

# Development Induced Displacement- A Pitfall on the Land Rights of Tribal Communities in India?

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DOI: <https://doi.org/10.47772/IJRISS.2026.100300180>

Received: 17 March 2026; Accepted: 23 March 2026; Published: 30 March 2026

## ABSTRACT

In this era of artificial intelligence, tribal communities are those, who truly exist with their roots, ethnicity, tradition and simplicity and dedicated to maintain the same. Amongst several rights available to them, the land right including the forest right and some other customary rights is a pivotal one. Though there is subtle difference between the terms indigenous and tribal, both of them are used synonymously in the UN system. Land rights of the tribal community are quite protected constitutionally as well as legally in India except the man-made developmental issues often fail to secure the land rights and allied basic rights of this vulnerable class. Their Land rights have been strengthened by the Part XVI and Fifth and Sixth Schedules of the Indian Constitution, the Panchayat (Extension to the Scheduled Areas) Act, 1996, and their Forest rights have further been safeguarded by the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The system of land appropriation by the State for public purpose has aptly been overhauled by the all new LARR Act, 2013 that preserves their land rights in a very protective way replacing the rigid 1894 Act. In practice, displacement or relocation with monetary compensation, rehabilitation and resettlement seem to be a gimmick without a proper implementation of legal safeguards. Law seems useless except an appropriate implementation. Scattered acceptance and implementation of the LARR Act all over India worsen the plight of this marginalized community. The doctrinal paper is in search of probable solution to safeguard the basic and customary interests allied to land of the tribal community on the basis of a socio-legal study related to the sufferance faced by the unfortunate victims.

**Key words:** Land Rights, indigenous community, Indian tribal people, poverty, emotional suffering, vulnerable, Development induced displacement, Land Acquisition, resettlement, LARR Act.

## INTRODUCTION

Since the inception of human civilization, men use to utilize their intellect to improve themselves. Human brain coupled with scientific techniques has brought manifold changes in their primitive life. Gradually, 'development' has become a buzz word in their lifestyle esp. following the introduction of Laizze faire. Presently, man has realized the other side of the coin silently eating their vitals. Now they are relying upon the notion of degrowth and sustainability that helps them to visualize the ruinous effects of development. Two creatures of God are suffering worst in this regard. The former one is our Mother Earth with all her natural resources and beauties; latter one is the human being himself directly in the form of Development Induced Displacement victims.

Development Induced Displacement (DID) is the most detrimental outcome of the developmental projects of which the indigenous as well as tribal groups are the victims to sacrifice their livelihood by relocation, resettlement etc. Displaced people are those who are in any way forced to change their place of inhabitation permanently. Generally, displacement may take place internally or out of the country in the form of refugee. Some inevitable and unavoidable reasons of displacement are not the matter of discussion in this article but the infelicitous form of it is the man-made developmental projects shattering the life and livelihood of the tribal communities. In this context, it is relevant to mention that the terms Indigenous and Tribal are almost synonymous having fine-drawn difference. Indigenous people are the native of a specific geographical area survive with all their originalities, customs and traditional habits, whereas the Tribal people are also the

regional natives sometimes roam in the form of nomadic. The ILO Convention No. 169 is the instrument that tries to differentiate both from practical perspective. This document has framed subjective parameters to identify both communities distinctly as far as possible.<sup>1</sup> The subjective criteria in case of Indigenous includes their historical involvements in any geographical region or country during colonization, warfare or conquest or during the creation of present State boundaries, whereas the latter one only seems fulfilled with a unique socio-cultural and economic characteristics that denotes their originality.<sup>2</sup> Whatever may be their category-based distinction, internationally they belong to the genus named 'Indigenous'. The indigenous peoples are the most delicate part of population as they always continue with their tradition and prefer to live life organically using the natural resources.

### **International Instruments on Indigenous Community and Internally Displaced Persons:**

UN intervention regarding any vulnerable, ignored or neglected class all over the world treated as isolated from socio-economic perspective, always plays the crucial role for their upliftment. The first UN initiative can be traced in Declaration on the Rights of Persons belonging to National or Ethnic, Religious or Linguistic Minorities, 1992 where the promotion and protection of the people belonged to abovementioned groups and their contributions to the socio-political stability of the States where they live, have been focused.<sup>3</sup> This Declaration highlights the very existence of these groups as an inherent part of the societal development. The main international instrument to amplify their socio-political-cultural as well as financial safeguard is the UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples).<sup>4</sup> The whole charter is an emblem of the recognition of their innate fundamental rights that authenticates their qualitative presence in the society. Part III of this Declaration, i.e. Articles. 12-14 significantly protects and pampers the basic rights of the indigenous group in a very widened and comprehensive way. These Articles ensure their livelihood with all their socio-cultural-religious and traditional practices and ethnicity kept intact. Moreover, their literature, philosophy, art, religious customs and ceremonies, even their burial rituals should always be respected, reserved and protected as per the guideline of UNDRIP.<sup>5</sup> The rest provisions up to Part IX have guaranteed the other important rights like gender equality, right to education, administrative as well as political participation, individual and collective rights including all future rights etc.<sup>6</sup>

It is essential to mention here that the first global initiative regarding indigenous peoples, UNDRIP was initiated by the International Labour Organization and it tried to confirm that any State or social group has no right to ignore or deny the identity of the indigenous groups. Moreover, in the year 1991, the World Bank plays an active role with its revised policy directives. Financing of different developmental projects are the motto of these directives, esp. in the less developed countries.<sup>7</sup> Thus, the indigenous people are globally secured with overarching components of Right to life and livelihood.

