Examining Intersection of Law and Equity: A Critical Analysis of Nazul Land Evictions, Rights of Vulnerable Groups and Quest for Social Justice in Haldwani's Eviction Case

Saumya Verma[*]

Abstract: *Fair and equitable access to land, especially for marginalized groups, is a fundamental aspect of social justice in relation to land rights. The connection between land rights and social justice becomes readily apparent when we consider the struggle against encroachment on property and the need to safeguard communities from forceful eviction. The Supreme Court's decision to overturn the Uttarakhand High Court's ruling on the eviction of over 4,000 families, primarily Muslims, from Haldwani in Uttarakhand is noteworthy. This paper presents a thorough analysis of the intersection of concept of nazul land and implementation of right to housing in India. This paper investigates into the legal intricacies encompassing nazul land and its ramifications on the rights of inhabitants. Nazul land, governed by state governments in India, is commonly used for social welfare projects, housing societies, and building infrastructure to ensure the provision of shelter for citizens. Nevertheless, difficulties arise when individuals residing on nazul land lack ownership rights, impacting their security and tenure. This situation raises concerns about the potential subsidence of constitutional principles of fairness and social justice. In the Haldwani Railway encroachment case, it seems that there is an issue regarding the illegal occupation of nazul land by certain individuals or entities near railway properties in Haldwani. The case revolves around disputes between the rights of inhabitants, the state's ownership of nazul property, and universal concepts of social justice and fair allocation of land resources. This analysis explores the legal and social facets of the issue, offering an extensive comprehension of the challenges experienced by eviction victims and other marginalized groups in India.*

Keywords - "Nazul Land" "Encroachment", "Land Laws", "Rehabilitation Rights", "Equity and Social Justice".

I. INTRODUCTION

"Land can be a major engine of shared prosperity or one of the most pervasive drivers of inequality[1] When land rights are secure and fairly distributed, it can act as a driving force for collective prosperity by granting individuals and communities access to resources, livelihood opportunities, and economic development. Recognizing and protecting land rights empowers individuals to make long-term investments in their land, enhance efficiency, and create prosperity, fostering widespread economic development and societal welfare. On the other hand, disparities in land access can worsen social inequalities, maintain poverty, and marginalize vulnerable communities, resulting in social unrest and economic instability. In

Law Centre-II, Faculty of Law
University of Delhi

*Ph.D. Scholar, Rajiv Gandhi National University of Law, Punjab.

[1] Ward Anseeuw & Giulia Maria Baldinelli, '*Land Inequality at The Heart of Unequal Societies: Research Findings from The Land Inequality Initiative*, International Land Coalition' (2020)

such instances, land is utilized as a means of excluding, exploiting, and consolidating power among a select group of individuals, further widening the divide between those who possess it and those who do not.

Land holds immense significance in India, serving as a vital source of power in social and political realms. Aside from its role as a provider of sustenance and a means of survival, land carries a multitude of connotations - ownership, permanence, honor, boundaries, individuality, recollection, and the past. Land inequality plays a significant role in perpetuating long-term wealth and asset inequality. The distribution of land is crucial in rural economies like India, as it impacts the overall distribution of assets. Moreover, when land ownership is highly concentrated, it can contribute to widespread social and political inequality. Land continues to hold significant value for Indians, comprising 69% of all assets in rural India and 49% in urban India, according to the latest data from the All-India Debt and Investment Survey conducted by the National Sample Survey Organisation in 2019.[2] Out of all the land acquired by rural households, a staggering 86% is inherited by men. Women's inheritance makes up a mere 1.8% of the total.[3] The Socio-Economic Caste Census 2011 has not released caste-disaggregated statistics to the public and is gradually becoming redundant. It also provides information that challenges preconceived notions.

In India, there is a significant disparity in the distribution of land ownership. In 2003, the 'Gini coefficient' stood at 0.73, indicating significant disparities in land distribution across Punjab, Andhra Pradesh, Tamil Nadu, and Haryana.[4] Based on the India Rural Development Report 2013-14 by IDFC, there was a slight decrease in the percentage of rural landowners who identified as Muslims.[5] From 2004-05 to 2011-12, the figure went down from 12.7% to just over 11%, suggesting a decline in land ownership among Muslim households during this time.[6]

Law Centre-II, Faculty of Law
University of Delhi

[2] Sudheesh RC, *Mapping Land Ownership as Part of the Caste Census Could Uncover Key Patterns about Power, Resources*, SCROLL.IN, (Feb. 29, 2024), https://scroll.in/article/1064261/mapping-land-ownership-as-part-of-the-caste-census-could-uncover-key-patterns-about-power-resources (last visited Mar 29, 2024).

[3] Rahul Lahoti, Suchitra J Y & Hema Swaminathan, *Not in Her Name: Women's Property Ownership in India*, 51 ECONOMIC AND POLITICAL WEEKLY 17 (2016). https://www.epw.in/journal/2016/5/commentary/not-her-name.html.

[4] Vikas Rawal, *Ownership Holdings of Land in Rural India: Putting the Record Straight*, 43(10) ECONOMIC AND POLITICAL WEEKLY (2008)

[5] Orient Blackswan, '*IDFC Rural Development Network, India Rural Development Report*'(2012-13)

[6] *Id.*

The case in Haldwani has sparked significant concerns regarding potential discrimination against the Muslim community.[7] Municipal authorities recently demolished a mosque and a madrasa in the Banbhoolpura area, citing them as illegal structures constructed on government land that was allegedly encroached upon by a contractor named Abdul Malik. The demolition resulted in violent confrontations after the Uttarakhand High Court issued an order instructing the eviction of individuals from lands that are being claimed by the Railways in Haldwani.[8] The order led to the issuance of eviction notices to more than 4000 families who have been residing in the area for years, supported by valid documents recognized by government authorities. The land where the Haldwani riots occurred in February 2024 was registered as Nagar Nigam's Nazul land. That said, it is deemed an illegality to make the nazul land freehold, according to a court order. However, the Supreme Court has stayed the demolition of over 4,000 homes in Haldwani town, Uttarakhand, which were accused of encroaching on railway land.[9]

By means of this socio-legal and critical analysis, the research endeavours to elucidate the complex power relations at play in the contexts of forceful displacement from Nazul area. It provides a critical analysis of the institutional barriers and systemic prejudices that sustain the marginalization of vulnerable groups and are the root causes of forced land evictions. By dissecting the Haldwani case, the research aims to contribute to the ongoing debate on marginalized communities' rights and the attainment of social justice for them. Its objective is to provide insights for legal and policy reforms and assist marginalized communities in their efforts for decent housing, dignity, and a comprehensive rehabilitation and compensation scheme that protects them from the likelihood of eviction.

