

FROM GUARDIANSHIP TO PARTNERSHIP: REIMAGINING ENVIRONMENTAL AND CLIMATE RIGHTS IN INDIA THROUGH DECOLONIAL AND RIGHTS OF NATURE FRAMEWORK

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Abstract

India's Climate change jurisprudence stands at a critical juncture, with consistent reports of the threat to the climate becoming irreversible. The paper analyses legal jurisprudence in light of the eco-centric framework, combining the right of nature theory with decolonial theory, and considers constitutional guarantees. The paper uses recent examples of environmental issues to shed light on their relevance and outlines two theories in environmental law jurisprudence to critically examine the various doctrines employed by the Indian Courts, such as the *parens patriae* and public trust doctrines, and to highlight the colonial legacies and the challenges they pose. Through a doctrinal legal analysis with a theoretical framework, analysing the landmark ruling in *MK Ranjitsinh v Union of India* through the lens of theoretical underpinnings of the theory, the paper realises the court's emphasis on Climate Change in the Constitutional set-up, and then focuses on the orders so far passed in the *Ridhima Pandey* Petition, to argue that the judiciary has a centralizing, paternalistic tendency, which should be discarded in favour of a more decentralized indigenous focused approach to combat climate change in order to achieve a more equitable, participatory ecological governance model.

1. Introduction:

In 2025, the headlines of major newspapers covering the monsoons have been filled with reports of their devastating impact. The coverage often describes the situation as 'devastating'.² The situation in Jammu due to cloud bursts and consequent flash floods in the *Ravi*³, the

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² Sunita Narain, 'The Sunita Narain Show: Extremely heavy rains batter North India in Monsoon 2025' (*Down to Earth* 5 September 2025) <<https://www.downtoearth.org.in/climate-change/the-sunita-narain-show-extremely-heavy-rains-batter-north-india-in-monsoon-2025>> accessed 6 October 2025.

³ The Hindu Bureau, 'Jammu and Kashmir rains updates: 13 dead including 9 pilgrims in a landslide on Vaishno Devi route' *The Hindu* (15 December 2025) <<https://www.thehindu.com/news/national/jammu-and-kashmir/jammu-and-kashmir-rains-landslide-floods-landslip-vaishno-devi-doda-august-26-2025/article69979354.ece>> accessed 6 October 2025.

situation in Punjab⁴, the situation in Himachal Pradesh and the most recent, the situation in Darjeeling, West Bengal⁵ are some examples. Floods are not alone; in the Himalayan ranges, they bring landslides, mudslides, and glacial lake outbursts, causing loss of life and livelihoods, destruction of public and private infrastructure, and the loss of entire ecosystems, with the risk of such events ever increasing.⁶ This, however, is not a novel phenomenon; every year, for the past five years, such coverage has come from different parts of the country, specifically the Himalayan states. In the previous year, the death toll due to extreme weather events was placed at 1500 people.⁷ This trend has been steadily increasing, and these are not isolated weather events; rather, there is an exponential increase in extreme weather conditions each year. The summer reports from different years attest that every year has been progressively hotter, resulting in significant loss of life.⁸ Every season sees reports of drastic and dramatic changes, and yet it is generally categorised as an unpredictable weather event. However, it is not; ‘weather’ is defined as the condition of the atmosphere at a particular place at a particular time.⁹ When that is extended to cover a period of time, it becomes a ‘climate.’¹⁰ The weather in certain places can lead to natural disasters, but the root cause is often the gradual change in the climatic conditions of that location.

A petition is currently pending in the Supreme Court of India by a young girl named Ridhima Pandey.¹¹ Originally filed in 2017 to the National Green Tribunal, arguing that the government, by failing to mitigate the challenges of climate change, had failed her generation, urging action

⁴ ‘Worst Floods in Decades Ravage Punjab; 1.75 Lakh Acres Farmland Submerged’ (*News on AIR* 3 September 2025) <<https://www.newsonair.gov.in/worst-floods-in-decades-ravage-punjab-1-75-lakh-acres-farmland-submerged/>> accessed 6 October 2025.

⁵ ‘Flood fury in Manali, raging Beas waters wash away portion of Leh highway’ *India Today* (26 August 2025) <<https://www.indiatoday.in/india/story/manali-kullu-flood-leh-highway-roads-beas-hotel-houses-destroyed-himachal-2777025-2025-08-26>> accessed 6 October 2025.

⁶ PTI, ‘Hindukush Himalayas at Greater Risk of Landslides, floods this Monsoon: Report’ *NDTV* (11 June 2025) <<https://www.ndtv.com/india-news/hindu-kush-himalayas-at-greater-risk-of-landslides-floods-this-monsoon-report-8643127>> accessed 6 October 2025.

