

UNCLAIMED AND UNCHECKED: HOW GOVERNANCE GAPS ENABLE THE RISE OF LAND ENCROACHMENT IN INDIA

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ABSTRACT

Indian land encroachment has become a longstanding issue in governance that is based on administrative failures in the system and unclear laws. The critical review in this paper is the role of fragmented institutional structures, ineffective inter-agency coordination, and accountability in allowing the encroachments to rise unabated in the public, forest, and urban lands. Based on doctrinal studies and some significant literature, the work brings to the fore the advantages of administrative indulgence, whereby the issuance of address proofs and utility services to illegal occupants legitimises the illegal possession and makes it difficult to evict the occupants. The analysis indicates that the gaps in governance are not procedural ones; however, there are structural ones, which include the ineffectiveness of detection, surveillance, and preventive enforcement in the early stages. Revenue, Urban Local Bodies, Forest Authorities, and Panchayati Raj Institutions are departmental and tend to operate separately, with some overlapping jurisdictions and a lack of consistency in their data systems, which supports encroachment. Courts and humanitarian concerns also make implementation harder since a court focuses on procedural equity and rehabilitation rather than on the strict legal ownership. The paper ends with a suggestion of a multi-pronged reform agenda: digitisation of land records, GIS-based surveillance, performance-based responsibilities on officials, and providing legal protection against administrative conferences. It proposes that reactive to preventive governance in which transparency, coordination and citizen control are the new control points in land management. The study provides practical recommendations to policymakers to reduce land encroachment without interfering with equity and legality by harmonising the law with institutional analysis.

Keywords: Encroachment, Administration, Local Authorities, Prevention, Unchecked Land.

INTRODUCTION

Land encroachment is one such issue in India, as it has become a multidimensional issue in governance due to the combination of legal ambiguity, administrative inefficiency, and socio-political tolerance. Though there are some statutory frameworks and institutional mechanisms, illegal occupation of public, forest, and urban lands still continues to increase. This is not a problem of a few incidents but part of a broader malfunction in

the land administration system, where proactive oversight in most cases is a mirage, and the reactionary response takes place.

The paper examines the role of different administrative units in the perpetuating nature of encroachment, with a fragmented jurisdiction, low coordination, and accountability, including the Revenue Departments, Urban Local Bodies, Forest Authorities, Panchayati Raj Institutions and Registration Offices. Issuance of address proofs

and utility services to the encroachers without any checking converts illegal possession to quasi-legal tenure. Political interference also adds further to the issue of enforcement as it discourages authorities from acting decisively and diminishes the rule of law. These trends show that not only does negligence help with encroachment, but also institutional complicity.

The paper applies a doctrinal research design and examines statutory documentations, judicial principles, and academic sources following the development of land encroachment and its civil governance consequences. It discusses the humanitarian protection granted to vulnerable groups and examines the conflict between law enforcers and social justice. It is aimed to find structural flaws and suggest the reforms that will restore transparency, accountability and preventive oversight in the land governance system of India. The study will attempt to provide practical recommendations to policy makers who wish to contain encroachment but at the same time respect the constitutional values by providing an understanding of the law that is complex to comply with the requirements of the law and the institution.

RESEARCH OBJECTIVES

1. To analyse the existing land governance structure in India and identify the administrative and legal weaknesses that enable encroachment.
2. To examine how poor coordination, corruption, and lack of accountability among authorities contribute to the persistence of land encroachment.
3. To evaluate the adequacy and effectiveness of current laws and policies addressing land encroachment and their enforcement at the state and national levels.
4. To propose practical recommendations and institutional reforms to enhance transparency, accountability, and

preventive mechanisms within India's land governance framework.

RESEARCH QUESTIONS:

1. What governance gaps within India's land administration system have contributed to the continuous rise of land encroachment?
2. How have the inefficiencies of legal and institutional frameworks affected the prevention and control of land encroachment in India?
3. What reforms and strategies can be introduced to strengthen accountability, coordination, and transparency in land governance to curb encroachment?

RESEARCH METHODOLOGY

This paper utilises a strictly doctrinal research approach. Doctrinal research, known as library-based research, primarily involves the study and analysis of legal statutes, case law, and academic writings. This method is ideal for exploring the theoretical and conceptual dimensions of law. It systematically presents legal doctrines and principles. In doctrinal research, primary sources include statutory materials, judicial decisions, and authoritative literature. Secondary sources like commentaries, articles, and legal summaries are also essential. The research process entails identifying, gathering, and critically evaluating these sources. The goal is to form logical conclusions and provide insights into the legal questions being studied. This paper aims to deliver a thorough and unified view of the legal structure relevant to the topic addressed.

