

# Alienation of Tribal Land in the Sixth Schedule Area: A Case Study of West Karbi Anglong District of Assam

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## ABSTRACT

In West Karbi Anglong, tribal people are confronted with the problem of land alienation. One of the main factors is immigrants, mainly from Bangladesh (erstwhile East Pakistan), Nepal and other parts of India especially Hindi speaking people, who encroached on tribal land. Moreover, there are certain devices that lead to temporary land alienation of the tribal and later turn into permanent land alienation of the tribal; that are- Paikas, Bandhok, Sukti Bandhok, Khoi Bandhok, Mena, Adhi and Gift or donation. Besides this, in the district, rampant land alienation of tribal has been occurred for education and health purpose. It is the fact that huge amount of money has been invested for the development of education and health sectors but all the good quality institutions are existed in Guwahati and Shillong. Other factors of tribal land alienation in said district are land law, modernization and development. Apart from this, the existence of bribe bureaucrats in the KAAC (Karbi Anglong Autonomous Council) and mechanical failure makes it easy for the non-tribal to mutate their land. Therefore, in this article highlighted nature and causes of land alienation in West Karbi Anglong District of Assam.

**KEYWORDS:** Land Alienation, West Karbi Anglong, Tribes, Sixth Schedule, Immigrants and Land Laws

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## INTRODUCTION

West Karbi Anglong District is a sixth schedule area, which is newly created district of Assam in 2016 by bifurcating Karbi Anglong into two districts- one is East Karbi Anglong and another is West Karbi Anglong. It's headquarter is situated at Hamren. But the Karbi Anglong Autonomous Council (KAAC) is common district council for both districts. Land has a significant value in the tribal society because it has closely related with their culture, tradition and livelihood. Therefore, any kind of encroachment by the immigrants or acquisition by the government on their land will be considered as an attack on their culture and tradition. Moreover, majority of the tribal are dependent on land, forest and its resources for survival. Therefore, the Constitution of India provided protective mechanism for the tribal areas of North-East India either by the sixth schedule provision or by recognizing their customary laws. In West Karbi Anglong, one of the causes of alienation of the tribal land is immigrants, mainly from Bangladesh (erstwhile East Pakistan), Nepal and other parts of India especially Hindi speaking people, who have encroached on tribal land. Due to immigrants, the nature of land holding have been changed inmost of the tribes specially *Karbhis* (an indigenous tribal community of Karbi Anglong ) who has inhabited in the foothill of West Karbi Anglong. Moreover, there are certain devices which lead to temporary land alienation of the tribals and later on become a major cause of permanent land alienation of the tribal; that are- *Paikas, Bandhok, Sukti Bandhok, Khoi Bandhok, Mena, Adhi* (all these kinds of lease system

prevailing in Assam) and *Gift or donation*. All these devices are strictly band by the Mikir Hills District (Transfer or Land) Act, 1959 and the Karbi Anglong District (Land Reforms) Act, 1979. But due to having some lacunas in the said Acts, all these devices more or less prevails in the West Karbi Anglong and land lose of the tribal to non-tribal is still taking place in some places in the said district. Besides this fact of tribal land alienation in West Karbi Anglong, rampant land alienation has been occurred for education and health purpose. In spite of huge amount of money has been invested for the development of education and health sectors. But, it is the fact that all the good quality institutions are exist in Guwahati and Shillong. Therefore, they require money to send their children to those places for education and health purpose. As a result, they are bound to sale their land to the non-tribal or within their elite tribes because land is the only asset that they have. Other factors of tribal land alienation in the said district are land law, modernization and development. The land law does not recognize Common Property Resources (CPRs) that means community owned land. Therefore, when lands are acquired for development, the tribes are not adequately compensated or in some circumstances even not compensated because CPR dependents are considered as encroachers by the laws. Moreover, modernization of tribal land holding that means transformation from community owned land to individual land holding without preparation for it in advance by them, is also a cause of land alienation. Nevertheless, one of the crucial facts of tribal land alienation in West Karbi

Anglong is that the existence of bribe bureaucrats in the KAAC and mechanical failure makes it easy for the non-tribal to encroach and to mutate their land in the district. In this article, it is pertinent to analysis nature and causes of tribal land alienation in West Karbi Anglong District of Assam.

