



JOURNAL OF SCIENTIFIC LETTERS
www.jslsci.com

**BETWEEN THE BUSTARD AND THE TURBINE: RECONCILING
WILDLIFE PROTECTION WITH RENEWABLE ENERGY
IMPERATIVES IN INDIAN ENVIRONMENTAL JURISPRUDENCE**

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ABSTRACT

India's twin commitments—to aggressive renewable energy expansion under its Paris Agreement obligations and to wildlife conservation under domestic and international legal regimes—have increasingly collided in judicial forums. The Supreme Court's protracted engagement with the Great Indian Bustard (GIB) crisis, spanning 2019 to 2025, crystallises this tension with unprecedented doctrinal clarity, forcing a reckoning between two environmental goods that the legal system has historically treated in isolation. This paper contends that the Supreme Court's trajectory in *M.K. Ranjitsinh v. Union of India*—from the 2021 blanket undergrounding order to the 2024 retreat and the 2025 calibrated conservation framework—reveals a structural inadequacy in Indian environmental law: the absence of a coherent adjudicatory methodology for resolving intra-environmental conflicts. The newly recognised constitutional right to be free from the adverse effects of climate change, while doctrinally significant, paradoxically became the instrument through which species-specific protections were diluted. The paper employs doctrinal legal analysis, examining the complete GIB litigation record, the Forest (Conservation) Amendment Act 2023, and the Wildlife (Protection) Act 1972, situated within the theoretical frameworks of the public trust doctrine, the precautionary principle, and the eco-centrism versus anthropocentrism debate. It further draws on the Supreme Court's 2026 pronouncement in *Saranda Wildlife Sanctuary, In re and the Environmental (Protection) Fund Rules, 2026*. By demonstrating that India's environmental jurisprudence has developed sophisticated tools for environment-versus-development conflicts but remains impoverished for environment-versus-environment

conflicts, this paper advances a normative framework—termed "ecological proportionality"—as a doctrinal intervention. The analysis carries implications for jurisdictions across the Global South simultaneously navigating decarbonisation and biodiversity commitments.

Keywords: Great Indian Bustard, climate rights, wildlife protection, renewable energy, environmental jurisprudence, ecological proportionality

I. INTRODUCTION AND CONTEXT

A. The Collision of Two Environmental Imperatives

The twenty-first century has thrust upon legal systems an unprecedented challenge: the simultaneous prosecution of two environmental emergencies that, in critical instances, pull in opposing directions. The climate crisis demands rapid decarbonisation through large-scale renewable energy infrastructure. The biodiversity crisis demands the preservation of habitats and species often occupying the very landscapes—arid plains, coastal zones, forest fringes—most conducive to solar arrays and wind turbines. Indian environmental law, constructed incrementally through legislative responses to discrete problems and judicial innovations in individual cases, confronts this collision without a developed doctrinal apparatus for its resolution.

The Great Indian Bustard (*Ardeotis nigriceps*), a critically endangered species with fewer than 150 mature individuals surviving predominantly in the desert landscapes of Rajasthan and Gujarat, has become the unwitting emblem of this tension. The species' susceptibility to collision with overhead transmission lines—a consequence of poor frontal vision and heavy body mass [Insert Citation: Wildlife Institute of India, Status of the Great Indian Bustard, Technical Report, 2018]—places it in direct conflict with the infrastructure required to evacuate renewable energy from India's most promising solar and wind corridors. The legal response to this conflict, culminating in the Supreme Court's judgment of 19 December 2025 in *M.K. Ranjitsinh v. Union of India*, constitutes the most significant test of Indian environmental jurisprudence since the evolution of the public trust doctrine in *M.C. Mehta v. Kamal Nath* [Insert Citation: (2000) 6 SCC 213].

B. Constitutional and Ecological Context

The constitutional architecture within which this conflict unfolds is layered. Article 48A of the Directive Principles of State Policy mandates the State to "endeavour to protect and improve the environment and to safeguard the forests and wild life of the country." Article

51A(g) imposes a fundamental duty on every citizen "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures." These provisions, while not independently enforceable, have been read into the fundamental right to life under Article 21 through a sustained line of judicial interpretation commencing with *Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh* [Insert Citation: (1985) 2 SCC 431] and achieving doctrinal maturity in *Virender Gaur v. State of Haryana* [Insert Citation: (1995) 2 SCC 577].

The ecological stakes are calibrated in stark numerical terms. The International Union for Conservation of Nature (IUCN) classifies the GIB as critically endangered, with population estimates ranging between 50 and 249 mature individuals [Insert Citation: IUCN Red List, *Ardeotis nigriceps*]. The species has experienced a catastrophic range contraction of approximately 95% from its historical distribution across the Indian subcontinent. The principal remaining breeding population inhabits the Thar Desert landscape, a region simultaneously identified by the Ministry of New and Renewable Energy as holding approximately 142 GW of solar potential and substantial wind energy resources. The Wildlife Institute of India's 2018 technical assessment identified approximately 13,663 square kilometres of "priority area"—core habitat where the surviving birds are concentrated—within a broader "potential area" of roughly 80,000 square kilometres.

C. Central Thesis and Research Questions

This paper advances the thesis that the Indian Supreme Court's GIB jurisprudence, culminating in the calibrated spatial-conservation model of December 2025, reveals a doctrinal lacuna: the absence of a structured methodology for adjudicating conflicts between competing environmental values. While Indian courts have developed robust frameworks for resolving environment-versus-development disputes—through the precautionary principle, the polluter-pays principle, and sustainable development as a mediating concept—they possess no equivalent apparatus for *intra-environmental* conflicts, where the choice is not between environment and development but between one environmental good (species survival) and another (climate mitigation).

The following research questions structure this inquiry:

1. How has the Supreme Court's constitutional reasoning in the GIB litigation evolved across the 2021, 2024, and 2025 pronouncements, and what does this evolution reveal about the doctrinal treatment of intra-environmental conflicts?

