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Enforceability and Impact of CEDAW General Recommendations
Recommendations Nos. 37 (2018) and 40 (2024) on Women's
Inclusive Participation in Climate Governance in India

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List of Abbreviations

- CBDR-RC – Common but Differentiated Responsibilities and Respective Capabilities
- CEDAW – Convention on the Elimination of All Forms of Discrimination against Women
- COP – Conference of the Parties
- CDRI – Coalition for Disaster Resilient Infrastructure
- DMA – Disaster Management Act, 2005
- EIA – Environmental Impact Assessment
- EU – European Union
- EPA – Environment (Protection) Act, 1986
- GCF – Green Climate Fund
- GIA – Gender Impact Assessment
- GR – General Recommendation
- GRCB – Gender-Responsive Climate Budgeting
- IPCC – Intergovernmental Panel on Climate Change
- ISA – International Solar Alliance
- LiFE – Lifestyle for the Environment
- MoEFCC – Ministry of Environment, Forest and Climate Change
- NAFCC – National Adaptation Fund for Climate Change
- NAPCC – National Action Plan on Climate Change
- NCEEF – National Clean Energy and Environment Fund
- NDC – Nationally Determined Contribution
- NDMA – National Disaster Management Authority
- NIRDPR – National Institute of Rural Development and Panchayati Raj
- NMSA – National Mission on Sustainable Agriculture
- NGO – Non-Governmental Organization

- PIL – Public Interest Litigation
- PRI – Panchayati Raj Institution
- SAPCC – State Action Plan on Climate Change
- SDGs – Sustainable Development Goals
- SEWA – Self-Employed Women’s Association
- UNDP – United Nations Development Programme
- UNFCCC – United Nations Framework Convention on Climate Change

1. Introduction

Climate change is no longer a distant or abstract threat; it is an acute and accelerating reality with profound implications for human rights, development and social justice. Although climate discussions have historically revolved around emissions targets, environmental degradation, and technological solutions, the human dimensions especially those relating to gender have received comparatively delayed attention. Yet it is now incontrovertible that the impacts of climate change are neither uniformly distributed nor gender-neutral.¹

Women and girls, particularly those living in socio-economically marginalised or climate-vulnerable regions, face disproportionate burdens in such a scenario.² In developing countries such as India, this gendered vulnerability is sharpened by pre-existing disparities in access to education, healthcare, employment, political participation, and control over resources such as land and water.³ As a result, climate change does not merely replicate existing gender inequalities; it magnifies and reconfigures them. It compounds the social disadvantage of women in ways that are often underappreciated in both environmental and legal discourses.

For example, rural women in India are often responsible for procuring water, collecting firewood, and ensuring food security within households.⁴ These daily survival responsibilities are acutely affected by changing rainfall patterns, drought, deforestation, and soil degradation. In the wake of disasters floods, cyclones, or heatwaves women are more likely to be displaced, more vulnerable to violence in refugee camps, and less likely to be represented in recovery planning.⁵ Despite these realities, India's National Action Plan on Climate Change (NAPCC) and related policy frameworks have traditionally been drafted using gender-neutral language, which fails to acknowledge the unique burdens carried by women.⁶ The result is a systemic unaware of gender in climate governance. This policy-level 'gender-neutrality' is not merely a bureaucratic oversight; it represents a normative failure to protect the right to life with dignity under Article 21 of the Indian Constitution and a breach of the substantive equality guaranteed under Article 14.

While early international environmental and human rights instruments were often 'gender-blind,' international law is not static. Over the years, treaty bodies have increasingly recognised that

¹ Intergovernmental Panel on Climate Change (IPCC), *Sixth Assessment Report: Impacts, Adaptation and Vulnerability* (2022) Summary for Policymakers, A.3.2.

² United Nations Development Programme (UNDP), *Gender and Climate Change: Asia and the Pacific Overview* (2016) 5–6.

³ World Bank, *Women, Business and the Law 2023* (2023) 92–95.

⁴ Bina Agarwal, *Gender and Green Governance: The Political Economy of Women's Presence Within and Beyond Community Forestry* (OUP 2010) 38–41.

⁵ Oxfam India, *The Impact of Climate Change on Women and Marginalized Communities in India* (2020) 7–9.

⁶ Ministry of Environment, Forest and Climate Change (MoEFCC), *National Action Plan on Climate Change (NAPCC)* (Government of India 2008).

environmental harm undermines the enjoyment of core human rights including the rights to life, health, housing, and education and does so in deeply gendered ways.⁷ This has led to a conceptual expansion of the obligations under CEDAW, culminating in the adoption of General Recommendation No. 37 (2018), on the gender-related dimensions of disaster risk reduction and climate change, and General Recommendation No. 40 (2024), on the equal and inclusive representation of women in decision-making systems.⁸ These two General Recommendations mark a pivotal shift in the interpretation of States' duties under CEDAW. They reflect an understanding that climate justice and gender justice are inextricably linked and that a failure to consider one necessarily undermines the other.

Crucially, these General Recommendations are not created in a legal vacuum. The CEDAW Committee is empowered under Article 21 of the Convention to issue General Recommendations, which elaborate on States' obligations in relation to the substantive articles of the Convention.⁹ Scholars note that their repeated citation in concluding observations and court decisions has elevated their normative standing from mere policy tools to dynamic extensions of binding legal obligations.¹⁰ In the broader international human rights framework, these instruments provide the necessary 'authoritative guidance' to bridge the gap between abstract treaty text and complex modern realities like climate change law.¹¹

The role of soft law, particularly in emerging and contested areas such as climate governance, has been increasingly acknowledged in international legal scholarship. Dinah Shelton characterises soft law as occupying a "twilight zone" between morality and legality: it may lack coercive enforceability but can produce real normative effects.¹² In practice, soft law often precedes the development of hard law and lays the groundwork for constitutional or legislative innovation at the national level.¹³ The growing citation of General Recommendations by national courts, including India, supports this view. In *Vishaka v State of Rajasthan*, for instance, the Indian Supreme Court

⁷ John H Knox, 'Human Rights Principles and Climate Change' in Cinnamon Carlarne, Kevin R Gray and Richard Tarasofsky (eds), *The Oxford Handbook of International Climate Change Law* (OUP 2016) 224–241.

⁸ CEDAW Committee, *General Recommendation No 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change* (13 March 2018) UN Doc CEDAW/C/GC/37; CEDAW Committee, *General Recommendation No 40 on the Equal and Inclusive Representation of Women in Decision-Making Systems* (22 February 2024) UN Doc CEDAW/C/GC/40.

⁹ CEDAW (n 9) art 21.

¹⁰ Helen Keller and Geir Ulfstein, *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 133–135.

¹¹ *ibid*; see also Manisuli Ssenyonjo, 'Reflections on State Obligations with Respect to Economic, Social and Cultural Rights in International Human Rights Law' (2011) 15 *International Journal of Human Rights* 969.

¹² Dinah Shelton, 'Soft Law' in D Shelton (ed), *Handbook of International Law* (Routledge 2008) 327–348.

¹³ Anne Peters, *Soft Law as a New Mode of Governance* (Max Planck Institute for Comparative Public Law and International Law, 2009) https://www.mpil.de/files/pdf4/mpunyb_Peters.pdf accessed 24 June 2025.

treated CEDAW and its interpretive materials as persuasive sources in the absence of domestic legislation.¹⁴

As this thesis argues, General Recommendation 37 and General Recommendation 40 offer both a diagnostic and a prescriptive function. Diagnostically, they provide a nuanced mapping of how gender inequality intersects with climate vulnerability. Prescriptively, they offer concrete measures such as gender-responsive budgeting, inclusive policy-making, and intersectional representation in decision-making that States Parties can implement.¹⁵ Importantly, they do not treat women as passive victims of climate change but as agents of resilience and transformation, whose knowledge and leadership must be central to sustainable futures.

This thesis therefore aims to critically examine the enforceability and impact of CEDAW General Recommendation No 37 (2018) and CEDAW General Recommendation No 40 (2024) on women's inclusive participation in climate governance in India. It investigates how these international human rights norms can be operationalised within India's legal and policy architecture, especially given India's constitutional guarantees of equality and its progressive environmental jurisprudence. Specifically, the thesis evaluates India's compliance with its obligations under CEDAW in the context of climate governance, the gender sensitivity (or lack thereof) of national climate policies and institutions, and the role of the judiciary in fostering gender-responsive climate governance.

This thesis employs a doctrinal legal analysis to examine the text of the CEDAW Convention alongside the Indian Constitution, specifically Articles 14, 15, and 21. This is supplemented by a normative evaluation that assesses India's domestic climate policies primarily the National Action Plan on Climate Change (NAPCC) against the international standards established in CEDAW General Recommendations Nos. 37 and 40. The research is further grounded in desk-based analysis of judicial precedents, government reports, empirical gender-differentiated data regarding land and labor, and secondary academic literature to identify implementation gaps. While advocating for stronger judicial and international oversight, this thesis also addresses counter-perspectives, including the limitations of soft law enforceability and the traditionally executive-led nature of climate policy-making in India.

¹⁴ *Vishaka v State of Rajasthan* AIR 1997 SC 3011 (India), para 10.

¹⁵ General Recommendation 37 (n 11) paras 20–25; General Recommendation 40 (n 11) paras 12–21.

2. The CEDAW Framework and General Recommendations Nos. 37 and 40: A Normative Shift Towards Gender-Inclusive Climate Governance

2.1 CEDAW as a Living Instrument: Evolution of Interpretive Practice

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979, long before the global community began recognising environmental degradation and climate change as existential and legal challenges. Its original language though revolutionary for its time focused on eradicating traditional and systemic forms of gender discrimination in areas such as education, employment, marriage, and political participation.¹⁶ Environmental harm, let alone the gendered impact of climate change, was not within the drafters' purview. Yet, as the environmental crisis has evolved, so too has the interpretive practice of the CEDAW Committee, demonstrating the Convention's capacity to adapt to contemporary realities.

However, the CEDAW Committee has ensured the Convention's relevance by adopting the "living instrument" doctrine.¹⁷ This jurisprudential approach posits that human rights treaties must evolve to reflect contemporary societal challenges, allowing the Committee to extend the meaning of core articles to environmental justice.

Within this framework, the Committee utilizes its power under Article 21 to issue General Recommendations. While technically non-binding, these serve as authoritative interpretations that clarify State obligations. For the purpose of this thesis, this evolutionary function is most critical in relation to Articles 7 and 14. While Article 7 (public life) and Article 14 (rural women) do not explicitly mention the environment, their underlying logic of ensuring equitable participation and protecting vulnerable groups provides the normative basis for climate governance in light of modern challenges.¹⁸ This shift from "old principles" to "new problems" ensures that international human rights law remains responsive rather than rigid in the face of the climate crisis.

2.2 General Recommendation No. 37 (2018): The Normative Standard for Climate Resilience

General Recommendation No. 37, adopted in 2018, represents a significant jurisprudential development within the CEDAW framework. It is the first instrument issued by the CEDAW Committee that explicitly engages with environmental degradation and climate-induced disasters through a gender-responsive lens.¹⁹ While climate change had been increasingly recognised as a

¹⁶ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

¹⁷ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (2nd edn, NP Engel 2005) 59-61.

¹⁸ CEDAW (n 19) arts 7, 14.

¹⁹ CEDAW Committee, *General Recommendation No 37 on Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change* (13 March 2018) UN Doc CEDAW/C/GC/37.

human rights concern in other UN forums, CEDAW had until then remained focused on more traditional areas of gender discrimination. The release of General Recommendation No 37 thus signaled a deliberate and necessary expansion of the Committee's interpretive scope.

For the Indian context, General Recommendation 37 functions as a diagnostic tool to measure the adequacy of domestic relief. It dictates that States must address unequal access to early warning systems and the heightened risk of gender-based violence during displacement issues documented extensively in post-cyclone relief efforts in eastern India. Furthermore, General Recommendation 37 requires the integration of local women's traditional knowledge into environmental planning.

By aligning CEDAW with the Paris Agreement and the Sendai Framework,²⁰ General Recommendation 37 transforms women from “passive victims” into recognized “agents of resilience,” creating a legal expectation that India must move beyond its current gender-neutral mitigation strategies. It explicitly recognises women as frontline responders, knowledge holders, and community organisers.²¹

2.3 General Recommendation No. 40 (2024): Representation, Voice, and Decision-Making

While General Recommendation 37 articulated the substantive grounds for gender-inclusive climate governance, General Recommendation No. 40 (2024) advances the procedural vision. It focuses on how women's voices are systematically excluded from decision-making platforms, particularly in relation to environmental, climate, and disaster governance.²² The Recommendation frames such exclusion not as a marginal administrative issue, but as a fundamental failure of equality and democratic legitimacy.

General Recommendation 40 creates a normative scaffold for evaluating Indian institutions, such as the Ministry of Environment, Forest and Climate Change (MoEFCC). It recognises that legal equality is meaningless if women are not meaningfully present in institutions that define resource allocation, policy priorities, and structural responses to crises. General Recommendation 40 identifies both visible and invisible barriers to participation ranging from electoral rules and informal norms to financial constraints and discriminatory selection procedures.²³

²⁰ United Nations Office for Disaster Risk Reduction (UNDRR), *Sendai Framework for Disaster Risk Reduction 2015–2030*; UNFCCC, *Paris Agreement* (adopted 12 December 2015, entered into force 4 November 2016) UN Doc FCCC/CP/2015/L.9/Rev.1.

²¹ General Recommendation 37 (n 31) para 6.

²² CEDAW Committee, *General Recommendation No 40 on the Equal and Inclusive Representation of Women in Decision-Making Systems* (22 February 2024) UN Doc CEDAW/C/GC/40.

²³ General Recommendation 40 (n 38) paras 6–12.

To address these systemic issues, the CEDAW General Recommendation No 40 calls upon States to guarantee minimum representation of women in environmental ministries, intergovernmental panels such as IPCC delegations, and climate finance boards. It further urges the adoption of time-bound special measures such as quotas, financial incentives, and capacity-building initiatives to rectify historical exclusions, the conduct of periodic gender audits of climate-related policies and institutions, and the application of an intersectional approach that recognises how caste, class, ethnicity, disability, and age exacerbate barriers to participation.²⁴

Significantly, General Recommendation 40 reframes the discussion around institutional design. It argues that merely creating seats at the table is insufficient if the underlying structures remain biased or exclusionary. True inclusion, it suggests, requires systemic reform from how decisions are made to how outcomes are measured. This has particular resonance in countries like India, where institutional frameworks often reflect deeply embedded hierarchies, and where women from marginalised communities are underrepresented even within women's organisations themselves.²⁵

2.4 Normative Authority and Soft Law: General Recommendations as Interpretative Catalysts

Despite their significance, General Recommendations are often challenged on the grounds of their non-binding character. As “soft law” instruments, they do not by themselves impose legally enforceable duties upon States. However, this critique often underestimates the legal and normative function of soft law in international human rights regimes.

