

# **Right to Cool: Article 21, Urban Heat, and Equitable Access to Affordable Cooling in Era of Climate Change<sup>1</sup>**

## **Abstract**

The intensification of climate change and the recurrence of extreme urban heat events have created unprecedented challenges for human survival and dignity in India's metropolitan centres. Within this evolving jurisprudential framework, this paper seeks to advance the argument for recognising a "Right to Cool" as an essential facet of Article 21 in the era of climate change.

Urban heat does not impact all citizens uniformly. The brunt is borne by vulnerable populations such as informal workers, slum dwellers, children, and the elderly, whose lack of access to affordable and sustainable cooling aggravates their exposure to heat-related risks. By engaging with India's National Cooling Action Plan, the paper estimates whether statutory and policy initiatives adequately reflect constitutional mandates. The analysis draws on international human rights law and comparative jurisprudence to show how the state's positive obligations extend to protecting thermal comfort as part of the right to health and the right to the environment.

Ultimately, the study argues that judicial acknowledgement of "Right to Cool" would not only represent a logical extension of existing Article 21 jurisprudence but also reinforce India's commitment to climate justice and human rights. Such recognition would compel both policy innovation and institutional accountability in addressing one of the most vital challenges of urban life in the twenty-first century.

**Keywords:** Article 21, Right to Life, Climate Justice, Urban Heat, Affordable Cooling, Human Rights

## **I. Introduction**

The intensification of the global climate crisis has produced unprecedented stressors on urban life, especially in India's metropolitan centres. Among these, the growing frequency and severity of extreme heat events now includes a pressing public health emergency and a

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fundamental rights concern. The India Meteorological Department has noted that the number of heatwave days in the country has nearly doubled in the past four decades, with record-breaking temperatures frequently passing human survivability thresholds.<sup>2</sup> Such events disrupt economic activity, aggravate health risks, and increase inequalities in access to essential resources.

Indian constitutional developments, particularly under *Article 21* of the Constitution, has never been static. From *Maneka Gandhi v. Union of India*<sup>3</sup> to *Subhash Kumar v. State of Bihar*,<sup>4</sup> the Supreme Court has frequently interpreted the right to life as extending beyond mere animal existence to encompass conditions of dignity, health, and environmental well-being. The recognition of the right to livelihood,<sup>5</sup> the right to health,<sup>6</sup> and the right to a clean environment<sup>7</sup> illustrates how *Article 21* functions as a living instrument, responsive to emerging social realities across the nation. In this jurisprudential continuum, the argument for recognising a “Right to Cool” and equitable access to affordable and sustainable cooling in the era of climate change arises as a logical and necessary extension.

Urban heat does not burden all citizens equally. Vulnerable populations such as informal workers, slum dwellers, children, and the elderly are disproportionately exposed to heat-related risks due to inadequate housing, energy poverty, and the lack of affordable cooling mechanisms.<sup>8</sup> For these groups, cooling is not a matter of luxury but of survival. To deny equitable access to thermal comfort in a rapidly warming climate is, therefore, to deny the conditions which are necessary for a dignified life under *Article 21*.

This paper situates the “Right to Cool” within the constitutional framework of the right to life and dignity in our Constitution. It evaluates the adequacy of statutory and policy measures

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<sup>2</sup> India Meteorological Department, “Annual Climate Summary 2020” (2021), available at <https://mausam.imd.gov.in/> (last visited Sep. 18, 2025).

<sup>3</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>4</sup> *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

<sup>5</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

<sup>6</sup> *Consumer Education and Research Centre v. Union of India*, AIR 1995 SC 922.

<sup>7</sup> *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

<sup>8</sup> National Disaster Management Authority, “Heat Wave Guidelines” (2019), available at <https://ndma.gov.in/> (last visited Sep. 18, 2025).

such as the National Cooling Action Plan, engages with comparative and international jurisprudence, and argues that judicial acknowledgement of thermal comfort as a constitutional entitlement is both normatively justified and very essential for better living of the citizens. Such recognition would align constitutional rights with India's climate adaptation imperatives while emphasizing its commitment to human rights and climate justice in the twenty-first century.

## **II. Article 21 and the Expanding Horizons of the Right to Life**

The jurisprudence of *Article 21* of the Constitution of India stands as unarguably the most dynamic illustration of the Supreme Court's role in adapting fundamental rights to evolving social and environmental realities. While the bare constitutional text demands that "no person shall be deprived of his life or personal liberty except according to procedure established by law,"<sup>9</sup> the Court has consistently rejected a narrow, proceduralist reading in favour of a purposive, substantive interpretation. The trajectory of *Article 21* demonstrates a judicial commitment to ensuring that the right to life encompasses not merely the protection of physical existence but also the assurance of situations essential to a life of dignity.