2. To what extent does the recognition of a constitutional right against climate change in the 2024 judgment represent a genuine jurisprudential advance, and to what extent does it function as a rhetorical device enabling the dilution of species-specific protections?
3. What legislative and institutional inadequacies does the GIB litigation expose in India's wildlife protection framework, particularly regarding the interface between the Wildlife (Protection) Act 1972 and the regulatory apparatus governing energy infrastructure?
4. Can a normative framework of "ecological proportionality" provide a doctrinally coherent methodology for resolving intra-environmental conflicts in future adjudication?

D. Scope and Limitations

The paper confines its analysis to the Indian legal framework, with comparative references to other jurisdictions where instructive. The temporal scope centres on the GIB litigation (2019–2025), situated within the broader trajectory of Indian environmental jurisprudence from the 1980s onward. The paper does not engage comprehensively with the technical dimensions of avian collision mitigation or renewable energy engineering, though it references technical assessments where legally relevant.

II. Legislative and Statutory Framework

A. The Wildlife (Protection) Act, 1972: Architecture and Ambition

The Wildlife (Protection) Act, 1972 (WLPA) constitutes the primary legislative instrument for species and habitat protection in India. Enacted pursuant to Article 252 of the Constitution following resolutions by eleven state legislatures, the Act represents the culmination of a legislative trajectory that began with the Indian Forest Act, 1927 and the Wild Birds and Animals Protection Act, 1912—both colonial-era statutes oriented toward resource extraction rather than conservation.

1. Protected Area Regime

Chapter IV of the WLPA establishes a three-tier protected area framework comprising Sanctuaries (Section 18), National Parks (Section 35), and Conservation Reserves and Community Reserves (Sections 36A–36C, inserted by the 2002 Amendment). Section 18

empowers the State Government to declare any area of adequate "ecological, faunal, floral, geomorphological, natural or zoological significance" as a sanctuary. The 2026 Supreme Court decision in *Saranda Wildlife Sanctuary, In re* [Insert Citation: (2026) 4 SCC 771] has clarified that Section 18 applies to areas "not comprised within any reserve forest or the territorial waters," resolving a jurisdictional ambiguity that had impeded sanctuary declarations in forested landscapes.

Section 29 of the WLPA imposes a blanket prohibition on the destruction, exploitation, or removal of any wildlife or habitat from a sanctuary except under a permit granted for specified purposes, including scientific research, photography, and the improvement of wildlife. Section 35(8) imposes an even more stringent regime for National Parks, prohibiting any alteration of boundaries except by resolution of the State Legislature. The GIB habitats in the Desert National Park, Rajasthan, fall within this maximum-protection framework, theoretically insulating them from incompatible land-use changes.

However, the WLPA's protected area architecture operates on a fundamentally spatial logic: it protects delineated geographies without adequate provision for species whose ranges extend beyond sanctuary boundaries. The GIB's distribution across revenue lands, private agricultural holdings, and military training areas—the Pokhran Field Firing Range being a critical habitat site—exposes the limitation of a purely area-based approach. The species is protected under Schedule I of the WLPA, attracting the highest penalties for hunting or trade, but this species-level protection does not automatically translate into habitat-level protection outside notified protected areas.

2. The 2002 Amendment and the National Board for Wildlife

The Wild Life (Protection) Amendment Act, 2002 introduced the National Board for Wildlife (NBWL), chaired by the Prime Minister, as an apex advisory body under Section 5A. Section 5B established a Standing Committee of the NBWL with powers to review projects within protected areas. The 2002 Amendment also introduced Section 38O, prohibiting the diversion of land within national parks and sanctuaries for non-wildlife purposes without NBWL recommendation and Supreme Court approval—a provision that the GIB litigation implicitly interrogates by raising the question of whether transmission infrastructure serving renewable energy constitutes a "non-wildlife purpose."

3. Critical Gaps in the WLPA Architecture

Three structural inadequacies within the WLPA framework are pertinent to the present analysis. First, the Act provides no mechanism for designating "critical wildlife habitat" outside the protected area network—a lacuna partially addressed, though incompletely, by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), which employs the concept of "critical wildlife habitat" under Section 4 for the purpose of resettlement from core areas of tiger reserves, but does not extend the concept to species conservation generally.

Second, the WLPA lacks any provision for systematic integration with the infrastructure planning and approval process. Environmental clearance under the Environment Impact Assessment (EIA) Notification, 2006 addresses the impact of projects on wildlife habitats, but the EIA process operates independently of the WLPA's protected area regime, creating a bureaucratic silo that the GIB litigation has exposed.

Third, the Act's enforcement architecture remains heavily dependent on state-level forest departments with chronic staffing, training, and resource deficits. The Wildlife Crime Control Bureau, established under Section 38Y by the 2002 Amendment, addresses organised wildlife crime but possesses no mandate regarding habitat degradation caused by infrastructure development.

B. The Forest (Conservation) Amendment Act, 2023

The Forest (Conservation) Amendment Act, 2023 (FCAA 2023) represents the most significant legislative intervention in India's forest governance since the original Forest (Conservation) Act, 1980. The amendment has attracted substantial controversy for provisions that critics argue substantially narrow the scope of forest protection.

1. Restricted Applicability

The FCAA 2023 amended Section 1 of the parent Act to limit its application to lands recorded as "forest" in government records and lands specifically notified under the Indian Forest Act, 1927. This represents a departure from the expansive interpretation mandated by the Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India* [Insert Citation: (1997) 2 SCC 267], which had extended the Act's protection to all areas satisfying the dictionary meaning of "forest" irrespective of ownership or record classification. The amended provision potentially excludes vast tracts of unrecorded forest land—estimated by

some assessments at approximately 28% of India's total forest cover—from the Act's protective ambit.

2. Exemptions for Strategic and Infrastructure Projects

Section 1A, inserted by the FCAA 2023, exempts from the Act's purview: (a) linear projects of strategic importance concerning national security within 100 kilometres of international borders; (b) silvicultural operations including the establishment of zoos and safaris; and (c) areas up to 0.10 hectares for connectivity purposes alongside highways and railways. The cumulative effect of these exemptions, particularly when read with the restricted definition of "forest," is to facilitate infrastructure development in ecologically sensitive areas without the procedural safeguards—including mandatory compensatory afforestation and wildlife management plans—that the 1980 Act required.

