

Climate Justice in Asian Jurisprudence: A Comparative Analysis of Bangladesh and India

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ABSTRACT

It is a comparative research paper that gives a comprehensive analysis of the conceptualization, development and constitution of climate justice in the top judiciary of Bangladesh and India. Both South Asian countries are in the frontline of the global climate vulnerability crisis, and are experiencing a number of serious socio-ecological issues such as fast sea-level rise, soil salinization, increasing rate of glacial retreat in the Himalayas and occurrence of extreme weather events. Without a wide-ranging and legally binding domestic climate change law in place, both supreme courts have developed expansive environmental and climate constitutions through the prism of transformative constitutionalism. The present study documents the doctrinal evolution from the traditional environmentalism which was localised to a new kind of environmentalism – climate justice – through a comparative approach with reference to supranational cases. The present study shows the evolution of the doctrine from the traditional environmentalism which was localised to a new one of environmentalism / climate justice based on a comparative analysis of landmark cases at the supranational level. The Supreme Court of India in *M.K. Ranjitsinh v. Union of India* (2024), expressly incorporated a separate 'right to be free from the adverse effects of climate change' in the constitution, which was stated to have been derived from the right to life (Article 21) and the right to equality (Article 14). The higher judiciary in Bangladesh has facilitated an anthropocentric environmentalism to an ecocentric jurisprudence, as seen in the Turag River Case (2019), which recognized all rivers as legal persons and living entities with independent rights. The study also assesses the effectiveness of the institutional level of specialized environmental tribunals and compares the working of the National Green Tribunal of India and the Environment Courts of Bangladesh. It brings into focus the legal invisibility of climate-displaced populations in the shared Sundarban delta; and the hydropolitical conflicts over the Ganges-BrahmaputraMeghna basin. Finally, the report looks at state and corporate accountability in landmark cases of resource extraction and industrial pollution and presents a list of recommendations for action to make environmental governance in the region more climate.

Keywords: Climate, Modern Justice, Asian Jurisprudence, Comparative study, Sustainable Protection, Bangladesh, India

INTRODUCTION

South Asia is the epicenter of the global climate crisis, with severe ecological and socio-economic consequences, which are disproportionately caused due to its negligible contribution of greenhouse gas emissions (GHGs) in the past (Ahsan et al., 2014; Environmental Justice Foundation [EJF], 2021; UNDP, 2026). India and Bangladesh are highly vulnerable to climate-induced hazards, due to the geography and socio-economic conditions of the region (Ahsan et al., 2014; International Journal of Food and Nutritional Sciences [IJFMR] 2025). India's large geographical size is characterised by a densely populated coastline,

high-risk Himalayan glacial basins and highly monsoon-dependent agricultural plains (IJFMR, 2025; Refugee Law Initiative [RLI], 2025).

Bangladesh is located in the largest deltaic floodplain in the world and has a large proportion of land mass categorized as floodplain, almost 80% as per Local Government Engineering Department [LGED] 2018 and MDPI Climate 2025. This puts its densely populated areas at risk from sea-level rise, from fast river bank erosion and from the extreme power of tropical cyclones (Ahsan et al., 2014; Oxford Human Rights Hub [OHRH], 2025).

Climate change is a regionally measurable and non-linear crisis (IJFMR, 2025). The climate's average temperature in the country has increased by 0.7°C since 1901, whereas the days of heat waves have increased by 3 times in numerous states and coastal sea levels have risen by 3.3 mm/year directly threatening over 250 million coastal people in India (IJFMR, 2025). Every year, the average number of people displaced in Bangladesh due to climate induced disasters is 700,000 (Ahsan et al., 2014). Ahsan et al. (2014) and the Economic Relations Division (ERD) (2023) estimate that in the future, as slow onset climate events like soil salinisation and agricultural collapse are expected to displace up to 13.3 million people, or approximately 10% of the population, by 2050.

The higher judiciaries have filled the regulatory gap in both countries, in the absence of comprehensive and dedicated national climate change legislation (Climate Litigation Database, 2025). Traditional environmentalism, which involved tort law, nuisance control, and simple conservation measures, was the usual lens through which environmental protection was sought in South Asia historically, helping to tackle local issues (Hassan, 2022; Razzaque, 2021; Ullah, 2021). The global warming has, however, become global and systemic, thus giving rise to a paradigm shift towards 'climate justice' (Indian Journal of Law and Legal Research [IJLLR] 2025). Climate justice is a linkage between environmental degradation and fundamental human rights, equity and state responsibility, in which the least polluting communities are the least impacted by global warming, while the poorest and most marginalized communities bear the brunt of the impacts (EJF, 2021; Gonzalez, 2020; UNDP, 2026; World Youth for Climate Justice [WYCJ], 2025).

The Supreme Court of India and the Supreme Court of Bangladesh have introduced green constitutionalism in their respective countries by introducing constitutional amendments through transformative constitutionalism (Brill, 2023; Global Network for Human Rights and the Environment [GNHRE], 2023; IJFMR, 2025; IJLLR, 2025). These judiciaries have developed a progressive jurisprudence in public interest litigation (PIL) that incorporates environmental rights in the fundamental right to life (Bangladesh Environmental Lawyers Association [BELA], 2023; Record of Law, 2024; Refiquzzaman, 2021). This comparative study examines this jurisprudential development, concentrating on the recognition of a unique climate right by the Indian courts in *M.K. Ranjitsinh v. Union of India* (2024), and the model of legal personhood for the environment in Bangladesh (*Turag River Case*, 2019). This research describes the trajectory of climate justice in Asian jurisprudence by exploring these judicial innovations and institutional, policy and transboundary challenges.

PROBLEM STATEMENT

Progressive environmental jurisprudence and the ability of administrative and executive institutions in India and Bangladesh are the two aspects of the central problem addressed in this study (IJFMR, 2025; Rajamani & Ghosh, 2021; Razzaque, 2004; Ullah, 2021). Both countries' supreme courts have set groundbreaking climate and environmental rights, but these are consistently frustrated by systemic legislative, procedural and geopolitical constraints (Record of Law, 2024; Stockholm Environment Institute [SEI] 2026).

