JOURNAL OF LAW, INFORMATION & SCIENCE
ISSN 0729-1485• Vol. 4, Issue 3 (2026) • https://jlisjournal.com/

REVIEW ARTICLE Article ID: JLIS/2026/4/3/005

Climate Change Governance and Environmental Justice: Strengthening Legal Frameworks for a Sustainable Future

Dr. Srijan Mishra[1], Dr Aprajita Singh[2], Shikha Tripathi[3], Subalakshmi.R[4], Dr. Bishnanand Dubey[5]

[1] *Assistant Professor (Law),Amity Law School, Amity University, Lucknow.*
[2] *Associate professor, School of Law, UPES.*
[3] *Assistant Professor (Law), Rajshree Law College, Bareilly.*
[4] *Research Scholar(Full Time), Vels Institute of Science Technology and Advance Studies (VISTAS), Pallavaram, Chennai.*
[5] *Assistant Professor, TMCLSS, Teerthanker Mahaveer University, Moradabad.*

Received: 22 June 2026 **Revised:** 29 July 2026 **Accepted:** 21 August 2026 **Published:** 20 Sep 2026

ABSTRACT

Climate change is no longer only an environmental problem awaiting technical solutions; it is a problem of law, power and distribution. Those who have contributed least to cumulative greenhouse gas emissions (small island States, the rural poor, informal workers, women, Adivasi and forest-dwelling communities, and future generations) bear a disproportionate share of its harms, while having the least voice in the institutions that decide how the burden of mitigation and adaptation is allocated. This article examines how climate change governance can be restructured around the principles of environmental justice. It first develops a conceptual framework drawing on the distributive, recognitional, procedural and corrective dimensions of justice. It then evaluates the international legal architecture, from the United Nations Framework Convention on Climate Change to the Paris Agreement, and the recent judicialisation of climate obligations through the advisory opinions of the International Tribunal for the Law of the Sea (2024), the Inter-American Court of Human Rights (2025) and the International Court of Justice (2025). Against this background, the article analyses India's climate governance, including its 2035 Nationally Determined Contribution, the Carbon Credit Trading Scheme and the Supreme Court's recognition in M.K. Ranjitsinh v Union of India of a constitutional right to be free from the adverse effects of climate change. It argues that India's framework, though increasingly dense, remains fragmented, mitigation-centric and weak in its attention to justice. The article concludes by proposing a rights-based climate framework statute, justice-sensitive impact assessment, a statutory adaptation and loss-and-damage regime, strengthened procedural rights, and a legally anchored just transition.

Keywords: *Climate governance; environmental justice; climate litigation; Paris Agreement; ICJ Advisory Opinion; Article 21; just transition; India.*

© 2026. The Author(s). This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC BY 4.0), which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

I. Introduction

The climate crisis has moved from the margins of international environmental law to the centre of constitutional, human rights and administrative law. The Intergovernmental Panel on Climate Change has concluded that human activities have unequivocally caused global warming, and that vulnerable communities who have historically contributed least to climate

change are disproportionately affected.[1] This asymmetry between responsibility and vulnerability is the core of the problem that environmental justice seeks to address. It operates between States, within States, and across generations.

Law has responded in three overlapping waves. The first was treaty-making: the United Nations Framework Convention on Climate Change (UNFCCC) of 1992, the Kyoto Protocol of 1997 and the Paris Agreement of 2015 created a multilateral regime built around cooperation and, originally, a sharp differentiation between developed and developing countries.[2] The second wave was domestic: legislatures enacted framework statutes and courts began to hold governments accountable for inadequate mitigation. The third wave, still unfolding, is the judicialisation of climate obligations at the international level, culminating in the unanimous Advisory Opinion of the International Court of Justice (ICJ) on 23 July 2025.[3]

Yet legal density has not produced justice. The global ambition gap persists, adaptation finance remains far below need, and communities on the front line of climate impacts continue to be excluded from decision-making. Climate policies themselves can generate injustice: renewable energy corridors may displace pastoralists, carbon offset projects may enclose common lands, and industrial transitions may abandon coal-dependent workers.

