

DEVELOPMENT-INDUCED DISPLACEMENT AND ITS IMPACT ON THE TRIBAL POPULATION OF ASSAM

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“Indigenous people believe that Man belongs to the World; civilized people believe that the World belongs to Man”

—Daniel Quinn, Author

***A**bstract—The concept of ‘development’ in post-independent India is largely based on the western model which entails setting up of large dams, industries, factories, power plants, defence establishments, etc. as a precursor of economic growth. The first step towards such progress is acquisition of land and it has led to the displacement of millions of people. They are recognized under international law as ‘internally displaced persons’, i.e. people who have involuntarily left their homes or places of natural habitat but not crossed an international border. Since the displacement occurs within the boundaries of a country, the responsibility and jurisdiction falls on the respective national governments. Research shows that most of the time it is the tribal population who have been affected and marginalized in India as a result of development projects. They have lost their natural habitat and livelihoods for projects termed as ‘public purpose’ under the land acquisition laws of India. Assam, one of the eight north-eastern states of India, is home to people of different ethnicities. According to the Census of India Report*

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2011, out of a total population of 3.12 crores in Assam, 12.45% people belong to the Scheduled Tribes. Most of them conduct their lives in ways unique to each tribe but are commonly dependant on land as a source of livelihood and sustenance. Several development projects like the recently completed Bogibeel Bridge, Asia's second longest rail-cum-road bridge, the Geo-tube embankment at Dhakuakhana and the under-construction Lower Subansiri Hydro-Electric Dam have impacted the lives of the tribal population, especially the Missing community in Assam. The reports by government agencies and independent research institutes/researchers vary in relation to the numbers and attitude of the displaced population, as well as the compensation and rehabilitation aspects. While certain areas of Assam are protected under the Sixth Schedule of the Constitution of India, the tribal population are not concentrated in them alone. Further, the Adivasi communities in Assam are categorized as Other Backward Classes as opposed to Scheduled Tribes in the rest of the country and is a much-debated topic. This paper is an attempt to recognize and understand the multifarious impact of displacement, resulting from development projects, on the tribal population of Assam.

Keywords: Internal Displacement, Indigenous, Land Acquisition, Tribal Population

I. INTRODUCTION

Planned development in India has brought about the establishment of large-scale projects pertaining to mining, irrigation, infrastructure development, power generation and creation of new urban settlements.¹ Such projects are possible only on vast areas of land which are acquired by the government under the aegis of 'public purpose'. These projects have led to mass displacement of people from their original homes and habitats turning them into 'internally displaced persons'. In April 1998, the Representative of the United Nations Secretary-General on Internally Displaced Persons presented to the United Nations Commission for Human Rights (the United Nations Human Rights Council since 2006) a set of *Guiding Principles on Internal*

¹ R.C. Pandit, *Development vs. Displacement of Tribal People in India: Problems and Prospects* 1 (Abhijeet Publications 2009).

*Displacement.*² The same was unanimously taken note of in a resolution by the Commission³ which defined the internally displaced persons as under:⁴

“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized state border.”

Although this document is not legally binding on the states of the world, it attempts to precisely define an internally displaced person and the steps for their rehabilitation, resettlement and reintegration.⁵ Such provisions are necessary in the light of multifarious human rights violations faced by these people.

The issue of development-induced displacement is contentious, unlike conflict-induced or natural disaster-induced displacement, since the necessity of displacement is debatable.⁶ In both conflicts and natural disasters, it is difficult to foresee the displacement and even pinpoint the party, at times, who can be held accountable. But in the case of development-induced displacement, the population movement is pre-planned and hence, several questions of ethics and politics may be raised.⁷ The Internal Displacement Monitoring Centre’s report of 2021⁸ states that 40.5 million were newly displaced in the year 2020, the highest annual figure in the last decade, due to conflicts and disasters in 149 countries. A total of 55 million people were living as internally displaced population in the world in 2020 and this figure is twice the number of refugees in the world.⁹ This centre is a part of the independent humanitarian organization the Norwegian Refugee Council since 1998 and is a trusted source for empirical data collection relating to internal displacement around the world.¹⁰ The centre provides yearly reports on conflict and disaster-induced displacement

² B.S. Chimni, *International Refugee Law* 395 (Sage Publications 2004).

³ *Ibid.*

⁴ UN Secretary General, *Report of the Representative of the Secretary General, Mr. Francis M. Deng, Submitted Pursuant to Commission Resolution 1997/39, Addendum, Guiding Principles on Internal Displacement*, UN Doc E/CN.4/1998/53/Add.2 (February 11, 1998), <<https://www.refworld.org/docid/3d4f95e11.html>>. (accessed on 12 January 2022).

