



The Constitutional Climate Right in India after *M K Ranjitsinh*: Treaty Obligations, Federal Structure and the Problem of Judicial Standards

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ABSTRACT :

In March 2024 the Supreme Court of India, in *M K Ranjitsinh v Union of India*, recognised a right to be free from the adverse effects of climate change as a component of the rights guaranteed by Articles 14 and 21 of the Constitution. Commentary since then has concentrated on the novelty of the right, on the judgment's orientation towards renewable energy infrastructure, and on its thin treatment of adaptation. This paper examines three constitutional questions that the sources reviewed treat only in passing: first, through what constitutional route international climate obligations may legitimately inform the content of the right; secondly, how the federal distribution of legislative power affects the identity of the duty-bearers and the prospects of framework legislation; and thirdly, what standard of review and what remedial technique suit a right of this kind. Drawing on Indian constitutional doctrine and on decisions from the Netherlands, Germany, the European Court of Human Rights and Pakistan, the paper argues that the right is best operationalised as a justiciable duty to adopt, maintain and justify a coherent climate framework, enforced through calibrated structural and procedural review rather than through court-ordered numerical targets.

Keywords: Climate change; Article 21; Article 14; Article 253; federalism; standard of review; Indian Constitution

I. Introduction

Climate change presents an unusual challenge for constitutional adjudication. The harm it causes is the aggregate product of emissions released by many actors over a long period; its effects are distributed unequally across communities and generations; and the measures required to address it span energy, land use, water, agriculture, urban planning and public health. Courts in many jurisdictions have nevertheless been asked to decide whether constitutional and human rights guarantees place enforceable obligations on the State in relation to climate change, and their answers have differed markedly in method and ambition.

In India, the question received a direct answer in *M K Ranjitsinh v Union of India*, decided by a three-judge bench of the Supreme Court on 21 March 2024.¹ The Court held that Articles 14 and 21 of the Constitution of India include a right to be free from the adverse effects of climate change.² The decision is significant not because Indian courts had previously ignored environmental protection, for they had developed a substantial body of environmental jurisprudence under Article 21 since the 1980s, but because it identifies climate change as the subject of a distinct constitutional entitlement and, by invoking Article 14 alongside Article 21, links that entitlement to the unequal vulnerability of different communities.

Writing on the decision has been considerable and, in the main, has taken three directions. The first welcomes the recognition of the right and situates it within the wider development of environmental and climate litigation. The second criticises the judgment for treating climate action largely as the promotion of renewable energy infrastructure and for saying little about adaptation. The third observes that the right, as articulated, offers limited guidance on how it is to be given effect, and concludes that legislation will be required.³ Each of these directions is valuable. Yet, on the sources consulted for this paper, three structural constitutional questions beneath them remain comparatively undeveloped.

The first concerns the *source and status of international obligations*. The Court drew on the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris

¹*M K Ranjitsinh v Union of India* Writ Petition (Civil) No 3570 of 2022 (Supreme Court of India, 21 March 2024).

²*Ranjitsinh* (n 1) paras 24–27. See also Parul Kumar and Abhayraj Naik, 'India's New Constitutional Climate Right' (*Verfassungsblog*, 25 April 2024) <<https://verfassungsblog.de/indias-new-constitutional-climate-right/>> accessed 6 October 2026.

³Navroz K Dubash and Shibani Ghosh, 'Towards Operationalising a New Climate Right for India' (*The India Forum*, 20 September 2024) <<https://www.theindiaforum.in/climate-change/toward-operationalising-new-climate-right-india>> accessed 6 October 2026.

Agreement, but the constitutional route by which treaty commitments may shape a domestic fundamental right, and the limits of that route, deserve closer analysis. The second concerns *federal structure*. India has no comprehensive framework climate statute, the Seventh Schedule contains no entry on the environment as such, and the measures on which climate protection depends are distributed across the Union, Concurrent and State Lists; yet Article 253 gives Parliament a distinctive power in relation to treaty implementation. The third concerns *judicial standards*. A right whose content is open-textured invites the question of how a court is to decide whether the State has honoured it, and what orders a court may properly make.

This paper addresses those three questions. Its argument is that the right recognised in *Ranjitsinh* is best understood, and can most defensibly be enforced, as a duty on the State to adopt, maintain, publish and reasonably justify a coherent framework for mitigation and adaptation, differentiated in accordance with India's international position and attentive to the vulnerability of particular communities. Enforcement of that duty is properly a matter of structural and procedural review, supplemented by structured balancing in individual project decisions. It is not a matter for court-prescribed emission targets.