3. Implications for Wildlife Corridors

For species such as the GIB, whose habitat spans revenue lands, military training areas, and private agricultural holdings outside the formal protected area network, the FCAA 2023's restricted forest definition carries grave implications. Lands that previously attracted regulatory scrutiny under the *Godavarman* interpretation may now proceed to development without meaningful environmental assessment. The amendment effectively shifts the burden from the developer to demonstrate ecological non-impact to conservation advocates to demonstrate formal forest status—a reversal of the precautionary orientation that had characterised Indian forest law for over a quarter century.

C. The Environment (Protection) Act, 1986 and EIA Framework

The Environment (Protection) Act, 1986 (EPA) provides the umbrella statutory framework for environmental regulation in India. Section 3 confers upon the Central Government plenary powers "to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment." The EIA Notification, 2006, issued under Section 3 read with Rule 5 of the Environment (Protection) Rules, 1986, established the environmental clearance regime that governs, inter alia, the siting and operation of renewable energy projects.

1. Renewable Energy Under EIA: The Exemption Framework

A critical structural feature of the EIA regime, bearing directly on the GIB conflict, is the differential treatment of renewable energy projects. The EIA Notification, 2006, as amended, exempts solar photovoltaic projects from the requirement of environmental clearance entirely. Wind power projects require clearance only in specified ecologically sensitive circumstances. This exemption, while defensible as a policy measure to accelerate renewable energy deployment, creates precisely the regulatory gap that has enabled uncoordinated proliferation of solar and wind infrastructure in GIB habitat without systematic cumulative impact assessment.

2. The Environmental (Protection) Fund Rules, 2026

The Environmental (Protection) Fund Rules, 2026, notified on 15 January 2026, establish a dedicated fund in the Public Account of India for environmental monitoring, laboratory development, and clean technology research [Insert Citation: MoEF&CC Notification, 15 January 2026]. While the Rules represent a welcome institutionalisation of environmental financing, the fund's mandate does not extend to species-specific conservation measures or habitat restoration—a limitation that perpetuates the fragmentation of environmental governance criticised throughout this paper.

D. International Legal Obligations

1. The Convention on International Trade in Endangered Species (CITES)

India has been a party to CITES since 1976. While the Convention's primary focus is on regulating international trade in endangered species, Article XIV permits parties to adopt "stricter domestic measures" regarding conditions for trade, possession, or transport of specimens. India's 1976 ratification has been implemented through the WLPA and the Export-Import Policy, but CITES contributes little to the resolution of habitat-level conflicts of the sort embodied in the GIB litigation, since the threat to the species arises not from international trade but from domestic infrastructure development within its range.

2. The Convention on Biological Diversity (CBD) and Aichi Targets

India ratified the CBD in 1994 and enacted the Biological Diversity Act, 2002 in implementation thereof. The CBD's Article 8 mandates in-situ conservation through protected areas and the regulation of processes "likely to have significant adverse impacts on biological

diversity." The Aichi Biodiversity Targets (2010–2020), particularly Target 12 concerning the prevention of extinction of known threatened species, established commitments that India has struggled to meet. The post-2020 Kunming-Montreal Global Biodiversity Framework (2022), with its "30 by 30" target of protecting 30% of terrestrial and marine areas by 2030, imposes obligations that the FCAA 2023's restricted forest definition arguably undermines.

3. The Paris Agreement and the Renewables Imperative

India's Nationally Determined Contribution (NDC) under the Paris Agreement commits to achieving 50% of cumulative installed electric power capacity from non-fossil fuel sources by 2030 and reducing emission intensity of GDP by 45% from 2005 levels. The revised NDC submitted in August 2022 translates these commitments into a target of 500 GW of non-fossil fuel capacity by 2030, predominantly from solar and wind installations concentrated in Rajasthan and Gujarat. The Paris Agreement thus generates precisely the policy pressure—to maximise renewable energy deployment in desert landscapes—that collides with the GIB's habitat protection requirements.

4. The Bonn Convention (CMS) and the GIB

The Convention on the Conservation of Migratory Species of Wild Animals (CMS), to which India is a party, listed the Great Indian Bustard in Appendix I in 2011, designating it as a migratory species in danger of extinction throughout its range. The CMS Conference of Parties has adopted a Concerted Action for the GIB, and India has prepared a species recovery programme. The listing reinforces India's international obligation to prohibit the taking of the species and to conserve its habitat—an obligation that the Supreme Court acknowledged in the 2021 phase of the litigation before effectively subordinating it to climate concerns in the 2024 and 2025 judgments.

III. Judicial Jurisprudence and Case Law Analysis

A. The GIB Litigation: A Chronological Analysis

1. The 2019 Petition and the 2021 Blanket Order

The litigation commenced with Writ Petition (Civil) No. 838 of 2019, filed by M.K. Ranjitsinh, a retired bureaucrat and environmentalist, seeking urgent judicial intervention for GIB conservation. The petition specifically identified renewable energy transmission infrastructure—overhead power lines traversing GIB habitat in Rajasthan and Gujarat—as the

principal anthropogenic threat to the species' survival, alongside habitat degradation from agricultural intensification and predation by feral dogs.

On 19 April 2021, a Bench comprising Chief Justice S.A. Bobde and Justices A.S. Bopanna and V. Ramasubramanian delivered a sweeping interim order directing that all overhead transmission lines—existing and proposed—across approximately 99,000 square kilometres of GIB habitat be placed underground within one year. The order mandated the installation of bird diverters on existing lines pending undergrounding and prohibited the commissioning of new overhead lines in the designated area.

The 2021 Order represents judicial environmentalism in its most assertive register. It treated the precautionary principle as demanding maximal protection in the face of scientific uncertainty regarding the precise quantum of collision mortality. It implicitly invoked the public trust doctrine by framing the GIB as a component of the natural heritage that the State holds in trust for present and future generations. Yet the order also revealed the limitations of blanket judicial intervention; it addressed neither the technical feasibility nor the cost implications of undergrounding high-voltage transmission lines in desert terrain, nor did it engage with the renewable energy displacement effects that would result from substantially constraining transmission infrastructure in India's most promising solar and wind corridor.

