



Social movements and grassroots discourse of climate justice in the context of droughts in semi-arid regions: A case study in India

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Abstract

India's encounter with farmers' protests since 2015 has highlighted the constructivist attempt of grassroots movements in confronting the state's monopoly over production of law. Farmers' groups and civil society organisations have been mobilising legal and extra-legal tactics to gain discrete legal responses from the state towards guaranteeing farmers' fundamental rights in the context of climate change adaptation to droughts in semi-arid parts of rural India. This paper discusses the strategies used by such actors to frame the contours of climate justice. The movement highlights the need for India's policies to align with transformational, procedural and distributional justice goals that recognise and redress structural (socio-economic, cultural, colonial) roots of vulnerability towards just and sustainable adaptation processes. It also highlights the responsibility of the nation-state to safeguard the fundamental/constitutional rights of farmers who contribute to the nation's food security while being the most vulnerable to climate impacts at sub-national scales.

Key words

Social movements; legal mobilization; disaster management; adaptation; climate justice; India

Resumen

El encuentro de India con las protestas de granjeros desde 2015 ha puesto de relieve el intento constructivista de movimientos de base para enfrentarse al monopolio

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estatal sobre la producción de leyes. Los grupos de granjeros y las organizaciones de la sociedad civil han movilizado tácticas jurídicas y extrajurídicas para conseguir discretas respuestas jurídicas por parte del Estado en el sentido de garantizar derechos fundamentales de los granjeros en el contexto de la adaptación a las sequías en partes semiáridas de la India rural. Este artículo trata sobre las estrategias utilizadas por dichos actores para enmarcar los contornos de la justicia climática. El movimiento pone de relieve la necesidad de que las políticas de India se alineen con los objetivos de justicia transformacional, procedimental y distribucional que reconozcan y reparen de raíz vulnerabilidades estructurales (socioeconómicas, culturales, coloniales) y caminen hacia procesos de adaptación justos y sostenibles. También subraya la responsabilidad del Estado-nación para salvaguardar los derechos fundamentales/constitucionales de los granjeros que contribuyen a la seguridad alimentaria de la nación, siendo, en contraste, los más vulnerables a los efectos climáticos en escalas subnacionales.

Palabras clave

Movimientos sociales; movilización jurídica; gestión de desastres; adaptación; justicia climática; India

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1. Introduction

Insofar as India is concerned, the agricultural and allied sector plays an important role in the overall economy, contributing to 17.1% of the country's Gross Value Added (Department of Agriculture, Cooperation & Farmers Welfare 2019, p. 1) during the year 2018–2019 (see Department of Agriculture and Cooperation 2014, p. 1). This sector itself employs 54.6% of the country's population.¹ About 60% of India's total cultivated area applicable to this sector directly depends on natural rainfall (precipitation, river-runoff and ground water) for farming practices i.e. farmers practice rain-fed agriculture (Intergovernmental Panel on Climate Change – IPCC – 2014a, Udmale *et al.* 2014) Further, agriculture is largely dependent on south-west monsoon rainfall (which comprises of 80% of annual rainfall on an average) between June and September (Udmale *et al.* 2014) This makes the nature of farmers' relationship with seasonal rainfall more cohesive, and the impact of natural disasters like drought and flood on their livelihoods and India's overall economy more critical. Arguably, "natural" disasters have huge implication on India's agricultural sector and the lives of several poor farmers it employs, many of whom are increasingly facing livelihood and income insecurities. In the years 2014 and 2015, the monsoon season in India experienced rainfall more than 10% below normal. The dry conditions during 2014–2015 resulted in water shortages spread over semi-arid parts of India (World Meteorological Organization 2016, p. 23). The Climate Risk Index for 1996–2015 (Kreft *et al.* 2017, p. 23) confirms that India faced extreme weather events in 2015 including unseasonal rainfall causing floods in February and March, and "one of the deadliest heatwaves in world history (...) killing more than 2,300 people in May, followed by a much weaker monsoon than normal" (Kreft *et al.* 2017, p. 7). During the year 2014–15, the state governments of Haryana, Uttar Pradesh, Karnataka and Maharashtra had declared drought in all 21, 44, 9, 22 districts respectively (Department of Agriculture and Cooperation 2015, p. 111). In the following year of 2015–2016, ten state governments – those of Karnataka, Chhattisgarh, Madhya Pradesh, Maharashtra, Odisha, Andhra Pradesh, Uttar Pradesh, Telangana, Jharkhand and Rajasthan – declared droughts (Department of Agriculture, Cooperation & Farmers Welfare 2016a, p. 131). Despite the consecutive national drought years in 2014 and 2015 (and state drought in 2016 in Tamil Nadu; see National Human Rights Commission 2017 and India Today Web Desk 2017) affecting the plight of farmers, no/inadequate drought-mitigation efforts were implemented on the ground. Either the states failed to declare droughts within their jurisdiction, or the centre did not provide adequate financial and logistical aid to help the states to implement relief-measures. Rising discontentment led to the filing of two public interest litigation (PIL) cases in December 2015 and July 2016; and nationwide protests since 2016 (The Citizen Bureau 2016); with social movement actors (SMAs)² knocking at the doors of the judiciary, executive, legislature, and the media.

In the debate surrounding climate justice, it is widely held that balance of power unevenly favors richer countries over developing countries in terms of financial

¹ This population comprises of landless laborers, pastoralists and landholding farmers amongst others.

² For the purpose of this article, SMAs comprise of individuals, or collective organisations including civil society organisations (CSOs) or farmers' organisations - in rural or urban areas, which are instrumental in raising concerns with state institutions.

capacities to mitigate and adapt to climate change, despite the industrialized world being the major contributor towards global stock of greenhouse gases. In this context, it is argued that the developing countries are likely to suffer the most from the negative impacts of climate change (Grasso 2007, Okereke and Coventry 2016, p. 464). Differences in vulnerability at local and global scales further expose people and societies to differential risks from climate change. Moreover, the fact that the poor in general have contributed the least to the problem of greenhouse gas (GHG) emissions (both at global and sub-national scales in contrast with the negative impacts they are faced with)³ brings us to the importance of addressing climate justice goals at sub-national scales towards more climate-resilient livelihoods, which are sustainable (Bidwai 2012, Michael and Vakulabharanam 2016). In this context, this paper aims to examine how and to what end SMAs are mobilising legal and extra-legal tactics to frame the contours of climate justice in relation to the impact of droughts on farmers' livelihoods in semi-arid parts of rural India. It does so through the lenses of climate justice and to a lesser extent social movement literature. In an attempt to fulfil the aims of this article, I look at a case study of a recent farmers' movement in India. To this end, data for this case study is gathered from secondary sources including judgments and enactments available online, scholarly papers, government and non-government reports, digital media news, and official website⁴ maintained by relevant farmers' organisations only to the extent that it constitutes a part of the social movement that began in December 2015 when the first PIL was filed until late 2018 when the protests reached its peak. Although some may argue that the movement is still ongoing with intermittent gaps, this period allows me to critically analyze the major turning points in the movement in order to trace the discourses on climate justice.

At the outset, it may be noted that the SMAs do not explicitly use the terminology of climate justice to frame the problematic impacts of drought. Although "naming" (Arnall *et al.* 2019, p. 666) climate change as the main driver of damages caused to local communities is important to understand climate justice claim-making from below more clearly, the role of climate change might be de-emphasized because communities may "not want the 'baggage' that can come with describing their move in these terms" (Arnall *et al.* 2019, p. 666). Arguably, there may also be distrust among rural communities against the state for not remedying or "transforming" (Few *et al.* 2017, p. 3) socio-economic injustices that are often embedded in environmental and developmental policies, if damages are framed as climate impacts. For example, communities may be suspicious of government strategies in simply blaming climate change and shirking themselves of responsibilities that come with a welfare state – which is what India experienced recently as several ministers blamed climate change for droughts (Reuters Staff 2015, IANS 2016). The communities may also face uncertainty in causally linking climate change to droughts in litigation, because the impacts of anthropogenic water stress rely upon

³ A recent study shows that 10% of the global elites are responsible for 36% of carbon emissions. This is an equivalent of 26.3 tonnes per capita emissions. The global elites comprised of populations from countries including USA, European Union, Japan, Australia, Canada and the elites from developing countries whose daily income is higher than \$23 Purchasing Power Parity (PPP). See Hubacek *et al.* 2017.

⁴ Please note that some links maintained by the farmers' organisations may not be accessible at the time of reading due to websites being held under maintenance or other reasons not known to the author. However, electronic copies of significant bills discussed herein and downloaded earlier are available with the author.

ongoing and rapidly changing climate science and evidence. The SMAs introduced the nexus between climate change and droughts in one of the bills. The relationship also appears in news media in India, and climate science⁵ more generally signifying the worsening of pre-existing socio-ecological fractures (misrecognition, unequal and unfair distribution of resources and processes) in the liberalized agricultural sector. Nevertheless, a climate justice lens helps to examine inequalities and violation of individual/collective rights in relation to climate change impacts and adaptation by using the concepts of environmental justice and social justice (Ghimire and Panday 2016).