The analysis is doctrinal. It is based on the text of the Constitution, Indian and foreign judicial decisions, treaty instruments and the principal scholarly and policy commentary on *Ranjitsinh*. It does not seek to evaluate climate policy on its technical merits, and it does not attempt a survey of every climate case worldwide; foreign decisions are used selectively, to illuminate options for review and remedy. The analysis is current to 6 October 2026. Part II sets out the constitutional foundations of the right; Part III examines the decision; Part IV identifies the gaps in the existing discussion; Parts V to VII address the three questions in turn; Part VIII draws together recommendations; and Part IX concludes.

II. Constitutional Foundations

A. Article 21 and the environment

Article 21 provides that no person shall be deprived of life or personal liberty except according to procedure established by law. For much of the Constitution's early history the provision was read narrowly. In *Maneka Gandhi v Union of India* the Supreme Court held that the procedure contemplated by Article 21 must be fair, just and reasonable, and that Articles 14, 19 and 21 are to be read together rather than in isolation.⁴ That reading enabled the Court to treat 'life' as more than bare animal existence and so created the doctrinal space in which environmental claims could be accommodated.

The Court occupied that space within a few years. In *Rural Litigation and Entitlement Kendra v State of Uttar Pradesh*, a public interest proceeding concerning limestone quarrying in the Doon Valley, the Court took an active supervisory role over the ecological consequences of mining.⁵ In *Subhash Kumar v State of Bihar* the Court stated that the right to life includes the right to enjoy pollution-free water and air for the full enjoyment of life.⁶ In *Vellore Citizens' Welfare Forum v Union of India* the Court held that the precautionary principle and the polluter pays principle are part of the environmental law of the country as essential features of sustainable development, and it reasoned that principles accepted as part of customary international law may be accepted as part of domestic law where they are not inconsistent with municipal law.⁷ The Court has also invoked intergenerational equity as an element of sustainable development.⁸

B. Directive Principles and Fundamental Duties

The Constitution also contains textual provisions on environmental protection outside Part III. Article 48A, inserted by the Constitution (Forty-second Amendment) Act 1976, directs the State to endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country. Article 51A(g), inserted by the same amendment, makes it a fundamental duty of every citizen to protect and improve the natural environment. Article 48A is a Directive Principle and, by Article 37, is not enforceable by any court. The jurisprudence summarised above, however, shows that the Court has used such provisions as aids in determining the content of Article 21, consistently with its reasoning in *Minerva Mills Ltd v Union of India* that the Constitution rests on a balance, or harmony, between Parts III and IV.⁹ The interpretive method is therefore well established: a non-justiciable directive may inform the scope of a justiciable right without itself becoming independently enforceable.

C. The statutory and policy architecture

The statutory architecture for environmental protection pre-dates the recognition of any climate right. The Water (Prevention and Control of Pollution) Act 1974 was enacted by Parliament on the basis of resolutions passed by State legislatures under Article 252. The Air (Prevention and Control of

⁴*Maneka Gandhi v Union of India* (1978) 1 SCC 248.

⁵*Rural Litigation and Entitlement Kendra v State of Uttar Pradesh* (1985) 2 SCC 431.

⁶*Subhash Kumar v State of Bihar* (1991) 1 SCC 598.

⁷*Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.

⁸*Intellectuals Forum, Tirupathi v State of Andhra Pradesh* (2006) 3 SCC 549.

⁹*Minerva Mills Ltd v Union of India* (1980) 3 SCC 625.

Pollution) Act 1981 and the Environment (Protection) Act 1986 both recite in their preambles the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972, in which India participated, and are properly understood as exercises of the treaty-implementation power in Article 253.¹⁰ The National Green Tribunal Act 2010 established a specialised forum for civil cases involving substantial questions relating to the environment. The Energy Conservation Act 2001, as amended in 2022, provides a statutory basis for a domestic carbon credit trading scheme.

Climate policy, by contrast, has been advanced largely through executive instruments rather than a framework statute. These include the National Action Plan on Climate Change of 2008 and the State Action Plans prepared within its framework, India's updated Nationally Determined Contribution communicated under the Paris Agreement in 2022, and the Long-Term Low-Carbon Development Strategy submitted by the Ministry of Environment, Forest and Climate Change in 2022, which reflects India's stated aim of reaching net-zero emissions by 2070.¹¹ At the time of writing, the author is not aware of any comprehensive framework climate statute in force, and the analysis proceeds on that footing.

III. The Decision in *M K Ranjitsinh*

A. Background and procedure

The proceedings concerned the protection of two critically endangered bird species, the Great Indian Bustard and the Lesser Florican, whose populations have declined in part because of fatal collisions with overhead transmission lines in their habitat in Gujarat and Rajasthan. By an order of 19 April 2021 in the same proceedings, the Court restricted overhead lines across a habitat area of approximately 99,000 square kilometres and directed that low-voltage lines be placed underground and that a court-appointed committee examine the feasibility of placing high-voltage lines underground.¹² Three Union ministries, those responsible for environment, power, and new and renewable energy, then applied for modification of that order on the ground that it impeded the expansion of renewable energy and thereby India's ability to meet its climate commitments.