There is an absence of a comprehensive, legally binding domestic Climate Change Act in India and Bangladesh that defines climate mitigation, adaptation and compensation as enforceable administrative responsibilities (Climate Litigation Database, 2025). The absence of legislation results in a situation where judiciaries are building up rights on a case-by-case basis, creating uncertainty in regulation and a conflict between ecological conservation and climate change mitigation (Kumar, 2025; Sabin Center, 2024). This predicament was seen in *M.K. Ranjitsinh v. Union of India* where saving the critically endangered Great Indian Bustard (GIB) clashed with the development of long transmission lines for large-scale solar and wind

energy projects to support India's international decarbonization commitments (CaseOn, 2024; Vintage Legal, 2024).

Procedural Barriers in Specialized Courts: The specialized environmental courts designed to provide speedy environmental justice are hindered by structural and procedural flaws (European University of Bangladesh, 2024; NGT & Environment Court Comparison, 2024; Ullah, 2021). This is especially true in Bangladesh, as per Environment Court Act 2010 (IJLLR, 2025; OHRH, 2025). Section 6(3) and 7(4) of the Act prohibit the special magistrates and environment courts from taking cognizance on their own without a written report from an inspector of the Department of Environment (DoE), Hassan (2022) and Nusrat & Khan (2023). This manda-

te puts citizens at the mercy of an under-staffed, under-resourced, or vested-industry-biased bureau. Citizens are thus left without any choice but to depend on an under-staffed, under-resourced, and/or vested-industry biased bureau (UniversePG, 2015). This means that less than 100 cases are taken up by the specialised courts in Bangladesh every year, while the increasingly overwhelmed High Court Division has been inundated with PILs related to the environment (The Business Standard [TBS] 2022).

The climate-induced displacement and trans boundary environmental issues have an extensive gap in the law, because the displaced populations are treated as 'legal invisible' (Ahsan et al., 2014; RLI, 2025). It is important to emphasize that the term "climate refugees" is not recognized by the international legal framework, such as the 1951 Refugee Convention (George Washington University [GWU], 2024; Scielo, 2024). Domestically, neither India nor Bangladesh has the statutory framework or rehabilitation policy that provides legal status or durable rights to the sealevel rise and coastal erosion (CUP, 2025; GWU, 2024) affected. For instance, displaced persons in fragile regions such as co-owned Sundarbans, are informal workers or illegal squatters, without formal legal recognition, social safety nets or state protection (RLI, 2025). Likewise, transboundary rivers like the Ganges and Teesta are highly politicized and managed under disjointed bilateral treaties which do not take into consideration the climate-induced variations in river flows, and have pushed downstream communities into a state of chronic scarcity and extreme floods in the season (Dialogue Earth, 2026; Gupta, 2026; Jahan, 2024).

LITERATURE REVIEW

The Historical Genesis of South Asian Environmental Law

The quest of modern environmental law in South Asia is firmly embedded in the tragedy of Bhopal. The path of modern environmental jurisprudence in South Asia has been determined by the Bhopal Gas Tragedy. The failure of the traditional, colonial era common law tort system and the narrow procedural rules to adequately respond to systemic corporate risks or to protect the voice of disenfranchised, income-poor communities is what legal scholars call this industrial disaster (Abraham, 1999; Baxi, 1985). Due to this institutional failure, the higher judiciaries of India, Pakistan and Bangladesh systematically eroded the inviolability of the rules of locus standi, and paved a direct path of procedure for the ecological vulnerable sections to seek environmental justice (Razzaque, 2004). The change in the judicial role overtook the very core of the judiciary's social function, shifting the judiciary from being a neutral figure to solving private conflicts to being an intervening and active force in social and ecological change (Faure & Raja, 2010; Hassan, 2022).

The Liberalization of Locus Standi and Constitutional Greening

This institutional shift in India was a result of the Supreme Court's proactive writ jurisdiction under Article 32 of the Indian constitution. Upendra Baxi (1985) and Lavanya Rajamani and Ghosh (2021) have traced the incorporation of environmental quality into the fundamental right to life under Article 21 by the court. The importance of access to pollution-free water and clean air as an unalienable part of human dignity and survival was recognised through landmark decisions like *M.C Mehta v Union of India* and *Subhash Kumar v State of Bihar* (Divan & Rosencranz, 2001; Ullah, 2021). This judicial activism has been criticized by some, but has been widely accepted. The application of tougher supervisory powers, including the doctrine of continuing mandamus, has often left the judiciary in intricate administrative territories, and made environmental enforcement prone to judicial whims and fancies instead of routinised and institutionalised administrative

proceedings (Rajamani, 2007; Rajamani and Ghosh, 2021; Ullah, 2024). On the other hand, the process of the development of environmental law in Bangladesh was not just an initiative of the judiciary; instead it was opened up through structured civil society mobilization and public interest lawyering. The watershed judgment of *Dr. Mohiuddin Farooque v. Bangladesh* (1997) was the first in the country's history to begin the PIL era through a PIL filed by the Bangladesh Environmental Lawyers Association (BELA) (BELA, 2023; Refiquzzaman, 2021). This judgment has, structure-wise, broadened the scope of the definition of a "person aggrieved" in Article 102 of the Constitution so as to allow public-spirited organisations representing the marginalized, climate-vulnerable communities to have representative standing (Islam, 2012; Record of Law, 2024). Later academic writing has traced the evolution of such constitutional "umbrella", leading to decisions

such as *Radioactive Milk* (1996) and *Hazaribagh Tanneries* (2001), which firmly classed environmental safety, consumer protection and toxic waste management as justiciable aspects of the right to live with human dignity (Huq, 2018; Nusrat & Khan, 2023; Ullah, 2024).

The Paradigm Shift to Rights-Based Climate Justice

In the modern era, however, modern legal scholarship in the Global South have started to distinguish between "climate justice" and the human-centric late-20th century environmentalism. In contrast to the more localized and point-source nature of traditional environmental law, which sought solutions through simple regulatory remediation, modern climate jurisprudence needs to tackle 'non-linear, borderless and systemic' atmospheric degradation (Boyd, 2012; Brill, 2023). The *M.K. Ranjitsinh judgement* of 2024 is a watershed moment in this paradigm.

