

Challenges, Politics, and Legal dynamics of land acquisition in tribal areas of Northeast India

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Abstract

The Northeastern region of India is home to various tribal and forest-dependent groups, who organise themselves in communities. For ages, these cultural groups and their socio-political identity has been integrated into the legal and political framework of the region. The paper evaluated the challenges and legal frameworks of land acquisition with a special focus on the Northeastern states in India. With a thorough legal and contextual analysis the paper established the loopholes and reasons of inadequacy in the current legal frameworks by examining recent cases and the clauses of the laws. Through a context analysis of key legal metrics like inclusive framework, implementation rate and resistance, the paper highlights both the short-term issues and long-term problems that arise from the legal models employed. The research also emphasises the socio-political dynamics, including regional pressures, which drive the distinct policy-making approaches between the state and central government and tribal councils and communities. Lastly, the paper explores a top-down model of redevelopment to reverse the effects of the fallacious policies implemented to improve economic growth and provide revenue generation while prioritising cultural conservation.

Introduction

North-East India falls under some of the most complex and undermined legal frameworks, one of which is the sphere of land rights and acquisitions. Being closely attached to political, legal and cultural aspects, land is of primary importance for people, marked by deep-rooted challenges of ownership and possession. The population in Northeastern states, consists primarily of tribal and semi-tribal groups. Mizoram, Nagaland and Meghalaya have more than 86% of their population as tribals, while other states also have a significant percentage. Home to over 200 tribal communities, north eastern India is one of the most culturally diverse areas in the world. Although this complexity is not reflected in the legal frameworks, in order to include the needs and demands of every group. Characterised by the diverse tribal culture that engages in forestry and sustenance activities from the lands that has been their habitat since ancestral times, the story of tribal communities is that of historic marginalisation and exclusionary laws.

In the land acquisition frameworks that apply specifically to the Northeastern states, the biggest clashes happen when development and conservation expectations collide. The ecological balance of the area along with their indigenous lifestyle has been affected time and again due to development plans that did not take the local ecology into consideration. To fulfil national demands of coal and uranium, regions in Meghalaya that houses the Khasi tribal community have been ransacked and exploited. Rat-hole mining to adhere to the national coal demand

brought additional burdens like polluted water, soil acidity and loss of ecology, that were shouldered by tribal groups like Garo and Jaintia tribes. Development policies should be planned and implemented in ways that accommodate the needs and socio-political structure of the people in Northeast India. Infrastructural development of urban areas cannot come at the cost of rural and tribal settlements. Historically, the resources in Northeast have been exploited to funnel development outside the states, like the Uranium deposit mining in the Domiasiat region. The Uranium Corporation of India Limited, mined uranium to fuel energy projects in Rajasthan, Tamil Nadu and Karnataka. It is often noted that policies and laws for the region regard land as an economic asset whereas the value of land is very cultural and political in nature.

Overtime, through various protests and other forms of resistance the people of northeast India have managed to incorporate their demands that are safeguarded by the constitution. The fierce resistance to prevent deforestation in Chakhesang and Angami in Nagaland or the protests by Khasi National Durbar and Mizo Union that led to the adoption of the Sixth Schedule in the constitution¹. After more than 7 decades of implementation, it is important to know that there are various loopholes in these frameworks and they suffer from administrative ineffectiveness in their application. The research seeks to explore the existence and implications of the loopholes in the legal frameworks.

Existing Legal Frameworks

Due to the distinct socio-political and cultural composition of Northeastern India, the region is also governed by special provisions under the constitution. Tackling one of the biggest problems of land allocation and acquisition, the Sixth Schedule of the Indian Constitution gives the tribal communities in Assam, Meghalaya, Tripura and Mizoram the autonomy to practise their sustenance. Even though constitutionally the tribal people are allowed autonomy over their land, the practice of these laws are scarce (de Maaker, 2020). Years of alienation, complex and exclusionary administrative frameworks, ineffective integration of the social structure into the constitutional provisions have resulted in mistrust and animosity between the government and the people. Developmental projects like hydro power, mining, roadway constructions and other urbanisation plans are often seen as invasive action into the tribal way of life by the natives. There is an increasing need for the customary laws of the land to work closely in sync with the constitutionally granted statutory legal systems in order to make governance effective.