⁷ ‘Nearly 1500 died in extreme weather events in 2024’ *The Economic Times* (30 September 2024) <<https://economictimes.indiatimes.com/news/india/nearly-1500-died-in-extreme-weather-events-in-2024-monsoon-season/articleshow/113856025.cms?from=mdr>> accessed 6 October 2025.

⁸ ‘Extreme weather events claimed 1,400 lives in 2020’ *Times of India* (13 September 2021) <<https://timesofindia.indiatimes.com/india/extreme-weather-events-claimed-1400-lives-in-2020/articleshow/80106814.cms>> accessed 6 October 2025; ‘1,750 died in India due to extreme weather in 2021’ *NDTV* (4 February 2022) <<https://www.ndtv.com/india-news/1-750-died-in-india-due-to-extreme-weather-in-2021-2708428>> accessed 6 October 2025; ‘“Hottest summer ever”: Many Indian states under “severe” heatwave’ *Al Jazeera* (29 April 2022) <<https://www.aljazeera.com/news/2022/4/29/hottest-summer-ever-many-india-states-facing-severe-heatwave>> accessed 6 October 2025.

⁹ ‘Weather’ Oxford Learner’s Dictionaries <https://www.oxfordlearnersdictionaries.com/definition/english/weather_1> accessed 6 October 2025.

¹⁰ ‘Climate’ Oxford Learner’s Dictionaries <<https://www.oxfordlearnersdictionaries.com/definition/english/climate>> accessed 6 October 2025.

¹¹ *Ridhima Pandey v Union of India*, Civil Appeal 388 of 2021 (Supreme Court of India).

under the municipal laws and international obligations, which the NGT ultimately dismissed.¹² The young girl appealed to the Supreme Court, and the court has since expanded Article 21 of the Constitution of India to include the right to be safe from climate change. There have been some orders, yet the final judgment is pending. This judgement is expected to be a landmark, establishing the right in a far more substantial manner and expanding the scope of the fight against climate change. The foundation is already in place, as established by the 2024 judgment of *M K Ranjitsinh v Union of India*.¹³ The challenge posed by climate change, where every breath is under threat, requires a radical reimagination of the legal framework. Life with dignity includes the right to be free from the adverse effects of climate change; this paper tries to analyse the existing legal framework, the steps the judiciary has already taken, and a discussion of the way forward; however, this paper tries to view this expansion in light ecocentrism framework which has been divided into two parts, the right of nature theory and decolonial theory, in order to gain a deeper understanding of how the problem lies in the inherent power structures, which have remained largely unchanged.

The first part of the paper engages with the theoretical aspects, exploring the frameworks discussed above and situating them in the context of the present issue. The second portion examines the jurisprudential evolution of the right to life in the environmental context, and the third section outlines the current scenario and proposes a way forward.

2. The Eco-Centric Approach

The ecocentrism approach posits that organisms are connected not just to their environment but are also constituted by that relationship.¹⁴ The anthropocentric approach frames humanity at the centre of the relationship, where nature is reduced to a commodity, a “resource” that can be utilised by humans for their benefit. The Eco-Centric approach asserts that nature has intrinsic value, independent of its use by humans, and that humans' moral responsibility to protect nature stems from that value rather than its utility.¹⁵ The corollary of this approach can be several; this paper focuses on two: one, the right of nature theory, which confers legal rights to nature as an inherent right to itself, and secondly, the decolonial theory, which dismantles

¹² *Ridhima Pandey v Union of India*, Original Application No. 187 of 2017 (National Green Tribunal, 15 January 2019) <https://admin.climatecasechart.com/wp-content/uploads/non-us-case-documents/2019/20190115_Original-Application-No.-187-of-2017-Civil-Appeal-No.-3882021_order.pdf> accessed 10 October 2025.

¹³ *MK Ranjitsinh v Union of India Writ Petition (Civil) No 838 of 2021*, (Supreme Court of India 19 April 2021).

¹⁴ Robyn Eckersley, *Environmentalism and Political Theory: Toward an Eco-Centric Approach* (SUNY Press 1992) 49.

¹⁵ Sairam Bhat and Lianne D'Souza, 'Eco-Centrism and the Right to Development: Bridging the Dichotomy' (2022) 11(1) *Christ University Law Journal* 35.

the power structures that have brought forth nature as a resource and consequently, rather than as an element of life itself. The paper posits that the shortcomings of the right of nature, which is it can prove to be a roadblock in the right to development, can be overcome by instituting such structures, which shift the power balance towards the people, rather than the state, decolonial interpretation could add value, as the development would not come at the cost of nature, rather proposing a structure with nature. It is essential to discuss both theories within the framework of Indian environmental law.