This article asks a single question: how can legal frameworks for climate governance be strengthened so that they deliver not only lower emissions but a fairer distribution of burdens, benefits and voice? Part II builds a conceptual framework. Part III evaluates the international architecture and its recent judicialisation. Part IV draws lessons from comparative climate litigation. Part V analyses India's climate governance. Part VI identifies structural gaps, and Part VII proposes reforms. Part VIII concludes. The method is doctrinal and comparative, supplemented by policy analysis of primary instruments current to September 2026.

II. Conceptual Framework: Climate Governance through the Lens of Environmental Justice

A. Climate Change Governance

Climate governance refers to the full set of rules, institutions and processes, public and private, by which societies steer collective action on mitigation and adaptation. It is polycentric: it operates simultaneously at the multilateral level (the UNFCCC process), the national level (statutes, executive policies and courts), the sub-national level (state action plans, municipal heat plans) and the transnational private level (corporate disclosure, carbon markets and voluntary standards). Its legal character ranges from binding treaty obligations to soft pledges. The Paris Agreement itself combines hard procedural obligations, such as the duty to prepare and communicate successive Nationally Determined Contributions (NDCs), with softer obligations of conduct and aspiration.[4]

---

[1]Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report* (IPCC 2023) statements A.1 and A.2.2.

[2]United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107 (UNFCCC); Kyoto Protocol to the United Nations Framework Convention on Climate Change (adopted 11 December 1997, entered into force 16 February 2005) 2303 UNTS 162; Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) 3156 UNTS 79.

[3]*Obligations of States in respect of Climate Change* (Advisory Opinion) ICJ, 23 July 2025.

[4]Lavanya Rajamani, 'The 2015 Paris Agreement: Interplay Between Hard, Soft and Non-Obligations' (2016) 28 Journal of Environmental Law 337.

B. The Dimensions of Environmental Justice

The environmental justice movement emerged in the United States in the 1980s from the observation that hazardous facilities were concentrated in poor and racialised communities.[5] Scholarship has since elaborated the concept into a multidimensional theory. Following Schlosberg, four dimensions are relevant to climate governance.[6]

Distributive justice concerns who bears the harms of climate change and who pays for responding to it. At the international level it is expressed in the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC).[7] Within States it raises questions about how carbon prices, energy tariffs and land use changes fall on different income groups.

Recognitional justice concerns whose identities, knowledge and ways of life are acknowledged. Indigenous and forest-dwelling communities, fishers, pastoralists and women farmers are frequently invisible in climate planning, even though their livelihoods are directly exposed.

Procedural justice concerns participation, access to information and access to justice. It is the logic of Principle 10 of the Rio Declaration, the Aarhus Convention and the Escazú Agreement.[8]

Corrective and intergenerational justice concerns responsibility for harm already caused and for harm imposed on those not yet born. It underlies claims for loss and damage and the growing judicial recognition that present emissions unfairly consume the carbon budget of future generations.[9]

These dimensions provide the evaluative yardstick used in the remainder of this article. A just climate legal framework must allocate burdens fairly, recognise vulnerable groups, enable meaningful participation and remedy harm.

III. The International Legal Architecture

A. From the UNFCCC to the Paris Agreement

The UNFCCC established the ultimate objective of stabilising greenhouse gas concentrations at a level that would prevent dangerous anthropogenic interference with the climate system, and anchored the regime in equity and CBDR-RC.[10] The Kyoto Protocol translated differentiation into binding quantified targets for Annex I Parties only. That bifurcated model proved politically unsustainable, and the Paris Agreement replaced it with a universal, bottom-up

[5]Robert D Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* (Westview Press 1990).

[6]David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (OUP 2007); see also Nancy Fraser, *Scales of Justice: Reimagining Political Space in a Globalizing World* (Columbia University Press 2008).

[7]UNFCCC (n 2) arts 3(1), 4; Paris Agreement (n 2) arts 2(2), 4(3); see Lavanya Rajamani, *Differential Treatment in International Environmental Law* (OUP 2006).

[8]Rio Declaration on Environment and Development (1992) UN Doc A/CONF.151/26 (Vol I) principle 10; Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (adopted 25 June 1998, entered into force 30 October 2001) 2161 UNTS 447; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (adopted 4 March 2018, entered into force 22 April 2021).

[9]Simon Caney, 'Climate Change and the Duties of the Advantaged' (2010) 13 Critical Review of International Social and Political Philosophy 203.

