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## HARNESSING ENVIRONMENTAL LAW TO COMBAT CLIMATE CHANGE: A LEGAL IMPERATIVE

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### ABSTRACT :

Climate change poses an existential threat that transcends political boundaries and socioeconomic divisions, demanding urgent, legally enforceable solutions. This paper explores the vital role of environmental law as a strategic and constitutional tool in combating climate change. It analyzes the evolution of both international environmental frameworks—such as the UNFCCC, Kyoto Protocol, and Paris Agreement—and India's constitutional provisions under Article 21, Article 48A, and Article 51A(g), which together construct a powerful legal basis for climate action. Special attention is given to the landmark *Great Indian Bustard* case, wherein the Indian Supreme Court recognized the Right to be Protected from Adverse Climate Change as a component of the fundamental right to life. The paper also examines global judicial interventions, including landmark climate cases from the Netherlands, Germany, and Pakistan, to demonstrate how courts worldwide are reshaping legal landscapes to enforce climate accountability. By emphasizing climate justice, intergenerational equity, and the environmental rule of law, this research advocates for a legal paradigm where climate change is not just an environmental issue, but a human rights and constitutional imperative.

**Keywords:** Climate Change Law, Environmental Rule of Law, Right to Life, Indian Constitution, Great Indian Bustard Case, Paris Agreement, Intergenerational Equity, Judicial Activism, Climate Justice, Fundamental Rights, Climate Jurisprudence.

### 1. Introduction

Climate change is one of the most significant and complex challenges facing the global community today. Its wide-ranging impacts—ranging from rising sea levels and biodiversity loss to extreme weather events—transcend national boundaries and socio-economic divisions, necessitating collective and multi-layered responses. While scientific and economic strategies are widely acknowledged in policy discourses, the legal dimension—especially environmental law—remains a vital yet often underexplored pillar in addressing climate change.

Environmental law provides a robust framework for regulating human activities that impact natural ecosystems, offering mechanisms for prevention, mitigation, and redress. It encompasses both international treaties and domestic statutes that mandate environmental standards, enforce compliance, and facilitate climate justice. Over the years, environmental law has evolved from reactive, pollution-control statutes to proactive and rights-based approaches that emphasize sustainable development, intergenerational equity, and public participation.<sup>1</sup>

A landmark shift in environmental jurisprudence has been witnessed in various jurisdictions where courts have begun recognizing climate change as a human rights issue. In India, this legal trajectory reached a turning point in the *Great Indian Bustard* case, where the Supreme Court acknowledged the *Right to be Protected from Adverse Climate Change* under Article 21 of the Constitution, interpreting the right to life as inclusive of ecological security and climate resilience.<sup>2</sup> This judicial innovation not only reinforces the fundamental rights framework but also places a constitutional obligation on the State to adopt stringent environmental and climate-related policies.

Moreover, international law has recognized key principles such as the precautionary principle, polluter pays, sustainable development, and common but differentiated responsibilities, which serve as guiding norms in climate governance.<sup>3</sup> These principles have been adopted into national legal systems through both legislation and judicial interpretation, including in the Indian context.

Given the urgency of climate change and the legal tools already at our disposal, this paper seeks to evaluate the existing environmental law framework through a constitutional and international lens. It argues that combating climate change is not just a matter of policy or science—but a legal imperative, anchored in both national constitutions and international obligations.

### 2. The Legal Framework of Environmental Law

The global legal response to environmental degradation and climate change is anchored in a set of foundational international instruments and universally recognized principles. The Stockholm Declaration (1972) marked a turning point by placing environmental concerns at the heart of international

<sup>1</sup> Sands, P., Peel, J., Fabra, A., & Mackenzie, R. (2018). *Principles of International Environmental Law* (4th ed.). Cambridge University Press.

