

# "Constitutional Justice and the Impact of Development-Induced Displacement on Tribal Communities"

**Akash Bramhane**

Assistant Professor, Department of Sociology, Shivaji University, Kolhapur

## **Abstract**

The intersection of constitutional justice and development-induced displacement presents a critical challenge in contemporary India, particularly for its tribal populations. Historically, tribal communities have maintained a deep-rooted connection with their ancestral lands, forests, and traditional livelihoods. However, post-independence development strategies, especially from the 1950s onward, have prioritized industrialization, infrastructure expansion, and resource extraction— at the cost of displacing indigenous populations from their native territories. Despite constitutional provisions under the Fifth and Sixth Schedules, along with protective legislation such as the Forest Rights Act (2006) and the Panchayats (Extension to the Scheduled Areas) Act (1996), tribal communities continue to face systemic marginalization and violations of their rights. This study investigates the gap between constitutional promises and ground realities, analysing how legal and institutional mechanisms have responded to the recurring tension between development goals and tribal rights. The objectives of the study are to trace the historical context of tribal displacement in India; and to evaluate the effectiveness of constitutional and legal safeguards; The significance of the study lies in its holistic approach to understanding displacement not merely as a socio-economic issue, but as a constitutional justice concern rooted in equity, dignity, and democratic participation. The outcome of the research reveals that while there have been progressive judicial pronouncements and policy innovations, implementation remains inconsistent. The paper concludes with the constitutional vision of justice for all, especially for India's most vulnerable populations.

**Keywords** – Constitution, Justice, Tribals, Displacement

## **Introduction**

In postcolonial India, the twin goals of economic development and social justice have stood in uneasy tension, particularly where the rights of indigenous communities—commonly referred to as Scheduled Tribes or Adivasis—are concerned. While the Indian Constitution enshrines a broad spectrum of rights meant to ensure dignity, equality, and justice for all

citizens, the lived experiences of tribal communities displaced by development projects reveal a profound contradiction between constitutional ideals and ground realities. Tribal communities have maintained a symbiotic relationship with their land, forests, and rivers—resources that are not merely economic assets but integral to their identity, culture, and spiritual existence. This research undertakes a critical examination of this contradiction, focusing on the theme of constitutional justice in the context of development-induced tribal displacement in India. Over the past several decades, large-scale infrastructure and industrial projects—such as dams, mining, highways, and urban expansion—have led to the displacement of millions of people, a significant proportion of whom belong to tribal communities. Although tribal groups constitute only about 8.6% of India’s population (Census 2011), they account for over 40% of those displaced due to development projects. This disproportionate impact raises serious questions about social equity, inclusivity, and the effectiveness of constitutional protections for marginalized communities.

The Indian Constitution provides a strong foundation for safeguarding tribal rights, particularly through provisions under the Fifth and Sixth Schedules, Article 21 (Right to Life and Personal Liberty), Article 19 (Right to Freedom of Movement and Residence), and Article 244, among others. Additionally, laws such as the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, were enacted to further empower tribal populations and give legal recognition to their traditional rights over land and forest resources. Despite these protections, the displacement of tribal populations continues, without adequate rehabilitation, compensation, or meaningful consent, indicating systemic failures in the implementation of constitutional and legal safeguards.

This paper seeks to interrogate the efficacy of constitutional justice mechanisms in protecting tribal communities from the adverse impacts of development-induced displacement. By analysing policy frameworks, and various displacement phenomena happened in the name of development, this research paper will provide an understanding of how constitutional justice is conceptualized and delivered (or denied) in practice. The core objective of this study is to contribute to the academic and policy discourse on development and justice, highlighting the need for a more inclusive model of growth that aligns with the constitutional mandate of justice—social, economic, and political. This paper argues that without a fundamental rethinking of development paradigms and legal accountability, the constitutional promise remains a distant reality for India’s tribal communities.

## **Typology of Development-induced Displacement**

Development-induced Displacement refers to the forced displacement of individuals or communities from their land and homes as a result of development projects. These projects, which are typically designed to improve infrastructure, boost economic growth, or meet national and regional developmental goals, lead to the involuntary relocation of people who rely on the land for their livelihoods, particularly in rural and tribal areas. The typology of development-induced displacement (DID) of tribals in India can be broadly classified based on the nature and causes of the displacement.