The UN intervention is not a silent spectator with regard to the displaced people specifically. During the last phase of the twentieth century, the phenomenon named displacement became a new international agenda that highlighted the trouble of the Internally displaced persons (IDPs). Their political status somehow proved different from the status of a refugee. Unlike the refugees, the IDPs do not flee across borders. They fortunately use to stay within their own countries, under the control of their own Government. The UN Convention relating to the status of refugees was not applicable for them due to this thin difference in their political categories.<sup>8</sup> The Guiding principles identify and assure the all-major rights and freedoms, including

<sup>1</sup> Who are the indigenous and tribal peoples?, INTERNATIONAL LABOUR ORGANIZATION, (last visited July. 22, 2016), <http://www.ilo.org/resource/who-are-indigenous-and-tribal-peoples>.

<sup>2</sup> Id at 1.

<sup>3</sup> IAN BROWNLIE, BASIC DOCUMENTS ON HUMAN RIGHTS, 59 (Oxford University Press 2002).

<sup>4</sup> Id at 72.

<sup>5</sup> UNIVERSITY OF MINNESOTA HUMAN RIGHTS LIBRARY, <https://hrlibrary.umn.edu/instree/declara.htm> , (last visited Feb. 22, 2026).

<sup>6</sup> Id.

<sup>7</sup> Prof. J.K. Das. Protection of the Rights of the Indigenous Peoples Under Human Rights Law, HRDC-CU COURSE MATERIALS ON HUMAN RIGHTS AND SOCIAL JUSTICE, 197, 200 (2016).

<sup>8</sup> Roberta Cohen, *The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting*, 10, GLOB. GOV. 459, 459 (2004).

same rights and freedoms enjoyed by the rest of the global communities itself. These guidelines include an Action Sheet (Action Sheet-1 Forced and Unlawful Displacement) and a report of the Special Rapporteur on the Human Rights of Internally Displaced Persons. With the intervention of the Commission of Human Rights and the General Assembly, this report of the Special Rapporteur takes place as both appreciated the Guiding Principles in the role of an effective measure to deal this specific issue. The most recent one is the Secretary-General's Action Agenda on Internal Displacement, that projects three goals namely to support the IDPs by finding durable solutions, prevention of any new displacement crisis and ensuring the IDPs effective assistance and protection.<sup>9</sup> At the end note, the Secretary General approaches to the State members and the related stakeholders to initiate broader recommendations including High-level Panel Report beyond which have been addressed in this Action Agenda. Further he urges the State initiatives to proceed with a platform set up for ongoing dialogues on displacement at global and regional levels, and articulation of a new declaration or common statement of commitments on addressing, preventing and resolving internal displacements.<sup>10</sup>

### **Development Induced Displacement: what does it mean?**

It is a well-known fact that the Development Induced Displacement is a man-made phenomenon crashing the elementary aspects of indigenous as well as different tribal communities. Development is a wholesome concept fragmenting every corner of the society. At the cost of the seize-less plight of a particular section of the society, the nation ignites the illuminator. Development never contributes a blissful life to the global society at a time. DID is the outcome of urbanization, industrialization and some other form of infrastructural embellishments. It involves the forcible eviction of innocent people from their inhabitants and relocation in a completely new locality. Installation of development projects, establishment of Special Economic Zone (SEZ), manufacturing plants etc. transforms the original owners of the land to Internally Displaced Persons (IDPs) or Project Affected Persons (PAPs). IDPs or PAPs suffer endless pain due to their resettlement in an unfamiliar location leaving their origin, tradition, habits and other features of livelihood. This phenomenon is an evil eye on the victims when specially they belong to indigenous communities.<sup>11</sup>

Economic development is definitely indispensable for the advancement of any society. It expands and improves the standards of living of the citizens and offers a better life than before. It involves infrastructural development along with a need of urbanization. This process results into creations of framework like dams, railways, irrigation facilities, mining projects, different kinds of power stations, industries, roads, airports, shipping stations, educational institutions, hospitals, shopping hubs and many more, During the post-independence era, India concentrates on the heavy infrastructural establishments like irrigation projects, mega dams, dams, mining projects, hydro-power projects etc. through various Five-Year Plans. These progressive initiatives increase the Gross National Product on one hand and forced displacement on the other.<sup>12</sup>

Thus, gradually the magnitude of DID gets expanded and land acquisition by the State 'using' or better to say by 'misusing' the 'Eminent Domain' doctrine becomes a common phenomenon all over India. The Eminent Domain doctrine is an effective device to grab private properties or to displace people by insisting them to sacrifice their own lands. The Land Acquisition Act, 1894, a perfect utility tool of British colonialization seems an inept to protect the victims. The process actually lacks any protective shield of human rights violation and sucks the innocent lives of tribal communities in disguise of 'Public Purpose'. Uprooting and improper relocation of tribal communities for the shake of huge developmental projects seems a common story. The 1894 Act was less sympathetic regarding the loss of the inhabitants uprooted and least favourable to their interests. Due to frequent land acquisition issues, the local inhabitants were forced to leave their household properties and to settle elsewhere without proper monetary compensation and a suitable resettlement. If the victims belonged to tribal communities, they feel more awkward and uncomfortable to make themselves habituated in a completely different place without getting adequate time to cop there up.

<sup>9</sup> United Nations The Secretary General's Action Agenda on Internal Displacement, 4,7(2022), [https://www.un.org/en/content/action-agenda-on-internal-displacement/assets/pdf/Action-Agenda-on-Internal-Displacement\\_EN.pdf](https://www.un.org/en/content/action-agenda-on-internal-displacement/assets/pdf/Action-Agenda-on-Internal-Displacement_EN.pdf)

<sup>10</sup> Id. At 24.

<sup>11</sup> ASTHA SAXENA, LAND LAW INDIA, 189 (Routledge 2020).

<sup>12</sup> Sudesh Kumar & Anindya J. Mishra, Development-Induced Displacement in India: An Indigenous Perspective, 10, JMPP 1,2 (2018).

