



## Safeguarding Great Indian Bustards

This editorial is based on [“The Great Indian Bustard and climate action verdict”](#) which was published in The Hindu on 18/04/2024. The article discusses the recent Supreme Court judgment regarding climate change and highlights its implications for the conservation of the Great Indian Bustard species.

**For Prelims:** [Desert National Park](#), [Great Indian Bustards \(GIB\)](#), [International Union for Conservation of Nature Red List](#), [Species Recovery Programme](#), [Supreme Court \(SC\)](#), [Firefly Bird Diverters](#), [Convention on International Trade in Endangered Species of Wild Fauna and Flora \(CITES\)](#), [Integrated Development of Wildlife Habitats](#).

**For Mains:** Impacts of Climate Change on Great Indian Bustards (GIBs)

In a recent judgment, the [Supreme Court of India](#) has recognised the existence of a **fundamental right** to be free from the adverse impacts of climate change. The judgment has garnered significant attention from environmentalists, mostly focusing only on its impacts on the protection of the **Great Indian Bustard**. It is of massive significance to analyse the judgment from the lens of inclusive climate action.

It argues that first, by limiting itself to only recognising the right, the Court has allowed time and space for a productive discourse on the right's content. Accordingly, this could enable a more informed articulation of the right in the future. Second, given the nature of the core issue in this case, using the **just transition framework** is an excellent approach forward. It can facilitate equitable climate action, including, articulation of a more reflexive and inclusive right.

### Note

#### Just Transition Framework:

##### About:

- **Definition:** The "Just Transition" framework refers to a comprehensive approach aimed at ensuring that the transition to a sustainable and low-carbon economy is fair and equitable for all stakeholders, particularly workers and communities affected by the shift away from fossil fuels and other environmentally harmful industries.
- **Inclusive Transition:** This framework recognizes the need to address social, economic, and environmental dimensions simultaneously to achieve a smooth and inclusive transition.

##### Social Equity:

- **Worker Rights:** Ensuring the protection of workers' rights, including job security, fair wages, and

access to training and re-skilling programs for new employment opportunities in sustainable sectors.

- **Community Development:** Supporting communities reliant on fossil fuel industries through investments in local infrastructure, education, healthcare, and other essential services to mitigate the negative impacts of economic restructuring.

### **Economic Justice:**

- **Job Creation:** Promoting the creation of green jobs in renewable energy, energy efficiency, sustainable agriculture, and other environmentally friendly sectors to replace jobs lost in traditional industries.
- **Income Support:** Providing financial assistance, unemployment benefits, and other forms of income support to affected workers during the transition period to ensure their economic security.

### **Environmental Sustainability:**

- **Clean Energy Transition:** Facilitating the transition to clean and renewable energy sources while phasing out fossil fuels, thereby reducing greenhouse gas emissions and mitigating climate change.
- **Environmental Remediation:** Investing in environmental remediation and restoration efforts to address the legacy of pollution and environmental degradation left behind by extractive industries.

## **What is Great Indian Bustard (GIB)?**

### **About:**

- The **Great Indian Bustard (*Ardeotis nigriceps*)**, the State bird of Rajasthan, is considered India's most critically endangered bird.
- It is considered the flagship grassland species, representing the health of the grassland ecology. Its population is confined mostly to Rajasthan and Gujarat. Small populations occur in Maharashtra, Karnataka and Andhra Pradesh.

### **Protection Status:**

- **International Union for Conservation of Nature Red List:** Critically Endangered
- **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES):** Appendix 1
- **Convention on Migratory Species (CMS):** Appendix I
- **Wildlife (Protection) Act, 1972:** Schedule 1

### **Vulnerability:**

- The bird is under constant threats due to collision/electrocution with power transmission lines, hunting (still prevalent in Pakistan), habitat loss and alteration as a result of widespread agricultural expansion, etc.
- GIBs are a **slow-reproducing species**. They lay a few eggs and have almost a year-long parental care of chicks. The GIB achieves **maturity in around 3-4 years**.

