

**CONNECTING THE DOTS THROUGH CLIMATE CHANGE LITIGATION
BETWEEN ENVIRONMENTAL RULE OF LAW, SUSTAINABILITY CHANGES,
AND THE INDIAN JUDICIAL SYSTEM**

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Shreyati Srivastava, Advocate at Allahabad High Court

ABSTRACT

In light of the environmental crisis facing the planet and its potential to maintain the welfare of people, 'Transformations towards sustainability' take centre stage in this setting and become more institutionalised in international scientific and policy discourses. Transformations towards sustainability include refocusing and reorganising governance procedures and practices. Although there are other actors involved in the governance of transition, this article discusses the judiciary's function in leading a transition process leading to a fair and sustainable future. Using judicial involvement as a tool may influence human behaviour, enabling dramatic transformations. The study offers a fresh interdisciplinary analysis of representative Indian climate change legal choices situated within the sustainability transition rhetoric supported by the environmental rule of law, drawing on social science literature. The Indian judicial system, known for its creative thinking and role as a "lever of transformation," is beginning to take climate cases seriously. These examples, which fall under the categories of "climate conscious," "climate accountability," and "climate futurity," illustrate cumulative outcomes that are progressive yet incremental and provide the necessary conditions for radical transformation.

Keywords: *Climate Change, Judiciary, Policy, Sustainability and Transformation.*

1. INTRODUCTION

Due to the current environmental disaster on earth and its ability to support human well-being, there is an urgent need to address societal concerns. In order to attain sustainability, it is essential to reconsider our lives, existing manufacturing techniques, and consumption habits. In setting, there is opportunity to communicate a potent global message that puts "transformations towards sustainability" front and center. This message is becoming more and more institutionalized in international scientific and policy discussions.

According to the 2021 United Nations Environment Programme (UNEP) Report, achieving a sustainable future requires significant systemic changes. This transformation will impact the technological, economic, and social structures of society, along with our worldviews, conventions, and governance systems. To ensure human prosperity, social inclusion, and a resilient Earth system, this transformational future envisions the seamless integration of people and planet across different scales. Embracing a holistic perspective provides opportunities to accelerate and leverage the shift towards sustainable development, preventing us from getting stuck in outdated practices.

In pursuit of a better and more sustainable future for all, the UN's 2030 Agenda for Sustainable Development issues a compelling call to action, urging us to "transform our world." The Sustainable Development Goals (SDGs) outlined in the agenda are ambitious, comprehensive, and groundbreaking initiatives. They carefully balance economic, social, and environmental aspects of sustainable development and are deeply interconnected. These goals are organised around the five Ps: people, planet, prosperity, peace, and partnership.

Transformations towards sustainability necessitate a reevaluation and restructuring of governance processes and practices. Governance, in this context, encompasses the full range of institutions and relationships involved in the process of governing, including decision-making, action-taking, and the selection of collective goals. This article delves into the role of the judiciary in guiding the transformation process towards a sustainable and equitable future, recognising that transition governance involves multiple stakeholders. An essential partner in achieving sustainability and the SDGs is the judiciary.

The SDGs place a strong emphasis on the rule of law and justice in environmental matters as fundamental pillars of development. The judiciary is tasked with enabling the promotion of environmental rule of law and ensuring equal access to justice for all, particularly within SDG16's objective of "peace, justice, and strong institutions." Robust judiciaries, supported by effective management, human and constitutional rights, resource conservation, and enforcement of environmental and planning laws, play a pivotal role in ensuring good governance and the attainment of the SDGs. Judicial intervention, through the formulation, enhancement, and enforcement of environmental legislation and the advancement of sustainability agendas, serves as a strategic tool to drive transformative changes.

To illustrate this concept, the Indian climate change scenario serves as a case study, demonstrating how transformative discourse can be used. In the global north, climate litigation is driven by diverse mindsets, comprehensive legal and policy frameworks, and climate change challenges. This litigation includes cases against "Carbon Majors," encompassing allegations of harm, actions related to fraud and exposure, challenges to misleading greenwashing marketing practices, and legal disputes over permits for high-emission projects. Such incidents garner public attention and influence major players, compelling them to alter their behaviour and advocate for climate-friendly policies.