They are that tender group of citizens who breathe with their ethnicity, heritage and own culture. They are habituated to use the natural resources, forestry etc. and continue their livelihood in a most simple manner without using scientific technologies and artificial equipment. Their livelihood is mainly based on collection of forest woods for fire (which they are legally entitled to collect), fruits, honey and veggies, fish to eat, spring/river water to drink and other natural forest products to fulfill their minimum needs. The introduction of all new LARR Act, 2013<sup>13</sup> has created a pragmatic approach with regard to land acquisition for public purpose which is completely relevant in DID issues. Though it is more flexible and sympathetic towards protection of displaced people and provides a well framed acquisition process covering all corners of human rights violation risk, some of its flaws and its scattered acceptance by different States tend to paralyze its potency.

### Legal Safeguards provided to the Tribal People in India:

To write an overview on the socio-legal aspect of DID with special reference to its effect on various Adivasi communities in India, it is essential to review whether the incidents follow the Constitutional and legal parameters. The legal safeguards in India provided to the livelihood of the tribal people in India can be primarily segmented into three categories.

- The UN Declarations and Guidelines etc. (commonly termed as international instruments) also used as an essential tool for International Human Rights Movement with regard to inhumane effects of forced displacement.
- Constitutional safeguards,
- Statutory shields
- Policy mechanism.

The initiation of providing legal protections to the Indigenous people for the first time takes place with UN documents which have distinctly been discussed earlier. Now come to the constitutional safeguards provided to the tribals in India.

*Constitutional Mandates:* The citizens of India, the tribal communities are within the safety ring of the Indian Constitution, namely the Fundamental Rights and the Directive Principles of the State Policies (Part III and Part IV of the Indian Constitution). Along with the prominent constitutional safeguards like Right to Equality<sup>14</sup>, Right to Freedom of speech and expression<sup>15</sup>, the Right to life and Livelihood<sup>16</sup> is the cornerstone that protects all rights in a comprehensive manner snatched away by the forced displacement initiated by the State to subserve public purpose. Right against Exploitation (Articles 23-24), Right to freedom of Religion (Articles 25-28), Cultural and Educational Rights (Articles 29-30), and the Right to Constitutional Remedies (Articles 32-35) are the other allied Constitutional mandates supporting the indigenous population to maintain their originality and thus their access to basic human rights. The Part IV of the Indian Constitution ensures promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other marginalized sections.<sup>17</sup> The more specific constitutional measures for this marginalized group of people are enshrined in the Part X. Those provisions implant their administrative freedom<sup>18</sup> by segregating the administration of the tribal areas and initiating the formation of autonomous State in specific areas of India. The fifth and the sixth schedules of the Constitution are to categorize the administration of the Scheduled areas and Scheduled tribe area wise. The former one (Fifth Schedule) deals with the related subject in any States of India except the north eastern states like Assam, Tripura, Meghalaya and Mizoram. The Sixth schedule is for

<sup>13</sup> The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, 30, Acts of Parliament, 2013 (India).

<sup>14</sup> INDIA CONST. arts 14-18.

<sup>15</sup> INDIA CONST. arts 19-22.

<sup>16</sup> INDIA CONST. arts 21.

<sup>17</sup> INDIA CONST.art. 46.

<sup>18</sup> *Id*, arts. 244-244 A.

those north eastern states and Article 244-A speaks for the formation of an autonomous State.<sup>19</sup> Furthermore, the President of India, under Chapter XI of the Constitution, in any State or Union Territories may specify by public notification any tribes or tribal communities, or people belong to any caste or race as scheduled tribes. When the specific community to be declared, belong to any State, The President of India may declare it in consultation with the Governor of the respective State.<sup>20</sup>

*Statutory Protection:* To give effect to Part X of the Constitution of India, the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA Act,1996) has been enforced to secure the rights of the Tribal Communities.<sup>21</sup> This Act is the operative form of the Constitutional provision Article 244-A. This statute is to ensure self-governance by the people of scheduled areas. The Act has been introduced to maintain the traditional customary laws and practices followed by the tribal people. The sections 4(m) (ii) and 4(m) (iii) of the statutes guarantees the ownership of the minor forest produce and the power to prevent alienation of land in the scheduled areas and the power to restore back the unlawfully alienated land of the scheduled tribe. It is a revolutionary step on the part of the Government to prevent land alienation and forceful acquisition in the scheduled areas.<sup>22</sup>

In this context it is essential to mention that, within the periphery of West Bengal, The West Bengal Land Reforms Act, 1956 is the state legislature to deal with the land reforms issues within the State which also restricts the modes of the transfer of land belong to a scheduled tribe person. It can be transferred in between two persons belong to the same category. This Act protects the control on the ownership of the scheduled tribe people on their lands by Implementation of Sections 14B and 14C. It ensures their right to economic justice as a fundamental right.<sup>23</sup>

Basically, the primary and to some extent the sole resource to most of the tribes in India is land. A wider connotation of their land rights as well as their right to livelihood has imposed more importance on forest lands rather than agricultural lands.<sup>24</sup> So, the land rights of the person belonged to a marginalized group as scheduled tribe is again protected with another landmark law named The Forest Rights Act, 2006, also known as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The term 'traditional forest dwellers' is significant here. It denotes the scheduled tribes and other forest dwelling tribal communities who fully depend upon the forest for their habitation, livelihood and other socio-cultural needs. This Act assures the rights of self-cultivation, grazing and fishing and access to the waterbodies in the forest areas and access to seasonal resources. Section 4(5) of the Forest Rights Act,2006 states that the members of the forest dwelling Scheduled Tribes shall not be evicted or removed from the forest land without a proper legal procedure or better to say they cannot be evicted until the recognition and verification process is completed. It is also pertaining to mention that these rights ensured to the tribal forest dwellers are not unrestricted in any way. The statute also entrusts the Gram Sabha, means the unit of local autonomous body Panchayat, the responsibility of protection and conservation of wildlife, bio-diversity etc. Section 4(i) of the PESA Act mentions that the Gram Sabha or the Panchayat must be consulted before appropriation of land in the Scheduled areas for the implementation of any development project. Actually, the statute intends to protect the forest dweller's right to continue with their natural habits and lifestyle in a manner which they use to follow by limited utilization the natural resources as permitted by laws. The main purpose and objectives of the Forest Act are:

- To protect the forest dwellers from any injustice
- To ensure the land tenure and the allied land rights, livelihood and food security of the forest dwelling Scheduled tribes and other traditional forest dwellers.<sup>25</sup>

<sup>19</sup> NORTH EASTERN COUNCIL, <https://necouncil.gov.in> (last visited Feb 26, 2026).