⁵ *Ibid.*

⁶ Narae Choi, “Reinvigorating a Critical Discussion on ‘Development’ in Development-Induced Displacement and Resettlement: A Study of Non-displacement Impacts,” in *Development-Induced Displacement and Resettlement: New Perspectives on Persisting Problems* 41-55, 42 (Irge Satiroglu and Narae Choi eds., 2015).

⁷ *Ibid.*

⁸ *Global Report on Internal Displacement, 2021*, Internal Displacement Monitoring Centre, (June 3, 2021), <<https://www.internal-displacement.org/global-report/grid2021/>>. (accessed on 12 January 2022).

⁹ *Ibid.*

¹⁰ *Ibid.*

in various countries but the same for development-induced displacement is not available.

In India, most of the people displaced due to development projects are *tribals* or indigenous people who are forced to migrate to new areas.¹¹ As widely known, indigenous people or tribes have different ways of leading their lives closely intertwined with their habitat, usually the forests. Their means of livelihood, the rituals they follow, the concept of holding and utilizing property or land as a community are all opposite to the individualistic lives the rest of the population leads. Therefore, the modern law principles that are applied to the concept of land and property directly clashes with the customary rules of law followed by the indigenous people in the country. Land is acquired for development purposes under modern law which immediately puts the indigenous people at a disadvantage. Lack of education further aggravates their situation to seek appropriate remedies. The Constitution of India has declared certain areas as protected under Schedules V and VI where the tribal people reside in large numbers. However, it has not been enough to protect the interests of the people who have been displaced as a result of development projects.

II. WHO ARE THE TRIBAL PEOPLE OF ASSAM?

Assam is a land of heterogeneous communities many of whom have settled in the state over centuries. This co-existence has contributed to the fusion of physical and cultural traits of the people and led to the evolution of a composite culture that is unique to Assam.¹² The people of present day Assam can be categorized according to various religion, languages, tribes and castes.

One of the eight north-eastern states of India, Assam has a landmass of 78,438 square kilometres and an estimated population of 3.12 crores.¹³ According to the 2011 Census Report, tribal people comprised 12.45% of the total population.¹⁴ The Anthropological Survey of India has identified 461 tribal communities in the country, among which 174 were termed as sub-groups.¹⁵ These communities were categorized on the basis of geographic location, language and race.¹⁶ The tribes in Assam are classified as either orig-

¹¹ Pandit, *supra* note 1.

¹² *People of Assam*, 1, 3 (2016), <<https://thebrahmaputra.in/pdf/people/People%20of%20Assam.pdf>>. (accessed on 12 January 2022).

¹³ Assam State Portal, <<https://assam.gov.in/about-us/393>> (accessed on 20 November 2021).

¹⁴ Census India, *Assam Population – Census India 2011*, <<https://www.censusindia2011.com/assam-population.html#:~:text=The%20total%20area%20of%20Assam,of%20total%20population%20in%20Assam>>(accessed on 20 November 2021).

¹⁵ Roving, *Tribal People in India*, Tribes India (November 19, 2021, 6:31 p.m.), <<https://www.tribesindia.com/tribal-people-in-india/>>. (accessed on 22 January 2022).

¹⁶ *Ibid.*

inating from the Sino-Tibetan group according to language, or the Mongoloid race.¹⁷

The Government of India, according to geographic location, recognizes 14 plain tribe communities and 15 hill tribe communities in the state of Assam.¹⁸ The *Bodos* or *Bodokacharis*, which is a plain tribe, has the highest population amongst them all and are considered to be one of the earliest settlers of the region.¹⁹ The other plain tribes in Assam are the *Barmans* in Cachar, *Deori*, *Hojai*, *Kachari/Sonwal*, *Lalung*, *Mech*, *Miri/Mising*, *Rabha*, *Dimasa*, *Hajong*, *Singpho*, *Khampti* and *Garos*.²⁰ The hill tribes recognized in the districts of Karbi Anglong and North Cachar Hills include the *Chakma*, *Dimasa/Kachari*, *Garos*, *Hajong*, *Hmar*, *Khasi/Jaintia/Synteng/Pnar/War/Bhoi/Lyngngam*, a list of *Kuki* tribes, *Lakher*, *Man* (*Tai* speaking), any *Mizo* (*Lushai*) tribes, *Karbi*, any *Naga* tribes, *Pawi*, *Synthengand Lalung*.²¹

