

CHAPTER 10

Climate Change and Environmental Rights

Tanu Tiwari

in *Law in Transition: Rights, Sovereignty and Regulation in a Changing World*, edited by Siddharth Saxena and Bhagyashree Agarwal (VidhiAagaz 2026), pp. 111–120

DOI <https://doi.org/10.63108/VAB.LIT.1.10>



CITATIONS

BLUEBOOK (21ST ED.)

Tanu Tiwari, *Climate Change and Environmental Rights*, in *LAW IN TRANSITION: RIGHTS, SOVEREIGNTY AND REGULATION IN A CHANGING WORLD* 111 (Siddharth Saxena & Bhagyashree Agarwal eds., VidhiAagaz 2026).

OSCOLA (4TH ED.)

Tanu Tiwari, ‘Climate Change and Environmental Rights’ in Siddharth Saxena and Bhagyashree Agarwal (eds), *Law in Transition: Rights, Sovereignty and Regulation in a Changing World* (VidhiAagaz 2026) 111.

CHICAGO (17TH ED.)

Tiwari, Tanu. “Climate Change and Environmental Rights.” In *Law in Transition: Rights, Sovereignty and Regulation in a Changing World*, edited by Siddharth Saxena and Bhagyashree Agarwal, 111–120. Maihar: VidhiAagaz, 2026. <https://doi.org/10.63108/VAB.LIT.1.10>.

APA (7TH ED.)

Tiwari, T. (2026). Climate change and environmental rights. In S. Saxena & B. Agarwal (Eds.), *Law in transition: Rights, sovereignty and regulation in a changing world* (pp. 111–120). VidhiAagaz. <https://doi.org/10.63108/VAB.LIT.1.10>

SOURCE

<https://doi.org/10.63108/VAB.LIT.1.10>

LICENCE

Open access under the Creative Commons Attribution-NonCommercial 4.0 International Licence (CC BY-NC 4.0): it may be copied, shared and adapted for non-commercial purposes, with credit to the authors and the source.

Citations are given as a guide; check them against the style manual you follow. This page was added by VidhiAagaz to the downloaded file. The chapter follows, with the page numbers of the printed book.

CHAPTER 10

Climate Change and Environmental Rights

TANU TIWARI*

Climate change, one of the most pressing challenges for the entire world, has set its onset with its implications being seen on the entire ecosystem. No one is to be blamed for this except the humans themselves. Rising temperatures, extreme weather events and biodiversity loss are clearly visible to everybody and it concerns not only a particular country but the entire world. Therefore, steps must be taken at international level in collaboration to integrate it at domestic level which points out to another important aspect, that is, environmental rights. This paper explores the intersection of climate change and environmental rights. It also goes on to explore the various causes of climate change. It examines the role of the National Green Tribunal, a specialized body formed to safeguard the environment. It also discusses the impact of environment on human lives, thus focusing on well-being of humans and ensuring a life of dignity. It further analyzes India's constitutional provisions and judicial interpretations that reinforce the right to a clean and sustainable environment. It also analyses institutional limitations of the National Green Tribunal which highlight the issue of stronger accountability mechanisms, inclusive governance, and sustainable practices that prioritize vulnerable communities, disproportionately affected by climate change impacts. Ultimately, the paper argues that addressing climate change through the lens of environmental rights provides a more holistic and ethical foundation for global action, ensuring ecological sustainability and human rights.

Keywords: Climate Change, Environmental Rights, Human Rights, Sustainable Development Goals, Climate Justice, United Nations Framework Convention on Climate Change.

1 PROBLEM STATEMENT

The National Green Tribunal (NGT), despite its statutory powers under Section 25 of the NGT Act, faces a structural limitation due to the absence of an enforcement wing. This has led to a persistent implementation gap across environmental orders. Waste management and river rejuvenation cases illustrate this gap most clearly, but similar challenges are evident in air pollution control, industrial compliance, and biodiversity protection. Such institutional weaknesses undermine constitutional guarantees of environmental rights under Article 21 and weaken India's climate governance framework.

* Student at Sri Sathya Sai Law College for Women, Bhopal, Madhya Pradesh, India.

2 RESEARCH QUESTION

To what extent does the lack of an enforcement wing within the National Green Tribunal contribute to the implementation gap in environmental orders — particularly in waste management and river rejuvenation — and how does this limitation affect the realization of environmental rights in India's constitutional framework and climate change commitments?

