

Publicado en Actualidad Jurídica Ambiental el 01 de julio de 2025

MINING ACTIVITIES AND LAND RIGHTS OF INDIGENOUS PEOPLE IN INDIA: A LEGAL PERSPECTIVE

ACTIVIDADES MINERAS Y DERECHOS TERRESTRES DE LOS PUEBLOS INDÍGENAS EN LA INDIA: UNA PERSPECTIVA JURÍDICA

Author: Ms. Neha Tripathi, Assistant Professor of Law, Mahindra University, Hyderabad, Telangana, India. ORCID: 0000-0001-5299-7031. Email: nehatripathi.kls@gmail.com

Author: Dr. Aditi Nidhi, Assistant Professor of Law, Mahindra University, Hyderabad, Telangana, India. ORCID: 0000-0002-3141-9635. Email: aditinidhirmlnlu@gmail.com

Author: Dr. J. Lakshmi Charan, Assistant Professor of Law, Mahindra University, Hyderabad, Telangana, India. ORCID: 0000-0001-5299-7031. Email: lakshmicharan038@gmail.com

Author: Bangaru Laxmi Jasti, Assistant Professor of Law, Mahindra University, Hyderabad, Telangana, India. ORCID: 0009-0005-1826-7525. Email: bangaru.lakshmi4@gmail.com

Fecha de recepción: 07/04/2025

Fecha de aceptación: 14/05/2025

Fecha de modificación: 22/05/2025

DOI: <https://doi.org/10.56398/ajacieda.00422>

Abstract:

This research provides an understanding of mining law as it pertains to indigenous land rights in India, interrogating the efficacy of statutory and judicial mechanisms in safeguarding community interests. By surveying the existing national and international framework, this paper identifies persistent gaps in procedural compliance, consent protocols, and equitable benefit allocation. A close examination of judicial pronouncements, illustrating remedies for unlawful displacement, degradation of customary rights, and failure to enforce environmental remediation, reveals an incremental yet uneven evolution of legal standards. Comparative insights drawn from Canadian and Australian legal frameworks underscore the necessity of robust consent requirements and legally enforceable impact-benefit agreements. The analysis demonstrates that inadequate operationalization of consultation mandates and weak sanctioning of environmental breaches undermine the protective intent of existing laws. To rectify these deficiencies, the paper advocates for a unified legislative instrument that mandates transparent consent procedures, integrates rigorous environmental impact criteria into mining permits, and establishes clear fiduciary obligations for state and private actors. Aligning mining governance with principles of justice, equity and sustainable development would fortify judicial approach and oversight creating binding obligations for benefit-sharing and land restoration. The research suggests a coherent legal architecture for mining regulation in pluralistic societies by aiming to reconcile development imperatives with the requirement of preserving indigenous livelihoods and cultural heritage.

Resumen:

Esta investigación proporciona una comprensión de la legislación minera en relación con los derechos territoriales indígenas en la India, cuestionando la eficacia de los mecanismos legales y judiciales para salvaguardar los intereses comunitarios. Mediante un análisis del marco nacional e internacional existente, este documento identifica deficiencias persistentes en el cumplimiento procesal, los protocolos de consentimiento y la asignación equitativa de beneficios. Un análisis minucioso de los pronunciamientos judiciales, que ilustran las soluciones para el desplazamiento ilegal, la degradación de los derechos consuetudinarios y la falta de aplicación de la remediación ambiental, revela una evolución gradual, aunque desigual, de las normas jurídicas. Las perspectivas comparativas extraídas de los marcos jurídicos canadiense y australiano subrayan la necesidad de requisitos de consentimiento sólidos y acuerdos de impacto-beneficio legalmente vinculantes. El análisis demuestra que la inadecuada aplicación de los mandatos de consulta y la escasa sanción de las

infracciones ambientales socavan la intención protectora de las leyes vigentes. Para subsanar estas deficiencias, el documento aboga por un instrumento legislativo unificado que exija procedimientos de consentimiento transparentes, integre criterios rigurosos de impacto ambiental en los permisos mineros y establezca obligaciones fiduciarias claras para los actores estatales y privados. Alinear la gobernanza minera con los principios de justicia, equidad y desarrollo sostenible fortalecería el enfoque y la supervisión judicial, creando obligaciones vinculantes para la distribución de beneficios y la restauración de tierras. La investigación sugiere una arquitectura jurídica coherente para la regulación minera en sociedades pluralistas, buscando conciliar los imperativos del desarrollo con la necesidad de preservar los medios de vida y el patrimonio cultural indígenas.

Keywords: Mining. Human Rights. Sustainability. Indigenous Community. Environmental Degradation.

Palabras clave: Minería. Derechos Humanos. Sostenibilidad. Comunidad Indígena. Degradación Ambiental.

Index:

1. Introduction
2. Definition of Indigenous people
3. International Efforts undertaken to recognise the rights of Indigenous people
4. Right to Self-determination and Indigenous People
 - 4.1 Rights of Indigenous People and Mining in India
 - 4.2 Case-Studies from India
 - 4.3 Distributional versus Procedural Equity
5. Comparative Analysis of Indigenous Rights and Mining Regulations
6. Conclusion
7. Bibliography

Índice:

1. Introducción
2. Definición de pueblos indígenas
3. Esfuerzos internacionales para reconocer los derechos de los pueblos indígenas
4. Derecho a la autodeterminación y los pueblos indígenas
 - 4.1 Derechos de los pueblos indígenas y minería en la India

- 4.2 Estudios de caso de la India**
- 4.3 Equidad distributiva versus equidad procesal**
- 5. Análisis comparativo de los derechos indígenas y la normativa minera**
- 6. Conclusiones**
- 7. Bibliografía**

1. INTRODUCTION

Mining activities though necessitated and governed by global requirements have often been looked at from the lens of serious human rights and environmental concerns. The interplay between mining and development on one hand and need for protection of rights of indigenous people on the other has posed several pertinent questions in the past. Mining often results in accelerated forms of social disintegration and threat to cultural heritage of indigenous people. Mining has posed serious threats to their way of live and livelihood, often resulting in their displacement without any proper plan of rehabilitation and resettlement measures taken by the Government and the mining companies (Usher, 2002).

The ‘International Day of World’s Indigenous Peoples’ is observed on August, 9 every year to reaffirm the recognition and guarantee of the unique culture and autonomy for indigenous peoples. The indigenous people yet remain much exploited group and the Covid-19 pandemic has further deepened and exposed the harsh realities of inequalities and issues surrounding poverty, lack of access to basic resources and implementation of human rights. ‘Permanent Forum on Indigenous Issues’ organised a virtual commemoration on 9th August, 2021 to discuss redesigning of new social contract for indigenous people, which furthers the idea of promoting their own form of government, way of life; based on prior, free and informed consent.