1. **Hydroelectric Projects and Dams** - Construction of dams and reservoirs for hydropower generation, irrigation, and flood control leads to displacement of tribal communities living along river valleys. Tribals lose agricultural land, forests, and access to water, leading to the disruption of their livelihoods and culture. The Narmada Valley Project and the Sardar Sarovar Dam, Tehri Dam, Hirakud Project are some of examples which displaced numerous tribal communities, Hydroelectric Project and Dam is one of the most prominent cases of this type of displacement.
2. **Mining and Industrial Projects** - Extraction of minerals (e.g., coal, bauxite, iron ore) and establishment of industries such as steel plants, cement factories, and power plants results in tribal displacement from their ancestral lands, without adequate compensation or rehabilitation. These projects lead to deforestation, loss of grazing land, and destruction of sacred sites. Mining projects in Jharkhand, Chhattisgarh, and Odisha have displaced many tribal communities.
3. **Infrastructure Development** - Construction of highways, roads, airports, railways, and urbanization in tribal areas resulting loss of land and natural resources of tribals, which they depend on for sustenance and cultural identity. While infrastructure projects are seen as a means of development, they lead to land alienation for tribal groups.
4. **Agricultural and Forestry Development** - Land acquisition for large agricultural estates, plantation projects (like tea, coffee, rubber), and forestry conservation programs. Tribals are forced to vacate forests and agricultural land, disrupting their traditional ways of life, such as shifting cultivation or forest-based livelihood practices. In some cases, they are accused of encroaching on land that is then reclaimed for commercial purposes. Tribals in regions like Kerala, Assam, and the North-East have faced displacement due to such projects.
5. **Tourism and Urban Expansion** - Establishment of tourism projects, resorts, and the expansion of urban areas into tribal lands which result in lose not only their physical land but also their cultural heritage, as these areas hold sacred significance to indigenous groups. The increase in

population density can also strain local resources. Tribal displacement in areas like Rajasthan and Uttarakhand, driven by the expansion of tourism.

6. Environmental Conservation Projects - Creation of protected areas, national parks, and wildlife sanctuaries. While conservation is necessary, the establishment of protected areas results in the displacement of tribal communities who rely on the land for hunting, gathering, and agriculture. These projects sometimes involve criminalizing traditional tribal practices. The displacement of tribals in the Kaziranga National Park (Assam) and the Silent Valley National Park (Kerala).

7. Special Economic Zones (SEZs) and Urbanization - Creation of SEZs and urban development initiatives aimed at boosting economic growth through industrial expansion. Tribals are pushed off their land to make way for commercial zones, and this urban expansion further isolates them from their traditional ways of living.

### **Constitutional Provisions Safeguarding Tribal Rights**

#### **a. Fundamental Rights**

Article 14: Right to equality before the law and equal protection of the laws.

Article 15(4) allows the State to make special provisions for the advancement of socially and educationally backward classes of citizens, or for the Scheduled Castes and Scheduled Tribes.

Article 19(5) allows the state to impose restrictions on the right to property for public purposes, such as land acquisition for development projects. However, the displacement of tribals must meet the requirement of just compensation and rehabilitation, as outlined in the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013. Despite this provision, the process of land acquisition has been unfair, especially for tribal populations. Tribals do not receive adequate compensation, and the rehabilitation measures are insufficient.

Article 21 guarantees the Right to Life and Personal Liberty, which the judiciary has interpreted to include the right to livelihood, shelter, and the right to a healthy environment. Displacement without proper compensation or rehabilitation is seen as a violation of these rights, as tribals lose their livelihoods and homes when displaced. Judicial Interpretation: The Supreme Court has, in several cases, held that displacement due to development projects cannot be justified unless the displaced people are adequately rehabilitated and compensated.

#### **b. Directive Principles of State Policy**

Article 39(b) provides directives to ensure that ownership and control of material resources are distributed to subserve the common good.

Article 46 mandates that the State shall promote the welfare of Scheduled Tribes and protect them from exploitation. This includes the prevention of land alienation and ensuring that tribals are not exploited by traders, moneylenders, or contractors. Despite the constitutional mandate, land alienation continues to be a major issue, especially due to land acquisition for development projects like dams, roads, and mining, without proper compensation or rehabilitation. The Forest Rights Act (2006), which aims to recognize the rights of tribals over forest land, has also faced issues with inadequate implementation, leaving tribal communities vulnerable to displacement.

