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Balancing Conservation and Custom: A Study on the Conflict between Environmental Regulations and Tribal Land Rights in India

Ruba Shree. K¹, Aarudra. M.B²

¹LLB(HONS), 1Chettinad Academy Of Research And Education, Kelambakkam, Chennai.

²B.Com. LLB(HONS), Chettinad Academy Of Research And Education, Kelambakkam, Chennai.

ABSTRACT

The overlapping of environmental rules and rights of Indian tribes has been a major area of dispute between the legal, social, and ecological aspects. The present paper aims to unravel the enigmas that come from the conflicts between the priorities of biodiversity preservation and the rights of the tribal people. The former is usually done through the imposition of strict laws over the forests and wildlife, while the latter's access to the land is vital for their subsistence, cultural identity, and tribal governance. In spite of the constitutional protections granted under the Fifth and Sixth Schedules, the Forest Rights Act (2006), and the Panchayat (Extension to Scheduled Areas) Act (1996), the issues of negotiating state induced conservation measures with the acknowledgement and execution of tribal land rights still persist. This research work sheds light on the Free, Prior, Informed Consent (tribal governance) and the procedure to bring tribal community participation in project planning and environmental governance as a legal right, revealing how the gaps between law and enforcement are exposed. The socio-economic analysis of case studies on the impact of eviction and resettlement policies on tribal social structure and sustainable livelihood shows the inconsistency of rehabilitation measures and protection of culture. The paper reviews the decisions made by the courts, which have made coterminous the environmental needs of the tribes and the rights, with the latter often being able to return to socio and physical needs through a combination of participatory decision making and proportional regulatory interventions. The research also includes evaluative areas in terms of benefit sharing mechanisms, gender dynamics and intra community equity, pointing towards the necessity for inclusive governance to yield conservation results that are fair and just.

Using the methods of doctrinal legal analysis, policy review, and empirical case examination, the paper intends to clarify the contradictions and synergies in the Indian eco conservation and tribal governance ground. It also suggests institutional and legal reforms for the improvement of the aforementioned features in the implementation of the different conservation programs and for the empowerment of tribal communities as active custodians of the forest ecosystems.

The paper not only adds to the body of knowledge on environmental justice, indigenous rights, and sustainable development but also provides practical solutions for who are working on the issue of reconciling ecological preservation with social equity in the diverse forested areas of India. Key words: Tribal governance, tribal governance, eco conservation, indigenous rights.

1 INTRODUCTION

The various tribal communities in India are closely linked to their ancestral lands, which support their identities, culture, and means of subsistence. Traditional land rights were gradually undermined over centuries by changing policies and colonial forest laws, which often treated tribal residents as encroachers and declared vast tracts of forest as state property. Many of these restrictions were upheld by the post-independence state under development and conservation agendas, frequently ignoring tribal claims and inciting disputes over the use of resources and land.

Historic injustices were intended to be corrected by the passage of historic laws like the Forest Rights Act (2006) and the Panchayat (Extension to Scheduled Areas) Act (1996), which recognized tribal land tenure and upheld the rights of community participation in forest governance. In particular, the Forest Rights Act (FRA) recognizes the rights of individuals and communities over forest resources and gives local Gram Sabhas the authority to decide disputes and oversee conservation initiatives. However, the act's transformative potential has been slowed down by bureaucratic obstacles, opposition from forestry departments, and an unequal recognition of individual and collective rights.

Tribal rights and conservation priorities clash as environmental regulations intended to preserve forests and biodiversity continue to impose limitations. New amendments, like the 2023 Forest Conservation Amendment Act, have drawn criticism for weakening protections and permitting more land diversion without sufficient tribal consultation, which has led to concerns about Adivasi communities being displaced and alienated once more.

The complex and frequently disputed relationship between Indian environmental laws and tribal land rights is examined in this study. The socioeconomic effects of relocation, rehabilitation, and benefit sharing arrangements are all critically examined, as are the legal and constitutional frameworks and procedural protections like Free, Prior, Informed Consent (FPIC). It specifically examines court rulings that attempt to balance the preservation of tribal autonomy and dignity with conservation imperatives.

This study offers legal and policy recommendations to promote equitable and participatory conservation models that uphold tribal sovereignty while advancing ecological imperatives, thereby contributing to ongoing discourses on sustainable development, environmental justice, and indigenous rights. The paper makes the case that improving procedural justice, filling implementation gaps, and making sure that conservation efforts don't come at the expense of the communities that have long cared for these landscapes are all necessary for sustainable forest governance in India.