<sup>20</sup> INDIA CONST, arts. 341-342.

<sup>21</sup> INDIA CODE, <https://www.indiacode.nic.in> (last visited Feb 26, 2026).

<sup>22</sup> Id.

<sup>23</sup> AMAL KUMAR DAS, THE WEST BENGAL LAND REFORMS ACT 1955 & RULES, 263-265 (Rabinson Law House 2006).

<sup>24</sup> C. Ashokvardhan, Tribal Land Rights in India LRS LBSNAA, Introduction (2006), <https://share.google/V9LBOrIUip9K5wTOR> .

<sup>25</sup> MINISTRY OF TRIBAL AFFAIRS GOVERNMENT OF INDIA, <https://tribal.nic.in/fra.aspx> (last visited Feb. 27, 2026)

- To put emphasis on the strengthening of forest administration and on the respective authority to implement and upheld the concepts of sustainable use of resources, maintenance of ecological balance and the conservation of biodiversity.<sup>26</sup>

Since independence, India has been planning its economic development in the form of financial growth, economic equity and social justice, employment prosperity, modernization etc. implemented through different Five-Year plans. Modernization is such a phenomenon that needs constant flow of manpower and land resource. Both are available in the forest areas inhabited by the marginalized population named 'Adivasi' or Tribes. The members of this marginalized class are the owners of meagre quantity of land, that they utilize for their simple, culture oriented and traditional livelihood. Appropriation of the tribes dominated forest lands at the cost of the right to livelihood of this vulnerable class seems a quick-safe solution. Due to this reason, Development Induced Displacement in the forest areas full of resources became a common trend and reflects a devastating effect on the Tribal livelihood.<sup>27</sup>

Deforestation for urbanization and relocation of those displaced at a completely different demography is definitely painful for any forest dweller. Another legal concept is significantly relevant to this unfortunate issue is concept of 'Land Acquisition', that empowers the State to appropriate property or land from the common man for the developmental purposes. This legal process is the outcome of the 'Doctrine of Eminent Domain' propounded by the Dutch Jurist cum lawyer Hugo Grotius in the 17<sup>th</sup> Century, in a legal treaty named '*De Jure Belli et Paris*' where he highlighted the importance of Supreme Lordship.<sup>28</sup>

Actually, this notion of land grabbing by the highest authority means the State, is really useful to the concept of Welfare State. Without the utilization of land grabbing process, the State seems limbless to fulfill developmental exigencies. A Welfare State is that State, which is determined to provide all sorts of opportunities including equitable distribution of wealth and social security to all its citizens.<sup>29</sup> From this context, infrastructural upgradation of the society is crucial indeed but not jeopardizing anyone's loss, esp. at the cost of the livelihood of the indigenous and marginalized groups. A Welfare State should always maintain check n balance between collective interest and individual human rights.

A circular had been issued by the Ministry of Environment and Forests (MoEF) in 1990, where they chalked a mechanism to distinguish between land grabbing authorities having enough power and the legitimate land claims of the marginalized communities depending on forest lands to maintain livelihood. Unfortunately, the mechanism and instructions seemed difficult to implement to most of the States and the initiative ended at a stagnant and complicated situation.<sup>30</sup> Due to neoliberal policies taken by the States coupled with a series of judicial verdicts, 1990s witnessed a considerable number of displacements of the people in India. It got checked in 1997, when the Apex Court directed to the different State Governments and the Central Government to expedite the process of acquisition of land and determination of rights.<sup>31</sup> 2001 witnessed the well-known T.N. Godavarman case (T.N. Godavarman Thirumulpad v. Union of India, ) decision pronounced by the Supreme Court, where it imposed a stay on the all-non-forest activities in the forest areas beyond the permission of the Central Government.<sup>32</sup> The Forest Rights Act is an exemplary piece of legislation in which a series of significant socio-legal theories had been embedded in different provisions. Those concepts are principle of legitimacy, principle of subsidiarity, rule of law etc.<sup>33</sup>

*Land Acquisition laws in India - the 1894 Act and the LARR 2013 Act:*

<sup>26</sup> *Id.*

<sup>27</sup> G. Srihari, Land Acquisition and Tribal Displacement in India, 5, JAHSS, 53, 53-54 (2022).

<sup>28</sup> ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/money/eminent-domain> (last visited Feb 28, 2026).

<sup>29</sup> Will Kenton, *Welfare State Explained: History, Principles and Criticisms*, INVESTOPEDIA, (Oct. 02, 2025). <https://www.investopedia.com/terms/w/welfare-state.asp>.

<sup>30</sup> VARSHA BHAGAT GANGULY ET, LAND RIGHTS IN INDIA: POLICIES, MOVEMENTS AND CHALLENGES, 196 (Routledge 2016).

<sup>31</sup> *Id.*

<sup>32</sup> *Id* at 206.

<sup>33</sup> *Id* at 197.