### **c. Schedules Specific to Tribal Areas**

**Fifth Schedule (Article 244):** The Fifth Schedule of the Constitution governs the administration and control of Scheduled Areas, which are primarily inhabited by tribal communities. It provides for special safeguards for tribals living in these areas, including: **Governance by the Governor:** The Governor of a state has special powers in Scheduled Areas to ensure that development activities respect the cultural, social, and economic rights of tribal populations. **Tribal Advisory Council (TAC):** The Constitution mandates the creation of a Tribal Advisory Council to advise the Governor on matters related to the welfare and development of tribals in these areas. **Prohibition on Land Transfer:** The Fifth Schedule prohibits the transfer of tribal land to non-tribals in Scheduled Areas, thus ensuring tribal control over their land.

**Sixth Schedule (Article 244 and 275):** The Sixth Schedule applies to certain tribal areas in Assam, Meghalaya, Tripura, and Mizoram. It provides for **Autonomous District Councils:** These councils can make laws related to land, forest, and the preservation of tribal culture. **Protection of Land Rights:** The Sixth Schedule ensures tribal ownership of land and the regulation of its use, with specific protections against land alienation.

These provisions are meant to protect tribal communities from land dispossession due to development projects. However, the implementation of these safeguards has been weak and inconsistent.

### **Special Constitutional Bodies**

**National Commission for Scheduled Tribes (NCST) –** Established under Article 338A, the NCST is mandated to investigate and monitor safeguards for STs, inquire into complaints, and advise on planning and development.

### **Key Legislations Related to Tribal Displacement**

#### **a. The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA)**

Extends the 73rd Constitutional Amendment to Scheduled Areas. It empowers Gram Sabhas (village assemblies) to- Approve projects and plans for social and economic development. Be consulted before land acquisition. Protect tribal customs and traditional resource rights.

**b. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA):** Recognizes individual and community rights over forest land and resources. Right to occupy forest land for cultivation. Community forest rights, including rights to manage and protect forests. Consent of the Gram Sabha is mandatory before diversion of forest land for non-forest purposes. Frequently violated during land acquisition for mining, dams, etc.

**c. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR):** Replaces the colonial Land Acquisition Act of 1894. Key features in this Act are Consent of 70–80% of affected families for private/public-private partnership projects, Social Impact Assessment (SIA) mandatory, Enhanced compensation and rehabilitation norms. Exemptions and state amendments have weakened its effectiveness in tribal areas.

### **Judicial Interpretations and the Role of Courts**

Courts have occasionally reinforced tribal rights, citing constitutional justice:

*Samatha v. State of Andhra Pradesh (1997)*: SC held that land in Scheduled Areas cannot be transferred to non-tribals or private companies. *Niyamgiri Hills Case (Orissa Mining Corporation v. Ministry of Environment & Forest, 2013)*: SC upheld the FRA and the authority of the Gram Sabha to deny consent for mining on sacred tribal land. However, in many instances, courts have sided with development priorities, citing "public interest" over tribal consent or displacement.

### **Implementation Gaps and Challenges of Constitutional Provisions**

Although the Indian Constitution provides significant safeguards for tribal communities, the implementation of these provisions has faced several challenges and gaps. These challenges prevent the effective protection of tribal rights and their adequate rehabilitation in the face of development-induced displacement. While the Fifth Schedule grants special protections for tribal land and autonomy, tribal land continues to be alienated, particularly for industrial projects, mining, and dams. There are instances where the Tribal Advisory Councils are either ineffective or ignored in decision-making processes related to land acquisition and development indicating weak implementation of fifth schedule. Often, tribal land is sold or transferred to non-tribals through corrupt practices or land grabbing. The lack of proper land records and inefficient administration exacerbate this issue. The Forest