Disasters like droughts have been a frequent phenomenon especially in India's arid and semi-arid regions in the south, north-west and parts of the centre and the east. The country, alone has experienced 69 droughts during 2000–2011 (Parida *et al.* 2018, p. 160). However, the problem of climate injustice in relation to droughts in several parts of rural India is not just linked to the imbalance between GHG contributions and responsibilities of the poor to adapt within the rural-urban continuum (Michael and Vakulabharanam 2016). Climate injustice is also linked to social injustice or "livelihood disturbing factors" (Thomas and Twyman 2005, p. 118) nested within India's "predatory" and "unequal" growth pattern hammered in its colonial past, which privileged urban middle class over rural peasant class, and landowners over agricultural laborers/cultivators (who have no "diverse assets"; Bhaduri 2008, Walker 2008). To elaborate, inequity in access to and control over land in rural India dates back to India's colonial past when "rentier landlords comprised an agrarian structure in which non-cultivating proprietors owned 70 percent of the land, but accounted for only 10 to 15 percent of rural households". Subsequent endeavours to redistribute land and reform tenancy arrangements have remained largely unsuccessful (Walker 2008, p. 565). Post-1991, financialization, trade-liberalisation and business services sector mostly benefited urban and rural elites. In addition, simultaneous development strategies such as squeezing public expenditure on pro-poor policies, withdrawing state support for agriculture through "WTO-mandated imports of cheap" (Walker 2008, p. 558) agricultural commodities and development by expropriation of land and natural resources from rural dwellers have continued to "internally colonise" (Bhaduri 2008, p. 13) the poor (mostly the *dalits* and *adivasis* or indigenous tribes) of their resources. Thus, issues of socio-economic inequities and exclusion attributed to neo-liberal development strategies, class, gender, caste, ethnicity and other identities contribute to climate vulnerability. Solving such inequities require engagement with questions around recognitional, distributional, procedural and transformational justice to help rural communities adapt to droughts and climate change. It also speaks resoundingly about the unnaturalness in the phenomenon of droughts that are often framed as "natural disasters". Disasters do not happen simply due to natural events such as climate change but because they expose vulnerable groups to hazards (Wisner *et al.* 2014). In fact, even climate change is an anthropogenic phenomenon. (Wisner *et al.* 2014, p. 4) argue that disasters are a culmination of social, political and economic environment that structure the lives of different groups of people. Framing disasters like droughts as "natural" risks separates "natural" disasters from

⁵ There is considerable consensus among the scientific community regarding climate change increasing the frequency and intensity of droughts; and aggravating the existing stress on water resources in India. See Panda 2010, Intergovernmental Panel on Climate Change – IPCC – 2014b.

socio-economic and political factors that influence how hazards affect people differently. This leads to excessive emphasis on natural hazards by deviating focus from the “surrounding social environment” (Wisner *et al.* 2014, p. 4).

Moving on to the relationship between law and sociology more generally, legal scholarship generally analyses law as static with little or no focus on its everyday social influences. Some scholars have challenged this mainstream approach by studying the interaction between social structures and legal systems with a view to developing a stronger foothold of extra-legal factors including resistance and demonstrations, which shape legal transformation (Rajagopal 2003, Cummings 2017). In the context of communities-as-a-collective-voice with the political capacity to propel social change, the article looks at the often-ignored influence of social movements on law making in India. I look at the formal and informal spaces in which the language of rights and the voices of the disenfranchised farmers penetrate – whether to seek relief in the courts or on the streets to pressurize the union legislature to enact new laws in the Lok Sabha or the House of the People. This would help in demonstrating ways in which law and social movements shape each other. It would also demonstrate how and why grassroots movements in developing economies with a democratic polity engage with the state to resist climate injustice. One way of understanding demands is by paying attention to how communities exert “agency” (Arnall *et al.* 2019) or capacity in mobilizing for a “desired outcome” (Arnall *et al.* 2019) or social change, and claims in demanding justice from key actors such as the “nation-state” (Burnham *et al.* 2013, p. 245; Fisher 2015, p. 74). Further, bottom up claim-making of SMAs in the context of increasing evidence of global warming on local climatic hazards helps to shrink the space between academic constructs and lived “experiences of movements” (Jafry 2019, chap. 224) that offer “justice-based solutions” (Arnall *et al.* 2019, p. 665), by shedding light on the concepts that are studied and developed (Jafry 2019, p. 224). Incorporating grounded and grassroots engagement with climate justice is an emerging area of research that unfolds the depth of inequalities confronting climate harms (Jafry 2019, chap. 34). Studying social movement tactics help in understanding grounded demands, which are “democratically controlled, socially just” (Ghimire and Panday 2016, p. 272). It also gives more agency to SMAs that are often marginalized voices, towards conceptualizing climate justice. Understanding these grounded undercurrents ultimately help in framing climate just adaptation policies. There is inadequate understanding, especially in the Indian context, of how affected communities perceive unjust systems at sub-national levels that make them more vulnerable to climate change, and how they use resources such as law and other tactics at their disposal to frame justice and attempt to push for social change. There is also less understanding of how climate injustice interacts with domestic social injustices that produce unique vulnerabilities for communities at high risk of being exposed to climate hazards. This article adds to this emerging field by linking climate justice with social movements because the latter (among other methodologies) offer one way of understanding local demands for localised nature of climate harms. Theoretical concepts of: i) climate justice; and ii) social movements such as “agency”, “legal mobilization”, “legal and political opportunities”, “participation”, “claim-making process”, and “naming blaming shaming and issue framing” are relevant for analysis of the case study in this article (Vanhala 2012, Allan and Hadden 2017, Gunningham 2017, Arnall *et al.* 2019, Cotula 2020, Lehoucq and Taylor 2020).

In this article, I argue that case studies of sub-national movements mobilized by grassroots actors are valuable platforms to deconstruct widely held notions of climate justice, because they offer local solutions to local climate harms. Recent farmers' movements in semi-arid parts of India highlight the need for national and state adaptation policies to align with transformational (anti-capitalist, anti-patriarchal, anti-casteist, anti-anthropocentric), procedural (fairness and equity in participation) and distributional (access and allocation) justice goals that recognize and redress structural (socio-economic, cultural, colonial) roots of vulnerability towards just and sustainable adaptation processes. It also highlights the responsibility of the nation-state to safeguard the fundamental/constitutional rights of farmers who contribute to the nation's food security while being the most vulnerable to climate impacts at sub-national scales. Safeguarding these rights will help farmers to adapt.

The article is structured as follows: Part 2 provides the theoretical framework (mostly on climate justice, and law and social movements) and a review of India's socio-economic vulnerabilities. Part 3 unfolds the events within the social movement. Here, firstly I trace the movement's progress from its inception. Secondly, I examine the domestic jurisprudential opportunities seized by SMAs to advocate for farmers' adaptation rights (affected by the socio-economic consequences of droughts), in order to get discrete legal response from the judiciary. This includes filing PILs to enforce existing laws/policies or subject them to judicial review. Thirdly, I examine farmers' endeavors in mobilizing their grievances to negotiate for adaptation rights-based demands (drafted in the form of bills) with the state, in order to protect their livelihood from market and climate risks. This includes looking at the extra-legal forces including, inter alia, peasant solidarity (coalition), media and non-electoral political engagement (lobbying) that complement the legal strategies in operationalizing justice for farmers. Then in part 4, I analyze the legal and extra-legal tactics to understand how these heterogeneous grassroots actors are framing discourses on climate justice by drawing on the state responsibility regime, within the premises laid down by the theoretical framework. The aim, however, is not to analyze the judgments and bills in detail but to rather sketch the social movement strategies and extract the emerging discourses on climate justice. Finally, in part 5, I provide concluding remarks on emerging narratives on climate justice and its policy implications on climate change adaptation.

2. Setting the scene: Theoretical framework and the Indian context

2.1. Climate justice

The term climate justice is used to problematize global warming in ethical and political contexts. It does so by employing the concepts of environmental justice and social justice to examine inequalities and violation of human/collective rights in relation to climate change impacts (Ghimire and Panday 2016, p. 271). At the heart of climate justice concerns lies the asymmetry that those who have contributed least to the problem of climate change i.e. greenhouse gas (GHG) emissions are the ones who will be affected by its adverse impacts the most. It is about sharing the burden and benefits equitably – i) among developed and developing countries in the context of historical responsibility, and ii) within nations to uplift the marginalized and affected populations who have

contributed the least to the problem in the contexts of per-capita equity⁶ and local vulnerability.⁷ Therefore, to ensure climate justice it is not only important to minimize (adapt) the impacts of climate change but also rectify (mitigate) the structural causes of GHG emissions which are often embedded in neoliberal development paradigms. (Forsyth 2014, p. 5) mentions that classic debates on climate justice revolved around distributive and procedural justice to allocate risks and solutions to climate change. Distributive justice concerns allocation of environmental decisions and actions, and the extent to which benefits and risks/hazards can be distributed in an equitable manner across the society. Procedural justice relates to the processes that make environmental outcomes more inclusive, equitable and democratically accountable (i.e. who makes decisions on adaptive responses and how are they made?) (Thomas and Twyman 2005, pp. 116,119).

At the international level, claims on distributional justice that are framed on the “developed nation-developing nation” binary are important to negotiate in debates around right to development (for emerging economies like India). Procedural justice and recognition justice claims are increasingly becoming important at sub-national scales as well, to protect the rights and livelihoods of communities who are most vulnerable to climate impacts. Claims of recognition justice stem from damages caused by excluding certain social groups from mainstream narratives on addressing climate change (Burnham *et al.* 2013, p. 3). Focus on distributive justice helps us to unpack the relationship between environmental risks and inequities by problematizing the origins and consequences of socio-economic asymmetries produced by various contexts such as state’s economic policies, colonial practices, culture and many others that add to the risks posed by climate change (Venn 2019, p. 713). Questions around who benefits the most from developmental policies and who suffers the most thus become crucial at sub-national scales. Attention to procedural aspects of climate justice helps in understanding how and why climate-affected groups, activists, and CSOs make claims of recognition, meaningful participation or invoking other principles of social justice against the domestic state (Wood *et al.* 2018, p. 5).

Apart from nationality, localized vulnerabilities cut across class, race, gender, ethnicity and mobility (example, migrants in search for livelihoods) that generate unique forms of exclusion, powerlessness and poverty. Recognition justice that attributes rights to distinct social and cultural groups becomes important within the discourse of exclusion but is moot on fairness in processes and outcomes. This is where equity and fairness considerations become relevant in climate justice (in both processes and outcomes of climate decisions and solutions). Addressing issues of inequity in adaptation and mitigation strategies recognizes that climate change is merely a risk multiplier; risks posed by pre-existing socio-economic conditions (Thomas and Twyman 2005, p. 118). Equity is very relevant for communities living off natural resources for their livelihood security in terms of access to natural resource base such as agricultural land. These

⁶ This approach focuses on equality in the present to argue that everyone is entitled to an equal share of global atmospheric commons in terms of GHG emissions (Joshi 2014, p. 679).