The inception of the Land Acquisition law in India comes with the British rulers for the expansion of their colonial regime. This Act seems extremely rude and draconian. Out of total 55 sections the interest of the indigenous India has no place secured. All provisions engrafted there are specifically for the protection of the land acquiring power, that is the administration. This hollowness has considerably been fulfilled by the new LARR Act 2013. In the meantime, innumerable land acquisitions all over India has resulted into sheer impoverishment, loss of lives and livelihood, destruction of traditional practices, endless emotional pain, different physical ailments and mental diseases due to loss of ancestral land/household properties. The 2013 Act has introduced some new concepts to treat the displaced people, like the extended list of public purpose, Social Impact Assessment (SIA) etc. Most interestingly, it should be pointed out that specifically Sections 41 and 42 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013 have demonstrated well explained provisions for the people belonged to Scheduled Castes and Scheduled Tribes. Although, the journey from the 1894 Act to the 2013 Act is not so easy and smooth.

*The Journey from the 1894 Act to the 2013 Act- gradual insertion of specific provisions for the protection of the affected marginalized people:*

As discussed above, the 1894 Act appears to be truly numb regarding the unpleasant fate of the DID victims, esp. the scheduled tribes and other traditional forest dwellers. It went through several amendments none of them brought any legal provision regarding the statutory protection of the land rights of the indigenous people. Actually, Land Acquisition alone has no power to provide a sensitive solution to the project affected people. It can be effective only while coupled with a comprehensive arrangement of resettlement and rehabilitation.

**The National Rehabilitation and Resettlement Policy, 2007** primarily drafted in the year 2003 took the final shape in the year 2007. It is the first policy to impose greater responsibility on the policy framers to set up agreements for all the involuntary sufferers facing the negative impact and to speak of the provision of rehabilitation and resettlement along with the monetary compensation.<sup>34</sup> One of the glaring objectives of the 2007 policy is to emphasize the special needs of the victims belonged to marginalized group, like the Scheduled Castes and Scheduled Tribes. Moreover, it highlighted the necessity of rehabilitation for the project affected people and a better standard of living for all of them. Furthermore, it proposed the minimization of large-scale displacement, total area of land appropriated and also aimed to minimize the acquisition of agricultural land for non-agricultural purposes.<sup>35</sup> The policy again emphasized that during the post displacement situation, in case of agricultural lands belong to different communities, should be kept together to continue with their own socio-cultural identities.<sup>36</sup>

The manifestation of Eminent Domain theory has its strength in the concept of 'public purpose' that establishes the acquisition as an 'inherent right of the sovereign'. The tussle between collective interest in the form of public purpose and individual sufferings has been deepened with democratic participation which has actually amplified the negative impact of the process of land grabbing esp. its effect on the vulnerable and marginalized classes like Dalits, Adivasis and landless. They have been affected ceaselessly with the variety of large-scale acquisitions like mining and dam projects.<sup>37</sup>

Section 41 of the 2013 Act<sup>38</sup> clearly provides basic provisions for the property rights of the persons belonged to Scheduled Castes and Scheduled Tribes and the Sec.42<sup>39</sup> ensures the continuation of the reservation and other allied benefits available to the resettled marginalized displaced people.

<sup>34</sup> Sunil Mittal & Hardeep Kaur, *National Rehabilitation and Resettlement Policy, 2007*, e-Adhyayan, <https://ebooks.inflibnet.ac.in/esp12/chapter/national-rehabilitation-and-resettlement-policy-2007/>

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Amlanjyoti Goswami, *Land Acquisition, Rehabilitation and Resettlement: Law and Politics*, IIHWP, 1,9 (2013), [https://iihs.co.in/wp-content/uploads/2013/11/Land\\_Acquisition\\_Law\\_and\\_Politics\\_Amlanjyoti\\_Goswami.pdf](https://iihs.co.in/wp-content/uploads/2013/11/Land_Acquisition_Law_and_Politics_Amlanjyoti_Goswami.pdf).

<sup>38</sup> *Supra* note 12.

<sup>39</sup> *Id.*

A vivid description and analysis of the **Sections 41 and 42 of the LARR Act, 2013** will add some more strength to this discussion. Both sections provide direct legal protection to the Development induced displaced people representing the marginalized class. It is no doubt a comprehensive statutory shield to them.

The foremost provision of section 41 is to control the acquisition of land in the scheduled areas as far as possible except as a demonstrable last resort. If any acquisition takes place in the scheduled area under the Fifth Schedule of the Constitution as a last option, then the prior consent of the concerned Gram Sabha is essential. In a scheduled area where the Gram Sabha has not been constituted or does not exist, the Panchayats and the Autonomous District Council in case of land acquisition or appropriation due to any exigency in that particular scheduled area work. Moreover, under clause 4 of the section 41, a land acquisition in the scheduled areas that involves an involuntary displacement of the Scheduled castes and scheduled tribe families, preparation of a development plan is mandatory describing the detail procedure for settling the land rights due to the affected people belonged to SCs and STs. As those acquisitions affected people completely depend up on forest, to maintain the nature of their livelihood the Development Plan also contain a developmental programme for an alternative arrangement of forest articles like fuel fodder and non-timber forest produce on non- forest land for next five years where they will be resettled. This arrangement should meet their requirements. Regarding the compensation issue, if the land has been decided to be acquired under section 41, the land losers mean the Scheduled Castes and Scheduled Tribe person should be paid with the one-third of the total compensation amount initially. The remaining amount is to be paid after taking over the possession of the land. The resettlement of the affected people should be done in such a scheduled area which is preferably of same character and in a compact block. Under this arrangement they will be able to retain their linguistic, ethnic and cultural identity. Furthermore, the appropriate authority will also arrange a land within the resettlement area where the Scheduled Castes and Scheduled Tribe are relocated for their social and community gatherings. This is to restore their cultural tradition. Any alienation of tribal lands and lands belonging to the members of the Scheduled Castes in violation of the laws and regulations for the time being in force shall be treated as null and void. In that case the rehabilitation and resettlement benefits shall be made available to the original tribal land owners or the land owners belonged to the Scheduled Castes. Fishing right is a vital land right belonged to the forest inhabitants mean the tribal community. To protect this right, fishing in the reservoir area of the irrigation or hydel project shall be arranged in the resettlement zone. Finally, the section also assures a compensation amount of additional twenty-five percent in addition to the resettlement and rehabilitation benefits in monetary term along with the one-time entitlement of fifty thousand rupees.