In contrast, climate change litigation in the developing world has historically struggled to address crucial issues, such as inadequate regulatory and policy frameworks, governance limitations on management and enforcement, ineffective resource management, and a lack of political will. Recent trends, however, suggest that the global south is undergoing a shift in legal terminology due to a focus on disaster management, human and constitutional rights, resource conservation, and the enforcement of existing environmental and planning legislation, among other factors. This shift indicates a growing recognition of the importance of legal methods in addressing climate-related challenges in developing regions.

Through this exploratory discussion, this paper presents a novel perspective on

approaching "climate litigation".¹ The research offers a fresh interdisciplinary examination of Indian court rulings within the context of sustainability transitions, which align with the principles of environmental rule of law. In essence, it proposes an agenda for sustainability that fosters gradual changes towards a more sustainable future. The article is structured into five sections, starting with the introduction. The second section presents a pluralistic viewpoint by briefly delving into, investigating, and characterizing the body of social science literature related to sustainability transitions. Section three assesses the judiciary's role in responding to the transformative agenda, highlighting how the application of environmental rule of law can serve as a catalyst for transformative change. Section four conducts an analysis of three distinct categories of transformative discourse: "climate consciousness," "climate accountability," and "climate futurity." This analysis is applied to notable Indian climate-related legal cases from both the Supreme Court and the National Green Tribunal (NGT). Finally, the concluding section ties together the key findings.

2. THEORETICAL REVIEW OF TRANSFORMATIONS TOWARD SUSTAINABILITY

Transformation, which can be defined as "alterations in physical or qualitative attributes, structure, or the process of creating meaning", can also be understood as a psychosocial development that involves unlocking human potential to drive positive change for improved lives². Transformation is essentially the process of changing something into something else, encompassing advancements in both society and technology driven by diverse forms of knowledge in the pursuit of favourable, sustainable futures. It can be viewed as a structured, goal-oriented process managed from the top-down within a specific domain or as a radical, grassroots approach to change. This concept encompasses "the active establishment of new practices and interpretations and carries the intent to shift a situation towards a more advantageous state".³

¹ *Global Climate Litigation Report: 2020 Status Review*, UNEP (Aug. 1, 2023, 5:00 PM), <https://www.unep.org/resources/report/global-climate-litigation-report-2020-status-review>

² Karen O'Brien, *Global environmental change II From adaptation to deliberate transformation*, 36 *PROGRESS IN HUM. GEOGRAPHY* 667, 670 (2012)

³ S. Grenni, K. Soini and L.G. Horlings, *The inner dimension of sustainability transformation: how sense of*

Promoting transformation is advocated as a solution for addressing societal change and environmental sustainability challenges. According to Patterson et al., transformations towards sustainability involve "profound alterations in the structural, functional, relational, and cognitive aspects of systems, resulting in new patterns of interactions and outcomes". This definition draws from a substantial body of scholarly literature and places a significant emphasis on the processes of social change required to advance towards more sustainable and equitable futures. This approach can be viewed from both a normative perspective, where it is seen as a positive and desirable pursuit, and an analytical perspective, which explores what actually takes place as well as how and why it occurs⁴. Transformations in this context encompass actions that address the root causes of unsustainable behaviours, ultimately leading to fundamental shifts in societal value systems and transforming relationships at individual, political, and practical levels simultaneously⁵.

2.1 The argument between gradual and drastic changes

Changes that are either extreme or incremental might trigger transformations. Incremental change refers to gradual adjustments made over time, often in response to observed or anticipated shifts, and these adjustments can be of a short-term nature. It's important to note that while these changes start small, they can grow and build up, eventually leading to significant shifts on a larger scale.⁸ This can have systemic consequences. As suggested by Lindblom, a series of swift, successive small changes can bring about a radical transformation of the current state of affairs more rapidly than infrequent major policy changes."⁶

For the sake of this definition, "radical change" refers to "changes that have systemic effects and are regarded as structural shifts that challenge our assumptions, beliefs, and values, as well as governmental regimes, development paradigms, and power relations".⁷

Radical action is prioritized over gradual action in the discourse on sustainable transitions.

place and values can support sustainable place-shaping, 15 SUSTAINABILITY SCI. 411, 412-413 (2020)