Constitutionalizing a separate "right against the adverse effects of climate change" under Article 14 and 21 of the constitution of India, the Supreme Court of India turned climate action from a policy matter of executive discretion to a constitutional obligation of the state executive, placing a direct burden of proof and performance on the executive branch of the government (Ghosh, 2024; IJLLR, 2025; Kumar, 2025).

At the same time, another body of literature examines the radical shift towards an ecocentric paradigm in Bangladesh, culminating in the country's recent move to give all rivers living entities with independent legal personhood, similar to international rights-of-nature regimes in Ecuador, Colombia and New Zealand (O'Donnell, 2019; Turag River Case, 2019). Political and legal scientists, however, note how signally little has been accomplished in terms of on-the-ground enforcement (SEI, 2026). Research with a 'political capabilities' lens finds that the political reality of river personhood in South Asia is largely symbolic, and is undermined by weak administrative enforcement frameworks, a lack of institutional depth and the overwhelming economic and political influence of industrial polluters (Gupta, 2021; Kauffman & Martin, 2021; SEI, 2026).

Transnational Legal Gaps and Hydropolitics

This research on the transnational aspects of South Asian environmental law brings into sharp relief an acute legal deadlock. The problem is that there are no instruments from the international community that address slow-onset climate displacement, so a major human rights crisis has developed on a cross-border frontiers, such as the shared delta of the Sundarban delta in Bangladesh and India (Biermann & Boas, 2010; EJF, 2021; McAdam, 2012; RLI, 2025). Internally and across borders, migrants are often classified as illegal squatters or undocumented economic labourers, rather than beneficiaries of state welfare schemes, formal land rights, or structural security, and this practice is systemic (CUP, 2025; GWU, 2024; Policy Research Institute [PRI], 2023). Moreover, the existing bilateral water infrastructure, including the 1996 Ganges Water Sharing Treaty, is structurally rigid and non-adaptive, with the allocation formula based on fixed historical water levels and conditions, which do not account for the seasonal variability of water flows, nor the intensified glacial melt in the Himalayas, resulting from climate change (Dialogue Earth, 2026; Gupta, 2026; Jahan, 2024; Strategic Foresight Group, 2019). Given absence of multidisciplinary enforcement tribunals and highly flexible and adaptive regional treaties, the broad judicial pronouncements will be 'paper rights' that cannot change realities of climate-sensitive populations (Ahsan et al., 2014; Jolly & Trivedi, 2025; UNDP, 2026).

THEORETICAL FRAMEWORK

This report adopts five legal and socio-ecological theories which are interconnected to systematically analyse and compare the climate justice jurisprudence of India and Bangladesh:

Transformative Constitutionalism

Transformative constitutionalism assumes that a constitution is not a "dead letter" but a "living document" (IJFMR, 2025; IJLLR, 2025). It aims to change social, economic and political structures to promote equality, human dignity and systemic justice (CUP, 2025; Brill, 2023). This theory has given rise to a new category of unwritten fundamental rights in South Asian jurisprudence, such as the right against the adverse effects of climate change, which can be found directly in constitutional principles (ELAW, 2024; Jolly & Trivedi, 2025).

Environmental Constitutionalism

Environmental constitutionalism is the constitutional interpretation of environmental rights, duties and principles as integral and fundamental constitutional guarantees (GNHRE, 2023; Jon & Shin, 2026) or the direct integration of environmental rights, duties and principles into the constitutional texts (GNHRE, 2023). Within this framework, inaction by the government in the face of ecological crises or climate change is a direct violation of the constitutional duties of the government, entitling citizens to judicial interventions to seek immediate cure, instead of relying on the discretion of legislative developments (IJFMR, 2025; Journal of Contemporary Issues, 2022).

The Public Trust Doctrine

The Public Trust doctrine was developed in Roman law, which states that some natural resources are so critical to the public good that they may not be owned by anyone (Harmony with Nature, 2019; HCD, 2019). These resources, such as rivers, forests, air and coastal waters, however, are in trust for the current and future generations of citizens of the state (Constitution of Bangladesh, 1972; SEI, 2026). The state does not own the resources, it is a legal trustee under a strict and nondelegable obligation to preserve and protect them from private exploitation (CUP, 2025; Lex Publica, 2025).

Intergenerational Equity

Intergenerational equity is an ethical and legal principle that says that the current generation must act in a way that will not harm the rights of future generations to use the Earth (ELAW, 2025; WYCJ, 2025). It requires the present socio-economic and industrial use to not exhaust the natural resources and/or disrupt the climate system in a manner that would adversely affect the survival of future citizens (Brill, 2023; MDPI, 2025). In contemporary climate litigation, it is considered to be a standard that can be enforced, and a long-term ambitious state pathway of mitigation is required (Jon & Shin, 2026; FAOLEX, 2022).

The Precautionary Principle and the Polluter Pays Principle

The following fundamental principles of international environmental law are of relevance to the environmental torts and civil remedies in South Asia:

The Precautionary Principle: (HCD, 2019; Supreme Court of Bangladesh, 2019): When action is needed to prevent serious or irreversible, or even irreversible with high likelihood of serious, degradation a lack of full scientific certainty shall not be used to postpone the cost-effective action. It puts the onus on the sponsor of an industrial activity to prove its ecological safety (Grantham Research Institute, 2010).

Polluter Pays Principle: principle that the costs of environmental pollution, both natural and social, should be fully borne by the polluter (Climate Litigation Database, 2025; WY4CJ, 2024). It demands polluters to pay for not only the immediate damage control, but also the entire ecological restoration of polluted environments (BELA, 2023; HCD, 2019).

LEGAL AND INSTITUTIONAL FRAMEWORKS

Constitutional Foundations

Environmental rights were not explicitly mentioned in the original constitutions of either country. But later constitutional amendments and judicial extension have made environment governance constitutional. The Forty Second Amendment (1976) of the Indian Constitution added to the Directive Principles of State Policy, Article 48A, which mandates the protection of forests and wildlife in India (Sabin Center, 2024; Vintage Legal, 2024). It also added Article 51A(g) which states that every individual has the duty to protect and

improve the natural environment, such as forests, lakes, rivers and wildlife (ELAW, 2024). In Bangladesh, the article 18A was added to the Constitution of Bangladesh, 1972, by the Fifteenth Amendment (2011) (FAOLEX, 2022). The state shall strive to protect and improve the environment, preserve and protect natural resources, biodiversity, wetlands, forests and wildlife for current and future citizens (Ullah, 2021; CUP, 2025). This comparative constitutional architecture is captured in Table 1.

