

Tribal Empowerment or Dispossession? A Comparative Analysis of Tribal Governance from Niyamgiri to Polavaram under PESA and FRA.

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Abstract

This paper employs discursive analysis to investigate whether the legislative framework for tribal governance under Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA) followed by Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), provides substantive justice or merely a procedural justice within the ambit of decentralised governance of neoliberal accumulation by dispossession. Relying on the Bhuria Committee Report, Gadgil Report, and the Xaxa Committee Report, this paper reconfigures the need for refinement in the political economy framework to counter the hegemony of private enterprises and crony-capitalism. Through a comparative analysis of Niyamgiri hills mining and the Polavaram dam project, this paper demonstrates how tribal empowerment remains unforeseen and irregular as most of the development projects idealise resource extraction instead of sustainable development. Furthermore, it investigates how the caste-tribe continuum and displacement in case of Niyamagiri and Polavaram have not only penetrated into the identity of tribal population in their geographical habitats but have also impeded into their socio-cultural paradigm. The paper concludes with pragmatic solutions to deal with the inefficiency in tribal governance by analysing policies adopted by various countries around the world for the structural transformation of tribal governance.

Keywords: Tribal Empowerment, PESA, FRA, Accumulation by dispossession, Caste-Tribe Continuum, Indigenous Rights, Crony Capitalism.

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1. Introduction

India, the largest populated country constitutes one of the largest indigenous communities' accountings for about 8.6% of its total population (Ministry of Tribal Affairs n.d, 112). Article 342 recognises these communities with their distinct socio-cultural practices and governance. (Constitution of India, art. 342). Although tribal societies are outside of rigid caste hierarchy, many findings suggest their connection with mainstream society using caste tribe continuum to show their economic dependency and social marginalization (Ghurye 1963).

From colonial rule to post independence, tribals have faced many forest regulations that ultimately lead to alienation and employ the danger of their livelihood (Ambagudia 2010, 60). Through neo liberal reforms and so-called development programmes, the community-controlled resources are handed over to the private enterprises to which David Harvey describes as accumulation by Dispossession in *The New Imperialism* (Harvey 2003). Such neoliberal accumulation through Dispossession has shown up in these regions as extensive land acquisition, relocation and environmental damage. Simultaneously, tribal geographies are also affected by the rural urban transition. Construction of dams, mining activities and industrial developments have changed forest Tribal areas into global and national markets. This transition also impacts the pattern of labour and social organization (Fernandes 2008). Due to this, tribes migrate towards urban areas and are forced to work at very low wages affecting their social economic relations.

There are constitutional frameworks under Schedule Fifth and Schedule Sixth to deal with historical injustices faced by tribal communities (Constitution of India, arts. 244(1)-(2), 275(1), scheds. V-VI). Besides, the Panchayats (Extension to Scheduled Areas) Act, 1996 (Panchayats (Extension to Scheduled Areas) Act 1996, § 4(d), (i)) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2007, §§ 3-5) were also enacted to restore community rights, strengthen the Gram Sabha and ensure strong decentralized local governance. Despite these constitutional and legal protections, tribal communities continuously face issues like displacement, violation of tribal rights and encroachment of properties (Orissa Mining Corp. v. Ministry of Environment & Forests 2013). This gap between formal legal protection and ongoing marginalization exposes contradiction between self-governance and neoliberal interests.

This paper examines these contradictions through comparative analysis of two case studies- Niyamgiri Hills and Polavaram Project. Whereas Niyamgiri highlights effective implementation of the PESA Act, 1996 and FRA, 2006 where the dominant role of Gram Sabha shows effective decentralization

and strong decision-making authority. In contrast, the Polavaram Dam project exposes weak application of PESA, diluted constitutional process and excessive displacement which violates FRA. Inconvenience in implementation led to the formation of some committees such as the Bhuria Committee (1995), Gadgil Committee (2011) and Xaxa Committee (2014) which emphasizes the need to reinforce local self-governance, active participation of tribals and protection of their cultural rights. By placing tribal governance within the purview of neoliberal accumulation by dispossession (Harvey 2003, 137-82), Caste tribe continuum (Ghurye 1963, 45) and rural-urban transition. Further, this paper examines whether the tribal marginalization is structurally produced within India's developmental trajectory. Through international comparison, it evaluates whether the legal provisions empower tribal communities or just favors neoliberal development policies.