⁷ Local vulnerability framing of climate justice draws attention to the disproportionate impacts of climate change on the “marginalized communities locally” (Shawoo and McDermott 2020, p. 201) and “reform and revitalize the development the concerns and needs of traditionally marginalized populations” (Joshi 2014, p. 688).

considerations are important to consider in bottom-up adaptation strategies in order to avoid tokenistic justice goals that fail to meaningfully empower communities sustainably (Thomas and Twyman 2005, p. 117). Empowerment can be meaningfully achieved if local communities' voices are considered within all levels of decision-making towards both procedural and distributive justice goals (Thomas and Twyman 2005, p. 122). A recent paper (Grecksch and Klöck 2020) expands the meaning of access and allocation to address justice, equity and fairness considerations in adaptation. "Access" has been elaborated to include access to basic needs, rights and decision-making process. Incidentally, allocation refers to distribution of resources, responsibilities and risks.

Incidentally, transformational framing of climate justice brings to our attention radical notions of justice that problematize "growth-driven, market-based capitalist economies" (Shawoo and McDermott 2020, p. 202). This approach aims to address the root causes of vulnerability and development failures. It radically steers away from the "command and control"⁸ view of nature by re-embedding economic policies in local socio-ecological norms as opposed to embedding socio-ecological systems in dominant economic policies (Jafry 2019, pp. 510–511). It is distinguished from incremental approach to adaptation that only makes adjustments to suit development practices hinged on "business as usual" approach, which risk in generating or perpetuating unsustainable practices or historical contexts that led us to this mayhem today (Few *et al.* 2017, p. 3). Transformative adaptation cautions against downplaying the role of politics and agency for managing adaptation strategies and decisions, which are shaped by relations of power among actors across all levels (households/community/municipal/state/etc.). In this connection, technocratic transformations alone do not contribute to social transformations by default. Transformation also challenges hegemonic development practices by aiming wider transformation of development pathways that bring "together adaptation, mitigation and sustainable development so that impacts of environmental change are not just managed but avoided" (Few *et al.* 2017, p. 3). It looks at adaptation as a process rather than a technological fix, which encounters operational challenges. In all, the core value of transformative adaptation lies in developing "good development-practices" (Few *et al.* 2017, p. 3). Transformative justice thus, encourages true participation and decision-making process by listening to the voices from the margins "that call for a redistribution of rights and responsibilities and shifts in power and representation of interests and values" (Jafry 2019, p. 515). In this context, paying attention to the needs highlighted by grassroots movements and activists become important as they push for transformation and bring to the forefront "serious issues of inequality that hinder sustainable development" (Jafry 2019, p. 515).

Finally, gender inequity produces vulnerabilities that are rooted in androcentric "patterns of practices, processes and power relations that render some groups or persons more disadvantaged than others" (Jerneck 2018, p. 7). Such disadvantages include women's limited access to: i) critical information on cropping patterns and weather alerts; and land, information, capital and credit, and other inputs than men farmers (Doss *et al.* 2018, p. 70; Jerneck 2018, p. 4). Disadvantages may ensue in relation to rights to natural resources that come in bundles of private, common and public goods. These

⁸ A managerial approach to natural resource management that has negative consequences on both natural ecosystems and human welfare (Holling and Meffe 1996).

rights include the rights of physical access, withdrawal, management, exclusion, and alienation. Therefore, addressing gender justice is important for climate justice; which means redressing structural inequalities between women and men that contribute to unique vulnerabilities of both women and men. While the works of Ela Bhatt focus on ending violence against women based on Gandhian principles and local autonomy, works of Vandana Shiva are based on “women’s cultural symbolism” (Purkayastha *et al.* 2003, p. 505) to structure their relationship and connectedness with nature, popularly referred as ecofeminism. Feminist economist Bina Agarwal on the other hand, focused on feminization of Indian agriculture by showing how gender-based division of labor is used as a tool to subjugate women in rural India: a form of “mis-recognition” (Michael *et al.* 2019, p. 5). Notably, there are no unified pathways to gender justice especially because of the complexities, which arise due to the “interaction of class, gender, caste, religious and regional specificities as key for understanding the conditions of women and men” (Purkayastha *et al.* 2003, p. 505). The concept of cultural relativism has brought the issue of gender justice to epistemologically engage with local norms and customs without “uncritically buying into customary and religious approaches” (Sieder and McNeish 2013, p. 20) which offset entitlement-opportunities. Gender justice ultimately is about aligning equity concerns with culture-specific notions of a good life and “freedom of choice” (Michael *et al.* 2019, p. 5). For achieving equality in participation, it is crucial to identify and address forms of “mis-recognition of agency” (Michael *et al.* 2019, p. 5) and exclusion. It also implies access to and control over resources combined with agency (Sieder and McNeish 2013, p. 21).

2.2. The political economy of agricultural liberalization and farmers’ vulnerability to climate change in semi-arid regions

Indian farming communities’ vulnerability to climate change is unique and multifaceted in the context of its political economy. Vulnerabilities are produced by India’s social fabric and unequal residues of its growth story that increases the sensitivity of rural agricultural communities to climate change hazards. Firstly, on the link between climate justice and vulnerability, Article 7 of the Paris Agreement (PA) mentions that adaptation actions need to take into account the urgent needs of populations in developing countries whose livelihoods and ecosystems are particularly vulnerable to climate change impacts (Article 7 (2)). Linking vulnerability to climate justice creates long-term opportunities for (sustainable) transformation of structures that contribute to poverty and vulnerability in the first place (Eriksen and O’Brien 2007, p. 347). In general, vulnerability relates to the degree to which individuals/social groups/ecological systems are likely to be affected by any hazard arising from within or outside a system (Reed *et al.* 2013). Literature on vulnerability highlights that it is a multidimensional concept, which is widely intertwined with poverty, structural and relational disadvantages and natural hazards, with definitions abound. Remedying differential and contextual vulnerability rooted in economic strategies and socio-cultural factors is key to support communities at sub-national scales to adapt. Vulnerability relates to: i) additional climatic and non-climatic risks; ii) capacity of people to cope with climate variability and extreme events; and iii) the social, environmental and institutional processes, which increase risks and limit adaptive capacities (Eriksen and O’Brien 2007, p. 339). Each of these elements have to be addressed to help communities adapt.

Secondly, studies on India's growth trajectory post-independence portray a dismal picture of its benefits across urban and rural scales. They also uncover the links between liberalization, inequality and vulnerability of rural farmers. After India liberalized its economy in 1991, the average per capita expenditure in rural areas rose at a very low rate of about 1 per cent per year between 1993–4 and 2009–10 despite the GDP expanding from 5–9 per cent (Drèze and Sen 2013, chap. 2; Taylor 2013a, p. 701). Likewise, real agricultural wages grew from 5 per cent per year in the 1980s to 2 per cent or so in the 1990s and zero in the early 2000s. At the same time, living standards of the upper 20 percent of the population by income, or the "middle classes" significantly improved (Drèze and Sen 2013, chap. 2). A recent study showed that neoliberal reforms have widened inequality due to increasing luxury consumption by elites, non-agricultural investment and export-led growth; and a simultaneous decrease in consumption by agricultural laborers and almost all "poor groups" (Michael and Vakulabharanam 2016, p. 230). All these factors have contributed to high GHG emissions (for transport and electricity) by urban elites as compared to that of agricultural laborers (who emit half of what urban elites do).⁹ It also confirms Praful Bidwai's argument that India's elite "hide behind the poor" (Bidwai 2012, p. 380) at the international level, while indulging in luxury emissions and "evading responsibility towards the underprivileged in its own society" (Bidwai 2012, p. 380).

Following economic liberalization, a "double-squeeze" (Vakulabharanam 2010, p. 74) strategy that conflates cutback in agricultural subsidies and tariffs and trade liberalization artificially caused prices of agricultural outputs to fall. Reduction in public investment in agriculture and "partial withdrawal of state support" to small farmers increased economic inequality between urban and rural India (in which landless laborers turned out as biggest losers) – a journey through which organized services sector in urban India emerged victoriously. Policies were framed to promote commercialization of agriculture that hinged on intensified cropping, groundwater extraction, and "market-purchased" (Taylor 2013a, pp. 700–702) chemical inputs and commercial seeds. Incentives offered farmers access to "green revolution technologies, including high-yield variety seeds that were expected to improve yields" (Taylor 2013a, p. 692), subsidized electricity and affordable pumps. The Minimum Support Price¹⁰ (MSP) policy provided higher food subsidies to produce water-intensive and high-yielding varieties of wheat and rice. This changed the cropping patterns to mono-cropping and intensive agriculture (Sharma 2016).

The MSP policy was conceptualised to foster India's green revolution as a mechanism to incentivise farmers to cultivate diverse crops desirable to the Indian society while adopting modern technologies. The policy sets a fixed price for twenty-four crops (Aditya *et al.* 2017, p. 526) at which the farmers exercise a discretion to sell their produce

⁹ A recent study also shows that 10% of the global elites are responsible for 36% of carbon emissions. This is an equivalent of 26.3 tonnes per capita emissions. The global elites comprised of populations from countries including USA, European Union, Japan, Australia, Canada and the elites from developing countries whose daily income is higher than \$23 Purchasing Power Parity (PPP). See Hubacek *et al.* 2017; also see Michael and Vakulabharanam 2016, p. 229.