II. NAZUL LAND: CONCEPT AND LEGAL FRAMEWORK

The term ‘Nazul’ was coined as an acronym for ‘**N**on-**A**gricultural **Zu**dpi **L**and’ during the early stages of organising land governance by the British government in India from 1820-1880

[7] Sparsh Upadhyay, *Haldwani Mosque-Madrasa Demolition*, LIVE LAW, (Feb. 15, 2024), https://www.livelaw.in/high-court/uttarakhand-high-court/uttarakhand-high-court-banbhoolpura-haldwani-violence-demolition-madrasa-mosque-may-8-notice-govt-249582#:~:text=html.

[8] Ravi Shankar Joshi v. Union of India and ors., WP PIL No.30 of 2022 (High Court of Uttarakhand 2022).

[9] *India Top Court Stays Demolition of over 4,000 Homes in Haldwani*, AL JAZEERA, (Jan. 5, 2023), https://www.aljazeera.com/news/2023/1/5/india-top-court-stays-demolition-of-over-4000-homes-in-haldwani.

AD.[10] Zudpi land, sometimes referred to as Zudpi Jungle or grassland woodlands, is a designated forested region that is strictly off-limits for any other usage.[11] The Central Provinces Land Revenue Act (CPLRA), 1917, was a legislation enacted during the British rule in India, which regulated land revenue administration in the Central Provinces region (now part of modern-day states like Madhya Pradesh, Chhattisgarh, and Maharashtra).[12]

According to Section 3(17) of the CPLRA, 1917, the term 'Nazul Land' is given a specific definition. 'Nazul Land' refers to land that has been fully transferred to the State Government due to its inability to be transferred or inherited, lack of heirs, or voluntary surrender by the owner.[13] Nazul Land under the CPLRA, 1917, meant the land that could not be transferred or inherited, and therefore returned to the state government because there were no legal heirs or successors.[14] It included the land that was willingly relinquished or transferred to the state government by its former owner or proprietor, land that came under the ownership of the state government for various reasons, such as conquest, escheat (reversion to the state due to lack of legal heirs), or forfeiture. The CPLRA, 1917 granted the state government full ownership and authority over nazul lands within its jurisdiction.[15] The government has the authority to grant, lease, or manage these lands in accordance with its discretion and established regulations.

The fundamental principle of nazul land management, as established through various judicial pronouncements in India, is that the State or the governing authority has the ultimate ownership and control over nazul land.[16] In nazul land, ownership is attributed to the State or the ruling authority, rather than being designated as the private property of any individual or ruler. This principle was established in the significant case of *Maharajah of Vizianagaram v. Secretary of*

Law Centre-II, Faculty of Law
University of Delhi

[10] BHARAT PRABHAKAR RAJGURU, LAW OF NAZUL, LEASE AND BHU MAFIA SARKAR (Blue Rose Publishers 2020).

[11] CSE, *Conservation's Language*, DOWN TO EARTH, (Jul. 31, 1995), https://www.downtoearth.org.in/environment/conservations-language-28450.html

[12] *State Of Madhya Pradesh & Ors. v. Seth Balkishan Nathani & Ors.,* (1967) AIR 394.

[13] RAI-SAHIB MATHURA-PRASADA, THE CENTRAL PROVINCES LAND REVENUE ACT, II OF 1917. (Chhindwara 2d ed. 1930).

[14] *Id.*

[15] *Smt. Jaikumari Amar bahadursingh v. The State of Maharashtra*, (2008) WP No. 2129

[16] Rajdeep Singh & Harjeet Singh, *Nazul Land and the Indian Constitution: A Legal Perspective in Relation to State of Punjab*, 3 IJCLLR 30 (2023).

State for India (1936).[17] The State possesses complete authority to reclaim, allocate, lease, or otherwise manage nazul land according to its own judgment and policies.[18] This power is derived from the State's position as the ultimate owner of nazul land. Although the State has the authority to allocate nazul land to individuals or organizations, such grants are usually accompanied by specific conditions and limitations.[19] Non-compliance with these conditions could lead to the grant being revoked or terminated. Nazul land is typically regarded as inalienable, indicating that it cannot be permanently transferred or sold to private individuals or entities.[20] The State maintains complete ownership and control over such land.

The State has the authority to collect revenue, rent, or taxes from nazul land, either directly or through granted lands, due to its ownership over such lands. The management and allocation of nazul land should ideally prioritize the public good and benefit the community as a whole, rather than focusing solely on private interests. When granting nazul land, it is important for the State to ensure a fair distribution and avoid allowing a small group of individuals or entities to control a disproportionate amount of land. The fundamental idea is that nazul land is a valuable public asset, and its administration should prioritize the State and community's interests. It should also aim to promote efficient use and prevent any improper use or unauthorized transfer of such land.

In India, there is no specific law that provides a straightforward description of the term 'Nazul land'. However, the notion of nazul land is referenced and defined in several land revenue laws and acts at the state level, tracing its origins back to the British colonial era. Here are some of the important laws and acts that pertain to nazul land in various states of India:

i. The Central Provinces Land Revenue Act of 1917, which is applicable to areas now in Madhya Pradesh, Chhattisgarh, and Maharashtra, includes a definition of 'Nazul Land' in Section 3(17).[21]

Journal for Law and Justice
Law Centre II, Faculty of Law
University of Delhi

[17] The *Vizianagaram v The Secretary of State for India*, 1 MLJ 873 (1936).

[18] *Dr. O.P. Gupta and 5 others vs State of U.P.*, AIR ONLINE 2323 (2019).

[19] UP Nazul Properties (Management and Utilisation for Public Purposes) Ordinance (2024).

[20] *Hari Babu Jain and 2 others vs State of U.P. And 2 Others*, AIR ONLINE 1949 (2019).

