environmental and potentially climate-related consequences. National Green Tribunal was established under Article 21 and provides speedy remedy. Section 20 mandates Tribunal to apply sustainable development, precautionary and polluter pays principles. NGT has passed significant orders on air pollution in Delhi and Yamuna floodplains.

5. Energy Conservation and Carbon Market

Energy Conservation Act 2001 as amended in 2022 introduces Carbon Credit Trading Scheme.³³ Section 14 empowers government to issue carbon credit certificates. This is India's first step towards an emissions trading system.³⁴

INTERNATIONAL COMMITMENTS AND DOMESTIC POLICY FRAMEWORK*

From UNFCCC to Paris Agreement

International climate law is based on principle of Common but Differentiated Responsibilities (CBDR). Under United Nations Framework Convention on Climate Change 1992, India as a non-Annex I country had no binding emission cuts.³⁵ The Paris Agreement 2015 changed the architecture to a bottom-up model where each state submits Nationally Determined Contributions (NDCs). Article 4 of Paris Agreement obligates parties to prepare and maintain NDCs. India's updated NDC 2022 commits to three major targets: to reduce emissions intensity of GDP by 45% by 2030 from 2005 level, to achieve 50% cumulative electric power from non-fossil sources, and to create additional carbon sink of 2.5-3 billion tonnes through forest cover. Long term goal is Net-Zero by 2070 declared at COP26 Glasgow.³⁶

National Action Plan on Climate Change (NAPCC)

Launched in 2008, NAPCC consists of eight national missions: National Solar Mission, National Mission for Enhanced Energy Efficiency, National Mission on Sustainable Habitat, National Water Mission, National Mission for Sustaining Himalayan Ecosystem, Green India

³³ Energy Conservation (Amendment) Act, 2022, No. 19, Acts of Parliament, 2022.

³⁴ Id. § 14.

³⁵ United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107.

³⁶ Prime Minister's Statement at COP26 (Nov. 1, 2021).

Mission, National Mission for Sustainable Agriculture and National Mission on Strategic Knowledge. Each state has prepared State Action Plans on Climate Change (SAPCC). However, studies show implementation is fragmented due to lack of statutory backing.³⁷

Sustainable Development Goals and Life

Climate action is Goal 13 of SDGs. Goal 14 and 15 deal with life below water and life on land. India's Mission LiFE (Lifestyle for Environment) introduced at COP26 promotes behavioural change.³⁸

JUDICIAL ACTIVISM AND NGT ON CLIMATE

The Supreme Court in T.N. Godavarman³⁹ case has been continuously monitoring forest protection for over two decades through continuing mandamus. In M.C. Mehta v. Union of India series, the Court ordered closure of tanneries in Kanpur, shifting of industries from Delhi, introduction of CNG vehicles and protection of Taj Mahal from pollution.⁴⁰

NGT has also developed climate jurisprudence. In Hanuman Laxman Aroskar v. Union of India,⁴¹ NGT and Supreme Court emphasized need for strict compliance with EIA. In Almitra Patel case, NGT dealt with solid waste and methane emissions which contribute to climate change. Most importantly, in M.K. Ranjitsinh, the Court balanced conservation of Great Indian Bustard with India's renewable energy transition and held that climate change affects fundamental rights of citizens.⁴²

CRITICAL GAPS IN PRESENT FRAMEWORK

Despite a wide network of laws, there are structural defects:

- a) No Standalone Climate Law: India does not have a dedicated Climate Change Act like UK Climate Change Act 2008 which sets carbon budgets. Environment Protection Act 1986 is general and not climate specific.
- b) Weak Penalties: Section 15 of EPA provides imprisonment up to 5 years but is rarely used. Air Act and Water Act have nominal fines.

³⁷ Government of India, National Action Plan on Climate Change (2008).

³⁸ United Nations, Transforming Our World: The 2030 Agenda for Sustainable Development, G.A. Res. 70/1 (2015).

³⁹ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267.

⁴⁰ M.C. Mehta v. Union of India (Taj Trapezium Case), (1997) 2 SCC 353.

⁴¹ Hanuman Laxman Aroskar v. Union of India, (2019) 15 SCC 401.

⁴² M.K. Ranjitsinh, 2024 SCC OnLine SC 899, ¶ 25.

- c) Exemption Culture: Recent amendments to Forest Conservation Act 2023 exempt strategic projects, linear projects and forest land within 100 km of international borders.
- d) Lack of Climate Justice Perspective: Existing laws do not recognize loss and damage, climate displacement or rights of climate refugees.
- e) Implementation Failure: Non-implementation of NAPCC disproportionately affects vulnerable communities.