¹⁰ Minimum Support Price is a guaranteed price at which the Government of India promises to procure crops from farmers through procurement agencies, at the farmers' discretion. Every crop is priced differently. This is a state-led intervention towards controlling farm prices with a view to insure farmers from market risks.

to government's procurement agencies, if the open market offers them a lesser price. If farmers are aware of the support price for their crops, it allows them to refuse to sell their produce at a price below the MSP in the open market. Two factors are crucial in making this policy successful namely: farmers' awareness of the support price of crops sown; and well connected network of procurement agencies with farmers.¹¹ Scholars have argued that the MSP has not solved the growing problem of farmer's loss of income because of failure to meet the above criteria (Aditya *et al.* 2017, p. 519; Mehta and Kumar 2017, p. 5). This is causing farmers to sell their crops at loss.¹²

In order to secure input costs for maintaining intensive farms and achieving high yields, farmers continued to rely upon debts for digging bore wells to extract groundwater. Moreover, downscaling of social banking initiatives from the 1980s caused small and indebted farmers to increasingly depend on informal moneylenders who eventually rose as powerful rural market forces (Vakulabharanam 2010, p. 82; Taylor 2013a, p. 701). These anthropogenic demands from intensified and commercialized mono cropping have led to aquifer depletion. Under usual circumstances, human-induced activities such as "excess use of chemical fertilizers and use of genetically modified seeds cause a loss of land biodiversity and repeated crop failure, which subsequently lead to high costs of cultivation and debt" (Khairnar *et al.* 2015, p. 77). In such a context, the role of climate change in agrarian distress is that of a threat multiplier" (Brown *et al.* 2007, p. 1142). Because, the genesis of today's agrarian distress lies in the anthropogenic activities nested within capitalized agriculture that requires "both regular flows of water and intensive market-purchased inputs" (Taylor 2013b, p. 702); all of which raise sustainability concerns (dwindling farmers' income and the natural environment).

In the human-influenced era of Anthropocene, disasters like droughts are increasing in frequency and severity due to human impact on the ecosystem. In the Anthropocene, droughts can no longer be regarded as a natural disaster. Both natural and/or human drivers are causing them. Theorizing droughts as consequences of the complex interaction between human and natural ecosystems have policy implications on both mitigation and adaptation. Recognition of droughts as human-influenced would lead to defining droughts as "climate-induced", or "human-induced" or "human-modified" (Van Loon, Gleeson, *et al.* 2016; Van Loon, Stahl, *et al.* 2016, p. 90). Re-conceptualizing droughts in the Anthropocene is important because the causes of drought determining whether drought management policies should focus on climate change adaptation or mitigation of human-induced activities, which cause or exacerbate droughts.

Finally, vulnerability is tied to other forms of exclusion such as gender, caste and tribe outside the category of market that contribute to inequities because of prohibiting from

¹¹ The National Sample Survey Organisation (NSSO) acknowledged that the MSP policy performed poorly because farmers were not able to sell their crops at MSP to procurement agencies on behalf of the state owing to "non-availability of procurement agency", "no local purchaser" and "better market price over MSP" (Mehta and Kumar 2017, p. 6).

¹² The NSSO estimated that in 2012-13, 51.9 per cent or 46.8 million agricultural households were in debt, with average outstanding loans of 47,000 Indian rupees (or almost 600 euros) from institutional sources (60 per cent) and the remainder from informal sources. The proportion of loans from informal sources was higher among marginal farmers than among farmers with large farms. This is an appalling amount for a poor household.

individual or collective landholding rights.¹³ India has a patriarchal pattern of access and ownership to resources such as land, water, labor, social capital and networks (Aryal *et al.* 2014). In many societies within India, women are not considered as ‘farmers’ despite their high contribution in agricultural activities including plantation of seeds, transplantation of rice, and weeding in contrast with men who are generally involved in ploughing of land using oxen and tractors (Aryal *et al.* 2014, pp. 5–7). Despite legal provisions allowing equal inheritance rights to women with men, cultural norms and lack of legal awareness, prevent women from acquiring land. On one hand, lack of formal ownership of land disables women from access to agricultural implements. On the other hand, legal ownership of land does not translate into decision-making power over its use (Kelkar 2013).

2.3. Social movements and legal mobilization

Whether or not SMAs mobilize legal or political resources to achieve social transformation, the concept of “naming, shaming, and framing” (Gunningham 2017, p. 378) is useful in analyzing stages of social movements towards claim making. This concept has also been reconstructed as “naming, blaming, claiming, and framing” (Arnall *et al.* 2019, pp. 666–667). Naming involves identifying the name of the entity or enemy that caused the injustice to the affected communities. In the context of climate-justice-claims, a recent article attributed a different meaning to “naming” by arguing that it refers to identification of climate change as the main driver of climate damages affecting communities (Arnall *et al.* 2019, p. 666). Shaming and blaming involve attacking the reputation of party/parties responsible for climate impacts. Claiming is the stage wherein communities make demands using tactics such as protest, litigation, lobbying of political parties or parliament, and coalition formation and among others (Vanhala 2012, p. 528; Arnall *et al.* 2019, p. 667; Cotula 2020, p. 478). The components of framing will be taken up in more detail in the subsequent paragraphs.

It is not surprising that social movements integrate legal strategies into their repertoire of “contentions” (Lehoucq and Taylor 2020, p. 166) or “actions” (Gunningham 2017, p. 375) to influence policy (Vanhala 2012, p. 529). Literature on legal mobilization mostly argues that the mere existence of courts does not in itself offer a fertile ground for SMAs to access justice with a view to achieve their goals of social change (Vanhala 2012, p. 526). Legal mobilization has recently been conceptualized as the “use of law in an explicit, self-conscious way through the invocation of formal institutional mechanism” (Lehoucq and Taylor 2020, p. 168) to “frame” [“give meaning to an event” (Lehoucq and Taylor 2020, p. 180) or issues in such a way that “allow people to see their situation as an injustice” (Lemaitre and Sandvik 2015, p. 9)] issues. One reason behind using formal laws would be to derive legitimacy to establish the relationship between causes of injustice and their effects (Gunningham 2017, p. 378). Frames (legal or non-legal) are

¹³ “While the personal laws and tenurial land laws make unequal provisions for women’s land share, the societal practices irrespective of these laws, deny women their land share even when it is permitted under law (...). All these together results in abysmally poor land ownership of women in India varying between 9-13 per cent according to various estimates” (Oxfam India staff 2016, p. 1). Further, farmers marginalised based on their caste and tribe are most disadvantaged because of their poor landholding status. Poor recognition of their individual/community rights to agricultural or forest land disable them to access the benefits of social security benefits, as argued in (Mohanty 2001, Oskarsson and Sareen 2019).

often mobilized by SMAs towards asserting demands in the form of “rights” (Lehoucq and Taylor 2020, p. 170) (examples: fundamental rights, human rights) or “normative justifications” (Arnall *et al.* 2019, p. 610) (examples: justice, security). Lehoucq and Taylor (2020, p. 180) argue that the extent of “legal consciousness” determines whether law is mobilized “implicitly” – without articulation of legal rules, discourses, or symbols –, or “explicitly” – through self-conscious ways – to frame issues.

Whereas, implicit legal framing means the SMAs or a faction of that group, perceive law as hegemonic and hence consent to the use of law to frame an issue (Lehoucq and Taylor 2020, pp. 180–181). Explicit framing refers to situation when actors attach instrumental value to law, and hence use it towards emancipation. Legal consciousness, however, inhabits both circumstances. Outside legal institutions, the role of media is central to dissemination of issues through frames that can communicate with public or the policy-making community. These tactics often help to strengthen moral ground of frames, and bring attention to loss and damages caused by climate change or state-apathy to climate impacts (Gunningham 2017, p. 377; Arnall *et al.* 2019, p. 610). Frames of injustice have also been used to draw attention to the plight of climate mis-recognized victims (Gunningham 2017, p. 378). For example, sometimes frames such as “climate justice” help to forge alliances form other vulnerable groups (Allan and Hadden 2017).

Access to justice, whether in courtrooms or outside of it depends on a range of legal and political opportunities perceived by SMAs. Legal strategies such as litigation are set in motion when “legal opportunities” are favorable. These legal opportunities include “accessible legal standing rules, or low cost judicial process” (Ruibal 2018, p. 933) or presence of “public interest lawyers, rights advocacy organizations” (Ruibal 2018, p. 933) among others. Court precedents also serve as legal opportunities for SMAs to advance their claims. “Political opportunities” also offer SMAs with the “belief” to mobilize legal and extra-legal resources to challenge the system for achieving social transformation (Lemaitre and Sandvik 2015, p. 9). The concept of “agency” or the capacity to bring about a change (Arnall *et al.* 2019, p. 668) becomes important to consider within the territory of “opportunities” because it allows certain individuals or social groups to produce favorable legal or political opportunities for other actors invested in the movement (Arnall *et al.* 2019, p. 667). Closely tied to the concept of agency is the notion of “participation” in social movements. As opposed to participation in top-down development programs, participation in social movements or bottom-up claim making is “self-originating” (Arnall *et al.* 2019, p. 669) and allows communities to demand control over decisions on development processes that have impact on their lives.

Rights-claiming strategies within indigenous and agrarian movements have also been categorized as “reactive” and “constitutive” in a recent paper. Although these categories were established in the context of human rights, the approach is useful to excavate similar or dissimilar patterns in sub-nations movements seeking climate justice. Reactive strategies include recourse to the language of rights, litigation or existing soft/hard law instruments in response to “specific instances or patterns of social injustice” (Cotula 2020, p. 477). Legal opportunities feature here in that judgments may offer progressive interpretations of law that provide access to climate justice (Cotula 2020, pp. 484–485). Contrastingly, constitutive strategies are utilized to bring about transformative changes in normative underpinnings of the law in “pursuit of longer-term social justice goals”

(Cotula 2020, p. 477). This strategy involves the role of legislature in bringing about a legal change that align with climate justice goals with implications beyond the situation the movement originally responded to (Cotula 2020, p. 504). There may be overlaps between these two strategies to garner media's/policy-makers' attention. (Cotula 2020, p. 486) argues that reactive strategies often confront distributional issues such as redistribution of land/natural resources, and procedural issues such as decision-making process for choosing trade-offs between social welfare and development models in policies. On the other hand, constitutive strategy confronts transformational justice that require radical changes in economic paradigm that connect the local to global (Cotula 2020, p. 505).