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<https://www.rostrumlegal.com/historical-analysis-of-the-sixth-schedule-and-the-indian-constitution-a-juridical-study/>

The Forest Rights Act (FRA) 2006, was established to address and mitigate the historical injustice that the tribal community has been subjected to. With the specific focus on forest resources and land ownership, the FRA seeks to establish local governance bodies to substantiate customary tribal rights and laws. A great initiative on paper, the act has seen minimum implementation and is often heavily criticised for mismanagement and corruption. Several reports by local researchers, NGO and think tanks highlight the inefficiency of the act, with complaints from the tribes of mismanagement and corruption (S, 2023). The dichotomy of governance leads to legal frameworks that are confusing, conflicting and ambiguous in their application. Although there is an intent to empower the tribal community, the sporadic implementation and incomplete legal frameworks (Gloppen et al., 2017) have still not prevented tribal exclusion in social and economic spheres.

The Sixth Schedule and the Forest Rights Act 2006, are legal frameworks that are put in place to prevent tribal exploitation from outsiders. These laws uphold the legal identity and the right to self determination for the tribal community. Encompassing various tribal rights, these laws focus on allowing the tribal communities to maintain the right of self governance and being a decision making authority over their resources. This ensures the conservation of a cultural group, the environment and various knowledge systems that are preserved within the tribal culture.

Historical Context of Legal Exclusion

Since colonial rule of the Britishers, tribal lands across Africa and Asia are considered to be wastelands or vacant lands that are open for the government to utilise. This colonial outlook has made its way into the constitution especially when we focus on how the historical context of legal exclusion translates to the exploitation today. The industrial allocations under “vacant lands” itself like the Meghalaya Land Transfer of Land Regulation Act, 1971 is a testament to how community based land ownership is disregarded in the land ownership frameworks. Due to this inconsistency in definitions, tribal populations are removed from their natural habitats with no provisions of alternative shelter and are forcefully integrated into the urban landscape. This prevents them from practising their own culture and places them at the very bottom of the socio-economic order.

The Colonial Land Settlements Acts and other laws were not well equipped to deal with multitudinous identities and were often inadequate. In their exchange the Sixth Schedule has managed to provide a framework to improve the situation but has also been slow and inefficient in its implementation. The long going animosity between corporates and government tenders and the tribals is a story that has nestled in contemporary history and manifests itself in legal

cases of the present. The Kaziranga National Park expansion (2015)² in Assam carried out to fulfil the UNESCO demands led to large scale evictions and abuses to the tribal population due to the militarised protection model. Similarly the Trans-Arunachal highway (2021)³ led to large-scale displacements of the Apatani, Nyishi and Adi tribal groups, despite their strong representation in the local governance bodies established under the Sixth Schedule⁴. These cases depict how the systematic exploitation in the Northeast is a recurring phenomenon, due to the inefficiency in implementation of the legal frameworks.

In an effort to improve the governance in the North East among tribal communities self governed districts were established that carry out the administrative function for the region. Under the Sixth Schedule, Autonomous District Councils are established to increase representation of the tribal communities, the purpose of which is to establish larger autonomy and remove any channels of intervention from the corporate or central government. Unfortunately this step has fallen prey to inefficiency and administrative delays. With over 2300 claims by these administrative groups for financial assistance and legal reprimand for offenders, the state apparatus finds itself incapable of fulfilling the demands despite budget allocation and administrative workforce. It is also noted that the legal frameworks are too complex for the locals to understand and hence is used as a deterrent against them, often by withholding judicial jurisprudence for the common people.

Land Acquisition and the legal framework

Acquiring land in the North East of India is done through legal frameworks that are riddled with various loopholes and inconsistencies. One such act known as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR) 2013 dictates that a fair compensation, alternative settlement and other compensations are to be provided to any individual who is displaced from their area of residence for development projects.

On the other hand the Forest Rights Act 2006 allows community ownership of the forest areas for the tribal communities. This act has various legal ambiguities which are constantly exploited by the government and other entities working around the complex bureaucratic problems that are incomprehensible to the tribal folk. The sixth schedule of the constitution which allows the

² <https://www.counterview.net/2021/02/assam-meet-protests-continuing-eviction.html>

³

https://arunachaltimes.in/index.php/2021/07/14/eviction-carried-out-along-jk-highway/#google_vignette

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<https://www.rostrumlegal.com/historical-analysis-of-the-sixth-schedule-and-the-indian-constitution-a-judicial-study/>

tribal communities to have local autonomy has failed to protect the social political interests of the tribal communities in an event of direct confrontation between tribal interests and state welfare.