The state consists of three distinct groups of people, viz. the hill tribes, the plain tribes and the non-tribals residing in the plains.²² However, there are six communities in the state classified as other backward classes (OBCs) by the Government of India²³ which are seeking Scheduled Tribe (ST) status. These include the tea-tribes (*Adivasis*), *Chutias*, *Koch-Rajbongshis*, *Motocks (Mataks)*, *Morans* and *Tai Ahoms*.²⁴ Although the other five communities trace their roots in Assam, the tea-tribes are originally from other states like Jharkhand and were brought by the British to tend to the growing tea-estates in the state.²⁵ They are the descendants of *Adivasi* communities such as Santhals, Munda and other tribals of mainland India. While these communities are accorded the Scheduled Tribe status in other parts of the country, they do not receive the same recognition in Assam as they are not indigenous population of the state.²⁶ They have lived in the state for several decades now and form about 20% of the total population as of 2019.²⁷ It is a genuine concern that addition of such a large number of people under the ST umbrella would pose an

¹⁷ Chimni, *supra* note 3, at 1-4.

¹⁸ State/Union Territory-wise List of Scheduled Tribes in India, 2, <<https://tribal.nic.in/ST/LatestListofScheduledtribes.pdf>> (accessed on 20 November 2021).

¹⁹ Chimni, *supra* note 3, at 2.

²⁰ *Supra* note 9.

²¹ *Ibid.*

²² Monirul Hussain, "Tribal Question in Assam," 27 E & P Weekly 1047, 1047 (1992), <<https://www.jstor.org/stable/4397885>>. (accessed on 20 November 2021).

²³ National Commission for Backward Classes, *Central List of OBCs for the State of Assam*, <<http://ncbc.nic.in/WriteReadData/cl/assam.pdf>> (accessed on 20 November 2021).

²⁴ Indrajit Sharma, "Tea Tribes of Assam: Identity Politics and Search for Liberation," 53 E & P Weekly (March 3, 2018), <<https://www.epw.in/journal/2018/9/notes/tea-tribes-assam.html>>. (Accessed on 20 November 2021).

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Indrajit Sharma, "Tea Tribes of Assam: Identity Politics and Search for Liberation," 53 E & P Weekly (March 3, 2018), <<https://www.epw.in/journal/2018/9/notes/tea-tribes-assam.html>>. (Accessed on 20 November 2021).

issue in case of reservation of seats/posts in various government sectors.²⁸ The logistics of inclusion of all these six communities are under consideration as talks were held with the current government of Assam in September 2021 and the demands of the people have been sent to the central government.²⁹ In the meantime, the Constitution of India does protect the interests of the citizens of the country, especially the vulnerable sections in diverse ways.

III. INTERNAL DISPLACEMENT AND THE CONSTITUTION OF INDIA

The term ‘internally displaced persons’ (IDPs) is used to denote people who are compelled to leave their homes as a consequence of conflicts, natural disasters or environmental degradation, other human rights violations, or, development projects.³⁰

An internally displaced person is different from a ‘refugee’ as the former remains within the national borders of his/her country, while the latter crosses an international boundary.³¹ Therefore, the former continues to be within the jurisdiction of the country he was displaced in and if a citizen, would be eligible to claim various rights.

The terms ‘development’ and ‘displacement’ are used simultaneously in the world today. It took centuries for countries of the Third World or developing countries to achieve independence from their colonizers. However, upon gaining liberation, they embraced the ‘western’ models of development as their own instead of relying on, or, seeking indigenous models. India followed the same pattern to achieve its development goals and equated economic progress with rise in its Gross National Product (GNP) every year.³² Therefore, investments were done on the latest technology instead of utilizing the labour at hand effectively, further marginalizing of the weaker sections of the society.³³

There are countries like Angola that have enacted domestic legislations to deal with internal displacement.³⁴ But the world lacks an international legal

²⁸ *Ibid.*

²⁹ Sentinel Digital Desk, Centre Positively Viewing the Demand for ST Status for Six Communities of Assam: Arjun Munda, *Sentinel* (September 14, 2021 7:37 am), <<https://www.sentinelassam.com/topheadlines/centre-positively-viewing-demand-of-st-status-for-six-communities-of-assam-arjun-munda-554696>>. (accessed on 20 November 2021).

³⁰ Irge Satiroglu et al., *Development-Induced Displacement and Resettlement: New Perspectives on Persisting Problems 2* (Routledge 2015).

³¹ UNHCR: The UN Refugee Agency, India, “Internally Displaced People”, <<https://www.unhcr.org/internally-displaced-people.html>> (accessed on 20 November 2021).

