

9

Exploring The Legal Frameworks and Cultural Landscape of Uttarakhand and Himachal Pradesh's Peripheral Communities

Dr. Madhvi Singh
Assistant Professor,
Political Science,
Asian Law College,

ABSTRACT

This study undertakes a comprehensive legal analysis of the peripheral communes in Himachal Pradesh and Uttarakhand, exploring the intersection of law and culture. Himachal Pradesh's peripheral communities, such as Gaddis, Malanese, Lahualis, Kinauras or a small community which faced displacement during the hydropower project of Uttarakhand, i.e. Lakhwar Vyasi Hydropower Project, comprising various tribal groups, face displacement and other unique socio-legal challenges. This study looks at how the cultural landscapes and legal systems of Indian states' Uttarakhand and Himachal Pradesh interface with those of outlying people. These Himalayan republics are home to a variety of communities whose ways of life and systems of government are intricately linked to their surroundings. The states' legal systems, tribal laws, and cultural identities show both commonalities and clear distinctions, despite having comparable ecological and cultural characteristics. It also highlights the difficulties in maintaining cultural heritage while meeting contemporary legal standards and sheds light on the necessity of democratic governance. This study emphasizes how crucial inclusive and sustainable policies are to the growth of these areas. Despite constitutional guarantees, these communities continue to experience marginalization, exclusion and cultural erosion. The data pool will be comprised 89 publications from 1980- 2024 spread across 8 different categories. A mixed-method approach, combining qualitative and quantitative data, it examines existing laws, implementation gaps, and impact on community rights, identity, and livelihoods while also undertaking scientific

Keywords

Peripheral communities, socio-legal challenges, cultural erosion, community empowerment, inclusive legal frameworks, Peripheral communities, Uttarakhand, Himachal Pradesh, legal frameworks, cultural landscape, participatory governance.

1 Gupta, R., "Policy Gaps in Forest Fire Prevention in Himachal Pradesh" Indian Environmental Policy Review (2022).

2Negi, R. & Singh, S., "Livelihood Impacts of Forest Fires on Rural Communities in the Himalayas" Ecological Economics (2019).

3 IPCC, Climate Change and Its Impact on Forest Fires (2021).

4Singh, J. & Thakur, M., "Traditional Ecological Knowledge in Forest Fire Management" Himalayan Studies Journal (2020).

5Kumar, A. & Mehta, D., "Role of Tourism in Forest Fire Incidents in Himachal Pradesh" Tourism Ecology Journal (2019).

investigation into empirical research on source material regarding the displacement, cultural erosion and impacts it is making on the lives of indigenous communities. The research will try to reveal inadequate representation, limited access to justice, and cultural erosion, arguing for culturally sensitive laws and policies.

Introduction

Uttarakhand and Himachal Pradesh are two northern Indian states noted for their diverse ecosystems, picturesque scenery, and colourful cultures. They are home to a diverse range of communities, including tribal groups, agrarian societies, and pastoral nomads. These communities are not only keepers of distinct traditions, but they also play an important role in the region's environmental health. However, the sociopolitical growth of these states reveals a twofold challenge: incorporating ancient customs into modern governing systems while protecting the rights of these groups. Understanding their legal frameworks and cultural landscapes necessitates a sophisticated approach that takes into account customary rules, constitutional guarantees, socioeconomic policies, as well as cultural practices, art forms, and rituals. From the mainstream people to the ones who live on the edge of these states, the agenda is to preserve the culture of the state and their people, to protect the jungles and co-live with the nature, but the development and coping up with the fast-paced, developing world, they are bound to grow but few of the people who live on the periphery of the state and dedicated to preserve their culture and ethnicity, while also trying to adapt to the changing world are the ones actually trapped in the loop, as their culture, gods an people do not allow them to leave all that behind and the growing world, development demands their mainstreaming into the society.

Legal frameworks in Uttarakhand and Himachal Pradesh. Constitutional Protections and Tribal Rights

Environmental Governance The legal frameworks of these states are inextricably linked to their biological environments. Acts such as the Indian Forest Act of 1927 and the Wildlife Protection Act of 1972 have a substantial impact on these communities, often leading to confrontations over land rights and resource access. Uttarakhand's Van Panchayats (forest councils⁴) showcase participatory governance by allowing communities to manage forest resources. However, national-level regulations are sometimes enforced without regard for these communities' particular ecological knowledge⁵.

