

Green Gavel: India's Supreme Court's Verdict on the Constitutional Climate Right

Dr. Anju Sinha

Assistant Professor (Selection Grade), Law Centre-1, Faculty of Law, University of Delhi, India

Email: asinha@lc1.du.ac.in

Orchid ID: <https://orcid.org/0009-0002-4843-1531>

Abstract

Humans and their environment are interconnected, providing essential resources for survival. However, human activities have led to overuse and depletion of natural resources, polluting the environment. Environmental laws aim to regulate this relationship, setting safe limits and monitoring activities. Climate change, a part of environmental justice, is a hot topic among activists and the Indian court. In this paper, researchers shall discuss the role of the judiciary in recognizing environmental protection and climate change. The authors shall also discuss the international and national development history in this regard. The authors shall also analyze the journey that led to the environmental right under the ambit of Article 14 and Article 21 of the constitution. The goal cannot be achieved just by including these environmental rights under the 'right to life'; rather, it is crucial to examine the opportunities and difficulties it presents. The authors will briefly shed light on the international scenario in this backdrop and so its status in India by analyzing different judgments that have been pronounced on several occasions while analyzing the recent Supreme Court judgment in 'M.K. Ranjitsinh and others v. Union of India and others' (2024) with a special focus on the constitutional perspective.

Keywords: Environmental right, Right to life, Right to equality, Climate change, Environmental law.

INTRODUCTION

Humans and the environment are closely interrelated, with people relying on their natural surroundings to meet various needs as the environment provides essential sustenance, including food, shelter, and other critical resources necessary for survival. However, in recent times, due to economic systems and way of life, humans have overused and exploited natural resources, leading to their gradual depletion, and the earth can no longer sustain these activities. Human actions have polluted the environment and degraded the quality of resources. Therefore, environmental laws aim to regulate the relationship between humans and the ecosystem by setting safe limits and ensuring

close monitoring of human activities by various regulatory bodies.

Recently, the concept of 'climate change' has become a hot topic of discussion among environmental activists and in the apex court of India, and it has become a part of 'environmental justice.' There is no doubt that to achieve this justice, two mechanisms need to be worked upon. Firstly, the authorities which are accountable for the environmental statute (Saleem, 1994) and are responsible for the environmental degradation (Angstadt, 2016). Secondly, the Indian courts, when they issue the guidelines or directions to implement the legislation which advocate for environmental law and the constitutional obligations that have been enshrined in the constitution to prevent environmental harm (J.

Cha, 2007).

A more prominent way of delivering 'environmental justice' is through the second option, where a court issues directives against an inactive executive body responsible for 'environmental pollution' and degradation, compelling it to take necessary actions as per environmental legislation and constitutional mandates. Generally, courts consider two factors: if any provision of the 'environmental statute' is violated or if there is a violation of 'environmental rights', whether statutory or constitutional. If either is found, the courts recognize the case according to 'due process of law' and provide environmental justice.

The Hon'ble Supreme Court (SC) in 'Subash Kumar v. State of Bihar' (1991) held that the right to a 'pollution-free environment' comes within the preview of Article 21 of the Indian Constitution. This judgment is progressive in nature and has a very great impact on further cases. For instance, the subsequent judgment of the SC in the case of 'MC Mehta v. Union of India' (2008), famously known as the 'Aravalli mining' case, has evolved the principle that whenever there is a degradation in the environment, it amounts to the violation of the 'right to life' and thereby it must be avoided at any cost.

This paper will deal with the historical evolution related to climate change by analyzing international commitments and Indian legislation. The authors will be dealing with the constitutional perspective and the judicial mechanism that has been adopted by Indian courts to protect the environment; in this regard, they will focus on the judgments which are proactive judgments and pro-development judgments with a special focus on the recent judgment of 'M K Ranjitsinh and others v. Union of India' (2024) which the SC has pronounced in the month of March 2024.

HISTORICAL EVOLUTION

1. Under international commitments

India has made major international commitments in accordance with global environmental protection goals. India participated in the 'Kyoto Protocol' enacted on February 16, 2005. This international agreement, linked to the 'UN Framework Convention on Climate Change'(UNFCCC), requires its Parties to establish binding emission reduction objectives. The Protocol enables countries to reach these targets through national measures while providing additional mechanisms like 'International Emissions Trading,' 'Clean Development Mechanisms,' and 'Joint Implementation.' The UNFCCC was created on the idea that 'climate change' is a global concern that requires a collective global solution. (UN Climate Change) As 'greenhouse gas emissions' originate from the boundaries of all nations and influence all nations; it is vital that all governments take action to solve this issue. As stated in Article 2, the UNFCCC's principal goal is to stabilize greenhouse gas concentrations in the atmosphere to prevent dangerous human- induced interference with 'climate change.'(Kyoto Protocol,2005).

States reaffirmed their commitment to combating 'climate change' during the 18th 'Conference of the Parties in Doha, Qatar' in December 2012, laying the framework for increased ambition and action. Among other measures, they established a timeframe for adopting a 'Universal Climate Agreement' by 2015. The goal was to reach a binding and universal agreement to restrict 'greenhouse gas emissions' to levels that would keep 'global temperatures' from rising more than '2 degrees Celsius' (3.6 degrees Fahrenheit) beyond the temperature baseline established before the Industrial Revolution. The COP 21 conference was held in Paris in December 2015, and 196 countries, including India, signed a new 'Climate Change Agreement' on December 12, 2015, called the 'Paris Agreement' (UN Climate Change).

In the run-up to the Paris meeting, the 'United Nations' asked parties to submit plans for reduc-

-ing 'greenhouse gas emissions. On October 2, 2015, India submitted its intended 'Nationally Determined Contribution' (NDC) to the UNFCCC. Each Party must communicate its NDC under the 'Paris Agreement' every five years. On October 2, 2015, India updated their initial NDC, which had been submitted earlier that year, until 2030.