³² Walter Fernandes et al., *Development, Displacement and Rehabilitation: Issues for a National Debate 3* (Indian Social Institute 1989).

³³ *Ibid.*

³⁴ Brookings University, Chapter-1, Assessing National Approaches to Internal Displacement: Findings from 15 Countries, from Responsibility to Response (2011), <<https://www.brookings>

framework to support the same. The recent rise in internal displacement³⁵ has also caught the attention of the international community and questions are being raised about its causes and protection available.

The Constitution of India is the supreme guardian of the rights of the citizens. It states its fundamental principles in the Preamble identifying the country as a democratic republic that purports to achieve justice, liberty, equality and fraternity for all the citizens.³⁶ In adherence to these core principles, Articles 14 to 32 guarantees certain fundamental rights to the people. In a situation of internal displacement where the fundamental or basic human rights of a citizen(s) is violated, Articles 14³⁷ and 21³⁸ would be the primary refuge as they provide the right to equality and equal treatment under the law, and right to life and personal liberty, respectively. There are landmark judgements where the Supreme Court of India and High Courts have held the government(s) accountable to protect the rights of the internally displaced based on these provisions.³⁹ The tribal population of India, due to their vulnerability and distinctive ways of life, have been accorded extra protection. Schedules V and VI of the Constitution of India protect certain areas of specific states in the country which have dense population of indigenous people. While Schedule V applies to the ten states of Himachal Pradesh, Rajasthan, Gujarat, Maharashtra, Andhra Pradesh, Telangana, Odisha, Jharkhand, Chattisgarh and Madhya Pradesh, Schedule VI is concerned with the administration of tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura.⁴⁰

Assam has three Autonomous Councils under the sixth schedule, *viz.* Bodoland Territorial Council, Dima Hasao Autonomous District Council and Karbi Anglong Autonomous District Council.⁴¹ These have varying degrees of legislative, executive, administrative and financial powers over specific policy matters. In terms of land, which is the chief concern for a development project, these councils have the right to make laws apart from those which are categorized as reserved forests for agriculture, grazing, or, residential purposes and any other purpose which will promote any interest of the village/town.⁴² However, irrespective of these protections, there is a blanket provision for compulsory acquisition of any land, whether occupied or unoccupied, by

edu/wp-content/uploads/2016/06/From-Responsibility-to-Response-Nov-2011_ch1.pdf>.
(accessed on 20 November 2021).

³⁵ Internal Displacement Monitoring Centre, Global Report on Internal Displacement, 2021, <<https://www.internal-displacement.org/global-report/grid2021/>> (accessed on 20 November 2021).

³⁶ P.M. Bakshi, *The Constitution of India* 1 (Universal Law Publishing, 2017).

³⁷ *Ibid.* at 20-29.

³⁸ *Ibid.* at 70-86.

³⁹ *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664, *Kedar Nath Yadav v. State of W.B.*, (2017) 11 SCC 601.

⁴⁰ Bakshi, *supra* note 28 at 420-441.

⁴¹ *Ibid.*

⁴² *Ibid.*

the government for ‘public purpose’.⁴³ Therefore, the tribal population, while being provided with multifarious protections under the Constitution of India and other statutes,⁴⁴ are treated on par with the rest of the population when it comes to acquisition of land for ‘public purpose’.

IV. THE LAWS AND POLICIES FOR LAND ACQUISITION IN INDIA

In India, the colonial Land Acquisition Act, 1894 was the primary legislation till it was repealed in the year 2013 that empowered the Government of India to acquire any private land for ‘public purpose’. The core principle of the legislation recognized ‘individual ownership’ of land and considered it as a commodity, whose ultimate owner was the State. Since it was enacted by the British, it chiefly served their interest of profit and gradually proved unsuitable for a democracy like India.⁴⁵ Yet, India had acquired massive areas of land under this Act for several decades after independence in 1947 and as a result, millions of people in the country were displaced.⁴⁶ It was finally repealed and replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation (LARR) Act, 2013.

Under international law, internally displaced people are considered to be one of the most vulnerable categories who have deprived of their human rights. The Guiding Principles on Internal Displacement, 1998 recognizes acknowledges their issues and considers rehabilitation, resettlement and reintegration to be essential for their survival. Unfortunately, the Act of 1894 failed most of the displaced population in these aspects and even led to their loss of livelihood.⁴⁷ Simultaneously, a host of other issues emerged including, but not limited to, loss of homes, food scarcity, loss of access to common property, increase in illnesses and mortality marginalization and social disintegration.⁴⁸

A study claims that the largest number of development projects in the world were from India at the brink of the new millennium which contributed to the largest number in development-induced displacement.⁴⁹ A total of 21.4 million

⁴³ P.M. Bakshi, *The Constitution of India* 425 (Universal Law Publishing 2017).