3.OBJECTIVES

- i. To examine the legal and policy frameworks regulating tribal land rights and environmental preservation in India.
- ii. To evaluate the efficacy of procedural safeguards, including Free, Prior, Informed Consent (FPIC), in safeguarding tribal participation.
- iii. To look into how displacement, rehabilitation, and benefit sharing affect tribal communities in terms of their social and economic wellbeing.
- iv. To assess pertinent judicial interpretations that influence the equilibrium between environmental conservation and tribal sovereignty.
- v. To find holes in current laws and policies and suggest realistic ways to make conservation more inclusive and rights based.

4.RESEARCH QUESTION

- i. How well do conservation goals and tribal land rights and livelihoods get along under Indian environmental laws?
- ii. In forest governance, what are the advantages and disadvantages of procedural safeguards like Free, Prior, Informed Consent (FPIC)?
- iii. What effects do rehabilitation and displacement policies have on tribal communities' socioeconomic standing and sense of cultural identity?
- iv. How are tribal populations empowered or marginalized by the benefit sharing frameworks in place today?
- v. What impact have court rulings had on the changing equilibrium between tribal autonomy and environmental preservation in India's legal system?

5.METHODOLOGY

Using doctrinal legal research, this study examines primary legal materials, including statutes, court rulings, and constitutional provisions that are pertinent to Indian tribal land rights and environmental preservation. To put these laws in context, secondary sources such as academic papers, international treaties, policy documents, and NGO reports are examined.

A qualitative case study analysis of a few tribal areas affected by conservation policies is also included in the research, with an emphasis on topics like benefit sharing, displacement, rehabilitation, and Free, Prior, Informed Consent (FPIC). A thorough evaluation of current frameworks and the development of reform focused recommendations are made possible by the synthesis of data from these various sources.

6. LEGAL AND POLICY LANDSCAPE

Tribal communities in India have long relied on their ancestral forests for identity, culture, and sustenance. However, in the past, these rights were either disregarded or completely rejected. Large forest areas were reclassified as state owned under colonial forest laws, which frequently branded tribal members as unlawful encroachers. Injustices persisted even after independence as conservation and development initiatives routinely ignored tribal claims.

In order to restore the rights of these communities, India passed important laws such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) and the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA). In Scheduled Areas, PESA aimed to give Gram Sabhas, or village assemblies, the authority to manage local resources and run their own affairs while honouring traditional practices and political systems. Further FRA formally acknowledged the rights of individuals and communities to forest lands, resources, and the capacity to preserve and oversee these ecosystems. Articles 21¹ and Article 244² of the Indian Constitution ensure the rights of tribal communities to life, dignity, and self-governance within Scheduled Areas, while the Fifth and Sixth Schedules establish Tribal Advisory Councils and Autonomous District Councils to supervise local administration, land management, and cultural preservation.

Implementing these promising frameworks in the real world has proven difficult. The recognition of forest rights has been slowed by institutional resistance, bureaucratic obstacles, and a lack of awareness among communities and officials. For instance, compared to individual claims, community forest rights which permit collective management and sustainable use remain underappreciated. Furthermore, conflicts arise from the Ministry of Tribal Affairs and the Ministry of Environment having overlapping mandates, which occasionally give conservation objectives precedence over tribal autonomy.

¹ Articles 21-protects the right to life and personal liberty

² Article 244-deals with the administration of Scheduled Areas and Tribal Areas

Regarding the environment, regulations like the Wildlife Protection Act (1972) and the Forest Conservation Act (1980) impose limitations in order to safeguard endangered species and biodiversity. Despite their importance, these laws have occasionally led to the displacement or restriction of customary rights, which has sparked new disputes. Concerns have been raised about recent amendments, like the Forest Conservation Amendment Act (2023), which may weaken tribal rights in favour of infrastructure and industrial development, potentially leading to further marginalization.

India's adherence to international norms highlights the significance of Free, Prior, Informed Consent (FPIC) and participatory governance through agreements like the Convention on Biological Diversity³ (CBD) and the United Nations Declaration on the Rights of Indigenous Peoples⁴ (UNDRIP). The process of converting these global standards into efficient local procedures is still ongoing, though.

Despite obstacles, there are some promising instances where forest conservation and tribal self-governance coexist. Pathways to more equitable and sustainable results are shown by initiatives that give Gram Sabhas the authority to co-manage forests and enforce rights. These achievements highlight how crucial it is for conservation initiatives to involve real participation, openness, and respect for tribal culture.

