

## Krishnendu Mukherjee



Call: 1996

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### Profile

**"Krishnendu Mukherjee is an excellent, innovative and hard-working barrister, passionate about getting the best possible results for his clients. He is kind and compassionate, and cares deeply about social injustice." - Chambers and Partners, Global Guide, 2024.**

**"London-based barrister Krishnendu Mukherjee is picked out for his expertise in human rights-related issues in India. He acts for the rights-holders on ground-breaking litigation in relation to human rights violations and corporate accountability before Indian courts. Mukherjee also oversees projects designed to provide ethical initiatives, human rights due diligence and remedy solutions, which includes tackling the issue of modern slavery. According to one source, he is *"very creative and passionate,"* and *"will try absolutely everything"* for his clients" - Chambers and Partners, Global Guide, 2022.**

Krishnendu Mukherjee is a barrister and Indian advocate, working with the most vulnerable and marginalised, especially from the global south, through his trans-national practice of immigration, environment and business and human rights.

Krishnendu is ranked in Chambers and Partners Global Guide 2023 in the Spotlight Table for Business & Human Rights Law: Claimant-Side Expertise.

### **Education**

BA (Hons)

MA

LLM

### **Related practice areas**

Immigration

International Law

Business and Human Rights and Modern Slavery

Children's Rights Group

Immigration Detention Group

Anti-Trafficking

Climate and Environmental Justice

## **Immigration and Asylum**

Krishnendu Mukherjee has been practising immigration law since 1995, when as a volunteer at Asylum Aid, a refugee charity, he represented in his first asylum case. Since then he has represented in all levels of the immigration courts, including in the case of *Regina (Razgar) v Secretary of State for the Home Department* [2004] 3 WLR 58, the leading case on Article 8 and expulsion. Other notable cases include *R (Dahmas) v Secretary of State for Home Department* [1999] All ER (D) 1280 (safe third country) and *R(Iran) v SSHD* [2005] EWCA Civ 982 (jurisdiction of IAT/UT). Krishnendu specialises in asylum, family reunion and point-based applications. He has been conducting bails, including for Bail for Immigration Detainees (BID) since it began in 1998.

## **Administrative Law**

Krishnendu has extensive experience in judicial reviews, including in relation to fresh claims, certification, Cart JRs, safe third-country challenges and age-assessments.

## **Civil Claims**

Krishnendu has been instructed on unlawful detention claims. He has also been involved with advising in relation to tort claimants from an Indian factory owned by a subsidiary of Unilever PLC and those injured in South Korea from a product manufactured by a subsidiary of RB PLC. He is regularly asked to advise on civil claims, especially in relation to those in the South Asian context.

## International Practice

Krishnendu is also a practising Indian advocate (Bombay High Court) and was permanently based in India from 2007-2014 where he practised in all forms of public interest litigation, including in relation to toxic pollution, environmental clearances and police misconduct. He has practised at all levels of the Indian courts, including the National Green Tribunal (environmental tribunal), Bombay High Court and Supreme Court. Notable cases include *Franky Monteiro v/s State of Goa* WP 316/2008 (the Special Economic Zones case). *Shankar Raghunath Jog vs Talaulicar & Sons Pvt. Ltd And others* PILWP 6/2011 (a leading case on the validity of environmental clearances), *Ramchandra Vaman Naik v Sesa Goa Limited* PILWP 4/2011 (manipulation of environmental clearances) and *Kalyan Bansingh v HIL Ltd* OA 453/2013 (a leading case on toxic pollution). In addition, he has with his team of colleagues, distributed over £12m to nearly 2500 Indian claimants suffering from asbestos-related diseases caused by the former British asbestos company Turner and Newall PLC. The issue of the export of asbestos to the global south is the subject of a film in which Krishnendu was closely involved called *Breathless-Fighting the Global Asbestos Industry*.

Krishnendu is an advisor to numerous NGOs in India. In particular, he has been trustee and legal adviser to **Mines Labour Protection Campaign** since 2013. Through his advice and the campaigning of MLPC and others, the Rajasthan State set up a system of identification and compensation of silicosis which has till date compensated over 10,000 people who have contracted silicosis. Krishnendu has a long-standing relationship with **Human Rights Law Network**, India's largest human rights legal network. He is currently working on projects on human rights and environmental due diligence (HREDD) in the Rajasthan sandstone industry and global warming, arising out of the first environmental refugees to climate change in the Indian Sundarbans.

## Business and Human Rights

Krishnendu has been involved with the growing area of business and human rights (BHR) since 2014 and is joint head of the BHR group in Doughty Street Chambers. Since May 2018, he has been organising quarterly BHR roundtables, the purpose of which promote the practice of BHR amongst all stakeholders. Past meetings have included both the past and the current Independent Anti-Slavery Commissioners and the EU Commission of Justice. His experience in BHR has led to him being sought for his expertise in a number of different forums. He has been an expert for the UN Office of the High Commissioner for Human Rights (OHCHR) mandated Accountability and Remedy Projects since 2014 and regularly speaks on panels on BHR at the UN Forum on BHR, IBA, ABA and others. Krishnendu also advises in relation to strategies to be adopted to assert human and environmental rights against business entities, most recently in relation to Rajasthan natural stone carvings, Leicester garment factories and Assam tea.