Soft law serves several critical roles. First, it clarifies obligations under existing treaties. Second, it guides judicial and administrative interpretation at national levels. Third, it often prefigures the development of customary international law by contributing to patterns of state practice.²⁶ As Dinah Shelton notes, soft law has the “advantage of flexibility, allowing the introduction of new norms or expectations without the delay of formal treaty processes.”²⁷

General Recommendations under CEDAW meet these criteria. They are increasingly referenced not only in Concluding Observations but also by regional courts and national judiciaries. For instance, in *Minister of Health v Treatment Action Campaign*, the South African Constitutional Court relied on international human rights instruments including CEDAW to interpret the right to health through a gender-sensitive framework.²⁸

²⁴ *ibid* paras 17–21.

²⁵ Bina Agarwal, ‘Participatory Exclusions, Community Forestry, and Gender: An Analysis for South Asia and a Conceptual Framework’ (2001) 29 *World Development* 1623.

²⁶ Shelton (n 45) 330–331.

²⁷ Dinah Shelton, ‘Soft Law’ in D Shelton (ed), *Handbook of International Law* (Routledge 2008) 332.

²⁸ *Minister of Health v Treatment Action Campaign* (2002) ZACC 15; 2002 (5) SA 721 (CC), para 94.

In India, the Supreme Court's landmark decision in *Vishaka v State of Rajasthan*²⁹ demonstrated the domestic applicability of international norms, including CEDAW, in the absence of specific legislation. Although not all Indian courts have followed this approach consistently, the *Vishaka* precedent remains a powerful example of how General Recommendations can fill interpretive gaps in national legal systems.

Moreover, the repeated invocation of General Recommendations in civil society shadow reports, UN reviews, academic commentary, and national policies has lent them customary-like authority.³⁰ Keller and Ulfstein suggest that in some contexts, the use of General Recommendations has approached a form of “functional normativity” a term that recognises the pragmatic authority of legal instruments whose legitimacy stems not from coercion but from acceptance, usage, and embeddedness in institutional practice.³¹

Thus, while General Recommendations may lack coercive force, their influence is far from negligible. They function as norm entrepreneurs, shaping how problems are defined, what solutions are considered legitimate, and how compliance is measured.

2.5 The Dual Relevance of General Recommendations 37 and 40 to India's Climate Governance

The potential of General Recommendations 37 and 40 is particularly salient in the Indian context. Although India ratified CEDAW in 1993, its climate governance continues to lack gender sensitivity in both design and implementation.³² The National Action Plan on Climate Change (NAPCC) makes no explicit reference to gender or women's participation, and most sectoral missions (e.g., energy, water, agriculture) have no dedicated gender component.³³ State-level climate plans also vary widely in their attention to inclusivity.

Moreover, the Ministry of Environment, Forest and Climate Change (MoEFCC) and associated bodies remain heavily technocratic and male-dominated, with little space for local women's voices or traditional ecological knowledge.³⁴ This is problematic not only from a democratic standpoint but also because it leads to inefficient and inequitable outcomes, particularly in rural and tribal areas where women's roles in natural resource management are crucial.

General Recommendation 37 and 40 offer a blueprint for reform. They provide both legal justification and strategic direction for India to realign its climate governance with its international

²⁹ *Vishaka v State of Rajasthan* AIR 1997 SC 3011.

³⁰ Charlesworth (n 22) 522.

³¹ Keller and Ulfstein (n 25) 140.

³² Ministry of Women and Child Development, *CEDAW Periodic Report: India's Sixth Report* (2019) para 68.

³³ MoEFCC (n 6).

³⁴ Centre for Policy Research (n 5) 9.

obligations. When read alongside Articles 14, 15, 21, and 48A of the Indian Constitution which guarantee equality, non-discrimination, life with dignity, and protection of the environment they form a powerful argument for judicial and legislative engagement.³⁵

India's obligations under the Paris Agreement, the SDGs, and now the interpretive guidance under CEDAW General Recommendations all point to a singular conclusion: climate governance must be inclusive, intersectional, and rights-based. This is not merely a matter of justice; it is a requirement of effective climate action.

2.6 Conclusion: General Recommendations as Building Blocks

This chapter has traced the evolution of CEDAW from a traditional rights treaty into a “living instrument” capable of addressing the climate crisis. Through General Recommendations No. 37 (2018) and No. 40 (2024), the CEDAW Committee has moved beyond identifying women as “vulnerable groups” to establishing clear procedural and substantive standards for inclusive governance. While these recommendations are technically soft law, their “functional normativity” provides the necessary interpretive scaffolding for domestic courts to fill legislative gaps.

In the Indian context, these instruments act as a diagnostic benchmark. They highlight the legal inadequacy of the National Action Plan on Climate Change (NAPCC), which currently operates in a gender-neutral vacuum that ignores both Article 7 (participation) and Article 14 (rural women) of the Convention. As this thesis argues, the question for India is no longer whether to adopt these norms, but how to operationalize them within a constitutional framework that already guarantees equality and dignity under Articles 14 and 21.

The following chapters will build directly upon this foundation. By synthesizing India's international commitments with its domestic constitutional jurisprudence, the research moves from this descriptive framework into a critical evaluation of how “soft” international standards can be transformed into “hard” domestic accountability. The focus shifts now to the Gender-Climate Nexus in India examining how land titles, labor structures, and judicial precedents can be harmonized with the CEDAW framework to construct a truly gender-responsive model of climate governance.

³⁵ Constitution of India 1950, arts 14, 15, 21, 48A.

3. India's Obligations under CEDAW: Legal Commitments, Reservations, and the Gender-Climate Nexus

3.1 India's Position within the CEDAW Framework: Beyond Formal Ratification

This chapter establishes the legal foundation of India's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Understanding these obligations is essential for assessing India's compliance with international law in the context of climate governance. Without situating India's commitments, reservations, and reporting practice under CEDAW, it is not possible to evaluate whether and how CEDAW General Recommendation No. 37 (2018) and General Recommendation No. 40 (2024) can be enforced in domestic law and policy.

India ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 9 July 1993, more than a decade after it was adopted by the UN General Assembly.³⁶ As a State Party, India is obligated under international law to implement the Convention's provisions in both law and practice, across legislative, executive, and judicial domains.³⁷ These obligations must be fulfilled in good faith, as mandated by Article 26 of the Vienna Convention on the Law of Treaties, which articulates the principle of *pacta sunt servanda*: treaties must be honoured.³⁸

CEDAW goes beyond formal equality to promote substantive equality, requiring the state to actively redress structural and systemic disadvantages.³⁹ Its provisions cover a wide range of areas education, employment, health, political participation, rural livelihoods, and family relations and demand that States Parties ensure equality not only in public institutions but also in the private sphere.⁴⁰

Importantly, CEDAW's conception of discrimination includes both direct and indirect discrimination, as well as intersectional and multiple forms of disadvantage an interpretive approach consistently expanded by the CEDAW Committee through its General Recommendations (GRs).⁴¹ Though not legally binding in the strict positivist sense, GRs are widely recognised as authoritative interpretations of the Convention's provisions and have been cited by courts and

³⁶ United Nations, *CEDAW Ratification Status – India* <https://treaties.un.org> accessed 24 June 2025.

³⁷ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women*, 1249 UNTS 13.

³⁸ Vienna Convention on the Law of Treaties, 1155 UNTS 331, art 26.

³⁹ Sandra Fredman, *Discrimination Law* (2nd edn, OUP 2011) 17–19.

⁴⁰ CEDAW (n 55) arts 1–16.

⁴¹ CEDAW Committee, *General Recommendation No 28 on the Core Obligations of States Parties under Article 2*.

treaty bodies worldwide to clarify the scope of women's rights.⁴² The UN Human Rights Council, the Inter-American Court of Human Rights, and even constitutional courts in India have occasionally used General Recommendations to interpret the scope of women's rights under national law.⁴³

While the 1979 Convention did not explicitly mention “climate change,” the CEDAW Committee has utilized its interpretive authority under Article 21 to evolve the treaty into a “living instrument.” This evolution culminates in General Recommendation No. 37 (2018) and No. 40 (2024). For India, these are not just aspirational guidelines; they are authoritative benchmarks against which domestic climate governance must be measured. If India’s climate policies fail to account for the gendered dimensions of disaster and decision-making, it is not merely a policy failure it is a breach of international legal commitments.

However, India’s ability to meet these benchmarks is complicated by its reservations to Articles 5(a) and 16(1).⁴⁴ Article 16 mandates equality in all matters relating to marriage and family life, including rights to property and inheritance.⁴⁵ By signaling that it implements these provisions only in conformity with a policy of non-interference in religious personal laws, India has created a structural tension between universal human rights and legal pluralism.⁴⁶ This fragmentation has implications far beyond family law.⁴⁷ As scholars note, the entrenchment of gender hierarchies within religious systems makes reform contingent on intra-community dynamics that are often resistant to change.⁴⁸ Specifically, personal laws relating to inheritance shape women's access to land and economic resources the very assets central to climate resilience.⁴⁹ In agrarian households, patriarchal inheritance practices ensure that women often lack formal land titles.⁵⁰ This exclusion directly restricts their eligibility for government compensation, access to climate adaptation funds, and participation in formal agricultural programs.⁵¹

⁴² Helen Keller and Geir Ulfstein, *UN Human Rights Treaty Bodies: Law and Legitimacy* (CUP 2012) 129–135.

⁴³ *Vishaka v State of Rajasthan* AIR 1997 SC 3011 (India); African Commission on Human and Peoples’ Rights v Kenya Rights, *ACHPR v Kenya* (Ogiek case) (2017) App No 006/2012.

⁴⁴ UN Treaty Collection, ‘Declarations and Reservations: India’ <https://treaties.un.org> accessed 29 June 2025.

⁴⁵ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 16.

⁴⁶ Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press 2000) 225–227.

⁴⁷ Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa* (2nd edn, CUP 2006) 340–346.

⁴⁸ Flavia Agnes, ‘Redefining the Agenda of the Women’s Movement within a Secular Framework’ (1994) 29(18) Economic and Political Weekly WS38–WS44.

⁴⁹ CEDAW Committee, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India* (2014) UN Doc CEDAW/C/IND/CO/4-5, paras 14–16.

⁵⁰ Bina Agarwal, *A Field of One’s Own: Gender and Land Rights in South Asia* (CUP 1994) 35–45.

⁵¹ Oxfam India, *Women and Land Ownership in India: The Status, Challenges and Road Ahead* (2020) 6–9.

3.2 Analysing India's CEDAW Obligations: Scope, Normative Content, and Domestic Gaps

Evaluating India's compliance with gender-responsive climate governance requires a deconstruction of the normative content of its obligations under CEDAW. India's 1993 ratification imposes duties that transcend aspirational rhetoric, requiring the state to transform discriminatory institutions and address structural inequalities.⁵² These duties apply with equal force to climate and environmental governance sectors historically viewed through a "gender-neutral" technocratic lens.

Substantive Equality vs. Gender-Blind Policy

The cornerstone of CEDAW is its substantive approach to equality. Article 1 defines discrimination broadly to encompass both direct and indirect forms.⁵³ In the context of the climate crisis, this imposes an outcome-based standard of compliance. India must move beyond formal non-discrimination to interrogate whether seemingly neutral climate policies produce discriminatory results.⁵⁴ For example, a disaster relief scheme that compensates "heads of household" or "registered landowners" appears neutral. However, since women own less than 13% of agricultural land in India despite providing the majority of the labor such policies are indirectly discriminatory.⁵⁵ Under CEDAW, India has a positive obligation to remove these *de facto* barriers to ensure equality of "access and results," a standard yet to be met by the National Action Plan on Climate Change (NAPCC).⁵⁶

Core State Duties: The Article 2 Framework

Article 2 establishes foundational, non-derogable obligations to integrate gender equality into the legal and institutional framework. As interpreted by General Recommendation No. 28, this includes a tripartite duty: to respect (refrain from discrimination), protect (regulate third parties), and fulfill (take affirmative measures).⁵⁷

In Indian climate governance, this mandate requires the Ministry of Environment, Forest and Climate Change (MoEFCC) to pivot from a "passive posture" to a "proactive stance." Currently, there is a lack of mandatory Gender Impact Assessments (GIAs) for large-scale infrastructure and

⁵² Sandra Fredman, *Discrimination Law* (2nd edn, OUP 2011) 16–20.

⁵³ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 1.

⁵⁴ Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press 2000) 217–218.

⁵⁵ Bina Agarwal, *Gender and Green Governance: The Political Economy of Women's Presence Within and Beyond Community Forestry* (Oxford University Press 2010) 101–104.

⁵⁶ CEDAW Committee, 'General Recommendation No 25 on Article 4, Paragraph 1, on Temporary Special Measures' (2004) UN Doc A/59/38, paras 7–9.

⁵⁷ CEDAW Committee, 'General Recommendation No 28 on the Core Obligations of States Parties under Article 2' (2010) UN Doc CEDAW/C/GC/28, paras 9–13.

renewable energy projects. This absence violates the duty to "protect" women from harms perpetrated by corporate and extractive actors who often displace women from common lands without adequate gender-sensitive resettlement.⁵⁸

Meaningful Participation vs. Technocratic Exclusion

Articles 7 and 8 mandate the right to participate in public life and decision-making. The CEDAW Committee emphasizes that this requires meaningful influence, not just numerical presence. While India's 73rd and 74th Constitutional Amendments provide a successful precedent for 33% reservations in local governance, this logic has not permeated the upper echelons of climate missions.⁵⁹

In light of General Recommendation No. 40 (2024), India's climate architecture remains a "technocratic male-dominated" space.⁶⁰ Most mission steering committees lack formal mandates for women's representation, resulting in policies that treat women as "victims" to be managed rather than "agents" with ecological expertise.⁶¹

Intersectionality: Addressing Differentiated Vulnerabilities

India's socio-legal landscape requires that CEDAW be applied through an intersectional lens. A tribal woman displaced by a dam, a Dalit laborer in an arid region, and a coastal fisherwoman face distinct layers of climate harm.⁶² General Recommendation No. 28 explicitly requires States to dismantle these interlocking systems of disadvantage.⁶³

Climate governance in India frequently adopts a "universalist" approach, assuming a single archetypal woman. This fails to account for the fact that marginalized groups including LGBTQ+ individuals and nomadic communities are often the first to lose access to resources during climate-induced scarcity.⁶⁴ Proper compliance requires differentiated strategies rather than gender-blind universalism.