⁴⁴ Apoorv Kurup, “Tribal Law in India: How Decentralized Administration is Extinguishing Tribal Rights and Why Autonomous Tribal Governments are Better”, 7 *Indigenous L.J.* 92-97 (2008), <<https://tspace.library.utoronto.ca/bitstream/1807/17375/1/ILJ-7.1-Kurup.pdf>>.

⁴⁵ Usha Ramanathan, *Displacement and the Law*, 31 *E & P Weekly* 1491, 1492-1493 (1996), <<http://ielrc.org/Content/a9602.pdf>>. (accessed on 20 November 2021).

⁴⁶ *Ibid.*

⁴⁷ B.G. Balaji Naika, “Land Acquisition and Development Induced Displacement: India and International Legal Framework”, *ILI Law Review* 66 (2016), <https://www.ili.ac.in/pdf/p6_balaji.pdf>. (accessed on 20 November 2021).

⁴⁸ Brookings University, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, 5-7 (2008), <<https://www.unhcr.org/50f955599.pdf>>. (accessed on 16 August 2021).

⁴⁹ *Id.*, at 8.

people were displaced as a result of development projects in India by the year 2007 and 16.4 million of them were displaced by construction of dams alone, according to Internal Displacement Monitoring Centre.⁵⁰ These numbers were found in a Government of India report in 2013 as well.⁵¹ Thus, the severity of displacement resulting from such projects have been acknowledged by the government of India.

The principle of ‘eminent domain’, i.e. the right of a government or its agent to acquire private property for public use, impacts the owners of community property resources (CPRs) in a wider way.⁵² Such development projects lead to alienation of CPRs like forests, land and water. The indigenous groups, like the *tribals* in the North-eastern states of India and other marginalized groups lack legal titles (*patta*) to these resources,⁵³ which are owned and managed by the community at large. These resources are the basis of their livelihood and managed differently from tribe to tribe. For example, amidst the *Ak a* tribe of Arunachal Pradesh the very concept of individual ownership does not exist, while the *Dimasa* tribe of Assam and the *Angami* of Nagaland prefers a combination of individual ownership with clan land that is community recognized and controlled.⁵⁴ These alternatives find no place in the law of eminent domain and thus, such groups of people do not fall under the purview of displaced or project-affected during land acquisition.

The Government of India did introduce a National Policy on Resettlement and Rehabilitation for Project Affected Families⁵⁵ effective from the year 2004 that was subsequently replaced by the policy of 2007.⁵⁶ But it could not address all the existing problems of displacement. The policy did not clarify how displacement could be minimized, was silent on the powers of the proposed committees and marred with general ambiguity.⁵⁷

The Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation (LARR) Act, 2013 is a notable legislation for India as it was the first time the issue of displacement caused by compulsory

⁵⁰ *Ibid.*

⁵¹ Lok Sabha Secretariat, Displacement and Rehabilitation of People Due to Development Projects (No.30/RN/Ref./December/2013) <http://164.100.47.193/Refinput/New_Reference_Notes/English/DisplacementandRehabilitation.pdf> (accessed on 20 November 2021).

⁵² Walter Fernandes, Displacement and Alienation of Common Property Resources, 105 (2007) <https://www.nesrc.org/Studies/05_Lyla_Mehta_Ch-05.pdf> (accessed on 20 November 2021).

⁵³ *Ibid.*

⁵⁴ *Id.*, at 107.

⁵⁵ The National Rehabilitation and Resettlement Policy, 2007, <https://www.centralcoalfields.in/hindi/indsk/pdf/employ_land/land_rules/natnl_rehab_restltmnt_plcy_2007.pdf> (accessed on 20 November 2021).

⁵⁶ *Ibid.*

⁵⁷ Deepak Kumar, “R&R Issues vs. NRRP”, 9 (December 14, 2011), <https://www.greatlakes.edu.in/gurgaon/sites/default/files/R&R_Issues_vs_NRRP_2007.pdf> (accessed on 20 November 2021).

acquisition of land received acknowledgement.⁵⁸ It abolished the Act of 1894 to make the land acquisition process more transparent and safeguard the interests of any people who are displaced. The legislation has elaborated the circumstances under which the government can acquire land for public purpose. The term ‘public purpose’ has been defined as to include acquisition for strategic/defence purpose, infrastructure projects involving agro-processing, industrial corridors or mining activities, water harvesting, government administered or aided educational/research institutes, projects for sports/health care/tourism/space programme, project for such project-affected families, housing for income groups notified by the government periodically, planned development or improvement of village sites, and residential projects for the poor/landless/displaced affected by natural calamities.⁵⁹