### **India's Concerns:**

- The grassland habitat in the Cholistan desert, where the GIBs were killed, is very similar to the habitat in Rajasthan's Desert National Park (DNP), where the GIB's last remnant wild population is found.
- DNP is situated near the towns of Jaisalmer and Barmer, forming a part of the mighty Thar desert. It was declared as a **National Park** in 1981 to protect the habitat of the Great Indian Bustard.
- As Rajasthan shares the international border with Pakistan's Sindh and Punjab provinces, the birds will become an easy prey for the gun-toting poachers there.
- The hunting of the rare bird will not only drastically reduce India's GIB population, but will also affect the desert ecosystem.

# PRESENT GIB POPULATION

State	Birds
Rajasthan	128
<b>Gujarat</b>	<b>10</b>
Maharashtra	8
Karnataka & AP	10

## THREATS

- Fatal collision with power-lines
- Nest predation by native predators (fox, mongoose, crow, monitor lizard) and free-ranging dogs
- Hunting in Pakistan
- Agricultural expansion
- Pesticide prevalence (food reduction and contamination),
- Grazing pressure
- Plantation of shrubs and tree species in grasslands,
- Poor land-use policies
- Habitat Loss



## POPULATION DECLINE

- GIB population fell by 90% in the 50 years since 1969
- Population size was 1,260 individuals in 1969
- Fell to 745 in 1978
- 600 in 2000
- 250 around 2011
- Less than 150 GIB in 2019

## Note

### Constitutional Provisions Related to Wildlife Conservation:

- **Article 48A** of the Constitution provides that the State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.
- **Clause (g) of Article 51A** stipulates that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.
- **Article 21** of the Constitution, while safeguarding the rights of humans, protects life and the word "life" has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution.

## What are the Recent Updates Regarding GIBs?

- **Filing of the Public Interest Litigation (PIL), 2019 in SC:**
  - The States of Rajasthan and Gujarat are home to the critically endangered Great Indian Bustard. At the same time, both States also hold significant potential for the development of solar and wind power. In 2019, certain public-spirited individuals (petitioners), filed a **public interest litigation**, seeking conservation of the bustard.
  - In the interim, they sought an order seeking a ban on further construction of **solar and wind energy infrastructure**, and the laying of overhead power transmission lines linked to these. They argued that these power lines were a hazard, causing the bustards to die

due to frequent collisions with the lines.

▪ **Blanket Ban by the Supreme Court:**

- In its decision the Supreme Court imposed a blanket ban on the laying of overhead power lines in an area of 99,000 square kilometres; this included areas identified as priority and potential areas for bustard conservation. The Court also passed an order for undergrounding existing power lines, both high and low voltage.

▪ **Objection by the Indian Government:**

- The government challenged this order citing India's international climate commitments on [transitioning to non-fossil fuels](#) and reducing [carbon emissions](#). It argued that the blanket ban was issued for an area much larger than the actual area in which the bustard dwells.
  - This area, it reiterated, held a major proportion of the country's wind and solar energy potential. Further, it argued that undergrounding power lines was practically impossible. Lastly, it attributed the decline in the bustard population to other factors such as poaching, habitat destruction, and predation.

▪ **Recalling of Order by SC:**

- In its decision on March 21, 2024 in M.K Ranjitsinh Versus Union of India in 2021, the Court modified the earlier order, recalling the blanket prohibition on transmission lines. It left the recalibration of the order to scientific experts.
  - To that end, it set up an expert committee to, inter alia, assess the feasibility of undergrounding power lines, and identifying measures for bustard conservation. This committee is required to submit its report by July 2024, after which the Court will pronounce its final judgment.

## What are the Various Implications of SC Order in M.K Ranjitsinh Versus Union of India?

▪ **Expanding the Contours of Environmental Jurisprudence:**

- SC has expanded the contours of environmental jurisprudence: from the oft-repeated [polluter pay principle](#)-precautionary principle-public trust doctrine to the larger arena of climate justice, environmental inequity and gender justice.

▪ **Securing Environmental Justice:**

- For long, environmental disputes have been looked at from the narrow prism of an 'environment versus development' debate; in this judgment, the court went beyond this binary and sought to address some of the contentious issues from both constitutional and international legal perspective and principles.
- While there are concerns about the over-emphasis on the benefits of renewable energy in the judgment, in many ways it is precedent setting - nationally as well as globally - and is likely to be an effective tool for securing environmental justice in a world that is becoming increasingly hotter and drier.