2. Under Indian legislation

India's attempts to mitigate 'climate change' are multifaceted as it takes a holistic strategy for 'climate change mitigation' that combines international cooperation, technology developments, and regulatory initiatives. India's actions are vital in the global fight against 'climate change' because they are committed to 'sustainable development' and 'environmental stewardship'. India is one of the most 'climate-vulnerable' countries; thus, India has implemented a legislative framework for mitigating 'climate change' that includes several steps to limit 'pollution,' support 'renewable energy,' improve 'energy efficiency,' preserve 'forests,' and safeguard the 'environment.' India's international obligations under multiple climate agreements and its commitment to sustainable development depend heavily on these laws and policies. Indian Parliament has passed 'The Wild Life Act' 1972, the 'Water Prevention and Control of Pollution Act 1974,' the 'Air Pollution and Control of Pollution Act,' 1981, the 'Environment (Protection) Act 1986, and the 'National Green Tribunal Act 2010, among others. The 'Energy Conservation Act' of 2001 was changed in 2022 to authorize the Central Government to establish a carbon credit trading scheme. 'The Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules' 2022 were enacted in accordance with the 'Electricity Act of 2003' to ensure access to and encourage the use of green energy.

CONSTITUTIONAL PERSPECTIVE.

Various 'constitutional provisions' have

been implemented under the constitution itself to protect the environment from degradation, which has also been affirmed in the subsequent judgments of the Supreme Court on different occasions. Thus 'climate change' or 'environment protection' needs to be analyzed from the prism of constitutional law.

No duties of citizens were outlined in the 1950 Indian Constitution when it was first enacted. The Constituent Assembly's constitutional adviser, Sir BN Rau, drafted and delivered a draft constitution to the Drafting Committee in 1947. A section on the 'Duties of Citizenship' was included in this draft's Chapter XI but omitted later (Ramnath, 2012). A few members of the Constituent Assembly proposed including citizen duties—also known as obligations or responsibilities—to the Constitution during the 1948–1949 debates (CAD,1948). Other participants contended that each and every right entails a duty (CAD,1949), taking citizens' fulfillment of their duties for granted (LSD,1976). Nearly twenty years later, in 1969, in the case of 'Chandra Bhavan Boarding and Lodging Bangalore v The State of Mysore and Another'(1969), the SC affirmed Part IV of the Constitution, which outlines 'Directive Principles of State Policy' (DPSP), and recognized the need for people's fundamental duties. The court observed:

"It is a fallacy to think that under our constitution there are only rights and no duties... the provision of part IV enables the legislatures and the Government to impose various duties on the citizens. The provisions therein are deliberately made elastic because the duties to be imposed on the citizen depend on the extent to which the directive principles are implemented".

1. Constitutional Design and Relationship Among Constitutional Environmental Provision
Various constitutional provisions are included in 'environmental constitutionalism'. The design of these constitutional provisions

duties and rights have a correlative relationship (Wesley N Hohfeld, 1917). Mrs. Indira Gandhi provided the following justification for the Constitution's inclusion of 'fundamental duties' when the 1976 Bill was brought before the Lok Sabha:

"The chapter on duties has been introduced not to smother rights but to establish a democratic balance. Our Constitution was notable for highlighting the Directive Principle along with Fundamental Rights. Neither can flower and bear fruit without performing duties. The asymmetry of one-sided stress on rights will be rectified." (LSD,1976)

Several Lok Sabha members expressed their approval of Part IV A's incorporation into the Constitution, highlighting the relationship between obligations and rights. (LSD,1976) However, what was the constitutional right in relation to people's 'fundamental environmental duty'? The 'right to the environment' or 'socioeconomic right' was not guaranteed by the constitution at that time. 'Part IV' of the constitution included 'socio-economic goals' or guarantees as 'DPSP,' whereas the Constitution established 'civil' and 'political rights' as 'fundamental rights.' As stated differently, no correlation existed between a 'constitutional right' to the environment and a 'fundamental environmental duty'.

Constitutional origin and design make a clear distinction between the State's 'environmental duty' (Part IV) and 'citizens duty' (Part IV A), yet the courts conflate the two. For example, the Himachal Pradesh High Court in 'Kinkri Devi and Another v State of Himachal Pradesh and Others'(1988) held that "the State's and citizens 'constitutional obligations' for the protection of the environment are identical". Later, the SC, in the case of 'State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat and others'(2008), observed that Parliament inserted Article 51A (g) "to ensure that the spirit and message of Articles 48 and 48A are honored as a 'fundamental duty

of every citizen', and 'to improve the manifestation of objects' contained in Article 48 and 48A". The Court clarified that while Article 48A speaks of 'environment,' Article 51A(g) employs the expression 'the natural environment' and includes therein 'forests, lakes, rivers, and wildlife.' (State of Gujarat, 2008).

According to several High Court observations, the State's obligation towards environmental protection is outlined in the 'DPSP' but citizens 'fundamental environmental duties' are equally important, and it is required to "uphold the values of environmental protection and the necessity of public involvement and accountability in government decisions affecting the environment and urban development",('Dattatraya Hari v. State of Maharashtra', 2014) The legal determination of the 'fundamental environmental duty' is nonetheless influenced by these rulings, the SC, in 'AIIMS Students Union v AIIMS and Others'(2001) held "that 'fundamental duties' and 'fundamental rights' are equally important, the designation of each as 'Fundamental' emphasizes their equal importance". The court further held that "the State is all of the citizens put together, so even though Article 51-A does not specifically place any fundamental duties on the State, it is still the State's collective responsibility to all Indian citizens." ('AIMS,' 2001).

The legislative and the executive branches, or the political branches of government, are identified as the 'State'(Constitution of India, Article 12), and the judiciary has also asserted that the members of the legislative and executive branches of government comprise the State.('M.C.Mehta', 1996) The judiciary subsequently ruled that the State was required to uphold the 'fundamental (environmental) duties'('State of Gujrat',2005) and it determined which aspects of this obligation were relevant to a 'specific group of individuals'.

The court further held that “by enacting appropriate legislation, the parliament can carry out its core ‘environmental duty,’ and the executive can implement such legislation.”