Table 1: Comparative Constitutional Mapping

Constitutional Parameter	India	Bangladesh
Justiciable Right to Life	Article 21: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” (AJIL, 2025; Vintage Legal, 2024)	Article 32: “No person shall be deprived of life or personal liberty save in accordance with law.” (TBS, 2022; WY4CJ, 2024)
Greened Interpretation	The right to life includes the right to clean air, water, and an environment free from pollution, as recognized in <i>Subhash Kumar v. State of Bihar</i> . (IJFMR, 2025; Razzaque, 2021)	The right to life has been expanded to include the right to a safe, healthy, and pollution-free environment, particularly in <i>Dr. Mohiuddin Farooque v. Bangladesh</i> . (Record of Law, 2024; Ullah, 2024)
Climate-Specific Right	Courts have recognized a clear “right against the adverse effects of climate change” under Articles 21 and 14 in <i>M.K. Ranjitsinh v. Union of India</i> (2024). (IJFMR, 2025; ELAW, 2024)	Climate change has historically been treated as part of environmental rights within the right to life, notably in <i>Dr. Mohiuddin Farooque v. Bangladesh</i> (1997). (Record of Law, 2024)
Writ Jurisdiction Route	Article 32: Provides direct access to the Supreme Court for enforcement of fundamental rights. (Vintage Legal, 2024)	Article 102: Provides for writ jurisdiction of the High Court Division, which has been liberalized to facilitate Public Interest Litigation (PIL). (Appellate Division, 1996; Nusrat & Khan, 2023)
Directive Principles	Article 48A: Directs the State to protect and improve the environment and safeguard forests and wildlife. (CaseOn, 2024)	Article 18A: Places responsibility on the State to protect the environment and biodiversity for present and future generations. (WYCJ, 2025)
Fundamental Duties	Article 51A(g): Imposes a duty on citizens to protect and improve the natural environment and to have compassion for living creatures. (ARROW, 2021)	No corresponding general constitutional duty of citizens concerning environmental protection. Article 21 concerns the duties of public servants rather than a general citizen duty. (Nansen Initiative, 2015)

Statutory Instruments and Policy Frameworks

The legal framework in India that governs the environment is found in the Water Act of 1974, the Air Act of 1981, the Environment (Protection) Act of 1986 and the Wildlife (Protection) Act of 1972 (AJIL, 2025; Sabin Center, 2024). The key structure is the National Green Tribunal Act 2010 that created a dedicated green tribunal comprising judicial and technical experts who are multidisciplinary (Rajamani & Ghosh, 2021; NGT & Environment Court Comparison, 2024). The National Action Plan on Climate Change (NAPCC), the

updated Nationally Determined Contributions (NDCs) under the Paris Agreement and international leadership initiatives such as the International Solar Alliance (ISA) (IJFMR, 2025; AJIL, 2025) all shape India's climate policy.

The major laws that regulate the domestic environmental regime in Bangladesh are the Bangladesh Environment Conservation Act (ECA) 1995 and the Environment Conservation Rules 1997 (Ullah, 2021; ARROW, 2021). The ECA 1995 gives the DoE wide authority to declare Ecologically Critical Areas (ECAs) and to require Environmental Clearance Certificates (ECCs) (BAUET Journal, 2023). The government has introduced the Environment Court Act 2010 which created the specialised Environment Courts and Special Magistrate Courts to deal with environmental crimes (WY4CJ, 2024; OHRH, 2025).

Bangladesh also adopted Bangladesh Climate Change Trust Fund (BCCTF) (Climate Change Trust Act, 2010) which is the first trust fund within a developing country to finance adaptation and mitigation efforts in Bangladesh (Nachmany et al., 2015). The trust relies on a very clear and strict statutory framework: 66 per cent of its expenditure goes towards projects identified as priorities in the Bangladesh Climate Change Strategy and Action Plan (BCCSAP) and 34 per cent is kept in a permanent fund for emergency humanitarian post disaster responses (CC Trust Act, 2010; Grantham Research Institute, 2010).

To monitor spending, the government has drawn up Climate Fiscal Framework (CFF) in 2014, which includes Climate Expenditure Tracking Framework (CETF) in the country's budget process (ARROW, 2021; MoEFCC, 2025). This is endorsed in the National Adaptation Plan (NAP) (Record of Law, 2024), which includes the Locally Led Adaptation (LLA) Framework. Long-term strategies are incorporated into the Bangladesh Delta Plan 2100 (BDP 2100) which is an investment of USD 382 billion or 2.5% of total GDP to manage climate risks over a century through a water-centric mega-plan (LGED, 2018; ERD, 2023; GED, 2018). The six regional "Hotspots" are identified as vulnerable areas in the plan:

1. Coastal Area (vulnerable to tidal surges, salinity, and cyclones) (UNDP, 2026).
2. Barind and Drought-Prone Area (vulnerable to water scarcity) (UNDP, 2026).
3. Haor and Flash Flood Area (vulnerable to rapid river inundation) (UNDP, 2026).
4. Chattogram Hill Tracts (vulnerable to landslides and soil erosion) (BELA v. Bangladesh, 2009).
5. River Systems and Estuaries (vulnerable to morphological changes) (GED, 2018).
6. Urban Areas (vulnerable to waterlogging and heat stress) (FAOLEX, 2022).

These spatial priorities are coupled with the Mujib Climate Prosperity Plan (MCP), targeting up to 30% renewable energy by 2041 and 40% by 2050 through strategic "Mujib Energy Hubs" to transition existing fossil-fuel plants into high-tech green hydrogen facilities (V20, 2021; Energy Transition BD, 2025; MCP, 2021).