[21] *Supra* note 14.

ii. The Bombay Revenue Code of 1879, which is applicable to areas now in Gujarat and parts of Maharashtra, includes a definition of 'Nazul Lands' in Section 2(8).[22]

iii. The Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (1908 CE), specifically outlines the definition of 'Nazul Land' in Section 3(14).[23]

iv. The Punjab Land Revenue Act of 1887 includes a definition for 'Nazul Land' in Section 3(7).[24]

v. The Rajasthan Land Revenue Act of 1956 includes a definition for 'Nazul Land' in Section 2(17).[25]

vi. The Tamil Nadu Land Encroachment Act of 1905 includes a definition for 'Nazul Land' in Section 3(5).[26]

Although the wording of the definitions may differ in these acts, there is a common understanding that nazul land refers to land that has returned to the ownership of the state government. This can occur due to various reasons, such as the absence of legal heirs, voluntary surrender, or through conquest/annexation. It's worth mentioning that following Independence, several states have revised or abolished this land revenue laws from the colonial era and implemented new legislations.[27] Nevertheless, the notion of nazul land and its associated principles remain significant in addressing issues concerning the ownership and administration of specific types of state-owned land in India.

Nazul land distinguishes itself from other types of land through its ownership and utilization. The government owns nazul land and has the authority to allocate it for different purposes, including the construction of public infrastructure, schools, hospitals, or social organizations.[28] The allocation of nazul land entails the leasing of it to individuals, public institutions, or

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[22] The Bombay Land Revenue Code (1879).

[23] Andhra Pradesh (Telangana Area) Land Revenue Act,1317 F (1317).

[24] The Punjab Land-Revenue Act (1887).

[25] Rajasthan Land Revenue Act (1956).

[26] Tamil Nadu Land Encroachment Act (1905).

[27] Alexander Lee, *Land, State Capacity and Colonialism: Evidence from India*, 52 COMPARATIVE POLITICAL STUDIES (2017).

[28] *Narain Prasad Aggarwal v. State of M.P*, (2007) AIR 2349

organizations for specific periods, in accordance with the terms and conditions established by the authorities.[29]

In contrast, various types of land, such as private land, community land, or agricultural land, possess distinct ownership structures and usage rights. Private land is owned by individuals or entities and is commonly utilized for residential, commercial, or industrial purposes. Community land is collectively held by a community, based on their shared cultural or community interests. Agricultural land is utilized for farming and agricultural activities, making a significant contribution to food production and supporting rural livelihoods. Here dealing with some of the important laws that pertain to nazul land in Delhi, U.P and Maharashtra:

A. Delhi

In Delhi, the legal framework concerning Nazul land is primarily regulated by the Delhi Land Revenue Act, 1954 and the Delhi Land Reforms Rules, 1959.[30] The Delhi government has the authority to provide or lease out nazul land, in accordance with the terms and conditions specified under the Act and Rules.[31] The government has the authority to collect rent, revenue, or other charges from the nazul lands that have been granted or leased out.[32] The permanent transfer, sale, or alienation of nazul land to private individuals or entities requires prior approval from the government. The government has the authority to acquire or take possession of nazul land for public purposes such as the construction of roads, buildings, or other infrastructure projects.

B. Uttar Pradesh

In Uttar Pradesh, the main legislation that governs nazul land is the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, along with the Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952.[33] Section 3(16)) of the Act defines 'Nazul' as to lands that belong

[29] State Of U.P vs Zahoor Ahmad & Anr, (1973) AIR 2520.

[30] Sh Ajay Singhal vs Government of NCT of Delhi & Ors., (2022) SCC 360

[31] The Delhi Development Authority (Disposal of Developed Nazul Land) Rules,1981 (1981).

[32] *Id.*

[33] *Ram Briksha and another Vs Dy. Director of Consolidation and Others*, 5 AHC CK 86 (2017).

to the State Government and are located within the jurisdiction of a District Magistrate.[34] This also includes lands that have been transferred to the State Government from any source. The State Government retains ownership of all nazul lands, including lands that were previously owned by the State Government.

The State Government possesses the authority to oversee, lease, or handle nazul lands in a manner it considers appropriate, in accordance with the provisions of the Act and any relevant regulations.[35] The State Government has the authority to allocate or rent out nazul lands based on its own terms and conditions. These conditions may include factors such as the purpose of the grant or lease, the duration, the rent, and the possibility of resumption. In the event that the terms of the grant or lease are breached, the State Government has the authority to reclaim the nazul land. Prior to taking action, the government will provide adequate notice and an opportunity for a fair hearing.

The State Government has the right to gather all rents, profits, and proceeds from nazul lands, including those that have been granted or leased out. Nazul lands cannot be permanently transferred, sold, or alienated without obtaining prior approval from the State Government. The Uttar Pradesh Zamindari Abolition and Land Reforms Rules, 1952 offer additional information regarding the processes involved in identifying, managing, granting, leasing, and resuming nazul lands in the state.[36] In addition, the Uttar Pradesh Revenue Code, 2006 also includes provisions concerning the management and administration of nazul lands by the revenue authorities.[37]

March 7, 2024 marked an important milestone as the Uttar Pradesh government announced the Uttar Pradesh Nazul Properties (Management and Utilization for Public Purposes) Ordinance, 2024.[38] The ordinance restricts the alteration of nazul land into freehold property for private individuals or entities. By way of Section 3(1), the State Government has notified that:

Journal for Law and Justice
Law Centre II, Faculty of Law
University of Delhi

[34] The U.P. Zamindari Abolition and Land Reforms Act (1950).

[35] *Id.*

[36] U.P. Zamindari Abolition and Land Reforms Rules (1952).

[37] Uttar Pradesh Revenue Code (2006).

[38] The Uttar Pradesh Nazul Properties (Management and Utilization for Public Purposes) Ordinance No.5, 2024

"3(1) Notwithstanding any judgment, decree or order of any Court to the contrary or, any other law or any Government order for the time being in force, Nazul lands located in Uttar Pradesh shall not be converted to freehold in favour of private person or private entity after commencement of this Ordinance."[39]

The Ordinance is significant as it includes a comprehensive definition of 'Nazul Land' under Section 2(g), covering different types of land that have been vested with the state government, such as escheated, evacuee, and surplus lands. It describes nazul land as land that is owned by the State Government and encompasses:[40]

i. Land that has been fully transferred to the State Government due to its inability to be transferred or inherited, or due to the absence of heirs, or because it has been surrendered to the State Government by its owner or proprietor;

ii. Land that has been escheated to the State Government;

iii. Land acquired by the State Government for agricultural or non-agricultural purposes;

iv. Land owned by the State Government for a public or a private purpose;

v. Excess land held by the State Government as per legislation on land ownership limits;

vi. Land voluntarily relinquished by any individual or group and transferred to the State Government;

vii. Land administered by the State Government in any other manner whatsoever."