[10]UNFCCC (n 2) arts 2, 3(1).

system of nationally determined pledges, reviewed through an enhanced transparency framework and a five-yearly global stocktake.[11]

From a justice perspective, the Paris model is double-edged. It secured universal participation and retained differentiation, now qualified by the phrase 'in the light of different national circumstances'. But it left the adequacy of NDCs to self-assessment, so that aggregate pledges have never matched the temperature goal in Article 2(1)(a). The first global stocktake in 2023 confirmed that the world is not on track and called on Parties to transition away from fossil fuels in energy systems in a just, orderly and equitable manner.[12]

B. Finance, Loss and Damage, and Just Transition

Distributive justice in the regime turns heavily on finance. At COP29 in Baku, Parties adopted a New Collective Quantified Goal on climate finance, under which developed countries are to take the lead in mobilising at least USD 300 billion per year by 2035, within a broader call to scale finance to USD 1.3 trillion annually.[13] A Fund for responding to Loss and Damage was established at COP27 and operationalised at COP28, marking the first institutional acknowledgment of corrective justice within the regime, though without any admission of liability.[14]

COP30 in Belém in November 2025 illustrated both progress and limits. Its most significant outcome for justice was the decision to develop a just transition mechanism, popularly called the Belém Action Mechanism, with language on inclusion and human rights that observers regarded as the strongest yet in the UNFCCC process.[15] Parties also agreed to at least triple adaptation finance, although the target year was pushed back to 2035. However, the final decision omitted any concrete roadmap for transitioning away from fossil fuels, despite support from more than eighty countries.[16] The withdrawal of the United States from the Paris Agreement, and its absence from Belém as an official delegation, further weakened the regime's capacity to mobilise finance.

C. The Judicialisation of Climate Obligations

Between 2024 and 2025, three international courts and a regional human rights court clarified the content of States' climate obligations. Table 1 summarises the principal pronouncements.

[11]Paris Agreement (n 2) arts 4, 13, 14.

[12]Decision 1/CMA.5, 'Outcome of the First Global Stocktake' (2023) FCCC/PA/CMA/2023/16/Add.1, para 28(d).

[13]Decision 1/CMA.6, 'New Collective Quantified Goal on Climate Finance' (2024).

[14]Decision 2/CP.27 and 2/CMA.4 (2022); Decisions 1/CP.28 and 5/CMA.5 (2023).

[15]Eurodad, 'COP30: A Win for Just Transition, a Loss for Climate Ambition' (26 November 2025); Climate Home News, 'How Belém Launched the Just Transition Mechanism' (10 December 2025).

[16]Center for Economic and Social Rights, 'COP30 Delivered a Landmark Just Transition Mechanism, but No Commitment on Climate Finance' (2025); CAN Europe, 'COP30 Supports a Just Transition Mechanism but Leaves Civil Society's Justice Package Undelivered' (22 November 2025).

Table 1: Recent judicial pronouncements on States' climate obligations

Forum	Instrument and date	Principal holding relevant to justice
European Court of Human Rights (Grand Chamber)	*Verein KlimaSeniorinnen Schweiz v Switzerland*, 9 April 2024	Article 8 ECHR includes a right to effective State protection from serious adverse effects of climate change; failure to set a carbon budget violated it; association standing recognised.
International Tribunal for the Law of the Sea	Advisory Opinion (Case No 31), 21 May 2024	GHG emissions are marine pollution under UNCLOS; States owe a stringent due diligence obligation to prevent, reduce and control it.
Inter-American Court of Human Rights	Advisory Opinion OC-32/25, 2025	Recognises a right to a healthy climate; heightened duties toward groups in situations of particular vulnerability.
International Court of Justice	Advisory Opinion, 23 July 2025 (unanimous)	Binding obligations under treaties, custom and human rights law; stringent due diligence; fossil fuel support may be wrongful; State responsibility and reparation apply.