The SC further ruled that while creating legislation, the State must follow the guidelines outlined in Article 51A(g) (‘Intellectuals Forums Tirupathi’, 2006). The judiciary has noted a number of cases in which the legislature has passed a number of environmental legislations in order to carry out its constitutionally mandated environmental obligations (‘Animal and Environment Legal Defence Fund’, 1997). The Delhi High Court held that the executive branch’s responsibility is to “implement statutory provisions, which have a direct nexus with fundamental duties through the officials of the relevant Ministries” (People for Animals, 2002). As per the Bombay High Court, public bodies, which are made up of people, are bound by the State Government’s collective duty to maintain lakes, which is the ‘fundamental duty’ of every citizen (‘Bombay Environmental Action Group and Another’, 2006).

It seems that the primary justification for extending citizens’ fundamental ‘environmental duties’ to the State is to make sure that non-justiciable DPSP is implemented by law. This represents another instance of the judiciary’s inventiveness in putting the State’s constitutional obligation and ‘right to protect the environment into practice’. Another reason is that, in order to raise environmental issues related to ‘fundamental rights,’ people seek the ‘writ jurisdiction’ of the Courts, and although people may have a ‘fundamental duty’ to protect the ‘environment,’ the State and its agents are the main respondents in these matters.

2. Constitutional Environmental Duty

In order to incorporate the ‘right to the environment’ into the ‘constitutional right to life’ or to limit the extent of other ‘constitutional rights,’ court practice in relation to the ‘fundamental environmental duty’ of Indian citizens needs to be analyzed.

In contrast to the constitutional origin and design of laws, the judiciary connects the State’s and citizens’ fundamental environmental responsibility and ultimately, broadens the purview of the basic need to protect the environment either explicitly or implicitly, in two ways: firstly, the state and citizens are ‘duty-bearers’, and secondly, the environment and future generations are equivalent ‘right-holders’.

In a departure from previous approaches, Bruch, Coker, and VanArsdale concentrate on characteristics of nations—“limited budgets and a priority on development”—to explain the need for the judiciary’s “foresight and creativity” to give meaning to ‘constitutional environmental’ provisions, including the ‘duty’ of individuals. (Bruch et al. 2001) In fact, the Indian judiciary has relied on citizen’s and the State’s ‘Constitutional environmental duties’ in many cases concerning non-realization or violation of ‘fundamental rights’ to “pass strong and wide-reaching orders and directions.” (Rosencranz & Rustomjee, 1995) These orders elevate the scope of the ‘fundamental right to life,’ interpret or restrict ‘fundamental rights,’ and interpret other ‘constitutional rights’ and/or ‘domestic legislation’. This is similar to the judicial reliance on ‘constitutional duties’ as an interpretive aid (Khaitan, 2019), and this development is a recognition of ‘constitutional environmental duties’ as “living provisions embodying a constitutional commitment to protect the environment, and not as mere bland policy statements.” (Rosencranz & Rustomjee 1995).

The Indian Constitution’s Article 21, which ensures everyone’s fundamental ‘right to life,’ has been interpreted by the judiciary to include a ‘right to the environment.’ This interpretation has broadened the scope of the provision and added to the list of ‘constitutional rights. The definition of ‘fundamental right to life’ was expanded by the Andhra Pradesh High Court to include “protection and preservation of nature’s gifts” in 1987 (‘Damodhar v Municipal Corporation’, 1987).

Ten years later, the Supreme Court, in ‘Vellore Citizens Welfare Forum v Union of India and Others’ (1996), acknowledged that everyone has a ‘right to clean water’ and a ‘pollution-free environment,’ citing “the constitutional mandate to protect and improve the environment.”

This novel judicial interpretation was created based on a harmonious reading of Article 21 with ‘DPSP’ (namely, the State’s constitutional environmental duty outlined in Article 48A) and the ‘fundamental environmental duty’ of citizens. Put another way, by laying the groundwork for establishing a constitutional ‘environmental right,’ the fundamental ‘right to life,’ and the State’s and citizens’ obligations to protect the environment have enhanced ‘environmental constitutionalism’ in India. Fundamental duties are imposed on ‘citizens of India’ even though the Constitution guarantees everyone the ‘fundamental right to life’; however, the Court later, in the case of *MC Mehta v Kamal Nath and Others* (2006)) noted that the State’s and people’s fundamental ‘environmental duties’ “have to be considered in the light of Article 21 of the constitution;” as a limited interpretation of the ‘fundamental right to life’ may restrict the scope of ‘environmental constitutionalism’, including the contribution of citizens’ fundamental ‘environmental duties’ to the development of ‘environmental rights’ and ‘environmental law’.

For that, the judiciary analyzed the State’s and people’s constitutional environmental responsibility to ascertain the extent, intent, and boundaries of other ‘fundamental rights’ protected by the constitution. The SC, in ‘*Intellectuals Forum, Tirupathi v State of Andhra Pradesh and others*’ (2006), held that “in understanding the scope and purport of the fundamental rights, these duties are to be kept in mind”.

The SC in ‘*State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat and others*’ (2005) also recognized “that the ‘fundamental environmental duty’ plays a crucial role in determining whether a legal restriction on the enjoyment of a fundamental

right through regulation, control, or ban is fair.” The Gujarat High Court in ‘*M/s Abhilash Textile and Others v The Rajkot Municipal Corporation*’ (1988) held “that the fundamental environmental duty could not be ignored in the assertion of the ‘fundamental right’ to engage in trade or business.” The court cited the responsibility in support of the constitutionally permissible limitations on the ‘fundamental right’. The judiciary, therefore, “referred to this obligation while evaluating the legitimacy of legislative restrictions on the basic freedom to engage in any profession, trade, or business that is protected by Article 19(1)(g) of the Constitution” (*State of West Bengal v Sanjeevani*, 2005). In this case, the judiciary’s strategy changed from extending constitutional rights to limiting them, which is consistent with the underlying justification for adding essential obligations to the Constitution through the 1976 constitutional amendment.

