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# Circumvention of Tribal Land Protection Laws Through Coal Mining Acquisitions in Jharkhand

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Research Paper

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## ABSTRACT

*Jharkhand, endowed with one of India's largest coal reserves, represents a complex intersection of mineral development, constitutional governance, and indigenous land right. Despite the existence of statutory protection such as the Chotanagpur Tenancy Act, 1908 (CNT act) the Santhal Parganas Tenancy Act, 1949 (SPT Act), and constitutional safeguards under the Fifth schedule, large – scale acquisition of tribal land for coal mining continues across the state. This article critically examines how coal mining acquisition, particularly by central Coalfields Limited (CCL), have allegedly operated in a manner that circumvents the spirit and objective of tribal land protection laws.*

*The study analyses constitutional principal, statutory mechanisms, judicial precedents, administrative practices, and environmental implication associated with mining acquisition associated with mining acquisition in Jharkhand. It further evaluates landmark judicial decisions and state –specific disputes involving displacement.*

*Compensation irregularities, environmental degradation, and failures in rehabilitation. The paper argues that the excessive reliance on eminent domain and mining acquisition statutes has weakened*

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*indigenous autonomy and diluted constitutional protections available to Scheduled Tribes.*

*The article concludes by proposing institutional and legal reforms aimed at reconciling economic development with constitutional morality, environmental justice, and tribal self-governance.*

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## **Introduction**

Jharkhand occupies a unique constitutional and socio-political position within the Indian federation. Rich in coal, iron ore, and other mineral resources, the state is simultaneously home to a substantial tribal population protection. Protection under the Fifth schedule of the constitution of India. Historically, the tribal communities of the chotanagpur and santhal region resisted colonial land exploitation, resulting in the enactment of special tenancy Legislation intended to preserve indigenous land ownership and customary governance systems.

However, post-independence industrialization and the expansion of extractive industries transformed Jharkhand into a major mining corridor. Public sector undertaking such as central coalfields Limited (CCL), Bharat coking coal limited (BCCL), and subsidiaries of coal India Limited acquired extensive tracts of land for coal extraction projects.

The legal controversy arises from the fact that although tribal land transfer is heavily restricted under regional tenancy laws, land acquisition for mining projects has continued through statutory exception, administrative approvals, and public purpose doctrines consequently, constitutional guarantees. Intended to protect tribal communities have often been subordinated to industrial and energy priorities.

This paper critically evaluates whether the acquisition practices adopted in Jharkhand are constitutionally sustainable or whether they amount to a systematic circumvention of tribal land protection laws.

## **Constitutional framework**

### **1.Fifth Schedule of the constitution**

The fifth schedule provides special administrative protection to schedule Areas and tribal populations. The Governor is empowered to regulate and transfer and prevent exploitation of tribal communities.

### Relevant constitution provisions

- **Article 224(1) -;** Provides the constitution for administration of scheduled Areas through application of the fifth schedule, empowering the governor with special regulatory authority.
- **Article 13-;** Ensures that all laws, including those concerning tribal areas, remain consistent with fundamental right rendering any inconsistent law void.
- **Article 21-;** Guarantees the right to life with dignity, encompassing protection of livelihood, land, and resources for tribal communities.
- **Article 300A-;** Protects individual, including tribal populations, from deprivation of property except through authority of law.
- **Article 46-;** Directs the state to promote the education and economic interests of scheduled Tribes and protect them from social injustice and exploitation.

**These provision collective impose a constitution obligation upon the state to protect tribal land , culture , and economic interests.**

### 2. Chotanagpur Tenancy Act, 1908(CNT Act)

The chota Nagpur Tenancy Act, 1908 is a significant colonial –era legislation enacted to regulate land tenure in the chotanagpur region .it was introduced to address the large-scale alienation of tribal land caused by British land policies and the intrusion of non-tribal settlers. influenced by tribal resistance movements such as the **Birsa Munda Ulgulan** the Act aimed to protect the land rights of indigenous communities, regulate landlord-tenant relations, and restrict the transfer of tribal land . overall, it serves as a crucial legal framework for safeguarding the socio-economic and cultural interests of tribal populations.

#### Relevant key provision of CNT Act, 1908

- **Section 46-** Restriction transfer of tribal land to non-tribals without prior permission of the deputy commissioner.
- **Section 71A-** Empower authorities to restore illegally transferred tribal land to original tribal raiyats.