2.1 The Right of Nature Framework:

The foundation of the right of nature was laid by Christopher Stone in his seminal work, *'Should Trees Have Standing?'*¹⁶ He argued that, as human rights were those rights that were due to humans simply because they were humans, a rather existentialist/deontological approach, then nature should also have rights (the ability to sue and be defended) as it exists, and those rights should be free from the utility of nature to humans. The other dimension of this theory is the consequentialist dimension, which suggests that if nature had legal standing, it would ultimately be beneficial to humanity. The theory was further developed in subsequent works, including contributions from several renowned environmental advocates and organisations. Thomas Berry, a priest, suggested that the entire legal system and jurisprudence are anthropocentric; unless shifted to an ecocentric perspective, they would ultimately fail.¹⁷ His idea was based primarily on theology and morality; humans were a part of the universe, and had to be rerouted.¹⁸ Others grounded the theory in practical legal paradigms within the existing framework of Constitutions, statutes, and governance systems.¹⁹

The 'right of nature theory' begins with the legal recognition of nature as a distinct entity and moves toward the ultimate aim of building an Earth society that includes humans and Mother Earth.²⁰ Nature is considered not as separate from humans in this evolved stage; rather, humans and nature form part of a cohesive whole, the Right of Mother Earth, finding a foothold in the indigenous communities of South America.²¹ The theory is further supported by several works that draw on the international law theory of common heritage; however, it is criticised for the fact that, at present, it could lead to multiple speakers on behalf of nature, who would be

¹⁶ Christopher D Stone, 'Should Trees Have Standing? Towards Legal Rights for Natural Objects' (1972) 45 *California Law Review* 450.

¹⁷ Thomas Berry, *The Great Work: Our Way into the Future* (Bell Tower 1999).

¹⁸ *Ibid.*

¹⁹ Cormac Cullinan, *Wild Law: A Manifesto for Earth Justice* (Green Books 2002).

²⁰ Pablo Sólón, 'The Rights of Mother Earth' in Vishwas Satgar (ed), *The Climate Crisis: South African and Global Democratic Eco-Socialist Alternatives* (Wits University Press 2018).

²¹ *Ibid.*

fighting for the protection of different elements, often at odds with each other.²² The theory has also found some constitutional backing; Ecuador was one of the first countries to introduce provisions in its constitution for the protection of RoN.²³ Bolivia has laws,^{24,25} and many other countries, such as New Zealand and Bangladesh, are moving towards accepting rights of nature jurisprudence by recognising some elements of nature as having legal rights.^{26,27}

India has also accepted certain elements through judicial decisions, such as the Uttarakhand High Court judgement, which declared the Ganga and Yamuna rivers as living entities and placed two high-level government officials in loco parentis, thereby giving them guardianship over the rivers.²⁸ In another judgement, the Uttarakhand High Court declared,

‘We by invoking our parens patriae jurisdiction, declare the Glaciers including Gangotri & Yamunotri, rivers, streams, rivulets, lakes, air, meadows, dales, jungles, forests wetlands, grasslands, springs and waterfalls, legal entity/ legal person/juristic person/juridicial person/ moral person/artificial person having the status of a legal person, with all corresponding rights, duties and liabilities of a living person, in order to preserve and conserve them. They are also accorded the rights akin to fundamental rights/ legal rights.’²⁹

Another similar judgment, by the division bench of the Punjab and Haryana High Court, declared *Sukhna Lake* a living entity and made the local citizens of Chandigarh the loco parentis, i.e., the human face of the lake.³⁰ The Madras High Court went above and beyond, and declared “Mother Nature” as a living being.³¹

The different judgments employ different approaches. In one instance, the State (through its officials) is appointed the guardian; in two others, the Court invokes the doctrine to declare itself the guardian; and in the third, local citizens are involved. The issue was that the government was perceived as the defender, when in many cases it could also be the perpetrator; there were also border issues between states over the maintenance of rivers and other natural

²² Mauricio Guim and Michael A. Livermore, ‘Where Nature’s Rights go Wrong’ (2021) 107 *Virginia Law Review* 1347 <<https://www.jstor.org/stable/27135599>> accessed 12 October 2025.

²³ Constitution of the Republic of Ecuador (Official Register, 20 October 2008) arts 10, 71-74.

²⁴ Law of the Rights of Mother Earth No 071 (Bolivia, 21 December 2010).

²⁵ Framework Law of Mother Earth and Integral Development of Living Well No 300 (Bolivia, 15 October 2012).

²⁶ Te Urewera Act 2014 (NZ); Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ).