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

The Uttar Pradesh Nazul Ordinance aims to establish a comprehensive legal framework for the management and regulation of state-owned land, ensuring uniformity across all categories of nazul lands in the state.

C. Maharashtra

[39] *Id.*

[40] *Id.*

The Maharashtra Land Revenue Code of 1966 establishes the legal framework for land revenue administration in Maharashtra.[41] The document provides a comprehensive overview of the processes involved in leasing government-owned land, including nazul land, and clearly defines the terms and conditions that apply to these leases. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 governs the ownership and utilization of agricultural land in Maharashtra.[42] The Maharashtra Land Revenue (Conversion of Occupancy Class II Lands) Rules, 1969 regulate the conversion of Occupancy Class II lands, which may encompass nazul land, for a range of purposes including residential, commercial, or industrial utilization.[43]

As per Maharashtra XLI of 1966, nazul land refers to government-owned land designated for non-agricultural activities like roads, playgrounds, markets, or buildings.[44] Nazul land may also be land that has the potential for future non-agricultural use, such as land granted on short- or long-term lease, or without compensation. The Maharashtra Land Revenue Code, 1966, imposes limitations on the sale, transfer, redevelopment, and change of use of nazul land. As an illustration, Section 19(3) specifies that the Authority will handle nazul land in accordance with the directions of the State Government. According to Section 18(3), the Authority is responsible for handling nazul land in accordance with the rules and directions set by the Government.

III. ISSUES AND CHALLENGES FACED IN THE MANAGEMENT AND GOVERNANCE OF NAZUL LANDS

The status of Indian nazul lands is poorly documented.[45] This lack of paperwork and record-keeping has hindered nazul land management and use. Nazul land originated in the colonial era, and several states inherited incomplete or outdated British records, resulting in data gaps and inconsistencies.[46] These records are generally kept at district, tehsil, or village levels, resulting in fragmented and unreliable state data. Such records have often not been updated in

Law Centre II, Faculty of Law
University of Delhi

[41] The Maharashtra Land Revenue Code, 1966, MAHARASHTRA ACT NO. XLI (1966).

[42] The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, MAHARASHTRA ACT NO. XXVII (1961).

[43] The Maharashtra Land Revenue (Conversion of Use of Land and Non-Agriculture Assessment) Rules, 1969, G.N., R. & F.D., NO. UNF.1967-R (1969).

[44] The Maharashtra Land Revenue Code, 1966, *supra* note 42.

[45] *Gangumal V. State of Chhattisgarh*, (2009) WP No.1574 (Chattisgarh High Court).

[46] *Ravi Shankar Joshi vs. Union of India and others*, *supra* note 9.

decades, resulting in differences on the ground due to ownership, use, or status changes.[47] Most states still have manual, paper-based nazul land records, making it hard to keep accurate, consolidated, and accessible data.[48] Lack of precise delineation and accurate survey records cause boundary issues and arguments over nazul land ownership and extent.[49] Uncertain records make it easy for individuals or parties to intrude on nazul lands, complicating ownership and management. Inaccurate or insufficient records make it hard for the state to collect nazul land rents, taxes, and earnings. Without reliable records, it's hard to discover and use abandoned or underutilized nazul lands for efficient use or to satisfy stakeholders.

Unauthorised occupation and encroachments of nazul lands by individuals or groups hinder India's state-owned land administration.[50] Many such lands are unfenced, making it easy for people to illegally inhabit them.[51] Encroachers exploit ambiguity caused by the lack of clear and updated documents on nazul lands' extent and limits.[52] State authorities sometimes lack the resources and manpower to monitor and prevent land encroachments, especially in distant or inaccessible locations.[53] Unauthorized settlement of nazul lands cause environmental deterioration, deforestation, and biodiversity loss in ecologically significant places.[54] Encroached nazul lands are generally neglected or used unintentionally, thwarting land management.

Underutilization of nazul lands hinders land management and revenue collection for Indian state governments.[55] Many states lack a plan or policy for using nazul lands, resulting in

[47] Naresh C. Saxena, *Updating Land Records: Is Computerisation Sufficient?*, 40 ECONOMIC AND POLITICAL WEEKLY 313 (2005).

[48] Pradeep Nayak, *Policy Shifts in Land Records Management*, 48 ECONOMIC AND POLITICAL WEEKLY 71 (2013).

[49] Gaurika Chugh, *Examining E-Governance: A Study of Land Records Management System in India*, 23 MADHYA PRADESH JOURNAL OF SOCIAL SCIENCES 33 (2018).

[50] In Reference Nazul Policy of *the State V. State of Uttarakhand and Others* (2018) AIR 785.

[51] Devesh Chandra Srivastava, *De-Jargoned | Nazul Land*, LIVE MINT, (2011), https://www.livemint.com/Money/Jhn6Iy6jVEz8bciE4YC8rI/Dejargoned--Nazul-Land.html.

[52] *Municipal Council vs Kundanlal Mohanlal Jaiswal and Ors*., (2007) MHLJ 155 .

[53] ASIAN NGO COALITION FOR AGRARIAN REFORM AND RURAL DEVELOPMENT (ANGOC), *IN DEFENCE OF LAND RIGHTS -A Monitoring Report on Land Conflicts in Six Asian Countries*, (2019).

[54] DEPARTMENT OF FOREST AND WILDLIFE, GOVT. OF NCT OF DELHI, DELHI'S FOREST: AT A GLANCE (2022).

[55] Priyanwada Indeewaree Singhapathirana, Eddie Chi Man Hui & Wadu Mesthrige Jayantha, *Critical Factors Affecting the Public Land Development: A Systematic Review and Thematic Synthesis*, 117 LAND USE POLICY 106077 (2022).

random allocation or abandoned territory. Decision-making delays and bureaucratic processes can leave such lands inactive for long periods, preventing revenue generation and productivity. Some nazul lands are allocated for specific uses or have limits on their use, restricting their potential for other productive applications. Many such lands, especially in rural areas, lack roads, electricity, and water, making them unattractive for development.[56] Some nazul areas are environmentally or ecologically significant, requiring thorough evaluation before use, resulting in extended vacant.[57] Depending on market conditions, economic variables, and demographic trends, nazul land lease or use may be minimal.[58] State governments may lack the funding, incentives, and resources to develop and encourage nazul land use. It may cause poor land management and state resource use, increased risk of invasion, unlawful occupation, or misuse, and lost potential for economic development, job generation, and land use.[59]

The complicated and fragmented legal system controlling nazul lands in India causes uncertainty, ambiguity, and discrepancies in the interpretation and application of laws and regulations.[60] Many nazul land rules and regulations derive from British colonial land revenue systems, which may not be relevant or compatible with modern land management approaches.[61] The Indian Constitution makes land revenue collection a state responsibility, hence each state has its own land revenue legislation, laws, and rules for nazul lands.[62] This has created a diverse and inconsistent legal landscape across states. Some state-level nazul land laws and regulations are decades old and don't reflect changing socio-economic and developmental dynamics. Nazul lands have overlapping jurisdictions or conflicts between laws or regulations, making their interpretation and implementation unclear.[63] The lack of a central

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[56] Narain Prasad Aggarwal v. State Of M.P, *supra* note 29.