The issue of indigenous rights, especially with mining activities, has been an ongoing struggle in India. Numerous nations in the Global South, such as India, have challenges in adequately regulating and overseeing the operations of multinational mining firms owing to fragile political institutions, insufficient enforcement mechanisms, and entrenched cultural racism against indigenous populations. The concerns of indigenous groups are often overlooked, even pertinent national laws designed to safeguard their rights. Mining activities have emerged as a major source of indigenous rights violations globally. This research seeks to analyze the intricate interplay of mining, indigenous rights, and environmental justice in India (Ujházy, 2016).

2. DEFINITION OF INDIGENOUS PEOPLE

According to ‘United Nations Report’, it has been estimated that around more than 476 million indigenous people are spread across 90 countries. Practising their own traditions, they retain their social, cultural and economic characteristics that are distinct from that of the dominant societies they live in (United Nations, 2021).

In considering their diversity, there has been no formal definition of the term “indigenous” which has been adopted by UN. Instead, the term is associated and dependent upon various factors like self-identification as indigenous people at individual level and then accepted by the community as such, strong link to natural resources, distinct language, social and cultural system and resolves to maintain their ancestral environment. Thus, in absence of a formal definition, self-identification is prevalent as a fundamental criterion in various human rights instruments (Carpenter, 2023).

Certain terms used to refer them in some of the countries include, *adivasis*, *janajati*, aboriginals, ethnic groups, first peoples/nations amongst others. Often categorised as neglected groups, they often lack political representation and participation, access to proper health services, social schemes and suffer because of poverty and discrimination. They strive to protect their identity, lands, culture and natural resources; they are unarguably the most disadvantaged and the vulnerable group of people (Rodon et al., 2024).

3. INTERNATIONAL EFFORTS UNDERTAKEN TO RECOGNISE THE RIGHTS OF INDIGENOUS PEOPLE

In ‘1993, the UN General Assembly proclaimed the International Year of the World’s Indigenous People’ with an aim to establish relationship between States and indigenous peoples based on mutual respect and understanding (*Indigenous Peoples at the United Nations | Division for Inclusive Social Development (DISD)*, 2021). In 1994, ‘International Decade of World’s Indigenous Peoples’ was launched to increase the United Nations’ commitment towards promoting and protecting the rights of indigenous people (*First International Decade of the World’s Indigenous People (1995-2004) | United Nations for Indigenous Peoples*, 1993).

The ‘UN Permanent Forum on Indigenous Issues’ was established in 2000, as an advisory body to the ‘Economic and Social Council’, with a mandate to bring forward and discuss the issues related to human rights pertaining to indigenous people, education, health, environment, culture, economic and social

development (*United Nations Permanent Forum on Indigenous Issues (UNPFII) | Division for Inclusive Social Development (DISD)*, 2002).

The year 2005 marked the ‘Second International Decade of World’s Indigenous Peoples’ with the primary objective of strengthening International co-operation for solution of problems faced by indigenous peoples by promoting non-discrimination and furthering their inclusion in designing and implementation of policies and resources; by promoting full and effective participation; by redesigning development policies inclusive of respect for diversity of indigenous peoples; by adopting targeted policies with emphasis on indigenous women, children and youth and finally, developing strong monitoring mechanism and enhancing accountability for protection and promotion of rights of indigenous people at international, regional and national level (United Nations, 2004).

The ‘Declaration on the Rights of Indigenous Peoples (UNDRIP)’ was adopted in the year 2007 by the UN General Assembly (United Nations, 2007). Article 1 declares that ‘indigenous people have right to full enjoyment as a collective or as an individual all human rights and fundamental freedoms as recognised in UN Charter, Universal Declaration of Human Rights (UDHR) and international human rights law’. Article 2 deals with non-discrimination and Article 3 recognises indigenous people’s right to self-determination, by virtue of that right they freely determine their political status and economic, social and cultural development. This principle allows indigenous peoples to freely determine their political status and pursue economic, social, and cultural development (United Nations, 2007). In the context of mining activities, this right translates into the necessity of obtaining Free, Prior, and Informed Consent before any development projects are initiated on their lands (United Nations, 2007).

Indigenous peoples’ right to self-determination includes control over their own territory and natural resources, which has been acknowledged by both international accords and regional human rights tribunals like the Inter-American Court of Human Rights. Governments are required to seek the free, prior, and informed permission of indigenous groups before implementing massive development projects on their territories, according to rulings like *Saramaka People v. Suriname* (“Saramaka People V. Suriname,” 2014). This notion is in line with the changing body of Indian Supreme Court precedent, which has recognized indigenous autonomy in seminal decisions, albeit its implementation has been patchy at best.

With an objective to deliberate on best practices on realization of rights of indigenous peoples the World Conference on Indigenous Peoples was held in

2014 (*World Conference on Indigenous Peoples* | *Division for Inclusive Social Development (DISD)*, 2021). In November 2020, there was call to action issued for building an inclusive, sustainable and resilient future with indigenous people (*Building an Inclusive, Sustainable and Resilient Future with Indigenous Peoples: A Call to Action* | *United Nations - CEB*, 2020). 'International Council on Mining and Metals', in its position statement has emphasised on the need to respect the rights and interests of indigenous peoples where mining projects are to be located on lands traditionally owned by or under customary use of Indigenous Peoples (*Position Statement: Indigenous Peoples and Mining*, 2024).

The 'South African Human Rights Commission's' report on the adverse socio-economic effects of mining on local communities, alongside studies on mining-induced displacement in Ghana and the erosion of agricultural livelihoods in Nigeria, offers essential context for comprehending the overarching challenges confronting communities impacted by extractive industries (Mathiba, 2023).

4. RIGHT TO SELF-DETERMINATION AND INDIGENOUS PEOPLE

The right to self-determination and to sovereignty over their natural wealth and resources has been enshrined in a significant number of international and regional instruments. Declaration on Right to Development under various provisions discusses about the right to self-determination and the exercise of their inalienable right to full sovereignty over all their natural wealth and also imposes duty on the States to ensure the recognition of right of people to decide their own development policies and the participation of the people in all phases of decision-making (World Conference on Human Rights, 1993). The international community's commitment to indigenous people's economic, social, and cultural well-being and their ability to enjoy the benefits of sustainable development was reaffirmed by the 'World Conference on Human Rights', which also acknowledged the inherent dignity and distinctive contribution of indigenous people to the development and plurality of society. It further affirmed that states should guarantee indigenous people's full and free participation in all facets of society, including matters that are important to them (World Conference on Human Rights, 1993).

While India has not formally ratified UNDRIP, its principles are reflected in domestic laws like the Forest Rights Act (FRA), 2006, and the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996. For instance, in the case of *Orissa Mining Corporation v. Ministry of Environment and Forest*, the Supreme Court's reliance on PESA and FRA to mandate Gram Sabha consent for mining projects aligns with the spirit of Free, Prior and Informed Consent.

