



CLIMATE CHANGE AS VIOLATION OF RIGHT TO LIFE: A COMPARATIVE ANALYSIS

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ABSTRACT

Climate change is no longer a distant or theoretical concern; it has become an immediate and lived reality, particularly in India. Increasing heatwaves, floods, landslides¹, rising sea levels, and growing threats to food security demonstrate how climate impacts are affecting everyday life rather than remaining isolated environmental events. India's legal framework has historically addressed environmental protection by expanding the scope of Article 21 of the Constitution to include the right to a clean and healthy environment. However, a significant development occurred in 2024 when the Supreme Court recognised freedom from the adverse effects of climate change as a fundamental right. This marked a shift from traditional environmental regulation toward the broader concept of climate constitutionalism.

This study examines how Climate change has become embedded within the constitutional right to life by analysing Judicial developments, Human rights principles, climate justice, and Intergenerational equity. While the judiciary has played a crucial role in advancing climate rights, the effectiveness of these protections ultimately depends on the creation of comprehensive legislation and strong institutional mechanisms. Without practical implementation, constitutional recognition alone risks remaining symbolic rather than transformative.

KEYWORDS

Climate Change; Right to Life; Article 21; Climate Constitutionalism; Human Rights; Climate Justice; Intergenerational Equity.

INTRODUCTION

Background of Climate Change and Human Rights in India

The relationship between Climate change and Human rights in India has evolved through historical developments in Environmental awareness, Constitutional interpretation, and Judicial activism. In the early years after independence, environmental protection was not treated as a constitutional priority, as national policies largely focused on industrialisation, economic growth, and poverty reduction. However, increasing environmental degradation during the 1960s and 1970s, including deforestation, pollution, and ecological imbalance, led to growing public concern regarding environmental protection and human welfare².

¹ https://files.acquia.undp.org/public/migration/in/undp_climate_change.pdf

Climate change Perspective from India , November 2009

² Biswajit Roy, Climate Change Crisis in India and Right to Life: An Exploration on Enviro-Legal Perspective, Anthology: The Rsch. (Nov. 2024)

A significant turning point occurred after India's participation in the 1972 Stockholm Conference on the Human Environment, which influenced the incorporation of environmental values into Indian constitutional law. Subsequently, the 42nd Constitutional Amendment Act, 1976 introduced Article 48A, directing the State to protect and improve the environment, and Article 51A(g), imposing a fundamental duty upon citizens to safeguard natural resources. These provisions laid the constitutional foundation for linking environmental protection with human well-being.

From the 1980s onward, Indian environmental jurisprudence developed rapidly through judicial intervention. The Supreme Court of India expanded the interpretation of Article 21 by recognising that the right to life includes the right to live in a pollution-free and healthy environment. Landmark environmental litigation during this period addressed issues such as industrial pollution, forest conservation, and public health, gradually establishing environmental protection as a component of fundamental rights.

With the emergence of climate change as a global crisis in the late twentieth and early twenty-first centuries, environmental concerns in India shifted from local pollution issues to broader climate-related risks such as extreme heatwaves, floods, changing monsoon patterns, and air quality deterioration. These climate impacts directly affect access to food, water, health, shelter, and livelihood, thereby transforming climate change into a human rights concern. Today, Indian constitutional and judicial developments increasingly recognise that protecting the environment and addressing climate change are essential to safeguarding human dignity, equality, and the Right to Life under Article 21.

Research Problem and Significance

This study focuses on the fundamental question of whether climate change may be legally considered a violation of the Right to Life under Article 21 of the Indian Constitution. Vulnerable populations are disproportionately impacted by climate effects and environmental deterioration, raising concerns about equality, dignity, and justice. Considering climate change as a matter of constitutional rights enhances state responsibility and allows for judicial intervention to protect the environment and human life.

Objectives of the study

This research examines the extent to which climate change threatens the constitutional guarantee of life and personal liberty. The objectives include analysing judicial expansion of Article 21, examining India's constitutional environmental framework, and evaluating the role of courts and governance mechanisms in addressing climate-related harms.