[57] *Supra* note 8.

[58] Leases type, https://ldo.gov.in/WriteReadData/userfiles/file/office_manuals/TYPES%20OF%20LEASES.pdf.

[59] In Reference Nazul Policy of The State vs State of Uttarakhand and Others, *supra* note 51.

[60] *Karkal Balakrishna Rao and Ors. vs State of Mysore*, (1970) AIR 125.

[61] *Supra* note 17.

[62] The Constitution of India, 1950, (art. 246)

[63] Namita Wahi, *Indian Courts Clogged with Land Disputes Because Laws Keep Conflicting Each Other*, THE PRINT, (2019), https://theprint.in/opinion/indian-courts-clogged-with-land-disputes-because-laws-keep-conflicting-each-other/254033/.

legislative or policy framework for nazul land management has caused legal frameworks to vary across states.

Complex legislative rules, administrative challenges, and a lack of resources might make it hard for state authorities to execute and enforce nazul land laws. Outdated or ambiguous terminology in some laws and regulations can cause stakeholders, including courts, to interpret them differently, causing disagreements and lawsuits.[64] For instance, in Andhra and Telangana, there are so many overriding land law provisions.[65] The Andhra Pradesh Record of Rights land revenue regulation from 1358 Fasli, the Andhra Pradesh (Telangana Area) Land Revenue Act from 1317 Fasli, and the Andhra Pradesh Record of Rights in Land and Pattadar Passbook Act from 1971 have provisions that overlap, leading to ambiguity in interpretation.[66]

The illegal taking and occupancy of nazul lands by powerful individuals or groups, frequently with vested interests or by exploiting system flaws, is a major issue in India's management and governance.[67] To prevent such exploitation, clear and extensive legislative frameworks are needed. Nazul lands are illegally taken due to weak law enforcement and government corruption.[68] Insufficient monitoring and accountability worsen this. The increased urbanization and rising demand for property for housing, commercial, and infrastructural projects have put great pressure on the government to transform nazul lands. Converting nazul lands for commercial or residential use can cause tensions and raise fundamental considerations about equitable distribution and use.[69] Real estate developers, urban planners, environmentalists, and local communities often clash over nazul land development. Each group may have different goals and interests, causing land use disputes. Urban nazul lands typically

Law Centre-II, Faculty of Law
University of Delhi

[64] Mane Rajaram R., *Study of Causes of Land Disputes and Delays in Decisions Over Property Rights in Agricultural Lands in Maharashtra*, (2012).

[65] Acts Manuals, https://ccla.telangana.gov.in/viewActs.do?method=acts, accessed on 4 january 2024.

[66] *Id.*

[67] Manju Menon, Debayan Gupta & Kanchi Kohli, *In State-Level Changes to Land Laws, a Return to Land Grabbing in Development's Name*, THE WIRE, 2017, https://thewire.in/law/state-level-changes-land-laws-return-land-grabbing-developments-name (last visited Jan 4, 2024).

[68] Sapana Doshi & Malini Ranganathan, *Contesting the Unethical City: Land Dispossession and Corruption Narratives in Urban India*, 107 ANNALS OF THE AMERICAN ASSOCIATION OF GEOGRAPHERS 183 (2017).

[69] *Satya Narain Kapoor vs State of U.P. And Others*, 1 AWC 1B (1998).

function as parks, open spaces, and other public amenities.[70] Their conversion for commercial or residential use can degrade local inhabitants' quality of life by removing these public resources.

Converting nazul lands for development projects can displace underprivileged communities like slum dwellers and informal settlements that depended on these lands. Nazul lands may feature wetlands, woods, or natural habitats. Their conversion for development can degrade the ecosystem, destroy biodiversity, and upset ecological equilibrium. Converting nazul lands for commercial or residential use raises problems regarding public resource distribution and access. Concerns exist that such conversions may benefit private developers or wealthier groups while marginalizing vulnerable communities.[71] Converting nazul lands for development projects may involve corruption, partiality, or misuse of public resources.[72]Comprehensive policy reforms, improved administrative processes, transparent record-keeping, and efficient coordination among government entities managing nazul lands are needed to address these issues.[73] Community engagement, public knowledge, and stakeholder participation can also help govern and sustain these vital public resources.

Nazul land disputes and their effects on marginalized populations and their rights are crucial to public land governance. Slum dwellers, informal settlers, and tribal people may live on such lands for food and shelter.[74] In disputes over land ownership or use, these groups risk displacement, eviction, and loss of income.[75] Marginalized groups struggle to demonstrate their

[70] Bhanwar Singh v. State of Rajasthan, (2021), https://www.livelaw.in/pdf_upload/bhanwar-singh-v-state-of-rajasthan-and-ors--409484.pdf (last visited Feb 4, 2024).

[71] *Housing and Land Rights in India: Status Report for Habitat III*, Housing and Land Rights Network, New Delhi, 2016. https://hlrn.org.in/documents/Housing_and_Land_Rights_in_India_Report_for_Habitat_III.pdf (last visited March 30, 2024).

[72] Francesco Chiodelli & Stefano Moroni, *Corruption in Land-Use Issues: A Crucial Challenge for Planning Theory and Practice*, 86 TOWN PLANNING REVIEW 437 (2015).

[73] Snehasis Mishra & Varsha Ganguly, *Documentation of Best Practices in Land Resources Management in India*, (2016)

[74] Malay Kotal, *Land vs. Housing: How Effective Are Tenurial Measures to House the Urban Poor?*, INDIA HOUSING REPORT (Jun. 16, 2021), https://indiahousingreport.in/outputs/opinion/land-vs-housing-how-effective-are-tenurial-measures-to-house-the-urban-poor/ (last visited Feb 4, 2024).