2. The March 2024 Modification: Constitutional Innovation and Practical Retreat

The 2021 Order triggered applications for modification from the Ministry of Power, the Ministry of New and Renewable Energy (MNRE), and several renewable energy developers. The applicants contended that undergrounding high-voltage lines across 99,000 square kilometres was technically infeasible—desert terrain presents unique challenges of thermal management and cable insulation—and that the cost implications would render the affected renewable energy projects economically unviable, potentially displacing renewable generation with coal-fired power.

On 21 March 2024, a three-judge Bench comprising Chief Justice D.Y. Chandrachud and Justices J.B. Pardiwala and Manoj Misra delivered a judgment—*M.K. Ranjitsinh v. Union of India*, 2024 INSC 280—that substantially modified the 2021 framework [Insert Full Citation: WP (Civil) No. 838 of 2019, 2024 INSC 280]. The judgment withdrew the blanket undergrounding requirement and established a new Expert Committee comprising representatives from MNRE, the Ministry of Environment, Forest and Climate Change (MoEFCC), the Wildlife Institute of India, and the Corbett Foundation, tasked with

developing a calibrated conservation strategy.

The most constitutionally significant feature of the 2024 judgment was its declaration that Article 21 of the Constitution guarantees a *right to be free from the adverse effects of climate change*. The Court grounded this right in the intersection of Article 21 (right to life) and Article 14 (right to equality), reasoning that the disproportionate impact of climate change on vulnerable populations—including future generations—engages the constitutional guarantee of equal protection. The Court stated:

"The right to a clean environment, which includes the right to be free from the adverse effects of climate change, is a fundamental right under Article 21 of the Constitution. The State has a duty to protect this right, and this duty must inform all governmental action, including the development of renewable energy infrastructure."

This declaration is doctrinally significant, extending the Article 21 environmental jurisprudence that had previously recognised rights to clean air [Insert Citation: *M.C. Mehta v. Union of India*, (1998) 6 SCC 63], clean water [Insert Citation: *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664], and a healthy environment generally [Insert Citation: *Virender Gaur v. State of Haryana*, (1995) 2 SCC 577] to explicitly encompass climate stability.

However, the constitutional innovation served a problematic instrumental function within the judgment's architecture. The climate right became the doctrinal bridge across which the Court walked back from species-specific GIB protection: renewable energy projects, by mitigating climate change, advance the newly recognised fundamental right, and must therefore be accommodated even where they impose costs on particular species. The judgment effectively pitted one environmental right (climate stability) against another (species survival) and resolved the conflict in favour of the former without articulating a methodology for how such balancing should be conducted.

3. The December 2025 Final Judgment: Spatial Calibration and Corridor-Based Mitigation

On 19 December 2025, a Bench comprising Justices P.S. Narasimha and A.S. Chandurkar delivered the final judgment in the GIB litigation, accepting the Expert Committee's core recommendations while adding time-bound implementation directions [Insert Full Citation: *M.K. Ranjitsinh v. Union of India*, Final Judgment, 19 December 2025].

The judgment's principal elements are as follows:

- (a) Revised Priority Areas:** The Court adopted a scientifically delineated spatial framework. In Rajasthan, the priority area was designated at 14,013 square kilometres (expanded from the Expert Committee's initial proposal of 13,163 square kilometres following submissions by the petitioners regarding the eastern Rasla–Degray Oran corridor). In Gujarat, the priority area was set at 740 square kilometres (increased from the initial 500 square kilometres). These zones represent core breeding and wintering habitat as identified by the Rajasthan Forest Department and the Wildlife Institute of India.
- (b) Development Restrictions in Priority Areas:** Within the Revised Priority Areas, the Court imposed categorical prohibitions: no new wind turbines, no solar plants exceeding 2 MW capacity, and no expansion of existing renewable energy projects. Projects that had secured land allotment in areas newly included within the priority zones were permitted to seek alternative land from the State Government on a "case-by-case basis"—a formulation that explicitly declined to provide blanket grandfathering for projects at any stage of development.
- (c) Dedicated Power Corridors:** The judgment established dedicated transmission corridors outside the priority areas to channel the evacuation infrastructure required for renewable energy. In Rajasthan, a corridor up to 5 kilometres wide was designated south of the Desert National Park's southernmost boundary, with coordinates to be determined by the Rajasthan Forest Department in consultation with the Wildlife Institute of India. In Gujarat, two corridors were established: one aligned around the Akrimota–Bachunda network and a second designed primarily for wind energy evacuation.
- (d) Mitigation Obligations for Existing Infrastructure:** The judgment mandated that 80 kilometres of identified 33 kV lines in priority areas be undergrounded immediately. Remaining overhead lines in priority areas were required to be rerouted or insulated within two years. Nine identified 66 kV and higher-voltage lines were directed to be relocated away from bustard habitats. Lines rated 11 kV and below in proximity to human settlements were exempted from undergrounding requirements, recognising decentralised solar applications.

- (e) **Institutional Mechanism:** The MoEFCC was designated as the nodal agency for monitoring implementation, with the Wildlife Institute of India providing technical oversight.

The 2025 judgment represents a calibrated middle ground between the maximalism of the 2021 Order and the retreat of the 2024 modification. It accepts the spatial logic that the Expert Committee advanced—concentrating protection on scientifically identified core habitat rather than the expansive "potential area"—while imposing stricter restrictions within the priority zones than the government had initially proposed. The judgment's doctrinal significance lies in its implicit adoption of a proportionality framework: the restriction on renewable energy development is proportionate to the conservation value of the designated area, declining as one moves outward from the core habitat.

B. The Doctrinal Architecture: Public Trust, Precaution, and Eco-centrism

1. The Public Trust Doctrine

The public trust doctrine, as articulated in Indian environmental jurisprudence, holds that certain natural resources—including wildlife, forests, water bodies, and air—are held by the State in trust for the public and cannot be alienated for private purposes without stringent justification. The doctrine received its most authoritative expression in *M.C. Mehta v. Kamal Nath* [Insert Citation: (1997) 1 SCC 388], where the Supreme Court held that the State, as trustee, is under a legal duty to protect trust resources and that any governmental action inconsistent with the trust obligation is subject to judicial review.