Methodology

This study follows a **doctrinal legal research methodology** based primarily on secondary sources such as constitutional provisions, judicial decisions, statutes, policy documents, and academic literature. It analyses the evolution of Article 21 through landmark environmental and climate-related judgments of Indian courts.

The research also adopts an analytical and comparative approach by examining human rights principles, climate justice concepts, and international environmental frameworks to understand how climate change has become part of the constitutional right to life. The study is qualitative in nature and focuses on evaluating the role of judiciary, legislation, and governance in recognising and implementing climate rights in India.

Meaning and Scope of Article 21

Article 21 of the Constitution of India provides that *"no person shall be deprived of his life or personal liberty except according to procedure established by law,"*³ and over time this seemingly brief constitutional provision has evolved into the most expansive guarantee of human rights within Indian constitutional jurisprudence. At the time of constitutional drafting, the framers primarily conceived Article 21 as a procedural

³ <https://www.scribd.com/document/805857362/Constitution-Law-of-India-j-n-pandey>

safeguard intended to protect individuals from arbitrary executive detention rather than as a source of substantive socio-economic or environmental rights.

Reflecting this limited understanding, the Supreme Court in **A.K. Gopalan v. State of Madras**⁴ adopted a formalistic interpretation, holding that as long as a deprivation of liberty followed a law duly enacted by the legislature, Article 21 would be satisfied regardless of whether such procedure was fair, reasonable, or just, and fundamental rights were viewed as isolated constitutional compartments operating independently of one another. This restrictive approach underwent a profound transformation with the landmark judgment in **Maneka Gandhi v. Union of India**⁵, which marked a constitutional turning point by introducing the doctrine of substantive due process into Indian law. The Court held that the “procedure established by law” must not be arbitrary, oppressive, or unreasonable but must satisfy standards of fairness, justice, and reasonableness, thereby interlinking Articles 14, 19, and 21 into a unified framework protecting individual liberty against state excesses.

Following this decision, Article 21 emerged as a dynamic and living provision capable of adapting to evolving societal conditions and constitutional morality. Judicial interpretation progressively expanded the meaning of “life” beyond mere physical or biological survival to encompass a dignified human existence consistent with the values of equality, freedom, and social justice. The Supreme Court began recognising that life includes the right to health and medical care, livelihood security, adequate shelter, education, privacy, and access to a clean and healthy environment, acknowledging that human dignity cannot be realised in the absence of social welfare, public health protection, and ecological balance.

Consequently, Article 21 transitioned from a narrowly procedural guarantee into a substantive repository of human rights imposing both negative obligations on the State to refrain from arbitrary interference and positive obligations to create conditions necessary for meaningful human development. Today, Article 21 stands as the constitutional foundation for India’s human rights jurisprudence, reflecting an evolving understanding that life under the Constitution signifies not mere existence but the assurance of dignity, safety, environmental sustainability, and holistic human well-being within a democratic constitutional order.

ENVIRONMENTAL JURISPRUDENCE AND ARTICLE 21

The relationship between environmental protection and the right to life was established in a series of historic decisions. In the case of **Subhash Kumar v. State of Bihar**⁶, the Supreme Court clearly stated that the right to life encompasses the right to enjoyment of pollution-free water and air. The Court asserted that environmental degradation has a direct impact on life and health, and therefore comes within the purview of Article 21. This trend was further reinforced in a series of cases involving **M.C. Mehta**⁷, where the Court took up an activist role to deal with industrial pollution, toxic industries, and ecological destruction. The principles of absolute liability, polluter pays, and precautionary principle were accordingly judicially formulated and incorporated into Indian law. The judiciary justified this activism on the grounds that environmental degradation has a disproportionate impact on the poor, and therefore affects equality and dignity. The Court’s reliance on the Directive Principles of State Policy further reinforced environmental constitutionalism. Article 48A makes it obligatory on the State to protect and preserve the environment. Article 51A(g) also makes it a fundamental duty of the citizens to protect natural resources. Although non-justiciable, these provisions were invoked to imbue Article 21 with content. Environmental protection became a constitutional obligation rather than a statutory concern.