The inclusion of the concept of ‘prior consent’ is considered to be a landmark in this legislation. It mandates that all and any acquisition can take place only for public purpose and in case of projects by private companies, at least eighty percent of the people who would be affected/displaced are to give consent for the same and at least seventy percent in case of public-private projects.⁶⁰ The Act also provides for a ‘social impact assessment’ study to be done in the area(s) considered for acquisition before any project is finalized, and if required, and ‘environmental impact assessment’, too.⁶¹ This helps in identifying all the people who would lose their land and the impact thereon.

The will behind this law was to make land acquisition the last resort for a government and to ensure that subsequent displacement concerns do not occur, or, at best are addressed adequately.⁶² But it faced criticism for being unfavourable to industrial development and ended up being amended within a year of its enactment.⁶³ The central government promulgated the Ordinance of 2014 and added a new Chapter III A and Section 10A in the Act of 2013.⁶⁴ It stated that five categories of projects would be exempted from the ‘consent’ and ‘social impact assessment’ clauses of the Act of 2013, viz. defence, rural infrastructure, affordable housing, industrial corridors and infrastructure

⁵⁸ Manshi Asher, *Striking While the Iron is Hot: A Case Study of the Pohang Steel Company's (POSCO) Proposed Project in Orissa* 68 (National Centre for Advocacy Studies, Pune, 2009).

⁵⁹ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (Act 30 of 2013).

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² G. Seetharaman, “Five Years on, has Land Acquisition Act Fulfilled its Aim”, *The Economic Times* (September 1, 2018), <<https://economictimes.indiatimes.com/news/economy/policy/five-years-on-has-land-acquisition-act-fulfilled-its-aim/articleshow/65639336.cms>> (accessed on 20 November 2021).

⁶³ *Ibid.*

⁶⁴ Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014.

projects, including public-private projects.⁶⁵ This makes the acquisition process simpler and nullifies the intention of the Act to a large extent. The Ordinance was introduced as an amendment bill in the Parliament on February 24, 2015.⁶⁶ It was passed by the Lok Sabha but could not win the requisite votes in the Rajya Sabha.⁶⁷ Finally, it was referred to the Joint Committee of the Parliament that has been unable to reach a fruitful consensus despite several sittings and discussions.⁶⁸

The Centre on Policy Research, New Delhi carried out a study on the Supreme Court of India cases on land acquisition covering a period of 66 years after independence and found that almost half of such cases belonged to the five exempted categories.⁶⁹ This affirms the government's priority of development over displacement and the very objective of the Act, which was to create transparency in land acquisition and protect the interests of the original owners of the land, stands diluted. A few other state governments like Tamil Nadu, Maharashtra, Gujarat, Jharkhand, Telangana, Rajasthan and Andhra Pradesh followed the centre's lead, either seeking exemption like above or amending their state laws on the basis of this ordinance.⁷⁰

Although the new legislation has endeavoured to address the issue of displacement, the impact of the erstwhile Land Acquisition Act of 1894 had already been felt by millions of people. People have lost lives, livelihood, community and culture in this quest for modern development of the Indian economy. The state of Assam and a section of its tribal population have also borne the brunt of such land acquisition for development projects in the last few decades.

⁶⁵ Namita Wahi, "How Central and State Governments have Diluted the Historic Land Legislation of 2013", *The Economic Times* (April 14, 2018), available at: <<https://economic-times.indiatimes.com/news/politics-and-nation/how-central-and-state-governments-have-diluted-the-historic-land-legislation-of-2013/articleshow/63764378.cms>> (accessed on 20 November 2021).

⁶⁶ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Second Amendment) Bill, 2015 (Bill 152 of 2015).

⁶⁷ Ishani Sonak, "State Governments Acquire Land by Subverting Rights and Bending the Law", *Down to Earth* (December 12, 2018), <<https://www.downtoearth.org.in/news/agriculture/-state-govts-acquire-land-by-subverting-rights-and-bending-the-law--62463>> (accessed on 20 November 2021).

⁶⁸ *Ibid.*

⁶⁹ Centre for Policy Research, *Land Acquisition in India: A Review of Supreme Court Cases (1950-2016)* (2017), <<https://www.cprindia.org/research/reports/land-acquisition-india-review-supreme-court-cases-1950-2016>> (accessed on 20 November 2021).