The right to self-determination can be intrinsically linked to Article 21 (Right to Life and Personal Liberty) of the Indian Constitution, which has been interpreted by the Supreme Court to include right to livelihood, right to clean and healthy environment inclusive of access to clean air and water along with right not to be affected by adverse effects of climate change. Additionally, Article 244 (Fifth Schedule) of the Indian Constitution provides special protections for Scheduled Areas, emphasizing the need for indigenous participation in decision-making processes.

The Indian Supreme Court recognised the Doctrine of Public Trust, establishing that natural resources are held in trust by the state for public use. Courts have increasingly applied this doctrine to regulate land acquisition and environmental governance in India. In a landmark case, *M.C. Mehta v. Kamal Nath* (1997), the Supreme Court invoked the Doctrine of Public Trust to prevent the privatization of natural resources by underlying the application of the doctrine in environmental law cases. In the context of mining, this doctrine underscores the state's obligation to balance economic development with environmental preservation on hand and indigenous rights on another. The **Principle of Free, Prior, and Informed Consent**, derived from international human rights law, FPIC mandates that indigenous communities must be consulted before any development project is undertaken affecting their land rights (Sax, 1970). India's existing legal framework offers limited formal recognition of FPIC, resulting in conflict between state-led mining projects and indigenous claims. The **Environmental Justice Theory** emphasizes that marginalized groups disproportionately bear the environmental costs of industrial activities. Mining in indigenous territories exemplifies environmental injustice, where corporate interests override community rights. The Supreme Court of India has read right to healthy environment and right to be free from adverse effects of climate change as an attribute of right to life under Article 21 of the Indian Constitution.

4.1. Rights of Indigenous People and Mining in India

In India, 705 ethnic groups have been notified as “Scheduled Tribes” (ST), which are considered as India's indigenous people, however, there are more but have not been officially recognised. As per 2011 census, with a population of 104.3 million, they comprise 8.6% of the total population of India which is almost 90% of them living in rural and remote areas (Adivasi Women's Network (AWN) et al., 2017).

Because of their ecological placement, they are close to the environment and are often found residing in mineral rich areas. In *Orissa Mining Corporation v.*

MoEF' (2013), the Indian Supreme Court, states must acknowledge and uphold their identity, culture, and interests in order for them to effectively contribute to the attainment of sustainable development. The Apex Court in terms of Panchayat Extension to Scheduled Areas Act, 1996 (PESA) along with Forest Rights Act, 2006 and the constitutional framework, recognised and ordered for the Gram Sabha to be involved in the participation and decision-making process of whether Vedanta Corporation can validly be given rights to exploit minerals in the area. Finally, twelve gram sabhas voted against the mining project, followed by the Central Government shelving the project altogether, on environmental grounds.

Considering the grave impact mining has on the environment apart from Mines and Minerals Development and Regulation Act (MMDRA), 1957, the country has also enacted other laws like 'Forest Conservation Act, 1980 (FCA), Forest Rights Act, 2006 (FRA), Panchayat Extension to Scheduled Areas Act, 1996 (PESA), and The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR)', the laws aim to protect the rights of tribals and marginalised communities by recognising their rights over the land they have been traditionally dependent upon. According to FCA, 1980 any activity for non-forest purposes in a protected area requires prior Central Government approval in various stages. Further, there is also a requirement of 'Environment Impact Assessment Report (EIA)' in terms of the rules formulated under 'Environment Protection Act, 1986' to be submitted before any mining activity is undertaken.

Indigenous communities in India still confront structural barriers to self-determination, even with the existence of international and domestic legislations to the contrary. Their rights are frequently compromised by corporates coupled with ineffective enforcement mechanisms and bureaucratic roadblocks. Right to self-determination in India can be defended by strengthening existing legal safeguards, having robust accountability mechanism and adoption of best practices throughout the world.

Much recently, in the case of *M.K. Ranjitsinh v. Union of India* (2024), the Supreme Court affirmed the existence of a constitutional right against the adverse effects of climate change. The Court relied on combined reading of Article 21 (Right to Life and Personal Liberty), Article 14 (Right to Equality), Article 48A (State Obligation to protect the environment), and Article 51A(g) (Fundamental Duty of citizens to protect the natural environment). The judgment builds on decided environmental law cases like *M.C. Mehta v. Union of India* (1986), where the right to a healthy environment was recognised as an integral part of the right to life under Article 21. Importantly, in *Ranjitsinh* case, the Court acknowledged the climate injustice faced by forest dwellers and indigenous communities, noting

that these groups are disproportionately vulnerable to environmental degradation and climate-related harms like pollution, disease outbreaks, and rising temperatures. Additionally, the Court observed that these communities, already marginalized due to extractive policies (including unregulated mining), suffer acutely from the lack of adaptive infrastructure and legal protection.

Further, the judgment highlighted the legislative vacuum in India regarding a coherent, umbrella law addressing climate change, unlike jurisdictions such as the European Union, which possess robust climate legislation guiding judicial oversight and state action.

4.2. Case-Studies from India

The rehabilitation and resettlement of indigenous peoples and loss of livelihood as a result of mining activities has received heightened attention worldwide in recent years. In *Samatha v. State of Andhra Pradesh*, the Supreme Court held “There cannot be any dispute that on and after coming into force [Section 11\(5\)](#) of the MMRD Act no mining leases can be granted or renewed within the Scheduled Area to any person who is not a member of Scheduled Tribe within the State of Andhra Pradesh.”

4.2.1. Orissa Mining Corporation Case

The Orissa Mining Corporation case in the state of Orissa in India, exemplified this issue, as the projected mining activities by the Orissa Mining Corporation in Niyamgiri Hills jeopardized the lives and livelihoods of the Dongria Kondh, the indigenous community in that region (Mathur, 2009). The case projects the delicate relationship between economic growth, environmental preservation, and the rights of indigenous populations.

The case also famously referred as the Vedanta judgment delivered by the Supreme Court was pivotal in empowering the Gram Sabha, or the village assembly. The judgment went on to assess the potential effect of mining project which was proposed on the individual and community rights, including the religious and cultural rights of Dongria Kondh under the legal framework of India. This ruling was a substantial triumph for the Dongria Kondh, who had participated in a protracted grassroots battle against the corporate behemoth Vedanta (Jolly, 2021).

To understand what happened in Niyamgiri, it helps to have a broader picture of displacement in Orissa caused by development. Orissa has one of the highest rates of development-induced displacement in India, despite being one of the mineral-richest states. The systematic denial of agency and autonomy to

displaced persons and the state’s forceful engagement in helping property acquisition are well-documented (Ray & Saini, 2011).