LITERATURE REVIEW

Elizabeth J. Z. Robinson (2004) conducted a study on the topic "**Land Encroachment: India's Disappearing Common Lands**".⁷³⁹, which explains why costly, incomplete enforcement mechanisms gradually transform common lands in India into private property.

⁷³⁹ Elizabeth J. Z. Robinson, *Land Encroachment: India's Disappearing Common Lands* (Centre for the Study of African Economies, Working Paper Series No. 2004–28, 2004)

The paper brings out that poor governance, especially in the process of patrolling and implementation of land boundaries, contributes to unscrupulous encroachment by neighbouring landowners. In the long run, this leads to erosion of the de facto property rights and legitimisation by regularisation policies. Empirical attention paid by Robinson to Karnataka shows how institutions have been fragmented, politicised and made expensive to enforce, which hastens the obliteration of common lands. The paper confirms that governance gaps, which are embodied in the lack of institutional coordination and inconsistency of policies, are the enabling factors of encroachment and resource inequity in rural India.

Manandhar, Joshi, and Ghimire (2016) conducted a study on the topic “**State and Public Land Management: Issues of Encroachment and Protection Technique.**”⁷⁴⁰

Discussing that the lack of proper prioritisation of state and public lands and poor management have enhanced encroachment, especially where institutional roles are undefined and lack accountability. The paper finds policy loopholes, duplication of institutional roles and lack of well-established land information systems as the major areas of governance shortcomings in which encroachment thrives. Through the SWOT analysis framework, the authors have demonstrated how the lack of clear data transparency and a defined tenure encourages the misuse of common property. Their study highlights the fact that a high level of low political attention, ineffective coordination of agencies in charge of land and inadequate boundary demarcation all reduce the efficiency of the public land and contribute to unauthorised occupation. The paper finally indicates that efficient protection strategies should be based on robust regulatory frameworks, institutional reform, and better land

information governance, which can be seen as the area of agreement with the argument that lax governance in unchecked situations directly facilitates the prevalence of land encroachment.

The report on Land in India: Issues and Debates (2020)⁷⁴¹ highlights the fact that long-standing failure in governance, absence of clarity in land tenure and fragmented institutional structures have played a significant role in enhancing land encroachments in India. It puts emphasis on how land administration undermines the accountability of the people in terms of poor inter-departmental coordination, unfinished land records, and political regularisation of illegal settlements. It is noted that informal occupation and disputes are fostered by the absence of a single land governance policy, old-fashioned cadastral systems and bureaucratic inefficiencies. Moreover, the poor security of common and state-owned territories permits private interests to prevail in public places. The report concludes by stating that land governance should be empowered by ensuring transparency, data modernisation, and inter-agency cooperation to ensure the unchecked growth of encroachment in India.

I. ENCROACHMENT-DEFINITION AND ITS TYPES

The term “**encroachment**” refers to the unauthorised occupation, construction, or use of land that belongs to another individual, community, or the government. It is a form of illegal possession or trespass, where the encroacher exercises de facto control over property without any lawful title, permission, or ownership rights. Encroachment can be on public land, i.e. roads, water bodies, forests, and government premises or private property, i.e. by boundary expansion or unauthorised construction. In legal terms, encroachment is considered both a civil wrong –violation of property rights and a criminal offence –under certain statutes.

⁷⁴⁰ Sanjaya Manandhar et al., *State and Public Land Management: Issues of Encroachment and Protection Technique*, FIG Working Week 2016, Christchurch, New Zealand, May 2–6, 2016.

⁷⁴¹ India Land & Development Conference, *Land in India: Issues and Debates* (Pranab Ranjan Choudhury & A. Narayana eds., Feb. 2020)

The **Oxford Dictionary of Law** defines encroachment as “an unauthorised extension or intrusion upon another’s property.”⁷⁴² Similarly, **Black’s Law Dictionary** describes it as ‘To gain unlawfully upon the lands, property, or authority of another.’⁷⁴³

Land encroachment can be broadly classified into several kinds, each of which reflects various administrative agency failures in governance, enforcement, and monitoring.

Encroachment on Government Land—When people or private organisations unlawfully take public land intended for highways, parks, or institutions. This usually happens as a result of inadequate record-keeping, inadequate surveillance, and delayed administrative action by municipal and tax departments.