B. The holding

In its judgment of 21 March 2024, the Court recalled the earlier blanket prohibition on overhead lines and constituted a new expert committee to consider the scope and feasibility of undergrounding in a priority area of 13,663 square kilometres. In doing so it observed that the question was best left to domain experts rather than to prior adjudication by the Court.¹³ The Court also took the opportunity to articulate a constitutional right. It reasoned that, despite a considerable body of decisions on the right to a clean environment and some decisions recognising climate change as a serious threat, it had yet to be articulated that people have a right against the adverse effects of climate change, and it held that such a right is recognised by Articles 14 and 21.¹⁴ It described that right and the right to a clean environment as two sides of the same coin.¹⁵

Three features of the reasoning are of present relevance. First, the Court situated the right within international commitments. According to the principal commentary, it relied primarily on India's obligations under the UNFCCC, the Kyoto Protocol and the Paris Agreement, and alluded to India's Nationally Determined Contribution, and it noted the principle of common but differentiated responsibilities and respective capabilities.¹⁶ Secondly, the Court invoked Article 14 as well as Article 21, recognising that communities differ in their capacity to cope with and adapt to climate change, so that unequal vulnerability may engage the guarantee of equality.¹⁷ Thirdly, the Court called for balance among competing objectives, including species conservation and the promotion of clean energy, and delegated the technical resolution of the immediate dispute to an expert committee.

C. Precedential status

Under Article 141 the law declared by the Supreme Court binds all courts within India. It has nevertheless been suggested that the articulation of the

¹⁰Water (Prevention and Control of Pollution) Act 1974; Air (Prevention and Control of Pollution) Act 1981; Environment (Protection) Act 1986 (preambles); Constitution of India, arts 252–253.

¹¹Prime Minister's Council on Climate Change, *National Action Plan on Climate Change* (Government of India 2008); Ministry of Environment, Forest and Climate Change, *India's Long-Term Low-Carbon Development Strategy* (Government of India 2022) <https://unfccc.int/sites/default/files/resource/India_LTLEDS.pdf> accessed 6 October 2026.

¹²Dubash and Ghosh (n 3). The authors describe the 2021 order and the subsequent application by the Union.

¹³Dubash and Ghosh (n 3), quoting the judgment.

¹⁴*Ranjitsinh* (n 1) paras 24–27.

¹⁵Ibid para 24; Kumar and Naik (n 2).

¹⁶Dubash and Ghosh (n 3).

¹⁷Kumar and Naik (n 2); Dubash and Ghosh (n 3).

climate right formed part of the Court's observations rather than the ratio decidendi, since the operative order concerned transmission lines.¹⁸ The point should be noted without being overstated. Whatever its formal classification, a considered pronouncement of a three-judge bench of the Supreme Court on the content of Articles 14 and 21 is likely to carry persuasive force of the highest order before High Courts, the National Green Tribunal and the Supreme Court itself. The more productive inquiry, and the one pursued here, is how the right should be developed.

IV. The Existing Literature and the Identification of Gaps

Three clusters may be identified in the commentary reviewed. The first treats the decision as an achievement. Kumar and Naik describe it as a new constitutional climate right, emphasise its anchoring in Articles 14 and 21, and note the Court's engagement with unequal vulnerability, international obligations and climate litigation elsewhere.¹⁹ Ghosh had earlier observed that, despite a rich rights-based environmental jurisprudence, Indian climate claims had seen only limited engagement with rights-based arguments; *Ranjitsinh* is expected to open the door to such arguments.²⁰

The second cluster is critical. Dubash and Ghosh argue that the judgment underemphasises adaptation, equates climate action too closely with renewable energy supply, omits demand-side mitigation, and treats domestic emission reductions as the primary route to freedom from climate harm, notwithstanding that India's share of global emissions is modest and that the benefits of adaptation accrue wholly to Indian residents.²¹ These are observations of substance, and they bear on how the right should be understood.

The third cluster addresses operationalisation. The same authors observe that the judgment gives limited direction on who may claim the right, against whom, and in what circumstances, and that the indeterminacy risks contradictory invocations. They suggest that the resolution of competing objectives lies largely with the political process and recommend climate legislation that provides principles for balancing, builds institutional capacity and works with the grain of Indian federalism.²²

Against this background, the present paper identifies three gaps. These are gaps of emphasis rather than total omissions, since each is gestured at in the existing commentary, but on the sources consulted none has been developed as a constitutional question in its own right.

