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JUDICIAL APPROACHES TO CLIMATE CHANGE AND SUSTAINABLE DEVELOPMENT

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ABSTRACT

Every nation in the world is coping with climate change, which has now crossed national borders and endangered all species. Innovative attorneys have brought climate issues to court even in nations without laws or rules addressing the issue, despite the fact that many nations have passed rules and regulations to do so. This abstract looks at significant cases that have widened legal frameworks and encouraged sustainable development. Two notable and well-known cases are *MK Ranjitsinh and IRS v. UOI 2024*. Articles 14 and 21 in the Constitution were expanded by the SC, which concluded that citizens had a basic right to be protected from the varied effects of climate change. **Key cases pertaining to constitutional rights include *M.C. Mehta vs UOI, 1987, Tehri Vidrohi Sangharsh Samiti vs. State of Uttar Pradesh, 1990, Olga Tellis and Others vs Bumbai Municipal Corporation and Others, Vellore Citizens Welfare Forum, 1996, Kendra Dehradun vs. State of UP.***

Gloucester Resources Limited v. Planning Minister, 2019: Since the project's economic benefits were deemed "uncertain and substantially overstated," the decision is not based only, or even primarily, on climate change considerations; rather, it is based on more thorough planning as well as environmental considerations alongside a complete cost-benefit analysis.

Juliana v. United States (2016): In this instance, young climate activists argue that the US government's actions and negligence on climate change violate the Constitution's guarantees to life, liberty, and the possession of property. The case has raised awareness of intergenerational equity and climate justice despite legal challenges.

In Sharma v. Union of India (2023), The Indian Supreme Court ordered the government to take prompt action to combat air pollution in Delhi-NCR, emphasizing the link between atmospheric pollution and climate change.

The UK High Court held in **R (ClientEarth) v. Secretary of State for Transport (2023)** that the Nation's net-zero strategy is insufficient, which emphasized the need for specific actions to reach climate targets. **In State of Odisha v. Union of India (2024),** The Indian Supreme Court emphasized the need for sustainable development with safeguarding the environment in the midst of mining activities, highlighting the importance of finding a balance among environmental concerns and economic advancement. The following noteworthy case laws highlight the expanding application of legal tools to combat climate change and promote sustainable development the **People's Climate Case (2021), Milieudefensie v. Shell (2021), Le Quéré v. France (2021), and Urgenda Foundation v. State of the Netherlands (2015)**. They emphasize the importance of responsibility and equity across generations as well as the part courts play in advancing climate action.

Introduction:

Human and ecological systems are experiencing extensive and pervasive disturbance due to human-induced climate change. Millions of people's livelihoods are at risk due to heatwaves, rising sea levels, droughts, and floods, which also jeopardize ecosystems, development, and food security. Even though the Paris Agreement aims to keep global warming to 1.5–2 degrees Celsius beyond pre-industrial levels, existing initiatives fall well short of that goal. We need to start employing all of our resources since the planet is at a turning point. Many jurisdictions have passed rules and regulations to combat climate change, and even in the absence of these laws, innovative attorneys have taken climate issues to court. The number of climate lawsuits has increased, holding businesses and governments responsible for their excessive emissions and lack of action.

According to London School of Economics annual report recognised there are recognisable strategies on climate change litigation such as:

- "Government framework" cases: these are lawsuits brought against governments in an effort to contest their general approach to climate change. For example, three new cases have been filed against Sweden, Finland, and Russia in 2022–2023.
- "Corporate framework" cases: these are lawsuits brought against big businesses that argue their climate strategies and/or targets are insufficient.
- "Integrating climate considerations" cases: these are filed worldwide and aim to include climate norms, concepts, or considerations into a particular ruling.
- Turning off the taps: There are 14 cases filed worldwide against public entities or government owned financial organizations, and 12 cases against private parties, all of which are intended

to stop the flow of funds to projects or activities that generate hazardous amounts of pollutants.

