

LAND, LAW, AND JUSTICE: INDIGENOUS SELF-DETERMINATION IN ENVIRONMENTAL GOVERNANCE

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ABSTRACT

This research investigates environmental governance from an Indigenous self-determination perspective, with a focus on land rights, legal frameworks, and environmental justice. This paper investigates the increasing recognition of indigenous peoples' cultural, spiritual, and ecological connections to their ancestral territories by national and international legal systems. This investigation investigates the establishment of legal safeguards for Indigenous land and resource rights. Participatory environmental decision-making, FPIC, and self-determination are prioritized. This paper investigates the ways in which Indigenous rights have been safeguarded by constitutional protections, judicial actions, and international institutions. Land dispossession, extractive development, climate change, and legal enforcement are also addressed in this research. This paper presents a paradigm for sustainable development, biodiversity protection, and equitable environmental governance that is based on justice and rights. The authors assert that this paradigm must recognize Indigenous self-determination. In order to achieve environmental justice and inclusive governance, it is necessary to respect Indigenous knowledge systems, develop legal structures, and effectively engage communities.

Keywords: *Indigenous Self-Determination; Environmental Governance; Land Rights; Environmental Justice; Indigenous Peoples; Free, Prior and Informed Consent (FPIC); Customary Law; Sustainable Development; Human Rights; Biodiversity Conservation.*

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1. INTRODUCTION

The social and economic well-being, cultural identity, spiritual inheritance, and traditional wisdom of Indigenous peoples are all contingent upon land. Indigenous peoples worldwide have devised ecological strategies to safeguard biodiversity and preserve their profound connections to their ancestral sites. The environment has been degraded, Indigenous people have been displaced, and Indigenous culture has been destroyed as a result of colonial expansion, state-sponsored development, industrialization, extractive industries, and climate change. The detrimental outcomes were the consequence of the continuous disintegration of these links. The primary focus of environmental justice, human rights, and sustainable development issues is the fight for indigenous land rights. This environment promotes indigenous self-determination, which enables communities to make decisions regarding their lands, resources, culture, and government.

The legal rights of Indigenous peoples have been enhanced as a result of international human rights treaties, constitutional amendments, and judicial interventions. The global preservation of indigenous autonomy has been enhanced by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169. The documents emphasize the First Peoples' Indigenous Community (FPIC), collective ownership of traditional lands, and decision-making. Indigenous customary laws and community-based governance systems are acknowledged as indispensable components of democratic environmental management by numerous national constitutions and judicial bodies. Although indigenous people have achieved legislative victories, they continue to encounter structural obstacles, including inadequate consultation procedures, competing

developmental objectives, inadequate legal rights enforcement, and persistent economic disadvantages. These challenges demonstrate the extent to which Indigenous environmental rights have been recognized and implemented in the legal system.

2. CONCEPTUAL FRAMEWORK

Indigenous Environmental Justice

Indigenous environmental justice prioritizes human choice over conventional environmental justice. Indigenous Environmental Data Justice (IEDJ) posits that indigenous individuals are jointly accountable for the land, water, and environment. Indigenous government, sovereignty, and self-determination are contingent upon environmental data control.

Decolonising Environmental Governance

The historical neglect of Indigenous governance and knowledge systems extends beyond pollution and unequal participation. Injustice associated with the environment. According to academics, the degradation of the environment and extractive development have been exacerbated by the loss of indigenous ecological knowledge. In order to assist in the decolonization of environmental governance, indigenous knowledge should be acknowledged as a legal and governance framework.

Self-Determination as the Basis of Environmental Justice

Indigenous peoples have the ability to manage their own territories, resources, and environmental information in a self-determination plan, which extends beyond mere consultation. It involves the granting of consent and the making of decisions that are Indigenous-compliant. Consequently, environmental justice is founded on the principle of self-determination.

3. THE INTERNATIONAL NORMATIVE ARCHITECTURE

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007) is the primary international treaty that acknowledges the independence of indigenous peoples. The Constitution safeguards the right of indigenous peoples to self-determination and traditional territory, territories, and resources under Paper 3 and Paper 26, respectively. Before undertakings that may impact Indigenous territory and natural resources are authorized, Paper 32 mandates Free, Prior, and Informed Consent (FPIC).

ILO Convention No. 169

ILO Convention No. 169 (1989) is the sole legally binding agreement for Indigenous and Tribal Peoples. In 1989, the convention was signed. Indigenous communities must be included in the planning of land, resources, and development, and governments must engage in communication with them.