Section 42 of the LARR Act also adds to some more protective shield to the legal safeguards. The Reservation benefits and other benefits available to the Scheduled Castes and Scheduled tribes in the affected areas shall be continued to the resettlement area. Sec 42(2) re-ensures that the location of the affected families belonging to the Scheduled tribe who are the residents of a Scheduled area mentioned in the Fifth Schedule of the Indian Constitution, or the Scheduled tribes who belong to the Sixth schedule as an inhabitant of tribal areas - all will be secured with statutory safeguards, entitlements and benefits being enjoyed by them even after relocation and resettlement. Moreover, the community right guaranteed by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 shall go parallel as mentioned in the section 42 (3) of the LARR Act, 2013. The displaced person should be paid the monetary amount in proportion with his share in such community rights.<sup>40</sup>

### **Policy mechanism:**

The main two policies framed by the Ministry of Tribal Affairs are named the National Tribal Policy (NTP) introduced in the years 2006 and 2016. The 2006 policy is truly relevant to the displacement issue as it intends the preservation and promotion of the traditional knowledge and wisdom of tribal communities. The draft policy of NTP 2006 suggested resettlement of the tribal communities nearer to their natural habitats along with the provisions of proper sanitation, electricity, roadways, facility of adequate healthcare, education, training for tribal youth and dissemination of tribal traditional knowledge through exhibition and models. Their traditional wisdom like their own created irrigation channel, technique of water harvesting, in the hills construction of cane bridges, adaptation of desert life, unique utilization of different spices and herbs, medical plants collected

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<sup>40</sup> *Supra* note 12.

from the forest—all those were intended to be preserved and promoted.<sup>41</sup> It is a very comprehensive policy that emphasizes the prevention of alienation or appropriation of land owned by the Scheduled Tribes and the protection and vesting of rights of STs on the forest lands and other forest rights, along with the ownership over minor forest produce. It also suggests for the minimization of displacement and an urge for a legislative support for appropriate resettlement and rehabilitation (that has been fulfilled with the introduction of the LARR Act, 2013). The NTP 2016 also suggests minimization of forceful displacement of the tribal communities as compulsory acquisition that already have shattered the livelihood of almost 85.39 lakh tribals due to construction of big projects like dams, roads, mining and quarrying operations, reservation of forests as national parks and sometimes as sanctuary even. The suggestions depicted in the 2016 NTP has already been assured in the Sections 41 and 42 of the 2013 LARR Act.<sup>42</sup>

### Development Induced Displacement in different parts of India:

Development induced Development is really a social menace for the victims affected by it. DID is such a phenomenon that involves the concept of human rights in two-fold manner. It is an obvious weapon of the nation for developmental object and fulfills the urge of Right to Development on the part of common people. Thus, it maintains the growth and enhancement of the pace of socio-economic life. At another end, its outcome embraces devastating effect on the victims, specifically on the tribal communities, whose properties or lands have been appropriated by using the trick named 'public purpose'. It exhausts not only the livelihood but the other core elements of life, means their socio-economic balance by destroying their common resources, their health, their culture, linguistic ethnicity, their education, folklores their mental stability and peace, everything. This exhaustion results into impoverishment and shatters the originality of the marginalized classes.

In India, DID has become a normal phenomenon compelling common people and indigenous population as well to shift from their place of origin. Our country is such a country has a record of more than 4000 dam construction since independence. As per the data given by the Ministry of Tribal Affairs, till 1990 85 lakhs tribal people were displaced from their ancestral lands and dam construction can be cited as the sole reasons to contribute 75% of the total displacement.<sup>43</sup> India has a bag full of experiences of displacement of tribal community due to developmental impact on the life and livelihood of the tribes named Bhuiyas, Paudi and Juangs, who were forcefully evicted from their forest land and denied their forest rights. This analysis should be started with the most discussed and debated DID event in India in the year 1991, the Sardar Sarovar dam project (SSP) in Gujarat. SSP is the story of the construction of dam across the river Narmada. A total of 41000 affected families has been there and all of them have not been marked as project affected, hence lost the scope of receiving compensation.<sup>44</sup> Basically, it is a project for public purpose aimed to irrigate 1.8 hectares of land to provide drinking water to 4720 villages and 131 towns of Gujarat. In addition to that the dam is expected to generate 1,450 MW of electricity. This project is a glaring example of noble infrastructural development. At the same time, it is supposed to create a huge reservoir and for this purpose 37000 hectares of lands including forest and agricultural lands belonged to three states namely Gujarat, Madhya Pradesh and Maharashtra. The construction involved the diversion of 9.5-million-acre feet water from river Narmada into a canal and other irrigation system covering 75000 kms. With a main canal of 460 km length. In Andhra Pradesh, during the phase 1951-1995, development induced displacement has a grave impact on the human livelihood, especially on the tribal communities.<sup>45</sup> Moreover, significant changes in the livelihood pattern and household income of the Kharia tribe due to relocation of the community is noteworthy as an effect of Simlipal Tiger and Biosphere Reserve in Odisha. The Mahanadi Coal Fields Limited affected the family system, concept of kinship amongst them, mutual solidarity and a strong community network that resulted into socio-cultural disintegration.<sup>46</sup> Other two DID events in Odisha, destroying the age-old tribal culture are namely the Kashipur mining based refinery projects of the Utkal Alumina International Limited (UAIL) and Lanjigarh

<sup>41</sup> PRSINDIA, [https://prsindia.org/files/bills\\_acts/bills\\_parliament/2005/bill53\\_2007010353\\_Draft\\_national\\_Policy\\_on\\_Tribals.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2005/bill53_2007010353_Draft_national_Policy_on_Tribals.pdf) , (Feb. 28 2026).