<sup>2</sup> *M.K. Ranjitsinh & Others v. Union of India & Others*, Supreme Court of India, 2021. Judgment

<sup>3</sup> United Nations Conference on Environment and Development (UNCED), *Rio Declaration on Environment and Development*, 1992.

diplomacy, followed by the Rio Declaration on Environment and Development (1992) which codified vital principles such as *sustainable development*, *the precautionary principle*, and *common but differentiated responsibilities (CBDR)*.<sup>4</sup> These principles became the basis for subsequent multilateral environmental agreements. The United Nations Framework Convention on Climate Change (UNFCCC, 1992) institutionalized the commitment of nations to address climate change collaboratively, further strengthened by the Kyoto Protocol (1997) and the Paris Agreement (2015), which introduced nationally determined contributions (NDCs) aimed at limiting global warming to below 2°C.<sup>5</sup>

At the core of these instruments is the idea that environmental protection is both a collective global responsibility and a sovereign right, necessitating compliance by states within a cooperative yet differentiated legal regime. The *Polluter Pays Principle* and the concept of *Environmental Impact Assessments (EIAs)* have also been embedded into these frameworks, compelling states and corporations to internalize the environmental costs of their actions.<sup>6</sup> Scholars have argued that the evolution of international environmental law signifies a shift from voluntary obligations to increasingly justiciable norms, as seen in litigation efforts such as the *Urgenda* case in the Netherlands and climate justice rulings in Germany and Pakistan.

### 3. Constitutional Dimensions of Climate Change Law

In the Indian context, environmental protection has found a robust footing within the framework of constitutional law. Though the Constitution of India did not originally contain explicit environmental rights, judicial innovation under Article 21, which guarantees the right to life and personal liberty, has led to the recognition of the right to a clean and healthy environment as a fundamental right.<sup>7</sup> The Supreme Court in cases such as *Subhash Kumar v. State of Bihar* and *MC Mehta v. Union of India* has held that the right to life includes the right to pollution-free air and water, thereby transforming environmental protection from a policy directive into a constitutional mandate.

Directive Principles like Article 48A, which directs the State to protect and improve the environment, and Article 51A(g), which imposes a fundamental duty on citizens to safeguard nature, provide moral and normative guidance to the judiciary and legislature.<sup>8</sup> These provisions collectively form the 'green constitution' doctrine, wherein environmental sustainability is positioned as essential to the functioning of a democratic and welfare-oriented state.

This evolution was further advanced in the Great Indian Bustard case (*M.K. Ranjitsinh v. Union of India*, 2021), where the Supreme Court emphasized that the preservation of endangered species and ecological balance is integral to the constitutional right to life. The judgment observed that safeguarding ecosystems from the adverse impacts of human-induced climate change falls within the ambit of climate justice and is legally enforceable under fundamental rights jurisprudence.<sup>9</sup> By judicially recognizing the Right to be Protected from Climate Change, the Court extended Article 21's ambit beyond immediate health concerns to long-term ecological integrity, setting a significant precedent for future climate litigation in India.

### 4. Judicial Interpretation and Climate Jurisprudence

Judiciaries across the globe have increasingly assumed a pivotal role in climate governance by interpreting constitutional rights and environmental obligations in the context of a changing climate. In many jurisdictions, courts have evolved from being passive arbiters of disputes to becoming proactive defenders of environmental justice, often holding states accountable for failing to act on climate change. The emergence of climate jurisprudence—a legal field where constitutional, environmental, and human rights laws converge—has shaped the contours of enforceable obligations for governments and private actors alike.