#### **Land Loss to the Immigrants**

One of the crucial factors of tribal land alienation in West Karbi Anglong is immigrants. They came particularly from Bangladesh (erstwhile East Pakistan), Nepal and other parts of India mainly Hindi-speaking region of India. They were entered in the said district from neighbouring states and districts like Golaghat and Nagaon who had already inhabited some time there. The one of the prime factors of immigration into the districts is that the availability of grazing, forest and land areas that attracted them to entered (Barbora, Sanjay, 2008). There are two factors of immigrants, which are the push and pull factors. The commonality among the immigrants is that they came from feudal system. Most of the immigrants are landless cultivators. Their poverty, low wages and lack of land reforms function as the push factor. While the requirement of cheap labours and most significantly land holding and the legal system that governed it is the pull factor (Fernandes, 2008). For the understanding of reality, field study had been conducted in June 2019 and it had been found that the ineligible non-tribal mainly Bihari, Nepali, Muslim and Hindu Bengali have occupied rampant land in West Karbi Anglong. The land areas that have been occupied by them in the village Mailoo is 1374 *Bighas*, followed by 1530 *Bighas* in Nawaibil, Lamsakhang 1000 *Bighas*, Watizur 537 *Bighas*, Lambapathar 430 *Bighas*, Mughasong 930 *Bighas*, Kheroni Nepali Pgr. 85 hectares, Kheroni Purna Basti Pgr. 84 hectares Kheroni Maj Basti 100 hectares, Maimaru Das Basti 19 hectares, Radhanagar 41 hectares and Kheroni 351 hectares. The non-tribal families concentrated in the above said areas are at Mailoo village 500 families, followed by Nawaibil 902 families, Lamsakhang 150 families, Watizur 240 families, Lambapathar 300 families, Mughasong 230 families, Kheroni Nepali Pgr. 237 families, Kheroni Purna Basti Pgr. 132 families, Kheroni Maj Basti 150 families, Maimaru Das Basti 79 families, Radhanagar 190 families and Kheroni 200 families.

#### **Devices that Leads to Tribal land Alienation in West Karbi Anglong:**

In the plains areas of the West Karbi Anglong District of Assam, the incidence of temporary alienation of land from tribal mainly the Karbis to non-tribal is too rampant. The temporary tribal alienation has been occurred through various devices that are- (1) *Paikas* System- according to this system a tribal landholder takes advance money from the tenants usually illegible non-