In *Verein KlimaSeniorinnen Schweiz v Switzerland*, the Grand Chamber of the European Court of Human Rights held that Article 8 of the European Convention encompasses a right to effective protection by State authorities from the serious adverse effects of climate change, and that Switzerland had violated it by failing to quantify a national carbon budget and to meet its own targets.[17] The International Tribunal for the Law of the Sea advised that anthropogenic greenhouse gas emissions constitute pollution of the marine environment, triggering a stringent due diligence obligation under Article 194 of UNCLOS.[18] The Inter-American Court of Human Rights, in Advisory Opinion OC-32/25, recognised a right to a healthy climate and emphasised the heightened obligations owed to groups in situations of particular vulnerability.[19]

The ICJ's Advisory Opinion is the most authoritative of these. The Court held that States have binding obligations under the climate treaties, customary international law and human rights law to mitigate climate change, cooperate and adapt.[20] Under customary law, States must prevent significant harm to the climate system and exercise due diligence, which the Court considered stringent. It identified human rights harmed by climate change, including the rights to life, health and an adequate standard of living, and the rights of women, children and

[17]*Verein KlimaSeniorinnen Schweiz and Others v Switzerland* App no 53600/20 (ECtHR, Grand Chamber, 9 April 2024).

[18]*Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law* (Advisory Opinion) ITLOS Case No 31, 21 May 2024.

[19]*Climate Emergency and Human Rights* (Advisory Opinion OC-32/25) Inter-American Court of Human Rights (2025).

[20]Herbert Smith Freehills Kramer, 'Defining State Obligations in a Warming World: The ICJ's Advisory Opinion on Climate Change' (22 August 2025).

Indigenous peoples.[21] Importantly, the Court confirmed that the law of State responsibility applies to breaches, that State support for fossil fuel production and consumption may constitute an internationally wrongful act, and it outlined a pathway for establishing causation if reparation were sought.[22] Although non-binding, the Opinion largely rejected the narrower readings advanced by major historical emitters.[23]

For environmental justice, the significance of these pronouncements is threefold. First, they reframe NDCs from discretionary pledges into instruments that must reflect highest possible ambition and be reviewable against an objective standard of due diligence. Second, they integrate human rights, and thus the interests of vulnerable groups, into the core of climate obligations. Third, they reopen the corrective dimension, previously foreclosed by the political settlement that loss and damage does not involve liability.

IV. Lessons from Comparative Climate Litigation

National courts have been the most dynamic site of climate accountability. Peel and Osofsky describe a 'rights turn' in which litigants rely on constitutional and human rights to compel mitigation.[24] Several decisions are instructive.

In *Urgenda*, the Supreme Court of the Netherlands held that Articles 2 and 8 of the European Convention obliged the State to reduce emissions by at least 25 per cent below 1990 levels by 2020.[25] In *Neubauer*, the German Federal Constitutional Court found the Federal Climate Change Act partly unconstitutional because it deferred the heaviest reductions to after 2030, thereby unfairly burdening the freedoms of younger generations, an explicit application of intergenerational justice.[26] In *Leghari*, the Lahore High Court directed the creation of a Climate Change Commission to monitor implementation of Pakistan's climate policy, demonstrating a supervisory, institution-building role for South Asian courts.[27] The Colombian Supreme Court in *Future Generations* recognised the Colombian Amazon as a subject of rights and ordered intergenerational action plans against deforestation.[28] In *Held v Montana*, the Montana Supreme Court held that a statutory bar on considering climate impacts violated the state constitutional right to a clean and healthful environment.[29]

Three lessons emerge. First, courts can translate abstract temperature goals into justiciable standards through the concept of a fair share of the carbon budget. Second, courts are most

[21]Environmental Law Alliance Worldwide, 'Obligations of States in Respect of Climate Change, Advisory Opinion (23 July 2025)' summarising paras 272 ff and 371–382 of the Opinion.

[22]Caroline E Foster, 'The 2025 International Court of Justice Advisory Opinion on Obligations of States in respect of Climate Change' (2025) International and Comparative Law Quarterly (published online 15 December 2025).

[23]House of Commons Library, 'Climate Change at the International Court of Justice' (Research Briefing CBP-10354, 2026).

[24]Jacqueline Peel and Hari M Osofsky, 'A Rights Turn in Climate Change Litigation?' (2018) 7 Transnational Environmental Law 37.

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

[26]BVerfG, Order of the First Senate of 24 March 2021, 1 BvR 2656/18.

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

[28]*Future Generations v Ministry of the Environment and Others* STC4360-2018 (Supreme Court of Colombia, 5 April 2018).

[29]*Held v State of Montana* 2024 MT 312.

effective when they strengthen institutions rather than attempt to manage policy directly. Third, litigation can advance procedural and intergenerational justice but has limited capacity to redistribute resources; that remains a legislative task.