The legislative intent behind the Act is preservation of tribal identity and prevention of economic displacement



### **3. Santhal parganas Tenancy Acts, 1949(SPT Act,)**

The santhal praganas Tenancy Act, 1949 was introduced to safeguard the traditional land rights of indigenous tribal populations and to prevent the transfer of tribal land to non-tribal. It is a legal framework governing land use, tenancy, and ownership in the santhal praganas, recognizing customary practices and ensuring social and economic security for tribal communities.

The court has consistently interpreted the act as welfare legislation requiring strict protection of tribal interests.

### **4. Panchyats (Extension to scheduled area), Act,1996(PESA)**

The PESA Act recognizes the authority of gram sabhas in scheduled areas.

**Section 4(i);**-gram sabha consultation is mandatory prior to land acquisition and rehabilitation projects. However, implementation within mining regions remains substantially deficient.

### **5. Forest Right Act, 2006**

The forest rights act, 2006 (scheduled tribal and other traditional forest dwellers recognition of forest right act) was enacted to recognize and vest forest rights in tribal communities and other traditional forest dwellers who have historically depended on forest resources for their livelihood. The aim is to correct for historical injustices by granting legal recognition to individual and community rights over forest land including rights to habitation, cultivation and management of forest resources. It also empowers local governance institutions, particularly gram sabhas, to play a decisive role in forest management and land use decisions.

Mining clearances without proper recognition of the right have repeatedly generated constitutional disputes.

## **Coal mining Acquisition and legal circumvention**

### **1. public purpose doctrine as a tool of acquisition**

One of the most significant mechanisms through which tribal protection is diluted is the invocation of “public purpose” under acquisition laws.

Although direct transfer of tribal land to non-tribal is restricted under the CNT and SPT Acts, the state acquires land in its sovereign capacity and subsequently allocates operational control to mining corporations.

Thus, acquisition technically avoids the legal definition of “transfer” while effectively producing the same consequence- permanent dispossession of tribal communities,

This creates a constitutional contradiction between

- Protective tenancy legislation, and
- Industrial acquisition policy

## 2. Coal Bearing Areas (Acquisition and development) Act,1957

The coal bearing area act (CBA Act) grants extensive acquisition power to the central government for coal mining activities.

Unlike the right to fair compensation and transparency in land acquisition, rehabilitation and resettlement act, 2013 ( RFCTLARR Act), the CBA Act

Does not adequately mandate social impact assessments

- Weakens participatory safeguards
- Permits expedited acquisition procedure
- Inadequately addresses rehabilitation obligation

**Section 4 – Preliminary Notification Under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Central Government may authorize entry upon land for the purpose of coal prospecting and preliminary survey operations. Authorized personnel are empowered to undertake all acts necessary for prospecting, including demarcation of proposed prospecting areas, marking boundaries and intended work lines, and clearing limited obstructions such as standing crops, fences, or jungle where required for survey completion.**

The provision incorporates procedural safeguards for occupiers of residential premises. Entry into any building or enclosed courtyard or garden attached to a dwelling house requires either the occupier’s consent or prior written notice of at least seven days.

Further, subsection (4) restricts the scope of notified land by mandating exclusion of areas where lawful coal mining operations are already in progress, as well as premises used for ancillary coal-processing activities such as dressing or preparation of coal for sale. This limitation is intended to prevent interference with existing mining operations conducted in accordance with prevailing laws and regulations.

**Section 7 – Intention to Acquire** If the Central Government is satisfied that coal is obtainable in the whole or any part of the land notified under sub-section (1) of section 4, it may, within a period of two years from the date of the said notification or within such further period not exceeding one year in the aggregate as the Central Government



may specify in this behalf, by notification in the Official Gazette, give notice of its intention to acquire the whole or any part of the land or of any rights in or over such land, as the case may be.

**Section 8 – Objections to Acquisition** Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

**Section 9 – Declaration of Acquisition** The Coal Bearing Areas (Acquisition and Development) Act, 1957 empowers the Central Government to acquire land or rights over land for coal development after considering reports under Section 8. Multiple declarations may be issued for different parcels covered by the same notification. For notifications issued after the 1971 Amendment, declarations must be made within three years. If the land belongs to a State Government and is unleased, prior consultation with the State Government is mandatory. Every declaration must be published in the Official Gazette, specifying land details, extent of rights acquired, and inspection details of related plans, with copies sent to the concerned State Government.