COMPARATIVE ANALYSIS

Constitutional Greening and Rights-Based Interpretations

The greenings of the constitutional right to life have taken very similar paths in India and in Bangladesh (ELAW, 2024; IJFMR, 2025; Record of Law, 2024). In the case of Bangladesh, the High Court Division of Bangladesh ingeniously interpreted the concept of environmental sanity in the context of Article 31 (the right to protection of law) and Article 32, stating that an environment that is ecologically balanced is an absolute precondition for human life (Razzaque, 2021; TBS, 2022; WY4CJ, 2024). This growth in structure was manifested in India in a series of structural PILs (Rajamani & Ghosh, 2021). In *Subhash Kumar v. State of Bihar* (1991), the Supreme Court has made it clear that the right to life includes the right to pollution-free water and air (Climate Litigation Database, 2025; GNHRE, 2023). The doctrine has been developed in the *Vellore Citizens Welfare Forum v. Union of India* case when the court explicitly integrated international

environmental law principles, such as sustainable development, the precautionary principle, and the polluter pays principle, into the domestic common law landscape (IJFMR, 2025; Ullah, 2021). This progressive expansion is reflected in Bangladesh as well (BELA, 2023; Refiquzzaman, 2021). The historic case of *Dr. Mohiuddin Farooque v. Bangladesh* (1997) was decided by the Appellate Division, which held that the right to life and security as guaranteed by Articles 31 and 32 is not limited to mere animal life, but also includes the right to a healthy environment, proper child development, and an ecological balance free from destructive air and water pollution, "without which life can hardly be enjoyed" (Appellate Division, 1996; Dhaka Law Reports, 1997; Record of Law, 2024). This principle was strengthened in *Rabia Bhuiyan v. Secretary, Ministry of LGRD* (2007) where the Supreme Court held that drinking water free of arsenic is a fundamental right, creating a positive obligation on the part of the state to take active steps to reduce the contamination of groundwater (CUP, 2025; TBS, 2022). This is reflected on the landmark judgment in the *Radioactive Milk Case* (*Dr. Mohiuddin Farooque v. Bangladesh*, Writ Petition No. 92/1996) which shows how deeply constitutional Bangladesh is (BELA, 2023). In this case, civil society activists protested the lack of action by the government to intercept and return a 125-metric-ton shipment of imported skimmed milk powder contaminated with dangerously high levels of radionuclide radiation (BELA, 2023; Danish Parliament, 2019). The Supreme Court has determined that constitutionally the "right to life" is not limited to biology, but also applies to public health, food security, and protection from environmental toxins (RLI, 2025; Record of Law, 2024). The court set out strict guidelines for thorough radioactive testing of all imported food products, reinforcing the state's constitutional responsibilities to make sure the domestic food environment is not contaminated by artificial radioactive or chemical sources (East West University [EWU], 2023; Nansen Initiative, 2015).

The Anthropocentric "Green-on-Green" Dilemma vs. Ecocentric Personhood

There is a great difference in the philosophies of the two judiciaries. India has continued to have a human-centered, rights-based approach, with the recognition of climate rights in human protections under the constitution. Since then, Bangladesh has followed the ecocentric, rights-of-nature approach, which assigns environmental characteristics the status of independent legal subjects (ELAW, 2024; HCD, 2019; IJLLR, 2025; Jolly & Trivedi, 2025). It is evident in the Supreme Court of India's decision in *M.K. Ranjitsinh v. Union of India* (2024) (Climate Litigation Database, 2025; Razzaque, 2004). The case focused on a typical 'green-on-green' conflict, namely a direct conflict between conservation of biodiversity and green energies infrastructure (Vintage Legal, 2024). In India, the Great Indian Bustard (*Ardeotis nigriceps*) is a critically endangered species which has a very small wild population of less than 250 birds, and was facing extinction due to frequent and fatal collisions with high-voltage overhead transmission lines (OTLs) directly passing through its main grassland habitat in Rajasthan and Gujarat, built to transport large solar/power wind energy from its generating points to the national grid (ARROW, 2021; CaseOn, 2024; Vintage Legal, 2024). On April 19, 2021, the Supreme Court issued a blanket interim injunction over a large $99,000 \text{ km}^2$ area, instructing all future power lines to be buried underground (ELAW, 2024; Vintage Legal, 2024). In 2022, the Government of India appealed and argued that such a blanket undergrounding mandate was unfeasible on a technical and financial basis, would undermine India's ability to meet its Paris Agreement NDC, and would rely on a regressive approach to coal-fired generation (Climate Litigation Database, 2025; Sabin Center, 2024). On March 21, 2024, the order was modified by a bench comprising Chief Justice D.Y. Chandrachud to create a concentrated "priority area" of area $13,163 \text{ km}^2$ by reducing the zone of undergrounding, and to constitute an expert committee to examine the technical feasibility (ARROW, 2021; Sabin Center, 2024). To justify this rebalancing, the court formulated a novel constitutional derivative – a standalone 'right against the adverse effects of climate change' that would be grounded in Articles 14 and 21 (IJFMR, 2025; IJLLR, 2025). The court argued that developing clean energy is a prime instrument of climate justice, requiring a "balancing judgment" between the protection of species in the area and climate mitigation on a larger scale (ELAW, 2024; Jolly & Trivedi, 2025). In response, renewable energy developers appealed the committee's conclusions in 2025 and the Supreme Court emphatically responded that it would not remove from developers' costs the responsibility for considering the interests of birds and the protection and restoration of their habitat, following a strict "species best interest" test and the polluter pays principle (British Institute of International and Comparative Law [BIICL], 2024). In contrast, in the *Turag River Case* (Writ Petition No. 13989 of 2016) the Supreme Court of Bangladesh took a radical approach towards an ecocentric approach to law (Harmony with

Nature, 2019; HCD, 2019). The case was started by the NGO Human Rights and Peace for Bangladesh (HRPB), which accused industrial land encroachment, real estate land grabs and the systematic dumping of untreated chemical effluents into the Turag River. The case was launched by the NGO Human Rights and Peace for Bangladesh (HRPB) against rampant illegal industrial encroachment, real estate land grabbing, and systematic dumping of untreated chemical effluents at the Turag River (SEI, 2026; Supreme Court of Bangladesh, 2019). In 2019, the High Court Division declared the Turag River (and by extension, all rivers within the boundaries of Bangladesh) as a legal person, a legal entity, and a living entity with its own fundamental rights to exist, flow and be free from degradation (Bangladesh Economic Review, 2017; Grantham Research Institute, 2010).