Some examples of the aforementioned problems would be how the LARR stipulates that the land belonging to common grounds and forests can be acquired for development purposes, but the same lands are protected under FRA, forming a legal conundrum and an ambiguity of jurisdiction. Similarly, the FRA recognises ownership transfer based on Community Forests Rights but the LARR recognises the law of free, prior and informed consent. This changes the way in which consent is obtained from the people and how many people need to say yes for the transfer to be legal. The inconsistency in implementation of such clauses creates legal issues for the tribal groups.

The Sixth Schedule of Indian Constitution

Under the Sixth Schedule it is provisioned that autonomous district councils will be constructed in the states of Assam, Meghalaya, Tripura and Mizoram. Councils were responsible for safeguarding the socio-cultural practices of tribal communities and to maintain the indigenous practices of the same.

The implementation of this act has not always been impeccable. Over the course of time the 6th schedule has lost public support due to its preferential treatment towards state and Central Government interests in sectors like resource extraction and infrastructure development. Although the Sixth Schedule states that the Autonomous District Councils will have the final say, many cases were ruled in favour of state and central governments. This misadministration in the legal process allows outsiders and the government to take significant financial and administrative decisions on what to do with the shared resources of the community.

The law is also infective due to the lack of budgetary allowances and the shortage of manpower required to execute and enforce these rights in an effective manner. The budgetary allocation of every Autonomous District Council is decided by the state government in line with the state budget. This hierarchy was established to allow better autonomous exchange while maintaining a central legislative structure. But more often than not state governments have been known to use the budget allocation as the bargaining chip in negotiations with the tribal groups. One of the most prominent examples is when the Garo Autonomous Council was given funds after a 7 month delay over the condition that they would call off the protest for a highway project.

The provision under Sixth Schedule allows the formation of these constitutionally autonomous councils but fails to give them an actionable authority that can be verified by the judiciary, which leads to constant conflicts between the council and governments. Other reasons for the lack of proper implementation are economic shortage, faulty resource allocation, complex and inefficient legal system and inter tribal conflicts. This calls for a major revamp of the schedule with a special focus on modernisation of the law to suit the various identities of the tribal community today. This can be done through removing laws that contradict each other, establishing a smoother and accessible legal framework and a judicial review of the same. Some of these laws and respective recommendations are discussed later in the paper.

The Garo Hills Autonomous District Council (GHADC) Meghalaya

The Garo Hills Council is one of the oldest councils allotted under the autonomous district councils in Meghalaya. This provision grants them access and rights to traditional land, forest resources and governance.

The GHADC faced numerous challenges including weak administrative capacity due to its inability to carry out the responsibilities of managing forest resources. This significantly slowed down the socio economic progress of the Garo Hills region. There was also heavy criticism for the fiscal mismanagement and corruption that led to a lot of employees without their salaries for months.

The Council is required to submit three reports to the state every fiscal year, including fiscal report, administrative report and cultural census report. These individual reports outline the economic, political and cultural development of the tribes under the jurisdiction of the GHADC. The reports highlight the need for more investment, any civil unrest in the region etc, but these reports have been erratic and unreliable, either due to influence of one tribe over other, or the lack of inclusion of “outsiders” in the administrative and economic framework.

Defeating the major purpose of the autonomous Council, the GHADC was often criticised for not representing the interest of the Garo community satisfactorily. It was blamed for pandering to the politically and economically important people rather than the common Garo tribal population. Even though it is still functional the lack of effectiveness and economic decline give the Council the appearance of a failure.

Forest Rights Act 2006

The forest rights act of 2006 was the landmark decision that worked towards bridging the gap between historical injustice and contemporary inconsistencies in the Governance of tribal and forest dwelling communities. Under FRA, it was granted that tribal communities that have lived and occupied forest resources and land can claim ownership over the same and have traditional rights of self governance. The act also stated that collective ownership of forest land was legally recognised in order to integrate customary Land management practices of tribals into the legal framework.

This act has faced a lot of criticism for its implementation due to corruption, administrative hurdles and an overall lack of awareness and resources to manage the situation. It is usually noted that when the act comes in conflict with state agenda or government welfare plans, the judicial decision often comes in the favour of development plans undermining the tribal rights.