CONSTITUTIONAL ANALYSIS: CLIMATE CHANGE AS INTERSECTIONAL RIGHTS VIOLATION

1. Climate Change as Omissive Discrimination: Borrowing the doctrine from *Jane Kaushik v. Union of India*⁴³ - where Supreme Court held that State's failure to implement Transgender Act 2019 is itself discrimination - same logic applies to climate law. State's failure to implement Air Act, Water Act, and NAPCC is not mere administrative lapse, but omissive discrimination under Article 14. Coastal fishermen in Kerala, farmers in Vidarbha, tribals in Chhattisgarh suffer disproportionate climate impacts despite contributing least to emissions. This violates substantive equality.
2. Intergenerational Equity and Article 21: In *State of Himachal Pradesh v. Ganesh Wood Products*, the Court held future generations have right to clean environment. Current emission of 2.9 billion tonnes CO₂ annually will affect Indians born in 2050. Thus, Net-Zero 2070 is not policy - it is a constitutional obligation under Article 21 read with Article 48A.
3. Climate Change and Article 19(1)(g): Right to carry on trade is subject to reasonable restriction under Article 19(6) for environmental protection. Carbon intensive industries cannot claim 19(1)(g) to pollute. This justifies Carbon Credit Trading Scheme as reasonable restriction.

COMPARATIVE CLIMATE LAW

1. United Kingdom - Climate Change Act 2008: UK law fixes legally binding carbon budgets for 5-year periods. An independent Climate Change Committee monitors. If government fails, it can be sued. United Kingdom introduced the Climate Change Act 2008, which provides a legal framework for reducing greenhouse-gas emissions. The law was strengthened in 2019 when the country's target was changed to achieving net-

⁴³ *Jane Kaushik v. Union of India*, 2025 SCC OnLine SC 112.

zero greenhouse-gas emissions by 2050. One important feature of the UK system is its use of five-year carbon budgets. These budgets place limits on the amount of greenhouse gases that can be emitted during particular periods. An independent Climate Change Committee advises the government and monitors progress.⁴⁴

2. Germany - Neubauer v. Germany⁴⁵: German Constitutional Court held that weak climate law violates rights of youth because it shifts emission burden to future. This directly inspired M.K. Ranjitsinh 2024. Germany's main climate legislation is the Federal Climate Change Act. It requires Germany to substantially reduce its greenhouse-gas emissions and reach climate neutrality by 2045. The law also establishes intermediate targets, including major reductions by 2030 and 2040. Germany's framework is notable because it divides emissions responsibilities among different sectors, such as transport, buildings, industry and agriculture. Progress is monitored through emissions reports and an independent expert body.⁴⁶
3. New Zealand- New Zealand amended its Climate Change Response Act 2002 through the Zero Carbon Amendment Act 2019. The framework establishes a goal of reaching net-zero emissions for most greenhouse gases by 2050. However, emissions of biogenic methane, much of which comes from agriculture, are treated separately because of their particular importance to New Zealand's economy. The law also introduced emissions budgets and established an independent Climate Change Commission to advise the government.⁴⁷
4. Japan- Japan has developed its climate framework through the Act on Promotion of Global Warming Countermeasures and related policies. Japan has adopted a goal of achieving net-zero emissions by 2050. Its current emissions-reduction pathway includes a target of reducing greenhouse-gas emissions by 46% from 2013 levels by 2030, with deeper reductions planned for 2035 and 2040. Japan combines climate policy with measures aimed at changing its energy and industrial systems, including carbon-pricing and clean-technology initiatives.⁴⁸

⁴⁴ UK Parliament, Climate Change Act 2008, as amended in 2019; Climate Change Committee, information on the UK's carbon budgets and net-zero framework.

⁴⁵ Neubauer v. Federal Republic of Germany, BVerfG, 1 BvR 2656/18 (Mar. 24, 2021).

⁴⁶ Federal Republic of Germany, Federal Climate Change Act (Bundes-Klimaschutzgesetz), as amended; Federal Ministry for Economic Affairs and Climate Action, information on Germany's climate targets.

⁴⁷ New Zealand Ministry for the Environment, Climate Change Response (Zero Carbon) Amendment Act 2019 and information on the Climate Change Commission.

⁴⁸ Government of Japan, Ministry of the Environment, Act on Promotion of Global Warming Countermeasures and Japan's greenhouse-gas reduction targets.

