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Involving indigenous people in environmental governance – the Sixth Schedule way

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Involving indigenous people in environmental governance – the Sixth Schedule way



Customary practices of the North East's tribal population are harmonious with nature.

Extensive recognition and conferment of rights over the forest are belated legislative actions. In most indigenous societies, people believe humans and nature are deeply connected and inter-dependent, almost like kin to one another.

Indigenous people across the world have often been regarded as exemplars of environmentally sustainable living. The impact of their subsistence livelihoods was apparently kept in check by customary laws to ensure they lived by the laws

of nature. Solutions to a lot of current environmental problems lie in these traditions. These marginalised groups are gaining recognition as vital stewards of our environment and are gaining a role in environmental governance due to their unique traditions and laws, amid depleting resources. This UN proclamation recognised the role of indigenous people in environmental management and governance at an international level. A part of the Constitution of India also recognised this bond between indigenous people, their land and customary rights. The Sixth Schedule of the Constitution is unique because it confers autonomy and right to self governance to indigenous people living in parts of north-eastern India.

The Sixth Schedule Provisions over the administration of tribal areas in Assam, Meghalaya, Mizoram and Tripura are contained in the Sixth Schedule. It provides for the establishment of autonomous district and regional councils. Each of these states have a couple of

such councils, except Tripura which has one. These autonomous district and regional councils have their members elected from the local tribal population of their respective regions. In addition to the elected members, a few are nominated by the governors. The history of autonomous district councils goes back to the time of gaining independence. The Interim Government of India appointed the North-East frontier (Assam) Tribal and excluded areas committee to the Constituent Assembly, under the chairmanship of Gopinath Bordoloi, the first Chief Minister of Assam. The committee recommended the setting up of autonomous district councils to provide autonomy and self-governance at the local level to the tribal population. The recommendation was later incorporated into the Sixth Schedule, Article 244 (2) and Article 275(1) of the Constitution of India. The district and regional councils almost function as autonomous states with significant executive, legislative and judicial powers. The councils have powers to legislate over several matters including land use, management of forests (except reserved forests and sanctuaries),

inheritance, tribal customs, marriages, personal laws, appointment and succession of headmen, etc.

The councils have their own laws and regulations over the management of forests. Many of these laws derive from customary laws and often appreciate the close age-old relationship shared between indigenous people and the environment. A few such legislations include: 1. The Mizoram Forest Act, 1955 2. The Karbi Anglong Forests Act, 1957 3. The United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests) Act, 1958 and its subsequent rules of 1960 District council forest laws – the enabling factor? An analysis of laws like the United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests) Act, 1958 show how the involvement of indigenous people in environmental governance was enabled. This was done by placing them at the focal point of forest management. The primary objective of the aforementioned law is the control and management of forests in the autonomous district

council areas of Meghalaya's Khasi and Jaintia Hills. Deriving from local customary laws, this legislation classifies forests under the autonomous district council into eight different categories. These categories include private forests, sacred forests, green blocks, village forests, district council reserved forests and so on. The management of these forests exclusively lies in the hands of the local communities, apart from the categorisation. Section 3 (ii) of the act, for example, describes sacred forests. This, in turn, has benefitted both people and nature. A good illustration of this is the successful Reducing emissions from deforestation and forest degradation (REDD+) initiative in Meghalaya's Mawphlang region, where 3,500 households from 62 villages managed to conserve and restore over 27,000 hectares of sub-tropical hill forests. This has not only led to the restoration of biodiversity and water sources like streams, but also increased the livelihood and income of local tribal people. Despite several positive aspects, the Sixth Schedule is not free from shortcomings. Over the years, there were several instances of corruption

in the autonomous councils. The village heads or community leaders often reap most of the benefits, with barely any development trickling down to the actual beneficiaries. Laws over the control and management of forests in all the areas under the Sixth Schedule are not uniform as well. In Assam's Karbi Anglong district, the Karbi Anglong Forests Act, 1957 does not confer rights to communities over control and management of forests, unlike Meghalaya. Rights over forests lie exclusively in the hands of the district council. Apart from this, certain district councils do not have laws over the management and control of forests. They are, instead, under the jurisdiction of a state law.

The road ahead The success story of Mawphlang necessitates replication and serves as an apt model for showing the benefits accrued from involving indigenous people in environmental governance through incentivised programmes. Active community engagement in forest management, however, is still missing from certain district council legislations. These laws

need amendments to increase participation of indigenous populations and legislations need to be adopted immediately in areas where they are missing. The ambit of the Sixth Schedule is not as inclusive as one would expect. Several tribes – particularly in Assam – are still outside its realm. There lies a vast scope within the existing framework itself to include tribes such as the Mising, Tiwa, Rabha, etc who have long demanded inclusion. The customary practices of the North East's tribal population are harmonious with nature. Extensive recognition and conferment of rights over the forest are, thus, belated legislative actions. Despite its few shortcomings, the Sixth Schedule holds the potential to redefine community engagement and restore forest management to a co-dependent existence once stolen from these tribes by foreign powers. The future lies in restoring the past.