The GIB litigation engages the public trust doctrine at multiple levels. The species itself, as a component of India's natural heritage, constitutes a trust resource that the State is constitutionally obligated to protect. Simultaneously, India's solar and wind resources—the harnessing of which requires transmission infrastructure that threatens the GIB—might themselves be characterised as trust resources whose development serves the public interest in climate mitigation. The doctrine thus generates mutually reinforcing arguments that the Court must reconcile, rather than providing a clear normative direction.

The 2025 judgment implicitly resolves this tension by spatialising the trust obligation: within the core priority areas, the conservation trust obligation is paramount, warranting near-categorical protection; outside these areas, the developmental trust obligation receives greater weight. This spatial calibration, while pragmatic, represents a departure from the absolute formulation of the trust doctrine in *Kamal Nath*, and the judgment does not explicitly theorise

this departure.

2. The Precautionary Principle

The precautionary principle, incorporated into Indian environmental law through *Vellore Citizens' Welfare Forum v. Union of India* [Insert Citation: (1996) 5 SCC 647] and subsequently codified in the National Green Tribunal Act, 2010, mandates that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. The principle reverses the burden of proof: it is for the proponent of an activity to demonstrate that it will not cause significant environmental harm, rather than for the objector to prove that it will.

The 2021 Order represents the precautionary principle operating at full strength: facing scientific uncertainty regarding the precise quantum of GIB mortality from collision and the precise effectiveness of mitigation measures, the Court imposed maximal protection. The 2024 modification, by contrast, effectively reversed the precautionary orientation by requiring conservation advocates to demonstrate that transmission infrastructure specifically threatens the species, rather than requiring developers to demonstrate that their projects are compatible with species survival. The 2025 judgment occupies an intermediate position, applying a strong precautionary approach within the priority areas while relaxing the principle outside them.

This oscillation reveals a structural limitation of the precautionary principle when applied to intra-environmental conflicts. The principle is designed for contexts where an environmentally harmful activity is proposed and the only question is the degree of certainty regarding harm. It provides no guidance when *both* courses of action—restricting renewable energy infrastructure and allowing it—carry environmental risks (species extinction and climate change, respectively). In such contexts, the precautionary principle cannot determine which risk to prioritise; it merely demands that both be taken seriously.

3. Eco-centrism versus Anthropocentrism

A persistent tension in Indian environmental jurisprudence concerns the philosophical foundation of environmental protection: whether nature is protected for its own sake (eco-centrism) or for its instrumental value to human beings (anthropocentrism). The Supreme Court's decision in *Centre for Environmental Law, WWF-I v. Union of India* [Insert Citation:

(2013) 8 SCC 234], concerning the Asiatic lion's reintroduction to Kuno Wildlife Sanctuary, articulated an eco-centric approach, holding that species have "an intrinsic right to exist" independent of human interests.

The GIB litigation complicates this binary. An anthropocentric framework, emphasising the human benefits of renewable energy (climate mitigation, energy security, employment), would subordinate species protection to developmental imperatives. An eco-centric framework, recognising the GIB's intrinsic right to exist, would prioritise conservation over energy infrastructure. However, climate change itself threatens biodiversity on a planetary scale, meaning that an eco-centric perspective that prioritises individual species protection in the short term might undermine biodiversity more broadly in the long term by impeding the energy transition necessary to avert catastrophic warming. The Court's 2025 judgment, by establishing a spatial hierarchy of protection calibrated to scientific assessments of habitat criticality, implicitly recognises this complexity without explicitly theorising it.

C. The Climate Right and Its Doctrinal Implications

The 2024 judgment's recognition of a constitutional right against climate change warrants sustained analysis, both for its doctrinal significance and for its rhetorical function within the judgment.

1. Doctrinal Genealogy

The climate right represents the latest iteration of the Supreme Court's expansive interpretation of Article 21, which has been held to encompass rights to livelihood [Insert Citation: *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545], shelter, health, education, and a clean environment. The doctrinal genealogy extends through *Subhash Kumar v. State of Bihar* [Insert Citation: (1991) 1 SCC 598], which first recognised the right to pollution-free water and air as an aspect of Article 21; *M.C. Mehta v. Union of India* (Taj Trapezium) [Insert Citation: (1997) 2 SCC 353], which extended environmental protection to cultural heritage; and *Karnataka Industrial Areas Development Board v. C. Kenchappa* [Insert Citation: (2006) 6 SCC 371], which linked environmental degradation to the right to livelihood.

The climate right extends this jurisprudence in two respects. First, it temporalises the environmental right by explicitly recognising the interests of future generations—climate change's most severe impacts will be felt by those not yet born, whose interests the State is

constitutionally obligated to protect. Second, it universalises the environmental right by grounding it not merely in localised pollution impacts but in the global atmospheric commons, thereby transcending the spatial limitations of conventional environmental litigation.

2. The Instrumental Deployment Critique

Notwithstanding the climate right's doctrinal significance, its deployment in the GIB litigation invites critical scrutiny. The right functioned, within the judgment's structure, as the normative counterweight to species protection: because renewable energy mitigates climate change, and because climate change threatens fundamental rights, renewable energy development enjoys constitutional protection that must be weighed against species conservation. The climate right thus became the instrument through which the Court justified relaxing GIB protections.

This instrumental deployment is problematic for three reasons. First, it treats renewable energy development as an unmediated good for climate mitigation, without interrogating whether the specific projects affected by GIB protection—located in one region of two Indian states—would materially affect India's aggregate emissions trajectory. The marginal climate benefit of permitting overhead transmission lines across GIB habitat, as opposed to routing them through alternative corridors, is likely negligible.

Second, the framing creates a false binary between climate mitigation and species protection, when the relationship between these imperatives is considerably more complex. Biodiversity loss and climate change are mutually reinforcing crises: ecosystem degradation reduces carbon sequestration capacity, while climate change accelerates species extinction. Framing them as competing rather than complementary undermines the integrated approach that both the CBD and the Paris Agreement endorse.

Third, the instrumental deployment of the climate right sets a concerning precedent for future adjudication. If climate mitigation can justify relaxing species protection, it can potentially justify relaxing other environmental safeguards—forest conservation requirements, coastal regulation zone restrictions, wetland protections—on the ground that the development being facilitated will reduce emissions. The climate right, intended as a shield against environmental degradation, risks being transformed into a sword against environmental regulation.