State economic development goals and indigenous peoples’ rights and livelihoods were at odds in the Niyamgiri case. The Dongria Kondh continued to battle for their ancestral lands and way of life, while the Indian government and many state governments, especially Orissa, tried to get around the Supreme Court’s decision. This case serves as a sobering reminder of the human cost of unchecked economic growth and the need of safeguarding the rights and welfare of vulnerable communities; its implications extend far beyond Orissa (Krishnan & Naga, 2017).

The Supreme Court’s Vedanta ruling (2013) invoked FRA Section 4(5), which mandates Gram Sabha consent for projects affecting forest rights. This reflects a judicial shift toward procedural environmental justice, aligning with *Vellore Citizens’ Welfare Forum v. Union of India* (1996), where the ‘Precautionary Principle’ was enshrined. However, the absence of statutory penalties for non-compliance with Gram Sabha decisions underscores systemic gaps in enforcement, enabling state governments to circumvent rulings, a trend critiqued by legal scholars like Armin Rosencranz as ‘rights without remedies’ (Divan & Rosencranz, 2022).

4.2.2. Jharia Coalfields in Jharkhand, India

The Jharia coalfields in Dhanbad, Jharkhand, are among India’s most important sources of coking coal. However, decades of unregulated mining, mostly by state-owned companies, have resulted in catastrophic ecological degradation and persistent social injustice. The region is infamous for its underground coal fires, land subsidence, water and air pollution, and the displacement of indigenous communities including the Santhal, Ho, and Munda tribes. Due to regulatory inertia and weak enforcement mechanism in place, the crisis yet remains unresolved irrespective of ongoing litigation and extensive reporting on the topic (Simeon, 1999).

In spite of Environmental Protection Act, 1986 providing a robust framework to control environmental pollution and enabling the central government to take measures for environmental improvement, nevertheless, enforcement in Jharia has been superficial (Martha et al., 2010). A public interest litigation concerning the underground fire in Jharia’s coalfields, which has been going on for more than a century, was accelerated by the Supreme Court in 2020. The rehabilitation of the impacted families should be the primary objective, according to a Supreme Court bench (*Haradhan Roy (Dead) v. Union of India*, WP(C) No. 381 of 1997). Acquiring an accurate assessment of the ground

reality in the coalfield, which the court acknowledged remained ambiguous despite multiple affidavits (Ishan Kukreti & Ishan Kukreti, 2019).

Despite various government declarations to address these issues, like the “Jharia Master Plan” aimed at fire control and rehabilitation, implementation has been woefully inadequate (*Jharia Master Plan: Coal Ministry Efforts Bring Down Surface Fire Identified From 77 to 27 Sites*, 2023). Reports confirm that toxic emissions continue to plague residents, with children and the elderly most affected (Tandon, 2019).

Constitutionally, Article 21 has been interpreted by courts to include the right to a clean environment, and Article 244 imposes an obligation to protect tribal interests. Yet in Jharia, these constitutional protections remain aspirational rather than enforceable. The case illustrates a glaring gap between India’s progressive environmental and human rights legislation and the ground-level reality of extractive development and systemic neglect (S & Shah, 2023)

The Forest Rights Act, 2006 (FRA) recognizes the traditional rights of forest-dwelling communities, yet its implementation in Jharia has been practically non-existent. In many instances, tribal populations were relocated without proper consultation or consent, contravening both domestic laws and international human rights standards such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Land Acquisition, Rehabilitation and Resettlement Act, 2013 also requires free, prior, and informed consent from Scheduled Tribes for development projects, but in Jharia, relocations have been marred by insufficient rehabilitation and lack of transparency (Albin-Lackey, 2023)

From a legal standpoint, judicial principles such as the precautionary principle and the polluter pays principle, as recognized by Indian courts in cases relating environmental jurisprudence, should have triggered more proactive governance [*Vellore Citizens Forum v. Union of India* (1999) and *Indian Council for Enviro-Legal Action v. Union of India* (1996)]. However, judicial activism in this domain has yet to be matched by bureaucratic follow-through. The National Human Rights Commission (NHRC) has also taken cognizance of the suffering caused by illegal mining in Jharia, issuing a notice to the Jharkhand government regarding the economic and environmental distress caused to tribal communities (*NHRC Notice to the Jharkhand Government on Economic Hardships to Tribals, Illegal Coal Mining and Trading Leading to Killings in Dhanbad* | *National Human Rights Commission India*, 2012)

Further, the lack of coordination between the Ministry of Environment, Forest and Climate Change (MoEFCC), the Ministry of Coal, and state authorities

continues to hinder implementation of basic environmental norms. In summary, Jharia exemplifies the consequences of extractive governance unchecked by effective legal enforcement (Choubey, 1991). Strengthening institutional accountability, ensuring compliance with environmental judgments, and operationalizing community rights through legal instruments like FRA and LARR are imperative. Without such measures, Jharia will remain a cautionary tale rather than a catalyst for reform (Kim et al., 2021).

4.2.3. Goa Foundation Case

As the *Goa Foundation v. Union of India* case portrays that mining and environmental protection in India are intricately and often contentiously interdependent. The non-governmental organization, Goa Foundation, filed a case challenging the grant of mining projects in Goa. The applicable legislations were Forest Conservation Act, 1980, Mines and Minerals (Regulation and Development) Act, 1957, Mineral Concession Rules, 1960, Environment Protection Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as well as Wild Life Protection Act, 1972. According to the Goa Foundation, mining activities had dilapidating impact on the ecology. It was alleged that the ‘Environment Impact Assessment’ (as mandated under the Environment Impact Assessment Rules) was lacking and the regulatory authorities failed to consider long-term impact of mining activities. The Indian Supreme Court acknowledged these factors and concluded that the required standards in granting the environmental clearance were not appropriately addressed and the actual environmental impacts of mining projects were not duly considered (S. Gupta et. al., 2015).

The court emphasised the need for undertaking comprehensive and rigorous environmental impact assessment and also discussed the need for effectively implementing mitigation solutions to restore and minimise the ecological damage. The Goa Foundation case brings to forefront the larger discourse regarding the need to balance, on one hand, the necessity of protecting the environment and rights of local inhabitants, and promoting economic development through resource exploitation, on the other (Facal et al., 2024).