In the end, India's legal and policy environment is a reflection of both complexity and hope. It takes consistent political will, institutional change, and inclusive governance to strike a balance between ecological preservation and the sovereignty and welfare of tribal communities. Sustainable and equitable conservation can only be achieved by recognizing and correcting historical injustices and empowering communities that depend on forests today.

7. FPIC, PROCEDURAL FAIRNESS AND POLICY TENSIONS

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and International Labour Organization Convention 169⁵ (ILO 169) both uphold the fundamental right of Indigenous peoples and tribal communities that depend on forests: the right to free, prior, and informed consent (FPIC). By guaranteeing that their consent is acquired free of coercion, sufficiently before the start of the project, and on the basis of complete disclosure of pertinent information, FPIC represents these communities' right to consent or not to projects or policies that impact their lands, territories, and resources.

FPIC⁶ is essential to frameworks in India that acknowledge the governance functions of Gram Sabhas and community ownership in forest management, such as the Forest Rights Act (FRA) of 2006 and the Panchayat (Extension to Scheduled Areas) Act (PESA) of 1996. Nevertheless, there are still many obstacles to overcome before FPIC can be implemented as a procedural safeguard. Tribal communities frequently have brief or postponed consultations, information is not fully disclosed, and consent is treated as token rather than sincere. Tribal agency is weakened by these procedural errors, which also increase community mistrust of state agencies.

Implementing FPIC is made more difficult by the conflict between tribal rights and conservation imperatives. Community rights to resource use and management can occasionally clash with environmental laws that prioritize stringent protection and biodiversity conservation. State officials may ignore or interpret FPIC requirements narrowly in order to prioritize ecological goals, which would feed claims of procedural injustice and rights violations. Large scale infrastructure or conservation projects, for instance, that were authorized without strong tribal consent have resulted in cultural alienation, livelihood loss, and displacement.

Furthermore, FPIC procedures are delayed and weakened by institutional ambiguities brought about by overlapping bureaucratic mandates, where forest departments prioritize conservation and tribal affairs departments defend community rights. The collective governance structures intended by tribal traditions are frequently challenged by this policy tension, which leads to the marginalization of collective community interests in favour of individual compensation or frameworks for restricted access.

In light of these complexities, there is growing support for FPIC processes to be strengthened as living protocols that are based on indigenous decision making, governance, and customs. This strategy places a strong emphasis on ongoing involvement, openness, communication that is suitable for the culture, and adherence to consent norms established by the community. Indigenous led FPIC protocols are models for rights based, participatory conservation and development because they uphold sovereign control and establish procedural standards above the bare minimum required by law.

In summary, FPIC is an expression of indigenous self-determination and governance, not just a formality. Resolving the long standing conflicts between environmental governance and tribal rights requires achieving procedural fairness through authentic FPIC, allowing for social justice and ecological sustainability.

8. TRIBAL DISPLACEMENT, REHABILITATION AND LIVELIHOOD

Displacement

³ Convention on Biological Diversity- A binding international treaty focused on conserving biodiversity, promoting sustainable use, and ensuring fair sharing of benefits from genetic resources.

⁴ United Nations Declaration on the Rights of Indigenous Peoples- The 2007 international instrument affirms indigenous peoples' rights to self-determination, land, resources, culture, non-discrimination, and active participation.

⁵ International Labour Organization Convention 169- treaty that protects the rights of indigenous and tribal peoples by recognizing their right to control their own institutions, development, and way of life.

⁶FPIC - Indigenous Peoples and local communities have the right to give or withhold consent before projects or policies impacting them are implemented.

In India, the main causes of tribal community displacement are large scale infrastructure projects like dams, mining, roads, and urbanization, as well as conservation initiatives like creating sanctuaries and tiger reserves. Tribal people make up about 8.6% of India's population, but they are responsible for over 40% of displacement brought on by development; estimates suggest that over 21 million people have been displaced as a result of development projects over the course of several decades. Tribal peoples are separated from their ancestral lands by these relocations, which weakens their cultural identity, traditional ecological knowledge, and spiritual ties to the land in addition to their ability to live there physically. Displacement frequently takes place without adequate consultation or consent, which is against international standards⁷ and the Forest Rights Act's tenets.