The courts do not use people’s constitutional duty to the environment only as a means of interpretation and facilitation. The judiciary has a tendency to construe Part IV (DPSP) as the basis of the State’s obligations corresponding to the ‘right to the environment’ read into the ‘fundamental right to life’, despite the fact that Part III (on fundamental rights) and Part IV (DPSP) have no correlation, according to constitutional history and design. In connection with this, the judiciary subtly recognizes both good and bad aspects of citizens’ fundamental ‘environmental duties’, reflecting its perception of the State’s obligations concerning rights. (Fredman 2008).

In certain circumstances, people’s basic ‘environmental duty’ is negative and necessitates non-interference. The Gujarat High Court held that the “discharge of effluents from the petitioners’ factories into public roads and/or drainage systems violated the ‘constitutional obligation’ to preserve the environment” (*Abhilash v. Rajkot*, 1988). According to the Rajasthan High Court, in the case of ‘*Vijay*

Singh Puniya v State of Rajasthan and Others (2004), A person violates their fundamental environmental obligation if “anyone who disturbs the ecological balance or degrades, pollutes and tinkers with the gifts of the nature such as air, water, river, sea and other elements of the nature.”. In these two cases, the writ petitioners claimed a ‘fundamental right’ had been violated, and the High Courts strengthened their directives to the statutory authorities by invoking the ‘fundamental environmental duty’. In the first case, the basic environmental obligation was also a statutory duty under local government legislation; in the second case, it was covered under the ‘Water Act’, 1974 (WPCPA) and the ‘Environment Act 1986 (EPA)’. The protection and enhancement of the environment, which is the first part of the fundamental ‘environmental duty,’ is the subject of these cases, as compassion for living things is the second aspect of this duty. Upon a combined interpretation of both of these components, the Bombay High Court in *‘Campaign against Manual Scavenging v State of Maharashtra and others* (2015) enforced a negative obligation on pilgrims and devotees traveling to a city for religious purposes to refrain from causing waste and damaging the environment by urinating in public areas and along riverbanks. This serves as yet another example of the non-interference responsibility.

Subsequently, it was held that the basic ‘environmental duty’ had positive and negative aspects, and according to the apex court, it is every person’s ‘constitutional duty’ to protect the ‘environment’ and maintain the ‘ecological balance’ (*Entitlement Kendra v. State of Uttar Pradesh*, 1986). Courts have expanded the purview of the fundamental obligation to protect and preserve the nation’s rivers, lakes, and other water resources (*‘Kinkri Devi v. State of Himachal Pradesh’*, 1988), as well as to uphold a sanitary environment, maintaining a clean and hygienic environment and preserving the ecological balance is a less resource-intensive negative duty to fulfill than protecting and

preserving the environment (*‘Gaur v State of Haryana’*, 1995).

3. Constitutional Provisions Related to Environment

A number of clauses in the Indian Constitution cover the conservation and preservation of the environment. These clauses direct the creation of laws and policies intended to protect the environment and create the groundwork for environmental governance. Following are some significant environmental-related clauses from the Constitution:

Article 14

Article 14 deals with ‘equality’, which reads, “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

This article can be violated if the environment degrades. If ‘climate change’ and ‘environmental degradation’ cause severe food and water shortages in a certain area, poorer communities will bear the brunt of the consequences. The ‘right to equality’ would surely be damaged in such cases. The ‘right to equality’ may also be violated in more difficult ways; for example, if sea levels rise and oceanic problems arise, a person living in Lakshadweep will be in a worse position than a person living in Delhi. Similarly, forest residents, as well as tribal and indigenous populations, face a high risk of losing not only the resources available there, but the poorer communities will suffer more if ‘climate changes’ and ‘environmental degradation’ contribute to serious shortages of food and water in a particular location. Each of these scenarios would undoubtedly harm the ‘right to equality’. Resolving violations of the ‘right to equality’ may be more challenging.

Article 21

deals with the ‘Right to life’, which reads, “No person shall be deprived of his life or personal liberty except according to procedure established by law.” This right cannot be completely realized without a clean environment that is stable and unaffected by the vagaries of climate change. ‘Air pollution,’ shifts in ‘vector-

borne diseases,' 'rising temperatures', droughts,' food shortages due to crop failure,' 'storms,' and 'flooding' all influence the 'right to health.' And incapacity to adapt to or cope with the effects of climate change breaches the 'right to life.'

Article 48 A

As per this provision, the state must work towards preserving and enhancing the nation's forest, animals, and environment (DPSP, added in 1976 by the 42nd Amendment Act). Its emphasis on protecting natural resources for the welfare of the present and future generations demonstrates the state's commitment to environmental conservation.

Article 51 A (g)

The duties of the citizens have been listed in Article 51A as 'Fundamental Duties'. According to subclause (g) of Article 51 A, every Indian citizen is responsible "to preserve and enhance the country's natural environment, which includes its 'forests,' 'lakes,' 'rivers,' and 'animals,' as well as to show 'compassion' for all living things." This clause highlights the importance of each person's responsibility in preserving the environment and places a basic obligation on residents to participate in environmental conservation initiatives.

Article 253

It gives the Parliament the authority to enact laws pertaining to applying foreign treaties, accords, and conventions. This provision facilitates India's compliance with 'international environmental commitments' by allowing the central government to establish laws for implementing international 'environmental agreements and 'conventions.'

Article 246

The legislative authority of the Parliament and the state legislatures is defined by Article 246, read with the VIIth Schedule. List I, Entry 17, gives the Parliament sole jurisdiction to enact laws pertaining to the "prevention of water pollution and air pollution" The central government is empowered to enact laws aimed at

preventing and controlling "air and water pollution" by virtue of this constitutional article, which guarantees uniformity and consistency in environmental management across the country.

4. Judicial Activism and Environmental Jurisprudence

Through judicial activism and significant rulings, the Indian courts have significantly contributed to the advancement of environmental protection over the years. In situations of environmental degradation and policy non-compliance, the 'Public Interest Litigation' (PIL) concept has given citizens and environmental organizations the capability to request judicial action. The judiciary has broadened the scope of 'environmental rights' and accountability by interpreting constitutional provisions in the context of environmental imperatives.