[75] Babette Wehrmann, *Land Conflicts- A Practical Guide to Dealing with Land Disputes*, (2008), https://toolsfortransformation.net/indonesia/wp-content/uploads/2017/05/giz2008-en-land-conflicts.pdf (last visited Feb 4, 2024).

rights and ownership of lands because they lack legal recognition.[76] This legal ambiguity makes them vulnerable to exploitation. Marginalized communities frequently lack political authority, social influence, and nazul land decision-making representation. Their voices and concerns are routinely ignored, worsening their marginalization. Nazul lands may be marginalized populations' traditional habitats, natural resource sources, or cultural or religious locations. Cultural identities and traditional habitats are threatened by land disputes. Powerful parties generally win land conflicts, resulting in unequal access to public resources.[77] If displaced or denied access, marginalized communities may be unfairly compensated.[78] The eviction of vulnerable communities from nazul lands without rehabilitation or compensation violate their human rights to housing, livelihood, and basic resources.[79]

Underprivileged communities encounter obstacles when trying to access justice systems in order to resolve nazul land disputes. Legal aid services, alternative dispute resolution mechanisms, and community-based paralegal initiatives can be instrumental in empowering marginalized communities to effectively assert their land rights. In addition, it is crucial to prioritize the independence, impartiality, and accessibility of judicial institutions in order to deliver timely and fair resolutions to land disputes. Marginalized communities face a heightened risk of being forcibly evicted and displaced due to conflicts over land ownership, development initiatives, or land encroachments.[80] It is crucial for governments to establish and uphold laws and policies that safeguard against unjust displacement and guarantee fair compensation, resettlement, and rehabilitation for communities impacted by such actions. In addition, it is the need of hour to implement proactive measures to mitigate land-related conflicts and tackle the root causes such as poverty, inequality, and marginalization.

Journal for Law and Justice
Law Centre-II, Faculty of Law

[76] Kundan Pandey, *Punjab's Marginalised Communities Struggle for Their Right to Cultivate Common Lands*, DOWN TO EARTH, Feb. 7, 2019, https://www.downtoearth.org.in/news/agriculture/punjab-s-marginalised-communities-struggle-for-their-right-to-cultivate-common-lands-63005 (last visited Feb 4, 2024).

[77] The United Nations Interagency Framework Team for Preventive Action, *Land and Conflict-Toolkit and Guidance for Preventing and Managing Land and Natural Resources Conflict*, (2012), https://www.un.org/en/land-natural-resources-conflict/pdfs/GN_Land%20and%20Conflict.pdf (last visited Feb 4, 2024).

[78] Lai Ming Lam & Saumik Paul, *Disputed Land Rights and Conservation-Led Displacement: A Double Whammy on the Poor*, 12 CONSERVATION & SOCIETY 65 (2014).

[79] Miloon Kothari, Sabrina Karmali & Shivani Chaudhry, *The Human Right to Adequate Housing and Land*, (2006), https://nhrc.nic.in/sites/default/files/Housing.pdf (last visited Feb 4, 2024).

[80] Smitu Kothari, *Whose Nation? The Displaced as Victims of Development*, 31 ECONOMIC AND POLITICAL WEEKLY 1476 (1996).

Prioritizing the rights and well-being of marginalized communities in nazul land disputes is not only a matter of social justice, but also essential for fostering inclusive and sustainable urban growth, preserving cultural plurality, and preserving the standards of nondiscrimination and equality codified in the Indian Constitution.

IV. HALDWANI EVICTION CASE: A CRITIQUE

The Haldwani Railway land encroachment case serves as a compelling example that sheds light on various issues concerning the governance and management of nazul lands in India. The case pertains to the encroachment and unauthorized occupation of railway land in Haldwani, Uttarakhand, by various individuals and groups over a significant period of time.[81] This land, initially obtained by the railways for public purposes, is known as nazul land.[82] The central concern in this case revolves around the extensive encroachment and illicit occupation of railway land by various individuals and groups.[83] This intrusion has led to the development of housing and business buildings on land that was originally designated for public purposes. The encroachments on railway land in Haldwani highlight the insufficient monitoring and enforcement mechanisms by the relevant authorities. Despite being well-informed about the encroachments, the authorities neglected to take prompt action, resulting in the escalation of the encroachments over the years.

The British-built Haldwani-Kathgodam railway line in the 1880s sparked the legal dispute. The Railways complained to the court that these 4,365 homes were illegal encroachments that they tried to remove in 2007.[84] It claims 10 acres of the 29 acres were razed in the exercise, but new structures were built this year. Locals entered the streets weeks before the Supreme Court decree, claiming their family have resided there for nearly 100 years. The petitioners opposing the HC ruling stated they are poor lawful inhabitants of Mohalla Nai Basti and Line No 17 &

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[81] Outlook Web Desk, *Explained: What Is Nazul Land Which Is at The Heart of Haldwani Violence?*, OUTLOOK, https://www.outlookindia.com/national/explained-what-is-Nazul-land-which-is-at-the-heart-of-haldwani-violence.html (last visited Feb 4, 2024).

[82] Sparsh Upadhyay, *Haldwani Evictions: Reasons Given by Uttarakhand High Court to Order Evictions in Gafoor Basti Near Railway Land*, LIVE LAW, Jan. 4, 2023, https://www.livelaw.in/news-updates/haldwani-evictions-reasons-given-by-uttarakhand-high-court-to-order-evictions-in-gafoor-basti-near-railway-land-read-judgment-218051#:~:text.html (last visited Feb 4, 2024).

[83] *Ravi Shankar Joshi v. Union of India and ors*., WP PIL No.30 of 2022 (High Court of Uttarakhand 2022).

[84] DH Web Desk, *History of the Legal Struggle in Uttarakhand's Haldwani*, DECCAN HERALD, 2023, https://www.deccanherald.com/india/history-of-the-legal-struggle-in-uttarakhands-haldwani-1178450.html (last visited Feb 4, 2024).

