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A Dismantling of the Base of Environmental Regulation

Context

- The **Supreme Court of India's decision in CREDAI vs Vanashakti** (November 18, 2025), delivered by a 2:1 majority, marks a significant and troubling shift in India's environmental jurisprudence.
- By recalling its own May 2025 judgment that had struck down ex post facto environmental clearances (ECs), the Court has reopened the possibility for developers to retrospectively legalise projects built in violation of the law.
- The majority justified this reversal on the grounds of **public interest**, claiming that disallowing such clearances could disrupt or dismantle completed projects.
- This logic, however, **turns illegality into its own justification**, subordinating environmental rule of law to administrative convenience.

Circular Logic and the Normalisation of Illegality

- Central to the majority's reasoning is the assertion that requiring prior ECs may cause hardship when projects are already built.
- This approach effectively **treats the violation as the rationale for excusing the violation**, making compliance appear optional.
- What was designed as a mandatory safeguard becomes a flexible post-hoc formality.
- This stands in stark contrast to the Court's long-standing position that **environmental protection must be anticipatory**, anchored in Article 21's guarantee of the right to a healthy environment, the precautionary principle, and doctrines of intergenerational equity.
- The review judgment signals a shift from principle to expediency. By treating completed construction as an overriding factor, it allows economic momentum to dictate environmental legality.
- Justice **Ujjal Bhuyan's dissent highlights this danger**, emphasising that bending the law to accommodate violations erodes the very framework created to prevent ecological harm.

The Original Judgment: Returning to First Principles

- The May 2025 judgment authored by Justice A.S. Oka had rejected both the 2017 and 2021 government notifications permitting retrospective ECs.
- It grounded its reasoning in the evolution of India's environmental governance, beginning with the Stockholm Conference of 1972, the Environment (Protection) Act of 1986, and the Environmental Impact Assessment

(EIA) frameworks of 1994 and 2006.

- These legal instruments established **prior environmental scrutiny as a central pillar** of ecological regulation.
- The original ruling underscored that public hearings, expert appraisal, and scientific evaluation are meaningful only when conducted before construction begins.
- It reaffirmed that **preventing irreversible harm is the essence of environmental regulation**, and that ex post facto approvals defeat this purpose.
- The Court relied on precedents such as Common Cause vs Union of India (2017), which declared retrospective clearances inherently detrimental, and the M.C. Mehta line of cases, which insisted on prior approval even for lease renewals.

The Review Judgment: A Retreat into Expediency

- The review judgment reframes the central question: not whether environmental harm must be prevented in advance, but whether enforcing prior scrutiny inconveniences those who have already broken the law.
- Justice Bhuyan's dissent identifies this shift as a **clear retreat from decades of jurisprudence**. If violations can be regularised through fines, compliance loses its binding force.
- Developers may proceed without an EC, confident that **post-facto validation will replace meaningful scrutiny**.
- This approach weakens both the deterrent value of environmental regulation and the credibility of judicial oversight.
- By undoing a carefully reasoned judgment rooted in precedent, the Court signals a willingness to **allow economic considerations to override ecological mandates**, even when violations are blatant and deliberate.

Consequences for Environmental Governance

- The implications of the review judgment are considerable.
- First, it **hollows out the EIA process**, reducing public participation, expert appraisal, and scientific evaluation to perfunctory exercises if projects can later be regularised.
- Second, it effectively **renders compliance voluntary**, diminishing the regulatory authority of the state and weakening enforcement mechanisms.
- Most troubling is the message this sends at a time of escalating climate risk and ecological fragility. India faces intensifying floods, heatwaves, and biodiversity loss, yet the ruling further **dilutes the already fragile tools of environmental accountability**.
- An institution long regarded as a leader in environmental protection now appears willing to bend foundational safeguards to accommodate unlawful development.

Conclusion

- As the Court prepares to hear the matter again, the stakes extend beyond the validity of two notifications.
- At issue is the **credibility of India's environmental rule of law**, and the integrity of constitutional commitments to ecological protection.

- Restoring the primacy of prior environmental scrutiny is essential not only to prevent irreversible harm but also to reaffirm the legitimacy of governance.
- The forthcoming hearings offer an opportunity to correct course and ensure that environmental law remains a shield against harm, not a mechanism for **post-hoc rationalisation.**

A Dismantling of the Base of Environmental Regulation FAQs

Q1. What did the Supreme Court allow in the CREDAI vs Vanashakti review judgment?
Ans. The Supreme Court allowed ex post facto environmental clearances for projects that had begun without prior approval.