Encroachment on Forest and Environmental Land—When wetlands or forest areas are transformed for residential or agricultural purposes. Such encroachment demonstrates how ineffectively local governments and forest authorities have enforced land-use and environmental laws.

Urban Encroachments—Unauthorised development and slum settlements are examples of urban encroachments that are frequently caused by poor urban planning, unscrupulous building permits, and a lack of affordable housing regulations.

Institutional and Political encroachments—When powerful people take land with authorities’ implicit consent, it indicates a lack of accountability and systemic governance flaws.

These forms of encroachments demonstrate how administrative carelessness, corruption, and fractured authority have all led to India’s large-scale unauthorised land occupation.

II. BACKGROUND OF LAND ENCROACHMENT LAWS

The history of land encroachment laws in India is simply entrenched in the history of ownership,

governing and population pressure on land that has long been rather complicated. During ancient and medieval societies, land was mostly controlled by informal means, wherein communities or local authorities had control over the use of land. No legal systems existed to establish property or deal with encroachment, and property disputes were usually resolved by local officials or customary laws. Land as a taxable and legal property emerged during the British colonial times when the British rule introduced rules of collecting land revenue, including the Permanent Settlement (1793), the Ryotwari, and the Mahalwari systems. The effects of these systems were the introduction of ownership and boundary recognition, which were mainly used in tax collection; however, they also established a strict land hierarchy and excluded the original land users.

The change brought about some land disputes and illegal occupations, with most cultivators and landless individuals not being part of ownership under these systems. Unequal land distribution, insecure titles, and landlessness were left to the newly formed government after its independence in 1947. The initial years were characterised by focusing on land reforms to eliminate the intermediaries and redistribute the land to the poor. But the slowness of these reforms with administrative inefficiencies gave rise to the development of illegal occupation of government, forest and common land by people or communities in need of shelter and livelihood. Central and state governments came up with particular legislation as the Tamil Nadu Land Encroachment Act of 1905⁷⁴⁴ and the Public Premises (Eviction of Unauthorised Occupants) Act of 1971,⁷⁴⁵ among others. These laws were meant to establish a lawful definition of encroachment and avert an unlawful occupation, and grant powers to authorities to evict encroachers and restore public land.

The causes of enacting laws of land encroachment are many. There was a high rate

⁷⁴² *Oxford Dictionary of Law* 195 (Jonathan Law ed., 9th ed. 2018).

⁷⁴³ TheLaw.com, ENCROACH, Law Dictionary & Black’s Law Dictionary 2nd ed.,

⁷⁴⁴ *The Tamil Nadu Land Encroachment Act*, No. 3 of 1905 (India).

⁷⁴⁵ *The Public Premises (Eviction of Unauthorised Occupants) Act*, No. 40 of 1971, INDIA CODE (1971).

of population growth and urbanisation, leading to the demand for land by the people to house, create infrastructures and livelihoods, thereby invading government and public lands. Lack of affordable housing and poverty trigger the marginalised groups to inhabit the empty lands on informal grounds. The inefficient land administration, old records and absence of proper enforcement channels enhanced further encroachments and were not detected. There was also the element of political patronage and accountability that was not strict enough to help in the continuation of the problem. In addition to these, developmental works, industrial growth, as well as rural to urban migration exerted more pressure on land resources, leading to unauthorised occupations. In this way, the context and motivation behind land encroachment legislation in India demonstrate the ongoing tension in the nation to strike an equitable allocation of land, social-economic growth, and legal safeguarding of government property via a direct and effective legal system.

III. LAND GOVERNANCE MECHANISM IN INDIA

Land governance in India refers to the processes, policies, institutions, and laws through which land rights are defined, managed, and administered. It involves the entire regime that controls access to land, its ownership, land use, and dispute resolution. Good land governance is crucial not only for economic development but also for social justice, environmental protection, and political stability. However, India's land governance system, though comprehensive in design, suffers from fragmentation and administrative inefficiencies that often allow land encroachments to thrive. Land is, thus, essentially a State subject, falling under Entry 18 of the State List (Seventh Schedule) of the Constitution of India.⁷⁴⁶ This implies that state governments can formulate legislation concerning land tenure, transfer, and

management; however, several central laws govern specific aspects, such as those regulating land acquisition, environmental protection, and forest conservation. The Ministry of Rural Development (Department of Land Resources) at the central level thus coordinates land policy reforms, modernisation of land records, and implementation of the Digital India Land Records Modernisation Programme (DILRMP), integrating textual and spatial data to ensure transparency in land ownership and transactions.⁷⁴⁷