The landmark decision in *Maneka Gandhi v. Union of India* transformed *Article 21* from a clause guaranteeing minimal procedural safeguards into a substantive repository of human rights in Constitutional jurisprudence.<sup>10</sup> The Court held that the phrase "procedure established by law" must be "fair, just and reasonable," thereby adding due process values into Indian constitutionalism. This interpretive move set the stage for an expansive rights jurisprudence, wherein survival and dignity became indivisible components of life under *Article 21*.

Subsequent decisions elaborated this philosophy by identifying new rights as absolute in *Article 21*. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Court emphasised that the right to life contains the right to live with human dignity and the bare necessities of life, such as adequate nutrition, clothing, shelter, and facilities for reading, writing and expressing oneself.<sup>11</sup> Similarly, in *Olga Tellis v. Bombay Municipal Corporation*,

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<sup>9</sup> The Constitution of India, art. 21.

<sup>10</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>11</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

the Court recognised the right to livelihood as integral to life, emphasizing that deprivation of livelihood is tantamount to deprivation of life itself.<sup>12</sup>

The right to health was firmly entrenched within *Article 21* in *Consumer Education and Research Centre v. Union of India*, where the Court held that the right to health and medical care is a fundamental right essential to make the life of the workman meaningful and purposeful.<sup>13</sup> Likewise, environmental protection was constitutionalised through decisions such as *Subhash Kumar v. State of Bihar*<sup>14</sup> and *M.C. Mehta v. Union of India*,<sup>15</sup> where the Court ruled that the right to life comprises of the right to enjoyment of pollution-free water and air. These cases together established a doctrinal foundation for environmental rights as integral to human survival and dignity.

What emerges from this jurisprudence is a pattern of incremental but uniform recognition of socio-economic and environmental entitlements within the fold of *Article 21*. The Court has justified such expansion on the ground that fundamental rights must be responsive to varying conditions and cannot be fossilised.<sup>16</sup> This principle, often termed as the doctrine of “judicially recognised unenumerated rights,” reflects an interpretive philosophy that allows constitutional rights to keep pace with emerging challenges to human existence.

It is within this lineage that the proposed “Right to Cool” must be situated. Just as the right to livelihood, health, and a clean environment were judicially evolved to address the necessities of dignified living, the guarantee of equitable access to cooling in an era of intensifying urban heat is a natural progression of *Article 21*. In current conditions, thermal comfort is not merely a question of convenience but of survival. Recognition of such a right would thus be consistent with the established trajectory of judicial innovation under *Article 21*, ensuring that the Constitution remains a living document capable of responding to the existential threats posed by climate change.

### **III. Policy and Legal Framework: Evaluating India’s National Cooling Action Plan**

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<sup>12</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

<sup>13</sup> *Consumer Education and Research Centre v. Union of India*, AIR 1995 SC 922.

<sup>14</sup> *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

<sup>15</sup> *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

<sup>16</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

The Indian State has not been unaware to the challenges of heat stress and rising energy demands for cooling. The most complete effort in this direction has been the *India Cooling Action Plan* (ICAP), launched in 2019 by the Ministry of Environment, Forest and Climate Change.<sup>17</sup> The ICAP sets out ambitious objectives such as reducing cooling demand by 20–25 per cent by 2037–38, reducing refrigerant demand by 25–30 per cent, and training over 100,000 technicians in the servicing sector.<sup>18</sup> It also foresees universal access to sustainable and affordable cooling, recognising cooling as a developmental necessity rather than a luxury.

Despite these stated objectives, serious concerns remain regarding the plan’s enforceability as well as inclusiveness. First, the ICAP is only a policy document lacking statutory force. Its implementation depends on inter-ministerial coordination, financial allocations, and cooperation from state governments, none of which are legally mandated by any authority. Secondly, the ICAP, while hopeful, risks reproducing inequities by privileging energy-efficient cooling technologies without adequately addressing affordability for the urban poor. Market-driven solutions such as high-efficiency air conditioners, though environmentally preferable, remain distant to slum dwellers, informal workers, and other marginalised communities.<sup>19</sup>

Thirdly, the ICAP fails to incorporate adequately with India’s disaster management framework. The National Disaster Management Authority has identified heat waves as one of the most lethal and extreme weather events, surpassing even floods and cyclones in terms of mortality.<sup>6</sup> Yet, there is very less institutional convergence between disaster management strategies and cooling policies. This fragmented approach reflects a gap between constitutional obligations and policy design framework. The principle of precaution, recognised by the Supreme Court in *Vellore Citizens’ Welfare Forum v. Union of India*,<sup>20</sup> mandates that where environmental and health risks are substantial, preventive action must be taken.