The Court issued guidelines to prevent environmental degradation stating that dumping of minerals outside the leased area of mining lease is not permissible under the Mines and Minerals (Development and Regulation) Act, 1957. Additionally, the court ordered Ministry of Environment and Forest to declare Eco-Sensitive Zone around National Park and Wildlife Sanctuaries of Goa. The case of *Goa Foundation v. Union of India* (2013), is a glaring reminder of complex interplay between mining and environmental protection in India, it presses on the urgent requirement for having a sustainable and more equitable approach

towards resource exploitation, one that would prioritize ecological integrity over short-term economic gains. By placing reliance on achieving balance between environmental justice and development, and by ensuring that the benefits of mining are shared equitably and the costs are not borne disproportionately by the most vulnerable, India would be able to effectively address the systematic flaws. The court observed “*For the State to generate adequate revenue through the mining sector and yet have sustainable and equitable development, the implementation machinery needs a tremendous amount of strengthening while the law enforcement machinery needs strict vigilance. Unless the two marry, we will continue to be mute witnesses to the plunder of our natural resources and left wondering how to retrieve an irretrievable situation.*”

4.3. Distributional versus Procedural Equity

The Mines and Minerals (Development and Regulation) Act, 1957 (MMDRA), aims at regulating mining activities in India, including allocation and providing a framework for licensing and leases. It further aims to protect environment by allocating an onus on miners, with a focus on sustainable development. The amendment introduced in 2015 introduced auction-based mineral concession allocation which laid down the foundation for District Mineral Foundation (DMF) for the welfare of affected communities, and strengthened environmental regulations. Similarly, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, while providing for rehabilitation and resettlement, often is targeted for its failure to provide meaningful participation of affected communities (Naika, 2016).

The principle of distributional equity examines how the costs of mining (e.g., displacement, pollution) disproportionately affect indigenous communities, while the benefits (e.g., revenue, employment) accrue to corporations and the state (Fernández-Llamazares et al., 2019). The concept focuses on fair distribution of benefits and burdens, concretised on the idea that social, economic and environmental impacts are to be distributed equitably, taking into account the need and vulnerabilities of different communities (Wang et. al., 2020). Applying the principle in the Indian context, for instance, in the Jharia Coalfields case referenced above, Indigenous communities disproportionately endure the environmental harms associated with coal mining, while the economic benefits accrue primarily to external entities. In contravention of the principles of inter-generational and intra-generational equity, relevant policy frameworks frequently exclude Indigenous populations from consultation processes, thereby facilitating ecological degradation of their habitats and transferring the resultant adverse impacts to future generations within these communities.

Conversely, the principle of procedural equity emphasizes the necessity of affording Indigenous communities a substantive role in decision-making processes, particularly where proposed actions may adversely affect their land rights (Klein et al., 2023). The attributes of fairness and transparency is the foundational basis of considering the application of such principle, a company that respects the opinions of local/indigenous communities have a higher chance of acceptance (Okada, 2024). The *Vedanta/Niyamgiri* judgment illustrates this principle, wherein the Supreme Court mandated the prior consent of the Gram Sabha, thereby securing participatory rights for the Dongria-Kondh tribe concerning the proposed mining initiative. Nonetheless, the absence of robust enforcement mechanisms frequently impairs the practical realization of procedural equity.

The doctrine of Legal Pluralism acknowledges the concurrent operation of multiple legal systems, including indigenous customary laws and state-enacted statutory frameworks (Von Benda-Beckmann & Turner, 2018). In context of mining, the doctrine provides best conflict solution and provides substantive justice to the involved parties, by trying to make sense of incoherence in involved systems (Mensah, 2021). Within the mining sector, this paradigm underscores the inherent tension between state-imposed regulatory regimes and the customary legal traditions of Indigenous communities (Kennedy et al., 2023). Customary land tenure systems, which often predate formal statutory recognition, form the basis of Indigenous claims, for instance, the Dongria Kondh's cultural and spiritual affiliation with the Niyamgiri Hills (Ritimo, 2021). Although statutory instruments such as the Forest Rights Act and the Panchayats (Extension to Scheduled Areas) Act purport to safeguard Indigenous entitlements, their practical implementation frequently conflicts with Indigenous customary norms. Notably, the bureaucratic and procedural complexities associated with the recognition of rights under the Forest Rights Act are often alien and inaccessible to Indigenous communities, resulting in protracted delays and unjust denial of legitimate claims.

5. COMPARATIVE ANALYSIS OF INDIGENOUS RIGHTS AND MINING REGULATIONS

The global mining industry has consistently grappled with maintaining a precarious balance between the imperatives of resource extraction and the legally protected rights of Indigenous populations, as evidenced above (Handelsman, 2003). Due to differences in constitutional provisions, enforcement mechanisms and remedies available to indigenous communities, the effectiveness of these frameworks varies and that effect can be seen by

many countries like Canada, Australia and India who have implemented these legal frameworks. Hence, this segment delves with a comparative analysis with an emphasis on the enforcement of indigenous rights in the context of mining, constitutional safeguards and a focus on legal differences.

In Australia the mining business has been influenced by the acknowledgment of indigenous rights. The legal principle of “terra nullius” opined in the pivotal Mabo ruling in 1992 recognized the antecedent habitation and land entitlements of Aboriginal and Torres Strait Islander peoples. As a result of this, the formation of indigenous land use agreements helps in necessitates in mining firms that engage in negotiations with local populations prior to initiating operations (Harvey & Nish, 2005).

The rights of Torres Strait Islander and Aboriginal peoples to their ancestral lands are codified under the ‘*Native Title Act, 1993*’, which establishes a legal framework for negotiating mining agreements. Likewise, the ‘*Aboriginal Land Rights Act, 1976*’ confers title over traditional lands to specified Aboriginal groups and imposes a legal obligation on mining corporations to obtain prior consent before undertaking extractive activities. Additionally, the Aboriginal Community Engagement Strategy mandates the development of comprehensive engagement programs throughout the entirety of the mining project lifecycle (UN General Assembly Human Rights Council et al., 2019).

Accordingly, these legal provisions have facilitated Indigenous participation in the mining process, contributing to more equitable and sustainable outcomes. In jurisdictions such as Australia, mining enterprises are mandated to engage in negotiations with Indigenous communities through Indigenous Land Use Agreements (ILUAs) prior to initiating operations. These agreements secure Indigenous consent regarding land use and the equitable distribution of mining benefits. Nevertheless, the absence of constitutional recognition impedes the full enforcement of Indigenous rights, as exemplified by instances where state authorities have prioritized resource extraction over native title entitlements.

The National Native Title Tribunal (NNTT) oversees the enforcement of Indigenous Land Use Agreements (ILUAs), thereby providing a robust compliance mechanism; however, critics contend that inherent power asymmetries often advantage mining corporations during negotiations. In contrast, India’s mining regime is marked by historical conflict and systemic marginalization of Indigenous communities. The nation’s substantial mineral wealth is frequently located on ancestral lands of Indigenous populations, who have endured forced displacement, ecological degradation, and the erosion of cultural heritage due to extractive activities. Although statutory frameworks have sought to redress these issues, enforcement remains sporadic, and

Indigenous groups continue to encounter formidable barriers in asserting their rights.

Furthermore, Canada’s mining sector adopts a more robust legal approach to Indigenous rights and regulatory oversight. The constitutional entrenchment of Aboriginal and treaty rights provides a substantive basis for meaningful engagement with Indigenous communities. The Supreme Court mandates that mining enterprises consult affected Indigenous groups and duly accommodate their concerns prior to the commencement of operations (O’Faircheallaigh, 2010).