The institutional framework for land governance at the state level is primarily with the Revenue Departments that are responsible for keeping land records, issuing ownership certificates, and carrying out land transfers. The District Collector or the Deputy Commissioner is the chief revenue authority responsible for the identification, prevention, and removal of encroachments on government lands. Assistance in this regard comes from officials like Tahsildars, Survey Officers, and Village Administrative Officers, who carry out ground-level monitoring and demarcation, besides enforcing the laws. States also have Land Revenue Acts like the Karnataka Land Revenue Act, 1964 and the Maharashtra Land Revenue Code, 1966, prescribing the powers and duties of the authorities in maintaining due compliance with the law regarding land use.

In urban areas, it is the municipal corporations, urban development authorities, and planning bodies that implement land governance through master plans, zoning regulations, and building control norms. Acts like the Delhi Development Act, 1957⁷⁴⁸, and the Tamil Nadu Town and Country Planning Act, 1971⁷⁴⁹ Authorise these agencies to monitor unauthorised constructions and encroachments on public spaces like roads, lakes, and parks. Land registration departments authenticate property transactions, while survey and settlement

⁷⁴⁷ Ministry of Rural Development, Government of India, *Digital India Land Records Modernization Programme (DILRMP)*,

⁷⁴⁸ *The Delhi Development Act*, No. 61 of 1957, INDIA CODE (1957).

⁷⁴⁹ *The Tamil Nadu Town and Country Planning Act*, No. 35 of 1972, INDIA CODE (1972).

⁷⁴⁶ SCHEDULE VII, List II, Entry 18, INDIA CONST.

departments are responsible for boundary demarcation and maintenance of cadastral maps.

In the case of forest and environmentally sensitive lands, land use is regulated by the Ministry of Environment, Forest and Climate Change (MoEFCC) and State Forest Departments under the Indian Forest Act, 1927, the Forest (Conservation) Act, 1980, and the Environment (Protection) Act, 1986. These institutions are responsible for recognising illegal occupations, preventing deforestation, and reclaiming encroached forest areas. Similarly, PRIs have an important role in managing common village lands, known as Gram Sabha lands, in accordance with the PESA Act, 1996⁷⁵⁰, with a view to safeguarding community land resources from illegal occupation.

Despite this elaborate institutional arrangement, the land governance mechanism in India suffers from some deep-seated drawbacks, which lead to gaps in governance and thereby facilitate encroachments. The main reasons behind inefficiency include outdated and inconsistent land records, overlapping jurisdiction among departments, weak enforcement, and a lack of coordination among central, state, and local authorities. Poor monitoring and vague identification of ownership have left several pieces of public land "unclaimed" or "unchecked", which the encroachers exploit. The unplanned expansion of towns and cities further exacerbates the situation, as local bodies mostly fail to implement zoning and building regulations. To strengthen governance, the Government of India has implemented several reforms, such as the National Land Records Modernisation Programme (NLRMP) and the DILRMP, and e-governance platforms like Bhoomi (Karnataka), Dharani (Telangana), and Bhulekh (Uttar Pradesh). These programs aim at digitising land records, integrating cadastral maps, and

bringing in more transparency in land ownership. However, there is considerable variance in implementation across states, which remains a bottleneck toward greater effectiveness.

IV. GOVERNANCE GAPS PAVED THE WAY FOR ENCROACHMENT

In India, land encroachment is not the result of single incidents but rather of long-standing governance shortcomings. Encroachment has continued unchecked despite extensive legal and administrative frameworks due to inadequate institutional coordination, inadequate oversight, and the early administrative acknowledgement of illegal settlements. The deterioration of legitimate land management is a result of both the absence of preventive measures and the careless actions of different authorities.

- Revenue Department- Failure of Early Detection and Record Integrity.

Revenue Department, which is the main custodian of the government and its general land, is charged with the role of keeping a record of land, detecting encroachments and evictions. But its weakness is that it did not do so at the preventive stage. Field officers like Village Administrative Officers (VAOs) and Tahsildars seldom carry out timely inspections and update encroachment registers, and therefore, small-scale illegal occupations slowly develop into permanent settlements. The other serious failure is to accept the identity or address documents of unauthorised occupants, e.g. ration cards, Aadhaar or electricity connections, issued or verified by the local offices. These state approvals legitimise trespasses in indirect ways and complicate subsequent eviction both in legal and political terms. A lack of digitised records and poor local control also contribute to the manipulation and cover-up of illegal occupation.