tribal in lieu of his land for a duration of one or two years. At the accomplishment of determine timeframe, the non-tribal tillers have to return the occupied land. But in reality, it does not happen because tribal landowner takes advance money from the non-tribal tillers and even prior to accomplishment of the stipulated period. Once a tribal set foot on this vicious chain, he can barely get out of it. In this system, the actual landowners have gained nothing. In fact, the advance money that is taken in cash form of the *Paikas* land that is only one eight of the worth of the yield obtained. No doubt, any land right do not confer to the non-indigenous under *Paikas* system. This system has made many *Karbi* (a tribal community of Karbi Anglong) families poorer and the condition of the landless non-tribal is better than them. According to the Mikir Hills District (Transfer of Land) Act, 1959, *Paikas* cannot be counted as unlawful since taking tribal land on hire by non-tribal does not confer property right to the hirer. Therefore, it cannot be banned. In fact, *Paikas* system cannot be counted as 'mortgage' because tribal landowner need not to pay back the advance cash received from the tillers after the completion of stipulated period. Therefore, the non-tribal has been taking the full advantage in the lacunas of the above-mentioned transfer act. (2) *Sukti Bandhak*- in this system, land is usually offered to a non-tribal to cultivate in lieu of payment of some stipulated amount of crop produce to the actual tribal owner at a certain estimate per annum per *Bigha* (land measuring standard of Assam) after carrying out a formal agreement between parties to this effect. The term '*Sukti*' denotes agreement and '*Bandhak*' denotes mortgage literally. Before the stipulated period, the tribal landowner does not have the right to use his land. Within this period, the non-tribal owner would be the virtual owner. At the end of the stipulated period, the plough land will come again under the hand of owner. However, if a tribal once comes into this vicious circle, he can barely leave from it, like *Paikas* system. According to the existing law, this system cannot be counted as mortgage because the landowner does not need to return the stipulated paddy that has taken from the holder of *Sukti Bandhak*. (3) *Khoi Bandhak*- in this system, the tribal landowner temporarily confers his right over land to the cultivators usually non-tribal for at least 5 years in lieu of payment of cash of some amount estimated at certain amount per *Bigha* per year. The stipulated amount has to be given to the landowner merely for once at the time of agreement. At the completion of agreement period, the land automatically comes to the actual owner. However, this is not happen in reality because it is very difficult to move out of it and prior to end of stipulated period, another agreement has been signed between the parties. Like *Paikas* and *Sukti bandhak*, this is also not considered to be mortgage. (4) *Mena*- the population density in Karbi Anglong district is very low. Therefore, in this district plenty of unreclaimed virgin land available that too near the Karbi villages. All

that land are cultivable land and are under the possession of *Karbi* tribes that are offer to the non-tribal cultivators for cultivation and reclamation for a period of varying from 3 to 5 years. The tribal landholders nothing has gain from this agreement except the get back of land after the completion of agreement period. However, this system is gradually declining because unreclaimed virgin land is reducing at a faster rate due to increasing growth rate of population in the district. (5) *Adhi* System- in this system landowner has to give certain amount paddy seeds or cash to the tenants. The *Adhiar* or share-cropping system is not as profitable as those four mentioned above. Therefore, they are not in favour of it (Report on The Survey of Alienation of Tribal Land in Assam, 1999). (6) Gift or Donation System- the gift or donation of land has also been prevailed in West Karbi Anglong. Most interesting matter is that tribal sale their land to the non-tribal but they said that it is donated to them. This is happen in Boithalangso, Dongka, Hamren and Kheroni areas of West Karbi Anglong. All the above mention devices are still prevailed in West Karbi Anglong except *Mena*. All these devices lead to temporary land alienation and finally turn into permanent land alienation of the tribal in the districts. Because once enter in this act, it is very hard to leave out of it mainly the downtrodden people. The main reason for the popularity of this system is poor economic condition, for medical treatment, not capable of self-cultivation, for household maintenance, poverty and lack of workplaces to earn money.

#### **Processes of Land Mutation or Registration by the Non-tribal**

Land registration by the non-tribal in their own name is too rampant in West Karbi Anglong. It is the fact that land mutation is not possible without involving corrupt bureaucrats. For instance, Indigenous Land Rights Protection Committee (ILRPC) reprimanded to the authority of Karbi Anglong Autonomous Council (KAAC) for withholding land deeds to indigenous tribal. The panel was formed by the Assam government who visited in Karbi Anglong on September 11/2017 in order to evaluate the status of tribal land right of the district. Hari Shankar Brahma (former chief election commissioner) spearheaded the ILRPC; they organized a meeting with authorities of the District Council at Circuit House. In that meeting, village headmen and the representatives of social organizations were also present. The Committee member and retired IAS officer (Rohini Kr. Baruah) asked to the Rupsing Teron, EM (Executive Member) for land and revenue while investigating in regard to revenue system that is under the administration of KAAC that how it is possible to get land and *pattas* for building houses by the outsiders. They said that the outsiders are occupied land and *pattas*(deeds). They also asked question to KAAC that how the bonafide communities do not hold land *pattas* and why authority of KAAC do not issue land *pattas* to them if the outsiders