In the 'Shriram Gas Leak' Case ('MC Mehta v. Union of India', 1987), the Court developed the principle of 'absolute liability' of compensation by interpreting the constitutional clauses pertaining to the 'right to life' and the remedies available under Article 32 for the breach of 'fundamental rights'. The 'fundamental right to a clean and healthy environment' is the clear and unequivocal foundation upon which the decision is based. The 'right to compensation' for victims of pollution dangers is a component of the 'right to life'. The 'Dehradun Quarrying Case' ('Rural Litigation v. State of U.P,' 1988) is thought to be the earliest instance of the 'right to a wholesome environment', and the SC established a new 'environmental right' without addressing it directly. Justice Singh justified the shutdown of polluting tanneries in the 'Ganga Pollution (Tanneries)' Case(1988) by reading Art. 21 and noting, "We are conscious that closure of tanneries may bring unemployment, loss of revenue, but life, health, and ecology have greater importance to the people."

In 1990, the Supreme Court, through the bench of Chief Justice Sabyasachi Mukherji, nearly declared the 'right to environment' under Art. 21 for the first time in 'Chhretriya Pradushan

Mukti Sangarsh Samiti v. State of U.P. (1990) and held that “Every citizen has a fundamental right to have the enjoyment of quality of life and living as contemplated in Art. 21 of the Constitution.”

More vividly, Justice K.N. Singh stated in *Subhas Kumar v. State of Bihar* (1991) that the “right to live includes the right to enjoyment of pollution-free water and air for full enjoyment of life.” In *Indian Council for Enviro-Legal Action v. Union of India* (1996), the SC ruled that “when an industry is established without the necessary approvals and is then operated in flagrant disregard of the law, endangering the lives and liberties of the local population, the court has the authority and duty to step in and defend citizens’ rights to life”.

The ‘right to livelihood’ has also been acknowledged by the SC as a component of the ‘right to life’ under Article 21, as this broad definition of the ‘right to life’ is very helpful in preventing government actions that have an adverse environmental impact and threaten the livelihoods of tribal people, the impoverished, or forest dwellers by uprooting them from their homes or otherwise depriving them of their means of livelihood (*Sewa Ashram v. State of U.P.*, 1987). The Indian judiciary has demonstrated unparalleled dynamism by extending the reach of Article 21 by including the right to a ‘hygienic and clean environment’ with other rights. This accomplishment is noteworthy because not even a few industrialized nations have attained the same level of distinction.

The SC has delivered several significant rulings that have clarified the constitutional framework for environmental protection. These rulings have interpreted important provisions of the Constitution, specifically Articles 21, 48A, and 51A(g), in relation to environmental governance. These rulings demonstrate the Supreme Court’s unwavering dedication to maintaining environmental protection as a cornerstone of the country’s constitutional government. They emphasize the state’s constitutional duties to protect the environment

and guarantee everyone’s ‘right to a clean and healthy environment.’ In *S. P. Muthuraman v. Union of India* (2020), “the significance of environmental preservation within the framework of sustainable development” was underscored by the SC, and the ruling

“emphasized the state’s constitutional obligation to safeguard and enhance the environment for both current and future generations, as stipulated in Articles 48A and 51A(g)”. In *Re: Contagion of Covid-19 Virus in Children Protection Homes* (2021) the SC held that “the right to a clean and healthy environment is part of Article 21 of the Constitution and reaffirmed this duty while focusing largely on protecting children in protection homes during the COVID-19 pandemic”. In *Greta Thunberg v. Union of India* (2020) the SC emphasized “the necessity of taking immediate action to combat climate change and emphasized the constitutional requirement to preserve the environment and lessen its effects under Articles 48A and 21 in response to a petition brought forth by climate activist Greta Thunberg and others.” In *Centre for Wildlife and Environmental Litigation v.*

Union of India (2021) while addressing matters pertaining to the preservation of wildlife and habitat, the SC emphasized “the state’s constitutional obligation to maintain forests and wildlife under Article 48A and to uphold the ‘right to a healthy environment’ under Article 21.” In *Indian Medical Association v. Union of India* (2020) the SC emphasized “the connection between environmental conservation and human health, stressing the constitutional requirement to safeguard the environment for the people’s well-being, even if it was primarily focused on public health issues during the COVID-19 pandemic.”

Thus, the ‘right to a clean environment’ has long been acknowledged within Article 21 in Indian constitutional law jurisprudence. The SC went further in *M.K., Ranjitsinh & Ors. v. Union of India* (2024), citing the hardships faced by vulnerable communities in India as a result of climate change and their geographic and economic

economic circumstances, which may infringe on their Article 14 freedom, to establish the right against the adverse effects of climate change under Article 14. (Kumar & Naik, 2024)

M K RANJITSINH & ORS. V. UNION OF INDIA

A landmark ruling on ‘climate change’ and ‘human rights’ was rendered by the Indian Supreme Court in ‘M.K. Ranjitsinh and others v. Union of India and others’(2024), where a three-judge Supreme Court bench, headed by Chief Justice D.Y. Chandrachud, invoked Articles 21 and 14 of the Indian Constitution to create a new ‘fundamental right to be free from the negative consequences of climate change’ and the final ruling represents a significant advancement in the global and Indian constitutional climate litigation landscapes. In a scenario where there was previously no explicit constitutional guidance, the court here forcefully took the opportunity to provide strong constitutional foundations in India for ‘human rights relating to climate change’. The court has, in one swift motion, established a new ‘fundamental human right to be free from the harmful effects of climate change’ and linked this new right to the ‘right to a clean’ and ‘healthy environment’ that was read into the Constitution by previous judicial decisions, and made it clear that this new right is based on constitution’s guarantees of ‘equality’ and the ‘right to life’ which are the source of this new right. (Constitution of India, Article 14 & 21)

The present petition was filed by invoking the writ jurisdiction provided under ‘article 32 of the Indian constitution’ for protecting the ‘Great Indian Bustard’ (GIB) and the ‘Lesser Florican’, both of whom are on the verge of extinction. The GIB, scientifically known as *Ardeotis nigriceps*, is a critically endangered species native to southern and western India, primarily found in Rajasthan. The species has experienced a decline in population, with the ‘International Union for Conservation of Nature’ (IUCN) classifying it as ‘critically endangered’ since 2011. From 1994 to

2008, it was classified as ‘endangered,’ and in 1988, it was labeled ‘threatened.’