- Urban Local Bodies - Uncontrolled Regularisation and Governmental Facilitation.

⁷⁵⁰ The Panchayats (Extension to the Scheduled Areas) Act, No. 40 of 1996, INDIA CODE (1996).

The Municipal Corporations, Municipalities, and Urban Development Authorities have a tendency to perpetuate urban encroachment by enforcing the zoning and building laws. Such agencies often do not identify illegal constructions when they are first being established and, rather than ensure that it does not grow, they eventually issue municipal numbers, water connections and property tax assessments to the illegal structures. This type of administrative approval is illegal, but is considered a quasi-recognition of possession and is a sensitive political issue when it comes to evictions. In addition, the absence of planning and enforcement departments' coordination and institutionalisation of encroachments by rehabilitation or slum-development programmes makes lawlessness a norm and deters future infractions of laws ineffective.

- Forest Department - Weak Surveillance and Duplication of power.

Boundary marking, ground-level patrolling, and coordination with the revenue officials are the major gaps in the governance of the Forest Department, which is governed by the Indian Forest Act, 1927 and Forest (Conservation) Act, 1980. This makes early encroachments go undetected because the lack of constant satellite-based surveillance. Also, in most forested areas, local administrative authorities have given residence or utility certifications to the settlers, which is a good contradiction to forest protection laws. The absence of a unified system of monitoring forest and civil authorities continues to provide administrative confusion and overlapping of jurisdiction.

- Panchayati Raj Institutions – Local Oversight and Administrative Indifference.

Gram Panchayats and Gram Sabhas, which are charged with the responsibility of protecting common lands and community resources, are normally guilty of a lack of preventive measures against encroachment. They do not keep current lists of community assets or do not observe their utilisation on a regular basis. Administrative carelessness and collusion are

shown by the issuance of No Objection Certificates (NOCs) or local verification of the ID cards of illegal settlers. Moreover, Panchayats usually rely on higher authorities of revenue to enforce (resulting in delays). The lack of vigilance by the community and the weak legal powers also weaken their efforts to act efficiently, despite the judicial strengthening of these powers.⁷⁵¹

- Registration and Survey Authorities - Verification Failures and Data Mismatch.

In many cases, encroachment becomes justified when the Registration and Survey Departments do not establish the authenticity of the ownership of the land before they make the registration of documents. The sale of encroached land is registered in some cases because there is no cross verification with the revenue records. Such an absence of interconnected data systems makes fraudulent sales or lease deeds possible, which makes the eventual legal recovery difficult. Further, the initial preventative surveillance, e.g. mapping of public territory and real-time border surveillance, is frequently neglected. The gradual pace of the Digital India Land Records Modernisation Programme (DILRMP) and poor collaboration of field survey teams with the registry offices led the discrepancies in records and unauthorised possession.

- Administrative and political interference - Institutional Compromise.

Another significant gap in governance is frequent political interference in the eviction and enforcement processes. Political leaders usually influence authorities to postpone taking action against the encroachers or to generalise them to achieve electoral proceeds. In most instances, the government welfare benefits or verification of address is given to the encroachers by default, giving them legitimacy. This casts down honest officials as well as puts in jeopardy the rule of law. The lack of explicit punishment of those officers who do not stop encroachments or even assist in providing

⁷⁵¹ *Jagpal Singh v. State of Punjab* (2011).

unauthorised address proofs continues to uphold systemic impunity.

- Inadequate Preventive Governance and Accountability:

One of the most outstanding aspects of the failure in land governance in India is the lack of preventive governance—the authorities tend to respond to encroachment only when it is complete. The system, rather than being reactionary, with long court proceedings and poor inter-departmental coordination. The inability to unite the encroachment warning with utility services (electricity, water and ration distribution) permits the illegal settlers with a slow acquire of official status. This administrative indulgence turns the temporary occupation into semi-legal tenure. Neither is there a penal accountability regime to limit officials from allowing or enabling encroachments of this type by not acting or by offering address-based legitimacy.

In India, the nature of the governance gaps in the land administration is related to a lack of attention to the preventive level, administrative acknowledgement of illegal occupation, and institutional support, created by the political and bureaucratic tolerance. Other departments like Revenue, Urban Local Bodies, Forest, Panchayats, and Registration offices not only condone encroachment, but also, because of their laxity, or in direct collaboration, condone it indirectly by issuing address proofs and service connections. The proactive surveillance mechanism, the prohibition of issuing address-based documents on the encroached land, and personal responsibility of the officials towards dereliction of their duties are required to close these structural loopholes, as well as to avoid further encroachment of the same.

