

Tribal Community: The Political and Cultural Rights in the North East India

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ABSTRACT: This paper seeks to explore the political and cultural rights of tribal communities as enshrined in the Constitution of India. The North-Eastern region of India is home to over 220 distinct ethnic groups or tribal communities, each characterized by its unique cultural heritage, traditional practices, and languages. Despite this rich diversity, the region remains economically and infrastructural underdeveloped in comparison to mainstream India. Predominantly rural, the tribal population faces numerous challenges, including high unemployment rates, limited access to quality education, inadequate exploitation of natural resources, poor transportation and communication networks, and insufficient access to clean drinking water. Agriculture remains the primary source of livelihood for most. The Constitution of India, through Articles 371A and 371G, extends special provisions for the states of Nagaland and Mizoram, respectively, safeguarding their religious beliefs, social customs, customary laws, and traditional ownership of land, as well as their indigenous systems of justice administration.

KEYWORDS: Autonomy District Council, Cultural Inequality, Cultural Preservation, Conflict Resources, Economic Inequality, Protection land, Sixth Schedule, Tribal Customary Law, Tribal Identity, Tribal Right.

INTRODUCTION

The Scheduled Tribes in India have traditionally inhabited geographically compact and often isolated regions, primarily comprising hilly and undulating terrains. These communities have historically exhibited strong resistance to the incursion of outsiders, particularly during periods of foreign invasion. Historical records document a sustained and often violent struggle between tribal populations and external forces attempting to enter or control their territories. Numerous rebellions were waged by these communities against dominant authorities in defense of their autonomy and cultural identity (R.C.Verma 1990 Indian Tribes through the Ages p.2).

Under the Constitution of India, certain indigenous communities have been officially recognized as Scheduled Tribes, granting them access to specific rights and privileges. This recognition is extended only to those communities included in the Scheduled Tribes list as per constitutional provisions. Notably, some marginalized groups, such as nomadic tribes, have not been classified under this category and therefore remain excluded from these benefits. According to Article 366(25) of the Constitution, Scheduled Tribes are defined as those tribes or tribal communities—or parts or groups thereof—that are deemed to be so under Article 342, through a public notification issued by the President.

Land constitutes the foundation of tribal life and livelihood, with over 90% of tribal populations dependent on agriculture and allied activities. Their economy is predominantly agrarian, and land serves as the principal tangible asset for tribal families. Beyond its economic value, land holds deep emotional and cultural significance for these communities, being integral to their identity and way of life. However, the gradual integration and opening up of tribal regions to non-tribal populations have led to widespread alienation of tribal land. Despite the enactment of state-specific laws to curb such land transfers, alienation continues unabated. Annexure VIII provides a state-wise overview of these land protection laws.

This persistent trend of land dispossession lends credibility to the concerns raised by two key sub-committees of the Constituent Assembly: the Sub-Committee on North-East Frontier (Assam) Tribal and Excluded Areas and the Sub-Committee on Excluded and Partially Excluded Areas. In recognition of the vulnerability of tribal land rights, the Constitution provides for protective mechanisms. Under the Fifth Schedule, the Governor of a state with Scheduled Areas is empowered to make regulations aimed at safeguarding tribal interests in land. Similarly, the Sixth Schedule grants District Autonomous Councils the authority to protect tribal land rights within their jurisdictions.

The colonial-era policy of designating tribal areas as "Excluded" or "Partially Excluded" served, to some extent, to preserve traditional systems of land management. Many of these tribal regions were formerly part of princely states, which did not adhere to

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a uniform system of land tenure. Consequently, some regions retained customary practices, while others developed localized systems or adopted land management models influenced by British India.

Tribal Customary Laws:

Customary law in tribal societies extends far beyond a mere juridical framework; it is deeply embedded in and reflective of the cultural ethos of the community. Often narrowly perceived as a mechanism for conflict resolution or as a subset of indigenous legal traditions, such interpretations tend to undermine the broader role and dynamic influence that customary law holds within tribal life. In reality, customary law serves not only to regulate social conduct and maintain order but also as a living manifestation of the community's core values, ideals, and moral principles (Fernandes, Pereira, & Khatso, 2007).

