

The Adivasi Struggle Against Environmental Injustice

23/12/2020

GAYATRI GUPTA

NALSAR University of Law, Hyderabad



Adivasi protestors at a rally in New Delhi. Photo: Reuters/Parivartan Sharma.

The environmental justice movement arose out of a criticism of traditional environmentalism, which emphasised preservation and conservation strategies.

The question of distribution of resources – “who gets what, when, why and how much” – has been becoming

increasingly political. According to one definition, environmental injustice is “the disproportionate exposure of communities of colour and the poor to pollution, as well as the unequal environmental protection provided through laws.”

Various studies, reports and surveys have shown that, around the world, indigenous people are most vulnerable to the impact of environmental pollution.

The struggle of indigenous populations against environmental injustice is not purely a civil or environmental concern, but instead a complex interplay of self-determination, colonialism, racism, sovereignty and environmental destruction.

This article outlines the Adivasi struggle against environmental injustice in India, and identifies some common themes in these movements.

A brief history

In India, exploitative state practices in forest areas during the British rule allowed an influx of outsiders in the trinity of ‘*sarkar*, *sahukar* and *zamindar*’. After independence, the Constitution adopted the term ‘scheduled tribes’ (STs) to identify the country’s tribal and Adivasi populations. STs account for 8.2% of India’s total population and are constitutionally provided special administrative and territorial concessions.

However, constitutional protections under the Fifth and Sixth Schedules are constantly threatened by neoliberal

policies and the vested interests of multinational corporations. In the years immediately after independence, India adopted an industrial approach to development, whereby multipurpose industrial projects like dams were considered ‘temples’ of modern India. But in its attempt to grow out of poverty and become a fully industrialised nation, substandard treatment of the environment became a common refrain.

Rapid and reckless industrialisation ushered in an era of environmental justice movements, including the Chipko Movement, the Silent Valley protests and the Niyamgiri struggle. Headed by tribal activists, these movements are opposed to the exclusion of traditionally dependent forest communities from equal participation in forest governance.

Such governance represents the third generation of environmental laws in India, built on a right-based model. These laws aim to achieve a politics of collaboration to guarantee both “people’s needs and ecological stability”. The 1988 National Forest Policy recognised the claims of forest-dwellers and formed the basis of Joint Forest Management Programme in 1990.

This coincided with the broader wave of decentralisation in governance, marked by panchayats extension to scheduled areas, and which acknowledged the rights of forest communities over forest produce. The most recent and important statute enacted under the rights-based model is the ST and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, commonly abbreviated to FRA. The FRA recognises the historical

injustice faced by tribal forest dwellers due to the government's failure to recognise their rights.

Common themes

However, most of these legislations have not been implemented properly, and have been left at the mercy of administrative and judicial convenience. According to a 2016 report, India has recognised only 3% of the minimum potential community forest rights. The country has about [340 reported cases of environmental conflicts, and the Adivasi community has mobilised resistance in 57% of them.

Presently, the number of tribal people forcibly displaced from developmental activities accounts for more than 50% of all people displaced.

A closer look reveals the presence of three common strands in Adivasi movements against environmental injustice.

First: The first strand is the unique connection to land that most communities have expressed. Indigenous peoples' claim to land is not only based on prior occupancy of the land but also through a relationship with, and responsibility for, the land.

In Arunachal Pradesh, the proposed Etalin dam interferes with the Idu Mishmi tribe's access to a pilgrimage site. In Niyamgiri, the Dongri Kondh consider the Niyam Dongar mountain to be sacred, believing it to be their god's abode. In the 2013 Niyamgiri case, the Supreme Court of India

also recognised the Dongria Kondh's right to determine what comprises their religion and culture.

However, the Niyamgiri story soon became an aberration in the court's jurisprudence on forest rights when a bench ordered the [eviction of more than 10 lakh forest-dwellers in 2019. The petitioners' argument in the case, that tribal people are a threat to biodiversity, has been widely skewered. For one, it goes against principle 22 of the Rio Declaration that recognises the important role that indigenous people play in environmental management, and directs governments to recognise and support indigenous culture and interests.

Second: Let's consider the principle of free, prior and informed consent (FPIC), which is an important tool for indigenous people to exercise their right of self-governance. The 2007 UN Declaration on the Rights of Indigenous People (Articles 10, 19, 20, 28, 29) requires governments to consult and receive the approval of indigenous peoples before adopting any projects related to their lands and resources.

The International Labour Organisation Convention 169 (Articles 6, 15, 17, 27) also obligates states to meaningfully consult the people concerned before adopting any legislative or administrative measure that affects them.

In India, gram sabhas need to be consulted and allowed to recommend before acquiring land in scheduled areas for developmental projects under the Panchayats Act. Under

the FRA, free informed consent of a community is mandatory when the community faces resettlement from a wildlife sanctuary.

The Supreme Court also upheld the FPIC principle in the Niyamgiri case when it directed the government to conduct a referendum in all village assemblies regarding their stance on the Vedanta bauxite-mining project project.

However, this principle has also suffered a blow in recent times. The draft Environmental Impact Assessment notification 2020 reduces public consultation time from 30 to 20 days and allows for post-facto approval of projects as well. The manufactured consent from the Idu Mishmi tribe for the Dibang dam also shows how authorities can misuse FPIC as a way to sidestep the rights of indigenous peoples. Officials often subvert the FPIC process and routinely violate consent.

Third: Environment justice is intertwined with India's economic growth model. Years of exploitation have impoverished indigenous populations, forcing them to make difficult economic decisions. Corporations present environmentally dangerous proposals like dams, mines and factories as a viable path towards development. They make vague promises of job security and exaggerated claims about the safety of commercial projects.

For example, the Anakkayam small hydroelectric project in Kerala adversely impacts the local biodiversity and the livelihood of the Kadar community. Arunachal's Etalin project, Dibang dam and other 169 dams are expected to

displace the Idu Mishmi and other tribes. In Chhattisgarh, private players have been allowed to mine coal in 41 blocks.

However, we need a more holistic understanding of development. Research on development interventions in the Adivasis region of Jharkhand indicates that to ensure sustainable development, Adivasis must be consulted to develop a growth model suited to their cultural and environmental interests. In Niyamgiri, while the Dongria Kondh were adamant in their opposition to industrial mining, they still wanted the state to intervene and develop better irrigation and market facilities in their areas.

The Adivasi struggle against environmental injustice reveals infringement of indigenous people's right to self-determination and sovereignty when governments and corporations impose detrimental environmental decisions. These movements have to constantly defend their ways of life when faced with a unidimensional understanding of economic growth. Despite formal adoption of good forest governance principles and FPIC, challenges still remain in their actual implementation.