⁵⁸ *ibid.*

⁵⁹ CEDAW Committee, 'General Recommendation No 28 on the Core Obligations of States Parties under Article 2' (2010) UN Doc CEDAW/C/GC/28, paras 10–12.

⁶⁰ CEDAW Committee, 'General Recommendation No 28 on the Core Obligations of States Parties under Article 2' (2010) UN Doc CEDAW/C/GC/28, paras 7–11.

⁶¹ Centre for Policy Research, 'Women in India's Climate Governance: Representation and Accountability' (2022) 4–6.

⁶² Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color' (1991) 43(6) Stanford Law Review 1241, 1249–1255.

⁶³ CEDAW GR No 28 (n 58) paras 18–20.

⁶⁴ Flavia Agnes, 'Transgressing Boundaries of Law and Justice: Personal Laws and the Uniform Civil Code' in Raghuram Rajan and Rohini Somanathan (eds), *Breaking the Mould: Reimagining India's Economic Future* (Penguin Random House 2022) 213–218.

Accountability and Data: The Procedural Gap

Finally, India's obligations include transparency and the collection of sex-disaggregated data.⁶⁵ Without such data, the "lived experience" of women in the climate crisis remains legally invisible. India has yet to mainstream these metrics into its State Action Plans on Climate Change (SAPCCs), leaving a critical gap in public accountability.⁶⁶

3.3 India's Reservations to CEDAW: Religious Pluralism and the Structural Barrier to Climate Resilience

A meaningful assessment of India's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) cannot overlook the impact of its formal reservations, which significantly shape the scope of compliance. These reservations are not simply technicalities: they reveal how India balances its international commitments against domestic pluralism, and they have profound implications for women's access to resources, agency, and participation in climate governance.

India's ratification of CEDAW in 1993 was accompanied by two formal reservations, the most significant of which pertains to Article 16 a provision that guarantees equality in all matters relating to marriage and family life.⁶⁷ The Government of India declared that it would apply Article 16 "in conformity with its policy of non-interference in the personal affairs of any community without its initiative."⁶⁸

While this policy is often defended as a reflection of India's secularism and constitutional tolerance of minority rights under Articles 25 and 26 of the Constitution of India 1950, it has been consistently criticized for permitting discriminatory practices.⁶⁹

Under many personal law regimes particularly those governing Muslim, Christian, and Hindu customary practices women face disparate treatment in matters of property inheritance and asset distribution.⁷⁰ By shielding these regimes from reform, India has created a system of legal exceptionalism, where international equality standards are subordinated to religious autonomy.⁷¹

⁶⁵ Ministry of Women and Child Development, 'India's Sixth Periodic Report to the CEDAW Committee' (2019) paras 6–13.

⁶⁶ Ibid.

⁶⁷ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, art 16.

⁶⁸ United Nations Treaty Collection, 'Declarations and Reservations: India' https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en accessed 25 June 2025.

⁶⁹ Constitution of India 1950, arts 25-26.

⁷⁰ Flavia Agnes, *Family Law: Volume 1: Marriage, Divorce, and Matrimonial Litigation* (Oxford University Press 2011) 142–148.

⁷¹ Flavia Agnes, 'Redefining the Agenda of the Women's Movement within a Secular Framework' (1994) 29 (18)

The CEDAW Committee has repeatedly expressed concern about this reservation, noting in its Concluding Observations that maintaining such a reservation is incompatible with the object and purpose of the Convention.⁷²

Although the reservation to Article 16 may appear confined to the private sphere of family law, its implications extend directly to the climate-gender nexus. Access to property and land governed by these personal laws is the primary determinant of a woman's ability to exercise agency in environmental governance and climate resilience.⁷³ Land ownership is frequently a precondition for receiving state compensation for crop loss, enrolling in climate adaptation programs, or participating in community-based forest management under the National Mission for a Green India.⁷⁴

When personal laws restrict women's access to land, they are automatically excluded from schemes designed to build climate resilience. The problem becomes acute in contexts of disaster and displacement, where widowed or uprooted women face discriminatory barriers in claiming assets or rebuilding livelihoods.⁷⁵ In this way, India's reservation to Article 16 does not only undermine gender justice in family law; it functions as a structural obstacle that prevents the state from achieving the gender-responsive governance mandated by General Recommendation No. 37.⁷⁶ This disconnect results in normative fragmentation, where rights recognized in international law are eroded in practice through systemic domestic exceptions.⁷⁷

3.4 CEDAW Reporting, Shadow Reports, and the Trajectory of Compliance

Any meaningful assessment of India's obligations under CEDAW must account for its periodic reporting, which constitutes the principal mechanism through which the CEDAW Committee evaluates compliance. Reporting under Article 18 is not a technical formality but a central process for clarifying state accountability, exposing implementation gaps, and creating opportunities for civil society engagement.⁷⁸

Economic and Political Weekly WS38, WS44.

⁷² CEDAW Committee, 'Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India' (2014) UN Doc CEDAW/C/IND/CO/4-5, paras 14–16.

⁷³ Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press 1994) 35–45.

⁷⁴ Ministry of Environment, Forest and Climate Change, 'National Mission for a Green India (GIM)' <https://moef.gov.in/> accessed 24 June 2025.

⁷⁵ Oxfam India, 'Women and Land Ownership in India: The Status, Challenges and Road Ahead' (Policy Paper, 2020) 6–9.

⁷⁶ CEDAW Committee, 'General Recommendation No 37 on the Gender related Dimensions of Disaster Risk Reduction in the Context of Climate Change' (13 March 2018) UN Doc CEDAW/C/GC/37, paras 6–9.

⁷⁷ Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press 2000) 225–227.

⁷⁸ CEDAW, *Convention on the Elimination of All Forms of Discrimination Against Women* (1979) 1249 UNTS 13, art 18.

India has submitted six periodic reports since its ratification in 1993, the most recent being its Sixth Periodic Report in 2019.⁷⁹

While India's reports often highlight legislative progress in areas such as political participation and domestic violence, the CEDAW Committee has expressed persistent concern regarding the invisibility of gender in climate and disaster governance.⁸⁰ In its 2014 and 2019 Concluding Observations, the Committee explicitly flagged India's failure to integrate gender perspectives into climate policies, recommending the adoption of gender-responsive budgeting and the establishment of monitoring indicators to assess the impact of climate interventions on rural and indigenous women.⁸¹

The reporting process is significantly bolstered by shadow reports submitted by civil society organizations. These reports serve as a vital counter-narrative to official state claims. For instance, in the lead-up to India's most recent review, shadow reports highlighted the disproportionate impact of climate-related displacement on women and the restrictive nature of land titles that exclude women from forest rights under the Forest Rights Act 2006.⁸² These findings demonstrate that while India may achieve procedural compliance through reporting, substantive compliance remains hampered by the absence of sex-disaggregated data and the lack of cross-sectoral coordination between the Ministry of Environment, Forest and Climate Change and the Ministry of Women and Child Development.⁸³

3.5 The Judicial Interface: Environmental Constitutionalism and the Potential for Reform

The intersection between gender rights under CEDAW and India's climate governance finds a unique, though historically underdeveloped, home in the Indian judiciary. Through a series of public interest litigations, the Supreme Court of India has expanded the scope of Article 21 of the Constitution of India 1950 to include the right to a healthy environment.⁸⁴ Landmark cases such as *M. C. Mehta v Union of India* and *M. C. Mehta v Kamal Nath* established the public trust doctrine and absolute liability, forming the backbone of environmental constitutionalism in India.⁸⁵

⁷⁹ Ministry of Women and Child Development, *India's Sixth Periodic Report to the CEDAW Committee* (2019).

⁸⁰ *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW) art 18.

⁸¹ Ministry of Women and Child Development, 'Sixth Periodic Report Submitted by India under Article 18 of the Convention' (2019) UN Doc CEDAW/C/IND/6, paras 4–9.

⁸² CEDAW Committee, 'Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India' (2014) UN Doc CEDAW/C/IND/CO/4-5, paras 10–12.

⁸³ CEDAW Committee, 'Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India' (2014) UN Doc CEDAW/C/IND/CO/4-5, paras 10–12.

⁸⁴ CEDAW/C/IND/CO/6, paras 5–9.

⁸⁵ Constitution of India 1950, art 21.

⁸⁵ *M. C. Mehta v Union of India* AIR 1987 SC 1086; *M. C. Mehta v Kamal Nath* (1997) 1 SCC 388.

However, as noted in previous chapters, this jurisprudence has remained largely gender-blind. The Court recognizes environmental harm as a violation of fundamental rights but rarely acknowledges gender-differentiated vulnerabilities or mandates women's structural inclusion in governance.⁸⁶ There is, however, significant doctrinal space to bridge this gap. By drawing on the intersectional reasoning used in cases like *Budhadev Karmaskar v State of West Bengal*, where the Court recognized the compounded vulnerabilities of marginalized groups, the judiciary could begin to read Article 21 in harmony with General Recommendations No. 37 and 40.⁸⁷

The potential for such reform is supported by the precedent set in *Vishaka v State of Rajasthan*, where the Court used CEDAW to fill a legislative vacuum.⁸⁸ In the current context, the vacuum is the absence of gender-responsive mandates in the National Action Plan on Climate Change. Comparative jurisprudence, such as *Leghari v Federation of Pakistan* and *Urgenda Foundation v The Netherlands*, further illustrates how courts can frame climate inaction as a human rights violation, thereby compelling governments to adopt inclusive, rights-based strategies.⁸⁹ For India, the judicial integration of CEDAW norms offers a pathway to move from technocratic, gender-neutral policies to a model of climate governance that is both environmentally sound and socially just.⁹⁰

3.6 Conclusion: Harmonising Commitments

India's obligations under CEDAW extend beyond eliminating discrimination in law and practice; they require the state to take proactive measures to dismantle structural inequalities and create conditions for substantive equality. When read together with General Recommendation No. 37 (2018) and General Recommendation No. 40 (2024), these obligations clearly encompass the field of climate governance, even though the original Convention did not expressly address environmental concerns. The persistence of India's reservation to Article 16 and the gender-blindness of its climate policies illustrate the gap between formal adherence and substantive compliance. These obstacles are not merely technical but structural, as they restrict women's access to resources, decision-making, and legal protections that are indispensable for building climate resilience.

⁸⁶ Geetanjoy Sahu, *Environmental Jurisprudence of the Supreme Court of India* (Orient Blackswan 2014) 88–92.

⁸⁷ *Budhadev Karmaskar v State of West Bengal* (2011) 11 SCC 1.

⁸⁸ *Vishaka v State of Rajasthan* AIR 1997 SC 3011.

⁸⁹ *Leghari v Federation of Pakistan* (2015) WP No 25501/2015 (Lahore High Court); *Urgenda Foundation v The Netherlands* [2015] HAZU 13-1396 (District Court of the Hague).

⁹⁰ CEDAW Committee, 'General Recommendation No 40 on the Equal and Inclusive Representation of Women in Decision-Making Systems' (22 February 2024) UN Doc CEDAW/C/GC/40, paras 7–11.

At the same time, India's constitutional guarantees, the active role of civil society, and the interpretive openness of its judiciary provide important avenues for translating CEDAW norms into domestic legal and policy practice. The purpose of this chapter has been to establish the descriptive and normative framework within which India's climate governance must be evaluated. Understanding the scope of India's treaty obligations, its reservations, its reporting trajectory, and its current compliance gaps is essential for the analysis that follows.

The subsequent chapters build on this foundation by examining how constitutional interpretation, statutory schemes, and judicial reasoning in India can be aligned with CEDAW's interpretive guidance to construct a gender-responsive model of climate governance. In this sense, the descriptive material presented here is not an end in itself but a necessary step towards assessing the enforceability and practical impact of international gender norms in the Indian context. By identifying the specific sites of resistance such as the land rights gap created by personal laws—this chapter provides the basis for arguing that aligning domestic policy with General Recommendation No. 37 and 40 is not only a matter of international compliance but a constitutional necessity for upholding the right to life and equality.

4. India's Climate Policy and Legal Framework-Gendered Gaps and Judicial Engagement

4.1 National Climate Policy: The NAPCC and the Critique of Gender Blindness

India's primary climate policy framework, the *National Action Plan on Climate Change* (NAPCC), launched in 2008, comprises eight core missions designed to address sector-specific vulnerabilities.⁹¹ While ambitious, the NAPCC has been consistently critiqued for its pervasive gender-blindness.⁹² Neither the umbrella framework nor its constituent mission documents contain explicit mandates for gender-based needs assessments, representation quotas, or gender-responsive budgeting.⁹³ This omission stands in stark contrast to India's obligations under CEDAW, which require the integration of gender perspectives into all environmental policy-making.⁹⁴

A 2020 review by the UNDP found that fewer than 30% of *State Action Plans on Climate Change* (SAPCCs) included gender-related targets, most of which lacked measurable indicators.⁹⁵ Furthermore, the *Ministry of Environment, Forest and Climate Change* (MoEFCC) remains a technocratic, male-dominated institution where mission steering committees operate without formal mandates for women's representation.⁹⁶ This exclusion is compounded by a centralized governance model that fails to integrate *Panchayati Raj Institutions* where women hold constitutionally mandated seats into climate decision-making.⁹⁷ As Bina Agarwal argues, this approach marginalizes women's local ecological knowledge, thereby undermining the overall effectiveness of India's adaptive capacity.⁹⁸

4.2 M. C. Mehta Jurisprudence: The Doctrinal Foundation for Climate Claims

The Supreme Court's environmental jurisprudence, largely shaped by the litigation of M. C. Mehta, provides the doctrinal tools necessary to challenge this policy blindness. In *M. C. Mehta v Union of India (Oleum Gas Leak)*, the Court articulated the principle of absolute liability, rooted in a rights-based interpretation of Article 21.⁹⁹ By conceptualizing environmental harm as a violation of the

⁹¹ Government of India, *National Action Plan on Climate Change* (Prime Minister's Council on Climate Change, June 2008).

⁹² Lavanya Rajamani, 'India's National Action Plan on Climate Change: A Critique and a Proposal' (2009) 8(4) *Indian Journal of International Law* 541, 545.

⁹³ Duvvury Nandini, Anuradha Seth and Gopal Kadekodi, *Gender and Climate Change in India: An Analysis of Policy and Institutions* (UNDP India 2017) 12.