⁴ James Patterson, Karsten Schulz, Joost Vervoort, Sandra van der Hel, Oscar Widerberg, Carolina Adler, Margot Hurlbert, Karen Anderton, Mahendra Sethi & Aliyu Barau, Exploring the governance and politics of transformations towards sustainability, 24 ENV. INN. & SOCIETAL TRANSITIONS 1, 2 (2017)

⁵ Leah Temper, Mariana Walter, Iokiñe Rodríguez, Ethemcan Turhan & Ashish Kothari, A perspective on radical transformations to sustainability: resistances, movements and alternatives, 13 SUSTAINABILITY SCI 747, 751 (2018)

⁶ Charles E. Lindblom, Still Muddling, Not Yet Through, 39 PUB. ADMIN. REV. 517, 520 (1979)

⁷ James Patterson, *supra* note 4

Due to their "lack of goal orientation, conservatism, limited applicability, and un-conduciveness to analysis,"⁸ as well as being "shallow, partial, and slow," incremental actions are thought to be insufficient to attain the desired goals.

According to Temmer, "altering the taken-for-granted frames of reference without adding or adjusting some instruments, processes, or structures is deemed insufficient."⁹ However, implementing extensive, rapid, and significant radical change is not always simple. Radical changes may be reacted to, rejected, or even cause an organisational crisis, which leads to discontinuity.

While there is growing support for radical change in Western nations, the situation is distinct in emerging and developing economies. In these economies, essential questions revolve around which transformation is needed, who benefits from it, and who drives it. These regions face formidable challenges in bringing about transformative changes that reshape the relationship between the environment, the populace, resource utilisation, and emissions. These challenges are exacerbated by high population densities and fundamental human needs¹⁰.

Moreover, the presence of dysfunctional institutions, both formal and informal, further exacerbates the situation. These institutions tend to favour a small minority while limiting the advantages accessible to the majority. One glaring issue lies in the lack of coordination and the inadequacy of synergies between regulatory bodies and their operational processes. This includes constraints related to human and technical capacity, which hinder effective governance and progress.

In this situation, Patterson's stance of incorporating gradual change within the transformative agenda offers a compromise. Putting a normative emphasis on sustainability transformations "helps to orient incremental efforts within a larger narrative of

⁸ Catrien J.A.M. Termeer, Art Dewulf & G. Robbert Biesbroek, Transformational change: governance interventions for climate change adaptation from a continuous change perspective, 60 J. ENV. PLAN. & MGMT. (2017)

⁹ *Id.*

¹⁰ *Transformations for Sustainable Development*, UNESCAP (Aug. 10, 2023, 6:00 PM), <https://www.unescap.org/sites/default/files/Full%20report.pdf>

transformative change," as the author puts it¹¹. Variation does not mean "massively or quickly," but it might also be the result of small, accumulative changes... moving society along diverse national, regional, and contextual approaches towards a sustainable future, notably by using already-in-place institutions and regulatory frameworks¹². In underdeveloped economies, domestic and localised incremental sustainability measures could result in cumulative, controllable transformational shifts.

Understanding (values, principles, and institutions, including the social context limitations that underlie the transformative process), determining the current ground realities, developing and strengthening the capabilities to change (for example, through technological innovation and leadership), and putting into practice and keeping an eye on the preferred solution are some examples of required responses. In order to achieve a sustainable future, one must "connect long-term normative sustainability goals with the realities of incremental decisions in the present"¹³.

3. RULE OF LAW IN THE ENVIRONMENT, THE JUDICIARY, AND GOVERNANCE FOR TRANSITIONS

The UNEP Governing Council introduced the term "environmental rule of law" with the aim of reducing violations of environmental laws and promoting sustainable development. Decision 27/9 in February 2013 rejuvenated the integration of the rule of law into environmental issues¹⁴.