²⁷ *Human Rights and Peace for Bangladesh v Government of Bangladesh*, Writ Petition No 13989 of 2016 (Bangladesh).

²⁸ *Mohammed Salim v State of Uttarakhand*, Writ Petition (PIL) No 126 of 2014 (Uttarakhand High Court).

²⁹ *Lalit Miglani v State of Uttarakhand & Others*, Writ Petition (PIL) No 140 of 2015 (Uttarakhand High Court).

³⁰ *Court on its own Motion v Chandigarh Administration*, Civil Writ Petition 18253 of 2009 & other connected petitions (Punjab & Haryana High Court).

³¹ *A Periyakaruppan v The Principal Secretary to Government*, Writ Petition (Madurai) Nos 18636 of 2013 and 3070 of 2020 and Writ Miscellaneous Petition (Madurai) No 2614 of 2020 (Madras High Court, Madurai Bench).

features. The court could have gone a little further and drawn up implementation guidelines, specifying when and who could bring lawsuits on behalf of nature, and what the liabilities of the nature specified would be. It could also have established mechanisms for checks and balances under the Public Trust Doctrine, but this was not to be, as the Supreme Court stayed the first order.³² Therefore, there is no concrete basis for applying this doctrine within the Indian Environmental Law Framework; this could have changed by reading the environment as the centre, not the citizen, through reading Articles 48, 21 and 51A(g), specifically using Article 21.

The idea behind the above discussion is that Indian jurisprudence incorporates elements of the rights of nature doctrine; however, it is unfortunately left to the state itself to protect what the state breaks, which is where the second framework comes in: decolonial theory.

2.2 The Decolonial Theory:

The origin of decolonial theory lies in the idea that the state acts as the authoritative guardian over subjects, who are vulnerable and in need of protection. Walter Mignolo, wrote in his work that colonial rule was a Eurocentric power defined by the otherization of indigenous communities and the marginalisation of local knowledge.³³ It was essentially imposing the European legal frameworks on indigenous populations. This was elaborated upon by many other scholars who laid the foundations of the theory, some going so far as to label it ‘*epistemicide*’, the erasure and devaluation of local knowledge systems.³⁴ Others grounded the theory of environmental action, suggesting that Western, centralised administrative theories must be discarded in favour of a local, care-and-respect-based framework.³⁵ Writers such as Robin Wall have argued that local and indigenous models offer ethical and sustainable forms of governance.³⁶ Others seek the utilisation of traditional ecological knowledge as the base for environmental governance.³⁷

Colonialism has long shackled laws in India, as most of the major laws are derived from colonial masters and their systems. The perspective is easily comprehensible in jurisprudence

³² *Mohammed Salim v State of Uttarakhand*, Special Leave Petition (Civil) No 016879/2017 (Supreme Court of India, 20 March 2017).

³³ Walter D. Mignolo, *The Darker Side of Western Modernity: Global Futures, Decolonial Options* (Duke University Press 2011).

³⁴ Boaventura de Sousa Santos, *Epistemologies of the South: Justice Against Epistemicide* (Paradigm Publishers 2014).

³⁵ Arturo Escobar, *Designs for the Pluriverse: Radical Interdependence, Autonomy and the Making of Worlds* (Duke University Press 2018).

³⁶ Robin Wall Kimmerer *Braiding Sweetgrass: Indigenous Wisdom, Scientific Knowledge, and the teachings of Plants* (Milkweed Editions 2013).

³⁷ Kyle Powys Whyte, ‘On the Role of Traditional Ecological Knowledge as a Collaborative Concept: A Philosophical Study’ (2018) 29 *Environmental Ethics* 445.

and constitutional law, and the Indian legal system has often been criticised for being too colonial in its approach, by upholding procedural rigidity rather than substantive justice.³⁸ There have been calls for reinterpretation of constitutional morality through indigenous traditions, subaltern ethics and ecological considerations.³⁹ The coloniality of power has often been challenged in India, with some successes; courts have struck down colonial-era legislation.⁴⁰ However, there are also times when they have been kept intact. The point is that such laws are easy to identify in the constitutional rights-based realm, but not as readily apparent in the context discussed in this paper.