**Section 10 – Vesting of Land** The Coal Bearing Areas (Acquisition and Development) Act, 1957 provides that upon publication of a declaration under Section 9 in the Official Gazette, the land or rights over the land vest absolutely in the Central Government, free from all encumbrances. This legal transfer gives the Government complete ownership and control for coal development activities. In cases where mining lease rights granted or deemed granted by a State Government are acquired, the Central Government automatically assumes the position of lessee from the date of vesting. The lease is considered valid under the Mineral Concession Rules for the maximum permissible duration allowed by law.

**Sections 13– Compensation** The Coal Bearing Areas (Acquisition and Development) Act, 1957 provides that when a prospecting licence ceases to operate under Section 5, the affected person is entitled to compensation for reasonable and bona fide expenses actually incurred in relation to the land. Compensation includes costs incurred in obtaining the licence, preparing maps, charts, records, and mineral sample analyses, as well as expenses for constructing roads or essential works that remain usable. It also covers expenditure on other necessary prospecting operations carried out on the land. The provision ensures reimbursement of legitimate exploration and development costs incurred by the licence holder.

### **3. Administrative manipulation of land classification**

In multiple mining districts of Jharkhand, land historically occupied by tribal communities has allegedly been classified as

- Government land



- Forest land
- Gair mazrua land
- Uncultivated land

Since tribal possession often operates through customary ownership rather than documentary title, affected communities face substantial difficulty proving legal entitlement during acquisition proceedings.

This bureaucratic approach effectively excludes traditional users from compensation framework

### **Judicial Approach and Landmark Precedents**

#### **1. Samatha v. State of Andhra Pradesh (1997) 8 SCC 191**

In this landmark judgment, the supreme court held that transfer of tribal land in scheduled area to private mining companies violates the fifth schedule

The court observed that;

“The object of fifth and six schedules is to preserve tribal autonomy, culture and economic empowerment.”

The judgment remains one of the strongest constitutional recognition of tribal land rights in India.

#### **2. Orissa mining corporation V. Ministry of Environment & Forests (2013) 6 SCC-Niyamgiri Case.**

The supreme court recognized the authority of gram sabhas to determine whether mining activity affect religious and cultural rights of tribal communities.

- The judgment reinforced
- Participatory democracy
- Environmental justice
- Indigenous self-determination

**The court prioritized constitutional morality over purely economic considerations.**

### **3.State of Jharkhand v. Brahmputra Metallic Ltd. (2020 SCC Online SC 968**

Although arising in a different industrial context, the supreme court reiterated that state action affecting economic right must satisfy constitutional standards of fairness and non – arbitrariness and under article 14.

The judgment is relevant in assessing arbitrary acquisition procedures within mining zones.

#### **Case Study- I**

#### **Kedla Coal mining Region, Ramgarh District**

The kedla coal belt in Ramghar district represents a significant example of prolonged displacement associated with CCL mining projects.

Several tribal and agrarian families alleged that;

- Compensation was delayed for decades
- Rehabilitation measures remained incomplete
- Employment assurances were not honoured
- Acquired land remained under disputed possession

Many displaced persons reportedly transition from landowners to informal wage labourers with in mining economies.

### **Legal issues**

#### **A. Inadequate compensation**

Many acquisition occurred under older legal regimes that lacked modern rehabilitation standerds.

#### **B .Violation of Rehabilitation principales**

Rehabilitation colonies reportedly suffered form;

- Inadequate sanitation
- Unemployment
- Poor infrastructure
- Absence of livelihood restoration

### **C. Procedural Deficiencies**

Villagers alleged insufficient consultation and lack of meaningful participation during acquisition proceedings.

#### **Case Study II**

##### **North Karanpura Coalfield project**

The north Kanpur coalfield region covering chatra and latehar districts has witnessed extensive mining expansion.

The region includes;

- Scheduled Areas
- Forest-dependent tribal population
- Ecologically sensitive zones

Mining expansion generated conflict relating to;

- Forest diversion
- Environmental clearance
- Displacement
- Rehabilitation failures

#### **Environmental and legal concern**

##### **1. Forest clearance issues**

- Environmental activists argued that diversion of forest land violated
- Forest conservation Act, 1980
- Forest right Act,2006

##### **2. Gram sabha consent**

Question were raised regarding the authenticity and adequacy of gram sabha approvals under PESA

##### **3. Displacement without sustainable rehabilitation**

Displaced families alleged long – term livelihood insecurity and social fragmentation.