2. Conceptual Framework

2.1 Accumulation by Dispossession: refers to the ongoing process where tribal wealth is concentrated by capitalists through depriving them from their land, resources and rights. In Niyamgiri hills, tribal wealth was accumulated by the Vedanta resources plc. Accounting the dispossession of tribals from their land and resources.

2.2 Caste tribe continuum: Rejects the separation of caste and tribe and advocates that both represent the different points of the same transitional scale. Niyamgiri hills are resided by the Dongria Kondh, particularly focus on their tribal rituals and traditions but over time, they are influenced by the Hindu hierarchy, state institutions and economic links with caste based rural markets.

2.3 Rural-Urban Transition: Emphasizes the transformation of tribal villages into city-like structure, leading to the massive displacement of tribal communities which becomes one of the reasons for the land alienation. In Polavaram, thousands of indigenous people migrated towards urban areas due to the dam construction.

3. Review of Literature

The debate and discussion on tribal empowerment and governance in India should be positioned in the larger political economy of neoliberal growth and development along with systematically institutionalised dispossessions. David Harvey's concept of accumulation by dispossession from the New Imperialism, is heavily used as references by different scholars as a common feature to privatisation,

commercialization of the natural resources and the state sponsored confiscation of land or dispossessioning the community (Harvey 2003). Harvey's contribution is important particularly after the Post colonial era where the government regulated the accumulation of resources through systematic procedural and legal tools over explicit power. His work counters the notion that accumulation of wealth was exclusively limited to the ancient period of capitalism and argues that dispossession is a continuous ongoing project which is systematically governed by states in a contemporary world. Further Michael Levine analysed how land encroachment by the state is carried out in neo liberal India with the justification of handing over the lands from tribal populations to private enterprises (Levien 2018, 15-48). His studies reveal the ironic coexistence of legal validity along with the social disparity which shows the legitimization of the dispossession.

Additionally, Kalyan Sanyal claims that capitalism maintains the early accumulation as a procedural norm instead of the era of shift (Sanyal 2007, 21-54). The developmental projects, mining ores, dam construction has redefined the relations between the tribal population and states and further in the name developmental paradigm, dispossession of land and resources in tribal areas is systematically planned to maximize profits for capitalist class. This institutional criticism is further supported by scientific study of displacement induced development. Through analysing the causes of displacements like mining, dam construction and industrialization in tribal lands, Walter Fernandes reveals the extensive and unfair hardship imposed on STs (Fernandes 2008, 453). Further Fernandes projects that forty percent of India's Adivasi population displaced due to the development projects, although they are less in number as compared to the total population of India (Fernandes 2008, 453). His empirical study highlights the degradation of traditional land and ineffective rehabilitation initiatives of the government. Michael Cernea endorsed this research through his Impoverishment Risks and Reconstruction model and considers development-induced development as multidimensional impoverishment that consists of unemployment, food scarcity, dispossession of land, and social fragmentation (Cernea 2000, 12). Cernea's model is comprehensively used in India to show the socio-economic risk due to displacement despite its development under World Bank program settings.