As per the 2019 UNEP Report, institutions, particularly the judiciary, play a pivotal role as drivers of sustainable development. The concept of environmental rule of law provides a framework for bridging the gap between environmental laws on paper and their practical implementation, making it indispensable for achieving the Sustainable Development

¹¹ James Patterson, *supra* note 4

¹² *Summary Update 2021 for Policymakers*, UNEP (Aug. 3, 2023, 4:00 PM), https://ozone.unep.org/sites/default/files/assessment_panels/EEAP-summary-update-2021-for-policymakers.pdf

¹³ James Patterson, *supra* note 4

¹⁴ *Proceedings of the Governing Council/Global Ministerial Environment Forum at its first universal session*, UNEP (Aug. 2, 2023, 6:00 PM), [https://wedocs.unep.org/bitstream/handle/20.500.11822/17292/K1350945.pdf?sequence=%203&isAllowed=y%20\(accessed15%20December%202020\)%2035-35](https://wedocs.unep.org/bitstream/handle/20.500.11822/17292/K1350945.pdf?sequence=%203&isAllowed=y%20(accessed15%20December%202020)%2035-35)

Goals¹⁵. The absence of environmental rule of law makes it exceedingly difficult to attain equal economic growth, inclusive social development, and environmental sustainability.

In line with the 2030 Agenda, development must revolve around justice and environmental rule of law. Access to impartial justice systems and accountable democratic institutions is imperative for achieving sustainable development, particularly within the framework of SDG16 (goal 16.3). The environmental rule of law is ingrained in this context through institutional values and practices.

According to the 2021 UNEP report¹⁶, achieving a sustainable future necessitates transformative systemic change. The environmental rule of law, which sets society on a sustainable course, forms the basis for the judiciary's role as catalysts for sustainability transitions. By elevating sustainability to a dynamic adjudicatory platform, the judiciary contributes to transformative change in two significant ways. Firstly, the traditional legal system's compliance and enforcement mechanisms, emphasizing responsibility, transparency, and legitimacy, exert a substantial influence on sustainability reforms. Through the strengthening of environmental laws and policies and the reinforcement of the rule of law, including the eradication of corruption and the enhancement of institutions like independent judiciaries, the judiciary contributes to the transformative agenda. Thus, the effective application and enforcement of environmental regulations are indispensable for the advancement of sustainability.

Second, the court implements a strong sustainability agenda that steers transformational change through the "culmination of many seemingly small but strategic actions". In order to assist the sustainability agenda in judicial decision-making, a "people and planet centered perspective" adopting synergetic and "holistic" techniques is necessary. The judiciary's adoption, validation, and scaling up of sustainability rulings aid in the process of transformational change. Achieving a decent life and well-being, adopting responsible principles, reducing externalities and inequities, reducing carbon emissions, and

¹⁵ *Environmental Rule of Law: First Global Report*, UNEP (Aug. 2, 2023, 6:30 PM), <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report#:~:text=The%20UN%20Environment%20report%20found,widespread%20species%20and%20habitat%20loss>

¹⁶ Summary Update 2021 for Policymakers, *supra* note 12

technological innovation are a few of them¹⁷.

Within this framework, the judiciary plays an active and gradual role in implementing the environmental rule of law to foster transformative sustainability. This approach acknowledges that the progress of the environmental rule of law is gradual and not strictly linear¹⁸. It involves merging essential environmental sustainability requirements with elements of the rule of law, which encompass fairness, justice, and accountability in laws, forming the basis for environmental governance that safeguards rights and upholds fundamental responsibilities. By tackling various issues related to environmental sustainability, including climate change, biodiversity depletion, and soil deterioration, the environmental rule of law has transitioned from being relatively unknown to being widely recognized and influential.

3.1 Indian judicial system, climate change, and changes

The conversation about changes as an urgent social reaction to climate change is getting more heated. To generate comprehensive solutions that fulfill the 1.5C reduction targets set forth in the Paris Agreement, transformational change necessitates rapid and systemic societal transformations. Improving governance interventions is necessary to envision and shape a move towards more ambitious climate change mitigation and adaptation activities. In this situation, the judiciary's strategic interventions aid in the realization of this aim.

The discussion begins by addressing the worldwide perspective on how the judiciary responds to climate governance before delving into the Indian judiciary's role. It is emphasized that judicial involvement is crucial for advancing sustainable futures and actively promoting transformative outcomes.