2.4. Adaptation, drought management and federal structure

Drought management involves four components: monitoring, declaration, response and prevention (Samra 2004, pp. 3–5) Monitoring is an ongoing process executed by the Indian Meteorology Department (IMD), which is under the Ministry of Earth Sciences, Government of India. Declaration of droughts has been the primary responsibility of the states while the central government aids in financial and logistical processes. Steps on response and prevention follow declaration. Apart from relying on the IMD's data, states follow their respective colonial guidelines coded in relief manuals (Samra 2004, pp. 3–5) to detect and declare droughts at their district levels, as opposed to following a standardised procedure.¹⁴ Declaration of droughts therefore, becomes a political issue requiring the consensus of both state and central governments (Samra 2004, p. 14). The extent of responsibility of centre and states around management of droughts is not well defined. This leads to ad-hoc mitigation measures. Expenditure for relief measures is provided through the state disaster response fund, which is readily available with respective state governments. Any finance required over and above the state-level funds call for the centre's recognition of drought conditions and estimation of losses to release funds from the national disaster response fund or NDRF.¹⁵ If institutional process fails to promote cooperative federalism, it may hinder local communities' adaptive capacities and retain their vulnerabilities.

India, being a signatory to the UNFCCC has made substantial progress in developing institutional framework towards climate adaptation and mitigation by releasing the National Action Plan on Climate Change (NAPCC) in 2008. Two of the five missions mentioned therein are relevant to adaptation to drought. They include: The National Water Mission and The National Mission for Sustainable Agriculture Subsequently, states have been releasing their State Action Plans on Climate Change (SAPCC), which are aligned with the NAPCC. Some adaptation programs are also implemented through centrally sponsored poverty alleviation/community development schemes (Patra 2016, p. 30). Almost all adaptation plans are linked with sustainable development goals (Barua and Roy 2018, p. 154)

¹⁴ Briefly, meteorological drought is caused by deficient precipitation; hydrological drought is defined as a deficiency in surface/sub-surface water supplies; and agricultural drought occurs when soil moisture and rainfall lead to crop stress and wilting (Adler 2010).

¹⁵ See more about drought management in India in Department of Agriculture and Cooperation 2015, p. 111.

Financing for adaptation primarily stems from national budgets, with the National Adaptation Fund on Climate Change (NAFCC) being the federal nodal point that grants funds to state governments to implement the SAPCCs (Patra 2016, p. 33; Prasad and Sud 2018, p. 355). Institutional framework for environmental governance in India favors a top-down approach leaving states with “weak capacities” (Jørgensen *et al.* 2015), and grappling with lack of financial and technical capacities (example, lack of access to both adequate climate change-vulnerability data and scientific capability; Patra 2016, p. 27) at the mercy of the central government (Jørgensen *et al.* 2015, pp. 238–239; Patra 2016, p. 27). The *prima facie* issue that raises the problem of institutional fragmentation lies in the fact of the NAPCC being top-down in approach in contrast with the bottom-up approaches taken in SAPCCs (Prasad and Sud 2019, p. 355). Moreover, finance and planning vests on the central government, while monitoring and financing partly vests with the states (Barua and Roy 2018, p. 154). States also face budgetary constraints due to different development priorities for meeting their SAPCC goals. In addition, provincial nodal departments are often unaware of the amount of fund received for adaptation activities and the scope of activities (Prasad and Sud 2019, p. 361).

3. Case study

3.1. Legal opportunities: PIL culture, constitutional rights, CSOs, frameworks supporting adaptation

Petitions on public interest matters, which allege the state’s violation of fundamental rights of citizens enshrined in the Constitution of India, 1950 are taken up by the High Court and the Supreme Court based on Articles 226 and 32.¹⁶ These are provisions that determine the *locus standi* of a litigant in the event of fundamental rights’ infringement. Two judges of the Indian Supreme Court (Bhagwati and Iyer JJ.) pioneered the liberalisation of the traditional notion of locus standi through several judicial decisions from mid-1970s to early 1980s (Deva 2009, p. 23). This transformation in the field of public law widened the scope of access to justice, allowing litigants empathetic of causes affecting the public or disenfranchised to hold the state liable for violating citizens’ fundamental rights. The higher judiciary has since been permitting petitions filed on breach of fundamental rights affecting poverty – a development that stimulated and legitimised grassroots activism, and empowered advocacy groups/CSOs. In relation to famine and starvation deaths among the poor, legal precedent set forth by the Supreme Court of India (*Kishen Pattnayak and Anr. v State of Orissa*, 1989) was crucial in permitting a socio-political organisation to file a PIL holding the state of Odisha (erstwhile Orissa) into account for implementing social welfare measures to mitigate drought conditions (*ibid.*, par. 20). The fundamental right to life and personal liberty under Article 21 is another provision that has been widely used and liberally interpreted by the judiciary to augment the scope of “life”.¹⁷ The judiciary has expanded the ambit of the right to life to include the right to food, right to live with human dignity, to livelihood, to health and

¹⁶ Article 32 allows enforcement of the fundamental rights before the Supreme Court of India. Similarly, Article 226 empowers High Court of the states to adjudicate matters pertaining to infringement of fundamental rights.

¹⁷ The Article provides that “[n]o person shall be deprived of his life or personal liberty except according to a procedure established by law.”

other rights, which promote well-being and enrich the values attached to one's quality of life (*Kharak Singh v Uttar Pradesh*, 1963, *Francis Coralie v Union of Territory*, 1981, *PUCCL v Union of India*, 2001).

3.2. PIL before the High Court of Madras

Following consecutive national droughts and bad crop years in 2014, 2015, and 2016 (in Tamil Nadu), farmers' protests emerged erratically in several states in India under the aegis of labor unions and political parties calling for steady incomes, and debt relief in the form of one-time loan waiver (Regi 2017). India's capital of New Delhi witnessed one of the earliest protests by 100 farmers who were members of the National South-Indian Rivers Interlinking Agriculturists Association (NSRIAA) from the southern state of Tamil Nadu, in April 2017 (Regi 2017). In 2016, the state suffered the worst drought year in the past 140 years with the northeast monsoon bringing the worst spell from October-December. It caused many crops to fail due to the level of groundwater and other water bodies shrinking in many places in the state.

On behalf of the aggrieved farmers in Tamil Nadu, the NSRIAA urged the state government of Tamil Nadu to stop cooperative societies/banks/financial institutions from taking legal action against farmers for their outstanding loans. To this effect, the Tamil Nadu government issued a government order (GO) through the Cooperation, Food and Consumer Protection department-granting waiver of outstanding crop loan to "small" and "marginal" farmers from the cooperative societies/banks. The GO defined marginal farmer as one whose land holding is up to 2.5 acres and small farmer as one whose land holding is between 2.5–5 acres at the time of sanction of loan (*National South Indian v Tamil Nadu & Ors.*, 2017, para. 4, 2016 Writ Petition (MD) 18119). The order excluded farmers with land holding above 5 acres. In this vein, a PIL under Article 226 of the constitution was filed by the NSRIAA before the Madras High Court (Madurai branch) in 2016. The petitioner challenged the GO under Article 14¹⁸ of the constitution alleging discrimination and arbitrariness (unreasonable classification of farmers) for excluding large farm holders (*National South Indian v Tamil Nadu & Ors.*, 2017). The government of Tamil Nadu argued against arbitrariness in that the loan-waiver came at the cost of state's budgetary limitations and the higher financial resilience of large farm holders vis-à-vis small/marginal holders (in terms of available income and other resources) to crop loss (*ibid.*, para. 9). The court looked into the matter and found no factual corroboration for excluding large farm holders, apart from relying on conjectures on large farm holders' higher resilience in relation to their landholding size. Hence, the court held the GO violative of Article 14. It directed the Tamil Nadu government to extend the benefits of the GO to all farmers irrespective of their landholding size (Madras High Court (Madurai Bench), 2017, para. 34) The judgment was crucial in illustrating the importance of judicial review of state's drought-policies (in this case, on loan-waivers) framed in conflict with farmers' fundamental right to equality. It also raises concerns of procedural injustice in unfairly dismissing large farm holders from climate-compensatory policies like loan-waivers in the pretext of state's poor financial condition.

¹⁸ Article 14 mentions the fundamental duty of the Indian state to not deny to any person equality before the law or the equal protection of the laws within its territory.

3.3. PIL before the Supreme Court of India

Meanwhile, at the national level, a PIL named *Swaraj Abhiyan v Union of India* was filed in the year 2015 against some drought-hit states' failure to declare themselves as affected by drought, despite eleven other states officially doing so. This PIL was the first case before the Supreme Court, which holistically looked at drought administration in twelve states and its implications on rural livelihoods, in the times of climate change (albeit without any explicit reference to climate influence on this slow-onset phenomenon).

In the year 2015, nine states – Andhra Pradesh, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Telangana and Uttar Pradesh – declared drought in several districts within their jurisdiction. However, drought relief measures were inadequate and questionable. Contrarily, three other states including Haryana, Gujarat and Bihar failed to declare droughts. Therefore, Swaraj Abhiyan, a CSO, filed a PIL before the Supreme Court under Article 32 of the constitution to urge the three states mentioned above to declare drought and provide essential relief and compensation to their affected people.

The petitioner, prayed to: (i) declare droughts in Bihar, Gujarat and Haryana and provide essential relief and compensation to the affected people; (ii) provide adequate and timely compensation for crop losses and input subsidies for the next crop; (iii) order timely payment of wages for days when workers were employed yet unpaid under the 2005 Mahatma Gandhi National Rural Employment Guarantee Act (NREGA); (iv) provide grains in compliance with the 2013 National Food Security Act (NFS) to affected households without the requirement of ration cards;¹⁹ and (v) provide food to all drought-affected children under the mid-day meal or Integrated Child Development Scheme (ICDS) (*Swaraj Abhiyan (I) v Union of India & Ors.*, 2016, paras. 6–8). The NFS, NREGA and ICDS can be broadly categorised as social welfare/poverty alleviation schemes. The Supreme Court based its decision on these social welfare/poverty schemes and the Disaster Management Act, 2005 (DMA). It passed the judgments in six parts on four different dates.²⁰

3.4. Reliance upon disaster-risk law to tackle drought

In the quest for a legal framework around drought management, the Court relied (*Swaraj Abhiyan (I) v Union of India & Ors.*, 2016, para. 19) on the definition of a “disaster”²¹ under the DMA. The Court further moved on to consider the meaning of drought based on the *Manual for Drought Management*, 2009 (Department of Agriculture, Cooperation &

¹⁹ Section 2(16) of the NFS defines “ration card” as a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System.