By highlighting the cultural and conceptual elements of displacement, academicians like Parasuraman and Amita Baviskar reinforce stronger criticism. Baviskar's anthropogenic inquiry highlights the effects on ecological knowledge and sacred connections of tribals along with the mass displacement due to construction projects in tribal areas (Baviskar 1995, 1-20). In tribal communities' land represents their identity as well as spiritual connections, thus displacement is not restricted to financial loss to tribal societies but also resulted into dilution and loss of their cultural identity. In order to substantiate the claims that developmental induced displacement led to the identity crisis, transformation

of work culture and collective security of tribal population, this evidence depicts dispossession as both tangible (materialistic) and intangible (symbolic). The socio-cultural arguments associated with tribes further creates complexity in this debate of tribal empowerment. Under G.S.Ghurye's Caste-tribe continuum argument, tribes are considered as "*backward hindus*" projecting their incorporation into the caste system of India. (Ghurye 1963). This is widely seen as an assimilationist attempt by the government to integrate tribal populations in a broader framework of caste system. However, Virginius Xaxa strongly rejected this minimising strategy while asserting that the political economy is the reason for tribal marginalization instead of socio-cultural exclusions (Xaxa 2011, 23). Xaxa highlighted that in a rural-urban transformation, access to market, state interference and displacement influence the tribal identity causing mixed nature of marginalisation (Xaxa 2011).

Development induced displacement affects both socio-economic rights and spatial identity of tribals in regions like Niyamgiri and Polavaram, exposing an attempted neoliberal development approach of forced integration while undermining the tribal system of governance. The panchayats (extension to Scheduled Areas) Act, 1996 (PESA) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) demonstrate a shift against the systematic and procedural marginalizations of tribals. The academicians considered these acts as a revolutionary attempt to address the prolonged injustices towards the tribal population. Nanini Sundar criticises the colonial governance act which gives an immense power to central authority and states that FRA represents a significant change in the legal paradigm by validating Community first rights and empowering the Gram Sabha (Sundar 2009, 14). Prakash Kashwan argues that with proper implementation of legal protection, decentralisation may promote environmental conservation and socio-economic justice (Kashwan 2017, 87-112). His comparative study illustrates how bureaucratic objections and political debate has compromised the productivity of such laws. Further studies indicate that gram sabha authority is formalised instead of genuinely observed with stalling the community forest rights and bureaucratic resistance (Reddy and Mishra 2010, 16). Such gaps highlight the inefficiency of administration in implementation of laws for tribal empowerment. Despite the decentralised nature of power under FRA and PESA, their practical implementation is hindered and largely dependent on the will of the government.

The Niyamgiri mining case study is noteworthy in such a framework. In *Orissa Mining Corporation v. Ministry of Environment & Forest*, the apex court upheld the Gram Sabha's power to find whether mining will affect the cultural and religious rights of the Dongria Kondh Community (Orissa Mining Corp. v. Ministry of Environment & Forests 2013). Academicians observed this judicial pronouncement as the incorporation of Free, Prior, and Informed Consent (FPIC) principles while adjudicating

judgement. Ranjana Padh's evaluates the role of legal intervention, civil society activism and community engagement to establish a decentralised governance system in the tribal area (Padhi 2013, 20). Thus, the Niyamgiri is celebrated as the victorious decentralization model to protect and empower the tribal rights. According to many scholars the success of Niyamgiri was largely evident due to the active participation of the judiciary and scrutiny by the activists; they warn of possible reproducibility in the near future where such scrutiny is lacking.

On the other hand, projects like Polavaram, demonstrate the flaws in the implementation of laws for the protection of indigenous rights of the tribal population. By analysing the politics of the dam, Baviskar illustrates how the dam projects with the vision of advancement for development has marginalized the tribal community via dilution of the consent based procedural structure of the governance (Baviskar 1995). Dam projects led to long term invincible alteration in the socio-cultural life by transforming the natural landscape and habitats of the tribal population in contrast to the mining which focuses on underground resources. Scholars illustrate the ineffective rehabilitation process and assurance of community rights in Polavaram which highlights the drawbacks of legal safeguards in front of state sponsored developmental projects. This investigation was further enriched by the comparative study of the governance model. Elinor Ostrom highlights how the collective shared values based on agreements and self-governing rule can deliver long term benefits to the community (Ostrom 1990, 88-102). Ostrom study provides the theoretical concept for the local self-governance in India. On the other hand, Glen Coulthard criticised the centralized authority which lacked the ability to address the root cause of fraudulent practices in the institution (Coulthard 2014, 6-25). Coulthard insights are relevant for India as merely acknowledgement without allocation of resources may lead to the legal recognition of dispossession rather than changing it. Furthermore, the United Nation Declaration on the Rights of Indigenous Peoples (UNDRIP) directed the states to incorporate FPIC norms in their national policies, however the signatory failed to introduce these norms in their municipal laws (United Nations General Assembly 2007).