V. Climate Governance in India

India presents a distinctive case. It is the world's third-largest emitter in absolute terms but has low per capita emissions, high climate vulnerability and a large population dependent on climate-sensitive livelihoods. Its governance framework has developed through executive policy, sectoral statutes and judicial creativity, rather than through a dedicated climate statute.

A. Policy Architecture and Nationally Determined Contributions

The National Action Plan on Climate Change of 2008 established eight national missions spanning solar energy, energy efficiency, sustainable habitat, water, the Himalayan ecosystem, green India, agriculture and strategic knowledge, and was followed by State Action Plans on Climate Change. India's first NDC in 2015 committed to a 33 to 35 per cent reduction in the emissions intensity of GDP by 2030 against 2005 levels, updated in 2022 to 45 per cent, together with 50 per cent non-fossil installed power capacity and net-zero emissions by 2070.

In March 2026 the Union Cabinet approved India's NDC for 2031 to 2035, which was published by the UNFCCC on 24 April 2026.[30] It commits to a 47 per cent reduction in emissions intensity of GDP by 2035 against 2005 levels, a 60 per cent share of non-fossil sources in installed electricity capacity, and an additional carbon sink of 3.5 to 4 billion tonnes of CO2 equivalent through forest and tree cover.[31] The Government emphasises that earlier targets were met ahead of schedule: non-fossil sources already accounted for 52.57 per cent of installed capacity by February 2026.[32] Critics note, however, that installed capacity overstates the transition, since renewables including hydropower supplied only about 22 per cent of electricity generated in 2024 to 2025,[33] and that the new targets do not drive additional mitigation beyond current policy.[34]

From a justice standpoint, India's position is internally coherent at the international level: it relies on CBDR-RC and equity to resist absolute reduction targets while developed countries fail to deliver finance. Domestically, however, the NDC is an executive document with no statutory force, no binding intermediate milestones and no mechanism through which affected communities can hold the State to it.

B. Statutory Instruments

India has no framework climate statute. Climate objectives are pursued through a patchwork of laws designed for other purposes. The Environment (Protection) Act 1986 confers broad regulatory power but was drafted for conventional pollution. The Energy Conservation Act 2001, as amended in 2022, empowers the Central Government to specify a carbon credit

[30]Carbon Brief, 'Q&A: What Does India's New Paris Agreement Pledge Mean for Climate Action?' (15 July 2026).

[31]Press Information Bureau, Government of India, 'Cabinet Approves India's Nationally Determined Contribution (2031–2035) to be Communicated to the UNFCCC' (25 March 2026).

[32]Mongabay India, 'India's Updated Climate Plan Targets 47% Emissions Cut and 60% Clean Power Capacity by 2035' (26 March 2026).

[33]Down To Earth, 'India Unveils New UN Climate Target: 47% Emissions Intensity Cut by 2035, 60% Non-Fossil Power Capacity' (26 March 2026), citing the Central Electricity Authority Annual Report.

[34]Climate Action Tracker, 'India' (2026).

trading scheme.[35] Under that power the Carbon Credit Trading Scheme 2023 was notified, creating compliance and offset mechanisms.[36] Greenhouse gas emissions intensity targets for four sectors were notified in October 2025 and for three more in January 2026, bringing about 490 entities in aluminium, cement, chlor-alkali, pulp and paper, petroleum refining, petrochemicals and textiles under legally binding obligations.[37] The Central Electricity Regulatory Commission then notified regulations governing exchange trading of Carbon Credit Certificates in February 2026.[38]

The CCTS is an important step toward a price signal, and one partly driven by the European Union's Carbon Border Adjustment Mechanism. But it is intensity-based, so absolute emissions may continue to rise; and its offset mechanism, which allows forestry, agricultural and other projects to generate credits, raises familiar justice concerns about land tenure, benefit-sharing and the displacement of customary users unless community consent and safeguards are written into the rules.

Other statutes are relevant but not climate-oriented. The National Green Tribunal Act 2010 created a specialised forum and directs the Tribunal to apply sustainable development, the precautionary principle and the polluter pays principle.[39] The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 recognises individual and community forest rights and the authority of the Gram Sabha. By contrast, the Forest (Conservation) Amendment Act 2023 narrowed the categories of land treated as forest and exempted certain linear and security projects, and the Jan Vishwas (Amendment of Provisions) Act 2023 replaced several environmental offences with monetary penalties. Taken together, these reforms have been criticised as weakening the protective and participatory character of environmental law precisely when climate risks call for its strengthening.