Justice Benjamin outlines four reasons why the judiciary's engagement in addressing climate change is pivotal. First, it's argued pragmatically that the court system is irreplaceable due to the absence of better alternatives¹⁹. Second, refraining from court involvement would stagnate environmental jurisdiction and hinder the legal system's adaptation in a rapidly changing world. Third, permitting genuine court action complements the judiciary's role in

¹⁷ *Id.*

¹⁸ *UNEP Annual Report 2019*, UNEP (Aug. 4, 2023, 5:00 PM), <https://www.unep.org/resources/unep-annual-report-2019>

¹⁹ *ADB Annual Report 2020*, ASIAN DEVELOPMENT BANK (Aug. 5, 2023, 7:00 PM), <https://www.adb.org/sites/default/files/institutional-document/691766/adb-annual-report-2020.pdf>

societal change. Lastly, the impact of climate litigation on environmental issues like environmental impact assessments, protected areas, deforestation, water resources, wetlands, and desertification cannot be underestimated.

Similarly, Chief Justice Brian Preston asserts that the judiciary can contribute to addressing climate change in at least nine distinct ways as a vital and impartial component of the government²⁰. These roles encompass ensuring equal access to justice, promptly addressing climate change claims, upholding the rule of law, compelling action from the executive, legislature, and private sector, clarifying and defending the foundational values of the law, promoting environmental values, aiding the development of climate change law and policy, and making evidence-based decisions²¹. In this context, judges who are well-trained, adequately resourced, and motivated play a significant role in enhancing governance, climate outcomes, and the rule of law.

Justice Mansoor Ali Shah highlights the crucial role of courts in establishing a global judicial consensus on climate justice²². Lord Carnwath underscores the importance of individuals learning from one another through exemplary judgments to address the global challenge of climate change.

Recent years have witnessed a surge in climate litigation and judicial responses to the global discourse on climate jurisprudence, as indicated by scholarly works, international reports, and various organizations. Notable global climate change litigation revolves around themes such as rights-based litigation (including issues of standing, the right to a healthy environment, intra- and intergenerational equity, the public trust doctrine, and rights of nature), enforcement of statutory and executive commitments related to climate change, the impact and adaptation to climate change, corporate accountability (especially concerning fossil fuel producers), and addressing climate vulnerabilities.

3.2 Climate change and the Indian judiciary: A transformative discourse

An overview of the situation surrounding India's resolve to combat climate change demonstrates progress. Three linked initiatives show how the government has responded to

²⁰ Brian J. Preston, *The Contribution of the Courts in Tackling Climate Change* Get access Arrow, 28 J. ENV. L. 11, 14-16 (2016)

²¹ *Id.*

²² ADB Annual Report 2020, *supra* note 19

the demand for group action. These are fundamental and swift transformations that involve low-carbon shifts in a number of industries, new institutional and technological frameworks for comprehensive results, and mutually reinforcing well-defined policies²³. By 2030, India has committed to voluntarily reducing emissions, generating 40% of its installed electric power capacity from non-fossil fuel sources, and adding 2.5–3 billion tonnes of extra carbon sinks through the expansion of its forest cover.

India lacks comprehensive climate legislation, despite multiple environmental laws addressing various aspects of climate change²⁴. Nevertheless, India has gained recognition for its proactive judiciary's progressive stance on environmental matters. In the context of climate change litigation, climate issues typically take a secondary role, influenced by the use of climate-related terminology, the protection of human and constitutional rights, and the application of existing environmental laws. The authors, however, present an alternative rationale for India's climate litigation, categorizing it into three themes: "climate accountability," "climate futurity," and "climate consciousness." These categories align with the discourse on sustainability transformations underpinned by the environmental rule of law, aiding in the realization of the SDGs and climate commitments.

A robust foundation for climate change litigation is provided by having independent, influential, and specialized judiciaries. Such judiciaries expedite gradual yet cumulative structural changes that drive sustainability transitions. In climate matters, the court acts as a catalyst for transformation by promoting the environmental rule of law²⁵. This entails establishing clear and unequivocal laws, enforcing them, strengthening environmental legislation, ensuring accountability and transparency in public decision-making, fostering cross-sectoral coordination among stakeholders, and making sustainability and the SDGs central to judicial decision-making to leave no one behind.