The court states that rivers cannot be privately privatized or leased by the Executive (SEI, 2026; HCD, 2019). It officially and legally established the National River Conservation Commission (NRCC) as the nation's statutory "legal guardian" of the country's water systems and provided 17 sweeping structural mandates (CUP, 2023; Nachmany et al., 2015). These provisions included the ban on river encroachers as "public enemies," the bar against contesting political office or obtaining domestic bank loans, and the establishment of two-monthly environmental awareness programmes in all educational institutions (Grantham Research Institute, 2010; Harmony with Nature, 2019; HCD, 2019).

These are some of the major differences between the two listed in Table 2.

Table 2: Comparative Legal Doctrines and Judgments

Comparative Parameter	India	Bangladesh
Primary Judicial Focus	Climate Rights & Human-Centred Protections: Constitutionalizing human right in the climate crisis, as reflected in <i>M.K. Ranjitsinh v. Union of India</i> (2024). The Climate Litigation Database (2025) and Razzaque (2004) provide relevant scholarly and legal context.	Ecocentric Nature Rights & River Personhood: Recognizing ecosystems as legal persons with independent rights, particularly through the <i>Turag River Case</i> (2019). Relevant discussions include Bangladesh Economic Review (2017) and Grantham Research Institute (2010).
Leading Precedent	<i>M.K. Ranjitsinh and Ors. v. Union of India</i> (2024 INSC 280) (Kumar, 2025).	<i>Human Rights & Peace for Bangladesh v. Government of Bangladesh</i> (Writ Petition No. 13989 of 2016) (Grantham Research Institute, 2010).
Source of Legal Rights	Rights are primarily derived from Article 21 (Right to Life) and Article 14 (Right to Equality) of the Constitution of India (Climate Litigation Database, 2025; ARROW, 2021).	The Right to Protection of Law, Right to Life, and the Preamble serve as constitutional foundations for environmental and life-related rights (Constitution of Bangladesh, 1972; Record of Law, 2024).
Guardianship Mechanism	Expert committees are established to balance resource utilization with ecological protection (ELAW, 2024; Sabin Center, 2024).	The National River Conservation Commission (NRCC) functions in the public interest as a guardian of rivers and water bodies (Nachmany et al., 2015; CUP, 2023).

Specialized Forums: National Green Tribunal vs. Bangladesh Environment Courts

Both states have also set up specialized environmental courts, but their structures are vastly different (European University of Bangladesh, 2024; NGT & Environment Court Comparison, 2024) for their considerations of structural enforcement. The National Green Tribunal (NGT) of India is a hybrid composition under the National Green Tribunal Act (NGT Act) 2010. It is a statutory requirement that the career judicial members on each bench be matched with the specialized scientific/environmental experts (NGT & Environment Court Comparison, 2024; Rajamani & Ghosh, 2021). This mixed approach gives the tribunal the opportunity to review indepth scientific facts in order to deliver a flexible remedy in accordance with natural justice, without being constrained by the rigid civil procedure rules (IJLLR, 2025; Journal of Contemporary

Issues, 2022). By contrast, the Environment Courts in Bangladesh are organized in a traditional judicial-only manner and do not have any members who are scientific or technical (Brill, 2024; Ullah, 2021). Judges of the courts have no formal environmental training and they are presided by only joint district judges and special

magistrates. Above all, the forum is much less than effective as the two pivotal provisions of the Act—namely Sections 6(3) and 7(4)—place very narrow limitations on the environmental court's jurisdiction to take cognizance of an ecological offence or a civil compensation claim, respectively (WY4CJ, 2024; OHRH, 2025; Jolly & Trivedi, 2025). With scant staffing and often times under commercial and political pressure, these required investigation reports are often delayed or compromised (Sabin Center, 2024; WY4CJ, 2024). As a result, citizens are unable to directly appeal to the local environmental justice process, and public interest groups avoid the lower courts entirely, preferring to file high-cost writ petitions in the High Court Division, leaving the specialized environment courts in the lower levels of the court system virtually unused (TBS, 2022; UniversePG, 2015).

Transboundary Injustices and Basin-Wide Hydropolitics

The climate crisis is borderless, which renders environmental legislation, domestically conceived, limited (Ahsan et al., 2014; MDPI Climate, 2025; RLI, 2025). One of the most vulnerable areas is the transboundary Sundarbans mangrove delta, which is 60% in Bangladesh and 40% in India. More than 5 million people in the delta are at some of the highest global rates of sea-level rise (3.14 mm/year) and permanent island erosion (CUP, 2025) as well as experiencing catastrophic soil salinization. However, as neither Indian nor Bangladeshi statutory law grants environmental migrants the legal status of an environmentally displaced person, they are not included in the formal resettlement frameworks of the state (Razzaque, 2004; Sabin Center, 2024). Cross-border climate migrants in India are immediately detained or deported under the colonial-era Foreigners Act 1946, while internal climate migrants find themselves in precarious urban slums, losing formal land tenure rights or social protection (Sabin Center, 2024). Regional courts have not been given the authority to compel a transboundary protection framework (Sabin Center, 2024), though there have been some individual public interest actions such as the one brought by local environmental activist Ridhima Pandey, a child litigant before the NGT (2017) which seek some accountability from the national state regarding the situation of climate refugees. The same is true of the 54 transboundary rivers connecting the two countries which are managed by the judiciary (Brill, 2024; Lex Publica, 2024). Legal regime governing these waters is split up and not adaptive. There is only one water-sharing agreement – the Ganges River Water-Sharing Treaty (WRST) of 1996 which expires in 2026 (Dialogue Earth, 2026; Gupta, 2026; Jahan, 2024). The treaty's allocation mechanisms are based entirely on historical flow baselines during the mid-20th century and do not incorporate any mechanisms to adapt to the possibility of a seasonal reduction in flows or increased glacial melt from the Himalayas due to climate change (BAUET Journal, 2023; Dialogue Earth, 2026). This is evident in the continuing dispute over the Teesta River (Dialogue Earth, 2020). The volumes of water diverted by India's upstream Gajoldoba Barrage for agricultural irrigation have significantly lowered water flows to Bangladesh during dry lean seasons, resulting in a significant decline in agricultural production, dependence on expensive groundwater pumping and the rapid salinization of soil (Dialogue Earth, 2020). However, since 2011, permanent treaty talks have been stagnant because of domestic Indian political opposition at the state-level (Dialogue Earth, 2026; Gupta, 2026). The Joint Rivers Commission (JRC) was formed in 1972, and functions as a very politicized and reactive diplomatic organization, rather than as a science-based management authority, in contravention of international law principles of equitable and reasonable use of resources (ARC Journals, 2021; Jahan, 2024).