Canada’s legal framework for Indigenous rights is grounded in Section 35 of the Constitution Act, 1982, which affirms and protects Aboriginal and treaty rights. The Duty to Consult and Accommodate, articulated by the Supreme Court in *Haida Nation v. British Columbia* (2004), imposes an obligation on the Crown and project proponents, including mining companies, to undertake meaningful consultation and incorporate Indigenous interests into decision-making. This framework is further reinforced through Comprehensive Land Claims Agreements (CLCAs) and Impact Benefit Agreements (IBAs), which establish legally binding mechanisms for benefit-sharing and Indigenous participation in resource development. Regulatory bodies such as the Canadian Environmental Assessment Agency and the Impact Assessment Agency of Canada oversee the implementation of these obligations. However, Indigenous communities continue to face persistent obstacles in securing effective compliance, particularly in contexts where governmental and corporate interests are closely aligned, thereby undermining the enforceability and effectiveness of the established legal protections.

The obligation to undertake consultation and provide accommodations imposes a legal duty upon mining corporations to engage meaningfully with affected Indigenous communities and to address their concerns prior to initiating extractive operations (St-Laurent & Billon, 2015). Comprehensive Land Claims Agreements necessitate the negotiation of legally binding accords between the Crown and Indigenous groups, delineating rights, entitlements, and parameters for resource utilization. Similarly, Impact Benefit Agreements (IBAs) constitute formalized contracts between Indigenous communities and mining entities, detailing provisions on benefit-sharing, environmental safeguards, and other critical terms (Seck & Simons, 2021). These regulatory instruments have enhanced Indigenous agency in mining governance, contributing to more equitable and sustainable outcomes. Nonetheless, enforcement remains uneven, and systemic barriers persist in the realization of Indigenous rights. The constitutional entrenchment of Indigenous rights has empowered Canadian courts to enforce such rights more robustly, as

exemplified in *Tsilhqot'in Nation v. British Columbia* (2014), wherein the Supreme Court affirmed Indigenous title to ancestral territories.

Indigenous communities in Australia are entitled to legal remedies such as benefit-sharing agreements, land restitution, and pecuniary compensation. However, the practical effectiveness of these remedies is largely dependent upon the negotiating power of the Indigenous parties involved. Likewise, Indigenous communities in Canada are afforded remedies including financial compensation, land restoration, and equity participation in mining ventures, with legally binding benefit-sharing frameworks institutionalized through the mechanism of Impact Benefit Agreements (IBAs).

The comparative analysis of mining regulations and Indigenous rights in India, Australia, and Canada underscores the intricate and dynamic nature of this legal and policy domain. Although each jurisdiction has undertaken measures to address Indigenous concerns, the efficacy of such interventions diverges substantially, influenced by distinct political, cultural, and historical contexts (Shelton, 2020). Ultimately, the realization of effective Indigenous rights protection and sustainable mining governance necessitates a collaborative, rights-based framework that accords primacy to the voices, interests, and needs of Indigenous communities (Scheidel et al., 2023).

The analysis reveals substantial divergences in legal regimes, constitutional safeguards, and enforcement mechanisms across India, Australia, and Canada. Whereas Australia and Canada have advanced considerably in recognizing and effectuating Indigenous rights, India lags due to deficient implementation and inadequate enforcement of protective measures.

6. CONCLUSION

Notwithstanding the presence of protective legal frameworks for indigenous communities, such provisions are frequently misapplied, and enforcement of judicial pronouncements is often subject to the discretion of state authorities, who, in numerous instances, neglect to uphold the rights-based principles and normative safeguards envisioned for these populations. Reports suggest more than 50 percent of the 20 million people have been displaced by mining and other industrial projects since India's independence in 1947 (Downing et al., 2002). The kind of associated rights vis-à-vis right to life which gets affected in such cases are right to self-determination, right to access to clean and healthy environment, right to access to clean water, right to access to clean air, right to health, right to fair compensation, right to shelter and right to livelihood among various other rights. India has enacted certain laws in relation to protection of

these rights but most of these rights are vagrantly violated and have been reduced to be mere black letter of law, due to collusion of the authorities, lack of apathy, lack of implementation and stringent penal consequences in relation to such violation, these people have been constantly neglected, devoid of and subjected to human rights abuse since long. In this context, any mention of the State acting as a guardian or fulfilling a Constitutional obligation to protect and preserve the basic rights guaranteed to the citizens under Part III and Part IV of the Constitution, remain a fallacy. When we specifically talk about the rights of indigenous people in relation to mining law, the situation is rather bleak and India has been at the centre-stage of global attention with respect to the issues regarding this which has come up from time to time and has attracted a lot of criticism globally. There is an urgent necessity for the government to uphold its obligations in terms of the constitution and domestic law pertaining to indigenous peoples' rights as well its international obligation to ensure better protection of rights and ensuring effective participation in the decision-making process, this calls for effective implementation of laws in letter and spirit.

7. BIBLIOGRAPHY

- ADIVASI WOMEN'S NETWORK (AWN), Asia Indigenous Peoples Pact (AIPP), Borok Peoples Human Rights Organization (BPHRO), Centre for Research and Advocacy (CRA) Manipur, Chhattisgarh Tribal Peoples Forum (CTPF), Indigenous Peoples Forum, Odisha (IPFO), Jharkhand Indigenous and Tribal Peoples for Action (JITPA), Karbi Human Rights Watch (KHRW), Meghalaya Peoples Human Rights Council (MPHRC), Naga Peoples Movement for Human Rights (NPMHR), Zo Indigenous Forum (ZIF), AIPP, & ZIF. (2017). *Joint Stakeholders' submission on the situation of the rights of indigenous peoples in India for 3rd cycle of the Universal Period Review (UPR) of India 27th Session of the Human Rights Council (Apr-May 2017)*. Available in: https://upr-info.org/sites/default/files/documents/2017-05/js46_upr27_ind_e_main.pdf (Date of Access 21-03-2025)
- Albin-Lackey, C. (2023). Out of control. In *Human Rights Watch*. <https://www.hrw.org/report/2012/06/14/out-control/mining-regulatory-failure-and-human-rights-india>
- BUILDING AN INCLUSIVE, Sustainable and Resilient Future with Indigenous Peoples: A Call to Action | United Nations - CEB. (2020). Available in: <https://unsceb.org/building-inclusive-sustainable-and-resilient-future-indigenous-peoples-call-action> (Date of Access 21-03-2025)