Gap 1: the constitutional route for treaty norms. The commentary records that the Court relied on international instruments but does not examine the doctrinal channel through which they enter the content of a fundamental right in a dualist system, nor the limits of that channel. This matters particularly after the advisory opinion of the International Court of Justice of July 2025.

Gap 2: the federal dimension. The recommendation that legislation should work with the grain of federalism is made without a sustained account of the legislative competence available to Parliament, of the role of Article 253, or of how the duty-bearers under Article 21 are distributed between the Union and the States.

Gap 3: judicial standards and remedies. The commentary identifies the absence of operational content but does not, so far as has been found, set out a structured model of review drawn from the Indian doctrinal toolkit and informed by comparative practice, specifying which aspects of the right a court can and should enforce and by what technique.

V. The First Gap: International Climate Obligations and the Content of Article 21

A. The dualist framework and its recognised exceptions

India follows a dualist approach to treaties. The power to enter into treaties lies with the executive, and a treaty does not of its own force alter the rights and duties of persons within India; legislation is required, for which Article 253 provides the necessary competence. The Constitution also contains, in Article 51(c), a directive that the State endeavour to foster respect for international law and treaty obligations. As a Directive Principle it is not itself enforceable, by Article 37.

The courts have nevertheless allowed international norms to influence domestic law in three recognised ways. First, where municipal law is capable of more than one interpretation, courts prefer the construction consistent with India's international obligations.²³ Secondly, in the absence of inconsistent

¹⁸Dubash and Ghosh (n 3), noting the argument made in a commentary by the Centre for Energy, Environment and Water.

¹⁹Kumar and Naik (n 2).

²⁰Shibani Ghosh, 'Litigating Climate Claims in India' (2020) 114 AJIL Unbound 45; Dubash and Ghosh (n 3).

²¹Dubash and Ghosh (n 3).

²²Ibid; Navroz K Dubash, Shibani Ghosh and Aditya Valiathan Pillai, 'Court on Climate Right and How India Can Enforce It' *The Hindu* (1 July 2024).

²³*Gramophone Co of India Ltd v Birendra Bahadur Pandey* (1984) 2 SCC 534.

domestic legislation, international norms may be relied on to give content to fundamental rights. In *Vishaka v State of Rajasthan* the Court, confronted with a legislative vacuum on sexual harassment at the workplace, relied on international conventions to expand the meaning of the guarantees in Articles 14, 15, 19 and 21 and laid down guidelines to operate until legislation was enacted.²⁴ The Court reasoned in a similar vein in *People's Union for Civil Liberties v Union of India*.²⁵ Thirdly, as *Vellore* shows, norms accepted as customary international law may be received into domestic environmental law where consistent with it.²⁶

These routes are not interchangeable, and *Ranjitsinh* does not identify which it follows. The distinction is of practical importance. If treaty provisions merely supply interpretive context, they can inform the content of Article 21 but cannot supply independent rules of decision. If, by contrast, the Court treats them as sources of enforceable domestic duty, it risks displacing the allocation of treaty-making power to the executive and the allocation of implementing power to Parliament under Article 253.

B. The nature of the international obligations

The legal character of the relevant international obligations is itself contested ground. The Paris Agreement contains an obligation on each party to prepare, communicate and maintain successive nationally determined contributions that it intends to achieve and to pursue domestic mitigation measures with the aim of achieving the objectives of those contributions.²⁷ The content of each contribution is nationally determined. The Agreement also contains provisions on adaptation, under which each party is, as appropriate, to engage in adaptation planning processes and the implementation of adaptation actions.²⁸ The Agreement therefore combines obligations of process with commitments whose substantive content is left to the party concerned.

The advisory opinion delivered by the International Court of Justice on 23 July 2025 on the obligations of States in respect of climate change has sharpened the debate. According to published summaries of the opinion, the Court found that the climate change treaties set binding obligations on States parties to protect the climate system from anthropogenic greenhouse gas emissions, that parties listed in Annex I to the UNFCCC have additional obligations to take the lead, and that the obligations under the treaties are owed *erga omnes partes*.²⁹ Advisory opinions are not binding in the manner of a judgment in contentious proceedings, but the opinion is an authoritative statement of international law by the principal judicial organ of the United Nations. It is therefore a material that Indian courts may properly consult in applying Article 51(c) and in the interpretive exercise described in *Vishaka*.