- "Failure-to-adapt" cases: these involve accusations against a government or business for not adjusting to the demands of the climate catastrophe.
- "Polluter pays" (compensation) cases: these are lawsuits that seek financial compensation for alleged contributions to the negative effects of climate change. These include lawsuits requesting reimbursement for losses incurred in the past and present as well as payments toward the expenses of climate change adaptation.
- "Climate-washing" cases: these cases contest false statements made by the government or businesses about their contributions to the shift to a carbon-free future or false information concerning climate science.¹

Gloucester Resources Limited v. Minister for Planning

Gloucester Resource Limited intends to mine 21 million tons of coal over 16 years, generating 38 million tons of carbon emissions that are dangerous to the public since they cause climate change. According to section 4.15(1) of the Australian Environmental Planning and Assessment Act, the court denied the proposal due to public interest.²

M.K. Ranjitsinh & Ors. v. Union of India & Ors 2024

Ranjitsinh lodged a complaint to prevent the Indian bustard, which is critically endangered, from crashing into overhead power lines. The court expanded Articles 21 and 14 to protect citizens' fundamental rights, including clean water and fresh air, and to balance biodiversity.³

¹ Agnes Viktoria Rydberg, "Climate Change Litigation: General Perspectives and Emerging Trends" *Brill* (05 Jul 2024).

² *Gloucester Resources Limited v. Minister*, 2019

³ *M.K. Ranjitsinh v. Union of India*, 2024

Urgenda Case 2015

The court mandated that greenhouse gas emissions be cut by 25% by 2020 and insisted on a framework for climate litigation.⁴

Verein Klima Seniorinnen Schweiz case 2020

A group of elderly women's human rights were infringed by the Dutch government, according to a European court's ruling. Ineffective climate action causes deadly heat waves and violates people's rights to life and family, as stated in Articles 2 and 8 of the European Convention on Human Rights.⁵

In Re Juliana 2024 (pending)

The failure of climate action and excessive carbon dioxide emissions are the subject of this case, which violates people's constitutional rights.⁶

Pulp mills case 2006

There is no concrete evidence that Uruguay Mills violated the substantial requirement, the court affirmed. Also held that everyone has the right to use the river equally and without causing environmental pollution. The International Court of Justice (ICJ) declares that it will do everything within its power to prevent transboundary harm.⁷

Client Earth v. Enea P 2018

Polish power firm Enea was sued by ClientEarth, a non-profit environmental litigation organization, contesting its intention to construct a new coal-fired power station. In light of climate-related financial risks, the question in this case is whether the resolution authorizing the construction of a coal-fired power station violates the board members' fiduciary duty to exercise due diligence and to act in the company's and its shareholders' best interests. The court decided in favor of ClientEarth. The court declared that the

construction approval resolution was void on August 1, 2019.⁸

Barrick Exploraciones Argentinas S.A. and others v. National Government 2019

Barrick, a mineral firm, and Argentine Mining Exploration S.A. filed a lawsuit in an attempt to declare Argentina's Law of Glaciers unconstitutional. The Law of Glaciers was affirmed to be constitutional by the Supreme Court of Argentina, which dismissed Barrick's petition. No evidence of harm to the mining firm was also identified by the court.⁹

Earth Life Africa Johannesburg v. Minister of Environmental Affairs and Others 2015

The Minister's decision was overturned by the court, which found that even in the lack of specific legislation provisions, the effects of coal-fired power plants on climate change are issues that should be taken into account when granting environmental authorization. Additionally, the court mandated that the Minister take into account opinions from interested and impacted parties, a paleontological effect assessment report, and a climate change impact assessment report when reevaluating the decision.¹⁰

Save Lamu et al. v. National Environmental Management Authority and Amu Power Co. Ltd.

On the shores of Kwasasi in Lamu County, the local government suggested building its first coal power plant project, which would have a 1050 MW generating capacity. In 2019, the Tribunal ordered a new EIA study, declared the EIA license void, and upheld the plaintiff's allegations. In 2020, the Industrial and Commercial Bank of China, the project's largest financier, declared it had canceled its plans to fund the project. Later that year, the project was formally canceled by the Kenyan government.¹¹

⁴ *Urgenda Foundation v. V. State Of*, (2015)

⁵ *KlimaSeniorinnen v. Switzerland*, 2020

⁶ *Juliana v. United States*, 2015

⁷ *Argentina v. Uruguay*, 2006

⁸ *Client Earth v. Enea*, 2018

⁹ *Barrick Exploraciones Argentinas S.A. v. National Government*, 2019

¹⁰ *BEarth Life Africa Johannesburg v. Minister of Environmental Affairs*, 2015

¹¹ *Save Lamu Et v. National Environmental Management Authority*, 2016

Leghari v. Federation of Pakistan 2015

To ensure that climate adaptation measures are implemented effectively, the judiciary establish a climate change commission. The Federal Government of Pakistan was sued in 2015 by Pakistani farmer Asghar Leghari for failing to implement the National Climate Change Policy 2012 and The framework for Implementation of The climate Change Policy (2014-2030) adequately, violating his fundamental rights to a clean and healthy environment and human dignity under Articles 9 and 14 of the Constitution. By affirming that rights related to the environment and international environmental standards were unalienable components of Pakistan's constitutional values, the Lahore High Court found in Leghari's favor. This is the very first climate change litigation in Pakistan. For efficient execution, the court established a cross-ministerial Climate Change Commission after investigating climate adaptation strategies. Additionally, it is a groundbreaking case from the global south that establishes climate justice as an extension of environmental justice.¹²