There are several cases that have acknowledged portions of decolonial theory, such as the colossal case of *T.N. Godavarman v Union of India*, a landmark environmental law case that recognised the rights of tribal people and their role in forest management.⁴¹ The case also invoked the public trust doctrine, emphasising that the state had a responsibility to manage natural resources. Another judgment that takes the lines of indigenous communities into consideration is the *Samatha* Judgement.⁴² The Orissa Mining Case, which recognised the rights of tribal people to their cultural, spiritual, and religious heritage, is another example where a decolonial perspective has been given consideration.⁴³ Courts have revisited some elements of decolonial theory, but there has been no explicit recognition in environmental law cases. There have been cases that promote collective rights, a more bottom-up approach than the conventional state as the instrument for delivering rights. The approach, however, is sporadic and non-committal, which is evidenced by the fact that in three of the four cases discussed in the previous section, where courts have accorded rights of nature, they have made the state or themselves *parens patriae*, which goes against the very basics of ecocentrism and the decolonial theory and even in the cases mentioned in this section, the court have been salutary towards the rights of people, rather than making structural and institutional changes. *Parens Patriae* is the best for facilitating rights and accountability in environmental jurisprudence. There are specific entities that become duty holders and, therefore, form the backbone of the rights; this is closely related to the public trust doctrine, under which the state is identified as the custodian of natural resources, such as air, water, and beaches.⁴⁴⁴⁵ Recently,

³⁸ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing House 1982).

³⁹ Saurabh Roy and Upendra Baxi, 'Decolonising the Indian Constitution' (2020) 12 Asian Journal of Comparative Law 55.

⁴⁰ *Navtej Singh Johar v Union of India* (2018) 10 SCC 1; *Joseph Shine v Union of India*, (2019) 3 SCC 39.

⁴¹ *TN Godavarman Thirumulpad v Union of India* (1997) 2 SCC 267

⁴² *Samatha v Union of India*, 1997 (8) SCC 191.

⁴³ *Orissa Mining Corporation Ltd v Ministry of Environment & Forests & Others* (2013) 6 SCC 476

⁴⁴ *M.C. Mehta v Kamal Nath* (1997) 1 SCC 388 (SC).

⁴⁵ *Fomento Resorts and Hotels v Minguel Martins* (2009) 3 SCC 579 (Supreme Court of India).

the court has also extended the application to even artificial bodies created from natural resources, which contribute to the environment and ecological balance.⁴⁶ The issue is that the application of the doctrine is the centralisation of formal state power. This replicates the same colonial power dynamics, as *parens patriae* and the public trust doctrine converge, placing the state in the role of guardian. Therefore, the entire framework must be approached through a decolonial lens. Again, the Constitutional Law framework proves most useful in the court's arsenal, revisiting the meaning of life. The court could anchor decolonial theory directly to citizens and develop a revised framework.

Both these theories, flowing from eco-centrism can be applied in the environmental and climate change jurisprudence, as the next section will show, piece meal realization is present, what is required is a firm anchoring in the upcoming judgement to the principles of nature first, and the constitution does provide the base structure for it, the courts have thus far under-utilized it, a stronger anchoring can be achieved through Article 21, and couch it in terms of public health, and sustainable development, both aspects clearly within the bounds of the Supreme Court of India.

3. The Constitutional Law Framework: Setting up towards MK Ranjitsinh

'Climate change is having a visible and alarming impact on Himachal Pradesh. While climate change defies categorisation, and has its impact on many of the problems listed, it is more than sufficient a problem on its own to be documented separately, rather than as an additional factor to the other aspects... .. If things proceed, the way they are as of date, then the day is not far when the entire State of HP may vanish in thin air from the map of the Country'.⁴⁷

The Supreme Court made these remarks while considering the construction in Himachal. They also discussed other factors, including deforestation, rapid infrastructure changes, hydropower projects, noise and air pollution, and traffic, and connected them all to the dire situation of climate change. The Indian Judiciary has long utilised the Constitution of India, particularly Article 21, to promote environmental protection, as seen in *Virender Gaur v State of Haryana*, where the Supreme Court recognised the right to live in a pollution-free environment as an interpretation of Article 21⁴⁸. Similarly, in *RLEK v State of Uttar Pradesh*,⁴⁹ the court held that the right to a healthy environment is a component of the right to life. The various M.C. Mehta

⁴⁶ *Swacch Association, Nagpur v State of Maharashtra* Civil Appeal No 12521 of 2025 (Supreme Court of India).

⁴⁷ *M/S Pristine Hotels and Resorts v State of Himachal Pradesh*, Special Leave to Appeal Civil No 19426/2025.

⁴⁸ (1995) 2 SCC 577.