The opinion also bears on differentiation. India is not listed in Annex I to the UNFCCC, and the opinion's recognition of additional obligations for Annex I parties suggests that the content of India's obligations differs from theirs. A Court that draws on the opinion in giving content to Article 21 must therefore draw on it in its differentiated form. This is consistent with the Court's own reference in *Ranjitsinh* to the principle of common but differentiated responsibilities, and it is a point to which a foreign decision such as *Urgenda*, concerning a developed State, must be applied with care.

C. Proposal: calibrated incorporation

The analysis suggests a middle position, which may be termed calibrated incorporation. Under it, treaty norms and authoritative interpretations of them are legitimate guides to the *content* of the Article 21 duty, but they translate into judicially enforceable standards only to the extent that they can be expressed as duties consistent with the constitutional allocation of powers. Three consequences follow.

First, the *process* obligations in the Paris Agreement, namely to prepare, communicate and maintain a contribution and to pursue domestic measures to achieve it, can be mapped onto a domestic duty of rational and transparent climate planning. A court may ask whether such a plan exists, whether it is publicly available and whether it is adhered to. That inquiry sits comfortably with the long-recognised requirement under Article 14 that the executive not act arbitrarily and that it adhere to standards it has itself adopted.³⁰

Secondly, the *substantive* content of India's contribution, for example its quantified targets, remains a matter of national determination under the Agreement and, domestically, of executive and legislative judgment. A court has no treaty-based warrant to prescribe it, and calibrated incorporation

²⁴*Vishaka v State of Rajasthan* (1997) 6 SCC 241.

²⁵*People's Union for Civil Liberties v Union of India* (1997) 3 SCC 433.

²⁶*Vellore* (n 7).

²⁷Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) FCCC/CP/2015/10/Add.1, annex, art 4(2).

²⁸*Ibid* art 7.

²⁹*Obligations of States in respect of Climate Change* (Advisory Opinion) General List No 187 (International Court of Justice, 23 July 2025). For a summary see 'Climate Change | ICJ issues Advisory Opinion on obligations of States under International Law' (*SCC Online Blog*, 24 July 2025) <<https://www.scconline.com/blog/post/2025/07/24/icj-advisory-opinion-state-obligation-respect-of-climate-change-legal-news/>> accessed 6 October 2026.

³⁰*E P Royappa v State of Tamil Nadu* (1974) 4 SCC 3; *Ramana Dayaram Shetty v International Airport Authority of India* (1979) 3 SCC 489.

therefore does not authorise the Court to fix numerical targets.

Thirdly, the *adaptation* provisions of the Agreement provide a treaty anchor for the equality dimension of the right recognised under Article 14. If different communities have different capacities to adapt, the duty to plan for adaptation is a point at which the treaty obligation and the Article 14 strand of *Ranjitsinh* converge. As noted, the existing commentary regards the judgment's handling of adaptation as thin; the analysis here suggests that it is also the aspect of the right most amenable to principled judicial development, because it benefits Indian residents directly and does not depend on the conduct of other States.³¹

An objection may be anticipated: that even this limited incorporation allows the judiciary to convert executive commitments into legal obligations. The answer is that the proposal does not make the treaty enforceable in itself. It treats the State's own adopted plans and international undertakings as evidence of the standard of rational conduct against which executive inaction may be assessed, and it stops short of any order that the executive adopt a particular substantive position.

VI. The Second Gap: Federal Structure and Legislative Competence

A. Who bears the duty?

Article 21 binds the 'State', which by Article 12 includes the Government and Parliament of India, the Government and Legislature of each State, and local and other authorities within the territory of India or under the control of the Government of India. The right recognised in *Ranjitsinh* therefore lies against Union and State authorities alike. This is important because the measures on which climate protection depends are carried out across multiple levels of government. A claimant who alleges a failure to protect against climate harm will often face a question of which authority was responsible, and the judgment gives no guidance on it.

B. The distribution of legislative power

The Seventh Schedule contains no entry on the environment as such. Relevant matters are dispersed. The Union List includes participation in international conferences, associations and other bodies and the implementing of decisions made there (entry 13), and entering into treaties and agreements with foreign countries and implementing them (entry 14). It also includes the regulation of industries where Parliament has declared control by the Union to be expedient (entry 52) and mines and mineral development to the extent declared by Parliament (entry 54). The Concurrent List includes forests (entry 17A), the protection of wild animals and birds (entry 17B), electricity (entry 38) and economic and social planning (entry 20). The State List includes public health and sanitation (entry 6), agriculture (entry 14) and water, subject to the Union List (entry 17).

Climate change mitigation and adaptation touch most of these entries at once. Mitigation engages electricity, industry and mining. Adaptation engages public health, agriculture, water and the planning of cities and coasts, matters largely within State competence. The scheme of the Constitution therefore does not allocate climate governance to a single level.