In India, this evolution is most vividly reflected in the landmark decision of the Supreme Court in *M.K. Ranjitsinh & Others v. Union of India & Others* (2021). The case, centered on the conservation of the endangered Great Indian Bustard, was initially concerned with the installation of overhead transmission lines in the bird's migratory paths. However, the Court expanded the legal scope to include broader climate concerns, observing that environmental degradation and biodiversity loss were intrinsically linked to the rights of both present and future generations. In a groundbreaking move, the Court declared that the Right to be Protected from Adverse Climate Change is a constitutional entitlement under Article 21 of the Indian Constitution, thereby interpreting the right to life to include ecological security, species conservation, and climate stability.<sup>10</sup>

This decision aligns with the international trend where courts have increasingly recognized climate change as a human rights violation. For example, in the *Urgenda Foundation v. State of the Netherlands*, the Dutch Supreme Court ruled that the state's failure to reduce greenhouse gas emissions constituted a breach of the European Convention on Human Rights, particularly the right to life (Article 2) and the right to private and family life (Article 8).<sup>11</sup> Similarly, in *Neubauer et al. v. Germany*, the Federal Constitutional Court struck down parts of the German Climate Change Act for being insufficient in protecting future generations, establishing that intergenerational justice is a constitutional requirement.<sup>12</sup> In the *Leghari* case in Pakistan, the Lahore High Court recognized the lack of governmental action on climate as a violation of citizens' fundamental rights and ordered the formation of a Climate Change Commission.<sup>13</sup>

Indian courts have also made notable contributions in related rulings. In *MC Mehta v. Kamal Nath* and *Vellore Citizens Welfare Forum v. Union of India*, the Supreme Court embraced the Public Trust Doctrine, affirming that the State holds natural resources in trust for the people and cannot transfer them arbitrarily.<sup>14</sup> The Precautionary Principle and Polluter Pays Principle were judicially enforced in these cases, embedding key tenets of international

<sup>4</sup> United Nations. (1992). *Rio Declaration on Environment and Development*. Principle 2, 7, 15.

<sup>5</sup> UNFCCC. (1992); Kyoto Protocol (1997); Paris Agreement (2015). Retrieved from <https://unfccc.int>

<sup>6</sup> OECD. (1972). *The Polluter Pays Principle*. Guidelines for Multinational Enterprises.

<sup>7</sup> *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420; *MC Mehta v. Union of India*, AIR 1987 SC 965.

<sup>8</sup> Constitution of India, Articles 48A and 51A(g).

<sup>9</sup> *M.K. Ranjitsinh & Others v. Union of India & Others*, Supreme Court of India, 2021. Judgment

<sup>10</sup> *M.K. Ranjitsinh & Others v. Union of India & Others*, Supreme Court of India, 2021. Full Judgment

<sup>11</sup> *Urgenda Foundation v. State of the Netherlands*, Dutch Supreme Court, 2019. Case Summary

<sup>12</sup> *Neubauer et al. v. Germany*, Federal Constitutional Court, 2021. Decision Summary

<sup>13</sup> *Ashgar Leghari v. Federation of Pakistan*, Lahore High Court, 2015. ELAW Case Database

<sup>14</sup> *MC Mehta v. Kamal Nath*, (1997) 1 SCC 388; *Vellore Citizens' Welfare Forum v. Union of India*, AIR 1996 SC 2715.

environmental law into the domestic legal system. Furthermore, in *T.N. Godavarman Thirumulpad v. Union of India*, the Court took an active role in forest conservation by continuously monitoring deforestation across the country.<sup>15</sup>

This growing body of climate jurisprudence reflects a profound shift in legal thinking—from viewing environmental degradation as a peripheral concern to recognizing it as a direct threat to fundamental rights. Indian courts, especially the Supreme Court and the National Green Tribunal, have emerged as custodians of environmental constitutionalism, employing judicial review not merely to interpret laws but to shape climate policy and enforce sustainable governance.

In conclusion, the judiciary has become an indispensable actor in climate governance, not only by upholding legal standards but also by advancing climate justice through interpretative creativity and rights-based reasoning. This trend underscores a transformative phase in environmental law, where courts act not just as enforcers of statutes, but as guardians of ecological civilization.