⁴⁹ (1985) 2 SCC 431.

cases led to significant rulings in environmental law.⁵⁰ *Subhash Kumar v State of Bihar*⁵¹, where environmental degradation was considered to be directly impacting the right to life and, therefore, the state had a responsibility. Environmental Jurisprudence has evolved because the Hon'ble Supreme Court has repeatedly interpreted Article 21, the right to life, to include the right to live in a healthy environment. The Supreme Court has been an active proponent since the early 1990s; before that, there were no significant interventions from the judiciary. The text of the Constitution also included the preservation of the environment in the Fundamental Duties⁵² and Directive Principles⁵³, via an amendment in 1976.⁵⁴ However, it was probably the post-Bhopal scenario that led to a shift toward a rights-based approach. However, there have also been several cases in which the Supreme Court has favoured development over environmental concerns.

The *Citizens for Green Doon and Others v Union of India*,⁵⁵ is a very informative case in which the question was whether to prioritise the stability of the Himalayan Mountains or expand roads for military and other purposes (*Char Dham Yatra Highway Expansion Case*). The Supreme Court in the case lists out the history, from the first PIL filed in the public interest at NGT, to the orders of the earlier benches of the Supreme Court itself, then discusses the issues, Article 14, 21 and also the role of defence, the fragility of the Himalayan eco-system, the threat to the mountains because of the burden of digging, cutting and infrastructure. The conundrum of development versus environmental protection is well established in this case, and yet the judgment ultimately places development over environmental concerns. The judgment addresses environmental rule of law and sustainable development concerns, yet it allows for the conditional implementation of the proposal to widen roads, albeit with the oversight of an oversight committee. The issue is that the oversight committee is largely composed of state officials, headed by a judge, and does not incorporate the local population into its oversight framework.

Climate Change and the Environment are critically linked; climate change exacerbates factors that contribute to environmental degradation. Therefore, more often than not, climate change jurisprudence is sourced in environmental law jurisprudence, as seen in the latest case of *MK Ranjitsinh v Union of India*.⁵⁶ The court has said,

⁵⁰ (1987) 1 SCC 395; (1996) 5 SCC 713; (1988) 3 SCC 176; (1997) 8 SCC 329; (1997) 2 SCC 353.

⁵¹ (1991) 1 SCC 598.

⁵² Constitution of India 1950, art 51A (g).

⁵³ Constitution of India 1950, art 48A.

⁵⁴ The Constitution (Forty-Second Amendment) Act 1976 (India).

⁵⁵ *Citizens for Green Doon v Union of India* 2021 SCC OnLine SC 1243.

⁵⁶ *MK Ranjitsinh* (n 12).

*'Despite a plethora of decisions on the right to a clean environment, some decisions which recognise climate change as a serious threat, and national policies which seek to combat climate change, it is yet to be articulated that the people have a right against the adverse effects of climate change. This is perhaps because the right and the right to a clean environment are two sides of the same coin. As the havoc caused by climate change increases year by year, it becomes necessary to articulate this as a distinct right. It is recognised by Articles 14 and 21'.*⁵⁷ (emphasis added).

The case warrants a more in-depth analysis in the present context. The case began as a wildlife conservation effort, specifically aimed at protecting the endangered birds—the Great Indian Bustard and the Lesser Florican—as overhead solar power lines were threatening their survival. Initially, the court had ordered that the wires be placed underground.⁵⁸ However, the court modified the previous order, finding it infeasible. The court discussed the role of renewable energy resources in helping India fulfil its commitments to mitigate climate change and promote sustainable energy within the international framework. The court also discussed the inequality in climate change effects, noting that poorer communities are more exposed and at greater risk than richer communities, and that people in geographically sensitive zones, such as islands and those living in forested areas, are also at greater risk.⁵⁹ The court also connects climate rights to human rights⁶⁰ and highlights the greater risk to women, noting that clean energy resources will benefit them.⁶¹ The court ruled that overhead power lines were preferable, listing 13 reasons, all of which are logical and grounded in the issues at hand.⁶² The court therefore chose to modify the blanket prohibition of the earlier order by deferring to the expert committee's opinions.⁶³ The expert committee was largely composed of state officials and tasked with submitting its reports; however, there are no verifiable records of the Supreme Court's subsequent action.

The substance of the judgement is based in law, and the criticism of the judgement comes from a more jurisprudential or academic discussion. Firstly, the court reframes this as a choice between saving and protecting the Great Indian Bustard versus saving and protecting the

⁵⁷ *MK Ranjitsinh* (n 12) [24].

⁵⁸ *MK Ranjitsinh* (n 12).

⁵⁹ *MK Ranjitsinh* (n 12) [24].

⁶⁰ *MK Ranjitsinh* (n 12) [31]-[34].

⁶¹ *MK Ranjitsinh* (n 12) [35].

⁶² *MK Ranjitsinh* (n 12) [52].