⁷⁰ Kumar Sambhav Srivastava et al., "State Governments Continue to Dilute the Land Acquisition Legislation", *Business Standard* (April 23, 2019), <https://www.business-standard.com/article/economy-policy/state-governments-continue-to-dilute-the-land-acquisition-legislation-119042300104_1.html> (accessed on 20 November 2021).

V. IMPACT OF THE DEVELOPMENT PROJECTS ON THE TRIBAL POPULATION OF ASSAM

The nature, frequency and range of the causes of internal displacement in India are varied. While ethnic conflicts, like that of the *Bodos* and *Santhals*, or, *Bodos* and Muslims since the early 1990s⁷¹ have resulted in mass internal displacement and these kind of news tend to receive more traction in the media, development-induced displacement have caused its share of displacement in the state.

A research conducted under the aegis of a government institution on three development projects in the state of Assam affecting tribals was released in the year 2011-2012.⁷² The empirical study focused on the Brahmaputra Cracker and Polymer Ltd. (BCPL), Lepetkata in the Dibrugarh district, the Bogibeel Bridge cum Railway Project in Dhemaji and the Geotube Embankment Project in Dhakuakhana, Lakhimpur district. All of them fall within the area popularly termed as Upper Assam. A sample design was created which selected displaced tribal villages at random; 3 of BCPL, 7 of the Bogibeel project and 10 of the Geotube project.⁷³

The people affected by the BCPL project were mostly Sonowal Kacharis, former tea-tribes and Ahoms, whereas, for the other two projects majority of the people belonged to the Mising plain tribe; a few people displaced for the Geotube project were identified as Biharis.⁷⁴

The BCPL project began in 2007 and was inaugurated in 2016, the Bogibeel project took 16 years for completion from 2002 to 2018 and the Geotube took a period of 18 months for construction (March 2009 – September 2010).⁷⁵ The extensive study concluded that these projects adversely affected the communities due to acquisition of land which included homestead and agricultural land. The pattern of population and households underwent changes after the commencement of the projects. For *e.g.* the 3 villages of BCPL witnessed a decline in their population and households from 3274 to 2758 and 586 to 494,

⁷¹ Udayon Misra, “Bodoland: The Burden of History”, 47(37) E & P Weekly 36, 36-41 (2012), <<https://www.jstor.org/stable/41720137>> (accessed on 20 November 2021).

⁷² Farzana Begum, Report on Development, Displacement and Tribals of Assam, Assam Institute of Research for Tribals and Scheduled Castes (2011-2012), <https://repository.tribal.gov.in/bitstream/123456789/74108/1/AIRT_2011_0008_report.pdf>(accessed on 20 November 2021).

⁷³ *Id.*, at 9.

⁷⁴ *Id.*, at 11-81.

⁷⁵ *Ibid.*

respectively.⁷⁶ The people who depended upon agriculture had to find alternative means of livelihood which the report itself termed as disheartening.⁷⁷

The project authorities did make efforts to provide rehabilitation. Schools were also set up for the displaced population, electric connections were provided and there was improvement in sanitary conditions. In the case of BCPL, the displaced were resettled and rehabilitated in new agricultural lands and homesteads which is commendable but the Bogibeel project did not provide any rehabilitation or resettlement scheme to the landless cultivators.⁷⁸ With regard to the Geotube project, 578 households were rehabilitated and 193 other affected households were not considered for rehabilitation.⁷⁹ The authorities in this case had stipulated conditions for resettlement where people could migrate to places of their choice and set up homesteads. But the same was not dictated by any state policy. Many households migrated to far off places like Jonai and Baginadi and settled in the forests.⁸⁰ Such settlements, without documentation, can definitely pose issues for the people in future if their residences fall within reserved forests or the questions of *patta* arise. There were also socio-cultural imbalances in the communities as the traditional way of life was hampered, which could not be compensated by the alternative lands or cash provided by the authorities.

Another empirical study by an independent researcher of the impact of the under-construction Lower Subansiri Hydro-Electric Project situated on border districts of both Arunachal Pradesh and Assam, found that its completion would lead to indirect displacement of mostly tribal population in Assam.⁸¹ Their livelihoods are dependent on agriculture and allied activities which have been disrupted as a consequence of the ongoing construction. The Subansiri reserve forest was allocated for construction of the project, which is now declared as a prohibited area. The tribal people in that area used to collect firewoods, vegetables and herbs from the forest and even used it for grazing their cattle. They no longer have access to it. These people also belong mostly to the Mising community and the rest are tea-tribes, Koch-Rajbongshis, Ahoms, Sonowal-Kacharis, Koibartas, etc.⁸²

⁷⁶ Farzana Begum, Report on Development, Displacement and Tribals of Assam, Assam Institute of Research for Tribals and Scheduled Castes (2011-2012), <https://repository.tribal.gov.in/bitstream/123456789/74108/1/AIRT_2011_0008_report.pdf> (accessed on 20 November 2021).