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<sup>17</sup> Ministry of Environment, Forest and Climate Change, “India Cooling Action Plan” (2019), available at <https://moef.gov.in/> (last visited Sep. 18, 2025).

<sup>18</sup> *Ibid*

<sup>19</sup> National Institute of Urban Affairs, “Cooling Access and Energy Poverty in Indian Cities” (2020).

<sup>20</sup> *Vellore Citizens’ Welfare Forum v. Union of India*, AIR 1996 SC 2715.

A common objection to recognising such a right is economic feasibility. However, constitutional rights have never been contingent on resource abundance alone. In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,<sup>21</sup> the Court held that financial constraints cannot justify denial of emergency healthcare. Similarly, energy and infrastructure limitations cannot justify denial of thermal comfort essential for survival. The State's duty is to progressively realise this right while ensuring that short-term limitations do not translate into systemic neglect.

#### **IV. Comparative Jurisprudence and International Human Rights Law**

The perception of a "Right to Cool" under *Article 21* does not stand in isolation. Developments in comparative constitutional law and international human rights jurisprudence reveal a growing acknowledgement of thermal comfort, climate adaptation, and environmental equity as essential to the protection of life and dignity. These global experiences provide precious prescriptive support for Indian courts in articulating a jurisprudence receptive to urban heat and climate vulnerability.

At the international level, the right to health under *Article 12* of the International Covenant on Economic, Social and Cultural Rights (ICESCR) obliges States to take steps necessary for the "improvement of all aspects of environmental and industrial hygiene."<sup>22</sup> The Committee on Economic, Social and Cultural Rights, in its General Comment No. 14, has clarified that this obligation extends to ensuring access to safe and healthy environmental conditions.<sup>23</sup> Thermal comfort, recognised as a determinant of health by the World Health Organization,<sup>24</sup> thus falls squarely within the scope of the right to health.

The Paris Agreement (2015) further emphasises the principles of equity and climate justice, urging States to strengthen adaptive capacity and resilience in the face of climate change.<sup>25</sup> In developing countries, adaptation is not limited to large-scale infrastructural projects but necessarily contains securing equitable access to basic needs such as cooling, particularly for

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<sup>21</sup> *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37.

<sup>22</sup> International Covenant on Economic, Social and Cultural Rights, 1966, art. 12

<sup>23</sup> UN Committee on Economic, Social and Cultural Rights, "General Comment No. 14: The Right to the Highest Attainable Standard of Health" (2000)

<sup>24</sup> World Health Organization, "Housing and Health Guidelines" (2018).

<sup>25</sup> Paris Agreement, 2015, art. 7.

vulnerable populations. Recognition of a right to cooling aligns with India's obligations under the Paris framework, where adaptation and safeguarding human rights are mutually reinforcing commitments.

Comparative constitutional jurisprudence also provides many persuasive precedents. In *Lopez Ostra v. Spain*, the European Court of Human Rights held that serious environmental pollution might violate the right to respect for private and family life under *Article 8* of the European Convention on Human Rights.<sup>26</sup> The Court emphasised that environmental factors, if severe enough, can amount to an infringement of fundamental rights. Similarly, in *Urgenda Foundation v. State of Netherlands*, the Dutch Supreme Court held that the government has a duty vested under the European Convention on Human Rights to take effective measures to mitigate climate change, recognising climate inaction as a violation of the right to life.<sup>27</sup> These cases underscore that courts in other jurisdictions have not hesitated to expand existing rights to address environmental and climate-related harms.

Further, the European Union has incorporated the concept of “energy poverty” into its policy framework, recognising that affordable access to energy which will include cooling is essential for social inclusion and human dignity.<sup>28</sup> Brazil too has seen judicial pronouncements framing climate stability as well as access to adaptive measures as matters of constitutional obligation.<sup>29</sup> These developments highlight a convergence of international opinion that climate-related vulnerabilities cannot be treated as policy questions alone but require the protection of enforceable rights.