- CARPENTER, K. A. (2023). “Aspirations”: The United States and Indigenous peoples’ human rights. In *Harvard Human Rights Journal* (Vol. 36, p. 42). Available in: https://journals.law.harvard.edu/hrj/wp-content/uploads/sites/83/2023/06/HLH103_crop.pdf (Date of Access 21-03-2025)
- Choubey, V. D. (1991). Hydrogeological and environmental impact of coal mining, Jharia coalfield, India. *Environmental Geology and Water Sciences*, 17(3), 185–194. <https://doi.org/10.1007/bf01701698>
- DOWNING, T. E., International Institute for Environment and Development (IIED), & World Business Council for Sustainable Development (WBCSD). (2002). Avoiding new Poverty: Mining-Induced Displacement and Resettlement. In *Mining, Minerals and Sustainable Development*. Available in: <https://www.iied.org/sites/default/files/pdfs/migrate/G00549.pdf> (Date of Access 22-03-2025)
- FERNÁNDEZ-LLAMAZARES, Á., Garteizgogeoasca, M., Basu, N., Brondizio, E. S., Cabeza, M., Martínez-Alier, J., McElwee, P., & Reyes-García, V. (2019). A State-of-the-Art Review of Indigenous Peoples and environmental pollution. *Integrated Environmental Assessment and Management*, 16(3), 324–341. Available in: <https://doi.org/10.1002/ieam.4239> (Date of Access 22-03-2025)
- FIRST INTERNATIONAL DECADE OF THE WORLD’S INDIGENOUS PEOPLE (1995-2004) | United Nations for Indigenous Peoples. (1993). Available in: <https://www.un.org/development/desa/indigenouspeoples/second-international-decade-of-the-worlds-indigenous-people/7276-2.html> (Date of Access 22-03-2025)
- Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511 (Can.)
- HANDELSMAN, S. D. (2003). Human rights and the minerals Industry: Challenges for geoscientists. *Exploration and Mining Geology*, 12(1–4), 5–20. Available in: <https://doi.org/10.2113/0120005> (Date of Access 23-03-2025)
- HARVEY, B., & Nish, S. (2005). Rio Tinto and Indigenous community agreement making in Australia. *Journal of Energy & Natural Resources Law*, 23(4), 499–510. Available in:

<https://doi.org/10.1080/02646811.2005.11433417> (Date of Access 23-03-2025)

INDIA CONST. art. 244, sch. V.

Indian Council for Enviro-Legal Action v. Union of India, 1996 SCC (3) 212 (India)

INDIGENOUS PEOPLES AT THE UNITED NATIONS | Division for Inclusive Social Development (DISD). (2021). Available in: <https://www.un.org/development/desa/indigenouspeoples/about-us.html> (Date of Access 23-03-2025)

Jharia Master Plan: Coal Ministry Efforts Bring Down Surface Fire identified from 77 to 27 sites. (2023). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1960543#:~:text=Coal%20mines%20in%20Jharia%20Coalfield,and%20other%20social%20environmental%20problems>

KENNEDY, C. M., Fariss, B., Oakleaf, J. R., Garnett, S. T., Fernández-Llamazares, Á., Fa, J. E., Baruch-Mordo, S., & Kiesecker, J. (2023). Indigenous Peoples' lands are threatened by industrial development; conversion risk assessment reveals need to support Indigenous stewardship. *One Earth*, 6(8), 1032–1049. Available in: <https://doi.org/10.1016/j.oneear.2023.07.006> (Date of Access 23-03-2025)

Kim, J., Lin, S., Singh, R. P., Lan, C., & Yun, H. (2021). Underground burning of Jharia coal mine (India) and associated surface deformation using InSAR data. *International Journal of Applied Earth Observation and Geoinformation*, 103, 102524. <https://doi.org/10.1016/j.jag.2021.102524>

KLEIN, L., Muñoz-Torres, M. J., & Fernández-Izquierdo, M. Á. (2023). A comparative account of indigenous participation in extractive projects: The challenge of achieving Free, Prior, and Informed Consent. *The Extractive Industries and Society*, 15, 101270. Available in: <https://doi.org/10.1016/j.exis.2023.101270> (Date of Access 24-03-2025)

M.C. Mehta v. Kamal Nath, (1997) 1 SCC 388 (India)

M.K. Ranjitsinh & Others v. Union of India & Others, [2024] 3 S.C.R. 1320 (India)

Mabo v. Queensland, [1992] HCA 23

Martha, T. R., Guha, A., Kumar, K. V., Kamaraju, M. V. V., & Raju, E. V. R. (2010). Recent coal-fire and land-use status of Jharia Coalfield, India from satellite data. *International Journal of Remote Sensing*, 31(12), 3243–3262. <https://doi.org/10.1080/01431160903159340>

MATHIBA, G. (2023). The Incorporation of the FPIC Principle in South African Policy on Mining-Induced Displacements. *International Journal on Minority and Group Rights*, 31(2), 327–349. Available in: <https://doi.org/10.1163/15718115-bja10124> (Date of Access 24-03-2025)

Mensah, L. (2021). Legal pluralism in practice: critical reflections on the formalisation of artisanal and small-scale mining (ASM) and customary land tenure in Ghana. *The Extractive Industries and Society*, 8(4), 100973. <https://doi.org/10.1016/j.exis.2021.100973>

MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957 (No. 67 Of 1957)

NAIKA, B. G. (2016). Land Acquisition and Development Induced Displacement: India and International Legal Framework. In *Winter Issue 2016 ILI Law Review* (pp. 65–67)

NHRC notice to the Jharkhand Government on economic hardships to tribals, illegal coal mining and trading leading to killings in Dhanbad | National Human Rights Commission India. (2012). <https://nhrc.nic.in/press-release/nhrc-notice-jharkhand-government-economic-hardships-tribals-illegal-coal-mining-and>

O’FAIRCHEALLAIGH, C. (2010). Aboriginal-Mining Company contractual agreements in Australia and Canada: implications for political autonomy and community development. *Canadian Journal of Development Studies/Revue Canadienne D Études Du Développement*, 30(1–2), 69–86. Available in: <https://doi.org/10.1080/02255189.2010.9669282> (Date of Access 24-03-2025)

Okada, I. (2024). What procedures matter to social acceptance of mining? A conjoint experiment in Peru. *World Development*, 183, 106724. <https://doi.org/10.1016/j.worlddev.2024.106724>

Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest, (2013) 6 SCR 881 (India)

POSITION STATEMENT: INDIGENOUS PEOPLES AND MINING. (2024). Available in: <https://www.icmm.com/en-gb/our-principles/position-statements/indigenous-peoples> (Date of Access 25-03-2025)

RITIMO. (2021, September 2). *Claiming Niyamgiri: the Dongria Kondh's Struggle against Vedanta – ritmo*. Ritimo. Available in: <https://www.ritimo.org/Claiming-Niyamgiri-the-Dongria-Kondh-s-Struggle-against-Vedanta> (Date of Access 25-03-2025)

RODON, T., Thériault, S., Keeling, A., Bouard, S., & Taylor, A. (2024). *Mining and indigenous livelihoods: Rights, Revenues, and Resistance*. Routledge