3 INTRODUCTION

In 2026, all of the media channels, social media handles and newspapers were flooded with the news of heat waves, that India will be the hottest country in the world for two weeks. Well, this was never the case in the past and all such dramatic unfolding of climate conditions in India is resultant of Climate change. Climate change is a long-term change in the average weather patterns that have come to define Earth's local, regional and global climates. These changes have a broad range of observed effects that are synonymous with the term.¹ The world is moving towards a depressing state where even the basics of survival of humans are kicked off by humans themselves to replenish their greed, thereby failing future generations for momentary pleasures. Well, the talk is not limited only to the future generations but for the present ones as well. The emission of CO₂ by some people is causing harm to people who are not even directly or indirectly associated with the cause of such emission.

4 CLIMATE CHANGE & ENVIRONMENTAL RIGHTS

Bruce Duncan Phillips has rightly remarked, "The earth is not dying. It is being killed, and the people killing it have names and addresses." Climate change is worse than people can imagine. The people in the current scenario are not able to take the wrath of nature. Imagine a world where ozone layer will no longer be there, pollution will be at its maximum, land will become barren, moving out of houses will be suffocating, and taking a morning walk will be a luxury. The situation is bad and climate change is no good. The causes of climate change run deeper than we imagine; however, we still can rectify the issues and make this world a better place to live for us along with our future generations. The causes of Climate Change can mainly be classified into two – natural causes and anthropogenic causes. The natural causes include – solar cycle, volcanic gases, orbital wobbles, plate tectonics whereas

¹ *What Is Climate Change?*, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, <https://science.nasa.gov/climate-change/what-is-climate-change/> (last visited Apr. 15, 2026).

the anthropogenic causes include – deforestation, urbanization, industrialization, waste management, water pollution, fossil fuel consumption.²

4.1 Waste Management as Mitigation

The root cause of climate change is greenhouse gases. The birth of the United Nations Framework Convention on Climate Change was to stabilize greenhouse gases to ensure that the production of food is not threatened as well as to enable economic development in a sustainable manner.³ These greenhouse gases create a blanket in the atmosphere thus trapping heat from the sun, as this blanket increases global warming and climate change also increases at an unprecedented rate. The greenhouse gases include⁴ –

- Carbon dioxide (CO₂)
- Methane (CH₄)
- Nitrous oxide (N₂O)
- Fluorinated gases.

Methane emissions are mostly caused by landfills. As organic waste (food waste) breaks down in landfills, it releases methane. Methane is more than 28 times as potent as carbon dioxide at trapping heat in the atmosphere.⁵ Therefore, in order to protect the environment, methane must be significantly reduced. This can be achieved by responsible management of waste. According to Inger Andersen, Executive Director of UNEP, waste management is central to addressing the “triple planetary crisis” of climate change, biodiversity loss, and pollution.⁶

4.2 River Rejuvenation as Adaptation

River rejuvenation is the process of reviving or restoring the natural flow and health of a river that has been damaged due to natural activities such as silt deposition as well as human

² Satinder Kaur, *Climate Change: History, Causes, Evidences, Impacts and Adaptation Measures*, 9 QUEST J. RES. ENVTL. & EARTH SCI. 130 (2023), <https://www.questjournals.org/jrees/papers/vol9-issue3/0903130136.pdf>.

³ *United Nations Framework Convention on Climate Change*, U.N. CLIMATE CHANGE, <https://unfccc.int/process-and-meetings/united-nations-framework-convention-on-climate-change> (last visited May 14, 2026).

⁴ U.S. Env'tl. Prot. Agency, *Overview of Greenhouse Gases*, EPA.GOV, <https://www.epa.gov/ghgemissions/overview-greenhouse-gases> (last visited May 13, 2026).

⁵ U.S. Env'tl. Prot. Agency, *Importance of Methane*, EPA.GOV, <https://www.epa.gov/gmi/importance-methane> (last visited May 13, 2026).

⁶ Inger Andersen, Executive Director, United Nations Environment Programme, Speech at the International Forum on Green World Solidarity: Shifting from Waste to Value for a Sustainable Future, From Problem to Solution: Waste Management Can Help Address Triple Planetary Crisis (June 27, 2024, Baku, Azerbaijan), <https://www.unep.org/news-and-stories/speech/problem-solution-waste-management-can-help-address-triple-planetary-crisis>.

activities such as waste dumping, encroachment, and pollution.⁷ Water and water resources are very important for maintaining an adequate food supply and a productive environment for all the living organisms.⁸ Rejuvenation of rivers is very crucial as healthy rivers act as carbon sinks. A new international study led by researchers at the University of Birmingham suggests that beavers can transform river systems into powerful carbon dioxide sinks by reshaping wetlands and waterways.⁹ However, the case is not the same in the context of India as beavers are not found in India and hence these engineers cannot reengineer the Indian river systems. Rivers also protect the entire ecosystem against flooding by absorbing excess rainfall and simultaneously they also replenish the underground water reserves. Most importantly, healthy rivers are bearing the right to life, by providing water, an essential element for ensuring continuity of life.