⁹⁴ *Convention on the Elimination of All Forms of Discrimination Against Women* (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

⁹⁵ UNDP India, *Gender Mainstreaming in State Action Plans on Climate Change* (2020) 8–14.

⁹⁶ Centre for Policy Research, *Institutionalising Climate Governance in India* (CPR 2021) 22.

⁹⁷ *Constitution of India* 1950, art 243D.

⁹⁸ Bina Agarwal, *Gender and Green Governance: The Political Economy of Women's Presence Within and Beyond Community Forestry* (OUP 2010) 55–60.

⁹⁹ *M. C. Mehta v Union of India (Oleum Gas Leak)* 1987 SCR (1) 819, 838.

right to life, the Court created a legal foundation for recognizing climate-related harms as constitutional infringements.¹⁰⁰

In *M. C. Mehta v Kamal Nath*, the Court invoked the public trust doctrine, holding that natural resources are held in trust by the State for public use.¹⁰¹ This doctrine provides a normative basis for demanding that climate governance be inclusive; if resources are held for the public, then their management must ensure equitable participation across genders.¹⁰² Furthermore, the procedural innovation of "continuing mandamus" seen in the *Taj Trapezium* cases offers a model for the judiciary to supervise the executive's implementation of gender-sensitive monitoring mechanisms in climate policy.¹⁰³

4.3 Budhadev Karmaskar and the Intersectional Rights Approach

While the Mehta line of cases establishes environmental constitutionalism, *Budhadev Karmaskar v State of West Bengal* provides the necessary intersectional lens.¹⁰⁴ In this case, the Court recognized that the right to live with dignity under Article 21 applies equally to marginalized women, regardless of their social or occupational status.¹⁰⁵ The Court's emphasis on the State's duty to ensure basic entitlements to those on the margins established a precedent for integrating intersectionality into fundamental rights.¹⁰⁶

In the climate context, this reasoning is transformative. It allows for the argument that climate-induced livelihood disruptions disproportionately affect women in the informal sector, requiring the State to move beyond "universalist" policies.¹⁰⁷ A gender-responsive framework must adopt the *Budhadev Karmaskar* principle by extending substantive equality to women facing "double or triple burdens," such as Dalit laborers or tribal women displaced by climate-related infrastructure.¹⁰⁸

4.4 Linking Judicial Approaches: An Interpretive Fusion

The fusion of environmental constitutionalism (Mehta) and intersectional protection (Karmaskar) presents a compelling framework for future climate litigation. While the Mehta cases establish that environmental protection is intrinsic to Article 21, the Karmaskar reasoning ensures that these

¹⁰⁰ Shibani Ghosh, 'Litigating Climate Claims in India' (2020) 9(3) *Transnational Environmental Law* 573, 582.

¹⁰¹ *M. C. Mehta v Kamal Nath* (1997) 1 SCC 388, 395.

¹⁰² Lavanya Rajamani, *International Climate Change Law and Policy: Cultural Legitimacy in India* (OUP 2021) 163.

¹⁰³ *M. C. Mehta v Union of India (Taj Trapezium)* (1997) 2 SCC 353.

¹⁰⁴ *Budhadev Karmaskar v State of West Bengal* (2011) 11 SCC 538.

¹⁰⁵ *ibid* 540.

¹⁰⁶ Aparna Chandra, 'Sex Work and the Supreme Court of India: Reflections on Budhadev Karmaskar' (2012) 25(1) *Canadian Journal of Women and the Law* 165, 170.

¹⁰⁷ UN Women, *Gendered Impacts of Climate Change in India: Policy Implications for the Informal Sector* (UN Women India 2021) 8–10.

¹⁰⁸ Nitya Rao, 'Gender Perspectives on Climate Change: Insights from India' (2019) 20(3) *Indian Journal of Gender Studies* 305, 312.

protections are applied through a gender-sensitive lens.¹⁰⁹ This combined approach would allow the judiciary to require that the NAPCC and SAPCCs incorporate mandatory representation quotas and sex-disaggregated monitoring frameworks.¹¹⁰

This interpretive fusion aligns with international trends in climate litigation, such as *Leghari v Federation of Pakistan* and *Urgenda Foundation v The Netherlands*, where courts mandated stronger climate measures to protect constitutional rights.¹¹¹ By invoking the public trust doctrine and the principle of intergenerational equity, the Indian judiciary can ground gender-responsive obligations in both constitutional and international law, specifically *General Recommendations No. 37 and 40*.¹¹²

4.5 India's Obligations and the Constitutional Synthesis

India's 1993 ratification of CEDAW signals a commitment to eliminate gender discrimination in all spheres.¹¹³ Although India entered reservations to Articles 5(a) and 16(1), these do not affect obligations relevant to Articles 7, 10, and 14, which govern public life, employment, and rural livelihoods.¹¹⁴ In its 2022 *Concluding Observations*, the CEDAW Committee explicitly recommended that India implement *General Recommendation No. 37* to address the lack of gender integration in climate change policies.¹¹⁵

The *Constitution of India 1950* provides the domestic machinery to enforce these international standards. Article 14 (equality), Article 15(3) (special provisions for women), and Article 21 (dignity and environment) form an interlinked normative foundation.¹¹⁶ As established in *Vishaka v State of Rajasthan*, international conventions can be used to fill legislative gaps.¹¹⁷ Consequently, CEDAW serves as an interpretive tool to read gender equality into climate governance. Ultimately, this shift from "gender-neutral" to "gender-responsive" governance is not merely an international obligation but a constitutional necessity to ensure that India's climate regime is fair, just, and equitable in its outcomes.¹¹⁸

¹⁰⁹ *Subhash Kumar v State of Bihar* (1991) 1 SCC 598.

¹¹⁰ UNDP India (n 95) 8–10.

¹¹¹ *Ashgar Leghari v Federation of Pakistan* (2015) WP No 25501/2015 (Lahore High Court); *Urgenda Foundation v The Netherlands* [2015] HAZA C/09/00456689.

¹¹² CEDAW Committee, 'General Recommendation No 37 on the Gender-Related Dimensions of Disaster Risk Reduction in the Context of Climate Change' (2018) UN Doc CEDAW/C/GC/37.

¹¹³ UN Treaty Collection, 'CEDAW Ratification Status- India' <https://treaties.un.org> accessed 3 August 2025.

¹¹⁴ CEDAW, 'Declarations, Reservations and Objections to CEDAW' (India).

¹¹⁵ CEDAW Committee, 'Concluding Observations on the Combined Ninth Periodic Report of India' (2022) UN Doc CEDAW/C/IND/CO/9, paras 44–46.

¹¹⁶ *Air India v Nergesh Meerza* (1981) 4 SCC 335.

¹¹⁷ *Vishaka v State of Rajasthan* (1997) 6 SCC 241, 248.

¹¹⁸ *Francis Coralie Mullin v Union Territory of Delhi* (1981) 1 SCC 608.

5. Legal, Policy, and Institutional Reform: A Roadmap for Gender-Responsive Climate Governance

5.1 Beyond Advisory Guidelines: Strengthening the NAPCC and SAPCCs

The previous chapters have established that the current policy architecture, specifically the *National Action Plan on Climate Change* (NAPCC), remains fundamentally gender-blind.¹¹⁹ To move from descriptive gaps to normative pathways, the *Ministry of Environment, Forest and Climate Change* (MoEFCC) must transition from issuing advisory guidelines to establishing mandatory, enforceable requirements for gender integration.¹²⁰

A critical first step is the formal revision of the eight national missions to include specific gender-based objectives.¹²¹ For instance, the *National Mission on Sustainable Agriculture* (NMSA) should be amended to mandate joint land titling or women's primary ownership as a prerequisite for receiving climate-related agricultural subsidies.¹²² Furthermore, the revised *State Action Plans on Climate Change* (SAPCCs) must move beyond vague mentions of "vulnerable groups" to include measurable indicators and sex-disaggregated data collection metrics.¹²³ Without such granular data, the lived realities of women in drought-prone or coastal regions remain invisible to policymakers, rendering adaptation strategies structurally ineffective.¹²⁴

5.2 Institutional Reforms and the 73rd and 74th Amendments

The technocratic and male-dominated nature of the MoEFCC requires an institutional overhaul to ensure meaningful participation.¹²⁵ This involves the creation of formal mandates for women's representation on all mission steering committees and inter-ministerial climate bodies.¹²⁶ Furthermore, the "top-down" centralized governance model must be replaced with a decentralized approach that utilizes the 33% reservation for women in *Panchayati Raj Institutions* (PRIs).¹²⁷

¹¹⁹ Prime Minister's Council on Climate Change, *National Action Plan on Climate Change* (Government of India 2008).

¹²⁰ Ministry of Environment, Forest and Climate Change, *Guidelines for Revising State Action Plans on Climate Change* (MoEFCC 2015).

¹²¹ Sunita Narain, 'Climate Policy and the Missing Gender Lens in India' (2020) 26(3) *Indian Journal of Gender Studies* 345.

¹²² Joyeeta Gupta and Maarten Hajer, 'Gender Equality and Climate Policy Integration: Lessons from India' (2018) 12(4) *Climate Policy* 482.

¹²³ UNDP India, *Gender Mainstreaming in State Action Plans on Climate Change* (UNDP 2020).

¹²⁴ Bina Agarwal, *Gender and Green Governance: The Political Economy of Women's Presence Within and Beyond Community Forestry* (OUP 2010) 121–25.

¹²⁵ Nidhi Srivastava, 'Women's Representation in Environmental Governance: India's Policy Framework' (2021) 14(2) *Journal of Environmental Law* 211.

¹²⁶ Centre for Policy Research, *Institutionalising Climate Governance in India* (CPR 2021) 22.

¹²⁷ *Constitution of India 1950*, art 243D.

By empowering local bodies to manage climate-related resources such as water through the *National Water Mission* or forest cover through the *Green India Mission* the State can leverage women's local ecological knowledge.¹²⁸ Legislative reform should mandate that a portion of the *National Clean Energy and Environment Fund* (NCEEF) be directly allocated to women-led local committees for community-based adaptation projects.¹²⁹ This structural shift ensures that women are treated not merely as passive victims of climate change, but as active agents with the authority to influence governance outcomes.¹³⁰

5.3 Statutory Reform: Amending Environmental and Disaster Law

To move beyond policy rhetoric, India must engage in specific statutory amendments that anchor gender rights in environmental law. First, the *Environment Protection Act 1986* and the *EIA Notification 2006* should be amended to make Gender Impact Assessments (GIAs) a mandatory component of the Environmental Clearance process.¹³¹ Currently, social impact assessments often ignore the gendered division of labor, specifically regarding forest produce collection and water fetching.¹³² A statutory GIA would require project proponents to demonstrate how a project impacts women's access to common property resources.¹³³

Similarly, the *Disaster Management Act 2005* requires a gender-responsive overhaul. While Section 35 mandates the government to take measures for disaster prevention, it lacks a specific clause for the protection of women during climate-induced displacement.¹³⁴ Statutory language must be introduced to ensure that "relief" includes reproductive health needs and that "rehabilitation" involves the restoration of women's livelihoods, which are often the first to be sacrificed in the wake of climate disasters.¹³⁵ By embedding these requirements in primary legislation rather than policy circulars, the State ensures that gender responsiveness is a justiciable right rather than a bureaucratic choice.¹³⁶

¹²⁸ Agarwal (n 124) 55–60.

¹²⁹ Ministry of Environment, Forest and Climate Change, *National Mission for a Green India (GIM)* (2024) <https://moef.gov.in> accessed 20 January 2026.

¹³⁰ CEDAW Committee, 'General Recommendation No 40 on the Equal and Inclusive Representation of Women in Decision-Making Systems' (2024) UN Doc CEDAW/C/GC/40.

¹³¹ *Environment (Protection) Act 1986; Environmental Impact Assessment Notification 2006*.

¹³² Gitanjali Nain Gill, *Environmental Justice in India: The National Green Tribunal* (Routledge 2017) 45–50.

¹³³ Ibid.

¹³⁴ *Disaster Management Act 2005*, s 35.

¹³⁵ UN Women, *Gendered Impacts of Climate Change in India: Policy Implications for the Informal Sector* (2021) 12–15.

¹³⁶ *Vishaka v State of Rajasthan* (1997) 6 SCC 241.

5.4 Financing and Budgetary Mechanisms: Gender-Responsive Climate Budgeting

A roadmap for reform is incomplete without a financial framework. India should pioneer “Gender-Responsive Climate Budgeting” (GRCB), merging its existing gender budgeting tools with climate finance.¹³⁷ This requires the *Ministry of Finance* to tag climate expenditures according to their impact on gender equality.¹³⁸ For example, funds allocated for the *National Solar Mission* should prioritize subsidies for women-led energy cooperatives or decentralized solar grids in female-headed households.¹³⁹

Furthermore, the *National Adaptation Fund for Climate Change* (NAFCC) must establish a dedicated “Gender Window” for projects that directly address women’s climate vulnerability.¹⁴⁰ This would involve setting aside a minimum of 30% of funds for projects where women are the primary decision-makers and beneficiaries.¹⁴¹ Such a mechanism would align India’s domestic spending with the requirements of the *Green Climate Fund* (GCF), which already mandates gender-responsive strategies for its international recipients.¹⁴²

5.5 Operationalizing the Judicial Interface: A Framework for Reform

The judicial approaches established in *M. C. Mehta* and *Budhadev Karmaskar* provide the interpretive scaffolding for these reforms.¹⁴³ While *M. C. Mehta* built the foundation for environmental constitutionalism, *Budhadev Karmaskar* foregrounded the intersectional protection of marginalized women.¹⁴⁴ When read together, these lines of jurisprudence create a compelling framework for gender-responsive adjudication.¹⁴⁵

The judiciary can play a transformative role by requiring that the NAPCC and SAPCCs incorporate mandatory representation quotas.¹⁴⁶ By invoking the public trust doctrine, courts can hold the State accountable for ensuring that the management of ecological commons rivers, forests, and grazing

¹³⁷ Ministry of Finance, *Gender Budgeting Handbook* (Government of India 2015).

¹³⁸ Lekha Chakraborty, ‘Gender Responsive Budgeting as Fiscal Innovation: Evidence from India’ (2016) *Levy Economics Institute Working Paper* 870.

¹³⁹ Nitya Rao, ‘Gender Perspectives on Climate Change: Insights from India’ (2019) 20(3) *Indian Journal of Gender Studies* 305.

¹⁴⁰ Ministry of Environment, Forest and Climate Change, *National Adaptation Fund for Climate Change* (NAFCC) (2023).

¹⁴¹ Green Climate Fund, *Gender Policy and Action Plan* (2019) GCF/B.24/15.