KEY FINDINGS AND IMPLEMENTATION GAPS

Strategic Corporate Accountability and Environmental Torts

A critical analysis of Global South jurisprudence reveals that despite extensive implementation gaps, public interest litigation has successfully established powerful legal precedents for corporate accountability and environmental tort liability. A foundational example in Bangladesh is the landmark case of BELA and Others v. Bangladesh (Tengratila Gas Blowout Case, Writ Petition No. 6911 of 2005) (BELA, 2023).

In October 2003, Canadian energy multinational Niko Resources entered into a joint venture agreement (JVA) with the state-owned Bangladesh Petroleum Exploration and Production Company (BAPEX) to extract natural gas from the marginal Chhatak (Tengratila) gas field (BELA, 2023; Feni Gas Field Wikipedia, 2024). Due to

gross corporate negligence, flawed drilling processes, and a systemic disregard for international safety standards, drilling operations triggered two catastrophic industrial gas blowouts and explosions in January and June 2005 (Feni Gas Field Wikipedia, 2024; Frontline, 2009). The explosions completely destroyed adjacent ecosystem structures, burning surrounding community forests, wiping out local agricultural lands, contaminating regional water tables and fisheries, and leaking over 100 billion cubic feet of natural gas into the atmosphere (Feni Gas Field Wikipedia, 2024).

BELA filed a PIL writ petition before the Supreme Court of Bangladesh, challenging the legality of the initial JVA on grounds of corruption and regulatory avoidance, and demanding full ecological remediation (BELA, 2023; Record of Law, 2024). In November 2009, the High Court Division issued a landmark ruling directing Niko Resources to pay comprehensive environmental compensation to the state and local citizens (BELA, 2023). To enforce this, the court issued an injunction freezing all of Niko's domestic banking assets and restraining Petrobangla from making any financial payments to the multinational for gas supplied from other operational fields (BELA, 2023; Feni Gas Field Wikipedia, 2024).

When Niko Resources attempted to bypass domestic judicial liability by filing for international arbitration, the International Centre for Settlement of Investment Disputes (ICSID) in 2020 (Niko Resources Ltd. v. BAPEX) ruled squarely in favor of Bangladesh. The international tribunal held Niko strictly liable for the environmental destruction caused by its negligence and ordered the multinational to pay full international compensation, establishing a powerful precedent that domestic environmental public interest rulings can successfully leverage international legal mechanisms to enforce corporate accountability (BELA v. Bangladesh, 2005; Feni Gas Field Wikipedia, 2024).

Table 3: Summary of Key Legal and Policy Gaps

Gap Category	India	Bangladesh
Statutory Gaps	Does not have a special Climate Change Act that mandates mitigation, adaptation, and compensation as enforceable administrative obligations. (<i>Climate Litigation Database, 2025</i>)	Does not have a specific Climate Change Act. Science experts are not available in Specialized Environment Courts, which consist only of judges. (<i>IJFMR, 2025; NGT & Environment Court Comparison, 2024</i>)
Procedural Gaps	Relies on the judiciary to resolve green-on-green policy conflicts. (<i>WY4CJ, 2024; MoEFCC, 2025</i>)	Very high procedural thresholds. Sections 6(3) and 7(4) of the Environment Court Act 2010 restrict direct access of citizens to the court. (<i>WY4CJ, 2024; OHRH, 2025; IJLLR, 2025</i>)
Transboundary Gaps	No legal status or resettlement policies for people who become refugees as a result of climate change. (<i>Sabin Center, 2024; Razzaque, 2004</i>)	Lack of legal protection and rehabilitation policies for internally displaced persons (IDPs) due to climate change. (<i>Ahsan et al., 2014; RLI, 2025; CUP, 2025</i>)
Hydropolitical Gaps	Bilateral water-sharing agreements are non-adaptive and fail to consider changes in river flows due to climate change. (<i>Brill, 2024; Dialogue Earth, 2026</i>)	Faces the threat of dry-season water shortages and monsoon flooding, making the country highly water-sensitive. (<i>Gupta, 2026; Dialogue Earth, 2026; ARC Journals, 2021</i>)

ACTIONABLE RECOMMENDATIONS

Reforming Bangladesh's Environment Court Act 2010

The Parliament of Bangladesh should focus on amendment of Environment Court Act 2010 to address the acute flaws in the procedures of the lower environmental judiciary.

Procedural Reform: Sections 6(3) and 7(4) should be repealed to replace the need for a prior written report from a DoE inspector before a court can take cognizance of an offence (IJLLR, 2025; OHRH, 2025; WY4CJ, 2024). The amendment should provide access for the individual citizens, civil society organizations, and the local communities to file an environmental complaint, criminal charge, and civil compensation claim directly before specialized courts without any restriction (Hassan, 2022; Razzaque, 2021; Ullah, 2021).

Structural Restructuring: The composition of Environment Courts should be changed to a hybrid structure, similar to the NGT in India (NGT & Environment Court Comparison, 2024; Rajamani & Ghosh, 2021). To have a court with in-house expertise to directly consider complex scientific information, to evaluate environmental harm and to make science-informed decisions, each environmental bench shall include one career judicial officer sitting alongside a qualified environmental scientist or technical expert, as provided by law (NGT & Environment Court Comparison, 2024).

Enacting Dedicated National Climate Change Acts

India and Bangladesh need to shift from a reactive approach in the judicial arena and implement comprehensive legally binding domestic Climate Change Acts (Climate Litigation Database, 2025).

Statutory Mandates: Statute should make national climate mitigation and adaptation targets binding administrative responsibilities of all executive ministries (Climate Litigation Database, 2025).