4.3 Climate Justice

Climate justice is a type of environmental justice. Climate justice reinforces the idea of how important it is to ensure that everyone is exposed to a cleaner and healthy environment without any discrimination. However, the concept of sacrifice zones is still prevalent. “Sacrifice zones are often ‘fence-line communities’ of low-income and people of color, or ‘hot spots’ of chemical pollution where residents live immediately adjacent to heavily polluted industries or military bases.”¹⁰ This is a gloomy reality of the society that there are certain communities who are exposed and forced to live in such environments where it is almost impossible to live. Climate justice suggests that the countries, industries, businesses, and people that have become wealthy from emitting large amounts of greenhouse gases have a responsibility to help those affected by climate change, particularly the most vulnerable countries and communities, who often are the ones that have contributed the least to the crisis.¹¹

⁷ SCANPOINT GEOMATICS LTD., REJUVENATING RIVERS THROUGH SPATIAL TECHNOLOGY: RIVER REJUVENATION PROGRAMME WHITE PAPER 1 (2023), <https://www.sglgis.com/wp-content/uploads/Rejuvenating-Rivers-Through-Spatial-Technology.pdf>.

⁸ Zeyneb Kılıç, *The Importance of Water and Conscious Use of Water*, 4 INT’L J. HYDROL. 250 (2020), <https://d1wqtxts1xzle7.cloudfront.net/81446170/IJH-04-00250-libre.pdf>.

⁹ University of Birmingham, *Beavers Turn Rivers into Powerful Carbon Sinks, Study Finds*, SCITECHDAILY (May 10, 2026), <https://scitechdaily.com/beavers-turn-rivers-into-powerful-carbon-sinks-study-finds/>.

¹⁰ Robert D. Bullard, Book Review, <https://pmc.ncbi.nlm.nih.gov/articles/PMC3114843/> (last visited May 14, 2026) (reviewing STEVE LERNER, SACRIFICE ZONES: THE FRONT LINES OF TOXIC CHEMICAL EXPOSURE IN THE UNITED STATES (2010), 346 pp., ISBN 9780262014403).

¹¹ United Nations Development Programme, *Climate Change Is a Matter of Justice – Here’s Why*, CLIMATE PROMISE (June 30, 2023), <https://climatepromise.undp.org/news-and-stories/climate-change-matter-justice-heres-why>.

5 LEGAL FRAMEWORK: SECTION 25 AND BEYOND

Section 25 of the National Green Tribunal Act, 2010 states about “Execution of award or order or decision of Tribunal.”¹² It presents that the Tribunal’s orders, awards, or decisions are executed as if they were a decree passed by a civil court and the tribunal possesses powers similar to those of a civil court.

5.1 Limitations of Section 25

1. Section 25(2) of the Act states that the Tribunal may transfer any order or award made by the Tribunal to a civil court which would be having local jurisdiction and the civil court will execute the order passed by the National Green Tribunal. Hence, highlighting the issue that NGT is having no power or a specialized wing to carry out its own decrees. Also, one thing which is of high importance is that the local civil courts are already overburdened by their own nature of works and execution of decrees passed by the Tribunals burdens them more thus resulting in delay of such executions, and thereby the decree would lose its essence.
2. Section 25(3) mentions that in case of any unpaid environmental compensation “shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.” India has a federal structure, and land revenue falls under the state list, so it is entirely under the state jurisdiction. Every state’s Land Revenue Act explicitly mentions that “collector” or “tehsildar” are legally empowered to recover state dues and arrears. So, dependency arises in the NGT, as they have no power to collect environmental revenue.
3. Jurisdictional limitations – The NGT can only execute orders linked to the seven Acts specified in Schedule I. There are many environmental cases on which NGT can’t even exercise its jurisdiction just because those cases are subject matters of the laws that are outside the jurisdictional limit of NGT to operate.

5.2 Section 26: Punishment for Non-Compliance

Section 26 of the NGT Act, 2010 states, “Penalty for failure to comply with orders of Tribunal.”¹³ It mentions that if anyone fails to comply with the order passed by the NGT, then that person shall be liable to imprisonment for a term which may extend to three years or with a fine whose upper limit could be ten crore rupees and not more or with both imprisonment and fine.