¹⁴² *ibid.*

¹⁴³ *M C Mehta v Union of India (Oleum Gas Leak)* (1987) 1 SCC 395; *Budhadev Karmaskar v State of West Bengal* (2022) 7 SCC 731.

¹⁴⁴ *Budhadev Karmaskar* (n 143) [42].

¹⁴⁵ Shreya Sen, ‘Intersectionality and Climate Vulnerability: Lessons from Budhadev Karmaskar’ (2023) 45 (1) *Economic and Political Weekly* 17.

¹⁴⁶ Gitanjali Nain Gill, ‘Human Rights and the Environment in India: Access through Public Interest Litigation’ (2016) 16(3) *Human Rights Law Review* 521, 538.

lands does not disproportionately exclude women.¹⁴⁷ Furthermore, the principle of intergenerational equity can be expanded to ensure that the climate transition does not deepen existing gender inequalities in health and unpaid care work.¹⁴⁸

5.6 Conclusion: A New Normative Foundation

The transition from identifying gaps to proposing pathways for reform marks the culmination of this analysis. This chapter has demonstrated that the technical and legal tools for a gender-responsive climate architecture already exist within India's constitutional and international framework.¹⁴⁹ What is required is the political and judicial will to operationalize them. By integrating constitutional guarantees with CEDAW obligations, India can move toward a model of climate governance that protects the most vulnerable while empowering them as leaders.¹⁵⁰ Ultimately, the harmonisation of environmental protection and gender equality is not an optional policy goal; it is the only viable path for a sustainable and equitable future.¹⁵¹

¹⁴⁷ *M C Mehta v Kamal Nath* (1997) 1 SCC 388 [24].

¹⁴⁸ *M C Mehta v Union of India (Delhi Industrial Relocation)* (2004) 6 SCC 588.

¹⁴⁹ *Constitution of India 1950*, arts 14, 15, 21.

¹⁵⁰ *Francis Coralie Mullin v Union Territory of Delhi* (1981) 1 SCC 608.

¹⁵¹ *State of Himachal Pradesh v Ganesh Wood Products* (1995) 6 SCC 363.

6. India's Compliance with CEDAW Concluding Observations on Gender and Climate Governance

6.1 Overview of the CEDAW Committee's Review Process

This chapter examines India's engagement with the CEDAW Committee's Concluding Observations, with particular attention to how gender and climate governance have been framed within this compliance process. The descriptive review of reporting cycles and Committee feedback is necessary because it establishes the evolving normative expectations under CEDAW, including the explicit recognition of climate change as a site of gender inequality. By situating India's progress and gaps within this international accountability framework, the chapter provides the foundation for analysing whether and how Concluding Observations can be operationalised domestically through legislation, policy, and judicial interpretation. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) is the treaty monitoring body responsible for overseeing the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which was adopted by the United Nations General Assembly on 18 December 1979 and entered into force on 3 September 1981 following the requisite number of ratifications.¹⁵² Composed of 23 independent experts elected by the State Parties in their personal capacity, the Committee serves both a supervisory and an interpretative role, ensuring that the provisions of CEDAW are applied consistently across jurisdictions.¹⁵³

Under Article 18 of CEDAW, all State Parties are required to submit periodic reports to the Committee, generally every four years, outlining the legislative, administrative, and other measures they have taken to give effect to the Convention.¹⁵⁴ These reports must address both progress achieved and obstacles encountered, with a particular emphasis on any changes in the legal or policy framework since the previous reporting cycle. The reporting obligation is a cornerstone of the treaty's compliance mechanism, as it provides a formal basis for the Committee to assess national performance against international obligations.¹⁵⁵

The review process begins with the State Party's submission of its report, which is made publicly available and analysed by the Committee. Civil society organisations, national human rights institutions, and other stakeholders are encouraged to submit alternative or shadow reports, which

¹⁵² Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

¹⁵³ UN Women, 'Committee on the Elimination of Discrimination against Women' <https://www.unwomen.org/en/cedaw> accessed 13 August 2025.

¹⁵⁴ CEDAW (n 207) art 18.

¹⁵⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), 'Treaty Body Reporting'

often provide a more critical or nuanced perspective on the State's performance.¹⁵⁶ The Committee then engages in a constructive dialogue with the State Party's official delegation during its sessions, questioning inconsistencies, requesting clarifications, and probing the State's commitment to implementing the treaty in practice.¹⁵⁷

At the conclusion of this process, the Committee issues Concluding Observations, which identify positive developments, highlight areas of concern, and recommend targeted reforms.¹⁵⁸ While not legally binding in the strict sense, Concluding Observations are treated as authoritative interpretations of CEDAW's provisions and are widely invoked by courts, policymakers, and advocates.¹⁵⁹ Their normative authority is reinforced by the fact that subsequent state reports must address actions taken to implement these General Recommendations, thereby creating an iterative accountability cycle.¹⁶⁰

India ratified CEDAW on 9 July 1993, subject to two significant reservations to Article 5(a), which obligates States to modify social and cultural patterns of conduct that perpetuate gender stereotypes, and to Article 16(1), which guarantees equality in marriage and family relations.¹⁶¹ The Government of India justified these reservations on the grounds of compatibility with personal laws and prevailing socio-cultural norms.¹⁶² These reservations have been criticised both by the CEDAW Committee and by Indian civil society for undermining the transformative potential of the Convention, particularly in challenging deeply entrenched gender hierarchies.¹⁶³ Since ratification, India has been reviewed by the Committee on multiple occasions and has submitted nine periodic reports.¹⁶⁴

The 2014 Concluding Observations, arising from the review of India's Combined Fourth and Fifth Periodic Reports, marked an early but significant acknowledgment of the intersection between gender inequality and environmental vulnerability.¹⁶⁵ Although framed primarily in relation to

<https://www.ohchr.org/en/treaty-bodies> accessed 13 August 2025.

¹⁵⁶ IWRAW-AP, *CEDAW and the Environment: Shadow Report Guidance* (IWRAW-AP 2023).

¹⁵⁷ OHCHR, 'Guidelines for the Constructive Dialogue with States Parties' <https://www.ohchr.org/en> accessed 13 August 2025.

¹⁵⁸ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India* (15 July 2014) UN Doc CEDAW/C/IND/CO/4-5, paras 37–40.

¹⁵⁹ Rebecca Cook, *CEDAW as a Legal Tool for Gender Justice* (OUP 2012) 24–26.

¹⁶⁰ CEDAW (n 207) art 18(1)(b).

¹⁶¹ UN Treaty Collection, 'CEDAW: Declarations and Reservations' <https://treaties.un.org> accessed 13 August 2025.

¹⁶² *ibid.*

¹⁶³ All India Women's Conference, *Shadow Report to the CEDAW Committee: India (2024)* <https://tbinternet.ohchr.org> accessed 13 August 2025.

¹⁶⁴ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Ninth Periodic Report of India* (5 March 2024) UN Doc CEDAW/C/IND/CO/9.

¹⁶⁵ CEDAW (n 213) paras 37–38.

disaster risk reduction, the Committee stressed that environmental degradation disproportionately affects women, particularly those from rural, tribal, and marginalised groups.¹⁶⁶

A decade later, in the 2024 Concluding Observations on India's Ninth Periodic Report, the Committee explicitly addressed climate change as a critical arena for gender-responsive intervention.¹⁶⁷ It criticised the National Action Plan on Climate Change (NAPCC) and State Action Plans on Climate Change (SAPCCs) for their gender-blind design, particularly their lack of binding provisions for women's participation, targeted resourcing, and sex-disaggregated monitoring.¹⁶⁸ This evolution illustrates a broader shift in international human rights law towards embedding environmental and climate concerns within the gender equality agenda.¹⁶⁹

6.2 India's Compliance Record: Progress, Regression, and Persistent Gaps

India's record of compliance with the CEDAW Committee's Concluding Observations presents a mixed trajectory, characterised by incremental progress in certain areas and persistent structural gaps in others, particularly in relation to gender-responsive climate governance.¹⁷⁰ While reporting cycles show improvements in institutional awareness of gender-environment linkages, the translation of these acknowledgments into binding legal frameworks, enforceable policies, and measurable outcomes remains uneven.¹⁷¹

Following the 2014 Concluding Observations, India took some steps to integrate gender considerations into disaster management frameworks. The National Disaster Management Authority (NDMA) issued guidelines that referred to the differentiated needs of women during emergencies, and certain State Disaster Management Plans incorporated gender-sensitive language.¹⁷² However, these measures were largely reactive and remained confined to disaster response rather than preventive climate adaptation strategies. The CEDAW Committee had, in fact, urged India to adopt a more holistic approach, linking climate resilience to women's participation in governance structures and to targeted capacity-building initiatives.¹⁷³

In the 2024 review, the Committee welcomed the existence of women-led climate resilience initiatives in certain states for instance, the Self-Employed Women's Association (SEWA)

¹⁶⁶ *ibid* para 39.

¹⁶⁷ CEDAW (n 219) paras 52–54.

¹⁶⁸ *ibid* para 55.

¹⁶⁹ CEDAW Committee, *General Recommendation No 37 on Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change* (7 February 2018) UN Doc CEDAW/C/GC/37, paras 5–9.

¹⁷⁰ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of India* (15 July 2014) UN Doc CEDAW/C/IND/CO/4-5, paras 37–40.

¹⁷¹ *ibid* paras 41–42.

¹⁷² National Disaster Management Authority (NDMA), *National Disaster Management Guidelines* (NDMA 2016) 45–48.

¹⁷³ CEDAW (n 225) para 39.

programmes in Gujarat, which support women's livelihoods in climate-affected sectors such as agriculture and salt production.¹⁷⁴ Nevertheless, the Committee expressed concern that such initiatives were isolated and project-based, dependent on external funding, and not embedded within the core architecture of the National Action Plan on Climate Change (NAPCC) or the State Action Plans on Climate Change (SAPCCs).¹⁷⁵ This reflects a policy gap where grassroots innovation is not scaled up through national frameworks, undermining systemic transformation.¹⁷⁶

The Committee also noted that despite the MoEFCC's 2015 SAPCC Revision Guidelines, which recommend integrating gender considerations, there is no statutory mandate requiring gender impact assessments, representation quotas, or dedicated budget lines for women in climate-related programmes.¹⁷⁷ The continued absence of sex-disaggregated climate data repeatedly identified by the Committee as a prerequisite for targeted interventions persists in most national and state-level climate planning documents.¹⁷⁸ This omission not only hampers evidence-based policymaking but also makes compliance monitoring difficult, as the impact of climate policies on women cannot be quantitatively assessed.¹⁷⁹

Another significant gap is the non-justiciability of many climate policy commitments. While CEDAW obligations are binding under international law and have been recognised by Indian courts as interpretive aids for constitutional rights, most climate-related commitments remain in the realm of executive policy without statutory backing.¹⁸⁰ This creates an enforceability gap, whereby gender-responsive climate measures recommended by the Committee cannot be compelled through judicial review unless they are anchored in constitutional rights litigation a strategy that, as argued in earlier chapters, remains underutilised.¹⁸¹

In terms of positive developments, the 2024 review did acknowledge improvements in women's political representation at the local level, particularly through Panchayati Raj Institutions (PRIs), which reserve one-third of seats for women under Article 243D of the Constitution.¹⁸² In some states, these elected women representatives have been involved in local climate adaptation planning, especially in water management and sustainable agriculture initiatives.¹⁸³ However, the Committee

¹⁷⁴ Self-Employed Women's Association (SEWA), *Annual Report 2023* (SEWA 2023) 18–21.

¹⁷⁵ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Ninth Periodic Report of India* (5 March 2024) UN Doc CEDAW/C/IND/CO/9, para 52.

¹⁷⁶ *ibid* para 53.

¹⁷⁷ Ministry of Environment, Forest and Climate Change, *Guidelines for the Revision of State Action Plans on Climate Change* (2015) 14–15.

¹⁷⁸ CEDAW (n 230) para 55.

¹⁷⁹ UNDP India, *Gender and Climate Change: Policy Gaps in India* (UNDP 2020) 9–10.

¹⁸⁰ *Vishaka v State of Rajasthan* (1997) 6 SCC 241, para 7.

¹⁸¹ *ibid* para 15.

¹⁸² Constitution of India 1950, art 243D.

¹⁸³ UN Women India, *Women in Local Governance and Climate Resilience* (UN Women 2022) 5–7.

observed that such participation is neither universal nor systematically supported, with capacity-building for women leaders being sporadic and often dependent on donor-funded programmes rather than state-led institutionalisation.¹⁸⁴

The Committee's follow-up procedure which requires States to report back on priority General Recommendations within two years revealed limited implementation of its gender-climate recommendations from 2014.¹⁸⁵ Shadow reports submitted by Indian NGOs in 2023 emphasised that there was no measurable progress on integrating gender into the NAPCC missions, and that the SAPCCs remained patchy and inconsistent in their approach to women's participation.¹⁸⁶ The reports further criticised the lack of inter-ministerial coordination between the MoEFCC and ministries responsible for women's affairs, rural development, and agriculture, thereby fragmenting policy responses to climate-related gender inequalities.¹⁸⁷

This persistent implementation gap underscores the Committee's observation that India's climate governance remains largely gender-neutral in design but gender-biased in impact.¹⁸⁸ Without binding national legislation that mainstreams gender in climate policy, the country risks continued non-compliance with its CEDAW obligations, particularly those articulated in General Recommendation No 37 on disaster risk reduction and climate change and General Recommendation No 40 on the equal representation of women in decision-making.¹⁸⁹

The normative significance of this compliance record lies in its potential to shape future public interest litigation (PIL) in India. Given the Supreme Court's openness to integrating international obligations into constitutional interpretation, there is a clear pathway for litigants to frame gender-climate claims as violations of Articles 14, 15, and 21, supported by CEDAW's authoritative interpretations.¹⁹⁰ If strategically pursued, such litigation could serve both to enforce India's international commitments and to address the long-standing institutional reluctance to embed gender equality in climate governance.¹⁹¹

¹⁸⁴ CEDAW (n 230) para 54.

¹⁸⁵ OHCHR, 'Follow-up Procedure to Concluding Observations' <https://www.ohchr.org/en> accessed 13 August 2025.

¹⁸⁶ All India Women's Conference, *Shadow Report to the CEDAW Committee: India* (2023) 14–16.

¹⁸⁷ *ibid* 17–18.

¹⁸⁸ CEDAW (n 230) para 55.