## 5. Environmental Rule of Law as Climate Strategy

The concept of the environmental rule of law has emerged as a central pillar in ensuring that legal mechanisms are effectively used to address environmental and climate-related challenges. Defined broadly, it refers to the application of law to achieve environmental sustainability, equity, and justice, while ensuring accountability and transparency in decision-making processes. As climate change accelerates, the rule of law becomes indispensable not just for enforcement, but for institutional legitimacy and public trust in environmental governance.

India offers a complex yet illustrative example of how environmental rule of law can function as a climate strategy. Several statutes such as the Environment (Protection) Act, 1986, the Air (Prevention and Control of Pollution) Act, 1981, and the Water (Prevention and Control of Pollution) Act, 1974 collectively provide a legal framework to regulate activities impacting the environment.<sup>16</sup> However, what distinguishes India is its proactive judiciary and the creation of a specialized forum—the National Green Tribunal (NGT). The NGT has been instrumental in expediting environmental cases, levying penalties on polluters, and issuing binding directions on ecological restoration.<sup>17</sup>

The implementation of Environmental Impact Assessments (EIA) and public consultation processes are legal tools rooted in the environmental rule of law. When enforced properly, these mechanisms enable communities to challenge unsustainable projects and demand accountability. The NGT has, in several cases, suspended or revised clearances granted to infrastructure projects where EIAs were inadequately conducted or manipulated.<sup>18</sup>

Despite these provisions, enforcement remains a significant challenge. Issues such as poor inter-agency coordination, lack of technical expertise, political interference, and weak institutional capacity continue to undermine the environmental rule of law. There is also the risk of environmental laws being diluted under the pretext of “case of doing business,” highlighting the need for continuous judicial oversight and civil society engagement.<sup>19</sup>

Ultimately, strengthening the environmental rule of law requires a multi-pronged strategy—strengthening institutions, empowering communities, integrating climate risk into regulatory systems, and fostering a legal culture that respects ecological rights as intrinsic to human dignity.

## 6. Comparative Global Approaches

Across the globe, courts and legislatures have increasingly taken decisive steps to confront the climate crisis, using a range of legal approaches that offer valuable insights for India and other developing nations. In the Netherlands, the *Urgenda* case remains a landmark ruling in which the Dutch Supreme Court held that the government’s failure to sufficiently reduce greenhouse gas emissions violated its human rights obligations. This was the world’s first case where a court mandated a national government to act on climate change based on constitutional and treaty obligations.<sup>20</sup>

In Germany, the Federal Constitutional Court in the *Neubauer v. Germany* case ruled that the provisions of the Climate Protection Act were unconstitutional to the extent they deferred emission reduction responsibilities to future generations. The judgment emphasized intergenerational equity, a principle also embedded in international law, as constitutionally binding.<sup>21</sup>

In Pakistan, the Lahore High Court in *Asghar Leghari v. Federation of Pakistan* set a unique precedent by declaring that the government’s delay in implementing the National Climate Policy violated fundamental rights, including the right to life and dignity under Articles 9 and 14 of the Pakistani Constitution. The Court ordered the creation of a Climate Change Commission, demonstrating how courts can compel administrative action when legislative inertia prevails.<sup>22</sup>

In Colombia, the Supreme Court recognized the Amazon rainforest as a subject of rights in a youth-led climate lawsuit, aligning ecological protection with human and constitutional rights.<sup>23</sup> Similarly, in France, the Conseil d’État (Council of State) ruled against the government for its insufficient climate action, reinforcing the justiciability of climate obligations under public law.<sup>24</sup>

These global developments underline a common judicial understanding: climate change is not merely a policy issue—it is a rights issue. While methods vary, the legal principles of accountability, intergenerational equity, climate justice, and the precautionary approach are increasingly being used to assess the adequacy of governmental action. The comparative landscape provides strong validation for India’s constitutional activism and presents an opportunity to strengthen domestic climate action through transjudicial dialogue and legal harmonization.

<sup>15</sup> *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 SCC 267.