S, M., & Shah, K. (2023). Imaging ‘Slow Violence’ in the Jharia Coalfields of India: Disrupting Energy Modernity through Photography. *South Asia Journal of South Asian Studies*, 46(5), 1084–1107. <https://doi.org/10.1080/00856401.2023.2225901>

Samatha v. State of Andhra Pradesh, (1997) 8 SCC 191 (India)

Saramaka People v. Suriname. (2014). In *Loy. L.A. Int'l & Comp. L. Rev.* (Vols. 36–2305). Available in: https://iachr.ils.edu/sites/default/files/iachr/Cases/Saramaka_People_v_Suriname/Saramaka%20People%20v.%20Suriname.pdf (Date of Access 26-03-2025)

SAX, J. L. (1970). *The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention*. Available in: <https://www.law.berkeley.edu/files/CLEE/Sax68MichLRev471.pdf> (Date of Access 27-03-2025)

SCHEIDEL, A., Fernández-Llamazares, Á., Bara, A. H., Del Bene, D., David-Chavez, D. M., Fanari, E., Garba, I., Hanaček, K., Liu, J., Martínez-Alier, J., Navas, G., Reyes-García, V., Roy, B., Temper, L., Thiri, M. A., Tran, D., Walter, M., & Whyte, K. P. (2023). Global impacts of extractive and industrial development projects on Indigenous Peoples' lifeways, lands, and rights. *Science Advances*, 9(23). Available in: <https://doi.org/10.1126/sciadv.ade9557> (Date of Access 27-03-2025)

- SECK, S. L., & Simons, P. (2021). Sustainable mining, environmental justice, and the human rights of women and girls. In *Cambridge University Press eBooks* (pp. 314–334). Available in: <https://doi.org/10.1017/9781108555791.024> (Date of Access 28-03-2025)
- SHELTON, D. (2020). The rights of Indigenous peoples. In *Cambridge University Press eBooks* (pp. 217–232). Available in: <https://doi.org/10.1017/9781108676106.017> (Date of Access 28-03-2025)
- ST-LAURENT, G. P., & Billon, P. L. (2015). Staking claims and shaking hands: Impact and benefit agreements as a technology of government in the mining sector. *The Extractive Industries and Society*, 2(3), 590–602. Available in: <https://doi.org/10.1016/j.exis.2015.06.001> (Date of Access 29-03-2025)
- Tandon, A. (2019, October 8). *The burning coalfields of Jharia belch poison for local residents*. Mongabay-India. <https://india.mongabay.com/2019/10/the-burning-coalfields-of-jharia-belch-poison-for-local-residents/>
- THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, NO. 2 OF 2007
- Tsilhqot'in Nation v. British Columbia, [2014] 2 S.C.R. 257 (Can.)
- U.N. Doc. A/HRC/24/41, Report on Extractive Industries and Indigenous Peoples, U.N. Special Rapporteur on the Rights of Indigenous Peoples (July 1, 2013)
- UJHÁZY, N. (2016). Wyss, M. and Peppoloni, S. (eds.): Geoethics. Ethical Challenges and Case Studies in Earth Sciences. *Hungarian Geographical Bulletin*, 65(3), 310–313. Available in: <https://doi.org/10.15201/hungeobull.65.3.10> (Date of Access 29-03-2025)
- UN GENERAL ASSEMBLY HUMAN RIGHTS COUNCIL, Southalan, J., J., Fardin, J., La Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica, Bauman, T., Jokic, Z., Keller, C., & Wisemman, L. (2019). Engaging with Traditional Owners. *Journal of Energy & Natural Resources Law*, 37–37(4), 365–388. Available in:

<https://aiatsis.gov.au/sites/default/files/2021-05/engagingwithtraditionalowners.pdf> (Date of Access 29-03-2025)

UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES (UNPFII) | *Division for Inclusive Social Development (DISD)*. (2002). Available in: <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html> (Date of Access 30-03-2025)

UNITED NATIONS. (2004). Resolution adopted by the General Assembly on 20 December 2004 on the Second International Decade of the World's Indigenous People. In *United Nations*. Available in: <https://documents.un.org/doc/undoc/gen/n04/486/70/pdf/n0448670.pdf> (Date of Access 30-03-2025)

UNITED NATIONS. (2007). United Nations Declaration on the Rights of Indigenous Peoples. In *United Nations*. Available in: <https://documents.un.org/doc/undoc/gen/n06/512/07/pdf/n0651207.pdf?token=aMxQIdhLgxQzLGvHCG&fe=true> (Date of Access 30-03-2025)

UNITED NATIONS. (2007). United Nations Declaration on the Rights of Indigenous Peoples. In *United Nations*. Available in: <https://documents.un.org/doc/undoc/gen/n06/512/07/pdf/n0651207.pdf?token=aMxQIdhLgxQzLGvHCG&fe=true> (Date of Access 30-03-2025)

UNITED NATIONS. (2007). United Nations Declaration on the Rights of Indigenous Peoples. In *United Nations*. Available in: <https://documents.un.org/doc/undoc/gen/n06/512/07/pdf/n0651207.pdf?token=aMxQIdhLgxQzLGvHCG&fe=true> (Date of Access 30-03-2025)

UNITED NATIONS. (2021). *International Day of the World's Indigenous Peoples* | *United Nations*. Available in: <https://www.un.org/en/observances/indigenous-day> (Date of Access 01-04-2025)

USHER, C. E. (2002). Mining and Indigenous peoples. In *CRC Press eBooks*. Available in: <https://doi.org/10.1201/9781420032130.ch86> (Date of Access 01-04-2025)

Vellore Citizens Welfare Forum v. Union of India and Others, 1996 (5) SCC 647 (India)

VON BENDA-BECKMANN, K., & Turner, B. (2018). Legal pluralism, social theory, and the state. *The Journal of Legal Pluralism and Unofficial Law*, 50(3), 255–274. Available in: <https://doi.org/10.1080/07329113.2018.1532674> (Date of Access 02-04-2025)

Wang, H., Owen, J. R., & Shi, G. (2020). Land for equity? A benefit distribution model for mining-induced displacement and resettlement. *Business Strategy and the Environment*, 29(8), 3410–3421. <https://doi.org/10.1002/bse.2585>

WORLD CONFERENCE ON HUMAN RIGHTS. (1993). *Vienna Declaration and Programme of Action*. Available in: <https://www.ohchr.org/sites/default/files/vienna.pdf> (Date of Access 02-04-2025)

WORLD CONFERENCE ON HUMAN RIGHTS. (1993). *Vienna Declaration and Programme of Action*. Available in: <https://www.ohchr.org/sites/default/files/vienna.pdf> (Date of Access 03-04-2025)

WORLD CONFERENCE ON INDIGENOUS PEOPLES | Division for Inclusive Social Development (DISD). (2021). Available in: <https://www.un.org/development/desa/indigenouspeoples/about-us/world-conference.html> (Date of Access 03-04-2025)