In 2013, the Rajasthan government claimed that there were only approximately 125 GIBs; however, the ‘IUCN’ calculated that there were around 249.4 mature GIBs. Factors such as ‘pollution,’ ‘climate change,’ ‘predators,’ and ‘competition with invasive species exacerbate the challenges faced by these species. The GIBs build their nests in dirt cavities or on open ground; their native habitat has decreased due to human settlement and economic activity expansion into the grasslands. The habitat of the GIB has become more fragmented due to human population growth and related activities.

Climate change presents an existential problem that necessitates an immediate response rather than only representing an environmental difficulty. In India, there has been considerable discussion regarding climate justice following the recent SC ruling in ‘M K Ranjitsinh & Ors. v. Union of India & Ors’ (2024). To secure the ‘rights to food,’ ‘water,’ ‘life,’ ‘health,’ and a ‘healthy environment,’ the ruling includes a clause opposing ‘climate change’. In addition to supporting laws that give equal weight to addressing ‘climate change’ and ‘human rights’, it acknowledges our shared obligation to act quickly.

In the case of ‘Ein Klima Seniorinnen Schweiz and Others v. Switzerland’(2020), the ‘European Court of Human Rights’ (ECHR) validated the rights of older women association in Switzerland who were worried about the effects of ‘climate change’ on their health and standard of living. The association cited insufficiency on the part of Swiss authorities in not taking appropriate action to reduce the impact of ‘climate change’ under the ‘European Convention on Human Rights’. It was indeed a significant ruling by a supranational court that established a clear connection between violations of ‘human rights’ and insufficient or unambitious ‘climate change action’. As per the majority opinion of the Court, individuals are entitled to

sufficient protection from the government/state against the grave negative impacts of 'climate change' on their 'life,' 'health,' 'well-being,' and 'quality of life.' The Court placed emphasis on the causal connection between rights under the Convention and climate change.

In a similar vein, the Dutch Supreme Court recognized in 'State of the Netherlands v. Urgenda Foundation' (2019) that the state was required to implement climate policies by virtue of 'Right to life'(Article 2) and 'Right to Private and Family Life'(Article 8) of the 'European Convention on Human Rights'. The Netherlands Supreme Court highlighted the serious repercussions of a temperature increase of more than 2 degrees Celsius, which might jeopardize human rights and disrupt family dynamics. The court also accepted the evident connection between human activity and global warming-induced greenhouse gas emissions and further said that States must take "reasonable measures to protect them" while addressing environmental challenges where pollution directly affects private and family life.

Foreign jurisprudence has been stronger and more assertive, highlighting the state's power to redress negative impacts on life and livelihood. This is a commendable effort towards 'environmental preservation' and 'human rights' when the Indian Supreme Court recognizes the right against 'climate change'. This acknowledgment puts the government under pressure to act decisively to address the negative effects of 'climate change' and the 'right to equality' and 'life'. The new ruling emphasizes the connection between 'human well-being,' 'sustainable development,' and 'environmental conservation.' (Cheema,2024)

Although the two judgments are made from distinct angles, they have the same outcome; it puts the responsibility for ensuring residents' right to a 'healthy environment' and 'high quality of life' on the government, emphasizing accelerating climate change mitigation efforts. In the European Union and India, these incidents represent an increasing trend of countries laun-

-ing dialogues about averting the worst consequences of climate change.

The decision of SC is significant because it recognizes the right to be free from the negative impacts of 'climate change' for the first time in domestic jurisprudence. It is hoped that these progressive moves toward 'climate change litigation', considering sustainable development objectives and targets, will open the door for more nuanced jurisprudence on the matter and the potential realization of sustainable development goals in the future.

The SC has adopted a marginally different stance with this ruling. Although citizens and the state must contribute to environmental protection, Articles 48A and 51A (g) of the 'Indian Constitution' are just 'directive principles' and cannot be legally enforced. This ruling might elevate them to the status of an enforceable legal opinion, guaranteeing that any inaction under these articles would be subject to judicial challenge. The clear connection between this ruling and the citizen's fundamental rights strengthens the case for any legal action taken in this area by allowing the parties involved to examine 'climate change' from the fundamental perspective of human survival and happiness. Following the 'ECHR' example of holding the Swiss government accountable (Ein Klima Seniorinnen Schweiz, 2020) the SC of India has now equipped the people to hold any party that is not addressing 'climate change'.

India is also a signatory to several international conventions, which the SC has also cited in the 'M K Ranjitsinh' (2024). The 'right to a healthy environment' and the 'right to be free from the adverse effects of climate change' have also been highlighted by the court, which has referred to its own rulings on several occasions. The court has accepted that 'climate change' threatens the constitutionally protected 'right to a clean environment,' which is covered under Article 21, 'Right to Life' (Article 21). Furthermore, because certain people will be more impacted by climate change than others, it was highlighted that the 'Right to Equality' (Article

14) will also be breached. Following that, the Supreme Court acknowledged for the first time both the ‘right to a safe environment’ and the ‘right to be immune to the negative consequences of climate change’ (M K Ranjitsinh,2024).

By highlighting the ways in which some populations—such as ‘women’, ‘low-income households’, ‘indigenous’, ‘tribal’, and ‘forest-dwelling communities’, as well as residents of particular regions—such as the Lakshadweep islands and forest areas—are disproportionately (and unequally) vulnerable to the effects of ‘climate change’, the ruling also adopts a recognition-based approach to ‘climate justice’.

The struggle between the needs of a developing economy striving for net neutrality and the potential environmental consequences of this shift is another issue that ‘M.K. Ranjitsinh’ (2024) represents. By establishing a right against the negative impacts of ‘climate change’, this case establishes a significant precedent for future litigants negotiating the same problem in different circumstances. This case is undoubtedly not the last to have to deal with these competing goals.