A thorough understanding of customary law necessitates an exploration of its constitutional status in India. The Indian Constitution acknowledges the need for a distinct political and administrative framework for tribal populations. This recognition is primarily articulated through Articles 244(2) and 275(1), which were incorporated to address demands for the formal acknowledgment of tribal customary practices. These articles underpin the provisions of the Sixth Schedule, which provides for autonomous administrative arrangements in tribal areas.

Furthermore, constitutional amendments have reinforced this recognition. The 13th Amendment of 1962 introduced Article 371A, which accords special status to the state of Nagaland, explicitly recognizing its customary laws. Similarly, the 53rd Amendment of 1986 introduced Article 371G, which grants similar protection to the customary laws of Mizoram. These provisions safeguard tribal customs related to property ownership, marriage, divorce, inheritance, and other socio-cultural practices, including communal land tenure systems. Additional constitutional protections are outlined in Articles 371B (Assam), 371C (Manipur), 371F (Sikkim), and 371H (Arunachal Pradesh), each tailored to the unique socio-political context of the respective states (Maithani, 1997, pp. 7–32; Nongkynrih, 2008, p. 19).

Preservation of Customary Laws and Practices:

The recognizing of tribal rights is instrumental in safeguarding traditional governance structures, customary laws, and socio-cultural practices that are fundamental to the identity and cohesion of tribal communities. These systems not only embody indigenous knowledge and community ethics but also serve as the foundation for their unique worldviews. However, within these frameworks, there remains a significant gap in terms of gender inclusivity and representation, which requires critical attention. Preserving tribal customs and cultural practices is essential, not only for the current generation but also as a legacy for future generations, ensuring the continuity of their heritage and identity?

Cultural Preservation:

Constitutional provisions such as the Schedules aim to promote and protect the cultural and social identities of tribal communities. Tribal cultures possess a wealth of wisdom, values, and practices from which mainstream society can learn, particularly in the context of sustainability, community living, and respect for nature. In the contemporary era, appreciating these cultural dimensions is more important than ever.

To protect their cultural integrity and inner value systems, many tribal communities have developed a tendency toward social withdrawal. Unfortunately, this behavior is often misinterpreted as isolationism or social aloofness. In reality, it reflects a deep sense of self-respect, autonomy, and a strong commitment to preserving their traditions. Historically, tribal groups have demonstrated a steadfast refusal to compromise their values, often choosing to remain within their own communities to maintain cultural continuity.

This desire for cultural preservation has contributed significantly to their resilience and survival, enabling them to maintain their distinct identities over centuries of external encroachment and pressures to assimilate. Despite repeated attempts to integrate them into dominant cultural paradigms, tribal communities have largely resisted through passive but firm opposition, primarily because they have been unwilling to accept subordination or the erosion of their cultural sovereignty.

Challenges to Cultural Survival:

Tribal communities in Northeast India, while possessing a rich cultural heritage, continue to face a range of socio-economic and political challenges. The Indian Constitution provides specific political and cultural safeguards to these communities, including autonomy in matters of governance, social development, and cultural preservation. These protections are particularly articulated through the provisions of the Sixth Schedule, which facilitates the establishment of Autonomous District Councils, thereby enabling self-governance in tribal-dominated areas.

Despite these constitutional guarantees, large-scale development projects and the extraction of natural resources pose significant threats to the cultural survival, traditional livelihoods, and ecological balance of tribal communities. Recognizing the unique status of tribal lands, the Sixth Schedule affirms the autonomy of indigenous populations over their territories. Complementing this, the Meghalaya Transfer of Land (Regulation) Act, 1971 explicitly stipulates that land within the state is owned by the local indigenous tribal communities, not by the government—thereby reinforcing the principle of community land ownership.

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Further constitutional provisions strengthen these protections. Article 46 of the Directive Principles of State Policy mandates the state to promote the educational and economic interests of Scheduled Castes and Scheduled Tribes while safeguarding them against social injustice and exploitation. Additionally, Article 350 recognizes and upholds the right of every community to preserve its distinct language, script, and culture, thereby ensuring the protection of cultural diversity and linguistic heritage within the Indian Union.