Q2. Why is the majority's reasoning considered circular?
Ans. It is considered circular because the Court used the very act of violating the law as justification for regularising the violation.

Q3. What principle did the original judgment emphasise?
Ans. The original judgment emphasised that prior environmental clearance is a central safeguard meant to prevent irreversible ecological harm.

Q4. What key concern does Justice Bhuyan's dissent highlight?
Ans. Justice Bhuyan's dissent highlights that allowing retrospective clearances undermines compliance and rewards unlawful conduct.

Q5. What broader impact does the review judgment have on environmental governance?
Ans. The review judgment weakens environmental regulation by making compliance appear voluntary and reducing the deterrent effect of the law.

Source: **The Hindu**

A Missing Link in India's Mineral Mission

Context

- India's growing engagement with the **global clean-energy and high-technology economy** has restored attention to an often-overlooked truth: mining alone does not create prosperity.
- The recently approved ₹7,280-crore rare-earth magnet scheme and the **new G-20 framework** on critical minerals reflect an acknowledgment that value creation lies not in extraction but in refining, processing, and manufacturing.
- As geopolitical tensions reshape supply chains, especially amid intensifying **S.–China trade frictions,** India's reliance on foreign processing capacity has exposed deep vulnerabilities.

The Strategic Gap in India's Critical Mineral Chain

- India has spent the past decade reforming its mining sector through amendments to the **Mines and Minerals (Development and Regulation) Act.**
- A study by the Council on Energy, Environment and Water (CEEW) finds that although India mines seven critical minerals important for clean energy and defence, copper, graphite, silicon, tin, titanium, rare earths, and zirconium, refining capacity for all of them remains inadequate.
- Domestic graphite purity levels fall short of battery requirements; rare earths are processed only into oxides rather than refined metals; and domestic tin **supply meets a mere fraction of national demand.**
- Without addressing these processing deficits, India risks undermining not only its energy transition but also its ambitions in sectors such as pharmaceuticals, automobiles, telecommunications, and semiconductors.

A Global Chokepoint Dominated by China

- China **controls more than 90% of rare-earth** and graphite refining, about 80% of cobalt processing, and around 70% of lithium chemical production.
- This dominance has periodically been used as geopolitical leverage, most notably when China imposed controls on rare-earth magnets, lithium-ion batteries, graphite anodes, and processing technologies in 2025.
- Although the restrictions were later eased, the episode exposed the fragility of global supply chains and highlighted the strategic significance of processing technologies.
- Other countries have responded swiftly. The U**.S.–Japan and U.S.–Australia critical mineral partnerships** directly tie financial incentives to domestic refining and processing capacity.
- These developments offer India a clear lesson: processing strength is now an essential component of economic security, industrial competitiveness, and geopolitical leverage.

Five Pathways to Building India’s Processing Capacity

- **Transform Centres of Excellence into Hubs of Applied Innovation**
    - India’s **nine Centres of Excellence (CoEs)** under the National Critical Mineral Mission must become engines of industrial innovation.
    - Rather than focusing solely on academic research, they **must prioritise technologies** that can reach commercial readiness quickly.
    - **High-purity compounds**, advanced refining methods, and efficiency-enhancing processes should be core priorities.
    - Collaboration between IITs, NITs, industry players, and think tanks is essential to accelerate the path from laboratory research to market deployment.
- **Recover Minerals from Secondary Resources**
    - India generates vast quantities of mineral-rich industrial by-products, coal fly ash, red mud, zinc residues, and steel slag.
    - These waste streams hold significant quantities of rare earths, gallium, cobalt, and vanadium. Pilot projects have already **demonstrated recovery potential**, but scaling them requires policy support.

    - Embedding recovery units in proposed Critical Minerals Processing Parks and offering incentives for extracting minerals from waste could simultaneously enhance mineral security and reduce environmental burdens.

- **Build a Skilled Workforce for Advanced Metallurgy**

    - Critical mineral processing demands specialised **hydrometallurgical and advanced refining expertise**, not traditionally taught in India's metallurgical programmes.
    - A national effort to train technicians, engineers, and researchers is necessary.
    - **Leveraging the NCMM's skilling allocation** to develop new curricula, training academies, and apprenticeship programmes will help create a large, modern workforce capable of supporting processing hubs across mineral-rich states like Odisha, Gujarat, and Jharkhand.