IMPACT OF THE JUDGEMENT

Environmental regulations in India are still incredibly dispersed, with separate laws covering every aspect of the environment. The absence of legal centralization means that litigants addressing these matters will be forced to concentrate solely on the element they wish to save, leaving other environmental elements unregulated or necessitating additional litigation to address the effects on these elements. Despite being laws unto themselves, these laws prohibiting air pollution, protecting forests, and safeguarding natural resources do not consider the environment and how it affects society as a whole. (Karpuram,2024)

By focusing on the environment as a whole rather than just one aspect of it, the judgment’s phrasing takes a more holistic approach to the threat posed by climate change and ensures that

similar cases will affect not only current cases but also future ones. Second, if this ruling is used appropriately, it may allow those impacted by climate change to file legal complaints and not be limited to using the relevant legislation as their only option. This ruling can also reinforce the current environmental protection legislation by guaranteeing that the Supreme Court’s rulings have the potential to multiply the impact of these regulations. (Karpuram,2024)

This ruling is extremely significant because it not only gives the world’s most populous country, which is directly and significantly impacted by climate change, a voice against its negative effects but also firmly establishes this new right within the nation’s constitution.

India’s extensive body of environmental jurisprudence offers a strong foundation for taking climate change issues to court, and it is hardly surprising that India’s fundamental rights, as guaranteed by the constitution, serve as the avenue for climate litigation in India. The impact of the judgment can be analyzed in the following dimensions:

1. The Court acknowledged that one of the basic rights guaranteed by the Constitution is freedom from the negative impacts of ‘climate change’; this opens the door for legal responsibility for activities that violate climate targets.

2. Variations in ‘vector-borne diseases,’ ‘air pollution,’ ‘temperature increases,’ ‘droughts,’ ‘crop failure,’ ‘storms,’ and ‘flooding’ all affect the ‘right to health,’ which is a component of the ‘right to life’ under Article 21. Both the ‘right to life’ and the ‘right to equality’ are violated when marginalized communities are unable to adjust to climate change or deal with its impacts. According to the ruling, having a safe and healthy environment free from the negative consequences of climate change is a “fundamental human right.”

3. The ruling has extended Article 14’s jurisdiction. It has been noted that impoverished groups will be disproportionately affected if severe food and water shortages brought on by

climate change and environmental degradation occur in a given location.

4. This ruling will establish a significant legal precedent, impact public conversation about environmental issues, and influence future government policy.

5. The verdict also emphasized the significance of solar energy in mitigating the negative effects of climate change. Over the next 20 years, India will account for 25% of the world's energy consumption. By lowering dependency on fossil fuels, renewable energy increases energy security.

6. Corrective action can be guided by the Court's observations regarding the disproportionate impact of 'climate change' on 'vulnerable groups' within society.

Thus, this ruling strikes a careful balance between 'climate change mitigation' and conservation, highlighting the critical necessity to save endangered species while tackling these issues.

CONCLUSION

Humans and their 'environment' are interconnected, providing essential resources for survival. However, human overuse and exploitation have led to depletion, causing 'climate change'. This issue is a hot topic in environmental activism and India's apex court, promoting 'environmental justice'. There is no doubt that the Indian court has protected the environment on several occasions, which have been dealt with at length in this paper. However, there have been instances where the court has failed to protect the environmental jurisprudence by way of legalizing the illegality.

We have also seen in 'M K Ranjitsinh' (2024), where the Supreme Court's decision is significant because it recognizes, for the first time in domestic jurisprudence, the right to be free from the adverse consequences of 'climate change'. Furthermore, as the withdrawal of the interim order would not have affected the GIB's conservation, it was entirely appropriate. The

Court struck an equitable balance between combating 'climate change' and preserving endangered species. The jurisprudence around 'climate change' worldwide has become very progressive. In addition to holding states accountable for climate change, the Paris Agreement, which was signed in April 2016, recognizes that non-state actors also have a duty to address and mitigate climate change.

It is expected that these progressive moves toward climate change mitigation, taking into account 'sustainable development' objectives and targets, will open the door for more nuanced jurisprudence on the matter and the potential realization of 'sustainable development' goals in the future. The Supreme Court's decision is significant because it recognizes, for the first time in domestic jurisprudence, the right to be free from the negative impacts of climate change. It is hoped that these progressive moves toward climate change mitigation, taking into account 'sustainable development' objectives and targets, will open the door for more nuanced jurisprudence on the matter and the potential realization of 'sustainable development' goals in the future.

The adoption of this ruling has an impact on how a country perceives the idea of the sacredness of human rights. The Supreme Court has effectively brought attention to a topic of growing debate within the circles of 'climate change' politics: the convergence between universal human rights and climate change. This is because the court has ensured that citizens' fundamental rights are intertwined with climate change's consequences. Given that the UN has labeled 'climate change' a threat multiplier to human security and peace and that the severity of climate disasters is increasing annually, this Supreme Court ruling emphasizes how crucial these issues are to come together. By making this connection, the Supreme Court essentially opens the door for future climate change lawsuits to potentially address human rights concerns as well, including but not limited to the effects it may have on the availability of basic necessities

like food, water, and shelter.