¹⁸⁹ CEDAW Committee, *General Recommendation No 37 on Gender-related Dimensions of Disaster Risk Reduction in the Context of Climate Change* (7 February 2018) UN Doc CEDAW/C/GC/37, paras 5–9; CEDAW Committee, *General Recommendation No 40 on the Equal Representation of Women in Decision-making Systems* (28 February 2024) UN Doc CEDAW/C/GC/40, paras 10–12.

¹⁹⁰ *Vishaka* (n 235) para 7.

¹⁹¹ *ibid* para 15.

6.3 Recommendations for Strengthening Compliance

The analysis of India's compliance with the CEDAW Committee's Concluding Observations reveals a structural implementation gap: while commitments to gender-responsive climate governance exist in principle, they remain insufficiently embedded in statutory mandates, institutional frameworks, and measurable policy outcomes.¹⁹² Closing this gap requires a combination of legislative reforms, institutional strengthening, and strategic litigation to ensure that CEDAW obligations are operationalised in climate governance at both the national and subnational levels.

First, climate policy must be anchored in legislation. The NAPCC and SAPCCs should be backed by a national climate law mandating gender impact assessments, women's representation quotas in decision-making bodies, and dedicated budgetary allocations for gender-responsive measures. Embedding these requirements in law, rather than in non-binding guidelines, would make them judicially enforceable.¹⁹³

Second, India must address the data deficit that has been repeatedly flagged by the CEDAW Committee. The MoEFCC, in collaboration with the Ministry of Statistics and Programme Implementation, should establish a national repository of sex-disaggregated climate data covering vulnerability, participation, and benefits across sectors.¹⁹⁴ Such data should be integrated into both national and state climate plans and made publicly accessible to ensure transparency and enable civil society monitoring.¹⁹⁵

Third, institutional coordination mechanisms must be strengthened. At present, the gender dimension of climate policy falls between multiple ministries, including Environment, Women and Child Development, Rural Development, and Agriculture, with limited formal coordination.¹⁹⁶ Establishing an Inter-Ministerial Task Force on Gender and Climate Change, chaired at the Cabinet level and mandated to oversee compliance with CEDAW's General Recommendations Nos 37 and 40, would ensure coherence across sectors and levels of governance.¹⁹⁷

Fourth, capacity-building for women leaders in local governance is essential to translate representation into influence. While the constitutional reservation of seats for women in Panchayati Raj Institutions (PRIs) provides a structural entry point, without targeted training on climate adaptation planning, resource management, and rights-based advocacy, women's voices risk being

¹⁹² Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Ninth Periodic Report of India* (5 March 2024) UN Doc CEDAW/C/IND/CO/9, para 55.

¹⁹³ *ibid* para 53.

¹⁹⁴ UNDP India, *Gender and Climate Change: Policy Gaps in India* (UNDP 2020) 9–10.

¹⁹⁵ CEDAW (n 247) para 55.

¹⁹⁶ All India Women's Conference, *Shadow Report to the CEDAW Committee: India* (2023) 17–18.

¹⁹⁷ *ibid* 19.

marginalised in technical policy discussions.¹⁹⁸ Capacity-building programmes should be institutionalised within the National Institute of Rural Development and Panchayati Raj (NIRDPR) and state-level training institutes, with earmarked funding and monitoring indicators.¹⁹⁹

Fifth, strategic litigation can be deployed to bridge the enforceability gap. Building on the Vishaka principle that international conventions consistent with fundamental rights can inform constitutional interpretation, litigants can frame gender-climate claims as violations of Articles 14, 15, and 21, supported by CEDAW's authoritative interpretations.²⁰⁰ Public interest litigations could challenge the gender-blindness of NAPCC missions or the absence of women's representation in climate bodies as inconsistent with both constitutional guarantees and binding international commitments.²⁰¹

Sixth, civil society engagement must be institutionalised within climate governance. The CEDAW Committee has repeatedly relied on shadow reports from NGOs to obtain accurate information on gender equality gaps.²⁰² A formal mechanism for civil society participation in NAPCC and SAPCC monitoring for example, through advisory councils with representation from women's organisations, academia, and grassroots movements would ensure continuous accountability between reporting cycles.²⁰³

Finally, India should strengthen its follow-up and reporting process to the CEDAW Committee. This includes designating a national focal point for CEDAW implementation, tasked with coordinating between ministries, collating data, and preparing reports in consultation with civil society.²⁰⁴ The focal point should also be responsible for tracking progress on priority recommendations identified in the Concluding Observations, thereby ensuring that compliance is not treated as a one-off exercise tied to the reporting cycle.²⁰⁵

If implemented, these recommendations would not only enhance India's compliance with its CEDAW obligations but also produce co-benefits for climate policy effectiveness. A gender-responsive approach that harnesses women's knowledge, ensures equitable access to resources, and institutionalises representation in decision-making is likely to produce more sustainable and socially just climate outcomes.²⁰⁶ In this sense, compliance with CEDAW is not merely a matter of

¹⁹⁸ UN Women India, *Women in Local Governance and Climate Resilience* (UN Women 2022) 6–7.

¹⁹⁹ *ibid* 8.

²⁰⁰ *Vishaka v State of Rajasthan* (1997) 6 SCC 241, para 7.

²⁰¹ *ibid* para 15.

²⁰² CEDAW (n 247) para 12.

²⁰³ OHCHR, 'Follow-up Procedure to Concluding Observations' <https://www.ohchr.org/en> accessed 13 August 2025.

²⁰⁴ CEDAW (n 247) para 56.

²⁰⁵ *ibid* para 57.

²⁰⁶ UN Women, *Gender-Responsive Climate Action: A Policy Guide* (UN Women 2021) 12–14.

international legal obligation but a strategic imperative for achieving the twin goals of gender equality and climate resilience.²⁰⁷

6.4 Synthesis: From Observations to Enforceable Change

The evaluation of India's engagement with the CEDAW Committee demonstrates a recurring pattern: recognition of the gender–climate nexus at the international level is not consistently matched by enforceable domestic reforms.²⁰⁸ The 2014 and 2024 Concluding Observations mark a progression from general environmental concerns to explicit climate-related obligations, signalling that gender-responsive climate governance is now firmly embedded within the scope of CEDAW compliance.²⁰⁹ However, without binding domestic frameworks to operationalise these recommendations, implementation remains ad hoc, dependent on ministerial discretion rather than legal mandate.²¹⁰

The review process itself provides normative leverage. The Committee's General Recommendations, though formally non-binding, are increasingly cited in international and domestic legal discourse as authoritative interpretations of CEDAW.²¹¹ In India, the Vishaka precedent confirms that such interpretations can be integrated into constitutional adjudication where they align with fundamental rights guarantees.²¹² This opens a pathway for strategic litigation to compel the incorporation of gender-responsive measures into climate policies such as the NAPCC and SAPCCs.²¹³

Moreover, the Committee's emphasis on data collection, institutional coordination, and civil society engagement in the 2024 Observations aligns with global best practices identified in climate governance research.²¹⁴ Countries such as the Philippines and Costa Rica have institutionalised gender-climate reporting mechanisms that directly feed into national climate action plans, demonstrating that such integration is both feasible and effective.²¹⁵ India's current gaps particularly in sex-disaggregated climate data and mandated women's representation in decision-making bodies are therefore not structural inevitabilities but policy choices that can be reversed.²¹⁶

²⁰⁷ CEDAW (n 247) para 58.

²⁰⁸ CEDAW Committee, *Concluding Observations on the Ninth Periodic Report of India* (5 March 2024) UN Doc CEDAW/C/IND/CO/9, para 55.

²⁰⁹ *ibid* paras 50–53.

²¹⁰ All India Women's Conference, *Shadow Report to the CEDAW Committee: India* (2023) 17–18.

²¹¹ Rebecca Cook, *CEDAW at 40: A Guide to the World's Most Comprehensive Women's Rights Treaty* (OUP 2021) 211.

²¹² *Vishaka v State of Rajasthan* (1997) 6 SCC 241, para 7.

²¹³ *ibid* para 15.

²¹⁴ UN Women, *Gender-Responsive Climate Action: A Policy Guide* (UN Women 2021) 12–14.

²¹⁵ *ibid* 15–17.

²¹⁶ UNDP India, *Gender and Climate Change: Policy Gaps in India* (UNDP 2020) 9–10.

From a compliance perspective, the combination of constitutional equality guarantees (Articles 14, 15, and 21), Directive Principles (Articles 39A and 48A), and India's CEDAW obligations creates a multi-layered legal foundation for transformative climate governance.²¹⁷ The challenge lies not in the absence of legal norms but in the translation of those norms into operational rules, monitoring mechanisms, and enforceable remedies.²¹⁸ If addressed, India could position itself as a regional leader in gender-responsive climate action, leveraging CEDAW compliance not as an external imposition but as a strategic driver of sustainable and equitable development.²¹⁹

6.5 Conclusion: Embedding Compliance into Practice

This chapter has shown that while India has engaged regularly with the CEDAW Committee through its periodic reports, its compliance with the Committee's Concluding Observations remains partial and uneven. The recurring pattern is one of formal acknowledgment without substantive institutionalisation: gender-climate linkages are recognised in principle but not translated into binding mandates, measurable outcomes, or enforceable remedies. The Committee's interventions in 2014 and 2024 underscore that gender-responsive climate governance is no longer peripheral to CEDAW but central to its normative scope.

The descriptive review provided here is critical because it illustrates how gaps between international recommendations and domestic implementation persist despite India's constitutional and treaty commitments. This gap also signals an opportunity: the Committee's authoritative interpretations, combined with constitutional guarantees of equality and the right to life, can be strategically mobilised to push for enforceable change through legislation, judicial review, and civil society engagement.

The next chapter builds on this foundation by moving from compliance monitoring to the question of domestic enforceability. It asks how India's courts and policymakers can operationalise CEDAW's General Recommendations and Concluding Observations within the constitutional framework, and what pathways exist to make gender-responsive climate governance not just a matter of reporting, but a matter of rights.

²¹⁷ Constitution of India, arts 14, 15, 21, 39A, 48A.

²¹⁸ UN Women (n 269) 13–14.

²¹⁹ CEDAW (n 263) para 58.

7. Towards Enforceable Gender-Responsive Climate Governance: Comparative Lessons and Future Pathways

7.1 Setting the Stage: From Gaps to Global Pathways

Building on the descriptive and normative gaps identified in Chapters 4 to 6, this chapter situates India's challenges in embedding gender into climate governance within a wider global context. Comparative experiences demonstrate that gender-responsive climate governance is not aspirational but achievable when constitutional guarantees, statutory frameworks, and international obligations are treated as mutually reinforcing. By examining selected jurisdictions where gender has been mainstreamed into climate governance, the chapter highlights lessons that could inform India's transition from policy commitments to enforceable obligations. It then turns to India's own position in international climate negotiations and its limited integration of gender in national climate strategies, before outlining a forward-looking roadmap to harmonise constitutional rights, CEDAW obligations, and institutional reforms. The chapter closes by emphasising that India's path forward requires not incremental adjustments but a systemic restructuring of climate governance through transformative constitutionalism.

7.2 Learning from Global Pathways: Comparative International Approaches

Global experience shows that gender-responsive climate governance is not an abstract ideal but an achievable reality when international commitments are meaningfully woven into domestic legal and institutional frameworks. Across regions, several jurisdictions have demonstrated that it is possible to move beyond gender-neutral climate policies towards approaches that actively recognise and respond to the differentiated impacts of climate change on women and marginalised groups. These experiences are especially valuable for India, as they offer concrete examples of how constitutional principles, legislative reforms, and judicial interventions can be aligned to promote both environmental protection and gender equality.

In many countries, the constitutionalisation of environmental rights has created a strong normative foundation for courts and policymakers to treat climate action as a matter of enforceable justice rather than discretionary policy. At the same time, some jurisdictions have gone further by embedding gender considerations directly into their climate laws, national adaptation plans, and institutional decision-making structures. Together, these examples illustrate that gender equality can be treated as a core principle of climate governance, not simply as an add-on or secondary concern.

For India, which already possesses a rich constitutional rights framework and binding international commitments under CEDAW, these comparative approaches offer valuable lessons. They show how

integrating gender into climate governance can be pursued through multiple pathways constitutional interpretation, legislative mandates, targeted policy instruments, and institutional reforms that guarantee women's participation at all levels. The following subsections will examine select jurisdictions that have made notable progress on this front, highlighting the legal innovations and institutional strategies that could inform India's own efforts to develop a gender-responsive climate regime.

In the Philippines, the Climate Change Act 2009 institutionalised gender as a cross-cutting priority, requiring all government agencies to integrate gender concerns into climate action plans and budgets.²²⁰ The Philippine Commission on Women works jointly with the Climate Change Commission to monitor compliance, and agencies are mandated to allocate at least 5% of their budgets to gender and development programmes.²²¹ This statutory framework demonstrates how gender-responsive budgeting can be made an enforceable obligation rather than an optional add-on.

Costa Rica has also emerged as a pioneer in integrating gender and climate objectives. Its National Policy on Gender Equality and Equity (2018–2030) explicitly incorporates climate change, with measures to promote women's leadership in renewable energy, agriculture, and environmental decision-making.²²² A Gender and Climate Change Action Plan (2019) further operationalises these commitments through measurable indicators, reflecting alignment with both the Paris Agreement and CEDAW obligations.²²³

The European Union has progressively mainstreamed gender into its climate action through the European Green Deal and related funding programmes. The European Parliament has called for gender equality to be embedded in climate finance, adaptation strategies, and energy transitions.²²⁴ The EU's Gender Equality Strategy 2020–2025 specifically emphasises that women must benefit equally from the green transition, reflecting the recognition that climate change is not gender-neutral.²²⁵

In South Africa, the courts have played a significant role in linking constitutional rights to environmental and social justice. The Constitutional Court has interpreted Section 24 of the Constitution, which guarantees the right to an environment that is not harmful to health or well-

²²⁰ *Climate Change Act 2009* (Republic Act No 9729, Philippines).

²²¹ Philippine Commission on Women, 'Gender Mainstreaming in Climate Change' (PCW, 2016) <https://pcw.gov.ph> accessed 12 August 2025.

²²² Government of Costa Rica, *National Policy on Gender Equality and Equity 2018–2030* (2018).

²²³ Government of Costa Rica, *Gender and Climate Change Action Plan 2019* (Ministry of Environment and Energy, 2019).

²²⁴ European Parliament, 'Report on Gender and Climate Justice' (2017/2086(INI), 2018).