V. JUDICIAL RULINGS

The Indian judiciary has repeatedly highlighted that land encroachment often thrives due to administrative inaction, and officials can be held accountable for failing to act. In *Olga Tellis & Ors. v. Bombay Municipal Corporation* ⁷⁵²,

⁷⁵² *Olga Tellis & Ors. v. Bombay Municipal Corp.*, (1985) 3 S.C.C. 545 (India).

while the case primarily concerned eviction of slum dwellers, the Supreme Court emphasized that the State has an active obligation under Article 21 to protect the rights of citizens while balancing public order. This principle implies that officials must act judiciously and cannot allow encroachments to persist through neglect.

In the environmental context, the Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India* ⁷⁵³ underscored the Court's supervisory role over forest lands, mandating proactive monitoring and directing authorities to take action against illegal encroachments. The Court repeatedly noted that failure of forest officials to prevent encroachment amounts to a breach of duty, reinforcing official accountability in protecting public resources.

In urban land matters, *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu* ⁷⁵⁴ held that unauthorized constructions on public land cannot be regularized and emphasized that local authorities who fail to prevent illegal construction cannot escape responsibility. Similarly, in *K.T. Plantation Pvt. Ltd. v. State of Karnataka* ⁷⁵⁵, the Court addressed illegal allotments, demonstrating that regularization cannot be a substitute for proper administrative enforcement and that officials facilitating irregularities may be subject to scrutiny. Likewise, in *Vijay Kumar Boyat & Ors. v. Vaibhav Galriya, Principal Secretary & Ors* ⁷⁵⁶ The Rajasthan High Court ordered action against officials who allowed encroachments on roads and public footpaths, reinforcing the principle that administrative negligence is actionable. The **Allahabad High Court** ordered the Uttar Pradesh government to remove all encroachments on public and utility lands within 90 days. It warned that if officials, such as revenue officers, pradhans, or police — fail to act, they could face criminal liability under the Bharatiya Nyay Sanhita (Section 316) and even

⁷⁵³ *T.N. Godavarman Thirumulpad v. Union of India*, (1997) 2 S.C.C. 267 (India).

⁷⁵⁴ *M.I. Builders (P) Ltd. v. Radhey Shyam Sahu*, (1999) 6 S.C.C. 464 (India).

⁷⁵⁵ *K.T. Plantation Pvt. Ltd. v. State of Karnataka*, (2011) 9 S.C.C. 1 (India).

⁷⁵⁶ *Vijay Kumar Boyat & Ors. v. Vaibhav Galriya, Principal Secretary & Ors.*, 2023 SCC Online Raj 753 (India).

contempt of court. The Court stressed the importance of protecting public land and water bodies, calling encroachment a breach of public trust, and directed police to assist in the clearance drive.⁷⁵⁷

Together, these rulings demonstrate a clear judicial trend: the courts not only protect public land and resources but also insist on active enforcement by officials, holding them accountable for delays, negligence, or facilitation of encroachment. The message is unambiguous: governance cannot be passive, and legal authority must be exercised promptly to prevent encroachments from proliferating.

VI. PROTECTIONS OF ENCROACHERS: INDIAN LEGAL AND HUMANITARIAN VIEW

While it is illegal, land encroachment has allowed some legal and constitutional grounds in India to protect and serve the interests of the innocent people and uphold the fundamental rights and dignity of the affected group, particularly the urban poor, slum dwellers, and long-term occupants. These protections are aimed at being fair and humane in the eviction process as opposed to legalising the unlawful occupation.

Constitutional Safeguards: In the Indian Constitution, which guarantees the right to life, livelihood, and shelter is guaranteed. The eviction of encroachers cannot be arbitrary and incomplete without due process since the eviction usually impacts their livelihood. Thus, their ownership is not legally considered to be good, but they are allowed to be notified, to be heard, and to get humane treatment before they are removed. It places more value on procedural fairness and less on ownership and occupancy rights.⁷⁵⁸

Courts and Process Securities: Indian courts have always demanded that evictions should be done legally and humanely. The authorities

should give sufficient notice and give time to be represented. Courts have also, in massive evictions (such as slums or informal settlements), insisted on rehabilitation or relocation plans so that the affected persons do not end up being homeless. The eviction procedures should not entail the use of too much force and should not infringe on human dignity and minimum standards of living.