D. Comparative Jurisprudence: The European and Latin American Experience

A brief comparative analysis illuminates the distinctive features of the Indian approach. The German Federal Constitutional Court's 2021 decision in *Neubauer v. Germany* [Insert Citation: BVerfG, Order of the First Senate of 24 March 2021, 1 BvR 2656/18] recognised a constitutional obligation to protect future generations from climate change but did so through intergenerational burden-sharing analysis rather than by pitting climate protection against biodiversity.

The Inter-American Court of Human Rights' Advisory Opinion OC-23/17 (2017) recognised the right to a healthy environment as an autonomous right under the American Convention on Human Rights, encompassing climate stability, but framed this right as reinforcing—rather than competing with—obligations to protect biodiversity. The Colombian Supreme Court's 2018 decision recognising the Amazon rainforest as a subject of rights [Insert Citation: Supreme Court of Colombia, STC 4360-2018] adopted an eco-centric framework that treated climate protection and biodiversity as complementary rather than competing imperatives.

The Indian Supreme Court's approach, by contrast, has generated an environmental jurisprudence in which climate and biodiversity are positioned as antagonists—a framing that is neither doctrinally necessary nor ecologically defensible.

IV. Critical Evaluation and Enforcement Gaps

A. Operational Bottlenecks in the 2025 Framework

The 2025 judgment's calibrated spatial framework, while representing a doctrinal advance over the blanket approaches of 2021 and 2024, confronts formidable operational challenges.

1. Delineation and Boundary Disputes

The Revised Priority Areas are defined by coordinates to be determined by the Rajasthan Forest Department in consultation with the Wildlife Institute of India. The process of translating judicial directives into survey-grade boundary demarcation is fraught with potential for contestation. Landowners whose properties fall within, or partially within, the designated priority areas may challenge the scientific basis of the delineation. The judgment's "case-by-case" provision for projects that secured land allotment before designation creates an administrative discretion that may generate inconsistent outcomes and subsequent litigation.

2. Corridor Feasibility and Cumulative Impact

The dedicated power corridors established by the judgment—particularly the 5-kilometre-wide corridor south of the Desert National Park in Rajasthan—must accommodate the entirety of transmission infrastructure that would otherwise have traversed the priority areas. The judgment provides no mechanism for assessing the cumulative environmental impact of concentrating multiple transmission lines within a narrow corridor, including the potential effects on other species, the fragmentation of habitats outside the priority areas, and the visual and electromagnetic impacts on the landscape.

3. Monitoring and Compliance Infrastructure

The designation of MoEFCC as the nodal monitoring agency, while institutionally appropriate, must be assessed against the Ministry's existing institutional capacity. The MoEFCC's Forest Advisory Committee (FAC) and the NBWL Standing Committee already confront substantial dockets of project clearance applications. Adding comprehensive monitoring of GIB conservation measures—requiring regular site inspections, mortality surveys, and compliance reporting—to an overstretched institutional apparatus creates a risk of formal compliance without substantive enforcement.

B. Procedural and Structural Inefficiencies

1. The Committee Model and Democratic Deficit

The GIB litigation exemplifies a recurring feature of Indian environmental adjudication: the delegation of normative decisions to expert committees operating outside the framework of democratic accountability. The Expert Committee constituted by the 2024 judgment comprised technical specialists whose recommendations substantially determined the spatial scope of GIB protection. While technical expertise is indispensable to environmental decision-making, the committee model's proliferation raises concerns about the displacement of legislative and administrative decision-making to unaccountable bodies.

The composition of the Expert Committee is also noteworthy. Its membership drew primarily from government agencies (MNRE, MoEFCC, Wildlife Institute of India) and one non-governmental organisation (the Corbett Foundation). Independent scientific expertise, community representatives, and conservation biologists without institutional affiliations were notably absent. The committee's recommendations, unsurprisingly, reflected the institutional perspectives of its constituent agencies: a framework that accommodated renewable energy

development while providing limited but targeted species protection.

2. The Absence of Cumulative Impact Assessment

Neither the WLPAs nor the EIA Notification, 2006 requires cumulative impact assessment—the evaluation of the aggregate environmental effects of multiple projects within a landscape, as distinct from the project-specific assessment that the current framework mandates. The GIB's decline is not attributable to any single transmission line but to the progressive proliferation of linear infrastructure across its habitat. The 2025 judgment's spatial framework addresses this structural deficiency implicitly by concentrating protection on priority areas, but it does not mandate the regulatory reform—cumulative impact assessment as a statutory requirement for projects in ecologically sensitive landscapes—that would prevent the recurrence of similar conflicts for other species.

3. Jurisdictional Fragmentation

The institutional architecture governing the GIB's habitat is fragmented across multiple agencies with distinct and potentially conflicting mandates. The Rajasthan Forest Department exercises jurisdiction over the Desert National Park. The Ministry of Defence controls the Pokhran Field Firing Range, a critical GIB habitat. Revenue authorities administer agricultural lands within the species' range. The Central Electricity Authority regulates transmission infrastructure. The MoEFCC exercises environmental clearance authority. MNRE promotes renewable energy deployment. No single agency possesses the mandate or capacity to coordinate GIB conservation across this fragmented jurisdictional landscape, and the 2025 judgment's designation of MoEFCC as nodal agency, while helpful, does not resolve the fundamental problem of fragmented authority.

C. Conflict of Rights: Livelihoods, Energy Access, and Conservation

The GIB litigation has been predominantly framed—by courts, litigants, and commentators—as a conflict between species protection and climate mitigation. This framing obscures the distributive dimensions of the conflict.

1. The Energy Access Dimension

India's per capita electricity consumption, while growing rapidly, remains substantially below the global average. The renewable energy projects affected by GIB protection are intended, in

part, to expand electricity access to underserved populations. Restrictions on transmission infrastructure, if they constrain renewable energy deployment, may have regressive distributional effects by delaying energy access improvements or by necessitating continued reliance on more expensive or more polluting generation sources.