⁶³ *MK Ranjitsinh* (n 12) [64].

environment.⁶⁴ This binary model is flawed; it does not align with the holistic approach. There is no binary choice here; both the right of nature doctrine and decolonial theory suggest that this binary sets an anthropocentric paradigm, commodifying the birds for the sake of larger ecological integrity, as if sacrificing the birds would not have any larger destabilising effect on the entire ecology. There are other criticisms that have already been explored regarding how this could have been a cooperative deployment between the two.⁶⁵

The Courts extended the right to be protected from the adverse effects of climate change as part of the right to life. The Court's judgment, however, seems very anthropocentric. In the dichotomy between development and environment, the court's moral code seemed to favour the environment, but the practical code ultimately favoured development. There is a positive note to be made here: the Hon'ble Supreme Court has recognised 'climate intersectionality' as discussed in the previous paragraph. Climate intersectionality has been utilised to provide a more critical and cohesive understanding of the adverse effects of climate change.⁶⁶ The case definitely achieves many firsts and opens a new door of constitutional interpretation, but the area and the birds could have been established as a right-bearing entity, requiring much stricter scrutiny, along with a local advisory and oversight committee made by the people of the area, utilising local knowledge and indigenous methods, thereby shifting the power balance or structure, which could have provided more holistic protection to both our energy commitments and the biodiversity.

There is another case that deserves mention: the challenge to the Great Nicobar Project in the Eastern Branch of the National Green Tribunal, which ordered the formation of a high-powered committee to revisit the environmental clearance, as the area is ecologically sensitive. Once again, the development-environment divide is at the forefront.⁶⁷ The need to highlight the development-environment divide is that it sets the tone, as the environmental protection framework has largely remained human-centric; therefore, there is a need to shift towards an eco-centric approach, which can be achieved more cohesively by applying the two above-discussed frameworks.

4. The Opportunity in Ridhima Pandey:

⁶⁴ *MK Ranjitsinh* (n 12) [60].

⁶⁵ Navroz K Dubash and Shibani Ghosh, 'Towards operationalising new climate right in India' (*The India Forum* 20 March 2024) <<https://www.theindiaforum.in/climate-change/toward-operationalising-new-climate-right-india>> accessed 17 October 2025.

⁶⁶ A Kaijser and A Kronsell, 'Climate Change Through the Lens of Intersectionality' (2014) 23(3) *Environmental Politics* 417–433 <<https://doi.org/10.1080/09644016.2013.835203>> accessed 17 October 2025.

⁶⁷ *Conservation Action Trust & Anrs. v The Ministry of Environment, Forest, Climate Change & ors.*, Appeals No. 29 to 31/2022/EZ (National Green Tribunal East Zone).

In light of all the above, the paper now shifts its focus to the Ridhima Pandey Petition in the Supreme Court and the opportunity it presents. A little background is necessary. The petition was initially filed in the National Green Tribunal under Section 14 of the Act⁶⁸ pleading the court to take “effective science-based action to reduce and minimise the adverse impacts of climate change in the country”⁶⁹ The petition asserts that children and future generations have a right to a healthy environment, grounded in the principle of intergenerational equity and argues that the state, and through it the ministry of Forest, Environment and Climate Change failed in their duty, and prays to the court to direct the state to fulfil its commitments under various international and national obligations. The court dismissed the application in 2019, citing that there was no reason to believe the state was not fulfilling its international and national obligations.⁷⁰ The petitioner appealed to the Supreme Court, which admitted her appeal under section 22 of the Act.⁷¹ The court has since passed two notable orders in the case. The first order recognised that carbon emissions and climate change should be considered within an institutional structure that is currently fragmented across various departments and ministries, and that a coordinated effort is therefore required. Ministries, including those responsible for power and housing, were asked to coordinate their efforts to ensure effective implementation.⁷² The second order in July this year, in which the court took note of the carbon emissions from the power sector, noting that a coordinated effort was required to deal with climate change, which in the court’s opinion, had become

*‘most existential global predicament, wielding profound ramifications beyond mere environmental degradation, escalating temperatures, erratic weather patterns, the proliferation of extreme climatic events such as floods, droughts, and heatwaves’.*⁷³

The court then asked the Central Electricity Authority and the Central Electricity Regulatory Commission to be impleaded and to develop a plan for addressing carbon emissions associated

⁶⁸ National Green Tribunal Act 2010 s 14.

⁶⁹ *Ridhima Pandey v Union of India* Original Application No. 187 of 2017 (National Green Tribunal, 25 March 2017) <https://admin.climatecasechart.com/wp-content/uploads/non-us-case-documents/2017/20170325_Original-Application-No.-187-of-2017-Civil-Appeal-No.-3882021_petition.pdf> accessed 10 October 2025.