can get land and their *pattas*. Moreover, the advisor of Sixth Schedule Implementation Committee (SSIC), Jhon. I. Kathar said that the KAAC did not enact its own land laws. They followed the 'Assam Land Requisition and Acquisition Act, 1951 that is inapplicable to the Sixth Schedule areas, especially Karbi Anglong. The outsiders, mainly non-tribal, entered in the district from other districts and states. They have had land and deeds as well as political rights. They are seizing political rights and the land of the autochthons of the district. He also said that the authority of KAAC did not take any initiatives for the protection of the indigenous people's land (<https://www.thehillstimes.in/regional/karbi-anglong-a-land-of-planet-mars-land-panel/>).

Moreover, the non-tribal registered their land in illegal way along with the help of bribe bureaucrats. Otherwise how could they taken land in their name. During the field visit in 10, June, 2019, one of the members of Karbi Students Association (KSA) said that the non-tribals are having marriage relationship with the local tribal women and land are mutated in their wives name. The approximate number of such mutation is around hundred or may be more than hundred. Moreover, it is also informed that due to having inefficiency and mechanical problems in the Karbi Anglong Autonomous Council (KAAC), it is possible to mutate land and hold land *pattas* by the non-notified person in the name of tribal's name. The approximate number of such mutation is more than 300.

#### **Land Loss for Education and Health**

In the West Karbi Anglong, the infrastructure of education and health is very poor; particularly in the hills. No doubt, in Northeast India have some good quality health and education institutions. However, most of these institutions are located in cities like Guwahati and Shillong. Therefore, parents have no other choice except sending their children in those cities or outside the region for education and medical purpose. For it required huge amount of money. Therefore they are bound to sale their land that is only property they have. They sales their land to rich members of their community in orders to effort the requirement or in some cases to non-tribal, because they have paid very higher amount than their community's people have. The requirement of money for education is sometime negotiable but not in medical emergencies. It is the fact that the tribal sale their land at a throwaway price within their community or to the non-tribal in order to manage medical emergency. Thus, it shows that land alienation and the absence of a rural infrastructure have a close connection (Fernandes, 2017).

#### **Land Laws and Displacement**

The formal laws are also another cause of tribal land alienation in the West Karbi Anglong district of Assam. Traditionally, they are *jhum* cultivators and still in the hill area practicing it. They have no idea of the very concept of individual landownership and merely have the

tradition of community own of land and have usufruct right on it. At the time of *jhum* cultivation, every family do cultivation on as much land as it requires. After cultivation, the land has to return to their community (Fernandes and Bharali 2002, pp. 7-8). On the other hand, the formal law is relied on the perspective of property, the written word and the individual ownership. It is based on profit motive. While, the informal law, especially tribal, is relied on the word of mouth, resource and community ownership. Equity and sharing are its basis (Sharma 1978, pp. 8-12). Therefore, the imposition of formal laws over informal laws leads to tribal land alienation because they are not prepared for it in advance. According to formal land law, land is an 'eminent domain' that means it is state property and only state has exclusive right to use it. Relied on the concept of 'eminent domain', those land do not have private ownership would be considered as state property. Moreover, State can acquired any land in the name of public purpose and does not oblige to define what kind of public purpose. Unfortunately, after independent too this colonial nature of land laws have been followed without changing its nature and even made it more stringent in many cases (Fernandes, 1988). It is also the fact that the formal land laws also make it easy for tribal land alienation to non-tribal. The formal laws system strictly bans to occupy tribal land by ineligible people that too limited only to individual land holds. It is the fact that in the protected tribal areas, individually hold lands are around only a third. The remaining are CPRs on which encroachment is very east. It is possible to occupy land even on individual hold land because of having lacunas in the existing land law and/or through corrupt ways (U. A. Shimray, 2006). For instance, the law strictly bans alienation of tribal land to ineligible non-tribals in Karbi Anglong district of Assam that is under the Sixth Schedule area. But many immigrants, mainly Bihari immigrants, occupy tribal land and have *pattas* in Karbi Anglong district of Assam. It would be impossible without involving corrupt bureaucracy (Fernandes and Barbora, 2002).