<sup>16</sup> Government of India. (1986). *Environment (Protection) Act*; Government of India. (1981). *Air Act*; Government of India. (1974). *Water Act*.

<sup>17</sup> Ghosh, A. (2022). *The Role of the National Green Tribunal in India*. Indian Journal of Environmental Law.

<sup>18</sup> *Paryavaran Suraksha Samiti v. Union of India*, NGT, 2017.

<sup>19</sup> Sengupta, R. (2021). “Weakening Environmental Laws in India: A Case for Reform.” *Economic & Political Weekly*, 56(12), 22–27.

<sup>20</sup> *Urgenda Foundation v. State of the Netherlands*, Dutch Supreme Court, 2019. Link

<sup>21</sup> *Neubauer et al. v. Germany*, Federal Constitutional Court, 2021. Link

<sup>22</sup> *Ashgar Leghari v. Federation of Pakistan*, Lahore High Court, 2015. ELAW

<sup>23</sup> *Future Generations v. Ministry of the Environment*, Supreme Court of Colombia, 2018.

<sup>24</sup> *Notre Affaire à Tous v. France*, Conseil d’État, 2021.

## 7. Conclusion

The accelerating pace and severity of climate change demand a multidimensional response, and environmental law offers one of the most vital frameworks for sustainable and equitable action. This paper has explored how legal instruments—international treaties, constitutional mandates, and judicial decisions—have evolved to confront the climate crisis. The recognition of the Right to be Protected from Climate Change under Article 21 in India, as seen in the *Great Indian Bustard* case, exemplifies a transformative shift in environmental jurisprudence where climate change is no longer treated as a remote ecological issue but as a direct violation of fundamental human rights.

Globally, courts have taken the lead in defining state obligations, reinforcing that environmental protection is not optional but a legal imperative grounded in justice and equity. From *Urgenda* in the Netherlands to *Neubauer* in Germany and *Leghari* in Pakistan, judicial organs are bridging the gap where policy delays and executive inaction have fallen short. India's robust environmental jurisprudence, coupled with its constitutional provisions and an active civil society, places it in a unique position to become a legal trailblazer in climate governance.

However, laws alone cannot guarantee ecological sustainability. There remains a critical implementation gap marked by weak institutional capacity, political inertia, and lack of public awareness. To fully harness environmental law as a strategic tool against climate change, a set of actionable recommendations must be considered:

## 8. Recommendations

**Codification of Climate Rights:** Introduce a dedicated legislation that codifies climate-related rights and obligations, establishing clear legal standards for emissions, mitigation, and adaptation.

**Green Constitutionalism:** Amend the Constitution to explicitly include climate security and intergenerational equity as enforceable constitutional principles.

**Empower the National Green Tribunal (NGT):** Enhance the financial and institutional capacity of the NGT to ensure quicker and more technical adjudication of climate-related cases.

**Mandatory Climate Risk Assessments:** Require all infrastructure and industrial projects to undergo climate risk analysis alongside environmental impact assessments.

**Strengthen Compliance Mechanisms:** Establish specialized environmental enforcement units within existing regulatory bodies to ensure strict adherence to emission norms and restoration duties.

1. **Public Climate Litigation Fund:** Set up a national fund to financially support communities and individuals seeking judicial redress on climate-related grievances, thereby enhancing access to justice.
2. **Transjudicial Dialogue and Capacity Building:** Encourage knowledge exchange between national and international judicial bodies to harmonize climate jurisprudence and build a coherent legal narrative.
3. **Integration with Economic Policy:** Align environmental law with fiscal planning through ecological budgeting, carbon taxation, and green subsidies to promote climate-resilient development.
4. **Community-Centric Climate Justice:** Promote participatory governance models that empower vulnerable and indigenous communities, ensuring that climate solutions are inclusive and equitable.
5. **Educational Reform:** Integrate climate law and sustainability studies into formal legal education to create a generation of lawyers, judges, and policymakers equipped for climate governance.

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