C. Article 253 as the basis for framework legislation

Article 253 provides that, notwithstanding the preceding provisions of the relevant Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body. As noted, Parliament appears to have relied on the Article for the Air Act 1981 and the Environment (Protection) Act 1986, which recite the Stockholm decisions in their preambles.

The relevance of Article 253 to climate legislation has an important consequence that is not drawn out in the commentary reviewed. India is a party to the UNFCCC and the Paris Agreement, and the decisions of the Conference of the Parties are decisions of an international body. Parliament therefore has legislative competence under Article 253, read with entries 13 and 14 of the Union List, to enact a framework statute implementing those instruments, and that competence is not confined by the allocation of subject matter in Lists II and III. Because the Paris Agreement itself addresses adaptation planning, the competence is plausibly wide enough to extend to the framework of adaptation planning, although not to the displacement of State administration in matters such as public health delivery or agriculture beyond what implementation of the treaty reasonably requires.

The limits of that competence should be stated candidly. Article 253 supports legislation 'for implementing' the instrument, so a framework law must be tied to the content of the treaty obligations and the decisions made under them. Federalism has been held to form part of the basic structure of the Constitution.³² Whether and how far Article 253 may be used to occupy fields of State competence in the name of treaty implementation is therefore a

³¹Dubash and Ghosh (n 3).

³²*S R Bommai v Union of India* (1994) 3 SCC 1.

question that should be approached with attention to the federal balance. A framework statute that sets national planning duties, reporting obligations and institutional arrangements, while leaving implementation to the States through State-level plans, would respect that balance. India's existing practice of State Action Plans prepared within the National Action Plan on Climate Change already points in that direction.

D. Consequences for judicial remedy

The federal analysis bears on remedy in two ways. First, it supplies a constitutional answer to the observation that the right requires legislation: there is a clear legislative competence on which Parliament can act. That answer does not, however, justify a court in directing Parliament to enact legislation in particular terms. Legislative form is for Parliament, and a court that sought to prescribe it would stand on weak constitutional ground. The proper judicial role is to treat the absence or incoherence of a framework as a relevant factor in assessing whether executive authorities have discharged their Article 21 duty, and to direct the executive within its own sphere.

Secondly, the executive power of the Union and of each State, under Articles 73 and 162 respectively, extends to matters in respect of which the relevant legislature has power to make laws. The Union and the States may therefore act through executive plans, policies and administrative arrangements where no statute exists. Judicial supervision of the adequacy and implementation of such plans is a more modest and constitutionally less contentious remedy than a direction to legislate, and it is the remedy that the analysis in Part VII favours.

VII. The Third Gap: Standards of Review and Remedies

A. The problem of indeterminacy

A right to be free from the adverse effects of climate change is open-textured. Commentators have asked who may claim it, against whom, and in respect of which adverse effects, and have noted that its broad formulation may allow contradictory invocations: an emission-intensive industry might claim, for example, that its operations help communities adapt to rising temperatures.³³ If the right is to be more than a statement of aspiration, courts need a technique for deciding whether it has been infringed that is neither so deferential as to be empty nor so intrusive as to displace political judgment.

B. Comparative models

Comparative practice offers a range. In *Urgenda*, the Supreme Court of the Netherlands held that Articles 2 and 8 of the European Convention on Human Rights required the State to take measures against the real and imminent threat of climate change, and upheld an order that the State reduce emissions by at least 25 per cent by the end of 2020 compared with 1990 levels. The Court also rejected the argument that the State's small share of global emissions relieved it of responsibility, reasoning that each State is responsible for its own part.³⁴ This is the most substantively demanding of the models and was applied to a developed State with obligations under the climate treaties that differ from India's.

In *Neubauer*, the German Federal Constitutional Court did not prescribe numerical targets. It held that provisions of the Federal Climate Change Act were incompatible with fundamental rights insofar as they did not sufficiently specify the reduction of emissions after 2030, since the burden of reduction would otherwise be shifted to later periods and later generations in a way that could restrict future freedom. It required the legislature to make further provision by a specified date. In reaching that conclusion the Court treated the legislature's own adoption of the Paris temperature objective as a reference point for the constitutional duty to protect the natural foundations of life.³⁵ The model is structural: it reviews whether the legislative framework sufficiently allocates the burden over time, without prescribing the allocation.

In *Verein KlimaSeniorinnen Schweiz v Switzerland*, the Grand Chamber of the European Court of Human Rights held that Article 8 of the Convention encompasses a right to effective protection by State authorities from the serious adverse effects of climate change on life, health, well-being and quality of life. It found a violation on the ground, among others, that there were critical lacunae in the Swiss domestic regulatory framework, including a failure to quantify national limits on greenhouse gas emissions through a carbon budget or otherwise. It accepted the standing of an association to bring the claim while holding the individual applicants' complaints inadmissible.³⁶ The model is again primarily procedural and structural, though it expects a framework adequate to the task.