Even with the diverse scholarly studies, large research gaps persist. Theory of dispossession is addressed by the political economy, developmental studies account its consequences, sociological contribution analyses the identity crisis and legal studies examines the policy framework. However, there is a lack of comprehensive studies that rigorously evaluates the working of PESA and FRA on various developmental modes, especially exploitative nature of mining and the large-scale dam projects. Existing scholarship isolated the victorious stories like Niyamgiri or failures like Polavaram without conducting comprehensive studies within the structure of neoliberal accumulation by dispossession, constitutionally decentralised governance, and cultural transformation. As a result, it is

unclear whether such consequences are the result of the court adjudication, political economic framework or institutional limits existing in the current model of tribal governance. By comparative study of Niyamgiri and Polavaram, this paper aims to address that disparity and investigates how effectively laws related to tribal governance provide substantive justice and advocate for tribal empowerment.

4. Methodology

This paper employs a qualitative comparative case study approach to investigate the effectiveness of the local governance system in tribal regions of India in tackling neoliberal industrialization through dispossession. This study compares the Niyamgiri Mining conflict with the Polavaram Dam project to show distinct regulatory approaches under PESA and FRA. The Niyamgiri case highlights the active role of the judiciary in ensuring substantive justice while upholding the authority of the Gram Sabha and the process of consent in the local governance system in the Tribal regions of India. Whereas, Polavaram demonstrates massive displacement and systematic erosion of statutory provisions. This paper incorporates the study of political economy with conceptual legal evaluation. Constitutional provisions such as Article 244 and 342 are also investigated along with the Fifth and Sixth Schedules to analyze their purpose and progress. Further, the proper implementation of decentralisation and FPIC norms is investigated through the judicial interpretation.

The conceptual theory of the *caste-tribe continuum* by G.S Ghurye and David Harvey's *accumulation by dispossession* was rigorously reconstructed by Virginius Xaxa. Similarly, other committee reports like the Bhuria committee and the Xaxa Committee, are scrutinized to evaluate the institutional framework and legislative change. Scholarly works associated with dispossession, tribal governance, development-induced displacement and socio-cultural autonomy are identified through a conceptual assessment of the literature.

By discursive analysis, this approach is empowered to examine whether the laws related to tribal governance are for the tribal empowerment or dispossession through neo-liberal extractive framework.

5. Legal Interpretation

The distinct socio-cultural identity of tribals in India is protected by the Constitution. Article 244 and the fifth schedule (termed as constitution within constitution) deals with the administrative framework of the scheduled areas. In addition, the president of India under Article 342 acts crucially to

specify the communities to be recognised as scheduled tribes. This constitutional recognition determines protection and safeguards to tribal communities. Together these provisions play a pivotal role for the protection of tribal identity, autonomy and self-governance (Basu 2019). To strengthen these constitutional provisions, several statutory enactments were brought by the government such as the PESA and the FRA.

5.1 The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA)

Based on the recommendation of the Bhuria committee, it reflects the importance of the gram sabha as a major institutional body for local self-governance before the land acquisition and any developmental projects in tribal regions (Ministry of Rural Development 1995). After having strong transformative potential, the application of PESA in many states is uneven. Complaints of dilution in the power of gram sabha has been the major issue arisen in several states. PESA reflects its dependency on state legislation for operational clarity that weakens its centralized tendency.