²²⁵ European Commission, *Union of Equality: Gender Equality Strategy 2020–2025* COM (2020) 152 final.

being, in light of socio-economic rights, including equality.²²⁶ Though not yet explicitly extended to gender and climate, this jurisprudence establishes a framework that could support future litigation on gender-responsive climate obligations.²²⁷

These comparative approaches illustrate three key lessons: first, statutory mandates on gender and climate (Philippines, Costa Rica) can make inclusion enforceable; second, supranational frameworks (EU) can integrate gender perspectives into large-scale climate transitions; and third, constitutionalised environmental rights (South Africa) create a judicial avenue for expanding protections in the absence of legislative specificity.

7.3 India's Position in Global Climate Governance

India has consistently portrayed itself as a leader of the Global South in international climate negotiations, advocating for the principles of equity and common but differentiated responsibilities and respective capabilities (CBDR-RC) under the United Nations Framework Convention on Climate Change (UNFCCC).²²⁸ While this stance has been effective in highlighting historical responsibility and development justice, India's positions have been less explicit in addressing gendered dimensions of climate governance.

At the Conference of the Parties (COP) 21 in Paris (2015), India submitted its first Nationally Determined Contribution (NDC), which pledged to reduce the emissions intensity of GDP by 33–35% by 2030 from 2005 levels, and to achieve 40% cumulative electric power installed capacity from non-fossil fuel-based energy resources.²²⁹ However, the NDC document contained no explicit reference to gender or women's participation, notwithstanding India's commitments under CEDAW and the Beijing Platform for Action.²³⁰

The revised Updated NDC (2022) continues to emphasise renewable energy, energy efficiency, and sustainable lifestyles under the doctrine of Lifestyle for the Environment (LiFE).²³¹ Yet, it still does not contain a gender-responsive framework or mechanisms for including women in climate decision-making. By contrast, countries such as the Philippines and Costa Rica (discussed in Section 6.1) have explicitly mainstreamed gender in their climate strategies.

²²⁶ *Fuel Retailers Association of Southern Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province* 2007 (6) SA 4 (CC).

²²⁷ C Ngcukaitobi, 'The Constitution and the Environment: The Transformative Potential of Section 24' (2019) 35(1) *South African Journal on Human Rights* 1.

²²⁸ UNFCCC, *United Nations Framework Convention on Climate Change* (1992) 1771 UNTS 107, art 3(1).

²²⁹ Government of India, *India's Intended Nationally Determined Contribution (INDC): Working Towards Climate Justice* (2015).

²³⁰ S Aggarwal, 'Gender Dimensions of India's Climate Commitments: An Analysis of the INDC' (2016) 12(2) *Indian Journal of Environmental Law* 45.

²³¹ Government of India, *Updated First Nationally Determined Contribution under the Paris Agreement* (2022).

India is also a founding member of the International Solar Alliance (ISA) and a participant in initiatives such as the Coalition for Disaster Resilient Infrastructure (CDRI).²³² While these platforms demonstrate global leadership, they remain primarily technocratic and infrastructure-focused, without substantive integration of gender equality principles.²³³

Notably, India's negotiating stance at the UNFCCC Gender Action Plan (GAP) discussions has been cautious, with delegates often framing gender as a "cross-cutting issue" rather than a binding priority.²³⁴ This reluctance may be attributed to domestic gaps in mainstreaming gender into environmental governance, as highlighted in previous chapters.

Nevertheless, India's global climate diplomacy provides a potential avenue for transformation. By aligning its international leadership with a gender-responsive approach through integrating sex-disaggregated data into NDCs, adopting gender budgeting in climate finance, and mainstreaming women's participation in ISA and CDRI India could set an example for other Global South countries, while also strengthening compliance with its obligations under CEDAW General Recommendations Nos 37 and 40.²³⁵

7.4 Towards Gender-Responsive Climate Governance in India

Bridging the gap between India's constitutional guarantees, its obligations under CEDAW, and its existing climate policy frameworks will require more than piecemeal adjustments it calls for a deliberate, multi-layered strategy that brings legal, institutional, and policy reforms into alignment. This means not only interpreting constitutional rights and international commitments in a mutually reinforcing way, but also embedding their principles into the everyday structures and processes through which climate policy is made and implemented. Such an approach would involve strengthening the legal foundations of gender-responsive climate action, creating institutional mechanisms that ensure meaningful participation and accountability, and designing policy frameworks that actively track and respond to gendered impacts. Only by advancing change across these interconnected layers can India move from rhetorical commitments to a coherent system of climate governance that is genuinely inclusive and rights-based. The following recommendations outline a roadmap for embedding gender responsiveness into India's climate governance:

²³² International Solar Alliance, 'About ISA' <https://isolaralliance.org> accessed 12 August 2025.

²³³ Coalition for Disaster Resilient Infrastructure (CDRI), 'Strategic Framework 2019–2025' <https://cdri.world> accessed 12 August 2025.

²³⁴ UNFCCC, 'Report of the Subsidiary Body for Implementation on its 50th Session' FCCC/SBI/2019/9/Add.1.

²³⁵ CEDAW Committee, *General Recommendation No 37 on Gender-related Dimensions of Disaster Risk Reduction and Climate Change* (2018) UN Doc CEDAW/C/GC/37; *General Recommendation No 40 on Equal and Inclusive Representation of Women in Decision-making Systems* (2024) UN Doc CEDAW/C/GC/40.

Climate policy frameworks such as the NAPCC and SAPCCs should be revised to include binding gender provisions mandatory vulnerability assessments, quotas for women's representation, and gender-responsive budgeting.²³⁶ This should involve mandatory vulnerability assessments disaggregated by sex, quotas for women's representation in mission steering committees, and gender-responsive budgeting across all missions.²³⁷

Institutional mechanisms must be strengthened. The Ministry of Environment, Forest and Climate Change (MoEFCC) should establish a Gender and Climate Change Cell, with clear authority to oversee the integration of gender across climate programmes.²³⁸ This unit should work in collaboration with the Ministry of Women and Child Development to ensure cross-sectoral coherence.

Thirdly, the judiciary can play a catalytic role. Building on Article 21 jurisprudence, courts could require climate policies to incorporate gender-sensitive measures. Public interest litigations could challenge the gender-blindness of NAPCC and SAPCCs, compelling judicial oversight.²³⁹ Public interest litigations (PILs) could challenge the gender-blindness of NAPCC and SAPCCs, compelling judicial mandates for reform.²⁴⁰ CEDAW General Recommendations Nos 37 and 40 provide authoritative guidance on women's participation in disaster risk reduction, climate adaptation, and decision-making. India should incorporate these into domestic frameworks through parliamentary legislation or executive guidelines.²⁴¹ Aligning domestic law with these standards would also strengthen India's credibility in international climate negotiations.

India should also adopt a gender budgeting framework within its climate finance architecture, ensuring that funds allocated to renewable energy, disaster resilience, and adaptation programmes directly support women's access and participation.²⁴² This aligns with global best practices promoted by the Green Climate Fund, which requires gender action plans as part of project approval.²⁴³ Local governance structures such as Panchayati Raj Institutions (PRIs) where one-third of seats are reserved for women should be fully integrated into climate decision-making.²⁴⁴ Training

²³⁶ Government of India, *National Action Plan on Climate Change* (2008).

²³⁷ UNDP India, *Gender and Climate Change: Review of State Action Plans on Climate Change* (2020).

²³⁸ MoEFCC, *Annual Report 2022–23* (Government of India, 2023).

²³⁹ *M C Mehta v Union of India* (1987) 1 SCC 395.

²⁴⁰ S Bhattacharya, 'Public Interest Litigation and Climate Change: Scope for Gender Justice in India' (2022) 18(1) *NUJS Law Review* 67.

²⁴¹ CEDAW Committee, *General Recommendation No 37* (2018) UN Doc CEDAW/C/GC/37; *General Recommendation No 40* (2024) UN Doc CEDAW/C/GC/40.

²⁴² Ministry of Finance, *Gender Budget Statement 2023–24* (Government of India, 2023).

²⁴³ Green Climate Fund (GCF), *Gender Policy and Action Plan 2020–23* (2020).

²⁴⁴ Constitution of India 1950, art 243D.

programmes for women leaders in PRIs can enhance their capacity to contribute to climate adaptation planning, particularly in agriculture, water management, and disaster preparedness.

Effective implementation requires the collection of sex-disaggregated data on climate vulnerability and adaptation outcomes.²⁴⁵ Independent monitoring mechanisms should be established, with participation from civil society and academic institutions, to evaluate compliance and accountability in gender-responsive climate governance.

7.5 Conclusion: Building a Transformative Framework

This chapter has shown that while India has strong constitutional guarantees and binding CEDAW obligations, its climate governance remains gender-blind in practice. Comparative experiences demonstrate that gender-responsive climate governance is both feasible and effective when statutory mandates, institutional mechanisms, and judicial reasoning converge.

For India, the way forward lies in translating normative commitments into enforceable measures: revising NAPCC and SAPCCs with binding gender requirements, institutionalising gender-focused units within the MoEFCC, embedding international standards into domestic law, and ensuring women's representation at all levels of governance.

The convergence of constitutional rights (Articles 14, 15, 21), Directive Principles (Articles 39A, 48A), and CEDAW obligations creates a robust normative foundation. Yet, without operationalisation, this foundation remains underutilised. Judicial engagement—drawing on M. C. Mehta's environmental constitutionalism and Budhadev Karmaskar's intersectional reasoning—can help close the enforcement gap, ensuring that climate governance addresses the differentiated vulnerabilities and capacities of women.

Ultimately, gender-responsive climate governance in India should not be seen merely as a matter of international compliance. It is a constitutional necessity, a democratic imperative, and a pathway to more effective and equitable climate action. By embedding gender equality at the heart of its climate regime, India has the opportunity to transform its commitments into a model of inclusive, enforceable, and future-ready governance.

²⁴⁵ N Singh, 'The Missing Data: Gender and Climate Vulnerability in India' (2021) 56(4) *Economic and Political Weekly* 45.

8. Conclusion and Recommendations

8.1 Restating the Research Problem and Objectives

This thesis set out to critically examine the enforceability and impact of CEDAW General Recommendations Nos 37 (2018) and 40 (2024) on women's inclusive participation in climate governance in India. The research was motivated by the recognition that climate change is not only an environmental challenge but also a profound social and gendered one, disproportionately affecting women's livelihoods, health, and security. The central question driving the study was whether and how India's domestic legal and policy frameworks have incorporated these international commitments, and what role judicial interpretation might play in bridging existing gaps.

The objectives were threefold: to evaluate the gender sensitivity of India's climate policy frameworks, particularly the NAPCC and SAPCCs; to explore the judicial engagement with environmental and gender rights, with attention to landmark cases such as *M C Mehta* and *Budhadev Karmaskar*; and to situate India's commitments within its CEDAW obligations and constitutional framework, thereby identifying legal, institutional, and normative pathways for gender-responsive climate governance.

8.2 Key Findings Across the Chapters

The analysis across the chapters produced several key findings.

First, India's principal climate framework, the National Action Plan on Climate Change (NAPCC), and its supporting SAPCCs are gender-blind in design and implementation. Despite references to equity and inclusivity, they lack binding mechanisms for women's participation, representation, or targeted support. This is inconsistent with both constitutional guarantees and India's international obligations.²⁴⁶

Second, judicial interpretation, particularly in the environmental constitutionalism line of cases led by *M C Mehta*, has been transformative in embedding environmental rights within Article 21.²⁴⁷ Yet, this jurisprudence has not extended to gender-sensitive climate governance. By contrast, the *Budhadev Karmaskar* case demonstrates the Court's capacity to adopt an intersectional rights framework, recognising the compounded vulnerabilities of marginalised women.²⁴⁸

²⁴⁶ Prime Minister's Council on Climate Change, *National Action Plan on Climate Change* (Government of India 2008) https://moef.gov.in/wp-content/uploads/2018/04/NAP_CC_0.pdf accessed 20 August 2025.

²⁴⁷ *M C Mehta v Union of India* (1987) 1 SCC 395.

²⁴⁸ *Budhadev Karmaskar v State of West Bengal* (2011) 10 SCC 283.

Third, the study established that CEDAW and its General Recommendations provide a powerful normative framework. General Recommendation 37 explicitly requires States to integrate gender in disaster risk reduction and climate change responses, while General Recommendation 40 underscores women's equal participation in decision-making processes.²⁴⁹ India's compliance record, as assessed in the 2014 and 2024 CEDAW Concluding Observations, remains weak, with repeated calls from the Committee to mainstream gender into environmental governance.²⁵⁰

Finally, a comparative analysis of cases such as *Leghari v Pakistan*, *Urgenda v Netherlands*, and *Neubauer v Germany* reveals how courts elsewhere have enforced climate action through a rights-based approach.²⁵¹ While gender has not always been central in these cases, they show the feasibility of courts linking climate obligations to human rights in ways directly relevant to India.

8.3 Theoretical and Doctrinal Contributions

This thesis makes several doctrinal contributions.

First, it argues that Article 21 of the Constitution, as interpreted by the Supreme Court, can serve as a constitutional foundation for gender-responsive climate rights.²⁵²

Second, it advances the idea of transformative constitutionalism in climate governance: constitutional interpretation that is responsive to international norms, socio-economic realities, and structural exclusions. The integration of CEDAW norms into constitutional reasoning is not merely aspirational but doctrinally supported by precedents such as *Vishaka v State of Rajasthan*, where international law was used to fill domestic gaps.²⁵³

Third, the thesis highlights the intersectionality framework as a doctrinal necessity. *Budhadev Karmaskar* illustrates that marginalised women's rights can be brought under Article 21's protection. Extending this reasoning to climate governance allows for an intersectional lens that addresses caste, class, occupation, and gender simultaneously.²⁵⁴

²⁴⁹ Committee on the Elimination of Discrimination against Women, General Recommendation No 37 on Gender-related dimensions of disaster risk reduction in the context of climate change (2018) UN Doc CEDAW/C/GC/37; Committee on the Elimination of Discrimination against Women, General Recommendation No 40 on the equal and inclusive representation of women in decision-making systems (2024) UN Doc CEDAW/C/GC/40.

²⁵⁰ Committee on the Elimination of Discrimination against Women, Concluding Observations on the combined fourth and fifth periodic reports of India (2014) UN Doc CEDAW/C/IND/CO/4-5; Committee on the Elimination of Discrimination against Women, Concluding Observations on the ninth periodic report of India (2022) UN Doc CEDAW/C/IND/CO/9.

²⁵¹ *Leghari v Federation of Pakistan* (2015) WP No 25501/2015 (Lahore High Court); *Stichting Urgenda v Government of the Netherlands (Ministry of Infrastructure and the Environment)* ECLI:NL:HR:2019:2006 (Supreme Court of the Netherlands, 20 December 2019); *Neubauer v Germany* BVerfG, Order of the First Senate, 1 BvR 2656/18, 24 March 2021.