¹² The National Green Tribunal Act, 2010, § 25.

¹³ *Id.* § 26.

If the failure to comply with order continues, then such person shall be liable to pay additional fine which may extend to twenty five thousand rupees for every day such ignorance to comply with order continues.

In case a company is instructed to comply with order and they fail to comply with such order, then that company shall be liable to pay a fine which may extend to twenty five crore rupees, and if failure continues to persist then in that case, the company shall be liable to pay additional fine which may extend to rupees one lakh daily till the failure continues.

The additional fine in both cases will be payable after conviction for the first such failure of compliance.

5.3 Section 28: Liability of Government Departments

Section 28 of the Act states, “Offences by Government Departments.”¹⁴ If any department of government has failed to comply with the order passed by the NGT, then the Head of Department shall be held accountable. However, if such Head of Department remains successful in establishing that he/she had no knowledge of the offence committed or he/she had taken due diligence to prevent such offence in the first place then he/she can be relieved from the punishment bestowed by the law for committing such offence.

Sub-section 2 of the Section states that if any other officer is found to be guilty in any governmental department other than Head of Department, then that person will be held accountable and punished accordingly.

5.4 Limits of Punishment in Ensuring Restoration

Punitive measures like fines and penalties as mentioned in Sections 25, 26 and 28 do not always ensure ecological restoration. In most of the cases, the NGT leans heavily toward financial penalties. The reason of which is that the objective of the Act itself is “enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property.” The payments of these fines are usually considered as the routine payments for companies and polluters thereby defying the reason of imposition of such fines. Any method as such for the restoration of environment is not provided and that creates a flaw, because environment has been polluted. Now steps should be taken in order to restore the environment in its original state.

Although restoration of environment is tried by the tribunal while passing the judgments, the judges intend that the fines would be utilized in restoration of environment but the collected money finds itself being trapped in bureaucratic and state funds tussle. When

¹⁴ *Id.* § 28.

these funds get the green signal, in most cases environmental damage has become irreversible.

6 CONSTITUTIONAL AND STATUTORY PROVISIONS

Environmental degradation has been observed since the time humans set their foot on earth, however the extent of environmental degradation in the form of pollution rose during the 18th – 19th century which is commemorated as the Industrial Revolution. Serious public awareness emerged in the late 1960s, following major environmental crises,¹⁵ and this led to the realization that efforts at domestic level were not sufficient and rather required international efforts to protect the environment. Pressure was put on the international community to which the United Nations responded by convening the Stockholm Conference, 1972. This conference was attended by the then Prime Minister Smt. Indira Gandhi as a result of which the first legislation of India, “The Wildlife Protection Act”, was passed in 1972,¹⁶ and simultaneously 42nd amendment in the Constitution of India was introduced. The amendment explicitly incorporated concepts of environmental protection into the Constitution under Articles 48A and 51A(g).¹⁷

Article 48A of the Constitution of India states, “The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.”¹⁸ The Article has been placed under the Directive Principles of State Policy and the Article is self-explanatory in the sense that the state has been entrusted with the responsibility to protect and improve the environment and to safeguard the forests and wildlife of the country.

Article 51A(g) of the Constitution of India states, “to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.”¹⁹ In this Article the Constitution has made it a fundamental duty of every citizen to protect and improve the natural environment, thereby elucidating the fact that environmental protection requires everybody’s attention and efforts and not the state alone. It in a sense creates awareness to protect the environment among every citizen of the country. One among the major changes brought by the 42nd amendment was that protection of wild

¹⁵ “*Environmental Crisis*” in the Late 1960s, GIVE EARTH A CHANCE ENVIRONMENTAL ACTIVISM IN MICHIGAN, https://michiganintheworld.history.lsa.umich.edu/environmentalism/exhibits/show/main_exhibit/origins/-environmental-crisis-in-the-#content (last visited Apr. 16, 2026).

¹⁶ Tekameren I Jamir, *Wildlife Protection Act 1972 - A Simplistic Approach*, MORUNG EXPRESS, <https://morungexpress.com/wildlife-protection-act-1972-a-simplistic-approach> (last visited Apr. 15, 2026, 9:15 PM).

¹⁷ Advaita R. Prasad, *Policy Strategies to Augment India’s Environmental Concerns: An Analysis*, INT’L J. CREATIVE RES. THOUGHTS, ISSN: 2320-2882, at 3–4 (2024), <https://www.ijcrt.org/papers/IJCRT2408232.pdf>.

¹⁸ INDIA CONST. art. 48A, inserted by Const. (Forty-Second Amendment) Act, 1976.