Some Landmark cases where the forest rights act fail to deliver on the provisions and favoured the state development agendas are:

Coal mining in Meghalaya

Meghalaya is a state rich in coal reserves, majority of which fall under the customary land ownership of the Khasi tribe. This tribe practises jhum cultivation and small scale mining to balance out the resources for their needs and small economic ventures. After the discovery of the volume of coal reserves, interest from Government and private mining corporations increased in the area.

The mining and mineral extraction increased rampantly over time and was a major cause of concern for the locals. Due to unregulated mining, with no government oversight or local participation, the projects had a huge detrimental impact on the local ecosystem and environment leading to a lower quality of life for the tribal communities.

The Khasi tribe invoked the FRA in order to exercise their land ownership claim to reduce the mining activities in order to regulate the whole operation. But as the projects were in line with the mining leases which formed a significant chunk of government revenue, the final ruling of the FRA was ignored. In 2014 India's National Green Tribunal (NGT) banned unregulated rat-hole mining in Meghalaya but the land ownership and autonomy has not been returned to the Khasi tribe, and the mining operations still continue⁵.

⁵ <https://www.epw.in/engage/article/structural-problems-rat-hole-mining-meghalaya>

Tipaimukh Dam in Mizoram and Manipur

A dam project situated on the Barak river that flows through Mizoram and Manipur was initiated in the year 1926, under British consideration. There have been various discussions on the project with Bangladesh and local tribes due to the trans boundary nature of the river. Although Bangladesh has agreed to the construction of the project with some changes in the 1974 plan, there is still an active resistance from the Zeliangrong and Hmar tribes, who are protesting with the support of local environmentalists.

The affected tribal groups have concerns about displacements, environmental damage and dispossession of their homelands. While the project is still at halt it is not because of the violations of FRA but due to trans boundary conflicts. The conflict between tribal and legal challenges in support of state development continues to create apprehension and dissatisfaction among people highlighting the failure of the existing legal Framework in the region concerning land acquisition.

Tribal Autonomous Councils and Land Regulations (Mizoram, Tripura and Meghalaya)

The autonomous councils established under the Sixth Schedule also suffer from various shortcomings that make it difficult to implement and for the benefits to reach the local tribal groups. These vital organisations need reforms in these sections to make them more effective and of primary use as a liaison between tribes and the government. Few of the problems are:

- Lack of legal enforcement - Although these councils are granted jurisdiction over their territories under the provisions of the Sixth Schedule, they lack administrative allowances and enforcement machinery to make their decisions binding. For example in Tripura it is noted that non-tribal settlers violate the council guidelines frequently but due to lack of autonomy they face no legal repercussions whatsoever.
- Jurisdiction clashes: The Tribal Councils are often at cross with the state and central governments on development projects and environmental initiatives, and even though the autonomy has been granted to the council, their decision-making is sidelined to accommodate the needs of the state and the nations.
- Land ownership and rights - Due to lack of definition for customary laws or communal lands, there are various legal battles between governments and the tribal councils. In

Mizoram, the land disputes arise due to manipulated records, absence of claims and certificates, due to the technological limitations of the land titling and registration systems.

- Fiscal dependency - As these councils work under the state government they do not have financial autonomy, making them limited in resources to implement the rules that they determine for the common community owned lands. This prevents them from practising their autonomy and are subservient to state and central governments.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR) 2013

The LARR act of 2013⁶ was initiated with the aim to bring fairness and justice to the act of land acquisition by supporting it with rehabilitation and resettlement for the tribal population. The implementation of this act is often burdened with political inconsistencies and local customary laws. Since 2013 even after the implication of the act, the tribal communities of the north east have faced bureaucratic inefficiencies, land alienation and forceful relocations.

One such example is the Mapithel Dam in Manipur. The Thoubal river manipur was chosen at the site to build a hydroelectric and irrigation project that would affect thousands of families specifically from the tribes Tangkhul Naga and other indigenous tribes. The failure of the LARR act is visible in the fact that there was no consultation or consent from the displaced families and tribal communities. The people reported that they were not adequately informed or consulted. Along with which they were given inadequate compensations that were insufficient and delayed in relation to the actual value of their land and the calculated value of livelihood cost. There were severe protests by the people who are displaced by the project but to know avail.