²⁰ *Swaraj Abhiyan (I)*, (2016) 7 SCC 498, dated 11.05.2016; *Swaraj Abhiyan (II)*, (2016) AIR SC 2953, dated 13.05.2016; *Swaraj Abhiyan (III)*, (2016) 7 SCC 544, dated 13.05.2016; *Swaraj Abhiyan (IV)*, dated 13.05.2016; *Swaraj Abhiyan (V)*, dated 21.07.2017; and *Swaraj Abhiyan (VI)*, dated 18.05.2018. For the missing (reported) citations, (2015) W.P. (C) 857 is applicable.

²¹ Section 2(d) of the DMA (2005) defines “disaster” as “a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area”.

Farmers Welfare 2016b), a policy document, to arrive at three classifications of drought – meteorological, hydrological, and agricultural. None of these classifications captures the full scale and scope of human-induced water scarcity. Although the definition of a disaster in the DMA allows for broad interpretation, the classifications of drought in the 2009 Manual confine them to natural causes. The Court directed the central government to revise the 2009 Manual to reflect new developments in drought management (*Swaraj Abhiyan (I) v Union of India & Ors.*, 2016, para. 101). However, the revised policy document published in the year 2016 continues to classify droughts in the same way as the 2009 Manual (Department of Agriculture, Cooperation & Farmers Welfare 2016b).

Another aspect of this judgment has to do with the extent to which the centre and states are responsible to manage droughts. The constitution is unclear regarding who is responsible for disaster management. It could be construed as a matter upon which the union, state or both can legislate.²² However, according to the constitution, if any subject or issue is not specifically mentioned within the jurisdiction of the centre or the states or both, then it may come under the residuary powers of the union.²³ Even though the union parliament enacted the DMA by invoking “social security and social insurance, employment and unemployment”²⁴ provisions in the concurrent list, it was assumed that the primary responsibility of disaster management vested with the states as per colonial practice (Government of India 2006a, Kumar Pandey 2016). Arguably, it may be said that addressing farmers’ income insecurities is the responsibility of both the centre and the respective states because of the following. Within India’s federal structure, subjects including: i) money-lending and relief of agricultural indebtedness; ii) agriculture (including agricultural education and research, protection against pests and prevention of plant diseases); and iii) water come under states’ jurisdiction. Macro-level socio-economic issues including: i) economic and social planning; ii) social security and social insurance, employment and unemployment; and iii) price control are under the jurisdiction of both the central and state governments.²⁵ In addition, the central government has historically determined the MSP of farm products in conjunction with the states. Thus, the inclusion of social security/planning and price control within the jurisdiction of both the centre and states makes the governance of droughts and income insecurity of farmers’ a complex issue that requires the centre and states to cooperate. On this issue, the court decided that cooperative federalism is imperative to protect the quality of life of citizens under Article 21. While the power to declare a drought ultimately lies with states, the final responsibility of providing adequate and timely financial and technical assistance to the states to mitigate drought-impacts lies with the centre (*Swaraj Abhiyan (I) v Union of India & Ors.*, 2016, paras. 94–98). Finally, the court directed the union government to constitute/establish the relevant bodies under the

²² Article 246 of the Constitution allows the union parliament and legislative assembly of the states to legislate on matters as mentioned in the seventh schedule. The seventh schedule contains a list of subjects that come under the legislative purview of the union or state governments or both. The union and state lists cover matters pertaining to the union parliament and state legislative assemblies respectively. Matters upon which both the centre and states may legislate come under the concurrent list.

²³ These residuary powers are mentioned under entry number 97 of the union list under the seventh schedule of the constitution. It gives the central government an exclusive power to legislate over issues whose jurisdiction is unclear.

²⁴ Entry number 23 under the concurrent list.

²⁵ Seventh schedule under Article 246 of the Constitution of India.

DMA and update its policy manuals by rejecting colonial nomenclatures and methodologies attached to categorising and identifying drought respectively (*Swaraj Abhiyan (I) v Union of India & Ors.*, 2016, para. 101).

3.5. Reliance upon poverty laws to tackle drought

Droughts result in substantial erosion of adaptive capacities and livelihood security of the rural poor. Such shocks amplify the importance of rights-based poverty laws, including the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (NREGA) and the National Food Security Act, 2013 (NFS). The NREGA is an employment guaranteeing law, which provides each rural household with one hundred guaranteed days of paid (minimum wage) labor on demand-driven projects (that often align with climate change adaptation strategies (Taylor 2013b, p. 324) implemented by state governments. Incidentally, the NFS aims to uphold the constitutional right to food by providing a legal entitlement to subsidised grain to approximately 75 per cent of the rural population and 50 per cent of the urban population covered under the Antyodaya Anna Yojana (AAY) scheme, and other priority households through fair price shops.²⁶ The NFS entitles AAY households to 35kg of food grains per family per month, and priority households to 5 kg per person per month at a subsidised price. In relation to the poor implementation of the NREGA during the 2014–2015 droughts, the Supreme Court directed²⁷ the Indian government to inter alia implement the spirit of the employment-generating statute by constituting the statutory bodies²⁸ and disbursing payments among the workers in a timely fashion. With regard to the NFS and keeping in view the urgency of the situation, the court made two important directives. First, it entitled all households in drought-affected states to be given food, irrespective of whether they are priority or AAY households or already receive benefits under other welfare schemes – a significant shift from a target-based to universalised approach to entitlement. Second, it revoked the importance of ration card as a prerequisite to obtain benefits. The judgment attached high value to the right to food in situations like droughts by upholding it as both a constitutional right under Article 21 and a statutory right under the NFS.²⁹ The court also invoked Article 47 of the Directive Principles under the constitution to remind the centre and states of their moral duty to ensure food security for people affected by drought.³⁰ With regard to the current legal framework on pro-poor laws, the Court observed that, “enforcement determines the distance between the law in text and law in

²⁶ The AAY scheme was launched in December 2000 to streamline India’s targeted public distribution system with a focus on the poorest of the poor; see Government of India 2013.

²⁷ See paragraph 46 in *Swaraj Abhiyan (III) v Union of India*, 2016. For the judgments on implementation of NREGA and NFS, see *Swaraj Abhiyan-(II, III & IV) v Union of India & Ors.*, 2016.

²⁸ These include the Central Employment Guarantee Council and the State Employment Guarantee Council as mandated under sections 10 and 12 respectively, of the NREGA; see paragraph 46 in *Swaraj Abhiyan (III) v Union of India*.

²⁹ In 2001, the Supreme Court for the first time deemed the right to food to be necessary for upholding Article 21 of the Constitution in *PUCL v Union of India & Others*, 2001, Writ Petition (Civil) 196.

³⁰ Article 47 states that the “[d]uty of the State to raise the level of nutrition and the standard of living and to improve public health The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health”.

action”;³¹ and that implementation of union welfare schemes requires the centre and states to co-operate with each other within the spirit of “co-operative federalism”.³²

3.6. Political opportunities: From the streets to the House of the People through coalitions and lobbying

As mentioned earlier, the NSRIAA, on behalf of farmers in Tamil Nadu led one of the first protests in the national capital of New Delhi in March 2017. Further, on 5th January 2017, the National Human Rights Commission in India took *suo-moto* cognisance of 106 farmers’ suicides committed in the said state within a period of one month in January 2017 and subsequently issued a notice to the state government for neglecting their right to life and dignity (India Today Web Desk 2017, National Human Rights Commission 2017). The protests led by NSRIAA in March 2017, raised three crucial short- and long-term adaptation demands before the central government. First, that Tamil Nadu should be declared a drought-hit state by the central government and granted a relief package of around 500 million euros from the NDRF (Regi 2017). Second, all farmers’ outstanding debts owed to national banks be waived off. Third, implement river-linking project in the same state to solve water crisis.

Other states affected by drought in 2014–15 included Uttar Pradesh, Madhya Pradesh, Karnataka, Andhra Pradesh, Telangana, Maharashtra, Odisha, Jharkhand and Chhattisgarh. The pan-Indian nature of drought prompted news media to pay attention to the increased severity and recurrence of droughts, weather-related events due to climate change, state-inaction and farmer suicides. However, the remaining of the sub-continent witnessed a normal monsoon in the year 2016. Nevertheless, the protests continued to proliferate across other states including Maharashtra and Madhya Pradesh by June 2017 with the farmers demanding respective state governments to procure their crops on time and assure profitable prices through the MSP policy (Mehta and Kumar 2017, p. 7).

By June 2017, the dispersed and unorganised nature of farmers’ protests eventually mobilised over 130 farmers’ unions and agricultural workers from different states. They aimed to represent the specific identities and needs of disadvantaged social and cultural groups of women farmers, adivasi and dalit farmers to form a coalition named All India Kisan Sangharsh Coordination Committee³³ (AIKSCC).³⁴ It organised protests and meetings in northern and southern states to conscientize the farmers of their right to life and dignity. In March 2018, the country experienced a long protest march (180 kilometres) undertaken by 40,000 farmers from Nasik to Mumbai, in the western state of Maharashtra that garnered tremendous media attention and sympathy (All India Kisan Sabha – AIKS – 2019). Coordinated by AIKS,³⁵ the march appeared to be a critical point in manifesting farmers’ resentment in visibly large numbers (Mehta 2018, AIKS 2019).

³¹ Paragraph 2 in judgment delivered by Justice N.V. Ramana in *Swaraj Abhiyan (V) v Union of India & Ors.*, 2017.

³² Paragraphs 7 and 8 in judgment delivered by Justice N.V. Ramana in *Swaraj Abhiyan (V) v Union of India & Ors.*, 2017.

³³ Translated as “All India farmers’ struggle coordination committee”.

³⁴ As of 28 November 2019, the alliance’s official website shows 151 members. However, some reports say that the alliance consists of over 160 members. See Kisan Mukti Yatra 2017, Our Bureau 2017.

³⁵ This is the peasants-wing of the Communist Party of India (Marxist); see AIKS 2019.