Political Rights:

Tribal communities in India, constitutionally recognized as Scheduled Tribes, are granted specific political rights aimed at ensuring their social and economic empowerment. These include reservations in legislatures, government employment, and educational institutions, as well as legal safeguards against atrocities and the right to self-governance, particularly in Scheduled Areas. Key constitutional provisions include Article 15(4), which allows for special measures to promote their educational advancement; Article 46, which obligates the state to promote their educational and economic interests while protecting them from social injustice; and Article 244(1), which provides for the application of the Fifth Schedule to Scheduled Areas and Scheduled Tribes.

Scheduled Tribes and other traditional forest dwellers have the legal right to reside on forest land, whether held individually or collectively, for the purpose of habitation. They are also entitled to use such land for self-cultivation as a means of sustaining their livelihood.

Autonomous District Councils (ADCs):

The Sixth Schedule of the Indian Constitution provides for the creation of Autonomous District Councils (ADCs), granting tribal areas a degree of self-governance in matters related to social and political development. These Councils are established to promote the social, economic, educational, ethnic, and cultural advancement of Scheduled Tribe communities residing in both Core and Satellite Areas across several districts of Assam. At present, six such Autonomous Councils have been constituted. The Sixth Schedule also permits the formation of Autonomous Regional Councils to further strengthen self-administration in tribal regions.

The Autonomous Councils in Assam are granted varying levels of self-governance under the State Legislature, in accordance with the Sixth Schedule of the Indian Constitution. there are three such councils established under this schedule.

- **Bodoland Territorial Council (BTC):** This council administers the Bodoland Territorial Region (BTR), which includes the districts of Kokrajhar, Baksa, Udalguri, and Chirang.
- **Dima Hasao Autonomous District Council (DADC):** This council governs the Dima Hasao District.
- **Karbi Anglong Autonomous District Council (KADC):** This council oversees the Karbi Anglong district.

The Sixth Schedule also provides for the creations of Autonomous Councils to promote the social, economic, educational, ethnic and cultural advancement of the Scheduled Tribe (ST) communities living in both Core Areas and Satellite Areas covering across various district in Assam. There are six Autonomous Regional Councils established for this purpose.

- **Rabha Hasong Autonomous Council**
- **Mising Autonomous Council**
- **Tiwa Autonomous Council**
- **Deori Autonomous Council**
- **Thengal Kachari Autonomous Council**
- **Sonowal Kachari Autonomous Council**

Autonomous Councils:

The Sixth Schedule provides for the creation of Autonomous District Councils (ADCs) and Regional Councils (RCs) to administer designated tribal areas. These councils are empowered with legislative, executive, and limited judicial authority, enabling them to enact laws, collect revenue, and manage local governance and development affairs.

Autonomy Council District 1971:

The Manipur (Hill Areas) District Councils Act, 1971 established autonomous district councils in the hill regions of Manipur, then a Union Territory. The Act conferred administrative and governance powers on these councils to promote socio-economic development, preserve the distinct identity and culture of the hill communities, and ensure their rights over natural resource management within their territories.

The Sixth Schedule:

The Sixth Schedule of the Indian Constitution has its origins in the recommendations of the Bordoloi Committee, established by the Constituent Assembly, which recognized the need for a distinct administrative framework to promote development in tribal areas and shield them from exploitation. It grants a degree of autonomy to tribal regions in the northeastern states of Assam, Meghalaya, Tripura, and Mizoram. This constitutional provision serves as a legal safeguard for the rights and interests of tribal communities in the hill areas, particularly concerning land and forest resources.