Tribal identity and Development

The tribal identity in North East India is often attached to the land that they inhabit. It is not just an economic resource but also has spiritual and communal aspects. Development initiatives treat tribal communities as hurdles to National progress marginalising their lifestyle and cultural survivability. Centre for Policy Research, conducted a study which found out that 60% of the displaced population in North East India were tribal communities. From the year 1991 to 2011, more than half of the total displaced people due to development projects, were tribals.

⁶ https://bhoomirashi.gov.in/auth/revamp/la_act.pdf

The challenge to this is to find a balance between development initiatives and protection of tribal culture (Chakraborty & Saha, 2017). This is not to imply that tribal communities are diametrically opposite to the idea of development. Through various protests and demonstrations it has been made clear that the tribal groups want to welcome development projects as long as they preserve the local ecosystem and are in line with the expectations and aspirations of the local people rather than of corporations and entities. This form of just transition is noted specifically in the energy sector which forms 45% of investment in the whole of Northeast India.

“Vacant Land” dilemma

The idea of vacant land is a concept that was brought into the Asian and African landscapes by the colonisers. The British recognised any tribal land as a land open for occupation or utilisation due to the nature of shifting tribal occupation. As tribal groups were not stagnant their claims to land ownership was not legally documented. The legal frameworks formed under these colonial times reflected this loophole to allow the Britishers to take the land away from the tribals under the guise of development (Biswas, 2020). The slash and burn farming, hunting and gathering among other activities that were carried out by the tribal were outlawed by such laws which are still carried over to the legal systems in India.

One of the biggest examples of this was the acquisition of forest land in Arunachal Pradesh for the Dibang multipurpose project, or the acquisition of Aarey forest land for the BMC Metro project. In the former, 4500 hectares of forest were classified as vacant despite the historic occupation and activities by the Idu Mishmi tribes. A timely intervention by the Ministry of Tribal Affairs shows that more than 45% of the land acquired by the tribal areas was classified as vacant disregarding the importance and contribution of those resources to tribal livelihoods.

False Dichotomy of Economic Growth

The idea of economic growth is often posted as an opposition to maintenance of culture in tribal areas. Binary choice between economic development and cultural security is a false dichotomy that is propagated to divide public opinions. The idea that development is positive and the only alternative to that is a regressive lifestyle ignores the value of lifestyle that has been cultivated by the tribal communities.

It also fundamentally ignores the possibility of sustainable development that incorporates tribal demands while forming pathways for economic development. Various development programs are different from regular organisation plans, and are centred around the ecology of the place. The forest management programs in Nagaland were focused on ecotourism and sustainable agriculture that supported growth as well as a nurturing environment for tribal culture. The International Labour Organisation has stated that inclusive development leads to better economic growth and a stable social equity. This also leads to this reduction in tribal autonomy and public intent of resolving the dissonance between the two identities of nation and community.

Public Interest dissonance

Concept of public interest also takes the foreground in talks about land acquisition laws in the North East. Stamps from the fact that industrial development that happens on the acquired land benefits the local population and is for their upliftment. This coronary argument stems from the fact that these development plans are initiated for the revenue of the state but ignore the fact that the profits do not reach the marginalised community. The National Commission for Scheduled Tribes found out that more than 70% of profits from coal mines in Meghalaya distributed to non-tribal corporations while the tribal community shoulder the burden of environmental, economical and cultural costs.

This disproportionate favour towards the rich and established urban class further pushes the tribal community away from the centre and deepens the mistrust and apprehension of foreign intervention. Hence the legal framework should make amendments and allowances in order to read distribute the profits equitable from the developmental schemes to the people who have contributed to establishment of the same.

Political Dynamics

Tribal autonomy and developmental policies

The current provision under the sixth schedule of the Indian Constitution dictates that the states of Assam, meghalaya, tripura and Mizoram have legislative and political powers through tribal councils. These councils have the right and autonomy to govern their lands. Contrary to the provisions state and Central Government often collide with tribal councils encroaching

upon their autonomy pushing for state-led projects. Primarily, these conflicts arise in projects regarding electricity and energy generation. These projects are costly to set up and require a lot of fixed land resources. The weak frameworks and surpassing legal authority in the North Eastern part of India allows corporations and governments to indiscriminately acquire land from the tribals and set up energy production plants. An example of this is the Karbi Langpi hydroelectric project in Assam which ignored the concerns of the carby tribes autonomous rights. Indian Council for Research on International Economic Relations (ICRIER) states that 65% of property disputes in Assam result from loop holes in the legal structures that allow the state to encroach on the autonomy and governance rights of the tribals.