Rights Act (2006), which recognizes the rights of tribals over forest land, is ineffectively implemented. Many tribal communities still do not have formal recognition of their land rights, and forest-dwelling tribals face eviction from their lands due to development projects and conservation efforts. Even though the Act mandates the issuance of title deeds to tribals, the process is slow and bureaucratically cumbersome. In Narmada Valley (for the Sardar Sarovar Dam), tribal communities were not given adequate compensation or resettlement options, despite legal requirements under the Land Acquisition Act, 2013 and the National Rehabilitation Policy (2007). This has been a recurring issue across various development projects. The Constitution provides tribal areas with a degree of autonomy, especially under the Fifth and Sixth Schedules. However, this autonomy is undermined by the state's development agendas, which prioritize industrialization, mining, and infrastructure projects over the welfare of tribals. Mining projects in Chhattisgarh and Odisha have resulted in massive displacement of tribals without adequate consultation or consent from the Gram Sabha or local tribal councils. Tribal autonomy is overridden in the interest of state and corporate development. Even when courts rule in favour of tribal rights, rehabilitation remains a major challenge. The Narmada Bachao Andolan case, for instance, showed that displaced tribal families were not adequately resettled or compensated, leading to continued struggles. The Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 mandates better compensation and rehabilitation, but in practice, the displaced tribals end up with insufficient resources or are forced to live in resettlement colonies that lack basic amenities like water, sanitation, and healthcare. Political pressures lead to the prioritization of development over tribal welfare. Politicians and bureaucrats may overlook or deliberately bypass the constitutional safeguards for tribals to push through large development projects. Institutional inertia also hinders the enforcement of tribal rights. The Ministry of Tribal Affairs and state agencies are ineffective in ensuring that tribal communities receive their legal entitlements regarding land and compensation.

### **Impact of Development-induced Displacement on Tribal Communities**

Forced relocation of tribals due to development projects such as infrastructure construction, urbanization, industrialization, mining, and other economic developments. Tribal communities, who live in areas rich in natural resources, are particularly vulnerable to this form of displacement. The impact on these communities is profound and multifaceted, affecting their social, cultural, economic, and environmental well-being. Tribal communities traditionally depend on land-based livelihoods such as farming, hunting, gathering, and fishing. Displacement from these lands' leads to the loss of access to natural resources that are critical

for their survival. When they are relocated to urban or semi-urban areas, they may not have the necessary skills, capital, or support networks to adapt to the new economic conditions leading increased poverty, unemployment, and economic marginalization. Forced displacement can disrupt way of life and lead to the loss of cultural heritage. For instance, the destruction of sacred sites, traditional farming practices, or the severing of ancestral ties to specific areas can lead to an erosion of cultural identity. Many tribal groups also suffer from the breakdown of community structures, which are crucial for maintaining social cohesion and identity. Many tribal communities are based on close-knit family and communal structures. Displacement separates families and communities, leading to social isolation, a loss of support networks, and psychological distress. This can exacerbate mental health issues, including depression, anxiety, and trauma, particularly among children and elders who may struggle to adapt to a new way of life. Development-induced displacement can increase health risks for tribal communities. After displacement tribal communities face inadequate access to healthcare services, clean water, sanitation, and food security. Relocation to overcrowded urban areas or resettlement sites can also expose them to diseases and living conditions that they were not accustomed to. In addition, the loss of traditional diets and a lack of access to natural food sources can lead to malnutrition. Tribal communities also face political marginalization, both before and after displacement. They may lack political representation in decision-making processes, leading to their voices being ignored when it comes to issues affecting their land and rights. The displacement process itself is typically imposed by the state or corporations, without adequate consultation or consent, and the communities may not have the political leverage to resist or negotiate for better conditions. After displacement, they may continue to be excluded from meaningful political participation.

Tribal communities usually live in ecologically sensitive areas, such as forests, riverbanks, and hills. Development projects, such as dams, mines, or deforestation for infrastructure, can cause significant environmental degradation. This not only impacts the displaced communities, but it also affects biodiversity and ecosystems, further diminishing the resources on which their traditional livelihoods depend. These communities lack formal land titles or legal recognition of their land rights, making it easier for the state or corporations to take over their land for development purposes without fair compensation. Even if they are promised compensation or relocation support, the legal frameworks do not adequately protect their rights or provide them with fair and just compensation, which may further exacerbate their economic and social vulnerability. Even when compensation is provided, it is inadequate and does not take into account the true value of the land and resources lost, nor does it address

the long-term social and psychological impacts of displacement. After displacement, tribal communities are more vulnerable to exploitation. In new environments, they may lack the networks, knowledge, or resources to protect themselves from exploitation by outsiders, whether in the form of labour exploitation, unfair wages, or land encroachment. Their marginalized status leaves them open to abuse, further entrenching cycles of poverty and disempowerment. Tribal communities have intricate systems of knowledge relating to agriculture, medicine, and natural resource management that have developed over centuries. Displacement can disrupt these knowledge systems, as access to the land and natural resources that inform these practices is lost. This undermines the community's resilience and adaptability, further diminishing their self-sufficiency and long-term sustainability.