Administrative and Policy Procedures:

Governments have come up with rehabilitation and regularisation mechanisms to solve the humanitarian aspects of encroachment. The purpose of such initiatives is to strike a balance between law enforcement and social facts. The urban development initiatives usually offer alternative housing, payment, or resettlement to the long-term or economically weak dwellers. In some cases, state-level policies permit the regularisation of small residential encroachments to facilitate stability and the good, but these are not legal rights.

International Humanitarian Standards,

international human rights policy towards the provision of housing to individuals has an impact on the domestic policy of India. International law demands evictions to be both legal, with enough warning, and they should avoid destroying goods and leaving individuals penniless. They also lay stress on non-discrimination, fairness, and humane treatment in the process of eviction, and Indian authorities are encouraged to use a rights-based approach to it.

Protection of Bona Fide Occupant or Long-Term Occupant:

It also, in some exceptional situations, applies to long-term occupants who have occupied land decades before the government interfered or misled the occupant that his or her possession was legal. Relief can also be given to people who are waiting to settle the title or tenancy conflicts. By doing so, this protection is only temporary and pegged on humanitarian standards, but not on legal ownership.

⁷⁵⁷ Law Trend, *Allahabad High Court Orders Statewide Removal of Encroachments on Public Land Within 90 Days; Officials' Inaction to Attract Criminal Liability*, Oct. 15, 2025, <https://lawtrend.in/allahabad-high-court-orders-statewide-removal-of-encroachments-on-public-land-within-90-days-officials-inaction-to-attract-criminal-liability/>.

⁷⁵⁸ INDIA CONST. art. 21 "No person shall be deprived of his life or personal liberty except according to procedure established by law."

Limits to Protection: With all these measures in place, it is a fact in law that no person has the right to occupy public property illegitimately. Protections are there so that there is equity, dignity, and due process before eviction. The overall objective is to make a compromise between the need to enforce property rights and empathise with vulnerable populations, and make sure that the eviction processes maintain justice and humanity, as well as keep the public land within the lawful purposes.

VII. SUGGESTIONS AND RECOMMENDATIONS:

• Preventive Mechanisms and Early

Detection: Governments should ensure that they prevent instead of taking action after the encroachment. The majority of land intrusion starts with small occupations that are not noticeable but end up as permanent settlements. In response to this, local administrative officers – Village Administrative Officers, Tahsildars, and Municipal Inspectors – should be made to perform regular surveys and keep encroachment registers. Institutionalisation of Geographic Information Systems (GIS), satellite imagery, and the use of drones to map early detentions should be put in place. This should have a centralised digital repository of the encroachment information that can be readily accessed and published to ensure that the government can respond to their encroachment and the citizens keep an eye on the government.

• Disciplinary Measures and Accountability of the Negligent Officials:

One of the greatest governance loopholes is the unaccountability of the central officials in the land management system. The monitoring and protection of the government lands ought to be pegged on clear administrative responsibility. Any lapse in reporting or discouragement of encroachment should be a case of department action, a suspension or even a demotion. The Comptroller and Auditor General (CAG) and state vigilance agencies should be involved in regular audits that

would hold the officials accountable. A system of evaluation that relies on performance, that is, prevention and elimination of encroachments are measurable indicator that can be used to instil accountability at every level of administration.

• Verification before Issuing Address Proofs and Utilities:

The first issue that seems to justify the illegal occupation is the administrative control in granting address proofs or utility services to the encroachers. Distribution of water, electricity, gas, and other connections should be subject to rigorous checks by authorities before the connection is made. There should be cross-checking of the land database maintained by the Revenue Department to issue documents like address proofs using an Aadhaar card or a ration card. The authorities that enable such activities ought to be punished. This is essential to make sure that government systems do not indirectly legitimise encroachments by doing it in administrative documentation.

• Integrated and Open Land Record System:

Lack of land records fragmentation between various departments causes confusion and delays in the administration process. To deal with this, all the records of the Revenue, Forest and Urban Development Departments ought to be consolidated into one digital database as part of a National Land Information System (NLIS). The transparency and uniformity would be achieved through this integration in line with the Digital India Land Records Modernisation Programme (DILRP). Such inter-departmental reviews conducted regularly by District Collectors should evaluate the reports on encroachment and take concerted measures to deal with overlapping jurisdictions and administrative loopholes.