5.2 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, (FRA) 2006

Dealing with the historical injustices faced by the tribal communities, FRA enshrines the individual and the community rights of the Tribal (Scheduled Tribes and Other Traditional Forest Dwellers Act 2007). It legally protects the customary practices, uses of resources and tribal management affairs. Despite its strong framework, FRA witnesses the conflict between the community rights and the conservation policies plus the economic interests of the capitalists. Recent changes in FRA through Constitutional Amendment, 2023 adds fuel to the fire by changing the definition of '*forest land*' (Forest (Conservation) Amendment Act 2023). It not only weakens the legal safeguards of tribal rights but gives more access to private enterprises to use tribal lands for their profit-making interests. While the PESA and FRA give reformatory promises and innovative initiatives for community-based governance but when the question of effective implementation arises, they somehow weaken their strength. Many committees enacted by the government came into existence and tried to improve the loopholes in tribal legislations. For instance, the Bhuria committee itself led the foundation of the PESA with strong recommendations like the recognition of gram sabha, traditional conflict resolution systems and compulsory consultation of tribal communities before land acquisition (Ministry of Rural Development 1995). In 2011, the Western Ghats Ecology Expert Panel (Gadgil committee) Ecological Democracy and Community Control presented its recommendations that reinforces the participatory and community led provisions under the PESA and FRA. It suggests understanding environmental laws harmoniously with the tribal rights so that the tribal autonomy and ecological sustainability

can be mutually preserved (W. Ghats Ecology Expert Panel 2011). Further, in 2014, the High-Level Committee on Socio economic, Health and Educational Status of Tribal Communities (Xaxa committee) submitted its report and observed that after having effective legislations like PESA and FRA, their implementation remained ineffective (Xaxa 2014, 17-20). It further recommends strengthening the gram sabha, respecting community rights, prioritising tribal consent on crucial issues, creation of independent monitoring mechanisms and so on (Xaxa 2014, 20).

Therefore, the PESA and FRA should be understood comprehensively in the light of the recommendations of these committees so that the autonomy of gram sabhas, prior consent of tribals, control over community resources are secured as substantive justice rather than procedural justice.

6. Case Study I

6.1 The Niyamgiri Hills

The desire of tribal communities expressed in the slogan “*Mava Nate, Mava Raj*” (*our village, our rule*) found its realization in the Niyamgiri Hills. Located in the districts of Kalahandi and Rayagada in Orissa, constitute the homeland of the Dongria Kondh tribe around 8000 in number. The *Dongria Kondh* are an indigenous community who trace their ancestry to Niyam Raja, a mythical god-king. They believe that the Niyam Raja have created the Niyamgiri mountain ranges. For Dongrias these hills are pious and regarded as the divine kingdom of Niyam Raja, extending across approximately 115 square kilometres. Religious practices in the Dongria Kondh are linked with nature worship. They offer sacrifices to the earth goddess, Dharani Penu, associated with Niyam Raja. Each village maintains a shrine dedicated to her that shows their spiritual and cultural relationship with nature (Survival International n.d.).

In 2002, a Memorandum of Understanding (MoU) was signed between the Odisha government and the UK-based mining corporation Vedanta Resources for the formation of an aluminium refinery at the foothills of the Niyamgiri range. It was estimated that almost \$2 billion bauxite is situated here. The mining project by the Vedanta resources, aimed at extracting bauxite for the refinery, triggered strong opposition from the Dongria Kondh community (Padel and Das 2010, 312-15). The decision of the Odisha government to give nod for mining in the Niyamgiri Hills accounted for a prolonged conflict involving the state, private corporate interests and the indigenous people. The case became crucial for tribals to show their resistance against the development driven policies and private enterprises interests.

6.1.1 State's Justification

If bauxite is extracted then the mining revenue will help the state to a large extent in its fiscal earning and mineral dominated industries will work for the development and the growth of the state. It defended the mining project by advocating that it will be accountable just for 3% of forest loss and the activities such as construction, irrigation and transmission will bring modernity, development, job creation and ease in the lives of Dongria Kondh (Odisha Mining Corporation 2013).