18, Banbhulpura (Azad Nagar) in Haldwani, Uttarakhand. They claimed to have title and occupation documents. In the mid-1800s, the British government bought property in Uttarakhand's steep Bhawar region, dubbed it 'Haldwani Khas', and transferred interior dwellers there. By 1880, the railway line was completed on land seized in 1859.In 1907, British officials gave the area to local municipal authorities as 'nazul land' and prohibited lease or sale. The current conflict hinges on this. Principal occupiers leave *'jaayajaad munjaapaata*'land portions. '*Jaayajaad munjaapaata'* pertains to land parcels that are passed down via the family lineage, providing an illustration of conventional land ownership and inheritance practices rooted on historical entitlements and familial ties.[85]

In December, 2023, the Uttarakhand HC ruled, If the records which are available with the local government are reviewed, in fact, in Haldwani Khas, there appears to be no asset which could be termed as to be nazul land on which the local body or the commissioner could have at all implemented any of the leases, which could be said to be under law or in complying with law.[86] Ravi Shankar Joshi filed a PIL in 2013 in the HC saying that 29 acres of railway land around Haldwani railway station, under the North Eastern Railway Zone, was encroached after the 2007 encroachment drive.[87] The 2016 High Court's decision imposing penalties on this PIL failed. Joshi pleaded again in March 2022. The Railways informed the court that 4,365 illegal dwellings were identified on roughly 78 acres of railway land in Banbhoolpura.[88] The court then requested legal documentation to determine document ownership. On December 20, 2022, the HC concurred with the petitioner and directed the encroachment to be removed, giving residents a week to vacate the premises.[89] Locals appealed to the Supreme Court, which halted demolition and prohibited new development.

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[85] *Supreme Court halts Haldwani eviction drive; says cannot uproot thousands of occupants overnight*, THE LEAFLET, Jan. 5, 2023, https://theleaflet.in/supreme-court-halts-haldwani-eviction-drive-says-cannot-uproot-thousands-of-occupants-overnight/ (last visited Mar 30, 2024).

[86] Gautam Bhatia, *Evictions and the Right to Housing: The Uttarakhand High Court's Haldwani Judgment*, INDIAN CONSTITUTIONAL LAW AND PHILOSOPHY, Jan. 4, 2023,https://indconlawphil.wordpress.com/2023/01/04/evictions-and-the-right-to-housing-the-uttarakhand-high-courts-haldwani-judgment.html (last visited Feb 4, 2024).

[87] S*upra* note 83.

[88] *Ibid.*

[89] *Id.*

The matters at hand revolve around the status of an individual who possesses nazul land after the lease period has expired, and their legal rights or interests over the disputed nazul land. It also raises questions about the legality of the State's exercise of the right of resumption. The Uttarakhand Nazul Land Management, Settlement and Disposal Act, 2021 and Nazul Policy 2021 applies to Uttarakhand state. This Act grants the government the authority to lease out nazul land to any entity for a predetermined duration, typically ranging from 15 to 99 years.[90]The claim of the residents who asserted ownership based on the notification released in 1907 was dismissed by the two-judge bench of the Uttarakhand High Court in *Ravi Shankar Joshi vs. Union Of India And Others.*[91] The Court dismissed the claim of the residents regarding 'uninterrupted possession' and stated that a legal right to claim ownership does not arise solely based on uninterrupted possession. In the end, the Court sided with the Railways' arguments and instructed the state authorities to promptly remove the families residing in the encroachment area, even if it required assistance from para-military forces.

The Court's disregard for the 'Right to Housing' aspect in this issue, along with its indirect denial and violation of various supreme court judgments, undermines the progress made in shelter jurisprudence under the Right to life. The High Court overlooks the Supreme Court's interpretation in *Olga Tellis vs. Bombay Municipal Corporation*[92]. In this instance, the highest court granted permission for the removal of jhuggi jhopri dwellers, while also implementing a comprehensive rehabilitation system. The mention of a Para-military force in Uttarakhand high court's verdict raises concerns about the potential for human rights violations. The designated time frame for the eviction is excessively strict, as the judgment overlooks the duration that the residents have been living in the place. The lack of effectiveness in the state machinery is not explicitly stated in the judgment, even though it is the primary responsibility of the State to ensure that all citizens have the right to adequate shelter and related rights, as per the Supreme Court's ruling in the case of *Ajay Maken v. Union of India*[93].

Journal for Law and Justice
Law Centre-II, Faculty of Law, University of Delhi

[90] Uttarakhand Nazul Land Management, Settlement and Disposal Act, 2021, UTTARAKHAND BILL NO. 12 OF 2021 (2021).

[91] *Supra* note 83.

[92] *Olga Tellis & Ors vs Bombay Municipal Corporation & Ors*., 2 BOM CR 434 (1985).

[93] *Ajay Maken & Ors. vs Union of India & Ors*., AIR ONLINE (2019).

Though the Supreme Court has recognized that the encroached land in Haldwani rightfully belongs to the Railways Department, the Supreme Court stayed the order of the Uttarakhand High Court's order to remove more than 4000 occupants from lands claimed by railways in Haldwani in within short span of time.[94] On 7th February 2023, the highest court provided the Indian Railways authorities and Uttarakhand government with a period of eight weeks to find a resolution regarding the relocation of individuals who were instructed to leave the unauthorized structures on railway property in Haldwani's Banbhoolpura area.[95] A bench comprising Justices Sanjay Kishan Kaul and Manoj Misra has granted a period of eight weeks to the Railway authorities and Uttarakhand, as requested by Additional Solicitor General Aishwarya Bhati.[96]

This situation highlights the difficulties involved in relocating individuals or communities who have unlawfully occupied nazul lands for a long time. The Haldwani case has shed light on the intricate legal disputes and complexities that can emerge when addressing encroachments on nazul lands. The issue has been brought to court, with different parties disputing the eviction orders and asserting their rights to the land in question. This case highlights the wider challenges surrounding the administration and control of nazul lands in India. It highlights the difficulties posed by encroachments, ineffective monitoring and enforcement, political interference, displacement of occupants, and legal complexities. Tackling such matters necessitates a holistic approach, encompassing policy reforms, bolstering legal frameworks, efficient coordination among authorities, and initiatives to prevent and resolve encroachments on nazul lands.

Marginalized communities, like slum dwellers, informal settlers, and tribal populations, often reside on or depend on nazul lands for their livelihood and shelter. When conflicts arise regarding the ownership or utilization of these lands, these communities are at risk of being displaced, evicted, and losing their sources of sustenance. Numerous marginalized communities face the challenge of lacking legal recognition or title to the nazul lands they

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[94] Utkarsh Anand, *Top Court Stops Mass Eviction in Haldwani*, HINDUSTAN TIMES, Jan. 6, 2023, https://www.hindustantimes.com/india-news/top-court-stops-mass-eviction-in-haldwani-101672986358365.html (last visited Feb 4, 2024).

