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India's New 'Climate Right': Boon or Bane for Climate Justice?

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In a landmark judgement in *MK Ranjitsinh et al. v Union of India et al* ('*MK Ranjitsinh*'), the Supreme Court of India ('the Court') declared that the Right to Life (under Article 21 of the Constitution) includes '*the right to be free from the adverse impacts of climate change*'. This judgement is now part of the broader legal history in which the Court has expanded constitutional rights to confront issues of poverty, inequality, and environmental degradation. It aligns with a global trend wherein courts have emerged as fervent battlegrounds for climate-related disputes.

The judgement comes in the context of a push for large-scale renewable energy projects in India. The government has exempted such projects from Environmental Impact Assessments. These exemptions also come in the context of the dilution of forest and other environmental protections, which this current blog series is responding to.

The case specifically dealt with the impact of overhead power lines from large solar parks in Rajasthan and Gujarat on the critically endangered Great Indian Bustard (GIB). With fewer than 150 GIBs remaining as of 2018 — an 80% decline from their numbers in the 1960s — these birds are especially vulnerable to power line mortality. In 2021, the Court ordered the undergrounding of high-tension cables in GIB habitats wherever feasible and mandating diverters. If grounding cables were not feasible, the matter would be referred to a court-constituted expert committee to grant an exemption. In this judgement, the Court modified the approach, creating an Expert Committee to determine the best approach for power lines in priority GIB areas while invoking the new climate right.

Several legal commentators have already written and discussed the specifics and significance of the most recent judgement (see for instance, posts by Kumar & Naik, Dutta and Sinha). In this post, I will instead provide a perspective of how this new 'climate right' weaves into the broader political-economy of India's green transition and whether it will help address the country's significant climate justice challenges.

Political Economy of Green Transitions

India has committed to ambitious renewable energy targets, including achieving 'net zero' by 2070 and installing 500 gigawatts (GW) of non-fossil fuel energy capacity by 2030. Currently, only China has more than 500 GW of installed renewable capacity.

These ambitious targets exist against a backdrop of stark energy inequality and persistent poverty. The last three decades have seen significant strides in energy access, increasing energy generation. However, there is significant regional disparities between states and deprivation among certain groups along gender, class and caste lines.

India has ambitious plans for solar power development, but it faces challenges due to the limited availability of land. Large-scale solar infrastructure has been built on thousands of acres of marginal public lands or smallholder farmland in arid and semi-arid rural areas. The appropriation of land for solar in India is intense and many instances can be understood through the concept of 'green grabbing'. Green grabbing involves taking over land and resources for environmental purposes, and it has become a widespread process. This phenomenon is integral to the violent trajectories of capitalist growth, and renewable energy, while we may need it, has become the newest commodity where there has been a land and resource rush.

The state frequently facilitates land acquisition or expropriation for private developers, a process sometimes involving the reclassification of 'wastelands'. The term "wastelands" originated from colonial-era laws and is used to describe land that is legally categorised as degraded and 'empty'. In reality, such land is often used and essential for the livelihoods of rural peasant and working-class communities and serves important ecological functions. In fact, a recent economic study of wastelands in India, found such land makes significant economic contributions through its 'ecosystem services' that support economic value.

The idea of 'wastelands', which are held by the state, is helpful to facilitate such transfers of land to private interests. Jennifer Baka's work on energy and land issues in India elucidates how the state often reallocates these lands to private investors and companies for energy projects, which disrupts traditional livelihoods and displaces local populations. This dynamic is especially evident in regions like the Thar Desert in Rajasthan, which, like the expansive solar developments in the Sahara in Africa, has become a new frontier of energy-related projects.

As a result, rural communities are being deprived of their land and livelihoods, and the energy produced is predominantly allocated to urban and industrial users. Areas close to large solar parks in India have shown limited improvements in reducing energy insecurities among marginalised communities.

On the other hand, climate justice advocates have argued that decentralised and rooftop solar are critical for addressing the energy needs of the majority of the population, bringing down energy costs and connecting those who currently don't have energy. These schemes could include more equitable benefit sharing of both the energy output and economic benefits of renewable energy, for instance through community ownership. However, these schemes are dwindling. India's solar strategy heavily favours large ground-mounted solar ventures, which are more profitable for big energy companies, than decentralised and bottom-up schemes.