6.1.2 Dongria kondh's Concern

The Dongria Kondhs were already experiencing changes in their lives due to outside interaction, the mining projects just sparked this challenge. When the locals came to know about the ongoing project, they were filled with rage and started protesting. In one of the meetings to resolve the issue, some locals said, *"We have lived here for so long. How can the government sell our forest now?"* Rikota Bhali said, *"the forest was the abode of their lord - Niyam Raja - and their culture would vanish if the forest was taken away from them and placed in the hands of private corporations."* A woman Kutruka Kunjhi said that *"no one has the rights over our forest neither the government nor the private enterprises. We will shoot down with our arrows to those who force us to give up our land"* (Sethi 2010).

In addition, the Dongria Kondh are totally dependent on nature for the sustenance of their lives. Shifting cultivation constitutes their primary occupation and it is operated just with the blessings of *Dharani Penu- The Earth Goddess*. Thus, their whole belief system is deeply polytheistic and animistic where the natural elements like rocks, forests, water are seen as living spirits. Niyam Raja for them was everything from provider to guardian, so losing Niyamgiri was to lose their identity and culture (Xaxa, 2014)

6.1.3 What Supreme Court ordered?

When this incident escalated, the Supreme Court in April 2013 ordered there must be deeper scrutiny of tribal consent under FRA for any developmental project. It said that the decision of the Gram Sabha would be final to decide whether mining is valid or is it violating the tribal rights? (Balaji 2013) The statement of one of the Supreme Court judges became crucial in the Niyamgiri case that shows sympathy towards the Dongrias' religious feelings for Niyamgiri. As quoted in Balaji, *"Even if nothing is there, you can't destroy the faith of those people. We are not talking about the entire hills but the highest point where the tribals believe their God exists. They believe he is on the hilltop. Can you tell them, 'Take away your God to another place'? Are you banishing God?"* (Balaji 2013).

6.1.4 Consequence

The Odisha government was directed by the Supreme Court to hold Gram Sabhas in 12 villages of Rayagada and Kalahandi to take tribal consent for the mining project. Further it highlights that in all the twelfth villages, the tribal councils unanimously reject the mining proposal, arguing that would destroy their pious hills, cultural and religious identity and livelihoods. (“Niyamgiri Tribals Reject Vedanta Mining Plan” 2013) After this some of the locals said, *we may prefer death over giving up Niyamgiri*, reflecting the depth of resistance (“Dongria Kondh Vow to Protect Niyamgiri Hills” 2013).

6.2 Case study II

The Polavaram

Under the Andhra Pradesh Reorganisation Act, 2014, (Andhra Pradesh Reorganisation Act 2014) The Indira Sagar Multipurpose Project, popularly known as Polavaram project, is a massive dam being constructed on the Godavari River and has been designated as the National Project. This project claims to solve the water crisis of many villages, helps in irrigation to nearly 7.2 lakh acres of new ayakat land, maintain the command areas, capacity to generate 960 MW of hydroelectricity and provide water to areas at risk of drought like Rayalaseema (Polavaram Project Authority n.d.). It is a most significant dam project in the contemporary period after liberalization due to its strategic location where Godavari flows from the Eastern Ghats into the fertile coastal areas (Polavaram Project Authority n.d.). The project is outstanding from a technical point of view. Its spillway is constructed for discharge capacity of nearly 50 lakh cusecs. Innovative techniques like Deep diaphragm wall construction and jet grouting were employed to overcome the extremely porous sandy surface of the riverbed (Central Water Commission n.d.). However, with such great technological innovations in the project, due consideration of its legislative and human consequences is required.