Lack of Awareness

One of the major challenges in the application of these laws is the lack of awareness. Due to gaps in education and access to mainstream media outlets, most of the tribal population remains unaware of the latest developments and provisions by the laws, making it easier to manipulate and take advantage of them. The National Sample Survey Office concluded that more than 60% of tribal families were not aware of their rights and powers under the FRA. The lack of awareness paired with an inability to take part in the judicial system due to various reasons, prevents the tribal groups from getting the justice they deserve. There are various reasons as to why the legal system excluded them from the frameworks.

Firstly, the major threat is the language barrier, with hindi, english and other mainstream languages as means of drafting and awareness campaigns, the tribal population faces a disconnect and handicap while utilising these laws. Secondly, lack of resources, which impact everything, from their ability to afford media to their ability to hire a lawyer to defend their case. These structural inequalities prevent tribal groups from seeking help, and this subjugation and alienation that they face, breeds mistrust and distance between the national and tribal identity.

So propagation of knowledge and awareness from proper legal channels, like setting up free legal advice camps and pro-bono cases can improve the situation. It would also prevent politicians and influential people from manipulating facts towards the people for their vote banks, spreading misinformation and rumour. This can be done by establishing legal camps on a rolling, pro-voluntary basis by the support of the local governing bodies, the tribal administrative councils and state legal authorities. It requires participation from all interest groups, government and non-government.

Traditional vs modern legal systems

India is a country with diverse forms of local governance that are seamlessly or forcefully integrated into the larger legal frameworks. This is evident in khap panchayats, tribal councils, Waqf board among others. These provisions integrate the national legal frameworks into the cultural milieu and customary laws. This process is not effectively implemented in the northeastern region of India. For example, Nagaland has a practice of clan-based ownership of land that is not recognised under the state or national law. These loopholes are often utilised by the projects to encroach upon the land and rights of the tribal people. (Kamaal, 2017) The duality of these laws and ownership rights being at odds with each other complicates the system of land acquisition and is a burden on the tribals and a hindrance for development projects.

The modernised legal frameworks have added provisions that have arguably made the situation worse for tribal groups. Legal systems have pushed the tribal groups to the periphery by making the process inaccessible to populations that are not well-versed with the language and processes. Legally, the laws have become more complex, and in-turn, easy to bypass. The latest clauses of LARR Act (2013) allows projects to start on tribal communal properties with 70% consent, which is allowed to be lowered in cases of “national interests”. The clause also fails to define what a national interest is, allowing a broader description and interpretation which will convert tribal spaces into opportunities of land grabs.

Legal Dynamics

Judicial oversight

Judiciary and the role it plays in enforcing legal frameworks decides the efficiency of the laws. The true extent of laws is governed by the interpretation that the judiciary has of it. In this case too, the inconsistency of the judicial practice has led to various nuanced delays in delivery of justice. In important cases like the Niyamgiri judgement (Odisha) of 2013, where the Supreme Court upheld the Dongria Kondh tribe's rights over their sacred hills, there was no followup or verification to the implementation of the verdict. This inturn could not help the tribals from getting removed from their land and environments. Similarly in the Vedanta case ruling of 2019 in Andhra Pradesh was widely opposed by the local tribal groups, but were ignored. This calls for frameworks that hold the judiciary accountable for the quality and implementation of its verdict, with legal frameworks that prioritises tribal welfare. The Supreme Court of India often responds to delays in implementation of decisions on a suo moto basis, and such proactive

involvement is necessary by the judiciary to ensure that the implementation of stated judgement happens effectively, preventing further oppression.

Constitutional Inadequacies

The Indian constitution has the Fifth and Sixth Schedules to support and protect the tribal groups from oppression and economic exploitations. But these provisions are not enough. The Sixth Schedule that was in place to deal with Northeastern tribes is also inadequate, demanding a more specialised improvement in both the schedules. The difference in autonomy allowance between the Fifth and Sixth Schedule also has to be bridged. According to the Centre for Policy Research (CPR) (Bhatia et al., 2017), it is seen that between 2005 and 2015, more than 30% of land acquisitions disregarded the Sixth Schedule guidelines legally, prompting a thorough evaluation of the legal frameworks for loopholes and bypasses. Research on this subject states that any further development in the legal frameworks for tribals have to be made with the customary laws in mind, and with the involvement of the tribal representatives, ensuring a tailored interpretation of umbrella laws.