Climate (In)Justice and the Courts

India's courts have increasingly dealt with land disputes from solar energy developments, for instance the Adani plant in Rajasthan, one of the largest planned solar developments in the world. Local communities and landholders have challenged these projects, sparking a growing trend of 'just transition litigation', which question the fairness of climate-related projects..

Historically, the judiciary has leaned towards supporting large projects, often under utilitarian arguments. A prime example is the *Narmada Dam* case in 2000, where the Supreme Court approved the massive hydropower project to proceed despite its displacement of hundreds of thousands and significant ecological disruption, citing, among other things, its potential benefits in combating global warming as a justification. As Rajagopal has argued, these assertions were unsupported by facts but served as a way the Court wielded a narrative to serve an ideological function or to justify large projects.

More recently, the judiciary has echoed similar sentiment in land disputes related to solar projects, to downplay the negative impacts. In 2019, the Rajasthan High Court dismissed a petition against a solar park, emphasising that "renewable energy is the mantra of the day because it is environmentally friendly." Another ruling praised solar development in Rajasthan for putting the state "on the world map" and cautioned against obstructing such projects through Public Interest Litigation.

This trend highlights the allurement of large-scale energy and development projects, often prioritising 'techno-fixes' that purport to solve both environmental and social problems. Sociologist Nivedita Menon previously observed a hierarchy applied by the judiciary where economic development considerations have trumped environment ('development trumps environment'), and environmental considerations have trumped social justice ('environment trumps people'). This perspective has justified slum demolitions and the erosion of forest rights for urban middle-class aesthetics or conservation while approving large infrastructure projects, accepting environmental costs of those as necessary for 'economic progress'.

In articulating a new climate right in the present case, the Court recognised that "India's pursuit of sustainable development reflects the complex interplay between environmental conservation, social equity, economic prosperity and climate change" (para 59). The Court was particularly interested, however, in balancing "two equally crucial goals" of "conservation of the GIB on one hand, with the conservation of the environment as a whole on the other hand" (para 60). The Court emphasised that it was "necessary to adopt a holistic approach which does not sacrifice either of the two goals at the altar of the other" (para 60).

Thus, the Court was alert to the trade-offs and careful to balance the needs. However, the Court gave little consideration to who benefits from these energy projects or whether the energy reaches those who need it most. In an earlier part of the judgement, the Court states that "renewable energy sources play a crucial role in promoting social equity by ensuring access to clean and affordable energy for all segments of society, especially in rural and underserved areas" (para 16). There is an assumption that renewable energy, at large, is beneficial for all. However, as argued above, these transitions are inherently contested, and the benefits are not automatically equitable.

One could argue that delving into these justice dimensions might not be within the Court's purview. However, given that the Court, in the judgement, delved into the intricate nexus between human rights, climate change, and biodiversity, there was no reason it could not have also considered the issues of equity and inequality in its discussion and reasoning. Ignoring these aspects not only perpetuates existing disparities but also aligns with the state's role as a facilitator for private energy interests, often at the cost of marginalised communities and environmental protections.

Uncertain Trajectories of India's Climate Right

Where does this leave India's new 'climate right'? On one side, it holds the potential to push for stronger climate action. With India facing intensifying heatwaves, floods, and rising sea levels, a legally recognised right to be free from the adverse impacts of climate change could become a powerful tool. Rights-based litigation has been used in the Global South to push back against coal-fired power projects, suggesting that such a right could similarly drive the transition away from fossil fuels. If effectively mobilised, this right could catalyse meaningful climate activism and justice.

However, as currently framed, India's climate right may fall short of addressing key climate justice concerns. In the current case, it was invoked mainly to justify infrastructure (powerlines) essential for large-scale energy projects. This aligns with a business-friendly green growth agenda that has historically overlooked the needs of marginalised communities and ecological sustainability. India's ambitious plans for scaling up renewable energy, producing green hydrogen in water-scarce areas, expanding carbon markets, and potentially relocating communities underscore the urgent necessity for a climate right deeply rooted in justice.

Without embedding this right into a bottom-up framework that prioritises the needs of the poor and marginalised and the nexus between biodiversity and climate challenges, it risks becoming a hollow concept. Instead of fostering an equitable and ecologically sustainable transition, it could be weaponised to entrench inequalities and create further injustices.



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Feature Image: Bhadla Solar Power Plant. Source: [Wikimedia Commons](#)

This post is part of a series on 'Rights to the Forest'. Read the other posts [here](#).