C. Judicial Constitutionalisation

The Indian judiciary has long read environmental protection into Article 21 of the Constitution, interpreted alongside the directive principle in Article 48A and the fundamental duty in Article 51A(g).[40] It incorporated the precautionary and polluter pays principles into domestic law,[41] developed the public trust doctrine,[42] recognised the consent of Gram Sabhas in decisions affecting forest-dwelling communities,[43] and condemned ex post facto environmental clearances as antithetical to environmental jurisprudence.[44]

The decisive step came in *M.K. Ranjitsinh v Union of India*. In a case concerning overhead transmission lines threatening the critically endangered Great Indian Bustard, a three-judge bench held on 21 March 2024 that Articles 14 and 21 together give rise to a right to be free

[35]Energy Conservation Act 2001, s 14(w), inserted by the Energy Conservation (Amendment) Act 2022.
[36]Government of India, Carbon Credit Trading Scheme 2023, SO 2806(E) (28 June 2023).
[37]International Carbon Action Partnership, 'Compliance Obligations under India's Carbon Credit Trading Scheme Enter into Force for Seven Sectors' (30 March 2026).
[38]Central Electricity Regulatory Commission (Terms and Conditions for Purchase and Sale of Carbon Credit Certificates) Regulations 2026, notified 27 February 2026.
[39]National Green Tribunal Act 2010, s 20.
[40]*Subhash Kumar v State of Bihar* (1991) 1 SCC 598.
[41]*Vellore Citizens' Welfare Forum v Union of India* (1996) 5 SCC 647.
[42]*M.C. Mehta v Kamal Nath* (1997) 1 SCC 388.
[43]*Orissa Mining Corporation Ltd v Ministry of Environment and Forests* (2013) 6 SCC 476.
[44]*Alembic Pharmaceuticals Ltd v Rohit Prajapati* (2020) 17 SCC 157.

from the adverse effects of climate change.[45] The Court's reliance on Article 14 is notable: it reasoned that communities whose geography or economic circumstances make them more vulnerable to climate change suffer unequal treatment, which connects the new right directly to distributive and recognitional justice.[46] In later proceedings the Court provided further direction on renewable energy projects in priority bustard habitats in Rajasthan and Gujarat, constituting expert committees to reconcile conservation with renewable deployment.[47]

Ranjitsinh is significant, but its limits must be acknowledged. The right was declared in a case where it had not been directly argued, and the Court did not specify its content, the corresponding duties of the State, or standards of review. Commentators have warned that the judgment's framing, which privileged the renewable energy build-out over biodiversity, risks an inadequate conception of climate action if it is not developed through legislation.[48] The right is thus a foundation rather than a framework.

VI. Structural Gaps in Climate Governance

Measured against the justice framework in Part II, six structural gaps stand out. Although the analysis focuses on India, most are shared by other developing and emerging economies.

First, the absence of a framework law. Climate objectives rest on executive policy that can be changed without legislative scrutiny. There is no statutory duty on the State to meet targets, no independent expert body to advise and monitor, and no requirement to report to Parliament. Experience with the United Kingdom's Climate Change Act 2008 suggests that framework legislation improves policy stability and accountability.[49]

Second, institutional fragmentation. Climate responsibility is divided among the Ministry of Environment, Forest and Climate Change, the Ministry of Power and the Bureau of Energy Efficiency, the Ministry of New and Renewable Energy, NITI Aayog and State governments. Coordination occurs through committees rather than legal mandates, and State Action Plans are rarely backed by budgets or enforceable duties.

Third, the neglect of adaptation. Law and finance concentrate on mitigation instruments, while the harms that most affect the poor, such as extreme heat, flooding, drought, coastal erosion and glacial hazards, are managed through ad hoc schemes. Heat Action Plans, for instance, operate largely without statutory backing.

Fourth, weak procedural rights. Public consultation in environmental impact assessment has been progressively curtailed, climate impacts are not a mandatory consideration in project appraisal, and India is not party to any Aarhus-type instrument. Climate data, including facility-level emissions, remain largely inaccessible to the public.