- **De-risk Private Investment Through Demand Assurance**

    - Critical-mineral markets are notoriously volatile, discouraging long-term private investment.
    - To counter this, India could adopt mechanisms similar to U.S. price-guarantee models that ensure stable demand for domestic producers.
    - A national mineral stockpile that acts as a market-maker, buying during downturns and releasing during surges, would help stabilise prices.
    - **Government procurement norms could also require strategic sectors** to source a portion of their materials domestically, ensuring consistent demand for Indian refiners.

- **Link Mineral Diplomacy with Domestic Processing Strength**

    - India's overseas acquisitions in Argentina, Zambia, and elsewhere are important, but raw ore access alone offers limited leverage.
    - True influence comes from processing expertise. By demonstrating reliable high-purity refining capabilities, India can shift from transactional buyer-seller arrangements to deeper co-investment partnerships.
    - Initiatives like the **Australia-Canada-India Technology and Innovation Partnership** indicate the potential of such alliances.
    - Including processing technologies in bilateral and multilateral trade dialogues, through G-20, BRICS, and IPEF, can further solidify India's role in global critical-minerals governance.

Conclusion

- **China's recent restrictions make a compelling argument**: control over processing equates to control over technology, industry, and power.
- For India, **the question is no longer whether it possesses adequate mineral reserves** but whether it can convert those minerals into high-purity materials essential for modern technologies.
- If India can bridge its processing gaps, the country will not only secure its **clean-energy transition but also build resilient industrial supply chains** across defence, electronics, automotive manufacturing, and pharmaceuticals.

A Missing Link in India’s Mineral Mission FAQs

Q1. Why is processing more important than mining for India’s strategic goals?
Ans. Processing is more important because it turns raw ores into high-purity materials essential for clean energy, electronics, and defence industries.

Q2. What makes India vulnerable in global critical-mineral supply chains?
Ans. India is vulnerable because it imports most of its refined minerals and lacks large-scale domestic processing capacity.

Q3. How does China’s dominance affect India’s mineral security?
Ans. China’s dominance in refining gives it the ability to disrupt global supply chains, which exposes India to potential material shortages and price instability.

Q4. What role can Centres of Excellence play in strengthening India’s mineral sector?
Ans. Centres of Excellence can provide applied research and develop commercially ready processing technologies that support domestic industries.

Q5. Why should India integrate mineral diplomacy with processing capacity?
Ans. India should integrate mineral diplomacy with processing capacity because strong refining capabilities allow it to form deeper international partnerships beyond simple raw-material agreements.

Source: **The Hindu**

India’s Seven-Point Energy Transition Agenda for 2035

Context

- Under the **Paris Agreement**, India must submit new Nationally Determined Contributions (NDCs) for the period up to 2035.
- India is on track to meet its previous commitments and now needs a comprehensive, economy-wide **energy transition plan** aligned with the net-zero 2070 target.
- The article outlines **a seven-point agenda** that should guide India’s new NDCs.

Seven Pillars of India’s Energy Transition Strategy

- **Higher emissions intensity reduction target**
    - India will meet its 2030 target of 45% reduction in emissions intensity of GDP (2005 baseline).
    - Proposed 2035 target – **65% reduction**.
    - With GDP projected to grow at 7.6%, total emissions will still rise but peak around 2035.
    - Announcing a peaking year enhances credibility, counters criticism of India as the “**third-largest emitter**”.