Customary Laws Customary laws continue to play an important part in remote communities' daily lives. For example, the Kinnaur region of Himachal Pradesh relies on traditional dispute resolution procedures, often ignoring official legal frameworks. Similarly, Uttarakhand's Jaunsari tribes use council structures to settle disputes, reflecting deeply ingrained traditional norms.

Cultural Landscape: Festivals, Rituals, and Traditions Festivals and rituals form the cultural environment in both states. Himachal Pradesh is famous for the Kullu Dussehra, which combines religious activities with local governing systems. In contrast, Uttarakhand celebrates unique festivals such as Harella, which reflect the agrarian calendar. Both states strike a careful balance between old ecological understanding and current behaviours.

Art and Architecture Peripheral settlements in these locations show their identity through distinctive art and architecture. The woodwork and temple building of Kinnaur in Himachal Pradesh, as well as the bright folk paintings of Uttarakhand, demonstrate a profound connection to nature.

⁶Chauhan, A., "The Role of Illegal Logging in Forest Fire Vulnerability" *Indian Forestry Journal* (2019).

⁷Government of India, *Forest Fire Prevention and Management Scheme* (2017).

⁸Kumar, S. & Tiwari, R., "Carbon Emissions from Forest Fires in the Himalayas" *Environmental Pollution Journal* (2020).

⁹Himachal Pradesh Forest Department, *Forest Fire Incident Reports 2010–2022* (2022).

¹⁰Ministry of Environment, Forests & Climate Change (MoEFCC), *India State of Forest Report 2021* (2021).

¹¹Sharma, P. & Rana, N., "Socio-Economic Impacts of Forest Fires on Himachal Pradesh Communities" *Indian Journal of Development Studies* (2017).

¹²Chauhan, A., "The Role of Illegal Logging in Forest Fire Vulnerability" *Indian Forestry Journal* (2019).

¹³Singh, Madhvi & Ganguly, Anna Nath, "Hydropower Project Safety and Its Impact on Environment and Culture of the Indigenous Civilization: A Case of Lohari Village" *Journal of Pharmaceuticals Negative Results* (Oct. 2022), 13(4).

Comparative Analysis: Legal Divergences While both states place an emphasis on community-based resource management, Himachal Pradesh has more stringent rules for protecting tribal identities, which is owing in part to the greater tribal population. Uttarakhand's smaller, scattered tribal communities frequently receive less policy attention, resulting in gaps in implementation.

Cultural Overlap and Distinctions These republics' cultural landscapes overlap, with overlapping agricultural practices and festivals based on natural cycles. However, diverse impacts emerge from their historical contexts: Uttarakhand's proximity to the Indo-Nepal border introduces new cultural practices, whilst Himachal Pradesh reflects Tibetan traditions.

Case Study: Malana and the Denial of OBC Status Malana, a remote village located in the Kullu district of Himachal Pradesh, is famous for its unique culture, traditions, and its governance system rooted in ancient customs. Known as one of the oldest democracies, the Malana community has always prided itself on its independence and distinct identity. Their traditional isolation from the world has shaped their lifestyle and worldview. In the early 2000s, Malana was proposed to be included in the Other Backward Classes (OBC) list, which would grant its residents certain benefits under India's affirmative action policies. However, the villagers rejected the status, citing their self-sufficiency and cultural pride. They believed accepting OBC status would dilute their heritage and invite external interference in their governance and way of life. This decision reflected the strong communal identity and resistance to external categorization or dependency on government welfare schemes⁶.

