
LAND, LAW AND RESISTANCE: THE POLITICS OF ADIVASI LAND LAWS IN JHARKHAND

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In this article, the author argues that although protective land laws like the Santhal Parganas Tenancy Act were created to safeguard Adivasi land in Jharkhand, amendments and policies, often in the name of development, weaken the core purpose of these laws. Community resistance to these amendments (Santhal Rebellion, 2016 Protest, Niyamgiri case) show that collective action remains crucial for defending indigenous land rights.

Introduction

For the Adivasis of Jharkhand, their property is sacred- it's their identity. However, this sanctity is under constant threat from extractive mining giants and changing government policies. While laws exist to safeguard Adivasi's against encroachment, the ability of the executive to dilute the act (usually in the name of development), undermines the purpose of the laws. This leads to the central question - how effective are existing laws in Jharkhand, particularly the Santhal Parganas Act, in protecting Adivasi land from state and corporate encroachment in the name of development? Protective legal frameworks such as the Santhal Parganas Act were designed to safeguard the Adivasi Land. Yet, systematic amendments, particularly the 2016 amendments, show how the state dilute the restrictions on land transfer, facilitating state and corporate encroachment on Adivasi land.

This article examines how the government aims to dilute protective land laws under the guise of development and welfare, while in reality they facilitate corporate access to Adivasi land. To analyze the central argument, understanding the social and political environment surrounding the state is paramount. Firstly the article examines Jharkhand's environment which portrays a paradox between its mineral wealth and consistent tribal marginalization. It then traces back to the historical origins of land laws such as the Santhal Parganas Tenancy Act, and how over time it was diluted through amendments, facilitating creation of land banks from the Adivasi land. Finally, by comparing this scenario with the Niyamgiri case, the article illustrates how legal resistance and community strength effectively reinforces can collectively reinforce land rights, despite state and corporate pressure, strengthening the Adivasi's stance as the

guardians of their land and livelihood.

Jharkhand's Environment – The Paradox

On November 1 2000, Jharkhand was carved out of Bihar as a state, with a stated focus on tribal welfare and its world-renowned mineral-rich land. With plateaus like Santhal Pargana and Chotanagpur, the State is home to some of the major Adivasi communities in India, contributing to around 40% of the nation's minerals¹, Jharkhand has garnered attention from big corporate names like TATA Steel, Jindal Power and Steel; and with them industrial activities. However, on the Multi-dimensional Poverty Index (MPI) Report, 2021, Jharkhand ranks 2nd highest (just behind Bihar) with 42.16% of the population below the poverty line.² Jharkhand natives claim "The government of Jharkhand has completely failed to stick to its core minimum obligation to protect, respect and fulfil the basic human rights of the people".³ This pattern of neglect is deeply rooted and can be traced all the way back to the colonial period, and their legislatures such as the Santhal Parganas Act, 1876.

The Santhal Parganas Act, 1876 (SPT Act)

Santhals were a primarily agrarian tribe who were encouraged by the British to settle in the Rajmahal Foothills (eastern Jharkhand) to boost agricultural revenue. British policies and exploitation of the Zamindaris and moneylenders (predominantly of the tribes) deprived Santhals of their lands, pushing them into extreme poverty. The Santhal Rebellion, driven by social and economic exploitation faced by the tribe, marked a significant uprising against the British rule. More than 15,000 Santhals lost their lives and around 10,000 villages were destroyed. In response to the hul (rebellion) the British government introduced 'The Santhal Parganas Tenancy Act', in 1876.

Through the act they aimed to protect the Santhal's land primarily by achieving two objectives. Firstly, by prohibiting transfer of Adivasi land to non-Adivasis, they ensured that the land is

¹ Navtan Kumar, 'Mineral-rich Jharkhand fables the world' *The Economic Times* (ET Bureau, 20 July 2009) <<https://economictimes.indiatimes.com/industry/indl-goods/svs/metals-mining/mineral-rich-jharkhand-fables-the-world/articleshow/4800450.cms>> accessed on 27 March 2025

² PTI, "Bihar, Jharkhand, UP among poorest states: NITI Aayog's poverty index report" *The Times of India* (26 Nov 2021) <<https://timesofindia.indiatimes.com/india/bihar-jharkhand-up-among-poorest-states-niti-aayogs-poverty-index-report/articleshow/87937717.cms>> accessed 15 Oct 2025.