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Governance in these areas is carried out through Autonomous District Councils (ADCs), which possess substantial legislative and executive authority, functioning in many ways as “mini governments.” These councils also have the discretion to permit village-level governance systems to operate under traditional and customary laws. Currently, Sixth Schedule provisions apply only to four northeastern states—Assam, Meghalaya, Mizoram, and Tripura. Among these,

Only Meghalaya is entirely covered, while in the other three, the Sixth Schedule applies to specific regions. Notably, the states of Arunachal Pradesh, Manipur, Nagaland, and Sikkim are excluded from the scope of the Sixth Schedule (Chakraborty, 2011).

Power and Function of Autonomous District Councils:

In Northeast India, the Autonomous District Councils (ADCs), constituted under the Sixth Schedule of the Indian Constitution, are vested with legislative, executive, and judicial powers aimed at facilitating the development and governance of tribal areas. These powers cover key sectors such as land, forests, water resources, agriculture, and the regulation of social customs.

Legislative Powers:

- **Enacting Laws:** The ADCs have the authority to formulate laws, rules, and regulations on subjects specified in the Sixth Schedule, including land tenure, forest utilization, water resource management, agricultural practices, and customary social norms.
- **Specific Areas:** In addition, they are empowered to legislate on matters such as the functioning of village councils, public health, sanitation, local policing, inheritance, marriage and divorce, mining, and other culturally significant practices.

Executive Functions:

- **Administrative and Developmental functions:** ADCs are responsible for implementing development plans and welfare initiatives within their jurisdictions. Their administrative functions include overseeing local markets, maintaining road infrastructure, and supervising public utilities.
- **Judicial Authority:** ADCs have the power to establish village-level councils and district courts to adjudicate disputes in accordance with customary laws and traditional practices.
- **Role in Socio-economic Development:** ADCs significantly contribute to the social and economic upliftment of tribal areas, with focused interventions in education, healthcare, agricultural advancement, and cultural preservation.
- **Revenue Generation:** They are also authorized to generate revenue through taxation on professions, trades, entertainment, and the consumption of products from local industries.

Major Issues Associated with Autonomous District Councils:

Challenges Faced by Autonomous District Councils (ADCs): Despite the intended benefits of the Autonomous District Councils (ADCs), several persistent challenges continue to hinder their effective functioning:

- **Insufficient Financial Resources:** A majority of ADCs struggle with limited financial allocations, significantly restricting their capacity to implement development initiatives and deliver essential public services efficiently.
- **Administrative Overlaps and Conflicts:** Frequent jurisdictional overlaps between state authorities and ADCs have led to administrative delays and redundancies, undermining streamlined governance.
- **Inconsistent Autonomy:** The degree of autonomy granted to ADCs varies across regions. In several instances, state and central interventions have encroached upon subjects constitutionally entrusted to ADCs, thereby diluting their authority.
- **Corruption and Governance Issues:** Instances of corruption, nepotism, and weak governance structures within certain ADCs have impeded transparency and compromised their operational effectiveness.
- **Infrastructural Deficiencies:** The lack of adequate infrastructure and administrative support systems has adversely affected the ability of ADCs to plan and execute development projects effectively.
- **Limited Public Awareness:** A significant portion of the tribal population remains unaware of the roles, responsibilities, and powers of the ADCs, leading to low community engagement and underutilization of developmental opportunities.

Measures to Enhance the Efficiency of Autonomous District Councils (ADCs) to ensure the effective and seamless functioning of ADCs, several strategic interventions can be adopted:

- **Enhanced Financial Support:** Adequate budgetary allocations must be ensured, along with exploring alternative funding mechanisms, to provide ADCs with the necessary financial resources for developmental and administrative functions.
- **Capacity Development:** Regular training programs and workshops should be conducted for council members and administrative personnel to enhance their competencies in governance, planning, and management.
- **Comprehensive Legislative Clarity:** Clearly demarcating the roles and responsibilities of ADCs vis-à-vis state authorities can mitigate jurisdictional conflicts and facilitate coordinated administration.
- **Ensuring Transparency and Accountability:** Robust mechanisms for transparency and accountability must be instituted to curb corruption and foster effective governance practices within ADCs.
- **Infrastructure Strengthening:** Targeted investments in infrastructure, particularly in transport, healthcare, and education, are essential for supporting the socio-economic development of ADC-administered regions.

