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Q3(a)

Discuss how constitutional provisions in India have built-in mechanisms for dealing with the problem of land alienation in tribal areas

UPSC Civil Services Mains 2015 · Anthropology GS 2 · 20 marks · Problems of the tribal Communities

6.2 Problems of the tribal Communities-Land alienation, poverty, indebtedness, low literacy, poor educational facilities, unemployment, under-employment, health and nutrition.

Core demand of the question

- Discuss how constitutional provisions in India have built-in mechanisms for dealing with the problem of land alienation in tribal areas
- Keep the answer to a 20-mark length of about 250 words

Revision summary

Article 244 and the **Fifth Schedule** restrict land transfer in Scheduled Areas.

The Governor and Tribes Advisory Council are the administrative brake.

Sixth Schedule councils control land in listed North-Eastern areas.

PESA and FRA add gram sabha and forest-title tools.

Samata showed courts can enforce the Schedule against mining leases.

Introduction

Land alienation is the loss of Adivasi title to non-tribals, the state, or the market. The Constitution does not leave this to ordinary contract. It builds special brakes.

Body

Fifth Schedule machinery

- **Article 244** and the **Fifth Schedule** create Scheduled Areas with a **Tribes Advisory Council** and a Governor who may restrict or repeal ordinary land laws.
- State regulations, following colonial Chota Nagpur and Agency precedents, void tribal-to-non-tribal sales unless permitted.
- The Governor's report and Union oversight are the built-in watch, even when they are weakly used.

Sixth Schedule and autonomy

- In parts of Assam, Meghalaya, Tripura, and Mizoram, **Sixth Schedule** councils control land and settlement inside their territories.
- This is alienation control by autonomous government, not only by a prohibition list.

Later statutory lining

- **PESA** requires gram sabha consultation on land acquisition and mining in Scheduled Areas.

- **FRA 2006** restores forest land as title rather than mercy, attacking a major path of silent alienation.
- **Samata** read the **Fifth Schedule** as a bar on mining leases to non-tribals in Andhra Scheduled Areas. Courts thus became a mechanism too.

Limits

- Acquisition for public purpose, fake tribal buyers, and poor records still leak land. The mechanism exists; the file must be moved.

Flow diagram

Article 244 -> Fifth Schedule Governor TAC
Article 244 -> Sixth Schedule councils
Fifth Schedule Governor TAC -> PESA FRA Samata

Conclusion

India's built-in answer to tribal land alienation is Scheduled Area restriction, Governor and TAC, **Sixth Schedule** councils, then PESA, FRA, and case law. The design is protective. Delivery is the remaining problem.

Facts & figures

Fifth Schedule

Special administration of Scheduled Areas, including land-law restriction by the Governor.

Sixth Schedule

Autonomous councils with land powers in specified North-Eastern areas.

PESA 1996

Gram sabha role in land and resource decisions in Scheduled Areas.

FRA 2006

Forest rights titles meant to stop a major stream of de facto alienation.

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