In the Mikir Hills District (Transfer of Land) Act 1959 mentioned that it is prohibited to sale, barter, mortgage, gift or transfer of land to non-tribal or by a non-tribal to another non-tribal without prior approval of the District Council's Executive Committee (section 3 of the Act) that are under the administration of the District Council. Moreover, the Act also mentioned that any person holds land prior to the implement of the Act would not be affected. Besides this, it is also mentioned that *Paikas* cannot be assumed to be illegal according to provision of the Mikir Hills District (Transfer of Land) Act, 1959 because hiring of land by the non-tribals from tribals does not mean to permanent alienation. The *Paikas* holders have to revert it at end of stipulated period. But the Karbi Anglong District (Land Reforms) Act, 1979 solemnly prohibited the *Paikas system*, but allows *Adhi system*

(Bordoloi, B.N., 1991). They had taken the advantage of loopholes and ineffective implementation of land laws. Moreover, in the field study in July 28/2019, it is found that in Kheroni, Boithalangso and Dongka areas of West Karbi Anglong still prevails lease and donation and *adhi* system which is main factor of tribal land alienation in the district.

#### Modernization and Land Alienation

Modernisation of tribal land holding system is another cause of their land alienation. Modernisation is necessary to be a prosperous society but for it they should prepared in advance. Tribal land management system is based on community management. This principle can be seen in their forest and land management system, especially in *jhum* cultivation. The tribal tradition of land and its resource management system is fully contrary to worldview that regard land is a commercial value that means it treats land as a commodity and the nature of land holding is in terms of individual property. The formal laws makes possible to alienate CPRs from the tribal communities because it treats land merely as a commodity and a place for building and cultivation. Moreover, the formal laws are governed by the colonial concept of the eminent domain and individual property. It does not recognize the role of land as the livelihood of its dependants (Ramanathan, 2008, pp. 28-29). Modernization transforms the community ownership of land into individual ownership. It first step began through changing the shifting cultivation especially *jhum* to settled cultivation and transition of CPRs into individual ownership. Result of it is tribal land alienation (Fernandes and Barbora, 2002, pp. 116-117). The nature of traditional land management of *Karbi* has altered due to internal and external reasons. It is the fact that immigration is one of the significant factor for widespread of settle cultivation in Karbi Anglong. They are highly expertise in settle cultivation that played an indirect role for fast growth of individual land holding. Moreover, the system of individual land holding was also incited by the administration in order to abandon *jhum* cultivation (shifting cultivation). For instance, the District Council made an effort to discourage shifting cultivation by setting-up a few model villages to settle people permanently in it. Each village is composed of minimum 50 houses that are assumed conducive for planning and development. Every family of these model villages is provided land that varying from 5 to 10 *bighas* (3 *bighas* is equal to 1 acre). In addition, the government initiated certain schemes of cash crops cultivation and horticulture as an alternative to shifting cultivation. For example, rubber and coffee plantation was encouraged either by the government or by private companies in the hill land areas of the district. The Assam Plantation Crops Development Corporation was set-up to stimulate this process. As a result, in 1977 on 637 acres of coffee in 6 centres and on 500 acres of rubber in 3 centres was planted respectively

in both Karbi Anglong and North Cachar Hills districts of Assam. Moreover, in Karbi Anglong District of Assam, the Coffee Board encouraged for plantation and those who do not have sound financial, they offered to take subsidies and loans to individual owners and heads of families. In order to take loans and subsidies some persons conferred rampant community land to their name with the approval of village headman (Bathari, 2009, pp. 148-150).The plantation, specially tea, coffee and rubber, that initiated by the administration and private companies pave the way of starting plantation in the West Karbi Anglong district and continue it. It is the fact that the nature of their social and culture has been changed due to these plantation that leads to land alienation of poor tribal people to the elite tribal and in some case to the non-tribal. In the study of the district, tea, coffee and rubber plantation have been found extensively. For instance, in West Karbi Anglong, it is found that under Rongkhang Development Block, Dongka, Chinthong Development

Block, Hamrenand Amri Development Block, Ullukunchi have been planted tea, coffee and rubber more than thousand acres of land and under Socheng Development Block, Jirikinding only rubber plantation has been done in around thousand acres of land.