- **Expanding non-fossil-fuel power capacity**
    - India has already met the target of 50% non-fossil fuel capacity by 2030.
    - New target – **80%** non-fossil capacity by 2035.
    - Total power capacity to reach 1,600 GW by 2035. Of this, solar and wind, which are subject to intermittency, would be around 1,200 GW, , raising their generation share from 13.5% currently to ~50% by 2035.
    - Energy storage capacity, which is less than 1 GW today, should reach approximately 170 GW by 2035.
    - The new solar and wind capacities would also require **expansion of the grid infrastructure.**
- **Phasing down unabated coal**
    - No new unabated coal plants after 2030.
    - **Coal generation capacity** could rise from 255 GW at present, peak at 293 GW around 2030 and then decline gradually to 230 GW by 2040.
    - Some coal capacity can be retained by 2070, conditional on **carbon capture and storage systems** becoming cost-competitive.
    - Coal mining states (Jharkhand, Odisha, Chhattisgarh) must prepare for transition via retraining, economic diversification, and social protection.
- **Accelerating electrification of transport**
    - **Railways**: Achieved over 99% railway track electrification, but under 90% of the movement is currently electrically powered. Achieving near-100% electric traction by 2035, imply phasing out diesel locomotives.
    - **Urban buses**: 50% electric buses in city fleets by 2035.
    - **Three-wheelers**: Move from 50% to 100% electric within the next few years.
    - Set EV sales targets for all vehicle categories in consultation with manufacturers.
- **Operationalising and strengthening the Carbon Credit Trading Scheme (CCTS)**
    - CCTS, which becomes operational in (April) 2026, can be part of new NDCs. The scheme will be reviewed at the end of two years based on experience.
    - It could be expanded over time to cover sectors currently excluded, e.g. power.
    - Start with lenient emission intensity targets, gradually tighten them to meet net-zero 2070 trajectory.
- **Managing variability through electricity market reforms**
    - The higher share of renewables will imply much **greater intraday and seasonal variability** in electricity generation. This poses problems for grid management.
    - It will necessitate:
        - Battery and pumped storage,
        - Reforms in electricity pricing,
        - Shift from long-term power purchase agreements (PPAs) to exchange-based dynamic pricing,

        - Time-of-day tariffs for consumers.
    - A major effort will be needed to create acceptance by the public.

- **Financing the transition**

    - **Required investment**: Approximately $62 billion annually during 2026–2035 (or about 0.84% of GDP per annum).
    - **Sources:** About 80% of this amount will come from domestic sources (savings, private investment). 20% (~$12.5 bn annually) from international finance, including MDBs for risk mitigation.
    - **Need**: A stable reform-oriented growth trajectory (Viksit Bharat vision) can attract foreign capital.

Institutional Strengthening

- Strengthen inter-governmental and Centre–state **coordination**. Need an economy-wide transition plan, **jointly executed** by Centre, states, and private sector.
- Strong case for reviving the Prime Minister's Council on Climate Change (**PMCCC**) to –
    - Coordinate national action plan,
    - Ensure stakeholder alignment,
    - Review progress,
    - Adapt to technological changes.

Way Forward

- **Securing adequate financing**, especially concessional funds.
- **Submit NDCs** reflecting the seven-pillared strategy, with conditionality linked to international finance.
- Managing employment and socio-economic impacts in coal regions.
- Adopt a phased, predictable approach to coal phase-down and renewable scale-up.
- Ensuring grid stability amidst high renewable penetration.
- **Raising domestic manufacturing** capacity for EVs, batteries, and solar components.
- **Public acceptance** of time-of-day tariffs and cost-reflective pricing.
- **Deepen carbon markets**, electricity market reform, and storage capacity expansion.
- **Build resilience** through skilling, diversification, and just transition measures.

Conclusion

- India stands at a critical **inflection point** as it prepares its NDCs for 2035. The proposed seven-point agenda aligns India's rapid economic growth with its long-term net-zero 2070 commitment.
- With coherent planning, adequate financing, and effective institutional mechanisms, India can pursue a **just, credible, and ambitious energy transition** while maintaining developmental priorities and global climate leadership.

India's Seven-Point Energy Transition Agenda FAQs

Q1. What is the significance of announcing a peaking year (around 2035) for India's emissions?

Ans. It enhances India’s credibility, aligns with the Paris Agreement, and counters criticism about being the third-largest emitter.

Q2. How does expanding non-fossil fuel capacity to 80% by 2035 contribute to India’s decarbonisation pathway?

Ans. It will enable large-scale renewable integration and reduce dependence on fossil fuels.

Q3. Why is a phasedown of unabated coal essential for achieving India’s net-zero target by 2070?

Ans. It requires limiting fossil-based emissions and eventually retaining only CCS-equipped coal units.

Q4. What is the role of transport electrification in India’s energy transition strategy?

Ans. Full electric traction in railways and high EV penetration in buses and three-wheelers significantly lower sectoral emissions and reduce fossil fuel dependence.

Q5. How can the Carbon Credit Trading Scheme (CCTS) support India’s low-carbon growth?

Ans. CCTS incentivises emission reductions across sectors through market mechanisms and can be expanded and tightened to align with the net-zero trajectory.

Source: IE