Evolution of the Right to Life through Judicial Interpretation

The evolution of the Right to Life under Article 21 represents one of the most significant developments in Indian constitutional jurisprudence, reflecting a transition from formal legalism to a purposive, human-centric, and welfare-oriented constitutional interpretation. Indian constitutional courts recognised that civil and political liberties cannot be meaningfully exercised in the absence of socio-economic security, environmental

⁴ AIR 1950 SC 27

⁵ AIR 1978 SC 597

⁶ AIR 1991 SC 420

⁷ *MC Mehta v. Union of India*, various judgments.

stability, and human dignity. Consequently, the judiciary adopted an expansive interpretative methodology grounded in constitutional morality, social justice, and transformative constitutionalism, thereby converting Article 21 into a source of substantive rights rather than merely procedural protection. Through successive judicial phases, the Supreme Court progressively imposed affirmative obligations upon the State, integrating Directive Principles of State Policy, international human rights norms, and environmental governance principles into the constitutional framework⁸.

Phase I: From Negative Liberty to Positive Constitutional Obligations

Initially, Article 21 was understood as imposing only **negative obligations**, requiring the State to abstain from unlawful interference with personal liberty. However, judicial activism during the post-Emergency era redefined the nature of constitutional governance by recognising that mere non-interference was insufficient to secure meaningful freedom. The judiciary began interpreting Article 21 as imposing **positive constitutional duties**, obligating the State to create socio-economic conditions necessary for dignified human existence.

In **Francis Coralie Mullin v. Administrator, Union Territory of Delhi**⁹, the Supreme Court articulated a substantive conception of life grounded in human dignity and social welfare. The Court held that the right to life encompasses minimum conditions required for human development, including:

- Adequate nutrition and sustenance necessary for physical survival and health security
- Access to clothing ensuring protection against environmental exposure
- Availability of shelter as an element of personal security and privacy
- Opportunities for reading, writing, communication, and self-expression essential for intellectual and psychological development

This judgment established that **human dignity constitutes the normative core of constitutional liberty**, transforming Article 21 into a guarantee of humane living conditions rather than mere survival.

Phase II: Integration of Socio-Economic Rights with Fundamental Rights

The second phase of judicial evolution witnessed a doctrinal harmonisation between **Fundamental Rights (Part III)** and **Directive Principles of State Policy (Part IV)**. Although Directive Principles were originally non-justiciable, the Supreme Court adopted an interpretative strategy that treated them as essential guides for understanding the content of Article 21.

Through constitutional synthesis, the Court relied upon:

- **Article 39(e)** – protection of workers' health and strength
- **Article 41** – provision of public assistance in cases of unemployment, sickness, and disability
- **Article 47** – duty of the State to improve public health and nutrition levels

By reading these provisions into Article 21, socio-economic entitlements such as health care, livelihood security, social assistance, and humane working conditions were judicially recognised as enforceable constitutional rights. This interpretative approach reflected the emergence of the **Indian welfare constitutional state**, where governance obligations extend beyond maintaining order to promoting human development and distributive justice.

⁸ Biswajit Roy, Climate Change Crisis in India and Right to Life: An Exploration on Enviro-Legal Perspective, Anthology: The Rsch. (Nov. 2024)

⁹ <https://vlex.in/vid/writ-petition-criminal-3042-852356197>

Phase III: Emergence of Environmental Constitutionalism

The third phase marked the rise of **environmental constitutionalism**, largely facilitated through Public Interest Litigation (PIL) during the 1980s and 1990s. Recognising the intrinsic relationship between ecological balance and human survival, the judiciary expanded Article 21 to include environmental protection as an indispensable component of the right to life.

In **Subhash Kumar v. State of Bihar**, the Supreme Court unequivocally declared that the right to life includes the right to enjoyment of pollution-free water and air, thereby constitutionalising environmental quality standards as fundamental rights.

Further doctrinal development occurred through the environmental litigation series in **M.C. Mehta v. Union of India**, where the Court evolved foundational principles of modern environmental governance:

- **Absolute Liability Principle** — hazardous industries bear strict responsibility for environmental harm irrespective of fault.
- **Polluter Pays Principle** — environmental restoration costs must be borne by the polluting entity.
- **Precautionary Principle** — preventive action must be taken even in the absence of complete scientific certainty.
- **Sustainable Development Doctrine** — developmental policies must balance economic growth with ecological preservation and intergenerational equity.