⁷⁷ *Id.*, at 83.

⁷⁸ *Id.*, at 86.

⁷⁹ *Id.*, at 92.

⁸⁰ Farzana Begum, Report on Development, Displacement and Tribals of Assam, Assam Institute of Research for Tribals and Scheduled Castes, 92 (2011-2012), <https://repository.tribal.gov.in/bitstream/123456789/74108/1/AIRT_2011_0008_report.pdf> (accessed on 20 November 2021).

⁸¹ Pallavi Hazarika, "Development-Induced Displacement, Deprivation and People's Movement in Assam", <http://www.educationindiajournal.org/home_art_avi.php?path=&id=122> (accessed on 20 November 2021).

⁸² *Ibid.*

A significant research was done on development-induced displacement in Assam from 1947 to 2000.⁸³ Their work revealed that private land acquired for development projects was a record 14.1 lakh acres compared to 3.91 lakh acres shown as government data and population displaced stood at 19.1 lakh, as opposed to 4.2 lakh people recorded by the government.⁸⁴ The study revealed that only individual land-losers were counted according to the prevalent law of the land, but families who sustained on 'common property resources' were excluded. These people were tribals who followed their customary laws. Thus, even if appropriate compensation, rehabilitation and resettlement policies were followed, the tribal people would still receive none of it.

VI. CONCLUSION

India, post-independence from colonial rule, have imbibed the western model of development and progress. It involves the construction of projects like mining, defence establishments, dams, factories, etc. that require large areas of land. The people have India were primarily dependant on agriculture and hence, land forms an integral part of their lives and livelihood. It is even truer of the tribal or indigenous population who live by their own customary laws. They mostly hold land as a 'community property resource' which is worked on and shared by all the people residing on it.

The erstwhile Land Acquisition Act, 1894, succeeded by the Right to Fair Compensation and Transparency in Land Acquisition, Resettlement and Rehabilitation (LARR) Act, 2013, are based on the colonial principle of *eminent domain* that makes compulsory acquisition of any land possible for 'public purpose'. The former legislation only recognized the concept of individual property which led to further marginalization of tribal communities in the country. Although the new Act seems promising on paper, especially with regard to the concepts of 'prior consent', compensation and rehabilitation, the subsequent amendment exempting five categories from the 'consent' and 'social impact assessment' clauses makes the intention of the government dubious.

The tribal communities of Assam are primarily categorized as hill and plain tribes. There are 29 such communities recognized by the government of India who have been accorded the Scheduled Tribe (ST) status which makes them eligible for several government benefits. Another six communities are clamouring for ST status in the states, *viz.* the tea tribes (*Adivasis*), who are originally from other parts of the country but have settled in the state since colonial rule, the *Tai-Ahoms*, *Koch-Rajbongshis*, *Moran*, *Mottocks* and *Chutias*. It is to be noted that the *Adivasis* are categorized as ST in other states of the country, but not in Assam as they are not indigenous in the state. However, even the sixth

⁸³ Walter Fernandes, "Uprooted for Whose Benefit? Development-induced Displacement in Assam" (1947-2000), (North Eastern Social Research Centre, 2007).

⁸⁴ *Id.*, at 2.

schedule of the Constitution of India is unable to provide any protection to the tribal population of Assam from compulsory acquisition.

Three studies, one each by the government, a research institute and an independent researcher of various development projects in the state of Assam have found that such projects negatively impact the lives of the displaced population, especially when they are tribal. They tend to reside in and around forest lands due to their way of life, or, are mostly dependant on agriculture and hence, use more land mass. Development projects usually require such large areas and continue to expand to make connectivity and use of natural resources easier. In the process, the tribal people are deprived of benefits accruing from these projects as they have no need for them. Their way of life and livelihood are in the lap of nature. Cash compensation, rehabilitation and resettlement cannot reimburse the loss of socio-cultural and community life they are accustomed to. In the case of many of the development projects mentioned above, the *Missing* community seems to have borne the brunt.

There cannot be a single solution to all the issues of displaced population in Assam. It is imperative that all the stake-holders in a development project are given adequate representation before commencement. Further, the social impact must be a priority and not compromised for the sake of 'development'. India must do better in terms of protecting the interests of the tribal population in the country.