▪ **Climate Change and Human Rights:**

- In a first, the Court used this opportunity to recognise the existence of a **right against the adverse impacts of climate change**. It noted that the right is recognised by the [right to equality \(Article 14\)](#) and the [right to life \(Article 21\)](#) enshrined under the Constitution of India.
- The Court began by explaining the threat posed by the impacts of climate change to the enjoyment of the right to life. Thereafter, it highlighted that disproportionate vulnerability to these impacts threatens the affected persons' right to equality.
  - Concluding this discussion, the Court found that the source of the right is in a conjunctive reading of judicial jurisprudence on Articles 21 and 14; India's climate change action and international commitments, and, the scientific consensus on the adverse impacts of climate change.

▪ **Need to Move Away from Coal-Fired Power Plant:**

- The court, taking into account the submissions of the Union government, highlighted the main reason for the need to shift from coal to solar:
  - India is likely to account for 25% of global energy demand growth over the next two decades, necessitating a move towards solar for enhanced energy security and self-sufficiency while mitigating environmental impacts. Failure to do so may increase dependence on coal and oil, leading to economic and environmental costs.

## ▪ **Climate Legislation and Climate Litigation:**

- The judgment takes note of the lack of specific domestic legislation to deal with climate change. India's international obligations and commitments in the present case have not been enacted in domestic law.
  - The court took note of the varied litigations globally around climate change, specifically, the decision of the *Dutch Supreme Court in State of the Netherlands v. Urgenda* Foundation, which recognised that climate change not only impacts the right to life but also the right to private and family life.
  - The decision of the *Committee on Rights of Child (Sacchi, et al. v. Argentina, et al)* where it observed that "while climate change necessitates a global response, individual states retain accountability for their actions or inactions concerning climate change and their contribution to its effects".

## ▪ **Concerns for GIBs in Revoking the Previous Order:**

- **Over-Emphasis in the Judgment of the Benefits of Renewable Energy:**
  - The main concern is the over emphasis in the judgment of the benefits of renewable energy without considering the social and environmental concerns arising out of large-scale aggressive promotion of renewable energy. There is no doubt that renewable energy is not totally free from its share of environmental and social problems as seen in threats to GIBs.
    - For one, large scale renewables include acquisition of land, restriction of traditional community access to land and consumption of water. The full life cycle analysis will also show that there are critical issues of extraction (of lithium) as well as disposal of solar panels.
- **Fragmented Approach for Renewable Energy Projects:**
  - Renewable Energy projects involving hundreds of acres still do not require any environmental and social impact assessment and are generally outside the purview of environmental laws. Though some states do require consent under the [Air Act, 1981](#) and [Water Act, 1974](#) it remains inadequate, ad-hoc and fragmented.
    - This has led to public opposition against unregulated and unrestricted growth of renewable energy. It is imperative to therefore keep in mind that everything is not green with green energy. This was witnessed starkly in the case of threats posed by solar power transmission lines to GIBs.
- **Navigating the 'Balancing' Conundrum:**
  - With respect to the removing the general prohibition on new overhead transmission in 'priority', 'potential' and 'additionally important' areas, the court was of the opinion that 'there is no basis a general prohibition in regard to the installation of transmission lines for the distribution of solar power in an area about 99,000 square kilometre'.
  - Yet, while agreeing with the reasons for not having a general prohibition, **the Supreme Court for the first time had to move away from the usual 'environment versus development' debate to the 'environment versus conservation' conundrum.**
    - While balancing two equally crucial goals - the conservation of the GIB on one hand, with the conservation of the environment as a whole on the other hand - it is necessary to adopt a holistic approach which does not sacrifice either of the two goals at the altar of the other. The delicate balance between the two aims must not be disturbed.
- **Devolving Powers to Expert Committee:**
  - The expert committee has to determine the scope, feasibility and extent of overhead and underground electric lines in the area identified as priority areas. **Further, it has been granted liberty to recommend any further measures that are required to enhance the protection of the GIB.** This may include identifying and adding suitable areas beyond the designated priority zones if deemed crucial for the conservation of the species.
- **Lack of Articulation of the Right:**
  - Notably, the Court recognised the existence of the right, but did not articulate it any further. Additionally, it also underlined the need for articulation. However, it steered clear of undertaking that task. Arguably, the conscious choice of not articulating the right and only recognising it departs from the Court's usual practice in

environmental cases.