Fifth, justice blind spots in market instruments. Carbon markets and offsets are designed for efficiency and integrity of credits, not for fairness. Without safeguards, they risk turning land

[45] *M.K. Ranjitsinh v Union of India* Writ Petition (Civil) No 838 of 2019 (Supreme Court of India, 21 March 2024).

[46] Verfassungsblog, 'India's New Constitutional Climate Right'.

[47] *M.K. Ranjitsinh v Union of India* [2025] INSC 1472.

[48] 'Towards Operationalising a New Climate Right for India' *The India Forum* (20 September 2024).

[49] Alina Averchenkova, Sam Fankhauser and Jared J Finnegan, 'The Impact of Strategic Climate Legislation: Evidence from Expert Interviews on the UK Climate Change Act' (2021) 21 Climate Policy 251.

and forests into carbon assets while the costs of transition fall on those with the least bargaining power.

Sixth, the absence of a just transition framework. Coal mining sustains the economies of districts in Jharkhand, Chhattisgarh and Odisha. There is no legal framework for retraining, social protection or land restoration as coal declines, although the District Mineral Foundation funds offer a possible financial vehicle.

VII. Strengthening Legal Frameworks: Proposals for Reform

A. A Rights-Based Climate Change Framework Act

India should enact a Climate Change Framework Act that gives statutory form to the right recognised in *Ranjitsinh*. Consistent with CBDR-RC and India's development priorities, the Act need not impose absolute caps immediately, but it should: (i) place the NDC and the 2070 net-zero goal on a statutory footing, with five-yearly interim milestones; (ii) establish an independent Climate Change Commission of experts to advise on targets, assess progress and report annually to Parliament; (iii) impose a general duty on public authorities to take climate risks and vulnerable groups into account in exercising their functions; (iv) require the Central and State governments to publish adaptation programmes with measurable objectives; and (v) create a Centre–State climate council with a statutory mandate to align State Action Plans with national goals. Such a statute would also give courts an objective standard, reducing the risk that judicial enforcement of the constitutional right becomes either ineffective or overreaching.

B. Mainstreaming Justice in Decision-Making

Every major regulatory decision with climate implications should be subject to a combined climate and equity assessment. Environmental impact assessment should be amended to require consideration of the lifecycle greenhouse gas emissions of projects, their climate resilience and their distributional impacts on vulnerable communities. The Gram Sabha consent requirement under the Forest Rights Act, affirmed in *Orissa Mining Corporation*, should expressly extend to carbon offset projects on community lands, together with mandatory benefit-sharing and grievance redress within the CCTS offset rules.

C. A Statutory Adaptation and Loss-and-Damage Regime

Adaptation must be treated as a legal obligation, not a residual policy. Extreme heat should be recognised as a notified disaster for relief purposes under the Disaster Management Act 2005, and Heat Action Plans should be made mandatory for high-risk districts and cities, with protections for outdoor and informal workers. A domestic loss-and-damage window, financed partly from carbon market revenues and linked to social protection schemes, would give practical content to the corrective dimension of justice and mirror India's advocacy for loss-and-damage finance internationally.

D. Strengthening Procedural Rights and Access to Justice

India should adopt legislation on environmental information and participation modelled on the principles of the Aarhus and Escazú instruments, including proactive disclosure of facility-level emissions data, meaningful public hearings with adequate notice and translation into local languages, and protection for environmental defenders. The National Green Tribunal should be strengthened through full appointments, regional benches and express jurisdiction over climate-related claims, including those arising under the proposed framework Act.

E. A Legally Anchored Just Transition

A Just Transition Framework, whether within the framework Act or in separate legislation, should require transition plans for coal-dependent districts, guarantee retraining and social security for affected workers including informal workers, mandate land reclamation, and direct District Mineral Foundation funds toward diversification. The rights-based language of the Belém Action Mechanism provides an international reference point that India, which has championed equity in the negotiations, is well placed to operationalise at home.