<sup>42</sup> MCRHRDI, <https://www.mcrhrdi.gov.in/87fc/policies/NATIONAL%20POLICY%20ON%20TRIBALS.pdf> (Feb 28, 2026).

<sup>43</sup> MAHANIRBAN CALCUTTA RESEARCH GROUP, <https://www.mcrg.ac.in> (last visited Feb. 28, 2026).

<sup>44</sup> FORCED MIGRATION REVIEW, <https://www.fmreview.org/oleschak> (last visited Feb.28, 2026).

<sup>45</sup> Dandub Palzor Negi & E.P. Abdul Aziz, *Impact of Development Induced Displacement on the Tribal Communities of India: An Integrative Review*, 22, APSSR, 50, 54 (2022).

<sup>46</sup> *Id.* at 53.

mining based refinery project of Vedanta Aluminum Limited (VAL). In the State of Odisha, there is a trend of calling the resettled tribal people as ‘*budhiloka*’ means outsiders. This is a kind of derogatory remark in the local context. It definitely decreases their social status and this type of disparaging remark shows the non-acceptance of the natives increases their state of helplessness. Baruah has remarked that this phenomenon brings a kind of drastic transition in the socio-economic lives of the cultural communities.<sup>47</sup> In the North -East India, similarly the tribal dominated regions of Arunachal Pradesh and Assam have been gravely affected owing to the DID named Subansiri Hydro Electric Project (LSHEP). Most interestingly the Mishings of Assam and the indigenous of Arunachal Pradesh named Koch-Kalita, Ahom, Sunuwal Kachries, Koibatra have been affected not due to direct displacement but due to an indirect one.<sup>48</sup> They lost their common natural resources. In Rajasthan, DID had significant impact on the livelihood of the Meena Tribe during the establishment of the Sariska Tiger Reserve in Rajasthan. Construction of the Polavaram Dam in Andhra Pradesh created a mass eviction of tribal communities there. Conversion of the forest areas has affected thousands of tribal households. While setting up the Kuno Sanctuary in Madhya Pradesh, it had an adverse impact on the livelihood of the Sahariya Tribal Community.<sup>49</sup> Those innocent indigenous people lost their landholding and traditional resources and they were forced to work as labours with nominal wages. The Silent Valley project in the Attapady region of Kerala alienated land rights from the tribal inhabitants there.<sup>50</sup> Thus, innumerable events of DID all over India have their ruinous impact on the different tribal communities. Not only an attack on their common resources results in sheer impoverishment or source of income, but their own languages, own culture, ethnicity and their overall social status as the native of the particular village or forest village acquired for the development completely darkens their livelihood.<sup>51</sup>

### Human Rights Perspective of DID in India:

As the report named ‘Observations on the State of Indigenous Human Rights in India’ prepared on March, 2022, for the United Nations Human Rights Council says that under the Constitution of India only 705 indigenous communities are recognized as ‘Scheduled Tribes’ and the rests are unrecognized. They all are commonly known as ‘Adivasis’. ‘Adi’ means the oldest native, means they are the most ancient and original inhabitants (basi/vasi) of a particular region. According to 2011 Census, out of the total population of India, the Adivasis constitute 8.6% and 90% of them are the inhabitants of the rural regions in 30 States of India. India still follows the guideline prescribed by the Advisory Committee Report, popularly known as Lokur Committee Report (1965).<sup>52</sup> That Committee used the following parameters in the revision of list of Scheduled Castes and Scheduled Tribe;

- i. Primitive traits
- ii. Geographical isolation
- iii. Distinct culture
- iv. Backwardness, mainly economical
- v. Shyness of contact with the community at large.<sup>53</sup>

In the Report (2022) prepared for the United Nations Human Rights Council India is suggested to ratify the ILO Convention 169 to process land claims in compliance with Indigenous land rights as per the Nation’s (India’s) international obligations. It also mentions that India has not yet taken any step to protect the

<sup>47</sup> *Id* at 54.

<sup>48</sup> *Id.* at 53.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 54.

<sup>51</sup> *Id.*

<sup>52</sup> Observations on the State of Indigenous Human Rights in India prepared for United Nations Human Rights Council, 1 (2022), <https://uprdoc.ohchr.org> .

<sup>53</sup> Dr. Ashish Kumar Lal & Dr. Aditya Pratap Singh, *Special Provisions for Tribes in The Indian Constitution: articles, Committees & Recommendations*, IJHSSM, 699, 699 (2025).

indigenous human rights defenders. The report alleges that one 84 yrs Catholic Priest named Stan Swamy who advocates for Adivasi rights against forest displacement and land theft has been arrested on fabricated terrorism charges despite of his Parkinson's disease.<sup>54</sup> This 2022 Report most significantly states the implementation related lacuna or misuse of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (popularly known as Forest Rights Act, 2006). As per the monthly progress report of the FRA, the Government ignores their claims over the forest lands as their ancestral lands. As result of compulsory eviction, the homelessness and impoverishment are not usually recovered with adequate compensation, fair resettlement plans etc. Moreover, sometimes the prior consultation before rejection of claims involves a sheer violation of audi alteram partem rule (Right to Fair Haring) of Natural Justice.<sup>55</sup>