Massachusetts v. Environmental Protection Agency

According to a ruling by the Supreme Court, the EPA is responsible for regulating greenhouse gases (GHGs) since carbon dioxide and other GHGs are considered "air pollutants" under the Clean Air Act (CAA).¹³

Milieudefensie et al. v. Royal Dutch Shell plc(2019-Pending)

The Hague District Court ruled in May 2021 that Shell must reduce its emissions from both its own activities and the usage of the oil it produces by 45% by 2030 compared to 2018. Because Shell appealed the ruling in March 2022, the matter is still unresolved. Even if the case is being appealed, Shell will still have to fulfill its reduction requirements because the

Court has ruled that the orders are provisionally enforceable.¹⁴

Sharma v. Union of India (2020)

On September 8, 2020, eight young people filed a putative class action in Australia's Federal Court to block a coal project. The lawsuit sought an injunction to stop the Australian Government from approving an extension of the Whitehaven Vickery coal mine. The plaintiffs claimed to represent all people under 18, and argued that Federal Minister Sussan Ley has a common law duty of care for young people. They further asserted that digging up and burning coal will exacerbate climate change and harm young people in the future. Plaintiffs sought an injunction to prevent the Minister from approving the project under the Environment Protection and Biodiversity Conservation Act (EPBC). On May 27, 2021, the Federal Court of Australia established a new duty of care to avoid causing personal harm to children but declined to issue an injunction to force the Minister to block the coal mine extension. The Court concluded that "the applicants have established that the Minister has a duty to take reasonable care to avoid causing personal injury to the Children when deciding, under s 130 and s 133 of the EPBC Act, to approve or not approve the Extension Project."¹⁵

Alabama v. California 2024 (pending)

In this casw the Five states California, Connecticut, Minnesota, New Jersey, and Rhode Island are being sued by a group of 19 states for suing energy companies over climate change. The 19 states contend that the actions brought by the five states violate the Constitution and impede federal power to regulate energy and interstate commerce. According to them, the cases may have a major detrimental effect on the US economy and energy sector. In order to prevent the five states from prosecuting their climate change cases, the 19 states are requesting a court injunction.¹⁶

¹² Leghari v. Federation of Pakistan, 2015

¹³ Massachusetts v. Environmental Protection Agency, 2007

¹⁴ v. Royal Dutch Shell plc.

¹⁵ Sharma v. Union of India, (2020)

¹⁶ Alabama v. California, 2024

Neubauer, et al. v. Germany 2020

The Court mandated that by the end of 2022, the legislature establish explicit guidelines for reduction targets starting in 2031. Federal lawmakers responded to the ruling by passing a measure authorizing an amended KSG that mandates a minimum 65% decrease in GHGs over 1990 levels by 2030.¹⁷

ClientEarth v Board of Directors of Shell plc 2023

ClientEarth accused Shell's Board of Directors of failing to adequately handle predictable climate risk. The complaint specifically claimed that by neglecting to implement an energy transition plan in line with the Paris Agreement, Shell's directors in all had violated their obligations in the UK Companies Act. The UK High Court dismissed the case.

Duarte Agostinho and Others v Portugal and 32 Others 2020

This argument focused on 33 member states' harmful greenhouse gas emissions that fuel global warming. In light of their commitments under the Paris Agreement, the claimants—six young Portuguese citizens and residents—argued that the States are not fulfilling their positive duties under Articles 2 and 8 ECHR. They also claimed that there had been a breach of Article 14 claiming that because they are young people, their generation is more affected by global warming. Finally, they contended that states had an affirmative duty to implement domestic climate change policies that meet the Paris Agreement's 1.5 °C target.¹⁸

Careme v France 2021

In a case that modeled Urgenda as previously discussed, the former mayor and resident of the Grande-Synthe municipality initiated a complaint alleging that France had failed to take adequate action to prevent climate change, thereby violating both the right to privacy (Article 8) and the right to life (Article