F. Engaging the International Regime After the ICJ Opinion

Internationally, India can use the ICJ Opinion to strengthen, not weaken, its equity-based position. The Opinion's confirmation that developed States bear obligations regarding finance, technology transfer and cooperation, and that differentiation remains relevant to the standard of due diligence, supports India's demands for delivery on the New Collective Quantified Goal and for predictable adaptation and loss-and-damage finance. At the same time, the Opinion's insistence on highest possible ambition means that India's future NDCs will be assessed against an objective standard, which a domestic framework Act would help to meet. India should also press for unilateral trade measures such as the Carbon Border Adjustment Mechanism to take account of CBDR-RC and of revenues being recycled to developing countries.

VIII. Conclusion

Climate change governance has reached a turning point. International law now speaks with unusual clarity: the ICJ, ITLOS and regional human rights courts have confirmed that States owe binding obligations of due diligence to protect the climate system, and that these obligations are inseparable from human rights. Domestic courts, including India's Supreme Court in *Ranjitsinh*, have recognised climate protection as a constitutional right. Yet the legal architecture remains weakest where justice matters most: in adaptation, in the protection of vulnerable communities from the side-effects of climate policy, in participation, and in remedies for harm.

This article has argued that strengthening legal frameworks for a sustainable future requires moving from a mitigation-centric, executive-driven model to a rights-based, institutionally anchored and justice-sensitive one. For India, that means a framework statute that gives legislative content to the constitutional climate right, an independent commission to hold the State to its commitments, mandatory attention to equity in regulatory decisions, a statutory adaptation and loss-and-damage regime, strengthened procedural rights, and a legally secured just transition. None of these reforms requires India to abandon the principle of equity that it has consistently defended in international forums. On the contrary, they would demonstrate that the same principle can govern the relationship between the State and its most vulnerable citizens. Climate justice, in the end, is not a constraint on sustainable development but its precondition.

References

- Averchenkova A, Fankhauser S and Finnegan JJ, 'The Impact of Strategic Climate Legislation: Evidence from Expert Interviews on the UK Climate Change Act' (2021) 21 Climate Policy 251

- Bullard RD, *Dumping in Dixie: Race, Class, and Environmental Quality* (Westview Press 1990)
- Caney S, 'Climate Change and the Duties of the Advantaged' (2010) 13 Critical Review of International Social and Political Philosophy 203
- Climate Action Tracker, 'India' (2026) <https://climateactiontracker.org/countries/india/>
- Foster CE, 'The 2025 International Court of Justice Advisory Opinion on Obligations of States in respect of Climate Change' (2025) International and Comparative Law Quarterly (published online 15 December 2025)
- Fraser N, *Scales of Justice: Reimagining Political Space in a Globalizing World* (Columbia University Press 2008)
- Sharma, A., Bhardwaj, P., Gupta, S., Dubey, B., Pattnaik, T., & Batar, S. (2025). The Role Of International Law In Addressing Climate Change. Journal of International Environmental Relations, 5(2), 4191-4202.
- Batar, S. PROBLEMS AND SOLUTIONS RELATING TO ENVIRONMENTAL CONCERNS IN INDIA. AMIT VERMA, 42.
- House of Commons Library, 'Climate Change at the International Court of Justice' (Research Briefing CBP-10354, 2026)
- Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (IPCC 2023)
- International Carbon Action Partnership, 'Indian Carbon Credit Trading Scheme'<https://icapcarbonaction.com/en/ets/indian-carbon-credit-trading-scheme>
- Peel J and Osofsky HM, 'A Rights Turn in Climate Change Litigation?' (2018) 7 Transnational Environmental Law 37
- Rajamani L, *Differential Treatment in International Environmental Law* (OUP 2006)
- Rajamani L, 'The 2015 Paris Agreement: Interplay Between Hard, Soft and Non-Obligations' (2016) 28 Journal of Environmental Law 337
- Schlosberg D, *Defining Environmental Justice: Theories, Movements, and Nature* (OUP 2007)

Declarations

Conflict of interest: The authors declare that they have no conflict of interest.

Funding: This review received no specific grant from any funding agency in the public, commercial or not-for-profit sectors.

Ethical approval: Not applicable. This article is a review of published literature and did not involve human participants or animal subjects.

Data availability: No new data were generated or analyzed in support of this review. All sources relied upon are cited in the References.

Use of AI tools: No generative artificial intelligence tool was used in the conception, drafting or analysis of this article. The authors take full responsibility for the content.

Author contributions: Author contributed to the conception of the review, the survey of the literature, and the drafting and revision of the manuscript. Author read and approved the final version.