The protest was carried out to demand the state government of Maharashtra to implement the following: i) land rights of dispossessed tribal farmers as per the Forest Rights Act (FRA);³⁶ ii) relevant social welfare laws and schemes to alleviate the poor condition of farmers affected by droughts in the preceding years; and iii) loan waiver (from banks/cooperatives/private moneylenders); and iv) a profitable MSP, at 50% higher than the weighted average cost of the production of crops, in line with the recommendations of The National Commission on Farmers (Government of India 2006b, p. 246). They tabled the demands before the Maharashtra legislative assembly, while AIKSCC was negotiating for introduction of two bills before the lower house of the union parliament towards ensuring farmers' livelihood security. Finally, they obtained support for the bills from 21 political parties by August 2018 (Shetti 2018a, The Wire Staff 2018).

Farmers were anticipating that an entitlement-based approach to MSP would enable them to receive more secure income and relieve them from excessive loan-dependence. To this effect, the AIKSCC tabled a private members' bill demanding farmers' right to a remunerative MSP for their agricultural produce (Bill I).³⁷ Bill I rests on the pedestal of the constitutional right to livelihood under Article 21, and the directive principles under Articles 38(2), 39(a) and 43 that mandate and recommend the state respectively to eliminate inequality, promote adequate means of livelihood and decent standard of life among its citizens. It defines a "remunerative MSP"³⁸ for agricultural produce as a profitable income for farmers, which is at least 50% above cumulative cost of production of crops. Bill I also strives for farmers' participation in India's import and export policies on agricultural commodities by demanding that the final price (or, "landing price") of any imported commodity ought not to be fixed below the MSP for that commodity within the country at that particular time.³⁹ It links farmers' legal right to a remunerative MSP to nation's food security by arguing that farmers' wellbeing is crucial to food productivity. Further, Bill I aims to enable access to MSP to all category of farmers including inter alia agricultural laborers, cultivators and sharecroppers irrespective of their title to land. Apart from endeavours in influencing the process of law making, farmers' demand for fixing the MSP at 50% above the average cost of production was acknowledged by the Commission for Agricultural Costs and Prices under the Ministry of Agriculture and Farmers Welfare by explicitly expressing the need to pass a legislation to that effect.⁴⁰

³⁶ "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a result of the protracted struggle by the marginal and tribal communities of our country to assert their rights over the forestland over which they were traditionally dependent. This Act is crucial to the rights of millions of tribal and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources" (quoted from Vasundhara 2012, pt. *About FRA*).

³⁷ See Government of India 2020 for the status of bills pending before the Parliament of India.

³⁸ Section 2(d) of the bill defines a remunerative MSP as "the price that ensures a minimum fifty per cent profit margin over and above the comprehensive cost of production of a given agricultural commodity" (Shetti 2018a).

³⁹ Section 20 of the bill.

⁴⁰ The report observed that "to instil confidence among farmers for procurement of their produce, a legislation conferring on farmers 'The Right to Sell at MSP' may be brought out" (Commission for Agricultural Costs and Prices 2018, p. 5).

The demand for a remunerative MSP manifested in the central government's budget for 2018–19, which increased payments for all *kharif* (sown during monsoon) and *rabi* (sown during winter) crops to ensure farmers a MSP which is at least 50 per cent more than the cost of production (Department of Agriculture, Cooperation & Farmers Welfare 2018, Commission for Agricultural Costs and Prices 2018). However, several criticisms were levelled against the methodology used by the government to calculate the MSP because it was still lower than the input costs incurred by farmers.⁴¹ This meant that the MSP was not remunerative or profitable for the farmers. Further, the nature of changes made by the centre was restricted to policies without any legal force. Bill I attempted to widen the scope of the MSP by including all the costs incurred by farmers to produce crops, and formalise their right to receive MSP as a “legal right”, which is a novel approach towards ensuring farmers’ right to livelihood and more generally their social security.

The AIKSCC also introduced the Farmers’ Freedom from Indebtedness Bill (Bill II) with a view “to confer right on indebted farmers to obtain an immediate one-time complete waiver of outstanding loan; right to obtain institutional credit; and protection of debt trapped farmers suffering from natural disasters or distress” (Shetti 2018b). Bill II attributes the root cause of farmer suicides to indebtedness; and indebtedness to successive central governments failing in their responsibilities to: i) provide recognition and inclusion of specific marginalised category of farmers (tenant/advansi/women); and ii) promote low-cost and inclusive sustainable/ecological agricultural policies (on credit facilities and risk insurance and among others).⁴² It also connects farmers’ debt-trap with i) low MSP on farm commodities or crops, which do not allow farmers to recover their costs of production; and ii) state’s exclusionary agricultural policies which fail to provide equitable access to institutional credit and risk insurance facilities to all farmers (including tenant farmers, women farmers and tribal farmers who are most disadvantaged because of lack of formal land rights) (Shetti 2018b, pt. Reasons). Bill II also justifies the urgency of protecting farmers from debt trap due to the increased frequency of climate disasters. It links farmers’ collective right to life and livelihood (within under Article 21) to India’s national food security and sovereignty, and urges protection of these rights from indebtedness caused by increased frequency of climate disasters (Shetti 2018b, pt. Statement of Objects and Reasons). Bill II attempts to address structural barriers by including provisions which allow every category of farmers “including landless and lessee cultivators, women farmers and tribal farmers”⁴³ to access institutional benefits. It does so by widening the scope of the definition of “farmers” to encompass almost everybody living off the land by specifically recognising social and cultural groups including women and tribal cultivators.⁴⁴

⁴¹ The methodology used to calculate MSP for each crop was computed as 50 per cent above the total costs (calculated as a sum of: real costs incurred by farmers to buy inputs for producing crops, and labor). However, the government’s calculation of total costs ignored costs incurred by farmers on “rent and interest on owned land and capital”, thereby making the MSP inadequate for the farmers (see Agarwal 2018).

⁴² The argument of prolonged indebtedness, bankruptcy and inability to repay loans driving farmers to commit suicide, was also made by Mehta and Kumar 2017, p. 7

⁴³ Section 2(j) of the bill.

⁴⁴ Section 2(g) of the bill provides an inclusive definition for “farmers”.

4. Discussion

Drawing from the theoretical framework, this case study shows how socio-economic injustices rooted in the Indian context add to rural farming communities' vulnerability to climate change. Inequalities in distribution of resources, recognition (of structural barriers and forms of exclusion that interact with gender/caste/ethnicity), procedural aspects (participation in decisions on and implementation of drought mitigation and adaptation) resurfaced in the recent farmers' movements that demanded justice from the state. The case study in this paper shows that SMAs resorted to reactive (PIL, protests) and constitutive (lobbying, bills) strategies to foster climate justice for disenfranchised farmers who face the injustices of climate harms in the form of increased frequency of droughts. India's legal environment offered opportunities such as PIL culture, constitutional rights, hard and soft law frameworks (disaster-management and poverty laws and policies) supporting adaptation, and conscientized CSOs for SMAs to safeguard farmers' rights through "explicit" or self-conscious means (Lehoucq and Taylor 2020, pp. 180–181). Such legal opportunities allowed a CSO (as one among other SMAs) to represent farmers and access justice in the form of a favorable judgment that could redress immediate concerns of state-apathy towards the fundamental rights of vulnerable communities. This finding falls in line with a recent study that conceptualised reactive strategies used in response to "specific instances or patterns of social injustice" (Cotula 2020, p. 477). However, the judgment continued to frame droughts as "natural disasters" within the meaning of current legal framework. Tracing the causes of drought is important to determine whether drought management policies should focus on adaptation to climate-induced drought or mitigation of anthropogenic activities that lead to human-induced or human-modified drought (Wisner *et al.* 2014, Van Loon, Gleeson, *et al.* 2016, p. 90). It will also allow lawmakers to review maladaptive and neoliberal legal and policy frameworks, which may inadvertently promote unsustainable agricultural intensification that depletes ground or surface water beyond its natural replenishing capacity (Taylor 2013a, Bhattarai *et al.* 2015). About 60% of India's population depend on groundwater for irrigation, which is bound to increase with an increase in population and demand for food (Golam *et al.* 2015). These activities may generate water scarcity relative to growing demands for consumption, as opposed to scarcity being constructed as a natural phenomenon. In addition, precipitation or soil moisture may not be sufficient to meet such growing population's needs (which generate increased demands for water). The judgment does mention that the impact of drought could be economic, social, and environmental. However, it does not look into the structural and root causes (socio-economic policies) of drought. The court failed to look at the definition of drought through the lens of the Anthropocene, perhaps because it had to rely on the 2009 Manual, which frames droughts as natural disasters. It is important for the union government to reconsider the classification⁴⁵ and definition of droughts and recognise human influence on socio-ecological systems instead of inaccurately framing disasters as "natural" (Wisner *et al.* 2014).

We also see the agency exercised by SMAs (farmers' unions, CSOs) as instrumental in utilizing and creating legal opportunity for remedying social injustices. Specific social

⁴⁵ For example, India can include "socio-economic" drought, a situation in which demand for water exceeds its supply (Wilhite and Glantz 1985, Adler 2010).

injustices include farmers suffering loss of livelihood and income due to: i) drought impacts; ii) loan-waiver policy unfairly dismissing large farm holders from climate-compensation; iii) institutional, financial, technical and procedural lapses in implementing relevant laws on disaster management without meaningful recognition and participation of affected poor communities; and iv) and inadequate MSP on crops produced. Reactive tactics in the form of protests also resisted distributive inequalities (for example systematically dispossessed adivasi farmers claiming land rights). Reflections however highlight the limitation of reactive strategies in bringing about changes in adaptation laws and policies towards transformational and distributional justice at sub-national levels.