The 2025 judgment's spatial calibration partially addresses this concern by concentrating restrictions on the priority areas (where the conservation imperative is strongest) while permitting transmission infrastructure in the broader landscape. However, the judgment does not engage systematically with the distributive implications of its framework—a silence that is characteristic of Indian environmental jurisprudence more broadly, which has tended to treat environmental rights as abstract entitlements rather than as claims with specific distributional consequences.

2. Pastoral and Agricultural Livelihoods

The GIB's habitat in the Thar Desert supports substantial human populations engaged in pastoralism and rain-fed agriculture. These communities have coexisted with the GIB for generations, and the species' decline is primarily attributable not to traditional land-use practices but to the modern infrastructure—transmission lines, roads, irrigation canals—superimposed on the landscape. Conservation measures focused on restricting development within priority areas may indirectly affect traditional livelihoods if they restrict access to grazing lands or agricultural plots within designated zones. The litigation record reveals limited engagement with the livelihood dimensions of GIB conservation—an omission that reflects a broader tendency in Indian environmental law to treat conservation areas as uninhabited spaces rather than lived landscapes.

D. The Forest (Conservation) Amendment Act, 2023 and Regulatory Rollback

The FCAA 2023, analysed in Section II.B above, represents a structural retreat from the precautionary orientation of Indian forest law. Its implications for wildlife extend beyond the GIB context. By narrowing the definition of "forest" to formally recorded lands, the amendment facilitates the conversion of unrecorded forest lands—which often serve as critical wildlife corridors and buffer zones around protected areas—to non-forest uses without the procedural safeguards that the *Godavarman* framework required.

The amendment's exemption for linear projects of strategic importance within 100 kilometres of international borders carries particular significance for wildlife in border regions. The

trans-Himalayan landscape along India's northern borders, home to snow leopards, Tibetan antelope, and other endangered species, may experience infrastructure development—roads, transmission lines, and border installations—without the environmental assessment that the 1980 Act mandated. The exemption effectively subordinates conservation to strategic considerations without requiring any demonstration of strategic necessity in individual cases—a blanket delegation of environmental authority that the Supreme Court's public trust jurisprudence would seem to preclude.

The FCAA 2023 has not, as of this writing, been the subject of a comprehensive constitutional challenge, though public interest litigation is anticipated. The amendment's compatibility with Article 48A, Article 51A(g), and the public trust doctrine as articulated in *M.C. Mehta v. Kamal Nath* remains an open question that the Supreme Court will likely be called upon to resolve.

V. Recommendations and Conclusion

A. Doctrinal Recommendations: An Ecological Proportionality Framework

This paper's central analytical contribution is the identification of a doctrinal lacuna in Indian environmental jurisprudence: the absence of a structured methodology for resolving intra-environmental conflicts. The GIB litigation reveals that the precautionary principle, the public trust doctrine, and the Article 21 environmental right—the principal doctrinal tools that Indian courts have developed—are each inadequate to this task because they are designed for environment-versus-development conflicts and provide no guidance when competing environmental values are at stake.

The paper proposes, as a normative intervention, a framework of **ecological proportionality** for adjudicating intra-environmental conflicts. Drawing on the proportionality analysis that the Supreme Court has applied in fundamental rights adjudication generally [Insert Citation: *Modern Dental College v. State of Madhya Pradesh*, (2016) 7 SCC 353] and adapting it to the environmental context, the framework would structure judicial inquiry around four sequential questions:

1. **Legitimate Environmental Objective:** Does each of the competing courses of action serve a legitimate environmental objective of constitutional significance? In the GIB context, both species conservation and climate mitigation satisfy this threshold.
2. **Rational Connection:** Is each of the proposed measures rationally connected to the environmental objective it serves? Are overhead transmission lines genuinely

necessary for renewable energy deployment in the specific landscape, or can alternative routing achieve the same energy objective with reduced ecological cost?

3. **Necessity:** Is the restriction on the competing environmental value the least restrictive means of achieving the primary environmental objective? Would undergrounding or corridor-based routing achieve species protection with less constraint on renewable energy deployment than a blanket prohibition?
4. **Proportionality Stricto Sensu:** Does the environmental benefit of the proposed measure outweigh the environmental cost, assessed not in abstract terms but with reference to the specific ecological values at stake—the irreversibility of species extinction, the marginal climate benefit of the specific project, and the availability of alternative sites or technologies?

The ecological proportionality framework would not predetermine outcomes; reasonable judges might apply it and reach different conclusions. Its value lies in structuring judicial reasoning transparently and requiring courts to articulate the basis on which they privilege one environmental value over another—an articulation that the GIB judgments, for all their length and sophistication, did not adequately provide.

B. Legislative and Policy Recommendations

1. Amendment of the Wildlife (Protection) Act, 1972

The WLPA requires amendment to address three structural deficiencies exposed by the GIB litigation. First, the Act should be amended to provide for the designation of "Critical Species Habitat" outside the protected area network—areas that, while not meeting the criteria for sanctuary or national park status, are scientifically identified as essential to the survival of Schedule I species. Such designation would trigger a regulatory framework requiring environmental impact assessment for infrastructure projects within designated habitats, without imposing the full restrictions of sanctuary status.

Second, the WLPA should incorporate a statutory requirement for cumulative impact assessment for projects affecting species listed under Schedule I. The requirement should apply to the aggregate of projects within a defined landscape rather than to individual projects in isolation, and should be triggered when the cumulative footprint of projects within a species' habitat exceeds a specified threshold.

Third, the Act should establish a statutory mechanism for integration with the infrastructure

planning process, requiring that State Wildlife Advisory Boards be consulted during the preparation of state and regional energy plans, transmission network master plans, and industrial development plans, rather than only at the project-approval stage.

2. Reform of the EIA Framework for Renewable Energy

The blanket exemption of solar photovoltaic projects from environmental clearance, while administratively convenient, is ecologically indefensible. The EIA Notification, 2006 should be amended to require a streamlined environmental assessment—not a full EIA with public hearing, but a rapid ecological screening based on pre-defined criteria including proximity to protected areas, presence of Schedule I species, and landscape ecological sensitivity—for solar projects above a specified capacity threshold in ecologically sensitive regions.