¹⁹ INDIA CONST. art. 51A(g).

animals and birds was shifted from the state list to the concurrent list in order to create uniformity of legislation and probably to strengthen the laws throughout India to conserve the wild animals and birds.

When mentioning the Constitutional Provisions, the entire study is a failure if Article 21 of the Constitution of India is not mentioned. Article 21 has evolved itself over the period of time and the importance of this article can be understood from the fact that when all fundamental rights stand suspended during National Emergency, Article 20 and Article 21 are the only fundamental rights which cannot be curtailed.

Article 21 of the Constitution of India states, “No person shall be deprived of his life or personal liberty except according to procedure established by law.”²⁰ The Supreme Court in its judgment stated that right to decent environment including pollution free water and air and protection against hazardous industries comes within the ambit of Article 21.²¹

The statutory provisions cannot be neglected as they act as practical force of Constitutional provisions by imbibing them in its statute and reinforcing the very spirit of Constitutional provisions. As mentioned above the first ever statute in post-independence era was Wildlife Protection Act, 1972. The objective of the Act is “conservation, protection and management of wild life.”²² The recent amendment brought in the Act was in 2023 where CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) was incorporated in the Act.

Another Act in the line is Water (Prevention and Control of Pollution) Act, 1974. The objective of the Act is, “An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.”²³

Next Act is The Air (Prevention and Control of Pollution) Act, 1981. The objective of the Act is, “An Act to provide for the prevention, control and abatement of air pollution, for the establishment, with a view to carrying out the aforesaid purposes, of Boards, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.”²⁴

There is a whole line of Environmental laws in India. If to be mentioned some of them are —

²⁰ *Id.* art. 21.

²¹ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

²² Wildlife (Protection) Act, 1972.

²³ Water (Prevention and Control of Pollution) Act, 1974.

²⁴ Air (Prevention and Control of Pollution) Act, 1981.

The Indian Forest Act, 1927

The Forest (Conservation) Act, 1980

The Environment (Protection) Act, 1986

Hazardous Wastes (Management and Handling) Rules, 1989

The Public Liability Insurance Act, 1991

The Biological Diversity Act, 2002

The National Green Tribunal Act, 2010

7 RECOMMENDATIONS – PROPOSED AMENDMENTS TO THE NGT ACT

7.1 Establishment of the Environmental Enforcement Wing

Establishing a dedicated wing, directly under the administrative control of the NGT Chairperson. The wing must comprise environmental scientists, municipal solid waste experts, and a specialized Environmental Police Force on deputation from the Ministry of Environment, Forest and Climate Change (MoEF & CC).

7.2 Inclusion of All Categories of Environmental Laws under the Jurisdiction of the NGT

Currently, the NGT can only hear civil cases arising out of the seven specific environmental laws listed in Schedule I of the NGT Act 2010. Crucial green laws, such as the Wildlife Protection Act, 1972 and the Indian Forest Act, 1927 are entirely excluded from its jurisdiction. This fragmentation forces environmental litigation into a multi-forum tangle between High Courts and the NGT, slowing down enforcement.

7.3 Increasing the Number of Zonal Benches

Limited number of NGT zonal benches directly results in the enforcement gap. Presently, NGT has only 5 benches, among which one is the principal bench and four are zonal benches. The number of zonal benches of the tribunal needs to be increased that would decrease the burden on each zonal bench and as a result of which the efficiency of the tribunal would be increased on its own.

8 CONCLUSION

Environmental protection or mitigating Climate Change does not mean that development should not take place. Rather, we all have entered a tech-savvy world where a lot of options are available at a click. So a comprehensive model of sustainable development should be

adopted and put to use. The Sustainable Development Goals (SDGs) adopted by all United Nations member states must be put to actual reality. Three SDGs explicitly mention environmental protection. Those are²⁵ –

Goal 6 – Clean Water and Sanitation

Goal 11 – Sustainable Cities and Communities

Goal 13 – Climate Action

Protection of climate is not one person's responsibility; rather it is a joint responsibility. Environment does not affect any one person; it has its effect on each and every person and on each and every sphere of life. So, the need of the hour calls for joint effort in order to mitigate Climate Change. If each and every person and institution sincerely puts in their effort we can easily combat the challenge and if not completely, we can definitely minimize the repercussions. All in all, it is important to not only make laws but to give actual reality to those laws by strengthening the institutions that are formed for the cause.

* * *

²⁵ United Nations, *The 17 Goals*, SUSTAINABLE DEVELOPMENT GOALS, <https://sdgs.un.org/goals> (last visited May 10, 2026).