For India, these global trends provide both legal and moral authority for judicial innovation under *Article 21*. The Constitution itself, through *Article 51(c)*, directs the State to respect international law and treaty obligations but the same is not binding.<sup>30</sup> In this interpretive light, the recognition of a “Right to Cool” is consistent with India's international commitments under human rights treaties and climate agreements, as well as with the comparative

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<sup>26</sup> *Lopez Ostra v. Spain*, (1994) 20 EHRR 277.

<sup>27</sup> *Urgenda Foundation v. State of Netherlands*, Supreme Court of the Netherlands, Judgment of 20 Dec. 2019.

<sup>28</sup> European Commission, “Energy Poverty Handbook” (2016).

<sup>29</sup> Federal Supreme Court of Brazil, *PSB v. Brazil (Climate Fund Case)*, ADPF No. 708/DF (2021).

<sup>30</sup> The Constitution of India, art. 51(c).

jurisprudence that confirms the indivisibility of environmental well-being and fundamental rights.

## V. Conclusion and Way Forward

The challenges of climate change, manifest most acutely in recurring urban heat events, demand a constitutional response that is both forward-looking and inclusive. Indian jurisprudence under *Article 21* has consistently affirmed that the right to life is not confined to mere physical existence but encompasses the conditions necessary for a life of dignity.<sup>31</sup> In this trajectory, the recognition of a “Right to Cool” is neither radical nor unprecedented rather it is a natural progression of judicial reasoning that has already embedded rights to livelihood, health, shelter, and a clean environment within the meaning of life.<sup>32</sup>

Although, the jurisprudential evolution of *Article 21* demonstrates that the right to life has consistently been read in a manner responsive to new threats to human dignity and survival. From livelihood and health to a clean environment, the Court has recognised unenumerated rights as implicit in life’s broader meaning. In the face of intensifying climate change and the reappearance of deadly urban heat events, the constitutional recognition of a “Right to Cool” emerges as both doctrinally consistent and normatively compelling.

The present analysis demonstrates that the absence of equitable access to cooling perpetuates systemic inequalities, disproportionately burdening the poor, informal workers, children, including the elderly.<sup>33</sup> Policy measures such as the *India Cooling Action Plan* are important but remain aspirational in the absence of enforceability and inclusivity.<sup>34</sup> Comparative and international jurisprudence further affirm that thermal comfort, environmental stability, and climate adaptation are matters of human rights, not policy discretion.<sup>35</sup> The Indian judiciary, in its role as guardian of fundamental rights, is thus institutionally placed to affirm the constitutional basis of this emerging entitlement.

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<sup>31</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

<sup>32</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180; *Consumer Education and Research Centre v. Union of India*, AIR 1995 SC 922; *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

<sup>33</sup> National Disaster Management Authority, “Heat Wave Guidelines” (2019), available at <https://ndma.gov.in/> (last visited Sep. 18, 2025).

<sup>34</sup> Ministry of Environment, Forest and Climate Change, “India Cooling Action Plan” (2019), available at <https://moef.gov.in/> (last visited Sep. 18, 2025).

<sup>35</sup> *Ibid.*

Judicial recognition of the “Right to Cool” would serve multiple functions. First, it would reinforce the principle that constitutional rights must evolve in response to existential threats posed by climate change. Second, it would compel the State to translate policy commitments into actionable obligations, thereby addressing the gap between aspirational plans and lived realities. Third, it would signal India’s commitment to climate justice, affirming that the burdens of climate change will not be disproportionately borne by those least responsible and most vulnerable.<sup>36</sup>

The way forward must therefore include a two-pronged strategy. On the judicial front, courts should be willing to interpret *Article 21* to encompass access to sustainable and affordable cooling as part of the right to health, environment, and dignity. On the legislative and policy front, Parliament and the executive must ensure that cooling solutions are affordable, energy-efficient, and integrated into urban planning and disaster management. This could include mandating passive cooling in building codes, subsidising energy-efficient appliances for low-income households, and developing community cooling centres in vulnerable neighbourhoods.

Ultimately, recognising a constitutional “Right to Cool” would not only reaffirm the transformative potential of the Constitution but also align India with global human rights and climate adaptation frameworks. It would mark a decisive step towards ensuring that the promise of *Article 21* which is the right to life with dignity remains meaningful in the era of climate change.

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<sup>36</sup> UN General Assembly, “Report of the Special Rapporteur on Human Rights and Climate Change,” UN Doc A/77/226 (2022).