Lack of representation and economic capacity

One of the major challenges facing tribal communities in land acquisition disputes is their lack of representation in legal and political processes. Despite the existence of tribal councils, these bodies often lack the financial and administrative capacity to effectively negotiate with state authorities or private corporations. Additionally, tribal communities frequently lack access to legal expertise, which puts them at a disadvantage when defending their land rights in court. The National Legal Services Authority (NALSA) has identified Northeast India as one of the regions with the highest unmet legal needs, particularly among tribal populations.

The lack of legal representation often comes from inability to afford proper legal services like consultations and lawyers for important cases. Added to that, the politically vested leaders are also motivated by the benefits from investment projects rather than cultural conservation. So administrative ineffectiveness and judicial inconsistencies play a major role in keeping the tribal population in the periphery of the legal system.

Indigenous rights by International Human Rights Standard

The importance of indigenous rights in the international human rights frameworks has been increasing due to the nature of global order and national democratic governments. Various

important declarations and instruments like the United Nations Declaration on the Rights of Indigenous Peoples and International Labour Organization's Convention 169 highlight the importance of tribal autonomy and cultural conservation. The UNDRIP was enacted in the year 2007 with instructions and standards for land and resource autonomy, preservation of cultures and self-governance standards of the indigenous communities. These standards ensured that there were no marginalised migrations in the tribal populations and reduction in laws that had a colonial hangover.

The problem with many countries in the global south including India is the inability to integrate these goals into their own legal frameworks, either due to different customary laws or due to judicial inadequacies. While India has frameworks like the Forest Rights Act of 2006, it struggles with implementation and administrative shortcomings that lead to systematic exclusion of the tribal populations. Whereas in countries like Indonesia and South Africa, it is pre-meditated in the constitution that the acts of national importance or development will supersede the rights of the tribal groups.

Although the international standards do not give a template or framework, the Indian legal system should work to comply with those standards while tailoring the laws for a differentiated application for their indigenous tribal communities.

Recommendations: Solutions to Loopholes in Legal Frameworks

Revising the Sixth Schedule for increased autonomy

There are ways in which the Sixth Schedule can be amended to increase its efficiency and jurisdiction, further augmenting the ability to preserve tribal culture in the North-East. Firstly, the expansion of the jurisdiction in which the schedule applies. Currently enforced in the states Assam, Meghalaya, Tripura and Mizoram, the Schedule can be applied to other states in the North-eastern region of India.

After a thorough analysis of the region and the culture of the tribal groups, their customary laws should be integrated into the legal framework, to allow better enforcement of the autonomy granted to the Autonomous District Councils. These additions can be sourced from the knowledge systems of the tribals about governance and resource usage.

An increased autonomy should be delegated to the Autonomous District Councils to increase their participation in the legal spheres of land, natural resources and developmental projects, making sure that any tribal consent is included in the land acquisition.

Legal Empowerment to improve Tribal Land Governance

Apart from strengthening the Sixth Schedule, the other legal reform that is necessary is the introduction of mandatory Free, Prior and Informed Consent (FPIC). The ideals of this framework have been enshrined in the endorsement by the United Nations Declaration on the Rights of Indigenous Peoples. This dictates that full and prior consent has to be obtained, in entirety from affected communities for development or energy projects. This has to be done after direct consultations and information delivery to the affected groups about the benefits and hazards of the project for them to make an informed decision.

One of the critical gaps in existing legal frameworks is the ambiguous definition of customary land, leading to the exploitation of tribal lands for development or conservation purposes. A Customary Land Rights Act could be introduced to define and demarcate tribal lands based on traditional boundaries, with provisions to prevent arbitrary land grabs.

Implementing reforms

Clear land titling is one of the biggest problems faced by tribal communities in their tryst against encroachment and land ownership. The current Indian legal framework does not recognise communal ownership of property, alienating sacred and ancestral tribal lands from the purview of legal ownership (Patel, 2022), there has to be a clearly defined mechanism to impart protection to such claims.