Contrarily, constitutive strategies were resorted to push for legislative changes by creating political opportunities such as coalition (among adivasi, dalit and women farmers), lobbying of political parties, and utilizing legal opportunity (favorable judgment) towards recognition of new climate change adaptation rights (Cotula 2020, p. 484). Collective agency through coalition-formation was exercised to lobby political parties and parliament for introducing two bills that highlight the importance of farmers' agency in agricultural and trade policies; albeit very little is known if the desired outcome (bill turning into law) is successful. Constitutive strategy reflects long-term transformational, distributional and procedural justice goals to reduce "future risks" (Godfrey-Wood and Naess 2016, p. 56). For example, bills towards legislative changes were introduced to confront injustices that are intertwined with India's market-based economic policies. Moreover, such policies are inextricably tied to: i) inequalities in consumption and emission patterns; and ii) vulnerabilities produced by socially and environmentally unsustainable capitalized agriculture especially among agricultural laborers in rural India (Bhaduri 2008, Walker 2008, Taylor 2013a, Michael and Vakulabharanam 2016). The bills also sought to address injustices rooted in the social fabric that structurally exclude or hinder women, dalit and tribal farmers from availing equal opportunities in access to and control over natural resources and ultimately agency. In this context, it is important to reflect that farmers are not homogeneous communities as their adaptive capacities vary by gender (women), caste (dalits), class (agricultural laborers), ethnicity (adivasis) and other identities (disabled, aged, widowed). Therefore, mere participation of such communities in targeted policies will not increase their adaptive capacities if structural forms of exclusion and barriers to recognition, economic redistribution, participation and political representation are left unreformed (Michael *et al.* 2019, pp. 5, 11). Constitutive strategies show the importance of bringing about transformational changes in India's national development policies that cut across domestic (agricultural) and international (trade) policies by reclaiming principles of redistribution, participation and recognition in decision-making processes and other actions. Examples include Bill I suggesting the center to fix a remunerative MSP and consult farmers so that agricultural commodities imported are not cheaper than that of their equivalent domestic MSPs; and Bills I and II reclaiming dalit/women/adivasi farmers' agency, access and control over natural resources from which they have been systematically dispossessed. These are important concerns because firstly, importing commodities at a price lower than that of its corresponding MSP would alter consumer choices away from domestic farmers' commodities. Development economist, Stiglitz empirically showed that trade liberalization in itself

does not yield growth. Peasant farmers in many developing countries often withstand the worst consequences of unfair terms of trade especially if social safety net mechanisms are limited or absent, because they fail to compete with subsidized agricultural products imported from developed countries (Stiglitz and Charlton 2007, chap. 2). The purpose of trade should be to rather create domestic market for surplus production and import those goods that cannot be produced domestically (Gerber and Raina 2018, p. 328). Secondly, individual/collective access and control over natural resources and land for all category of farmers has intrinsic value in upholding agency and instrumental value in enabling access to institutional credit; both of which contribute to gender and tribal justice (in terms of recognitional, procedural and distributional goals). Demanding removal of structural inequality and power relations that cause vulnerability are crucial in ultimately aiding farming communities with differential adaptive capacities to sustainably cope with climate variability and hazards (Eriksen *et al.* 2011, Michael *et al.* 2019). In this context, it is important to recognize and address forms of misrecognition of agency and exclusion because of gender, ethnicity, caste and other forms of marginalization for enabling communities to participate in adaptation laws/policies towards equity (Michael *et al.* 2019, p. 5). Addressing these vulnerabilities require radical redistribution of “rights and responsibilities and shifts in power and representation of interests and values” (Jafry 2019, p. 515) that reflect in adaptation processes in terms of access (to basic needs and fundamental rights, decision-making in adaptation and development policies) and allocation (of resources, responsibilities, risks) (Grecksch and Klöck 2020). It is hard to predict to what extent adaptation rights through the bills would eliminate the intermediaries and informal money-lending culture in India, which allows the latter to reap the benefits of poor accessibility in the form of money. Further, if accessibility to procurement agencies is poor, a guaranteed MSP needs to be supported with institutional structures that locally facilitate farmers’ access. If both the bills are to be considered in future, it could be integrated into the current legal framework in order to avoid a sectoral approach to climate change adaptation.

In both the above strategies, issues were framed in legal (right to life, right to livelihood, legal right, fundamental rights, constitutional rights), and non-legal terms using “normative justifications” (food security, social security, food sovereignty) without explicitly framing as climate injustice (Arnall *et al.* 2019, p. 610). It shows that the links between climate vulnerability and socio-economic injustices threaten farmers’ enjoyment of fundamental rights (Venn 2019, p. 720). The common blaming tactic used in both the strategies displayed nation-state as a key actor in causing loss and damage to farming communities, thereby creating opportunities for affected communities to demand justice (Burnham *et al.* 2013, p. 245; Fisher 2015, p. 74). Bill I, for example holds the state accountable for implementing farmers’ fundamental rights. Bill II clearly blames the central government policies towards farmers’ indebtedness and suicides that are being aggravated by climate change. Further, the central government was also blamed in the PIL for financially and technically weakening (Jørgensen *et al.* 2015) local administrative capacities, by excluding states/municipalities/village councils from adequate and timely funds, technical expertise, decision-making processes and activities that relate to adaptation and mitigation. Agency and participation of farmers were at the heart of the “self-originating” (Arnall *et al.* 2019, p. 669) movement to challenge India’s top-down approach to development strategies that are exclusively neoliberal with

improper safety-nets for farmers, and bottlenecks in cooperative federalism. State's apathy towards immediate damages caused by climate change reinforces climate injustice because farmers risk falling into poverty with failure of crops in one season due to droughts. These were magnified by India's federal structure that contribute to the tug of war or (un)cooperative-federalism between states and the centre wherein states are dependent on the central government for finances, technical support and overall guidance in terms of drought management (example: methodology to detect and declare droughts, implementation of NREGA/NFS). Given the localised nature of climate change impacts, there is an increasing requirement for addressing adaptation barriers (structural or institutional) including India's federal structure to enable local adaptation strategies instead of creating bottlenecks for political reasons (Prasad and Sud 2018, p. 355). Further, apathy towards root causes of anthropogenic climate change also reinforces injustice that lies in the patterns of inequality produced by India's growth and development story. A story through which the urban elites emerged as the biggest GHG emitters and winners vis-a-vis the agricultural laborers, who share the least proportion of GHG emissions and bear the double burden of facing climate damages and sustaining India's food security (Michael and Vakulabharanam 2016). For farming communities to be able to sustainably adapt to climate change, the state must play a key role in facilitating just development processes and actions that redress both immediate impacts and deep-rooted socio-economic inequities that differentially affect heterogeneous farming communities.

5. Conclusion

India's encounter with farmers' movements lately, shows how and to what end SMAs are mobilizing legal and extra-legal tactics to frame the contours of climate justice in relation to the impact of droughts on farmers' livelihoods in semi-arid regions. The case study highlights that socio-economic injustices at the domestic level such as inequalities in distribution of resources, recognition, procedural rights make agricultural farmers vulnerable to climate impacts. Since there is a link between domestic socio-economic injustice and climate injustice, it is crucial for the state to facilitate corrective measures that recognize and redress structural roots of vulnerability towards just and sustainable adaptation processes. It also highlights the responsibility of the nation-state to safeguard the fundamental/constitutional rights of farmers who contribute to the nation's food security while being the most vulnerable to climate impacts at sub-national scales. Safeguarding these rights will help farmers to adapt. A top-down and market-based approach to adaptation and development is not a solution to mitigate local climatic impacts that aggravate pre-existing social injustices. The case study simply highlights the importance of the nation-state to engage closely with communities' voice and needs across diverse geographies within the Indian sub-continent. Grassroots movements such as farmers' protests show the plight of people who suffer climate harms directly because of their poor adaptive capacities. Contours of climate justice framed from below are valuable in that they offer socially and ecologically sustainable agricultural solutions that can only be aligned with transformational changes in the growth-obsessed meaning attached to "development". They help to avoid the "syndrome of poverty" (Veltmeyer and Bowles 2017, p. 378), by promoting autonomy, solidarity, self-sufficiency and sustainable management of regional resources, deviating from "command and control"

(Holling and Meffe 1996) and market-driven views of nature. Therefore, climate justice can be framed as: i) aiding vulnerable and affected communities to recover from immediate climate hazards and impacts through effective and barrier-free adaptation and mitigation processes; ii) recognizing and redressing structural and hegemonic (patriarchy/neoliberalism/ casteism/colonial practices) causes of vulnerability of farmers to climate impacts; and ii) bringing about deeper transformative changes in national development paradigms by employing principles of equity, fairness and participation. This means decisions, processes and actions on adaptation and development policies across all levels have to ensure farmers' participation, and empower mis-recognised voices by accommodating them, finally towards climate justice goals (Thomas and Twyman 2005, p. 122).

The movement rested on two strategies namely: reactive (PIL, protests) and constitutive (lobbying, bills). Both these strategies aimed to achieve livelihood and food security of farmers during risks posed by disasters. Adaptation policies in India (that are often integrated with neoliberal development policies) (Barua and Roy 2018, p. 154) have to address wider contexts of vulnerabilities that contribute to climate injustice. Such programs whether implemented through disaster-risk laws, NAPCC, SAPCCs, or poverty-alleviation schemes need to identify and address the linkages between development strategies, poverty, grounded notions of climate justice and environmental sustainability in order to promote long-term equity and fairness for vulnerable populations.

In this process, all socio-cultural and institutional barriers need to be rectified. For effective climate governance, both NAPCC and SAPCCs need to integrate bottom-up and top-down approaches that meaningfully empower affected communities while the state plays the role of a facilitator. To deliver on dynamic adaptation needs, downstream and upstream vertical integration across central, state and local governments (municipalities and village councils) and affected communities is important. Cooperative federalism, which involves "devolution of power and decision-making" (Patra 2016, p. 28) through say, transfer of tax revenues to state governments is also important to fund adaptation needs. Ultimately, India needs to fulfil basic needs of citizens who need them the most, within the capacity of a *parens patriae*⁴⁶ state.

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⁴⁶ "The concept of *parens patriae* recognises the State as protector of its citizens as parent particularly when citizens are not in a position to protect themselves. The Preamble to the Constitution, read with directive principles, under Articles 38, 39 and 39-A enjoins the State to take all-protective measures to which a social welfare State is committed. Interestingly, this doctrine has been recognised in India even before the Constitution came into force". See *Gaurav Kumar Bansal v Union of India* (2015) 2 SCC 130 cited in *Swaraj Abhiyan (I) versus Union of India & Ors.*, 2016, para. 13.

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