The leverage of the judiciary can be effectively applied in various areas, including safeguarding the right to a healthy environment, addressing global crises while promoting human well-being, enforcing commitments under the Paris Agreement for emissions

²³ *India's Intended Nationally Determined Contribution (INDC): Working Towards Climate Justice*, FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (Aug. 7, 2023, 6:30 PM), <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC188478/#:~:text=The%20INDC%20submitted%20by%20India,technology%20transfer%20and%20capacity%20building>

²⁴ The acts include water, air and environment, electricity and energy efficiency, disaster management and forests.

²⁵ Summary Update 2021 for Policymakers, *supra* note 12

reduction and a low-carbon economy, considering environmental impacts in decision-making, phasing out unsustainable practices, enforcing environmental taxes and subsidies, and implementing energy regulations. Ultimately, the primary objective of the environmental rule of law is to shift behaviour towards sustainability by instilling an expectation of compliance with environmental laws²⁶.

The authors argue that the Indian judiciary contributes to an ongoing transformation in climate change through a step-by-step or incremental process facilitated by the environmental rule of Law. A notable 2021 Supreme Court decision, as exemplified by Justice Chandrachud, emphasizes that the environmental rule of law seeks to provide essential tools—conceptual, procedural, and institutional—to structure the discourse on environmental protection, including climate change. Its aim is to enhance our understanding of environmental challenges, encompassing their historical context, current impacts stemming from human-nature interactions, and prospects for the future should we significantly alter our current destructive trajectory²⁷.

According to Lindblom, this step-change procedure can be completed quickly because the phases are just incremental. They don't upset the apple cart, cause major rifts, or cause as many paralyzing schisms as suggestions for more radical change²⁸. These metaphors must be grounded and realized in both desired present realities and aspirational futures in order to be effective in a developing economy. With this context in mind, the authors' classification of "climate consciousness," "climate accountability," and "climate futurity" helps to develop sustainable niches for "incremental but cumulative changes"²⁹ that lead to transformation, as mentioned below.

3.3 Climate consciousness

Mary Robinson, former Irish President and Ban Ki-moon's special envoy for climate change, advocates for a "climate-conscious" approach to climate-related issues, emphasizing the importance of increasing awareness to limit global warming to 1.5°C³⁰. This approach aims

²⁶ *Id.*

²⁷ Himachal Pradesh Bus Stand Management and Development Authority v. Central Empowered Committee, 2021 SCC OnLine SC 15

²⁸ Charles E. Lindblom, *supra* note 6

²⁹ Summary Update 2021 for Policymakers, *supra* note 12

³⁰ *Mary Robinson: climate justice must play a key role in the Paris Agreement*, THE CONVERSATION (Aug. 3, 2023, 5:00 PM), <https://theconversation.com/mary-robinson-climate-justice-must-play-a-key-role-in-the-paris-agreement-56343>

to enhance understanding and address the root causes of climate problems. Climate consciousness involves recognizing reality rather than just perceiving climate threats and reevaluating behaviours in the context of the climate crisis³¹.

Chief Justice Preston also supports the climate-conscious approach, which involves considering climate change issues and consequences when formulating legal solutions. This approach leads to forward-thinking, systematic guidance that not only identifies causes and impacts but also promotes a holistic approach to achieving climate sustainability and the Sustainable Development Goals (SDGs), including reshaping our relationship with nature.

Climate consciousness fosters a sense of collective connection with the concepts of "climate change" and "climate justice," bridging global climate concerns with their local effects. It encompasses both negative feelings of "externalization" related to environmental degradation and positive sentiments aligned with the SDGs' integration, indivisibility, and universality. Climate consciousness encourages community action to prevent the tragedy of the commons through competing emotions.

The judiciary plays a crucial role in developing climate consciousness, catalyzing actions by various entities, including states, international organizations, the private sector, NGOs, and individuals. This contributes to security, stability, and adherence to the law, fostering climate sustainability and enhancing the legitimacy of both the judiciary and the environmental rule of law.

In India, climate consciousness is reflected in legal decisions. For instance, In **Ajay Khera v. Container Corporation of India**³², the National Green Tribunal (NGT) used the concept of carrying capacity in a case related to sustainability, emphasizing the importance of designing measures to limit the overuse of natural resources.

In **Nuggehalli Jayasimha v. Government of Delhi**³³, the NGT also addressed methane emissions from dairy livestock, highlighting the connection between emissions and climate change. The tribunal called for evidence-based inventories and sustainability indicators for livestock farming management.