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- **Community Engagement and Awareness:** Awareness campaigns and participatory governance initiatives should be launched to sensitize communities about the functions and powers of ADCs, thereby fostering greater civic involvement.
- **Integration of Technology:** Adoption of digital tools and platforms can significantly improve administrative efficiency, service delivery, and citizen interaction with the councils.
- **Monitoring and Evaluation Systems:** Establishing structured frameworks for monitoring and evaluating the performance of ADCs based on measurable indicators will help in assessing progress and identifying areas for improvement.

Land Rights:

The Meghalaya Transfer of Land (Regulation) Act, 1971 formally acknowledges the land ownership rights of the indigenous tribal population within the state. Under the Fifth Schedule of the Indian Constitution, the Governor of a state with Scheduled Areas is empowered to formulate specific regulations aimed at safeguarding tribal interests in land matters. Similarly, the Sixth Schedule vests the District Autonomous Councils with the authority to protect tribal land rights and ensure their preservation. Due to geographical inaccessibility, tribal regions were historically excluded from the formal land governance frameworks. Consequently, tribal communities evolved and practiced their own customary systems of land management. Broadly, land ownership among tribal groups can be classified into three main categories: (i) Community owned land, (ii) Land held collectively by clans, and (iii) Land under individual possession.

Land and Resource Protection:

The legal framework ensures the protection of tribal lands and natural resources by prohibiting their transfer to non-tribal individuals or entities. This safeguard is essential for maintaining the territorial integrity and economic security of tribal communities, preventing exploitation and dispossession.

Deficiencies in Laws and Remedial Measures:

The alienation of tribal lands often stems from either insufficient legal safeguards or the ineffective enforcement of existing protections. Addressing this issue requires legislative reforms to close loopholes, alongside stricter implementation mechanisms to prevent unauthorized land transfers and ensure compliance with protective statutes.

Protection from Social Injustice:

Under Article 46 of the Indian Constitution, the state is obligated to promote the educational and economic advancement of Scheduled Castes (SCs) and Scheduled Tribes (STs) while shielding them from social exploitation and discrimination. This constitutional mandate underscores the need for proactive policies to uphold tribal rights and ensure equitable development.

Traditional Institutions:

Tribal societies often retain customary governance structures and social norms that significantly influence their socio-political dynamics. In Northeast India, for instance, the recognition and implementation of tribal community rights yield complex outcomes. While they enhance self-governance and cultural preservation, they also pose challenges, including intra community disparities and competition over resource allocation, necessitating balanced and inclusive policy approaches.

Increased Self-Governance:

Granting tribal communities' greater autonomy over their internal affairs—including resource management and decision-making processes—fosters empowerment and self-determination. This principle is reinforced by Article 371C of the Indian Constitution, which provides special provisions for Manipur. Under this article, the President may establish a Hill Areas Committee within the state legislature, comprising members elected from tribal-dominated regions. The provision also assigns the Governor a supervisory role to ensure the committee's effective functioning, thereby institutionalizing tribal participation in governance and policy formulation.

Protection of Land and Resources:

Secure land tenure and guaranteed access to natural resources constitute fundamental prerequisites for tribal communities' sustenance and welfare, given their heavy reliance on forests, water bodies, and other ecological assets. Effective conservation requires implementing sustainable land-use practices such as a forestation, regulated resource extraction, and prohibitions on environmentally detrimental activities. However, despite protective legislation, tribal lands frequently face alienation to non-tribal entities due to juridical lacunae. Existing constitutional safeguards and special provisions risk remaining merely symbolic unless tribal intellectuals and leaders are meaningfully incorporated into policymaking processes.

Land Alienation and Acquisition Laws in various States:

To address the issue of land alienation to non-tribals, various states have enacted specific laws. The state-wise overview of these land laws is outlined below (as detailed in Annexure VIII).

- **Assam:** The *Assam Land Revenues Regulations, 1886*, as amended in 1981, contains provisions under Chapter X that prohibits the transfer of land in Tribal Belts and Blocks to non-tribals.