Climate Impact Assessments (CIAs): The law should require extensive Climate Impact Assessment (CIA) as part of the standard Environmental Impact Assessment (EIA) for all largescale infrastructure and urban expansion and industrial development projects before they are approved, championing the use of these alongside traditional Environmental Impact Assessments (EIAs) (Climate Litigation Database, 2025). Two parameters need to be assessed legally in the context of the CIA: (1) a project's long-term impacts on national GHG emission trends and (2) the structural vulnerability of a project to regional climate hazards, including sea-level rise, heavy flooding and heatwaves, on a multi-decadal timescale (Razzaque, 2004; Climate Litigation Database, 2025).

Establishing Regional Frameworks for Climate-Induced Mobility

The governments of India and Bangladesh should lead a regional climate mobility framework, based on either the South Asian Association for Regional Cooperation (SAARC) or any bilateral state treaties (Nansen Initiative, 2015; Scholars' Bank, 2021).

The framework should provide a robust definition of climate-displaced persons through law and grant climate-affected cross-border migrants the right to temporary protected status, which ensures them safe passage, protection from immediate arrest or deportation according to legacy immigration laws, and unhindered access to humanitarian assistance, temporary shelter and baseline social services (GWU, 2024; Scholars' Bank, 2021).

Internally, both countries need to implement proactive measures through their Rehabilitation Policies, to control internal migration. These frameworks need to set up dedicated state financing schemes to acquire accessible land banks, land tenure security, resilient housing and targeted vocational retraining programmes for those communities who were permanently displaced due to slow onset ecological collapse (CUP, 2025; GWU, 2024).

Transitioning to Cooperative Basin-Wide Transboundary River Governance

Therefore, the governments of India and Bangladesh should shift their policies and frameworks for transboundary water sharing from piecemeal and win-lose political negotiations towards an integrated ecosystem approach (Jahan, 2024; ARC Journals, 2021).

Structural separation from the political-diplomatic arena and a change in the institutional framework of the Joint Rivers Commission (JRC) to an independent science-based Transboundary River Authority (BELA,

2023; Gupta, 2026). • Basin-Wide Management: Water-sharing agreements should move away from a river-by-river approach to an integrated basin-wide approach to management of the entire Ganges-Brahmaputra-Meghna basin (Jahan, 2024; NBU, 2021).

All future water treaties, including the forthcoming renegotiation of the Ganges Water Treaty, should be based on flexible, dynamic allocation mechanisms, instead of static flow quotas, and be directly tied to real-time,

digital telemetry systems (Dialogue Earth, 2026; Gupta, 2026). These formulas need to be adaptable to actual river flows throughout the seasons, in order to maintain the ecological flows that are essential for the health of estuarine ecosystems downstream, while ensuring that the livelihoods of farmers and agricultural communities are safeguarded as climate changes and the flow variability in the rivers increases over time (Dialogue Earth, 2026; Gupta, 2026; Jahan, 2024).

Establishing a Joint Indo-Bangladesh Sundarbans Commission

The two countries should form a legally constituted, binational institutional mechanism – Joint Indo-Bangladesh Sundarbans Commission (IAAPS, 2017; WWF India / World Bank, 2014) solely for the management of the shared mangrove delta.

The Commission should be tasked with elaboration of coordinated and unified early warning systems for tropical cyclones, coordinated coastal afforestation programmes for stabilising eroded coastlines, coordinated deltaic resilience strategies for protection of vulnerable local communities (CUP) (2025), (FAOLEX) (2022), (MDPI Climate) (2025).

Scientific Integration: It should serve as a hub for cross-border scientific research, ensuring that data on salinity, mangrove degradation, and sea-level rise are coordinated, which in turn would help to design and implement adaptation programs based on scientific evidence to protect and preserve this crucial ecological barrier and reduce climate-induced displacement (CUP, 2025; FAOLEX, 2022; MDPI Climate, 2025).

FINAL REMARKS

There is a comparative jurisprudence among the two countries, where climate action justice is being discussed in India and Bangladesh (Climate Litigation Database, 2025; Razzaque, 2004). In both countries, the supreme courts have moved beyond historical and colonial era procedural hurdles in greening their respective constitutions and erecting environmental rights (IJFMR, 2025; Razzaque, 2021; IJLLR, 2025; CUP, 2025; GNHRE, 2023; Record of Law, 2024; WY4CJ, 2024). In 2024, the Supreme Court of India explicitly declared a "right to be free from the adverse effects of climate change" in its judgment (IJFMR, 2025) and in 2015, Bangladesh enshrined the river into law by introducing the concept of river personhood (IJLLR, 2025; ELAW, 2024; HCD, 2019; Harmony with Nature, 2019; Jolly & Trivedi, 2025), both of which represent groundbreaking advances in environmental law in the Global South, where climate change is a serious threat to the planet.

This study also points out the limitations of judicial leadership (UNDP, 2026; WY4CJ, 2025; SEI, 2026). Progressiveness of doctrine alone is not enough to propel powerful and well-financed executive and administrative enforcement (IJFMR, 2025; Ullah, 2021; SEI, 2026; Rajamani & Ghosh, 2021). Although symbolical declaration of the justice is made from time to time in the river, it is difficult to overcome it by the weak enforcement of laws and regulations and the bureaucratic problems in the implementation of Environment Court Act 2010 and industrial impunity (Ullah, 2021, Hassan, 2022, Harmony with nature, 2019, SEI, 2026, NGT & Environment Court Comparison, 2024, Lawyers for Lawyers, 2023). Likewise, the legal invisibility of climate refugees, as well as the deadlocks in transboundary water-sharing, highlight the inability of domestic courts to address transboundary climate injustices (MDPI Climate, 2025; RLI, 2025; CUP, 2025; GWU, 2024; Gupta, 2026).

The roadmap for climate justice in South Asia is from declaration to action (ELAW, 2024; BELA, 2023; Nachmany et al., 2015). This involves implementing comprehensive national domestic climate change laws, strengthening green tribunals to provide direct access for the public, developing regional climate migration arrangements and basin-wide transboundary river management systems (IJFMR, 2025; NGT & Environment Court Comparison, 2024; Scholars' Bank, 2021; ETHZ, 2013). The judicial power, which serves as a link between values and action, is a powerful instrument to build resilient and sustainable climate futures in the context of climate justice for the Global South (IJFMR, 2025; IJLLR, 2025; GNHRE, 2023; Brill, 2023).

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