Rehabilitation

Even though Indian laws, such as the Forest Rights Act (FRA), require compensation and rehabilitation for displaced tribal people, their application is still uneven and insufficient. Many displaced people suffer from inadequate livelihood restoration programs, lack access to adequate housing, and experience delays in obtaining land titles. The National Rehabilitation and Resettlement Policy, Panchayat Extension to Scheduled Areas (PESA), and FRA statutes all make an effort to offer frameworks for participatory and rights based rehabilitation. Nevertheless, these initiatives are hampered by institutional inefficiencies, bureaucratic red tape, and a lack of community involvement. Culturally sensitive programs that preserve social customs, honour tribal uniqueness, and reestablish economic independence through community development and efficient land for land compensation are necessary for true rehabilitation.

Alternative Livelihoods

Economic marginalization frequently follows displacement when access to traditional agricultural lands and forest resources is lost. Numerous displaced tribal people are compelled to work in low paying informal sectors or engage in casual labour, or they rely on government assistance programs that fall short of their previous means of subsistence. Alternative livelihoods that make use of local expertise, support forest based businesses, and encourage collaborative resource management must all be incorporated into sustainable rehabilitation. Initiatives like the Van Dhan Yojana and tribal federations' cooperative marketing are examples of initiatives that move in this direction. Furthermore, by using indigenous knowledge systems, enabling Gram Sabhas to co-manage forest areas improves conservation efforts while also sustaining livelihoods.

Despite current legal protections, tribal displacement in India demonstrates ongoing deficiencies in rehabilitation and livelihood restoration. Displacement causes social and economic marginalization by upsetting not only homes and land but also cultural identity and traditional knowledge. Restoring sustainable livelihoods rather than merely providing compensation is the main goal of effective rehabilitation, which must be rights based, culturally aware, and collaborative. To promote equitable development that honours tribal communities and encourages ecological stewardship, it is imperative to close gaps in policy and practice.

9. BENEFIT SHARING AND COMMUNITY EMPOWERMENT

Frameworks that guarantee equitable benefit sharing with tribal communities, acknowledging their vital role as stewards of biodiversity, are essential to the success of forest conservation. Tribal rights over forest products are legally mandated by the Forest Rights Act (2006) and the Panchayat (Extension to Scheduled Areas) Act (1996), which also give communities more authority to manage forest resources. However, obstacles like elite capture and opaque governance structures that can take resources away from underserved groups frequently stand in the way of the actual realization of these advantages.

Benefit sharing programs must place a high priority on operational transparency, strong capacity building programs for tribal institutions, and procedures guaranteeing the fair distribution of both financial and ecological gains in order to address this. Giving Gram Sabhas more decision making power and offering them financial rewards for managing forests sustainably can improve community stewardship and promote fair development. To ensure that the ecological and economic benefits of forests are fairly distributed among their traditional custodians, policies must be updated on a regular basis to protect community interests and advance conservation goals.

10. JURISPRUDENCE AND DOCTRINAL ANALYSIS

Through significant rulings interpreting the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) and the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA), the Indian judiciary has been instrumental in defining the delicate balance between environmental preservation and the defence of tribal rights.

Decisions from the Supreme Court highlight how crucial it is that tribal communities especially Gram Sabhas have a meaningful say in decisions pertaining to land diversion and development projects that impact forest areas. These FRA and PESA protected participatory rights are substantive protections that acknowledge tribal self-governance and stewardship over their ancestral lands, not just procedural ones.

⁷ international standards-outlined in the **UNDRIP** and the International Labour Organization's (ILO) Convention No. 169.

Samata v. State of Andhra Pradesh (1997)⁸, a landmark case, established fundamental jurisprudence upholding Gram Sabhas' sole authority to decide how land to be used in Scheduled Areas. In particular, it forbade the sale of tribal land to non-tribal organizations. This ruling strengthened constitutional protections under Schedule V and Schedule VI by establishing a precedent for participatory governance and transferring power to tribal institutions.

Furthermore, judicial interpretations require that any state action on tribal lands follow the necessity and proportionality principles. In order to ensure that impacted communities have a true say in project approvals, courts have urged that environmental and development regulations conform to international best practices, including principles like Free, Prior, and Informed Consent (FPIC).

In order to resolve conflicts resulting from conflicting conservation and development imperatives, the judiciary has also insisted on strong grievance redress mechanisms. Cases have demonstrated the state's obligation to balance the objectives of ecological preservation and tribal welfare, avoiding arbitrary expulsion or relocation without sufficient consultation and rehabilitation.