These doctrines aligned Indian constitutional law with emerging international environmental jurisprudence and embedded scientific risk assessment, ecological sustainability, and environmental ethics within the constitutional right to life.

Constitutional Amendments and Environmental Protection

Environmental protection in India obtained explicit constitutional recognition through the **42nd Constitutional Amendment Act, 1976**, commonly described as India's "*Green Amendment*." This amendment marked a structural transition in constitutional governance by incorporating ecological preservation, environmental sustainability, and natural resource conservation into the constitutional framework.

1. Historical Background

- Prior to 1976, Environmental protection was addressed mainly through statutory laws and Administrative policies rather than constitutional mandates.
- Rapid Industrialisation, Urbanisation, Deforestation, and Pollution during the post-independence period exposed serious ecological vulnerabilities.
- Global environmental consciousness, particularly after the 1972 Stockholm Conference on Human Environment, influenced India to constitutionalise environmental protection.
- The amendment signified a shift from development-centric governance to environmentally sustainable constitutional policy.

2. Constitutional Insertions

(a) Article 48A – Directive Principle of State Policy

- Imposes a constitutional obligation upon the State to:
 - Protect and improve the environment
 - Preserve ecological balance
 - Safeguard forests and wildlife resources

- Recognises environmental conservation as an essential component of public welfare and sustainable development planning.
- Guides legislative and executive policy formulation relating to environmental governance.

(b) Article 51A(g) – Fundamental Duty of Citizens

- Establishes a civic responsibility requiring every citizen to:
 - Protect and improve the natural environment
 - Preserve forests, rivers, lakes, and wildlife
 - Show compassion toward living creatures
- Introduces the concept of participatory environmental governance, emphasising collective ecological responsibility.

3. Judicial Transformation and Enforceability

- Directive Principles and Fundamental Duties are non-justiciable in nature.
- The Supreme Court adopted an interpretative approach linking Articles 48A and 51A(g) with Article 21.
- Environmental protection was thereby elevated into an enforceable fundamental right under the Right to Life.
- Courts developed environmental jurisprudence through Public Interest Litigation (PIL), enabling citizens and environmental groups to seek judicial remedies.

4. Constitutional Significance

- Institutionalised environmental ethics within constitutional law.
- Integrated environmental protection with human dignity, public health, and quality of life.
- Encouraged development policies based on ecological sustainability and intergenerational equity.
- Laid the foundation for modern doctrines such as sustainable development, precautionary principle, and polluter pays principle.

5. Overall Constitutional Impact

- Converted environmental protection from a policy objective into a constitutional obligation.
- Strengthened democratic environmental governance by involving both State institutions and citizens.
- Marked India's transition toward ecologically conscious constitutionalism, where environmental preservation forms an integral component of the Right to Life under Article 21.

LIMITS AND CHALLENGES OF JUDICIAL CLIMATE PROTECTION

However, the recognition of a climate right by the judiciary is not without its challenges. The judiciary does not have the technical know-how to address climate change. Relying too heavily on judicial intervention may lead to a lack of democratic accountability and administrative capacity. Climate change isn't something you can tackle with quick fixes. It needs everyone on board and a plan that lasts. Sure, court rulings can shape how we think about climate action, but they can't do the heavy lifting alone. Laws and institutions matter more in the long run. Sometimes, when people turn to the constitution for answers, it just sets up hopes that reality can't match, and that's frustrating. So, judges need to be careful. They can set the bar, push for clear explanations, and make sure leaders are held accountable, but they shouldn't try to run the whole show. Recognizing a climate right isn't where the work stops, it's just the push we need to change how we govern.