Free, Prior and Informed Consent (FPIC)

The primary method for Indigenous self-determination in environmental governance is Free, Prior, and Informed Consent (FPIC), as outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and International Labor Organization Convention No. 169. The efficacy of FPIC is contingent upon the manner in which it is implemented within national legislative frameworks; consequently, protection levels differ among countries.

4. COMPARATIVE JURISPRUDENCE

Expansion of Aboriginal Title

Tsilhqot'in Nation v. British Columbia (2014) established that Crown power cannot be exercised until Aboriginal people have occupied land in a manner that is appropriate, exclusive, and continual. Recent rulings have enabled the application of this concept in more practical contexts.

Nuchatlaht v. British Columbia (2026)

The Aboriginal status of 210 square kilometers of Nootka Island was acknowledged by the British Columbia Court of Appeal. By adopting a territorial approach and ruling that indigenous peoples are not required to occupy each property, the Supreme Court bolstered land claims, particularly for First Nations along the shore. This judgment was advantageous to First Nations.

Cowichan Tribes v. Canada (2025)

According to the Supreme Court of British Columbia, Aboriginal title is a "senior interest" in fee-simple proprietorship of privately owned property. This resulted in the court acknowledging Aboriginal title. The verdict enhanced Indigenous peoples' access to land, despite its controversy regarding private property rights and an appeal.

Gitxaala v. British Columbia (2025)

UNDRIP is granted legal authority under provincial legislation by the Declaration on the Rights of Indigenous Peoples Act (DRIPA), as per the British Columbia Court of Appeal. The Court determined that mining claims without prior consultation violated FPIC and subsequently confirmed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as a legally enforceable requirement.

Wolastoqey Nation Decisions (2025–2026)

The lawsuit was dismissed by the Supreme Court of Canada after a lower court in New Brunswick determined that Aboriginal title does not apply to privately owned land. This case demonstrates the long-standing legal constraints on Indigenous title, as well as the collision between private property rights and Indigenous self-determination.

Significance

Rival property claims from Indigenous groups continue to cause legal issues, despite the increasing recognition of Indigenous self-determination in Canadian law through Aboriginal title. In order to achieve environmental justice, it is imperative to engage with Indigenous peoples and honor their jurisdiction, as evidenced by these decisions.

5. COMPARATIVE JURISPRUDENCE II: FOREST RIGHTS AND CONSERVATION LAW IN INDIA

Historical Injustice and the Forest Rights Act, 2006

The access of forest tribes to their ancestral lands was severely restricted by colonial and post-colonial forest rules. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) was enacted to rectify these inequities. Under the Act, CFR rights are acknowledged for both individuals and communities. A decentralized governance framework is also provided to the Gram Sabha by the Act to manage forest resources.

Reconciling Forest Rights with Conservation Law

Multiple conflicts have arisen between the 1980 FCA and the Forest Rights Act (FRA). Prior to converting forest land for non-forest management purposes, the FCA necessitates the approval of the Central Government. Indigenous rights and environmental objectives must be reconciled by the courts. The necessity to safeguard Indigenous rights is the root of these disputes.

Judicial Harmonisation in Sugra Adiwasi v. Pathranand (2025)

In the case of Sugra Adiwasi v. Pathranand (2025), the Supreme Court declared the FRA and FCA to be non-contradictory. The Court has directed the Union Government to establish a framework that upholds the right to permanent residence and mitigates deforestation, while also adhering to the environmental protection requirements of the FCA and the social justice objectives of the FRA. This action recognizes both objectives.

The Constitutional Debate in Wildlife First v. Union of India

The broader constitutional debate regarding the integration of tribal rights and forest protection is exemplified by the ongoing Wildlife First v. Union of India case. This case is significant in the field of environmental governance due to the fact that indigenous tribes have maintained the Forest Rights Act (FRA) as a fundamental component of their constitutional and customary rights. The FRA has been endorsed by indigenous tribes in order to safeguard their rights, while conservation groups have opposed it.

Indigenous Self-Determination and Community Forest Governance

The Indian experience demonstrates that the protection of the environment and the empowerment of indigenous peoples to make their own decisions are mutually reinforcing. Gram Sabhas are granted the authority to oversee Community Forest Resources under the Forest Rights Act (FRA), which fosters participatory governance that is advantageous to the environment and community rights.