2). The application was unanimously ruled inadmissible by the ECtHR. It reasoned that regardless of the status he claimed, namely that of a citizen or former resident of Grande-Synthe, the applicant could not claim victim status under Article 34 of the Convention because he had no relevant ties to Grande-Synthe and did not currently reside in France.¹⁹

Verein KlimaSeniorinnen Schweiz and Others v. Switzerland 2020

In this case a group of elderly Swiss women called the KlimaSeniorinnen Schweiz contended that heatwaves endanger their health, they are especially susceptible to the climate issue. In infringement of their rights to life, respect for private and family life, a fair trial, and an effective remedy, they contended that Switzerland has not fulfilled its positive responsibilities to protect life and preserve respect for their private and family lives by failing to take all reasonable steps to prevent a global temperature rise of more than 1.5 °C. A central point in the KlimaSeniorinnen dispute was whether the petitioners met the requirements of Article 34 ECHR for victim status and whether it was possible to demonstrate a causal connection between the impacts of global warming and Switzerland's purported omission. Given that climate change is a worldwide issue and Switzerland's low intensity of GHG emissions, the country denied the existence of such a causal link in its submission.

In its judgment, Regarding standing in climate change cases, the Grand Chamber issued some significant announcements. The Court noted that even if its members do not individually fulfill the requirements for victim status, associations (NGOs) will have ground in their own right if they fulfill specific requirements. These requirements include determining whether the relevant NGO is (a) legally established in the relevant jurisdiction or has the authority to act there; (b) able to show that it pursues a specific purpose in line with its statutory targets in the defense of its members'

¹⁷ *Neubauer, Et v. Germany*, 2020

¹⁸ *Duarte Agostinho v. Portugal*, 2020

¹⁹ *Careme v. France*, 2021

or other impacted individuals' human rights within the relevant jurisdiction, whether or not that purpose includes collective action to protect those rights from the threats posed by climate change. Additionally, it must be able to prove that it is truly authorized and representative to act in behalf of members or other impacted people within the jurisdiction who face particular threats or negative impacts from climate change on their everyday lives, health, or well-being, as protected by the Convention.²⁰

Portillo Caceres v Paraguay 2011

The HRC ruled that the right to life encompasses the freedom to live a dignified life and to be free from actions or inactions that could result in an untimely or premature loss of life, including pollution of the environment.²¹

Daniel Billy and others v Australia (Torres Strait Islanders Petition) 2022

In this case, the HRC rendered a historic ruling, concluding that the Australian Government was failing to protect Indigenous Torres Strait Islanders from the negative effects of climate change and that its inaction on the issue was a violation of its human rights to them. The Torres Strait Islanders' rights under the ICCPR like culture and be free from arbitrary intrusion with their home, family, and private life were specifically breached by Australia's inactivity. Additionally, in order to ensure the populations' continued safety on their own islands, the HRC urged Australia to implement additional climate adaption measures.

Neubauer et al. v. Germany 2020

In this case with the help of environmental organizations, a group of young people from Germany, Bangladesh, and Nepal filed a lawsuit against the German government. They claimed that their fundamental freedoms under the German constitution had been violated because the government's attempts to reduce emissions were insufficient to keep the

temperature below the 1.5°C threshold. Due to the absence of provisions regarding the updating of targets for reducing emissions for periods after 2030, the Federal Constitutional Court ruled on March 24, 2021, that certain provisions of the German Federal Climate Change Act was incompatible with fundamental rights. The court also ordered to enact such provisions. On August 31, 2021, a change to the Federal Climate Change Act went into effect as a result of the ruling. In order to achieve climate neutrality by 2045, a target of 88% reduction by 2040, a tightening decrease of 65% from 1990 levels by 2030, and negative emissions after 2050, it is necessary. A group of young Germans recently challenged the modification in *Steinmetz et al. v. Germany*, arguing that the revised targets were still insufficient.²²

Notable Constitutional cases related to climate change and sustainable development:

Jugannath vs UOI 2020

The Supreme Court ordered an EIA for commercial shrimp farming after ruling that the practice violates environmental and constitutional laws by 1) degrading the mangrove ecology, 2) depleting plantations, and 3) releasing highly toxic effluents.²³