The Polavaram project covers the scheduled areas that primarily consists of the adivasi populations like Koya (Andhra Pradesh, Telangana, Chhattisgarh), Gond (Chhattisgarh), Konda Reddi (Andhra Pradesh and Telangana), Kondh (Odisha), Nayakpod (Telangana and Andhra Pradesh), Valmiki (Andhra-Odisha), (Ministry of Tribal Affairs n.d.) which are legally protected by the Fifth Schedule of the Indian constitution (Constitution of India art. 244, sched. V). Further these are administered by the PESA (Panchayats (Extension to Scheduled Areas) Act 1996) and FRA (Scheduled Tribes and Other Traditional Forest Dwellers Act 2007) where PESA directs for the prior consent of the Gram Sabha before acquiring land in the scheduled areas (Panchayats (Extension to Scheduled Areas) Act 1996, sec. 4(i)) and FRA mandates the acknowledgement of FPIC principles prior to transfer of lands.

(Scheduled Tribes and Other Traditional Forest Dwellers Act 2007, sec. 4(5)) These governance frameworks empower tribals to make decisions related to their development instead of marginalising them as victims of development (Sharma 1995). But the proper implementation of these laws raised serious questions about the validity of the consent mechanism of the Gram sabha and acknowledgment of the forest rights (Ministry of Tribal Affairs n.d.). The conflict between the development and the decentralisation of power demonstrates the vulnerability of the governance system in the tribal areas due to the large infrastructure projects (United Nations Human Rights Council 2018).

This project is associated with a high human cost. Nearly 276 villages across Andhra Pradesh, Odisha, Chhattisgarh belonging to scheduled tribes have been affected and in Polavaram over one lakh families are classified as Project Disturbed Families (PDF), livelihood affected due to the project, have been recognized for rehabilitation and resettlement (R&R) (Government of Andhra Pradesh n.d.). These tribes have a sacred socio-economic relationship with the forest and rivers which preserve their culture and livelihood, (Xaxa 2014) like *Mango Dance of Konda Reddies* was responsible for balancing the social cohesion in their community and cultivation of cashew, maize, turmeric, sita-phal, supports their economy have been largely affected (“Polavaram- Displaced and Nowhere to Go” 2021). Hence for them displacement is more than shifting from one place to another, it disrupts their economies, community settlement, and cultural diversity (Fernandes 1996, 1468). In response, 60 tribal villages came together and held a public meeting in Koida and collectively decided to boycott the Polavaram project, followed by many demonstrations till date (Bondla n.d.). Despite the R&R policies of providing shelter, financial assistance and basic facilities, data reveals the discrepancies in the number of displaced families and those guaranteed sheltered indicates the significant systematic and livelihood crisis (Comptroller and Auditor General of India n.d.).

7. Findings and Interpretation

The Niyamgiri conflict and the Polavaram issue can be critically interpreted through the concept of accumulation by dispossession by David Harvey. According to him, present day capitalism rises not only solely through productive expansion but through the privatization of common resources, commodification of natural resources and displacement of marginalized communities. Transferring natural resources for capitalist development can be observed through transfer of community owned resources to the state led infrastructure assets (Harvey, 2003, 137-82).

Traditionally, Niyamgiri and the Polavaram regions are inhabited by Dogria Kondh and Koya re-

spectively. For them these two regions are not just a piece of land but a sacred geography. Thus, the mining proposal and hydroelectric project not only represented economic restructuring but the corporatization of spiritual territory. Upstream tribal population suffers severe social and ecological loss whereas utilising the resources of tribal communities, downstream industrial and commercial regions are benefitted through different irrigation, mining and hydroelectricity projects (Baviskar, 1995). Here dispossession is not based on visible unlawful activity but instead capitalist centered development. The caste-tribe continuum thesis elaborates that tribes in India gradually merge into the caste-based social order through processes of economic and cultural assimilation (Xaxa 2014, 15-20). It highlights the structural imbalances through socio- cultural lens where the institution is controlled and administered by the elite bureaucrats followed by political elites but the tribal population is struggling with the established social hierarchies that undermine their executive authorities (Sinha 1965). Although laws exist that protect the rights of the tribals, the power imbalance between the local government and the state sponsored developmental agencies further undermines the consent principles. Therefore, directions of growth and development continue without sharing power. The intervention of the Supreme Court of India in both the conflicts becomes crucial. Hence, the Court ordered that Gram Sabhas in affected villages decide whether mining would infringe upon the religious and community rights of the Dongria Kondh under FRA (Xaxa, 2014).