⁷⁰ *Ridhima Pandey v Union of India* Original Application No. 187 of 2017 (National Green Tribunal, 15 January 2019) <https://admin.climatecasechart.com/wp-content/uploads/non-us-case-documents/2019/20190115_Original-Application-No.-187-of-2017-Civil-Appeal-No.-3882021_order.pdf> accessed 10 October 2025.

⁷¹ *Ridhima Pandey v Union of India* Civil Appeal 388 of 2021.

⁷² *Ridhima Pandey v Union of India* Civil Appeal 388 of 2021 (Supreme Court of India, 21 February 2025).

⁷³ *Ridhima Pandey v Union of India* Civil Appeal 388 of 2021 (Supreme Court of India, 22 July 2025) [1].

with power generation.⁷⁴

The *Ridhima Pandey* judgement, when it comes, can mark the convergence of decades-long environmental jurisprudence and the beginning of the next phase of environmental judicial activism. The court is already examining governance challenges and issues through a constitutional lens. This is exemplified by the recent order, where the court's approach seems extremely systematic; it is coordinating efforts between ministries and various departments and asking the departments to hold meetings with the sole agenda of battling climate change. The core issue is that the court has impleaded not less than eight central ministries, each with further departments, only at the central level. If state-level implementation is to be undertaken, departments and state governments will also need to be taken into consideration. This will therefore become another long-running case, where the court will utilise continuous orders to address multiple areas contributing to climate change, each of which will also require follow-up by the court to ensure implementation, and potentially more litigation if disputes arise regarding implementation. The court will have to expend considerable resources and will also take considerable time, possibly years. The court also lacks the logistical capacity to devote such a significant amount of time, and given the short tenure of Supreme Court judges, maintaining this system would be a massive undertaking. This won't be sufficient with the present ministries alone; the court will have to involve other ministries as social, economic, and cultural issues come to the fore. Climate change coordination will need to incorporate an intersectional lens, including poverty alleviation mechanisms, ministries focused on tribal and marginalised populations, and gender considerations, as these areas will be disproportionately affected by climate change.

The court is positioning itself as the saviour, the threat of an ecological collapse looms large, and the only hope is the Supreme Court. This might seem noble to some and populist to others, and yet the issue is, the court does not have the means to do so, it is itself playing into the *parens patriae* logic, the court is doing so because of a power vacuum, which is understandable, but the court is both the arbiter and the administrator, all in one, the father figure, who will save the citizens, through the decolonial lens, it is not mere coordination, rather more consolidation of the state power, rather than decolonial mindset where the ecology, the indigenous communities would be co-power holders.

5. Suggestions and Conclusion:

The way forward, in the author's opinion, is decentralisation of power; rather than the present,

⁷⁴ Ibid.

the court can become the constitutional anchor. The task the court has assumed is too vast for episodic court interventions; a dedicated, science-based, community-led system could utilise the present executive and the judiciary to forward policies and implementation set by them. This can be achieved through a plural guardianship model, where scientists, local community members, civil society, and citizens are all made stakeholders and participants at each level of decision-making. The current fragmentation among these members needs to be consolidated into a climate committee tasked with the specific goal of incorporating indigenous governance structures. This can be achieved only when we move towards a right-of-nature theory, making nature a stakeholder beyond the rhetorical, and towards guaranteed constitutional and statutory support. The court in the *Ridhima Pandey* case can issue directions to create an inter-ministerial committee comprising members of the public and the scientific community. This inter-ministerial committee should be led by people on the ground, taking a bottom-up approach. This can only be done when the court explicitly recognises the right of nature as part of Indian Environmental Law.

This governance model would require the free, prior, and informed consent of local and indigenous communities, who are the guardians of territories and sources of knowledge. The court should lead from the front, cutting through bureaucratic red tape where necessary, but establish normative principles, rather than directly intervening in administration. The Constitution of India already has these elements, through fundamental duties, directive principles, and the overarching shadow of Article 21. The court should emphasise more transparent, participatory mechanisms, through the committee, the court should tilt towards the decolonial jurisprudence to achieve the required jurisprudential framework, and then add directions, further within the scope of Article 21, the court must elaborate the decision-making powers of the people and direct the state governments to set up district level boards, to take the decision making to the ground level, make people participants. The Supreme Court in the *Ridhima Pandey* case has a unique opportunity to untangle the web of colonial environmental jurisprudence and to decolonise it into right-of-nature-based jurisprudence, setting India up in the long term for a more participatory governance model.

The current case is at a make-or-break point not only in the fight against the adverse effects of climate change but also in environmental jurisprudence. The court can choose to radically shift towards epistemic plurality, recognising rights of nature, and move towards a participatory governance model.