Vellore Citizen Welfare Forum v. UOI 1996

The Supreme Court lays down directions.² The idea of polluter payers in sustainable development for the polluters which is based on several constitutional articles such as Articles 47, 48D, and 51A(g), and the precautionary principle. further maintained that in order to achieve sustainable development, Article 21 of the Constitution must be upheld.²⁴

Kinkeri Devi v. State of Himachal Pradesh 1987

According to Article 48 A and Article 51 A(g), the Himachal Pradesh High Court is obligated by the Constitution to conserve the environment, enhance it, and preserve and defend the

²⁰ *Verein KlimaSeniorinnen Schweiz v. Switzerland*, 2020

²¹ *Portillo Caceres v. Paraguay*, 2011

²² *Neubauer Et v. Germany*, 2020

²³ *Jugannath v. Uoi*, 1997

²⁴ *Vellore Citizen Welfare Forum v. Uoi*, 1996

nation's forests, flora, animals, rivers, lakes, and other water resources.²⁵

Susetha v. State of Tamil Nadu 2006

The court held that Sustainable development means harmonizing of development without damaging environment. The Sustainable development is fundamental to Indian law.²⁶

Goa Foundation vs. UOI 2014

According to the court, the mining permits were issued illegally and without the required environmental permits. In addition, the court ordered the mining firms to reimburse the state authorities for environmental harm brought on by their operations. Additionally, the Court sets the four principles. 1. The principle of intergenerational equality; 2. Sustainable development; 3. The principle of polluter payers; and 4. The principle of prevention.²⁷ For the healthy and clean environment.

Oposa v. Factoran Minors Oposa 1993

The Court considering the concept of Intergenerational responsibility ruled that every generation has responsibility to preserve the rhythm and harmony necessary for the full enjoyment of future²⁸

Environmental Legal Action vs UOI 1996 decided in 2024

The entire bench of Sc decided that maintaining a high standard of living and safeguarding the environment for future generations are essential. It was based on the fundamental principles like intergenerational equity and polluter payers principles.²⁹ The court established the "polluter pays principle" as an integral element of sustainable development in environmental law. It made polluters liable to pay the costs of reversing environmental damage.

People United for Better Living vs. State of WB (A.I.R 1993)

This instance demonstrated how development in underdeveloped countries must be in harmony with the environment, underscoring the significance of striking a balance between environmental concerns and economic growth.³⁰

A.P Pollution Control Board vs. UOI

The court ruled that statutory entities with knowledge of both judicial and technical issues could be consulted for scientific and technical considerations in order to guarantee that there would be no risk to the environment while preserving sustainable growth.³¹

Jayal N.D. v. Union of India 2003

The court affirmed that, as a key element of Article 21 of the Constitution, sustainable development is a constitutional duty. That the courts were able to strike a balance between environmental preservation and development is commendable.³²

Rural Disenfranchisement and Rights State of Uttar Pradesh v. Kendra Dehradun & Ors, 1985

This lawsuit addresses environmental and ecological balancing concerns, and the issues raised are significant and substantial for the welfare of the entire population of the country as well as the inhabitants of the Mussoorie Hill range, Himalayas. It draws attention to how conservation and development are at odds, and how this conflict must be resolved for the good of the entire country. **The Supreme Court bench P.N. Bhagwati, Amarendra Nath Sen, Misra Rangnath**, Blasting-based mining operations have been suspended due to the court's temporary order, and it is imperative for the sake of justice that lessees of lime stone quarries be notified as soon as feasible. A key component of sustainable development is the

²⁵ *Kinkeri Devi v. State of Himachal Pradesh*, 1987

²⁶ *Susetha v. State of Tamil Nadu*, 2006

²⁷ *Goa Foundation v. Uoi*, 2014

²⁸ *Oposa v. Factoran Minors Oposa*, 1993

²⁹ *Environmental Legal Action v. Vs UOI*, 1996

³⁰ *People United v. . State of WestBengal* (, A.I.R 1993)

³¹ *A.P Pollution Control Board v. Union of India*

³² *N.D. Jayal v. Union of India*, On 1 September, 2003

Polluter Pays Principle, which forms the basis of this order.³³

Conclusion:

These are the some of the cases related to the climate change and sustainable development it is still evolving. The government working day to day like solar lamps in streets, changing from non renewable to renewable resources etc to overcome this issue but still there is a lack. Our earth is going worse than yesterday most of the people are indirectly affected but it like a passive smokers one of the noticeable change in people is premature death. This situation never gonna change until the people change.

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³³ *Rural Disenfranchisement v. Kendra Debradun*, 12 March, 1985



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