Wind energy projects should be subjected to a similar regime, with particular attention to avian and bat mortality risk. The amendment should also require that transmission infrastructure associated with renewable energy projects be assessed for ecological impact as part of the project's environmental clearance, rather than being treated as a separate and unassessed component of the energy system.

3. Statutory Reversal of the Forest (Conservation) Amendment Act, 2023's Most Egregious Provisions

The FCAA 2023's restricted definition of "forest" is incompatible with India's constitutional obligations under Article 48A and Article 51A(g), and with the public trust doctrine as articulated by the Supreme Court. Legislative amendment should restore the *Godavarman* interpretation—that the Act applies to all areas satisfying the dictionary meaning of "forest" irrespective of ownership or record classification—as the statutory definition.

The blanket exemption for linear projects of strategic importance within 100 kilometres of international borders should be replaced with a requirement for case-by-case environmental assessment, with the defence justification for each project articulated and assessed rather than presumed. National security and ecological integrity are not inherently antagonistic, and a framework that treats them as such does a disservice to both.

4. Institutional Strengthening of the National Board for Wildlife

The NBWL and its Standing Committee require institutional strengthening to discharge the

coordinative function that the GIB litigation has demonstrated is essential. The NBWL should be supported by a dedicated technical secretariat with expertise in landscape ecology, species conservation, and infrastructure planning. Its mandate should be expanded to include proactive identification of wildlife-infrastructure conflict zones and the development of landscape-level mitigation strategies, rather than the current reactive model of project-by-project review.

C. Enforcement and Implementation Recommendations

1. Establishment of a Wildlife-Infrastructure Coordination Cell

The MoEFCC, MNRE, and the Ministry of Power should jointly establish a Wildlife-Infrastructure Coordination Cell with the mandate of identifying and resolving species-infrastructure conflicts at the planning stage, before individual projects reach the approval or litigation stage. The Cell should maintain a spatial database of critical wildlife habitats overlaid with planned and proposed infrastructure corridors, enabling the proactive identification of conflict zones and the development of alternative routing or mitigation strategies.

2. Community Participation in Conservation Governance

The GIB litigation, like much of Indian environmental adjudication, has been conducted with minimal participation from communities inhabiting the affected landscapes. Conservation measures imposed through judicial decree, without community consultation or consent, are vulnerable to resistance, non-compliance, and perverse outcomes. The 2025 framework should be implemented through participatory processes that engage pastoral communities, Panchayati Raj institutions, and local conservation organisations in the delineation of priority areas, the design of mitigation measures, and the monitoring of compliance.

3. Transparent Compliance Monitoring

The MoEFCC, as the designated nodal agency, should establish a publicly accessible compliance portal documenting the status of undergrounding, rerouting, and insulation measures mandated by the 2025 judgment. Regular independent audits by the Wildlife Institute of India, with publicly available reports, would enhance accountability and enable civil society monitoring of implementation.

D. CONCLUSION

The Great Indian Bustard, fewer than 150 individuals surviving in the desert landscapes of Rajasthan and Gujarat, has become the focal point of a legal contest that extends far beyond the fate of a single species. The Supreme Court's engagement with the GIB crisis—from the maximalism of the 2021 blanket undergrounding order, through the constitutional innovation and practical retreat of the 2024 modification, to the calibrated spatial framework of the December 2025 final judgment—maps the trajectory of Indian environmental jurisprudence as it grapples with the defining challenge of twenty-first-century environmental law: the reconciliation of climate mitigation with biodiversity conservation.

This paper has argued that the GIB litigation exposes a structural inadequacy in the doctrinal apparatus of Indian environmental law. The precautionary principle, the public trust doctrine, and the Article 21 environmental right—the triumvirate of doctrines on which Indian environmental jurisprudence rests—are each calibrated for environment-versus-development conflicts. When confronted with environment-versus-environment conflicts—climate mitigation versus species conservation, renewable energy versus habitat protection—these doctrines offer no determinate guidance. The result is judicial oscillation between competing environmental values without a transparent methodology for reconciling them.

The ecological proportionality framework advanced in this paper offers one possible methodology. It does not eliminate the need for difficult normative choices; no framework can. But it requires that those choices be made transparently, with explicit articulation of the values being weighed and the basis on which one is preferred to another. It demands that courts treat intra-environmental conflicts with the doctrinal seriousness that they have long accorded to environment-versus-development conflicts.

The 2025 judgment's spatial calibration—intensive protection within scientifically delineated priority areas, accommodation of renewable energy infrastructure through dedicated corridors outside those areas—represents a pragmatic resolution of an intractable conflict. It is not, however, a jurisprudentially satisfactory resolution, because it does not articulate the principles on which the calibration rests or provide guidance for the next intra-environmental conflict, which will involve different species, different landscapes, and different developmental pressures.

The constitutional right against climate change, recognised by the 2024 judgment, is a genuine doctrinal advance that should be celebrated and developed. It must not, however, become the instrument through which other environmental protections are systematically

diluted. A right against climate change that justifies the extinction of species and the degradation of habitats is no environmental right at all; it is merely a development right dressed in green.

The GIB's future remains uncertain. The 2025 framework provides a scientifically grounded basis for its conservation, but the gap between judicial decree and ecological outcome is bridged only by sustained institutional commitment, adequate resources, and political will—all of which have historically been in short supply in Indian wildlife governance. Whether the legal architecture constructed through four years of intensive litigation translates into the survival of the species will depend on whether India's executive institutions match the judiciary's ambition with implementation energy.

The broader lesson of the GIB litigation, for Indian environmental law and for environmental legal systems across the Global South navigating the same collision between decarbonisation and biodiversity, is that the doctrinal tools developed for the environmental conflicts of the twentieth century are inadequate for the environmental conflicts of the twenty-first. Intra-environmental conflicts demand intra-environmental jurisprudence—a body of principle, methodology, and institutional practice that treats the conflict between environmental values not as an anomaly to be resolved through ad hoc balancing but as a structural feature of environmental governance requiring systematic doctrinal response.

The Great Indian Bustard, standing at the intersection of the climate crisis and the biodiversity crisis, demands nothing less.

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