³ Joy Raj Tudu, 'Development in the Santal Parganas: an overview of the underlying issues' (*Adivasi Koordination*, February 2020) 02 <<https://www.aidivasi-koordination.de/wpdev/wp-content/uploads/2020/02/joy-raj-tudu-development-in-the-santal-parganas.pdf>> accessed on 27 March 2025.

retained with the tribe. Secondly, land under this act can only be inherited within the Adivasi community, thus retaining their power to self-govern their land. After India attained independence, the government codified the existing laws, in 1949, by introducing Santhal Parganas Tenancy (Supplementary Provisions Act), which helped consolidate and strengthen the existing tenancy act to adapt to post-independence administration. The act continued to prohibit the transfer of tribal land to non-tribals. This act was in ninth schedule of the constitution,⁴ and were purposefully kept outside judicial review with the sole intent of and effective implementation and protection of lands of STs, SCs and OBCs.⁵

Amendments and Dilution of the Santhal Parganas Tenancy Act

After being introduced as ordinances in May 2016, on 23rd November 2016, the ‘Jharkhand Legislative Assembly’ passed amendments to this Act, without any discussion.⁶ This amendment diluted the SPT Act, by adding a new sub-section, section 13(A), which section allowed the State Government to make rules from time to time, allowing use of land for non-agricultural purposes. Where tribal land, rural or urban, was previously non-transferable for any purpose, the amendment granted state government discretionary power to convert agricultural land to non-agricultural use, effectively creating a mechanism for perpetual land alienation. This amendment defeated the act’s primary purpose, which was to ensure that Adivasi land was remained among the tribes communities, provide protection from external political and corporate pressure. This shift from “only agricultural use” to “non-agricultural use with permission” dilutes the strict prohibition on transfer or sale of tribal land, altering the framework of the act⁷, facilitating the creation of Jharkhand’s land bank.

Land Bank Creation and its Implication

Land bank is mechanism through which large areas of land (in this case tribal land), are held by public or private organisations for development. Jharkhand’s lands are extremely rich in

⁴ The Ninth Schedule of the Indian Constitution, added by First Amendment Act of 1951, lists central and state laws that are protected from judicial review.

⁵ Jitendra, ‘Amendments to century-old laws on tribal rights spark protests in Jharkhand’ (*Down to Earth*, 24 November 2016) <https://www.downtoearth.org.in/governance/amendments-to-century-old-tribal-rights-laws-spark-protests-in-jharkhand-56411?utm_source=chatgpt.com> accessed on 15 October 2025

⁶ All India Students’ Association, ‘Massive Protests against Amendments to CNT and SPT Acts ...’ (*AISA*, 2016) <<https://www.aisa.in/protests-cnt-and-spt-acts-jharkhand/>> accessed 15 October 2025.

⁷ PTI, ‘Ownership of land acquired under CNT, SPT Acts in Jharkhand will’ (*Business Standard*, 16 Nov 2016) <https://www.business-standard.com/article/pti-stories/ownership-of-land-acquired-under-cnt-spt-acts-in-jharkhand-will-116111601739_1.html> accessed 15 Oct 2025.

mineral resources, they own almost 40% of total mineral resources of India.⁸ Mining resources were seen by political rulers as a means of earning income by seizing and/or selling them off to the big mining companies and the people to whom the land belongs were evicted, forced to migrate or survive inhumane conditions. The Jharkhand government's creation of land banks through the proposed amendments to the SPT Act would lead to mass displacement, marking of over 2.1 million acres for potential transfer to investors⁹. What happens when land bank redefines land from lived space to inventory? The creation of land banks, through amendments to SPT Act, triggered widespread discontent among tribal communities who viewed this a direct attack against their community and their customary land.¹⁰

Thousands of tribals from all across the state hit the roads vehemently protesting for the proposed amendments to be scrapped. Activists termed it the 'black day' in the history of independent India.¹¹ The Jharkhand government on 9th August 2017 announced the withdrawal of the Santhal Parganas Tenancy (STP) Act Amendment Bill on the floor of the state assembly.

The Santhal Parganas were not the only tribal community to face such challenges, indigenous groups across India, have faced similar threats to their culture, community and land, in the name of development.