³¹ Jerry Williams & Shaun Parkman, *On Humans and Environment: The Role of Consciousness in Environmental Problems*, 26 HUM STUDIES 449, 457 (2003)

³² *Ajay Khera v. Container Corporation of India*, 2019 SCC OnLine NGT 1346

³³ *Nuggehalli Jayasimha v. Government of Delhi*, 2020 SCC OnLine NGT 513

In Court on its own motion v. State of Himachal Pradesh and Rajiv Dutta v. Union of India³⁴ Forest-related cases demonstrate climate consciousness by emphasizing the importance of forests for ecological viability. These cases address issues like deforestation, forest fires, and their contributions to climate change and ecological harm.

Cases involving glaciers and their impact on climate change are also influenced by climate consciousness. These cases emphasize the need for measures to address environmental degradation caused by glacier recession. (**Durga Dutt v. State of Himachal Pradesh**³⁵)

Overall, climate consciousness in legal decisions promotes a comprehensive approach to addressing climate change, sustainability, and ecological balance.

3.4 Accountability for climate change

Accountability, while a noble concept, revolves around the obligation of powerful organizations and authorities to justify and explain their actions in a forum where they may face scrutiny, questions, and potential consequences. This concept is rooted in the principles of "answerability" and "enforceability" in matters of public interest, particularly in the public domain.

In climate change governance, accountability plays a pivotal role as it holds actors responsible for decisions that lead to greenhouse gas emissions. Given that addressing climate change necessitates collective action, accountability becomes essential for achieving emission reductions and the transformative shift toward decarbonization. As outlined in a thought-provoking article by Sareen and Haarstad³⁶, accountability serves as a means to comprehend power imbalances and potential biases in representation. It is underpinned by norms that are widely accepted as legitimate, metrics and data that provide insights into the distribution of goods and services when used for the public good, spaces for negotiation between different levels of authority, and coordination across governance levels to uphold principles of good governance. This concept, known as public purpose, though noble, can also be a subject of contention.

³⁴ Rajiv Dutta v. Union of India, 2017 SCC OnLine NGT 30.

³⁵ Durga Dutt v. State of Himachal Pradesh, NGT order dated February 6, 2014

³⁶ Siddharth Sareen & Havard Haarstad, *Bridging socio-technical and justice aspects of sustainable energy transitions*, 228 APPLIED ENERGY (2018)

4. CONCLUSION

In conclusion, the climate crisis serves as a compelling wake-up call, challenging our current way of life and the exploitation of the Earth's finite resources for the benefit of a select few and the current generation alone. It highlights a lack of human awareness and concern for the choices and risks associated with living in the Anthropocene era. However, as we become increasingly aware of the potentially irreversible consequences of climate change, we are actively seeking sustainable solutions and transformations.

The authors put forth a novel argument centered on the pursuit of sustainable transformations achieved through the enforcement of environmental laws, primarily through robust institutions like the judiciary. Strengthening the application and enforcement of environmental regulations, coupled with a strong focus on sustainability, contributes to the adoption of the environmental rule of law, fostering transformative change. As guardians of the environmental rule of law, the judiciary lays the legal groundwork for transformative changes at the societal, organizational, and individual levels. These changes are aimed at reversing current trends, including climate change, biodiversity loss, and pollution, which threaten the well-being of present and future generations, as well as the survival of other species. Ultimately, this contributes to the realization of a collective vision for a sustainable future for humanity.

The presented scenarios, categorized as climate consciousness, climate accountability, and climate futurity, offer an innovative approach to sustainability. Climate-conscious judicial decisions raise awareness and shape a narrative by reframing climate risks as concrete threats aligned with sustainability and the Sustainable Development Goals (SDGs). The Indian judiciary underscores the importance of processes in climate accountability, emphasizing effective, responsible, and transparent decision-making as a transformative incremental step. The judicial exploration of climate futures aids in envisioning a decarbonization path that facilitates a gradual transition to a sustainable future. While these selected stories illustrate cumulative impacts, albeit gradual, they provide contexts for significant change. The legal contribution to the climate challenge, both in the present and the potential future, lends legitimacy, advances sustainability, and aligns with the objectives of the SDGs.