WORKS CITED

- Ajoy Sinha Karpuram. (2024, March 27). How Supreme Court is overseeing conservation of the Great Indian Bustard, The Indian Express Retrieved from <https://www.indianexpress.com>](<https://www.indianexpress.com>)
- AIIMS Students Union v. AIIMS and Others, (2001) 10 SCC 419.
- Angstadt, J. M. (2016). Securing access to justice through environmental courts and tribunals: A case in diversity, *Environmental Law*, 46, 345.
- Animal and Environment Legal Defence Fund v Union of India and Others, (1997) 3 SCC 549.
- Banwasi Sewa Ashram v. State of U.P, AIR 1987 SC 374.
- Bombay Dyeing & Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group, (2006) 3 SCC 434.
- Bombay Environmental Action Group and Another v State of Maharashtra and Others, PIL No 87 of 2006.
- Campaign against Manual Scavenging v State of Maharashtra and Others, 2015 SCC OnLine Bombay 3834.
- Chhretriya Pradushan Mukti Sangarsh Samiti v. State of U.P, AIR 1990 SC 2060.
- Constituent Assembly Debates, Vol VII, No 52, 9 November 1948 (Renuka Ray) column 57.
- Constituent Assembly Debates, Vol XI, No 164, 24 November 1949 (G Durgabai) column 91.
- Damodhar v Municipal Corporation, AIR 1987 Andhra Pradesh 171.
- Dattatraya Hari Mane and Others v State of Maharashtra and Others, 2014 SCC OnLine Bombay 1657.
- Dehradun Quarrying Case, AIR 1988 SC 2187.
- Electrosteel Steels Ltd, CIVIL APPEAL NOS. 7576-7577 OF 2021.
- Francis Coralie Mullin v. Union Territory of Delhi, AIR 1981 SC 746.
- Ganga Pollution (Tanneries) Case, AIR 1988 SC 1037.
- Gulf Goans Hotel Company Limited and Anr v. UOI, 2014 (10) SCC 673.
- Indian Council for Enviro-Legal Action v. Union of India, AIR 1996 SC 1446.
- Intellectuals Forum, Tirupathi v State of Andhra Pradesh and Others, (2006) 3 SCC 549.
- Ioane Teitiota v. The Chief Executive of the Ministry of Business, Innovation and Employment, [2015] NZSC 107.
- Jatinder Cheema. (2024, May 6). Supreme Court of India bolts Right To Life with climate justice, *Energy Economic Times* Retrieved from: <https://energy.economictimes.indiatimes.com/news/renewable/supreme-court-of-india-bolts-right-to-life-with-climate-justice/109874429>).
- Jitendra Singh v Ministry of Environment and Others, Civil Appeal No 5109 of 2019.
- Kalyani Ramnath. (2012). "We the People": Seamless Webs and Social Revolution in India's Constituent Assembly Debates. *South Asia Research*, 32*(1), 57-58.
- Karnataka Industrial Areas Development Board v. C. Kenchappa, (2006) 6 SCC 371.
- Kinkri Devi and Another v State of Himachal Pradesh and Others, AIR 1988 Himachal Pradesh 4.
- Lok Sabha Debates, Eighteenth Session, Fifth Series, Vol LXV, No 1, 25 October 1976 (K Hanumanthaiya) column.
- Lok Sabha Debates, Eighteenth Session, Fifth Series, Vol. LXV, No. 3, 27 October 1976 (Indira Gandhi) column 143.
- Lok Sabha Debates, Eighteenth Session, Fifth Series, Vol LXV, No 1, 25 October 1976 (HR Gokhale) column 59.
- Maneka Gandhi v. Union of India, AIR 1978 SC 597.
- M.C. Mehta v. Kamal Nath, (2000) 6 SCC 213.
- MC Mehta v. State of TN and Others, (1996) 6 SCC 756.
- MC Mehta v. Union of India, (2008) 8 SCR 828.
- M/s Abhilash Textile and Others v The Rajkot Municipal Corporation, AIR 1988 Gujarat 57.
- National Green Tribunal Act, 2010 (Act no. 19 of 2010).
- Orissa Mining Corporation Ltd. v. Minister of Environment and Forests, (2013) 6 SCC 476.

Pahwa Plastics Pvt. Ltd, CIVIL APPEAL NO. 4795 OF 2021.

Parul Kumar & Abhayraj Naik. (2024). India's New Constitutional Climate Right: Examining the Significance of M.K. Ranjitsinh and Others v. Union of India and Others for Climate Litigation in India, *Verfassungsblog*. Retrieved from [<https://verfassungsblog.de>](<https://verfassungsblog.de/indias-new-constitutional-climate-right/>)

People for Animals v Union of India and Others, 2002 (65) Delhi Reported Judgments 168.

Contagion of Covid-19 Virus in Children Protection Homes ,2021 SCC OnLine SC 3178.

Rural Litigation and Entitlement Kendra and Others v State of Uttar Pradesh and Others, 1986 Supp (1) SCC 517.

Sachidanand Pandey and Others v. State of West Bengal and Others, (1987) 2 SCC 295.

Saleem, O. (1994). Overcoming environmental discrimination: The need for a disparate impact test and improved notice requirements in facility siting decisions. *Journal of Environmental Law*, 22, 211.

Sandra Fredman. (2008). 'Human Rights Transformed: Positive Rights and Positive Duties'. Oxford University Press.

Shriram Gas Leak Case, AIR 1987 SC 1086.

State of Gujarat v Mirzapur Moti Kureshi Kassab Jamat and Others, (2005) 8 SCC 534.

State of West Bengal v Sanjeevani Projects (P) Ltd and Others, 2005 SCC OnLine Cal 563.

Subhas Kumar v. State of Bihar, AIR 1991 SC 420.

Tarunabh Khaitan. (2019). Constitutional Directives: Morally-Committed Political Constitutionalism. *Modern Law Review*, 82(4), 603.

T Damodhar Rao and Others v The Special Officer, Municipal Corporation of Hyderabad and Others, AIR 1987 Andhra Pradesh 171.

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

The Air (Prevention and Control of Pollution) Act, 1981 (Act no. 14 OF 1981).

The Electricity Act, 2003 (Act no. 36 of 2003).

The Energy Conservation Act, 2001 (Act no. 52 of 2001).

The Environment (Protection) Act, 1986 (Act no. 29 of 1986).

The State of the Netherlands (Ministry of Economic Affairs and Climate Policy) v Urgenda Foundation, HR 20 December 2019, ECLI:NL:HR:2019:2006.

The Water (Prevention and Control of Pollution) Act, 1974 (Act no. 6 of 1974).

The Wild Life (Protection) Act, 1972 (Act no. 53 of 1972).

United Nations Framework Convention on Climate Change (UNFCCC) 1992. (n.d.). Retrieved June 20, 2024, from <https://www.unwomen.org/en/how-we-work/intergovernmental-support/climate-change-and-the-environment/united-nations-framework-convention-on-climate-change>

Virender Gaur and Others v State of Haryana and Others, (1995) 2 SCC 577.