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- **Manipur:** The *Manipur Land Revenue and Land Reforms Act, 1960* states in Section 153 that land owned by Scheduled Tribes cannot be transferred to non-Scheduled Tribes without the prior permission of the Deputy Commissioner. However, this Act, does not extended to the hill areas of the state, and thus does not apply to the tribals living in those regions.
- **Sikkim:** The *Revenue Oder No o. 1 of 1917*, is still in effect. Additionally, the *Sikkim Agricultural land Ceiling and Reforms Act, 1977* in Chapter 7, includes provisions to restrict the alienation of land by Scheduled Tribes. However, this chapter has not yet been enforced.
- **Meghalaya:** The *Meghalaya Transfer of Land (Regulation) Act, 1971*, strictly prohibit transfer of tribal land to non-tribals.
- **Nagaland:** The *Bengal Eastern Frontier Regulation, 1873*, along with the *Assam Land and Revenue Regulation, 1866*, (as amended by the *Nagaland Land and Revenue Regulation (Amendment) Act, 1978*), prohibit transfer of tribal land to non-tribals.
- **Arunachal Pradesh:** The *Bengal Eastern Frontier Regulation, 1873*, is in force and prohibits the transfer of any interest in land to non-tribals.

Promotion of Cultural Identity:

Formal recognition of tribal rights serves as a vital mechanism for reinforcing cultural pride and preserving indigenous traditions. Such institutional validation helps counteract historical marginalization and the gradual erosion of distinctive tribal identities in the face of modernization pressures.

Economic Inequality:

While land rights confer significant benefits, they may inadvertently intensify pre existing economic disparities within tribal societies. Notably, patriarchal inheritance systems frequently exclude women from property rights over land and immovable assets, perpetuating gender-based inequities in resource ownership.

Conflicts over Resources:

The institutionalization of tribal rights often precipitates resource-related tensions, both intra-community and between tribal groups and external actors. This segment analyzes community-level natural resource conflicts, examining their etiology and typology while assessing how policy interventions may inadvertently instigate disputes. The analysis further explores the intersection between resource conflicts, sustainable livelihoods, and collaborative management frameworks, with dual objectives: elucidating the complex relationships between these elements, and developing conflict-sensitive approaches to natural resource governance.

Potential for Exploitation:

The devolution of authority under tribal rights regimes carries the risk of elite capture, whereby influential community members may appropriate benefits from development initiatives or manipulate governance structures for personal gain, often at the expense of broader communal interests. The tribal people can be exploits by non-tribal groups by acquiring tribal lands through unfair means like duress or dishonesty. Diverse of Government schemes such as for providing education, healthcare, economic opportunities, infrastructures and social support to tribal communities by the dominant groups.

Challenges in Implementation:

For Operation of tribal rights has faces a substantial obstacles, including administrative inefficiencies, resource constraints, and opposition from entrenched power structures with vested interests in maintaining the status quo.

Impact of Development Projects:

Large-scale infrastructure and extractive initiatives - including mining operations, timber extraction, and hydroelectric projects - frequently generate disproportionate adverse effects on tribal communities. Merely recognizing tribal rights often proves inadequate to mitigate these impacts, necessitating stronger safeguards and participatory impact assessment mechanisms.

CONCLUSION

To address the systemic marginalization of tribal communities by dominant groups, the realization of justice-social, economic, cultural, and political requires the unhindered participation of tribal populations in governance structures. The exclusion of such participation equates to a denial of justice itself, as true democracy necessitates inclusive engagement in decision-making at all levels. A critical reassessment of the current framework is imperative, with particular attention to rectifying gaps and inconsistencies in existing legal protections.

Further, rigorous academic inquiry is essential to develop comprehensive solutions. While transforming entrenched norms and institutional practices may be a gradual process, genuine commitment to reform must originate from a place of principled conviction. In the Naga societal context, for instance, pervasive gender disparities persist across multiple domains. The most viable pathway to achieve gender equity lies in ensuring equal economic opportunities and equitable access to justice for both men and women. Only through such structural reforms can substantive equality be attained.

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