In the Polavaram dam issue, the Supreme Court in the *State of Orissa v. Union of India (2011)* ordered immediate stop construction but directed the constitution of an expert committee to examine environmental and rehabilitation adherence (State of Orissa v. Union of India 2011). The Court emphasized balancing developmental necessities with environmental protection and safeguards. The Court did not dismantle the project but maintained judicial oversight through monitoring compliance mechanisms. Different committees' reports substantiate these debates. The Bhuria Committee Report advocated for the local ownerships over the resources whereas the Xaxa Committee Report demonstrates displacement as a cause of systemic injustices that tribal communities endured over the period. Similarly, the Gadgil Report emphasizes upon the sharing of power to local authority for tribal governance. The developmental model in Niyamgiri where the tribals strongly stood for their rights and dismantle the structure of private interest but Polavaram appeared to be diverted from the social and moral commitments towards the protection and preservation of these natural resources along with the humanitarian values where it is still an issue for the tribals.

8. Conclusion and Way Forward

Although the Indian Constitution provides safeguards to Indigenous communities under the Fifth

Schedule and strong legislative protections such as Provisions of the Panchayats (Extensions to the Scheduled Areas) Act, 1996 (PESA) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), Their implementation remains ineffective due to weak enforcement mechanisms and lack of political will. The practices like accumulation of land and natural resources by dispossessing the tribal population, the dominance of caste hierarchies over tribal identities and the rural- urban divide led to socio-economic and political marginalisation. To address these challenges, the following suggestions can be seen as possible solutions to strengthen the autonomy and preserve the socio-cultural identity of tribal populations.

1. The practice of fake gram sabha should be eliminated by the effective implementation of the consent principles under the PESA and should not be seen merely as '*consultation*' but as '*real consent*' of tribals through the Gram Sabha.
2. Implementation of recommendations given by various committees like Xaxa committee recommends forming an independent monitoring mechanism to ensure the timely and effective implementation of the tribal laws, further it suggests to return the unused acquired land (Xaxa 2014). Similarly, the Bhuria and Gadgil committee suggested strict regulations on development projects like mining, dam construction, etc to protect the environment (Ministry of Rural Development 1995; W. Ghats Ecology Expert Panel 2011).
3. The government should adopt models like Brazil's Constitution which guarantees original land rights to indigenous people, ensures clear demarcation and stronger state accountability, and has produced positive outcomes such as lower deforestation rates within indigenous territories (Brazil, Constitution arts. 231-232). Similarly, in Canada, the constitution provides treaty rights and facilitates co-management and revenue-sharing through modern land claim agreements (Nepstad et al. 2006, 1350).
4. For increasing the tribal literacy rate, India can learn from New Zealand where the awareness of indigenous rights among Maoris have strengthened through legal literacy initiatives and effective educational framework. Through initiatives related to the Treaty of Waitangi, indigenous communities are educated about their historical land and cultural rights, governance system and cultural heritage. Institutions like the Waitangi Tribunal play a significant role in promoting public awareness and provide a platform to Māori communities where they can raise grievances related to violations of treaty rights (UNESCO 2018).
5. Although tribals are struggling to save their basic land rights, the Digitalization framework can help them to understand PESA and FRA. Government can develop platforms with the feature of

indigenous language so that the indigenous people unaware of the privileges granted them by the constitution of India can learn about them. As mobile phone techno is increasing even in rural areas, digital tools could help to make legal information accessible and transparent (World Bank 2016).

6. The government or private entities should establish institutions like schools, hospitals for the welfare of the tribal population.

7. The civil societies and NGOs should actively participate in awareness campaigns to educate the tribal population about the forest laws and protections guaranteed under the Constitution of India.

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