## Environmental Justice

Krishnendu Mukherjee, is a barrister and Indian advocate, who has spent nearly 15 years working on environment-related human rights issues, especially in India where he lived for several years. His experience there has led him to conclude that curtailing, mitigating, and remedying environmental harms should be focussed on the human rights violations that they cause, especially on the most vulnerable and marginalised, and that the issue(s) should be widely publicised for educational and campaigning purposes to bring wider change. Krishnendu believes that in the current environmental and human rights crises, this involves both collaboration between business-entities, governments and rights-holders, and the consideration of all potential avenues which may lead to remedy. This is reflected in his varied international environmental practice, which involves domestic and transnational litigation, soft law complaints and advisory work, part of which is illustrated here.

- Since 2009, Krishnendu has organised medical diagnosis camps and compensated those affected by asbestos-related diseases, in five former British-owned factories in India. Working with local trade-unions, he has distributed over £14m of compensation to over 3000 affected people. This is depicted in the film *Breathless-Fighting the Global Asbestos Industry*, which has been translated into several languages and used to raise awareness of the dangers of asbestos exposure. He also advised the claimants in the **Kodaikanal mercury poisoning case** against Hindustan Unilever Ltd.
- Krishnendu advised *Mines Labour Protection Campaign Rajasthan* on the legal basis for the setting up of a State Pneumoconiosis Board for the diagnosis of occupational

pneumoconiosis amongst mineworkers. **The Board has diagnosed over 22000 people till date and provided millions of rupees in monetary relief.** The long-standing **deplorable environmental and human rights situation existing there** has led Krishnendu to set up initiatives for transparency of supply chains and for remedying serious environmental and human rights violations.

- Krishnendu has argued several important cases before the Indian Courts, in relation to both prospective and retrospective environmental harms. These include the principle **that Environmental Impact Assessments should necessarily be time-limited to have proper regard for environmental protection, and that companies should be liable for historic pollution, even if they complied with the law at the time.** The latter case has involved **cooperation of State and the affected rights-holders.**
- Krishnendu highlighted the effects of global warming on the people of the Sundarbans, and the lack of proper legal responses, through his essay *A Hungry Tide, The Legal Response to Climate Change Adaptation and Reparation*, which was shortlisted for the Alexandre Kiss Award 2008. He co-founded the **Sundarbans Climate Justice Project**, a climate due diligence project, with partners based in both London and Kolkata.
- Krishnendu regularly advises and trains NGOs and trade unions, both in the UK and abroad, on the application of the United Nations Guiding Principles (UNGPs). He is currently advising on the European Commission proposal for a **Directive on corporate sustainability due diligence.** He is an expert contributor to the UN OHCHR **Accountability and Remedy Project.** He is particularly interested in advising businesses in relation to how they can benefit from the evolving environment on business and human rights (BHR) and is available for training. He has been organising the **Doughty Street Chambers BHR roundtables since 2018.**

## Expert

Krishnendu is a recognised expert on India law and human rights, including prison conditions. He provides advice on Indian immigration law and has written a number of expert reports for immigration and extradition courts, most recently in the *First Tier Tribunal in SI Patel v SSHD HU/18988/2018*.

## Consultancies and Research

Krishnendu has worked on numerous reports and consultancies, including:

Consultant for the Council of Europe in their project on the new refugee law in Slovenia and on the draft Foreigners' Law in Montenegro

Runner-up in the IUCN Alexandre Kiss Award 2008, with an essay entitled: "A Hungry Tide-the Legal Response to Climate Change Adaptation and Reparation"

ILO Handbook on Convention 169 on the Protection of Indigenous Peoples.

Mangroves for the Future (MFF) "Governance in Coastal Areas of India-A Status Analysis" (March 2008)

World Bank Project on Land Acquisition Laws in India, with particular focus on Gujarat.

Fisheries and Agricultural Organisation (FAO) project on fisheries laws in the State of Gujarat.

Contributor to "Distributed Renewable Energy Projects in Rural Areas of India-A Guide to Implementation" Heinrich Boll-Stiftung, Delhi, 2009.

Contributor to Air Quality Management in India-Existing Legal and Institutional Framework, Current Gaps and Opportunities for Intervention, Lawyers Initiative for Forests and Environment, July 2012.

Legal violations in the Goa mining industry, which included "Human Rights Violations by Transnational Corporation in Goa and Chhattisgarh published by HRLN.

"Out of Control, Mining, Regulatory Failure and Human Rights in India" published by Human Rights Watch.

## Articles

Krishnendu regularly publishes articles on immigration and BHR, including:

Review of 'Deva, Surya and Birchall, David (eds), *Research Handbook on Human Rights and Business*, Edward Elgar Publishing' in Journal of the Indian Law Institute (January 2021).

The Korean Disinfectant Humidifier Tragedy-A Legal Analysis.

Climate Change, Energy and the Law", chapter in India and International Law, edited by Bimal Patel.

Why should companies assess their impact on human rights? The Corporate Report, Volume 7, Issue 3.

Krishnendu has also written for the *Justice Gap* and regularly contributes to podcasts and passels.