RIGHT TO LIFE AND ENVIRONMENTAL CONSTITUTIONALISM

The modern interpretation of Article 21 of the Constitution of India¹⁰ reflects a significant transformation in constitutional thought, expanding the Right to Life beyond protection from state interference to include human dignity, socio-economic welfare, and environmental sustainability. Judicial interpretation has recognised that life cannot be reduced to mere physical survival; rather, it requires social, economic, and ecological conditions that enable individuals to live with dignity, health, and security. This expanded understanding has led to the emergence of **Environmental constitutionalism**, where environmental protection becomes an integral component of fundamental rights.

- The conceptual framework of Article 21 operates through three interrelated dimensions.
 - First, the **human dignity dimension** recognises that a meaningful life requires access to clean air, safe water, sanitation, housing, and a healthy environment. Environmental degradation threatens these basic conditions and therefore directly violates human dignity.
 - Second, the **socio-economic dimension** integrates rights relating to health, livelihood, nutrition, and welfare into the Right to Life, acknowledging that environmental quality plays a crucial role in sustaining economic security, public health, and social equality. This interpretation imposes positive obligations on the State to regulate pollution, manage natural resources responsibly, and promote sustainable development.
 - Third, the **ecological dimension** emphasises the interdependence between human survival and natural ecosystems, recognising forests, biodiversity, climate systems, and natural resources as life-supporting structures essential for present and future generations.
- Together, these dimensions transform Article 21 into a constitutional framework that connects law, science, and human rights. Environmental constitutionalism under Article 21 establishes that protection of nature is essential for protecting human life, that development must remain sustainable and equitable, and that both the State and society bear responsibility for preserving ecological balance. Thus, the Right to Life has evolved into a holistic constitutional guarantee ensuring dignity, social justice, and environmental sustainability as inseparable elements of human existence.

UBI JUS, IBI REMEDIUM: THE CRISIS OF ENFORCEMENT

The main rule of constitutional law declares that every existing right should receive an appropriate legal solution for its protection. The fundamental right against climate harm requires states to answer the question about which legal remedies exist when governments fail to defend their citizens from climate-related dangers. The current enforcement system does not have any strong mechanisms to support its operations. Environmental Impact Assessments (EIAs) fail to evaluate climate vulnerability and cumulative emissions and long-term environmental sustainability.¹¹ Climate adaptation policies exist mainly as executive directives which lack any legal power. The National Action Plan on Climate Change (NAPCC) from India operates without any power to enforce its rules and without systems which would make organizations answerable.³⁵ Judicial remedies exist under restrictions which prevent them from functioning at their complete operational level. The court system has the power to direct actions and create committees which they will oversee but they do not possess the authority to manage climate change continuously. Climate change exists as a continuous threat which needs ongoing observation together with flexible environmental rules and modified government programs. The danger emerges from constitutional inflation because rights development outpaces the creation of effective legal solutions. The courts' establishment of climate rights without enforcement systems will probably lead to declining public trust in constitutional decision making.

The constitutional framework for climate protection needs both constitutional recognition and functional institutions which operate effectively.

¹⁰ <https://www.scribd.com/document/805857362/Constitution-Law-of-India-j-n-pandey>

¹¹ J. Cave, Remedies Matter: Evaluating the Efficacy of Remedies in Public Law Litigation for Executive Action, 30 Dal. J. Legal Stud. 1–31 (2021).

SCIENTIFIC UNCERTAINTY AND INSTITUTIONAL CAPACITY

Climate litigation introduces special knowledge problems which affect the way information becomes accessible to human understanding. The judicial system faces the challenge of interpreting scientific data about climate change together with statistical danger evaluations and extended time-based predictions. The current evidence rules which focus on particular injuries fail to work for climate change because its effects spread widely and develop throughout long periods of time. The Indian legal system has recognized the obstacles which exist within this system.

The National Green Tribunal chose not to get involved in *Ridhima Pandey v. Union of India*¹² because they lacked sufficient scientific proof to establish direct links between specific actions and environmental changes. The courts operate without sufficient scientific knowledge which prevents them from making proper climate change decisions because they lack the necessary expertise. International experience suggests that this gap can be addressed through institutional innovation rather than judicial retreat. The courts need three specialized bodies to help them assess climate evidence and danger levels and create suitable solutions through their work with climate-specific adjudicatory bodies and expert panels and independent scientific advisors. The lack of support will make climate constitutionalism more vulnerable to technical problems than it currently is under constitutional protection.