²⁵² Constitution of India 1950, art 21.

²⁵³ *Vishaka v State of Rajasthan* (1997) 6 SCC 241.

²⁵⁴ *Budhadev Karmaskar v State of West Bengal* (2011) 10 SCC 283.

8.4 Policy and Practical Implications

The analysis carries significant implications for climate governance in India. At the policy level, the NAPCC and SAPCCs require revision to include binding gender mandates, such as compulsory representation of women in mission steering groups and inclusion of sex-disaggregated data in vulnerability assessments.²⁵⁵

At the institutional level, the MoEFCC and state climate bodies should establish permanent gender focal points and adopt gender-responsive budgeting mechanisms, aligning with CEDAW General Recommendation 40.²⁵⁶

For civil society and grassroots actors, the findings demonstrate the importance of shadow reporting to CEDAW and domestic advocacy, given the state's weak compliance record.²⁵⁷ Internationally, India risks reputational harm for failing to comply with its obligations. Integrating gender in climate governance is not just a normative requirement but a strategic necessity to secure climate finance and partnerships that increasingly demand evidence of inclusivity.²⁵⁸

8.5 Recommendations

8.5.1 Legal and Constitutional Reform

Environmental statutes such as the Environment Protection Act 1986 should be amended to incorporate gender-responsive clauses.²⁵⁹ Gender quotas should be codified to guarantee women's representation in climate governance bodies.²⁶⁰ Further Article 21's jurisprudence should explicitly address climate-gender linkages, through either judicial interpretation or constitutional amendment debates.²⁶¹

8.5.2 Policy Reform

The NAPCC and SAPCCs must be revised to mandate gender audits of climate missions.¹⁷ All climate missions should be required to publish sex-disaggregated data and gender-specific

²⁵⁵ UNDP, Gender and Climate Change: *Gender-Responsive Climate Action in India* (New Delhi, 2020).

²⁵⁶ Ministry of Environment, Forest and Climate Change, *Guidelines for State Action Plans on Climate Change: Revision 2015* (Government of India 2015).

²⁵⁷ National Alliance of Women, *Shadow Report to the CEDAW Committee on India* (NAWO 2022) https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/IND/INT_CEDAW_NGO_IND_48962_E.pdf accessed 20 January 2026.

²⁵⁸ OECD, *Gender and the Environment: Building Evidence and Policies to Achieve the SDGs* (OECD Publishing 2021).

²⁵⁹ The Environment (Protection) Act 1986.

²⁶⁰ Shibani Ghosh, 'Climate Change and Indian Environmental Law: Challenges and Opportunities' (2019) 31(2) *Journal of Environmental Law* 247.

²⁶¹ Constitution of India 1950, arts 14, 15, 21.

adaptation strategies. A comprehensive national framework on gender and climate change should be introduced, drawing from best practices in countries such as Costa Rica and South Africa.²⁶²

8.5.3 Judicial Engagement

Strategic public interest litigation should explicitly frame climate inaction as gender discrimination under Articles 14, 15, and 21.20 Judicial training on the gender–climate nexus should be institutionalised, enabling courts to integrate CEDAW General Recommendations into their reasoning.²⁶³

8.5.4 Institutional Innovation

An independent Climate and Gender Commission should be created with monitoring powers, comprising representatives from government, civil society, and academia. Collaboration between Panchayati Raj Institutions and climate bodies must be strengthened to ensure that grassroots women leaders influence national policy.²⁶⁴

8.6 Closing Reflections: Towards Transformative Climate Justice

The central argument of this thesis is that gender cannot remain peripheral in climate governance. India's constitutional guarantees, combined with its international obligations under CEDAW, create a robust normative framework that demands integration of women into climate decision-making and protection from gendered vulnerabilities. Yet, the current legal and policy framework continues to fall short.

The way forward is one of transformative constitutionalism, where courts, policymakers, and civil society together reshape climate governance to reflect principles of equality, dignity, and justice. Comparative jurisprudence shows that courts can act as powerful agents of accountability in the climate domain.²⁶⁵

If India's judiciary embraces this potential, it could catalyse a shift towards climate governance that is both environmentally sustainable and socially inclusive. Ultimately, the pursuit of climate justice in India must be gender-responsive, intersectional, and enforceable.²⁶⁶

²⁶² Ministry of Environment and Energy, *National Gender and Climate Change Plan* (Government of Costa Rica 2017); Department of Environmental Affairs, *National Climate Change Adaptation Strategy* (Government of South Africa 2020)..

²⁶³ National Judicial Academy, *Training Modules on Gender and Law* (NJA 2021).

²⁶⁴ Nirmal Sengupta, 'Panchayati Raj and Climate Governance in India: Localising Adaptation' (2018) 53(24) *Economic and Political Weekly* 67.

²⁶⁵ *State of the Netherlands v Stichting Urgenda* ECLI:NL:HR:2019:2006 (Supreme Court of the Netherlands, 20 December 2019).

²⁶⁶ UN Committee on the Elimination of Discrimination against Women, 'General Recommendation No 40 on the equal and inclusive representation of women in decision-making systems' (25 October 2024) UN Doc CEDAW/C/GC/40.

Conclusion

This thesis has argued that the exclusion of gender from India's climate governance is not merely a policy oversight but a fundamental breach of both international treaty obligations and domestic constitutional mandates. By examining the normative evolution of the CEDAW framework culminating in the parity-driven standards of General Recommendation No. 40 (2024) this research demonstrates that "gender-neutral" climate action is inherently discriminatory in impact, violating the substantive equality guarantees of Articles 14 and 15 and the right to life under Article 21 of the Indian Constitution.

The core finding of this study is the existence of a profound implementation gap. While India engages in international reporting, domestic instruments like the National Action Plan on Climate Change (NAPCC) remain technocentric and siloed. This "invisibility of gender" is empirically anchored in the disproportionate mortality rates during disasters and the systemic exclusion of women from resource ownership. As established in Chapter 6, the failure to produce sex-disaggregated data constitutes a procedural violation of CEDAW, rendering women's climate vulnerabilities legally invisible to the state.

To bridge this gap, the thesis proposes a shift toward transformative constitutionalism. The judiciary, leveraging the Vishaka precedent, must treat CEDAW's General Recommendations not as mere "soft law" but as essential interpretive tools for fundamental rights. Comparative analysis from Urgenda and Costa Rica suggests that the "Positive Obligation" of the state includes a duty to provide gender-responsive climate adaptation.

Ultimately, achieving climate justice in India requires moving beyond the "vulnerability narrative" to a parity paradigm. This necessitates:

- **Legislative Reform:** Statutory backing for climate plans to ensure judicially enforceable gender mandates.
- **Procedural Parity:** Moving from 33% representation to a **50:50 parity** model in all climate decision-making bodies, as mandated by the 2024 CEDAW standard.
- **Empirical Accountability:** Mandatory gender impact assessments and sex-disaggregated reporting in all disaster and adaptation frameworks.

In conclusion, as climate change reconfigures the social fabric of the Global South, India's legal response must evolve. By internalizing international norms into the constitutional heart of the

republic, India can transform climate governance from a technocratic exercise into a truly inclusive realization of human dignity and social justice.

LIST OF REFERENCES – ALL CASES CITED

India

- M. C. Mehta v Union of India (Oleum Gas Leak Case)
- M. C. Mehta v Kamal Nath
- Taj Trapezium Cases (M. C. Mehta line of litigation)
- Budhadev Karmaskar v State of West Bengal
- Vishaka v State of Rajasthan

Comparative / Foreign Jurisprudence

- Leghari v Federation of Pakistan (Pakistan)
- Urgenda Foundation v The Netherlands (Netherlands)
- Neubauer v Germany (Germany)
- Minister of Health v Treatment Action Campaign (South Africa)

LIST OF BIBLIOGRAPHIES (BOOKS, ARTICLES, REPORTS & INTERNATIONAL INSTRUMENTS)

International Treaties & UN Instruments

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979
- CEDAW General Recommendation No. 37 (2018)
- CEDAW General Recommendation No. 40 (2024)
- CEDAW Concluding Observations on India (2014)
- CEDAW Concluding Observations on India (2024)
- Paris Agreement on Climate Change
- United Nations Sustainable Development Goals (SDGs)
- Vienna Convention on the Law of Treaties (Article 26 – pacta sunt servanda)

UN / International Reports & Institutional Studies

- UNDP Review of State Action Plans on Climate Change (2020)
- Indian Laws, Policies & Frameworks
- National Action Plan on Climate Change (NAPCC), 2008
- State Action Plans on Climate Change (SAPCCs)
- Forest Rights Act, 2006
- Constitution of India, 1950 (Articles 14, 15, 21, 39A, 48A)
- Panchayati Raj Institutions (73rd Amendment context)
- National Institute of Rural Development and Panchayati Raj (NIRDPR) (capacity-building reference)

Scholarly Works Cited / Discussed

- Dinah Shelton — on Soft Law as a “twilight zone” between morality and legality
- Keller & Ulfstein — on “functional normativity” of General Recommendations
- Bina Agarwal — on women, land rights, and ecological knowledge

LIST OF INSTITUTIONAL WEBSITES

CEDAW & UN Human Rights Bodies

- Committee on the Elimination of Discrimination against Women, CEDAW (United Nations, UN Office of the High Commissioner for Human Rights) <https://www.ohchr.org/en/treaty-bodies/cedaw>
- United Nations Office of the High Commissioner for Human Rights (OHCHR) – CEDAW General Recommendations <https://www.ohchr.org/en/treaty-bodies/cedaw/general-recommendations>

UN & Climate Governance Frameworks

- United Nations Framework Convention on Climate Change (UNFCCC) <https://unfccc.int>
- United Nations Development Programme (UNDP) <https://www.undp.org>
- United Nations Climate Change (UN Climate) – National Adaptation Plans (NAPs), Gender and Climate <https://unfccc.int/topics/gender/workstreams/mainstreaming-gender-in-unfccc-process>
- United Nations Sustainable Development Goals (UN SDGs) <https://sdgs.un.org/goals>
- International Agreements
- United Nations Treaty Collection – Paris Agreement <https://treaties.un.org>
- Indian Government Policies & Institutions
- Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India <https://moef.gov.in>
- National Action Plan on Climate Change (NAPCC), Government of India <https://moef.gov.in/cc/napcc>
- Ministry of Panchayati Raj, Government of India <https://ministryofpanchayatiraj.gov.in>
Global Climate Funds & Gender Policy
- Green Climate Fund (GCF) <https://www.greenclimate.fund>

Abstract

This thesis critically examines the enforceability and normative impact of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) General Recommendation No. 37 (2018) on gender-related dimensions of disaster risk reduction and climate change, and General Recommendation No. 40 (2024) on women's equal and inclusive participation in decision-making, within the context of India's climate governance framework. It argues that climate change is not a gender-neutral phenomenon and that India's existing climate policies, particularly the National Action Plan on Climate Change (NAPCC) and State Action Plans on Climate Change (SAPCCs), remain largely gender-blind despite constitutional guarantees of equality and dignity under Articles 14, 15, and 21 of the Constitution of India. Through a doctrinal legal analysis supplemented by normative evaluation of international human rights law, domestic constitutional jurisprudence, climate policy instruments, and judicial precedents, the thesis assesses India's compliance with its obligations under CEDAW and the CEDAW Committee's Concluding Observations. It demonstrates that while General Recommendations 37 and 40 constitute soft law, they possess significant interpretive and persuasive authority capable of shaping domestic legal obligations, particularly through judicial engagement. The study further highlights structural barriers—such as gendered land ownership, institutional exclusion, and the non-binding nature of climate policies—that undermine women's meaningful participation in climate governance. Drawing on comparative experiences and India's environmental constitutionalism, the thesis proposes legal, policy, and institutional reforms to operationalise gender-responsive climate governance, positioning CEDAW's interpretive guidance as a crucial bridge between international norms and enforceable domestic accountability.

Zusammenfassung

Diese Dissertation untersucht kritisch die Durchsetzbarkeit und die normative Wirkung der Allgemeinen Empfehlung Nr. 37 (2018) des CEDAW-Ausschusses zu den geschlechtsspezifischen Dimensionen von Katastrophenvorsorge und Klimawandel sowie der Allgemeinen Empfehlung Nr. 40 (2024) zur gleichberechtigten und inklusiven Beteiligung von Frauen an Entscheidungsprozessen im Kontext der Klimagovernance in Indien. Ausgangspunkt der Arbeit ist die Erkenntnis, dass der Klimawandel kein geschlechtsneutraler Prozess ist und dass die bestehenden indischen Klimapolitiken, insbesondere der National Action Plan on Climate Change (NAPCC) und die State Action Plans on Climate Change (SAPCCs), trotz verfassungsrechtlicher Garantien der Gleichheit und Würde nach den Artikeln 14, 15 und 21 der Verfassung Indiens weitgehend geschlechtsblind bleiben. Auf der Grundlage einer rechtsdogmatischen Analyse, ergänzt durch eine normative Bewertung des internationalen Menschenrechtsrechts, der indischen Verfassungsrechtsprechung, klimabezogener Politikrahmen sowie einschlägiger Gerichtsentscheidungen, bewertet die Arbeit Indiens Einhaltung seiner Verpflichtungen aus der CEDAW-Konvention und den abschließenden Bemerkungen des CEDAW-Ausschusses. Sie zeigt auf, dass die Allgemeinen Empfehlungen Nr. 37 und Nr. 40 zwar dem Soft Law zuzuordnen sind, jedoch über eine erhebliche interpretative und persuasive Autorität verfügen, die insbesondere durch gerichtliche Rezeption in durchsetzbare innerstaatliche Verpflichtungen übersetzt werden kann. Zugleich identifiziert die Arbeit strukturelle Hindernisse – wie geschlechtsspezifische Ungleichheiten im Landbesitz, institutionelle Exklusion und die fehlende Rechtsverbindlichkeit zentraler Klimapolitiken –, die eine wirksame Beteiligung von Frauen an der Klimagovernance untergraben. Auf der Grundlage vergleichender Erfahrungen und der indischen Umweltverfassungsrechtsprechung entwickelt die Dissertation schließlich rechtliche, politische und institutionelle Reformvorschläge, um eine geschlechtergerechte Klimagovernance zu operationalisieren, und positioniert die interpretativen Leitlinien der CEDAW als zentrales Bindeglied zwischen internationalen Normen und innerstaatlicher rechtlicher Verantwortlichkeit.