**Development and Tribal Land Alienation**

Another cause of land alienation of tribal is development project. The government acquired land in the name of national development and deprived and displaced many people both from their land and houses. For instance, in West Karbi Anglong, both the state government of Assam and District Council of Karbi Anglong acquired rampant land for the construction of dam that displaced many tribals specially *Karbi* tribe. In the district two dam have been constructed namely ‘Karbi Langpi Hydro Electric Dam Project’ and ‘Myntreng Hydro Electric Dam Project’ that displaced many persons which are shown in Table 1 and Table 2.

Forest Land	Revenue Land	Total	Only Physically Affected Households	Only Economically Affected Households	Both Economically and Physically Affected Households	Total Affected Households
521 acre	1065 acre	1586 acre	10	50	160	200

Table 1: Karbi Langpi Hydroelectric Dam Project (Amtreng, Boithalangso)

Source: Primary Data (interview with officials of Donka Circle Office on 20/07/2019)

Forest Land	Revenue Land	Total	Only Physically Affected Households	Only Economically Affected Households	Both Economically and Physically Affected Households	Total Affected Households
200 Bighas	2018 Bighas	2318 Bighas	16	84	3	103

Table 2: Myntreng Hydro Electric Project (Stage-1 and Stage-2) (Myntreng, Boithalangso):(1 acre= 3 Bighas)

Source: Primary Data (interview with officials of Donka Circle Office on 20/07/2029)

In table 1 and table 2, it is shown that the magnitude of affected households in terms of physically and economically affected and the land areas acquired for the installation of both the dam projects. All the affected families had not been compensated. The main tribulation of these places is that they do not use market value of land because they are CPRs dependents that mean land is

managed according to their customary law. The affected families were dependent on land for their livelihood. They were displaced by the installation of dams. Infact they are not properly resettled and rehabilitated due to existing colonial land law namely the Land Acquisition Act. No doubt, it has been amended several times in post-independence of India. However, its nature remains same.

It is the fact that the 'Land Acquisition Act' 1894 (LAA) treated land as state property and is relied on the concept of eminent domain. It has two perspectives. Firstly, land with no individual deeds would be considered as State property. Secondly, only the State has exclusive right to determine a public purpose and has right to deprive even individually hold land without taking his consent (Fernandes, Walter, 2015). As a result of alienation of their land they are become poor and landless labourers or daily wage labourers. It further leads to marginalization.

### CONCLUSION

The government has to build good quality educational and health institution not only in urban areas but also in the rural areas. In these institutions, the government should provide especial subsidy for the tribal communities particularly for downtrodden classes. Apart from this, land reforms or laws should be made rigorously and should be implemented effectively. So that, ineligible non-tribal cannot encroach on tribal land. It is the fact that the protection of tribal land is so important because land is not only their sustenance, but also has an intimate relation with their culture and tradition. Therefore, land has a significant value among the tribal communities that does not have among the non-tribal. Moreover, tribal lands are owned by the community ethos that means owned by the community according to their tradition. Whenever, they require land for cultivation can take as much as land they need. However, they have to return it back after harvesting to their community. Therefore, they do not have private land. Because of this fact, the policy makers have to pay their attention towards CPRs dependents. Moreover, "Land Acquisition Act" should have provision for reliable compensation policy for them. Apart from compensation, the government should make a commission in order to make a report on resettlement and rehabilitation of the displaced persons and according to the report, they should take adequate action to do so.

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