- Much of Indian environmental law has developed through the Court's judicial decisions in public interest cases. In several cases, it has transplanted, recognised, and articulated environmental rights and legal principles.

## **What are the Different Views to be Considered to Make the Judgement More Proactive and Inclusive?**

### **▪ Synchronising Biodiversity Protection and Climate Action:**

- The central issue at stake was limiting the adverse impacts of renewable energy projects on the bustard. As noted by conservationists, the judgment approaches the central issue as presenting two competing choices, i.e., either protecting biodiversity or allowing mitigative climate action. In other words, it projects biodiversity protection and climate action as adversarial choices.
  - Furthermore, the recognition of the right is also contextualised in this approach which juxtaposed biodiversity protection and mitigative climate action. Accordingly, the right so recognised only relates to protecting humans' interests against climate change, which can be mitigated by synchronising biodiversity protection and climate action.

### **▪ Adopting 'Just Transition Framework' in Letter and Spirit:**

- Going forward, adopting an alternative approach could preclude this conundrum. This approach is: utilising the just transition framework. Currently being used in climate cases around the world, it aims to make transitions to a low carbon economy more equitable and inclusive. It particularly serves the interests of those most affected by such transitions.
  - This includes, inter alia, workers, vulnerable communities, and small and medium-sized enterprises. Where the core issue is similar to the one in the present case, using the just transitions framework is an excellent approach.
  - In that it allows protecting underrepresented interests (in the instant case, of the bustard) being threatened by slow carbon transition projects (in this case, solar energy).

### **▪ Facilitating Inclusive and Equitable Climate Action:**

- Given that the final decision of the Court is still pending, this is an excellent opportunity for the judiciary to use the just transition framework and facilitate inclusive and equitable climate action. A right against climate change has been recognised and is yet to be articulated.
- This provides a productive space for initiating a discourse on the content of the right — an opportunity to make it inclusive and effective. However, this burden is a shared one.
- It falls not only on the state but also on activists, litigants, and academics — who provide content to rights by participating (indirectly or directly) in the process of their recognition, articulation, and enforcement.

### **▪ Adopting a Multi-Pronged Approach:**

#### **◦ Climate Action Alive to Varied Rights and Interests:**

- First, there is a need to preclude climate action and protection of biodiversity from being observed in silos. Instead, it can create a case for accommodative climate action, i.e., climate action alive to varied rights and interests.

#### **◦ Enabling the Articulation of More Reflexive Climate Rights:**

- Second, India must strive to enable the articulation of more reflexive climate rights. To that end, utilising it in climate litigation can ensure that articulation and enforcement of climate rights are sensitive to the interests of the non-human nature and furthers ecological justice.

#### **◦ Accommodating Non-Human Interests:**

- Third, if the just transition framework is used in the final decision of the Court, this case will be one of the first just transition litigations to consider a non-human interest.
- Of the existing just transition litigations globally, only one other case concerns protecting the interests of the non-human environment. Thus, the present case will be a frontrunner in such litigation. Theoretically, it will contribute to expanding the concept of a just transition to considering more than human interests.

## What Steps are Being Taken to Conserve the GIB?

### ▪ Species Recovery Programme:

- It is kept under the species recovery programme under the [Integrated Development of Wildlife Habitats](#) of the Ministry of Environment, Forests and Climate Change (MoEFCC).
- In 2015, the Centre had launched the GIB species recovery programme. Under this, the WII and Rajasthan forest department jointly set up breeding centres where GIB eggs harvested from the wild were incubated artificially.

### ▪ Firefly Bird Diverters:

- [Firefly bird diverters](#) are flaps installed on power lines. They work as- (reflector-like structures strung on power cables) - for bird species like the GIB. Birds can spot them from a distance of about 50 meters and change their path of flight to avoid collision with power lines.
- The Supreme Court has mandated the chief secretaries of Rajasthan and Gujarat to install bird diverters in priority areas. It has also asked them to assess the total length of transmission lines that need to go underground in the two states.



# SAVING THE GIB

## WHAT IS CONSERVATION BREEDING:

Conservation breeding means artificial breeding where birds from the wild are caught and mating takes place in a natural habitat. The second generation of these birds are released into the wild. In the case of GIB, second generation birds will be given to participating states like Gujarat. The states will then take up their own breeding programmes.