• Enforcement and Legal Strengthening:

There is a need to enforce the current legislation, like the Public Premises (Eviction

of Unauthorised Occupants) Act, 1971, and state-specific Land Encroachment Acts. To curb cases of delays, there should be set up of fast-track encroachment tribunals or special courts by the authorities to quicken the course of action. Eviction notices must be done immediately, and video records taken to facilitate transparency. Also, it is possible to add amendments that penalise the recurrent encroaching and that willful negligence by persons in an office is a punishable offence according to the Prevention of Corruption Act. Rapid judicial action will discourage both the trespassers and business-friendly officials.

- **Technology-Based Surveillance and Social Engagement:** Land protection should become an element of technology. The government can use digital dashboards that communicate available real-time information on encroached, empty, and reclaimed land to foster societal responsibility. Citizens could report on illegal occupation with the help of mobile applications, and geo-tagged inspection reports could help avoid manipulation of field records. The availability of this information to the public will encourage community involvement and also minimise the chances of corruption. Technological transparency gives citizens the ability to help monitor land integrity by the government.
- **Building Capacity and Legal Sensitivity of the Officials:** Some field-level officers are not well-trained on land laws and processes of governance. Thus, it is necessary to introduce mandatory capacity-building programs to revenue inspectors, municipal employees and panchayat officers. Such programs must include the legal system, documentation requirements and humane eviction procedures on the basis of Supreme Court rulings. Frequent workshops will also make sure the efficiency is increased, and the eviction and enforcement activities are

in accordance with the human rights standards.

- **Institutional Co-ordination and Judicial Control:** The authorities should collaborate to avoid jurisdiction overlaps and administrative delays. An organised coordination tool among the Revenue Department, Urban Development Authority, Police, and Judiciary has to be entrenched. Eviction drives should be accompanied by the police to ensure order and violence is avoided. The High Courts and the District Judges can also undertake periodic appraisal of the land governance practices either by way of suo motu or by use of PIL (public interest litigation) to ascertain the adherence to constitutional and statutory responsibilities. This kind of judicial control will improve transparency and enforcement credibility.
- **Local Body and Community Institution Empowerment:** Gram Sabhas and Urban Ward Committees, which are local governance institutions, should be enabled to serve as the initial line of defence against encroachment. The Panchayati Raj system ought to be reinforced so that the communities can be empowered in order to regulate and defend common lands, grazing grounds, and water resources. It can be helped by community land protection committees, which include NGOs, a local leader, and citizens, who can help report encroachments and create awareness. Such a decentralised effort makes sure that there is vigilance all the time and that unauthorised occupations are prevented before they escalate.
- **Humanitarian and Rehabilitation Measures:** Fines must also apply, but the socio-economic nature of the intrusion can not be overlooked. A good percentage of encroachers are the poor people, the dislocated and the ones who cannot afford housing. Thus, eviction causes should be human; they should be preceded by prior notice and should be rehabilitative, in

addition to being guided by the rules of natural justice. The government must connect the affected families to welfare programs like the Pradhan Mantri Awas Yojana (PMAY) and rehabilitation programs provided by the state governments. This rights approach will also strike a balance between the necessity of safeguarding the community land and the constitutional right of life and shelter under Article 21.⁷⁵⁹

VIII. CONCLUSION:

The continued issue of land encroachment in India is indicative of a more profound problem of a government that has legal systems but lacks the implementation of these systems, which are inconsistent, sporadic and politically influenced. According to the research, encroachment is not only an infringement of property rights, but rather a by-product of institutional tolerance and bureaucratic inertia. Land management departments usually work in isolation and do not communicate with each other, which makes it impossible to organise the surveillance of areas and demarcate them efficiently. This synergy deficiency enables minor intrusions to develop into small towns.

The vulnerable groups are well safeguarded under judicial and humanitarian rights, which should be balanced with the need to maintain the land owned by the populace for legitimate businesses. The provision of address proofs and utility services to encroachers, without proper diligence, justifies the illegitimate occupation and makes the recovery process more difficult. Political interference also lowers the integrity of institutions, which provides a place where encroachment on institutions is not only tolerated but also indirectly supported. There is no criminal responsibility for careless officials, hence fuelling impunity and undermining land governance credibility.

To overcome such challenges, the paper proposes a change in approach from reactive enforcement to proactive prevention. This involves computerisation of land records, the

incorporation of GIS and satellite surveillance, the establishment of performance-based accountability and the banning of administrative approvals of unlawful settlements. Enhancing the role of inter-departmental coordination and citizen controls is necessary to regain possession of the public lands and legitimise the land administration system in India. Through the transparent, coordinated and rights-based governance, only can the country find a balance between the law-based enforcement and social equity, so that land continues to be a resource for development, justice and sustainable growth.

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