In *Asghar Leghari v Federation of Pakistan*, the Lahore High Court found that delay in implementing the State's own climate policy infringed fundamental rights and established a Climate Change Commission, comprising governmental and non-governmental members, to supervise implementation.³⁷ It is the

³³Dubash and Ghosh (n 3).

³⁴*State of the Netherlands v Urgenda Foundation* ECLI:NL:HR:2019:2007 (Supreme Court of the Netherlands, 20 December 2019).

³⁵*Neubauer v Germany* 1 BvR 2656/18 and others (Federal Constitutional Court, Order of the First Senate, 24 March 2021).

³⁶*Verein KlimaSeniorinnen Schweiz v Switzerland* App no 53600/20 (ECtHR, 9 April 2024).

³⁷*Asghar Leghari v Federation of Pakistan* WP No 25501/2015 (Lahore High Court, 4 September 2015).

closest of these models to Indian practice, because it combines enforcement of an existing policy with continuing supervision.

The decisions may be arranged along a spectrum from substantive prescription (*Urgenda*) to structural review of the framework (*Neubauer, KlimaSeniorinnen*) to supervised enforcement of existing policy (*Leghari*). Each reflects the constitutional text and institutional setting of its jurisdiction, and none can be transplanted without adaptation. They nonetheless show that courts which have recognised climate-related rights have, for the most part, not left the content of the right to be settled case by case; they have directed attention to the adequacy and coherence of the State's overall framework.

C. The Indian doctrinal toolkit

Indian public law already contains the elements of an equivalent approach. First, Article 14 has been read to prohibit arbitrary State action, and the executive is bound to adhere to the standards it has itself set.³⁸ Secondly, the Court has developed proportionality as a standard for assessing restrictions on fundamental rights, a development confirmed in later decisions.³⁹ Proportionality was developed principally for review of restrictions on rights rather than of failures to protect, and its application to positive duties would need to be reasoned, but its structured approach to the weighing of competing objectives is well suited to the balancing that *Ranjitsinh* itself requires. Thirdly, the Court has long used continuing mandamus, under which it supervises the implementation of its directions over time, in the environmental and governance fields.⁴⁰ Fourthly, public interest standing has been liberalised so that organisations and individuals may approach the Court on behalf of those unable to do so.⁴¹ Finally, the Court has, in *Narmada Bachao Andolan v Union of India*, emphasised restraint in reviewing policy decisions on large projects that involve technical and economic judgments, which marks one boundary of the proposed approach.⁴²

D. A layered model of review

The comparative and doctrinal material suggests a layered model for enforcing the right recognised in *Ranjitsinh*, in which the intensity of review diminishes as the decision at issue becomes more technical and more political.

The structural layer. The court asks whether a coherent climate framework exists and is accessible. At present, India's climate policy is dispersed across plans, strategies and sectoral measures, and the question is whether the State has articulated how its mitigation and adaptation measures fit together, at both Union and State level. Where it has not, the court may direct the relevant executive authorities to adopt and publish a time-bound framework, without prescribing its substantive content. This is the layer in which the federal analysis in Part VI and the incorporation analysis in Part V have most direct application.

The procedural and rationality layer. The court asks whether decisions affecting climate outcomes were taken on the basis of the best available scientific assessment, with attention to differential vulnerability as Article 14 requires, with reasons, and with adherence to the State's own stated commitments. In its advisory opinion the International Court of Justice is reported to have treated the work of the Intergovernmental Panel on Climate Change as the best available science; Indian courts may take comparable assessments into account in testing the rationality of executive decisions.⁴³ Review at this layer is deferential on matters of technical judgment but searching as to whether the decision-maker has addressed the relevant considerations.

The contextual balancing layer. In individual project decisions, such as those in *Ranjitsinh* itself, the court employs structured balancing. Where the State relies on climate objectives to justify an action that carries ecological or social cost, the decision-maker should be required to show both the claimed climate benefit and the cost, and to explain why alternatives were rejected. This addresses the commentary's concern that climate action may be equated with renewable energy promotion: the claim that a measure serves climate objectives becomes a matter to be demonstrated, not assumed. It also addresses the risk of contradictory invocations, since a project that increases emissions must justify itself in terms of the adaptation or equality benefits it claims.

E. Remedies

The remedial implications are modest but real. Courts may issue directions to the executive to prepare, publish and review climate plans within defined periods; may require periodic reports; and may, as in *Leghari*, constitute or direct the constitution of a monitoring body. In technically complex matters, expert committees may assist the Court, as in *Ranjitsinh*. The commentary's concern that a committee cannot be the answer to every question of balance is well founded, and it indicates that expert bodies should be advisers on technical aspects of a standard the court has itself articulated, rather than

³⁸Royappa and Ramana Dayaram Shetty (n 30).