## **Environmental justice and Article 21**

Environmental Justice is deeply connected with Article 21 of the Constitution of India. Article 21 guarantees every person the fundamental right to life and personal liberty. The Supreme Court of India, through various judicial pronouncements, has clarified that the “**right to life**” does not merely mean physical existence, but also includes the right to live in a clean, safe, and healthy environment. This judicial interpretation has strengthened the concept of environmental justice, the objective of which is to ensure access to pollution-free air, clean water, and a secure environment for every individual. In landmark cases such as **Subhash Kumar v. State of Bihar** and **M.C. Mehta v. Union of India**, the Court held that environmental pollution and ecological degradation amount to a violation of Article 21. Thus, Article 21 has played a significant role in establishing environmental protection as a fundamental right in India

**Vellore Citizens Welfare Forum v. Union of India**, the Court recognized the principles of “Sustainable Development,” “Polluter Pays Principle,” and “Precautionary Principle” as foundational principles of Indian environmental jurisprudence.

Coal mining activities causing irreversible ecological degradation in tribal regions may therefore amount to constitutional injury under article 21

## **Corporate liability and state responsibility**

Corporate Liability and State Responsibility constitute essential components of environmental governance and accountability. Corporate liability refers to the legal obligation of corporations and industrial enterprises to prevent environmental harm and to compensate for damage caused by their activities. Under environmental jurisprudence, industries engaged in hazardous or polluting operations may be held strictly or absolutely liable for violations affecting public health and ecological balance. Simultaneously, state responsibility imposes a constitutional and statutory duty upon the government to protect and preserve the environment, regulate industrial activities, and safeguard the fundamental rights of citizens. In the Indian context, the State derives this obligation from Article 21 of the Constitution of India, along with Article 48A and Article 51A(g). Together, corporate liability and state responsibility ensure environmental protection, sustainable development, and accountability for ecological degradation.

Central Coalfields Limited mining activities in tribal regions raise significant concerns relating to Environmental Law and indigenous land rights. Large-scale coal mining in tribal areas often leads to deforestation, environmental degradation, displacement of local communities, and loss of traditional livelihoods. Under Indian environmental jurisprudence, both corporate entities and the State have a legal



and constitutional obligation to ensure that mining operations do not violate the environmental rights and land rights of tribal populations. The protection of tribal land is further supported by constitutional safeguards, environmental regulations, and the principles of sustainable development and environmental justice. Therefore, mining activities must be carried out in a manner that balances economic development with ecological protection and the preservation of tribal communities' rights and cultural heritage.

### **Critical Analysis**

The legal frame governing tribal land in Jharkhand reveals a paradoxical structure. On paper, tribal land protections appear robust. In practice, however, acquisition laws and mining statutes frequently override those safeguards through procedural mechanisms.

This creates what scholars term.

This issue is not merely illegality but structural imbalance between

- Corporate mining interests
- Constitutional tribal protections

Development policy in scheduled areas cannot remain constitutionally legitimate unless indigenous participation becomes substantive rather than symbolic.

### **Recommendations**

#### **1. Harmonisation of mining and Tribal Laws**

The coal Bearing Area Act should be Amended to align with

- PESA
- Forest Right Act, 2006
- RFCTLARR Act, 2013

#### **2. Mandatory prior informed consent**

Gram sabha consent must be;

- Independent
- Transparent
- Video-recorded
- Legally reviewable



### **3. community Benefit-Sharing Model**

- affected tribal communities should receive
- royalty participation
- equity- based compensation
- employment guarantees
- long- term development funds

### **4. Independent Rehabilitation commission**

- A statutory authority should supervise
- Compensation distribution
- Environmental restoration
- Rehabilitation implementation
- Compliance auditing

### **5. Strengthening tribal land restoration mechanisms**

Fast- track tribunals should adjudicate;-

- Illegal acquisitions
- Restoration claims
- Compensation disputes

## **Conclusion**

The conflict between coal mining expansion and tribal land protection in Jharkhand reflects a persistent constitutional tension between development imperatives and the safeguarding of indigenous rights. Jharkhand, being one of India's most mineral-rich states, plays a crucial role in the national energy and industrial economy. However, it is also a Scheduled Area under the Fifth Schedule of the Constitution of India, inhabited predominantly by tribal communities whose livelihood, culture, and identity are deeply rooted in land, forests, and natural resources. This dual character creates an inherent policy and legal conflict, where economic extraction frequently intersects with constitutional guarantees of protection and autonomy.