**FOOD AVAILABILITY:** Food availability was significantly higher at foraging sites compared to random locations. Availability of plant food material was higher compared to animal food matter. *Ziziphus nummularia* fruits were the most abundant food available followed by grasshoppers and *Capparis decidua* fruits during winter. Termites were found only in one location and in high numbers.

## STATE HASN'T MADE ANY EFFORT, SAY WII EXPERTS:

WII experts say that for the last 10 years, the state has been asked to put high-tension lines underground but the state has failed to take any concrete measures. The expert said, "Even if birds are released into the wild they will collide with high-tension lines and die. If Gujarat seeks a male, we will first ask them to give an undertaking with a time-frame for putting the lines underground." An expert said that Devesh Gadhvi, a member of the IUCN expert group on bustards and a member of the state wildlife board, has raised the issue at various meetings and the government also directed the chief wildlife warden to take up the matter with the power companies, but nothing has been achieved.

## ISSUES IN GUJARAT

➤ **High tension lines passing through the Naliya area** have resulted in the deaths of birds. Two birds that were tagged by the WII died after collisions with power lines.



➤ **The GIB habitat in Kutch** is changing drastically due to agriculture and invasion of *Prosopis juliflora* (gando baval)

➤ **Increase in the number of wind turbines and power lines**

➤ **Traditional hunting** has been reported by a specific community in the area



➤ **Increase in encroachment** on revenue land from core breeding areas but due to the lack of inter-departmental coordination and delays in legal action against encroachments are increasing.



### ▪ **Artificial Hatching:**

- The conservation breeding programme started in 2019 by collecting eggs from the wild and artificially hatching them. The first chick hatched on 21st June 2019, and was named 'Uno'. Eight more chicks were hatched that year and raised and monitored. A total of 29 GIBs have been housed in the two breeding centres in Rajasthan.

### ▪ **National Bustard Recovery Plans:**

- The Government of India has developed a comprehensive Conservation Plan for Great Indian Bustards to coordinate and guide conservation efforts across multiple states.

### ▪ **Conservation Breeding Facility:**



- MoEF&CC, the Rajasthan government and the [Wildlife Institute of India \(WII\)](#) have also established a conservation breeding facility in Desert National Park at Jaisalmer in June 2019.

▪ **Project Great Indian Bustard:**

- It has been launched by the Rajasthan government to construct breeding enclosures for the species and develop infrastructure to reduce human pressure on its habitats.

## Conclusion

In his notable work, *The Idea of Justice* (2009), Amartya Sen argues that a theory of justice must include ways of 'reducing injustice and advancing justice'. [Chief Justice](#), in a way, amalgamates the two ideas and recognises that citizens will remain unfree unless they are 'free from the adverse impact of climate change' and climate specific legislation, litigations focused on climate change and a shift from coal to cleaner energy are crucial, not only from the environmental perspective, but also in furthering human rights and reducing inequality.

One can hope that the judgment will help shape law, policy and action in way that ensures that not only are citizens free from the adverse impact of climate change, but even the last remaining GIB can fly free without being entangled in power lines.

### **Drishti Mains Question:**

Discuss the implications of the Supreme Court's judgment on the conservation of the Great Indian Bustard. What measures are needed for its protection?

## UPSC Civil Services Examination Previous Year Question (PYQ)

**Q. Which one of the following groups of animals belongs to the category of endangered species? (2012)**

- (a) Great Indian Bustard, Musk Deer, Red Panda and Asiatic Wild Ass
- (b) Kashmir Stag, Cheetal, Blue Bull and Great Indian Bustard
- (c) Snow Leopard, Swamp Deer, Rhesus Monkey and Saras (Crane)
- (d) Lion-tailed Macaque, Blue Bull, Hanuman Langur and Cheetal

**Ans: (a)**

**Q. With reference to India's Desert National Park, which of the following statements are correct? (2020)**

1. It is spread over two districts.
2. There is no human habitation inside the Park.
3. It is one of the natural habitats of Great Indian Bustard.

**Select the correct answer using the code given below:**

- (a) 1 and 2 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

**Ans: (c)**

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