³⁹*Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353; *Justice K S Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Anuradha Bhasin v Union of India* (2020) 3 SCC 637.

⁴⁰*Vineet Narain v Union of India* (1998) 1 SCC 226; *T N Godavarman Thirumulpad v Union of India* (1997) 2 SCC 267.

⁴¹*S P Gupta v Union of India* 1981 Supp SCC 87.

⁴²*Narmada Bachao Andolan v Union of India* (2000) 10 SCC 664.

⁴³*Obligations of States in respect of Climate Change* (n 29).

substitutes for judicial reasoning on the legal question. Supervision should also be time-limited, with the court withdrawing once a functioning framework is in place, in order to avoid the permanent displacement of executive responsibility.

F. Objections

Three objections warrant response. The first is democratic legitimacy: the allocation of costs and benefits in the energy transition is a political choice. The layered model respects this by leaving substantive choices to the political branches and confining courts to the adequacy, coherence and rationality of the framework. The second is institutional competence: courts lack the expertise to evaluate climate science and economic trade-offs. The model addresses this by directing the court's attention to process and reasoning rather than outcomes, and by preserving a role for expert evidence. The third is that a more intensive review could impede development, a legitimate concern for a country with substantial developmental needs. The recognition of differentiated responsibilities, and the fact that the right is anchored in Article 14 as well as Article 21, mean that the right to development of vulnerable communities is internal to the analysis rather than opposed to it.

VIII. Implications and Recommendations

The analysis in Parts V to VII yields five recommendations. They are advanced as propositions for development by courts and policy-makers, not as statements of existing law.

First, courts should state the doctrinal route by which international climate obligations inform Article 21. The route of calibrated incorporation described in Part V allows the Court to draw on the Paris Agreement and on authoritative interpretations such as the advisory opinion of July 2025 to give content to the right, while preserving the constitutional allocation of treaty-making and implementing power.

Secondly, the right should be understood primarily as a duty to maintain a coherent and justified framework for mitigation and adaptation, rather than a freestanding guarantee of a particular climate outcome. This reading preserves the right's normative force while giving courts a manageable object of review.

Thirdly, Parliament should consider framework legislation under Article 253, read with entries 13 and 14 of the Union List, tied to the content of India's treaty commitments, and structured so as to engage the States through State-level plans. Such legislation would answer the commentary's call for principles and institutions and would respond to the federal considerations discussed above. The adoption of such legislation is a matter for Parliament; the point made here is that the competence exists.

Fourthly, adaptation deserves express treatment. The convergence of the Article 14 strand of the right and the adaptation provisions of the Paris Agreement suggests that adaptation planning is the area in which judicial elaboration is most principled and the least dependent on the conduct of other States.

Fifthly, in individual project decisions, courts should require structured justification of claimed climate benefits and should not treat renewable energy infrastructure as self-evidently consistent with the right. This is a development of the balancing that *Ranjitsinh* itself calls for.

IX. Conclusion

M K Ranjitsinh v Union of India places India among the jurisdictions in which courts have recognised a constitutional dimension to climate change. Its significance will depend on what follows. The decision recognises a right, but a right without a developed account of its source in international law, its place within a federal constitution and its manner of enforcement is vulnerable to the criticism that it is declaratory only.

This paper has argued that each of these three questions can be answered by drawing on resources already present in Indian constitutional law. International obligations can inform the content of Article 21 through a calibrated form of incorporation which respects the roles of the executive and Parliament. The federal structure, far from being an obstacle, supplies in Article 253 a clear legislative competence for framework climate legislation, to be exercised with attention to the position of the States. And the experience of courts in other jurisdictions, together with the Indian doctrines of non-arbitrariness, proportionality and continuing mandamus, supports a layered model of review in which courts enforce the adequacy, coherence and rationality of the State's climate framework without prescribing its substantive content.

Several limits should be acknowledged. The analysis is doctrinal and rests on a limited number of principal decisions and secondary sources; it has not tested the proposed model against a body of Indian cases applying *Ranjitsinh*, because the available jurisprudence is still in an early stage; and the legal developments in this field are moving quickly, both domestically and internationally. Further research could usefully examine how High Courts and the National Green Tribunal have applied the right, how State governments allocate responsibility for adaptation in practice, and how the ICJ's advisory opinion is received in Indian litigation. The constitutional questions identified here are, however, unlikely to disappear, and addressing them early offers

the best prospect that the right recognised in 2024 will have practical content.

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