The impact of development-induced displacement on tribal communities is profound and wide-ranging. These communities face not only the immediate loss of their land but also long-term social, cultural, and economic consequences. Governments and development agencies must ensure that displacement is avoided whenever possible, and when it is unavoidable, it should be carried out in a way that respects the rights, needs, and desires of the affected communities. Effective consultation, fair compensation, and a commitment to preserving the cultural and environmental heritage of tribal communities are crucial steps in mitigating the adverse effects of development-induced displacement.

### **Conclusion**

Despite the existence of constitutional provisions to protect the rights of displaced tribals, several gaps and challenges hinder their effective implementation. These include bureaucratic delays, weak legal enforcement, lack of awareness, and conflicts with development projects. The impact of development-induced displacement on tribal communities is profound and wide-ranging. Constitution guarantees justice and protection for marginalized groups, development-induced displacement leads to the loss of land, livelihood, and cultural heritage for these communities. Although constitutional provisions have been made for the displaced tribals, their implementation has not been done properly. The tribals in remote areas are still facing many problems. It is clear from the above discussion that if comprehensive development is to be achieved, the government should take into account the adverse effects of development that the displaced people have to face. By strengthening legal frameworks, ensuring better compensation and rehabilitation, empowering tribal communities through local governance, and upholding their cultural integrity, India can move closer to achieving constitutional justice for its tribal citizens.

### **Reference**

Chakravarty, A. (2002). *The displacement of tribals: The impacts of developmental projects in India*. Prentice Hall.

Laxmikant, M. (2023), *Indian Polity*, McGraw Hill, Noida, Uttar Pradesh

Malik, S. K. (2020), *Land Alienation and Politics of Tribal Exploitation in India*, Springer Verlag, Singapore

Ota, A. (2010), *Displacement and Rehabilitation issues in Tribal Areas: A Diagnostic Analysis*, Inter India Publications, New Delhi

Parida, J. (2006), *Tribals- Development, Displacement and Rehabilitation*, Classical publishing Company, New Delhi

Pitel, S. (2016). *Tribal land rights and displacement in India: A socio-legal perspective*. Oxford University Press.

Rao, M. (2003). *Tribal identity and developmental challenges: The case of India's displaced populations*. Sage Publications.

Sharma, U. (2018). *Tribal rights and the Indian Constitution: Implications for development-induced displacement*. Cambridge University Press.

Singh, R. (2015). *Development and displacement: An ethnographic study of India's tribal regions*. Routledge.

Suresh, D. (2016), *Development Displacement and Rehabilitation of Tribes of Andhra Pradesh*, Kalpaz Publications

### **Websites**

<https://www.ijcrt.org/papers/IJCRT1135007.pdf>

[https://repository.tribal.gov.in/bitstream/123456789/73960/1/SCST\\_2009\\_book\\_0118.pdf](https://repository.tribal.gov.in/bitstream/123456789/73960/1/SCST_2009_book_0118.pdf)

[https://www.terisas.ac.in/ckfinder/userfiles/files/ResearchPaper\\_SamplePaper.pdf](https://www.terisas.ac.in/ckfinder/userfiles/files/ResearchPaper_SamplePaper.pdf)

[https://www.researchgate.net/publication/361275884\\_Impacts\\_of\\_Development\\_Induced\\_Displacement\\_on\\_the\\_Tribal\\_Communities\\_of\\_India\\_An\\_Integrative\\_Review](https://www.researchgate.net/publication/361275884_Impacts_of_Development_Induced_Displacement_on_the_Tribal_Communities_of_India_An_Integrative_Review)

<https://ncstgrams.gov.in/public/Home.aspx>