### Landmark Judgements on the Land Rights of the Indigenous population in India:

Indian judiciary mainly the Apex Court of India has passed innumerable judgements in the favour of the Adivasis in India considering their land rights and other accessory rights. In one matter <sup>56</sup> in the year 2009, the Apex Court clarifies the limits of colorable legislation doctrine and the concept of vested rights in the Kerala Restriction on Transfer by and Restoration of Lands to the Scheduled Tribes Act, 1999<sup>57</sup> In the year 2019, the Supreme Court in the matter of Wildlife First & Others vs. Ministry of Environment, Forest and Climate Change and Others <sup>58</sup>has directed total 21 States not to ignore the land claims of the indigenous forest dwellers who are often neglected and rejected with their land rights and forestry rights. Even the Court stayed the eviction process as the Court has doubt regarding the compliance of legal process by the State parties. The States are directed to clarify sufficient reason to evict and detach them from their roots.<sup>59</sup>

### The Pathalgari Movement: a revolution by the indigenous population of Jharkhand:

In the recent times, the well-known Pathalgari Movement, initiated in 2017-2018, is an assertion by the Munda tribe in the Khunti region of Jharkhand on the demand of their ancestral land rights, customary rights etc. The name of the movement Pathalgari apparently denotes the outer subject matters of the movement It literally means a curved stones in the local language. The protest gets this name as the native Mundas erected carved stones along the boundaries to mark the boundaries of their ancestral lands. According to their custom placement of a huge stone marks the death of a community member. The Pathalgari movement thus paid tribute to the community ancestors. The core meaning of the protest magnifies their demands against land grabbing for commercial purposes.<sup>60</sup> Actually, the Government tried to set up a mining hub in that particular area of Jharkhand at the cost of ancestral lands belonged to the tribal communities and the Government also tried to abolish the Chota Nagpur Tenancy Act, 1908 (CNT Act, 1908) and the Santal Parganas Tenancy Act, 1876 (SPT Act, 1876) to facilitate the land acquisition process. Actually, these two statutes introduced by the British Raj were framed to protect them from the land acquisition due to colonialism. They were the effect of agitation and rebellion against the land grabbing tendency of the British by the indigenous population during pre-independence era. Moreover, Government attempted to transfer the tribal lands of that area to the non-tribal entities, simply for commercial purpose. The rebellious Mundas tried to restrict the entry of any outsiders and tried to establish their Gram Sabha as the only sovereign power and the real constitutional body to control and monitor their livelihood.<sup>61</sup> They were so devoted to protect their own root that they protested with the bow and arrow in their hands along with the slogan that “*we are the Bharat sarkar*”. The youth amongst the whole community seemed more rebellious to establish that the Adivasis are the original inhabitants of the nation and they are the owners of every natural resources like *Jal, jungle and jameen (water, forest and land)* and they

<sup>54</sup> *Supra* note 52.

<sup>55</sup> *Id.*

<sup>56</sup> State of Kerala & Anr v. Peoples Union for Civil Liberties and Ors (2009) 8 SCC 46.

<sup>57</sup> Casemine, <https://www.casemine.com/commentary/in/supreme-court-clarifies-limits-of-colorable-legislation-doctrine-in-land-restoration-act-case/view> , last visited Mar.25, 2026).

<sup>58</sup> 2019 SCC Online SC 117.

<sup>59</sup> *Id.*

<sup>60</sup> THE HINDU, <https://www.thehindu.com/news/national/other-states/the-pathalgadi-rebellion/article23530998.ece> (last visited Feb.28,2026).

<sup>61</sup> *Id.*

urged for the full empowerment of the local authority means the Gram Sabhas or the Panchayats. Appropriate implementation of the PESA Act can save the Adivasis from all sorts of DID hazards like land alienation, land grabbing, frequent exploitation, impoverishment and destruction of cultural heritage.<sup>62</sup>

This movement is the symbol of their overlong agitation, grievance and urge autonomous strength to get rid of their socio-economic backwardness, isolation and related issues. The Adivasi community, through this movement tried to establish their own power and to make it clear to the Government that the Mundas are self-sufficient with their own autonomous power. They tried to warn the Government that the law of the land is not applicable to their villages.<sup>63</sup>

**Conclusion and Suggestions:** Forest and forest dwellers are synonymous and inseparable. Both are connected through emotional, cultural ties. The tribal forest dwellers are dependable on the forest for every inch of their livelihood. DID is not the sole phenomenon to snatch their inherent forest rights, rather it has been initiated with the introduction of the Indian Forest Act in 1927 by the colonial power. Their simple, traditional forest-based lifestyle has been threatened repeatedly.<sup>64</sup> On the other end, development and development induced displacement is such a duo that are affixed to each other by a cause-and-effect bond. Development needs its own course of action and is a mandatory pillar of welfare administration. Land laws in India have now become more leaned towards modernization rather than praising its traditional use involving agrarian and forestry. Dr. Fernandes notices that sometimes the State policies like grant of land or loan amount initiated after displacement and the compensation paid to them are well accepted by the displaced tribes as they need it for children's education etc.<sup>65</sup>

Despite a few positive effects, displacement of tribes is a worst phenomenon with several worries and uncertainties. It has a devastating effect on their livelihood from each and every aspect, means socially, culturally, economically. It destroys their health, tradition, emotional strength and happiness. In this era of technological boom and infrastructural influence, DID is also indispensable. Without land acquisition infrastructural growth and financial upliftment of the society will get stagnated. A balanced and sustainable endeavour is the need of the hour and adequate empathetic effort should be focused considering the human rights perspective of the issue.

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<sup>62</sup>*Id.*

<sup>63</sup> PARTICIPEDIA, <https://participedia.net/case/12525> (last visited Feb.28,2026).

<sup>64</sup> PESA ACT, 1996, <https://socialissuesindia.wordpress.com> (last visited Feb.28, 2026).

<sup>65</sup> REGIONAL WORKSHOP ON LAND ADMINISTRATION IN NORTH EAST STATES: DISTANCE COVERED AND CHALLENGES AHEAD, LBSNNA (2010)