Land registration in India is also a complicated process, which becomes even more difficult for the tribal population due to their distance from the mainstream urban society. These complex mechanisms lead to miscommunication, misappropriation of resources and remain inaccessible to the tribal population. To remedy this, there has to be decentralised registration camps or offices that are easily accessible to the locals. This prevents them from having to travel long distances for the verification of property. If it is not economically feasible to host an office, those regions can have semi-permanent camps at regular intervals where government officials and lawyers can convene and advise the tribal communities on their vows and further steps to be taken.

Another method of approach could be to empower the Autonomous District Councils to authenticate and verify land ownership and registration. This would reduce the burden on the government and allow the tribal groups to make decisions for their land, decreasing the hostility to government reforms and projects. It would also ensure that the land titles reflect the ownership customs that the tribes follow.

The next step would be digitisation of tribal land ownership records, that would be publicly available to both tribes and government organisations. This would reduce the “vacant land” fallacy and would increase accountability of the encroacher if any land grabbing is reported. This reduces the instances of corruption and data manipulation, increasing administrative efficiencies and making the process smooth and transparent.

Land Mapping and allocation:

The government with the support and involvement of tribes should initiate more mapping expeditions that give a valid and fair evaluation of land structures and borders within which the tribes operate. This can be accomplished with Geographic Information Systems and satellite imagery to render a distinct area of tribal occupation. It would also ensure tribal land data to be technologically aligned to any further projects.

Land Tribunals:

The legal system in India already struggles from the burden of cases and overwhelming verdicts, due to which the additional burden of maintaining and overseeing the tribal customary land laws integration would be next to impossible. To remedy this, a land tribunal, as an accessory and subordination of the judicial system can be established that will solve land disputes with local or other entities. This will increase the efficiency and the autonomy with which justice is dispensed.

Awareness Programs:

The lack of legal literacy is one of the major reasons why the tribals don't approach the legal system for justice, and there is no remuneration for them. Access to legal knowledge can help them understand their rights better and reduce the number of illegal land shifting and claiming mistakes, which in turn would lead to good governance in the region.

Environmental Impact Assessment:

The projects initiated in tribal lands are often protested against and criticised due to their impact on the environment. The degradation and damage meted out to the environment and forests is something that concerns everyone rather than just tribal populations. So these projects should go through stringent Environmental Impact Assessments that could reduce their devastating impact on nature and allow better cooperation with the local tribal communities. In addition or extension to this, a Tribal Impact Assessment framework can also be developed to understand the socio-cultural impact of development projects on the culture and lifestyle of the tribal communities.

Lessons from other countries

The condition of minority tribal groups in India is unique due to its dynamic nature and huge participatory value, but legal implementation can benefit from similar ventures undertaken by other countries in the sphere. One way could be the Canadian way of compensation that accounts for the emotional value of the loss of land and compensated accordingly. This however is broad in its implementation and will require additional administrative forces and a consensus which is usually not available in the Indian context due its volume. But still, ideological acknowledgement of the loss and commemorative additional compensation, can boost a sense of security and belongingness among the tribal groups and legislative.

Another case study to incorporate in the formulation of policies would be The Philippines' Indigenous Peoples' Rights Act (IPRA)⁷, which establishes an interesting framework. Under IPRA, the tribals who have given land for development projects have revenue-sharing agreements with the corporation. This ensures various community-based investments. This can be replicated with ease in most of the areas, to promote employment and build local schools, community halls, water and sanitation facilities for community management. Such partnership will reduce migration burden on people, while allowing an easy application route for organisational CSR investment. There can be some areas of challenge with mining corporations, that would make living in the place hazardous, requiring additional clauses to their community relief CSR allocation.

Various other countries utilise various clauses for land redistribution, allocation and remuneration including long-term annuity compensations, in Brazil, South Africa and Australia that can be studied by Indian policy makers to build a more nuanced awareness and implementation programme suited to the socio-political condition of India.

⁷ <https://faolex.fao.org/docs/pdf/phi13930.pdf>

Conclusions

Land acquisition in Northeastern India is an important problem that needs a just and fair solution that takes into account the needs of development projects and the grievances of the tribal communities. There is a need to focus more on the implementation of the laws in a manner that is fair and inclusive. The legal frameworks for land acquisition have a colonial hangover that has to be rooted out immediately, while also investing significant resources and time for improving the administrative machinery for proper implementation. This can be achieved only with collaboration and support from all the involved groups like the state governments, tribal councils and representatives as well as representatives from urban and industrial sectors, to ensure a holistic and sustainable development that preserves ecological and cultural resources.

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