RECOMMENDATIONS: BRIDGING RIGHTS AND REALITY

To translate judicial recognition into effective protection, the following reforms are essential: a. Enactment of a National Climate Change Act Pass a national climate law that sets clear emission targets, lays out carbon budgets, and spells out who's responsible for what when it comes to adaptation. This law would give real legal weight to climate rights in the constitution.

Creation of Climate Accountability Institutions Set up climate tribunals or benches, staffed with experts who actually know the science. They'll keep an eye on things, make sure rules get followed, and handle climate disputes with the facts in mind.

Integration of Climate Impact Assessments Climate Impact Assessments (CIAs) These should go beyond the usual environmental reviews and look hard at long-term climate risks and how resilient these projects really are.

Intergenerational Justice Mechanisms Bring in independent bodies or commissioners to speak up for future generations. That way, intergenerational fairness gets a real seat at the table—both in policy decisions and in court.

Strengthening Local Climate Governance Local governments and Panchayati Raj Institutions should be empowered with climate data, early warning systems, and financial resources to implement adaptation strategies on the ground.

Conclusion

The conceptual evolution of the Right to Life under Article 21 of the Constitution of India represents one of the most profound and transformative achievements in modern constitutional jurisprudence. What began as a narrowly framed procedural safeguard against arbitrary deprivation of life and personal liberty has, through decades of judicial innovation, constitutional amendments, and evolving socio-legal consciousness, developed into a comprehensive framework protecting the substantive conditions necessary for human survival and dignity. The Indian judiciary, through purposive and progressive interpretation, moved beyond formal legalism to recognise that constitutional rights must respond to changing social realities, scientific knowledge, and environmental challenges. In doing so, courts redefined the meaning of "life" to include not merely physical existence but the assurance of a dignified, healthy, and secure human environment. Judicial decisions expanded Article 21 by integrating civil and political liberties with socio-economic entitlements such as health

¹² 2017 SCC OnLine NGT 238

care, livelihood, shelter, education, and public welfare, thereby transforming fundamental rights into instruments of social justice.

Simultaneously, constitutional developments such as the 42nd Amendment institutionalised environmental protection within the constitutional structure by imposing duties upon both the State and citizens. The judiciary further strengthened this framework by recognising environmental protection as an enforceable fundamental right, developing principles of sustainable development, precautionary governance, polluter accountability, and intergenerational equity. Through this process, Indian constitutional law embraced the idea that ecological preservation is not an external policy concern but a constitutional necessity essential for safeguarding human life.

The emergence of environmental jurisprudence reflects a deeper philosophical shift in constitutional governance—from an anthropocentric model focused solely on economic progress to a holistic vision acknowledging the interdependence between humans and nature. Scientific understanding of climate change, biodiversity loss, pollution, and ecological degradation has reinforced judicial recognition that environmental harm directly threatens public health, food security, water availability, and overall human well-being. Consequently, Article 21 now functions as a bridge connecting constitutional law with environmental science, public health policy, and global human rights principles.

In contemporary constitutional discourse, the Right to Life operates as a living and evolving doctrine capable of addressing emerging challenges such as climate change, environmental displacement, ecological injustice, and sustainable resource management. It imposes not only negative obligations preventing arbitrary state action but also positive duties requiring governments to adopt environmentally responsible policies, regulate industrial activity, and protect natural resources for future generations. The constitutional commitment to life therefore extends across temporal boundaries, recognising that present generations hold environmental resources in trust for those yet to come. Ultimately, the conceptual understanding of Article 21 demonstrates that environmental protection and human rights are inseparable components of constitutional democracy. The Indian experience illustrates how judicial creativity, constitutional morality, and scientific awareness can collectively reshape legal doctrine to respond to existential global challenges. Today, the Right to Life under Article 21 stands as one of the most expansive human rights guarantees in the world—embodying dignity, health, ecological balance, and sustainable development—while affirming the fundamental principle that safeguarding the environment is indispensable to safeguarding human existence itself.