A Comparative Perspective: The Niyamgiri Case

The Niyamgiri case, an environmental and tribal rights battle, surrounded similar circumstances. Dongria Kondh tribe's victory, against a multi-national mining company, Vedanta Limited, and their proposed mining project, formed a pivotal moment in history. The mining project was proposed to take place in the tribe's sacred Niyamgiri Hills of Odisha and

⁸ Government of Jharkhand, '*Minerals in Jharkhand*', State Portal <<https://www.jharkhand.gov.in/home/AboutMinerals>> accessed 15 Oct 2025

⁹ Dayamani Barla, 'Adivasis and the Indian State: Ease of business or loot? Jharkhand's tribal farmers lose ancestral and to govt's online "land bank"' (*Firstpost*, 27 August 2019) <https://www.firstpost.com/india/adivasis-and-the-indian-state-ease-of-business-or-loot-jharkhands-tribal-farmers-lose-ancestral-land-to-govts-online-land-bank-7209581.html?utm_source=chatgpt.com> accessed on 27 March 2025.

¹⁰ Jitendra, 'Amendments to century-old laws on tribal rights spark protests in Jharkhand' (*Down to Earth*, 24 November 2016) <https://www.downtoearth.org.in/governance/amendments-to-century-old-tribal-rights-laws-spark-protests-in-jharkhand-56411?utm_source=chatgpt.com> accessed on 15 October 2025

¹¹ Dayamani Barla, 'Adivasis and the Indian State: Ease of business or loot? Jharkhand's tribal farmers lose ancestral and to govt's online "land bank"' (*Firstpost*, 27 August 2019) <https://www.firstpost.com/india/adivasis-and-the-indian-state-ease-of-business-or-loot-jharkhands-tribal-farmers-lose-ancestral-land-to-govts-online-land-bank-7209581.html?utm_source=chatgpt.com> accessed on 27 March 2025.

the natives of the land feared its impact on the environment and their culture. The tribes were supported by several NGOs and activists in their decade long battle against the MNC's plans. On 18th April, 2013 the Supreme Court of India, ruled in favour of the Dongria Kondh tribe, by giving direction to the State of Orissa to place the issues before the Gram Sabha who would take a decision on them within three months¹².

The strategies used in the Niyamgiri Movement played a pivotal role in its success. Activists in this movement appealed on the Dongrias' beliefs and religion, tied to their land, rather than the material vulnerability from the mining project¹³. Contemporary Scholars have reported the increasing aesthetic appeal of 'politics of morality' over 'ecological impact'¹⁴. The activists, in this case, gained recognition not only through contentions based on the environment, but by defending Dongrias' identity, religion and cultural survival.

The Court recognized that the forest land was Dongrias' source of livelihood and acknowledged their deep spiritual connection to their sacred land of Niyamgiri. Further they clarified that the state acts as a holder of the land on behalf of its people, and thus they require the local's Free, Prior and Informed Consent (FPIC – principles from UN Declaration on Rights of Indigenous Peoples and India's Forest Rights Act, 2006) before mining their resources.

Following the Supreme Court's judgement the 12 village councils in the Niyamgiri Region unanimously rejected the project. This case demonstrated the power of the community's resistance and the legal necessity to respect of indigenous people and their right to Free, Prior, and Informed Consent.

Conclusion – United Front

The most note-worthy shared factor from the all the three situations – “The Santhal Rebellion”, “Proposed Amendments to SPT Act” and “The Niyamgiri Case”; is the realization that communal strength can bring about big change. Different opposition, same result. When the Santhals were initially exploited by the British they rebelled and this led to creation of legislation to placate the people. This minority group, as a community, stood strong against a

¹² Orissa Mining Corporation v Ministry of Environment & Forest & Others (2013) 6 SCC 476, 60.

¹³ Radhika Borde, “Representing Indigenous Sacred Land: The Case of the Niyamgiri Movement in India” (2020), *Capitalism Nature Socialism*, 32(1), 68-87 <

<https://www.tandfonline.com/doi/full/10.1080/10455752.2020.1730417#d1e328>> accessed on 6 February 2026

¹⁴ Ibid.

much bigger force, the British, and were successful. Similarly, in the ‘Niyamgiri case’, the legal battle was against an MNC. The judgement was defied the presumption, ‘MNCs have better resources with greater influence than Indigenous tribes, thus the verdict would be in their favour’. Finally, the amendments to the SPT Act were proposed by the ruling party, Bharatiya Janata Party, who formed not only the Jharkhand Government at that time but also the National Government. Their extractive policies, forced different people (not only the community, but several activists and NGOs too participated) to come together and stand up against a larger institution. The natives fought for their rights and triumphed, giving hope to all the other tribal people, to shifting the narrative from “government of the corporate” to the “government of the people”. The real lesson from Jharkhand is that legal protections are only as strong as the collective will to defend them, a principle that must guide future policy on Adivasi land rights across India.