In general, Indian jurisprudence reflects a more sophisticated understanding that equitable, participatory, and rights respecting methods are required for sustainable environmental governance to coexist with the protection and empowerment of indigenous and tribal communities.

11.GAPS,CONTRADICTIONS AND REFORMS

Gaps and Contradictions

- **Legal and Policy Gaps:** The Forest Rights Act (FRA) and PESA, as well as constitutional protections, are not being implemented well enough. A disconnect between the goals of policy and the realities on the ground is evident in the denial of land rights to numerous tribal communities and their forced relocation without proper rehabilitation or benefit sharing.
- **Overlapping Statutes and Administrative Bottlenecks:** When several laws and agencies have competing goals, it can cause delays in the recognition of land rights, the handling of displacement, and the disbursement of benefits.
- **Exclusion of Women and Marginalized Groups:** Policies intended to empower tribal communities are less effective when gender inclusion is ignored.
- **Resource exploitation and land displacement:** Tribes are disproportionately displaced by large scale projects such as dams, mines, and conservation initiatives, which lack proper safeguards for their rights.

Reform Directions

- **Standardization of FPIC Norms:** Establish precise, consistent guidelines for Free, Prior, and Informed Consent along with strong enforcement measures.
- **Enhancing Rehabilitation and Accountability:** Create open, community-based rehabilitation procedures that hold implementing agencies strictly accountable.
- **Transparent Benefit Sharing:** Make sure that fair, locally run benefit sharing structures that guard against elite capture and improve tribal livelihoods are in place.
- **Mainstreaming Gender and Social Inclusion:** Make sure that women participate and lead in decision making by integrating gender sensitive strategies into all policies and initiatives.
- **Integrated Policy Frameworks:** To remove inconsistencies and enhance policy coherence, harmonize laws and simplify agency operations.

Through focused reforms, these gaps can be closed, advancing social justice, sustainable development, and the true empowerment of India's tribal communities.

12. SUGGESTION

- **Participatory Governance:** It is important to acknowledge tribal communities as important decision makers and stakeholders in forest management, particularly through Gram Sabhas. Planning and execution for conservation must incorporate their traditional knowledge and stewardship.
- **Equitable Benefit Sharing:** Conservation is encouraged while maintaining social justice through open systems that allow financial and ecological gains to reach tribal communities directly.
- **FPIC:** To guarantee that, tribes have a true voice and veto power in projects that affect their lands, it should be institutionalized with strong legal support and strict enforcement.

⁸ Samatha v. State of Andhra Pradesh, (1997) 8 SCC 191.

- **Restorative Rehabilitation:** It is crucial to minimize displacement brought on by development or conservation. In these cases, culturally sensitive, rights based rehabilitation that restores livelihoods and community integrity is necessary.
- **Legal Harmonization:** To prevent inconsistencies and bureaucratic delays, conflicting provisions in environmental, forest, and tribal laws must be aligned with specified institutional coordination.

13. CONCLUSION

This paper has explored the complex relationship between tribal rights and environmental conservation in India. Implementation issues still exist even though progressive laws like the Forest Rights Act and PESA have set the foundation for acknowledging and empowering tribal communities. These include overlapping legal systems, insufficient rehabilitation, opaque benefit sharing, and uneven application of Free, Prior, and Informed Consent (FPIC). Moreover, policy and practice continue to fail to adequately address gender inclusion.

Despite these obstacles, when tribal communities are actively involved as forest stewards, conservation and tribal rights can actually strengthen one another rather than conflict. In addition to social justice, sustainable ecological results depend on community led management and fair benefit sharing.

Reforms to standardize FPIC enforcement, fortify rehabilitation mechanisms, improve transparency, and mainstream gender equity are therefore necessary to close the gap between legal intent and ground realities. India can strike a sustainable, inclusive balance that protects its natural heritage and the rights of indigenous peoples by prioritizing tribal knowledge and governance in conservation initiatives. The dignity, well being, and empowerment of tribal communities who have long been stewards of forest ecosystems as well as environmental sustainability depend on this integrated approach.

REFERENCES

- <https://www.indialaw.in/blog/environment/supreme-court-balances-forest-rights-and-conservation/>
- <https://tribal.nic.in/FRA.aspx>
- <https://www.actionaidindia.org/wp-content/uploads/2018/12/Free-Prior-Informed-Consent-English.pdf>
- <https://samataindia.org.in/data/documents/ecodevreport.pdf>
- <https://indiankanoon.org/doc/1969682/>