5. European Union- Although the European Union is not a country, its climate legislation is useful for comparison because it applies across its member states. The European Climate Law makes climate neutrality by 2050 a legal objective for the EU. It also establishes major intermediate emissions-reduction targets. The EU uses several legal instruments to achieve these goals, including the EU Emissions Trading System, renewable-energy rules and legislation covering transport, buildings and industry⁴⁹
6. Pakistan - Leghari v. Pakistan⁵⁰: Lahore High Court held climate inaction violates right to life and created Climate Change Commission.
7. Rights of Nature: Ecuador Constitution Article 71 gives rights to nature itself. Whanganui River in New Zealand is a legal person. Indian courts in Mohd. Salim v. State of Uttarakhand declared Ganga and Yamuna as legal persons.⁵¹

Thus, the comparison of various jurisdictions can be understood by the following table :-

Country/Region	Main climate framework	Long-term goal	Important feature
United Kingdom	Climate Change Act 2008	Net zero by 2050	Five-year carbon budgets
Germany	Federal Climate Change Act	Climate neutrality by 2045	Sectoral and national emissions controls
New Zealand	Climate Change Response Act	Net zero for most GHGs by 2050	Separate treatment of methane
Japan	Global Warming Countermeasures Act and related framework	Net zero by 2050	Climate policy linked with industrial transformation
India	Several laws and policies	Net-zero target for 2070	Sectoral approach and carbon-credit framework
European Union	European Climate Law	Climate neutrality by 2050	EU-wide carbon market and sectoral legislation

⁴⁹ European Union, European Climate Law (Regulation (EU) 2021/1119) and European Commission, information on EU climate targets and the EU Emissions Trading System.

⁵⁰ Leghari v. Federation of Pakistan, W.P. No. 25501/2015 (Lahore High Ct. 2015).

⁵¹ Mohd. Salim v. State of Uttarakhand, 2017 SCC OnLine Utt 367.

THE HIDDEN CARBON ECONOMICS - CRITICAL DEPTH

1. Carbon Inequality in India: Top 10% richest Indians emit 7 times more than bottom 10%. Yet pollution control burden falls on informal sector - e.g., banning old vehicles, not private jets. This violates climate justice.⁵²
2. EIA 2020 Draft Controversy: Draft allowed post-facto clearance - meaning you can pollute first and get clearance later. This legalises violation of precautionary principle. NGT in 2021 struck down such clearances in Alembic Pharma case.⁵³
3. Forest Conservation Amendment 2023 - A Climate Reversal: By exempting forests within 100 km of borders and deemed forests, government opens 28% of forest cover for diversion. This directly contradicts India's NDC promise of additional 2.5 billion tonne carbon sink.⁵⁴
4. Greenwashing in Carbon Credit Trading Scheme (CCTS) 2023: Under Energy Conservation Amendment 2022, credits are given even for energy efficiency, not absolute emission reduction. Companies can buy credits instead of reducing. No penalty for non-compliance yet.⁵⁵
5. Climate Litigation Vacuum⁵⁶: In US, there are 1500+ climate cases. In India, less than 20 cases explicitly mention climate change. M.K. Ranjitsinh opens door for direct climate litigation under Article 32.

WAY FORWARD

1. Enact Indian Climate Change Act: The law should fix year-wise carbon budget, create independent Climate Commission, mandate climate impact assessment for all projects.
2. Recognize Right to Climate: Parliament should amend Article 21 or enact law expressly recognising right to be free from adverse climate change.
3. Strengthen Carbon Market: Carbon Credit Trading Scheme 2023 needs transparent registry and prohibition of greenwashing.
4. Incorporate Climate in EIA: EIA Notification should include mandatory climate risk assessment and lifecycle GHG emissions.
5. Make SAPCCs Enforceable: State Action Plans should be made statutory under Section 3 of EPA with budgetary support.

⁵² Oxfam, Climate Equality (2023).

⁵³ Alembic Pharmaceuticals Ltd. v. Rohit Prajapati, (2020) 17 SCC 157.

⁵⁴ Forest (Conservation) Amendment Act, 2023.

⁵⁵ Ministry of Power, Carbon Credit Trading Scheme Notification, S.O. 2825(E) (June 28, 2023).

⁵⁶Id.

6. Climate Adaptation for Vulnerable: Special provisions for coastal states like Kerala, Sundarbans and Himalayan states on basis of Article 14 right to equality.

CONCLUSION

The constitutional journey of environmental protection in India shows a shift from a duty-based framework under Articles 48A and 51A(g) to a rights-based framework under Article 21. The Supreme Court has expanded Article 21 to include right to clean environment and most recently right to be free from adverse effects of climate change. The statutory framework, though extensive, remains sectoral and fragmented. The Environment Protection Act, Air Act, Water Act and Forest Conservation Act were not designed to address the complex, transboundary and intergenerational challenge of climate change.

India's international commitments under Paris Agreement and its domestic goals of 500 GW non-fossil capacity and Net-Zero by 2070 cannot be achieved through executive policies alone. What is needed is a comprehensive climate legislation that codifies principles of climate justice, polluter pays, intergenerational equity and common but differentiated responsibilities. Unless such a law is enacted, climate governance will continue to depend on judicial activism and ad-hoc executive orders, which is not sufficient for a country that is among the most vulnerable to climate impacts. The transition from environmental protection to climate justice is thus not merely legislative but constitutional.

IJLRA