Empirical Evidence from Odisha

According to statistics, the community-driven forest governance in the villages of Soura Kurlanda, Kalakani, and Pajilibandha in Odisha has enhanced the quality of life, fortified local conservation entities, and diminished illegal logging. These cases demonstrate that environmental conditions may be enhanced by secure community tenure.

Comparative Lessons for Environmental Governance

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6. GLOBAL CLIMATE GOVERNANCE

Historic Indigenous Participation

In 2025, approximately 5,000 indigenous representatives participated in the COP30 conference in Belém, Brazil. The highest level of indigenous participation in UN climate negotiations to that point.

Recognition of Indigenous Rights

The Global Mutirão report underscores the human and land rights of Indigenous peoples in the context of climate financing, mitigation, and equitable transition.

Financial and Land Commitments

Brazil has created 10 new indigenous areas, and more than 35 countries have contributed \$1.8 billion to indigenous land rights programs.

Indigenous Inclusion in Climate Mechanisms

The Conference of the Parties (COP30) enhanced Indigenous engagement by mandating consultation under Paper 6.4 of the carbon market treaty and integrating Indigenous rights into the Just Transition Work Programme.

Challenges to Effective Participation

In spite of their increased involvement, indigenous delegates noted that they continued to engage symbolically and had minimal to no influence on decisions.

Continuing Concerns

According to indigenous organizations, the meeting should have condemned the consumption of fossil fuels, resource extraction, and forest degradation.

Indigenous Environmental Data Justice

The 2026 Indigenous World study illustrates Indigenous-led data platforms that oversee human rights on a global scale. These data platforms foster self-determination by granting communities control over environmental and human rights records.

7. RECURRING FAULT LINES AND A SELF-DETERMINATION-CENTRED REORIENTATION

Indigenous Rights versus State and Private Interests

In numerous countries, there is a widespread misconception that indigenous jurisdictions are in conflict with private property rights and national sovereignty. Economic and property concerns were the primary focus of the Canadian government's response to Cowichan and Wolastoqey.

Conservation versus Indigenous Rights

The courts and government may regard environmental protection and indigenous health care as competing objectives. The Forest Rights Act of India demonstrates that a government that is community-driven can protect the environment and indigenous rights.

Symbolic Recognition without Real Authority

In theory, COP30 and previous international climate conferences recognized Indigenous rights; however, they failed to establish legally enforceable authority on critical issues such as land rights, mining, and fossil fuels, demonstrating a discrepancy between recognition and action.

Recognising Indigenous Land and Governance

Indigenous land tenure and governance rights should be acknowledged in a self-determination plan through Indigenous-led negotiations, rather than state or corporate interests.

Free, Prior and Informed Consent (FPIC)

Free, Prior, and Informed Consent (FPIC) must be acknowledged as a legal obligation in environmental decision-making in order to effectively involve Indigenous people in decisions that impact their territory.

Harmonising Rights and Conservation

Sugra Adiwasi is of the opinion that indigenous rights and environmental protection should be incorporated into laws from the outset as distinct but equal objectives.

Indigenous Environmental Data Justice

Indigenous Navigator is responsible for the collection, analysis, and monitoring of environmental and human rights data. The Indigenous Navigator is a monitoring system that could be used by Indigenous organizations to influence environmental governance.

8. CONCLUSION

Indigenous peoples are now recognized as autonomous entities with the responsibility to safeguard their rights in environmental governance and inherent ownership of their historic territories and resources. This recognition represents a substantial departure from the previous paradigm. According to research conducted in the United States, Canada, Australia, and New Zealand, the most effective approach to achieving environmental justice is to respect Indigenous legal traditions, land rights, and governance systems in addition to state legal frameworks. Significant impediments persist in Indigenous land rights, despite legislative and judicial progress. These barriers include resource exploitation, poor law enforcement, colonial governance frameworks, and competing state interests. Equal participation, informed prior consent, and self-determination have been emphasized by numerous international organizations in the context of environmental decision-making. An illustration of this is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Indigenous-sponsored conservation strategies that acknowledge their ecological responsibility and connection to their territories, collaborative decision-making, and authentic pluralism in the legal system will comprise future environmental governance. Institutions must uphold the cultural and environmental integrity of Indigenous community members, support sustainable resource use, and respect Indigenous authority in order to enforce Indigenous rights and provide justice for current and future generations.

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