Destruction and Isolation In 2008, a massive fire devastated Malana, destroying nearly half the village, including homes and significant cultural structures. Adding to their woes, in subsequent years, landslides and harsh weather conditions

disrupted connectivity to the village⁷. These natural calamities⁸ left the residents stranded, as the steep terrain and remote location made relief operations challenging. Despite the severity of these disasters⁹, the response from the administration was slow and inadequate¹⁰. The lack of proper road infrastructure and the self-imposed isolation of Malana compounded the problem¹¹. The villagers, reliant on their traditional systems, found it difficult to access modern resources for rebuilding and rehabilitation.¹²

Case Study: Lohari Village and Compensation Demands for the Lakhwar-Vyasi Dam Project

Lohari is a small village located in the Dehradun district of Uttarakhand. Like many other villages in the region, it faced displacement due to the construction of the Lakhwar-Vyasi Dam, a hydroelectric project on the Yamuna River. The dam aims to address power generation and irrigation needs in the region but comes at a significant social and environmental cost¹³. The villagers of Lohari, took an active stance in negotiating with the government. They demanded fair compensation for the land and livelihoods they were losing. Key points of their demands included:

Adequate Monetary Compensation: The villagers sought financial settlements reflective of the market value of their land, homes, and agricultural fields. They argued that the compensation offered was insufficient and would not enable them to rebuild their lives elsewhere. **Rehabilitation and Resettlement:** The affected villagers demanded proper resettlement plans, including access to basic amenities like housing, education, and healthcare in the new locations. They emphasized that mere monetary compensation would not suffice unless paired with infrastructural support, as the major reason for these demands was not just due to the lack of the compensation they were getting but also, their cultural protection and living together as a family as the people of the village tend to live like a

¹⁴Jaiswal, R. K. et al., "Remote Sensing Applications for Forest Fire Monitoring in India" *Remote Sensing and GIS Journal* (2018).

¹⁵Sharma, V., "Forest Fire Trends in Himachal Pradesh: A GIS Analysis" *Journal of Geospatial Sciences* (2020).

¹⁶Negi, G. C. S. et al., "Forest Fires in the Indian Himalayas: Drivers and Mitigation Strategies" *Environmental Research Communications* (2018).

¹⁷Mishra, A. K. & Singh, P. K., "Impact of Forest Fires on Biodiversity and Ecosystems in the Himalayas" *Journal of Forestry Research* (2021).

¹⁸Pandey, R. et al., "Community-Based Approaches to Forest Fire Management in India" *Forest Ecology and Management* (2020).

¹⁹Jaiswal, R. K. et al., "Remote Sensing Applications for Forest Fire Monitoring in India" *Remote Sensing and GIS Journal* (2018).

family as a whole, and getting displaced and not getting the resettlement together has bifurcated the peripheral commune due to which they have lost their identity, unlike Malana, as the Malana community since forever has lived together like one big family, constantly preserving their culture despite of all the challenges they have been facing in the past decade. While the government promised compensation packages, delays and discrepancies in implementation led to frustration and protests. The project also faced criticism for environmental degradation and insufficient attention to the social impact on displaced communities¹⁴. Both cases illustrate the complexities of balancing traditional lifestyles with modern development in India. Malana's resistance to OBC status and Lohari's demands for compensation reflect contrasting approaches to engaging with the state. For sustainable development, it is imperative to respect cultural identities while addressing the socioeconomic needs of communities. The state must also strengthen its disaster management and rehabilitation frameworks to build resilience in vulnerable regions.

Conclusion and Policy recommendations

Uttarakhand and Himachal Pradesh's periphery populations stand at the intersection of tradition and modernity. Their legislative systems and cultural environments must be harmonised to enable long-term development while preserving their distinct

identities¹⁵. However, several policy reforms or instillations have the potential to create new opportunities, connect the mainstream world with the world of the periphery community, and improve their quality of life. 1. Finding a balance between ancient practices and contemporary government can be facilitated by acknowledging and codifying customary rules¹⁶. 2. Participatory Governance: Resource management in Himachal Pradesh may be enhanced by the introduction of participatory frameworks like Van Panchayats¹⁷. 3. Programs for cultural preservation: It is essential to support and document intangible cultural assets like folk art and oral traditions¹⁸. 4. Equitable Allocation of Resources: Make sure that national policies are adapted to the local environment in order to reduce systemic imbalances, particularly during periods of displacement or natural disasters¹⁹. As by implementing inclusive policies and promoting participatory governance, these Himalayan states can act as role models for striking a balance between cultural heritage and progressive governance. Nonetheless, it is a fact that the government constantly works to safeguard these communities and does its best to meet all of their needs; the main issue arises because they live on the edge, which makes it challenging for both parties to understand one another. As a result, the needs at the time were not met.