The constitutional framework, particularly the Fifth Schedule, Article 21, Article 46, and Article 300A, establishes a strong normative foundation for tribal protection. These provisions collectively mandate the State to ensure that tribal communities are not deprived of their land, livelihood, and dignity except through fair, just, and lawful procedures. Complementing this, statutory protections such as the Chotanagpur Tenancy Act, 1908 and the Santhal Parganas Tenancy Act, 1949 were enacted to restrict land alienation and preserve customary land rights. These laws recognize that tribal land is not merely an economic asset but a foundational element of cultural survival and social identity.

Despite this robust legal framework, mining-led land acquisition in Jharkhand has continued to expand through mechanisms such as the Coal Bearing Areas (Acquisition and Development) Act, 1957. Although this Act provides procedural safeguards including notifications, objections, and compensation, its structure prioritizes expedited acquisition for coal development over participatory governance and social justice. Compared to modern land acquisition laws, it lacks adequate provisions for social impact assessment, informed consent, and comprehensive rehabilitation planning. As a result, displacement often occurs without ensuring effective livelihood restoration or long-term social security for affected tribal communities.

A key issue identified in this study is the use of the doctrine of “public purpose” to override tenancy protections. While direct transfer of tribal land to non-tribals is restricted under tenancy laws, the State acquires land in its sovereign capacity and subsequently hands it over for mining operations. This legal distinction between acquisition and transfer allows circumvention of protective laws while effectively achieving the same outcome—permanent dispossession of tribal landholders. This creates a constitutional inconsistency between protective welfare legislation and industrial acquisition frameworks.

Administrative classification of land further compounds this issue. In several mining regions, land historically occupied by tribal communities has been recorded as government land, forest land, or gair mazrua land. Since tribal landholding is often based on customary possession rather than formal documentation, many affected families are excluded from compensation and rehabilitation processes. This reflects a structural disadvantage in legal recognition, where documentary ownership is prioritized over lived and customary relationships with land.

Judicial intervention has played an important role in reinforcing tribal rights. In *Samatha v. State of Andhra Pradesh*, the Supreme Court emphasized that the Fifth Schedule aims to preserve tribal autonomy and prohibit exploitation through land transfers in Scheduled Areas. Similarly, in the *Niyamgiri* judgment, the Court upheld the authority of Gram Sabhas in determining the impact of mining on tribal religious and



cultural rights. These decisions reflect a constitutional commitment to participatory governance and environmental justice. However, the gap between judicial principles and administrative implementation remains significant.

Case studies such as the Kedla Coal Mining Region and the North Karanpura Coalfield project illustrate recurring challenges, including delayed compensation, inadequate rehabilitation, environmental degradation, and livelihood insecurity. Displaced families often experience long-term socio-economic marginalization, transitioning into informal and insecure labor within mining economies. Rehabilitation measures frequently fail to restore livelihoods or ensure sustainable resettlement, undermining the constitutional promise of dignified rehabilitation.

Environmental degradation further intensifies the constitutional implications of mining. Under Article 21, the right to life includes the right to a clean and healthy environment, as affirmed in landmark judgments such as *M.C. Mehta v. Union of India*. Mining activities in tribal regions have led to deforestation, pollution, and ecological imbalance, directly affecting the survival and well-being of indigenous communities. Thus, environmental harm in mining areas cannot be separated from issues of constitutional rights and social justice.

In conclusion, the legal framework governing coal mining and tribal land in Jharkhand reveals a structural imbalance between development objectives and constitutional protections. While laws exist to safeguard tribal rights, their practical application is often weakened by acquisition procedures, administrative classifications, and inadequate enforcement mechanisms. For development to be constitutionally sustainable, it must integrate meaningful tribal participation, ecological protection, and effective rehabilitation. Tribal communities must be recognized not as obstacles to development, but as equal stakeholders in the governance of natural resources. Only then can the constitutional promise of justice, equality, and dignity for Scheduled Tribes be fully realized.

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