[95] Sohini Chowdhury, *Haldwani Evictions| Supreme Court Grants 8 Weeks Time to Railways to Work Out Rehabilitation Solution*, LIVE LAW, Feb. 7, 2023, https://www.livelaw.in/top-stories/haldwani-evictions-supreme-court-grants-8-weeks-time-to-railways-to-work-out-rehabilitation-solution-220949 (last visited Feb 4, 2024).

[96] *Id.*

occupy, which poses difficulties in asserting their rights and claiming ownership. The lack of clarity in the legal realm adds to their susceptibility and the possibility of being taken advantage of. Marginalized communities frequently face challenges in gaining proper representation when it comes to decision-making processes concerning nazul lands. Their perspectives and issues are frequently disregarded or pushed aside, which only worsens their exclusion. Underprivileged communities face exclusion from the advantages or receive unfair compensation in the case of displacement or loss of access.

The forced removal of marginalized communities from nazul lands without appropriate rehabilitation or compensation is the violation of their fundamental rights, such as the right to adequate housing, means of living, and access to essential resources.[97] In the case of *Olga Tellis & Ors. vs Bombay Municipal Corporation & Ors. (1985),* the Supreme Court established that the right to life under Article 21 of the Constitution encompasses the right to livelihood.[98] The Court emphasized that the eviction of pavement dwellers without offering them alternative accommodation would infringe upon their fundamental rights, such as the right to life and livelihood. In *Ahmedabad Municipal Corporation vs Nawab Khan*[99] ,the Supreme Court emphasized the significance of procedural safeguards in eviction cases. It highlighted that these safeguards are not mere formalities, but rather crucial for upholding human values and the rule of law. The Court highlighted the importance of providing sufficient notice, consultation, and rehabilitation measures prior to conducting evictions. In the case of *Chameli Singh & Ors. vs State of Uttar Pradesh & Anr. (1996)*[100]*,* the Supreme Court made a significant ruling. It emphasized that the right to shelter and adequate housing is a fundamental right protected under Article 21 of the Constitution. The court further stated that any forced evictions without proper rehabilitation would amount to a violation of this fundamental right. In the case of *Udal v. Delhi Urban Shelter Improvement Board*[101], the Delhi High Court ruled that the lack of specific

Journal for Law and Justice
Law Centre II, Faculty of Law
University of Delhi

[97] Sudama Singh & Others vs Government of Delhi & Anr., WP (C) 7317 and 8904 of 2009 (Delhi High Court 2010). https://www.hlrn.org.in/documents/Sudama_Singh_and_Ors_v_Government_of_Delhi.pdf (last visited Mar 30, 2024).

[98] *Olga Tellis & Ors vs Bombay Municipal Corporation & Ors., supra* note 93.

[99] *Ahmedabad Municipal Corporation vs Nawab Khan*, AIR 152 (1997).

[100] *Chameli Singh And Others vs State of U.P. And* Another, 1051 (1996).

[101] *Udal & Ors vs Delhi Urban Shelter Improvement Board*, W.P.(C) 5378 of 2017 (Delhi High Court 2017).

documents should not be used as a reason to deny rehabilitation to evicted families, as long as there is sufficient evidence of residence.

It is important to prioritize the needs of underprivileged communities who rely on nazul lands for their livelihoods, including farming, grazing, and informal economic activities. These communities should be granted the right to sustain their current activities or be offered suitable alternative livelihood options in the event of displacement or changes in land use. Access to legal aid and representation is often limited in underprivileged communities. Every individual deserves the opportunity to access legal aid and receive effective representation in order to protect their rights and interests in cases concerning nazul land disputes or development projects. When underprivileged communities are compelled to be displaced or relocated from such lands as a result of development projects or other valid reasons, it is critical to provide them with the right to receive fair and equitable compensation, along with appropriate rehabilitation and resettlement measures. The underprivileged communities living on nazul lands should be provided access to vital services and resources, including water, sanitation, healthcare, and education, without facing any form of discrimination or obstacles. Such communities should be treated fairly and without bias, regardless of their socio-economic status, caste, religion, or ethnicity, in all matters related to nazul lands.

V. BARRIERS IN ACHIEVING SOCIAL JUSTICE WITH RESPECT TO NAZUL LAND

There are many hurdles that impede the attainment of social justice regarding nazul lands in India. These obstacles present considerable difficulties in guaranteeing equal access, safeguarding rights, and ensuring fair treatment of disadvantaged and marginalized communities. These are some of the significant obstacles:

i. The absence of a thorough and unified legal framework and policies that specifically address nazul land governance and the rights of underprivileged communities results in a void that enables exploitation and injustice.[102] Current laws and regulations might be outdated, unclear, or insufficient, which can lead to misinterpretation and abuse.

[102] Emmanuel Okon, *Land Law as An Instrument of Social Change*, 31 JOURNAL OF THE INDIAN LAW INSTITUTE 194 (1989).

ii. Underprivileged communities living on nazul lands face challenges in providing adequate documentation or legal records to support their long-standing occupancy or claims.[103] This creates a challenging situation for individuals to assert their rights and hinders their ability to seek legal remedies or receive compensation.

iii. Despite the existence of laws and policies, their implementation and enforcement frequently suffer from bureaucratic inefficiencies, corruption, and a dearth of political determination. Underprivileged communities are left vulnerable to exploitation and eviction without proper legal procedures.

iv. A notable disparity in power exists between marginalized communities and influential stakeholders, including real estate developers, politicians, and influential groups. The concentration of power and the close relationships between these influential individuals can result in the neglect of the rights and interests of disadvantaged communities.

v. Disadvantaged communities frequently face a lack of knowledge regarding their rights, legal provisions, and potential solutions concerning nazul lands. Their vulnerability is further intensified by the limited access they have to information and legal resources.

vi. Disadvantaged communities often experience long-standing socio-economic challenges, including poverty and limited access to education and resources.[104] These factors impede their capacity to effectively advocate for their rights and navigate intricate legal and administrative processes.

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[103] HOUSING AND LAND RIGHTS NETWORK, FORCED TO THE FRINGES: DISASTERS OF 'RESETTLEMENT' IN INDIA (2014).

[104] Lorenzo Cotula, Camilla Toulmin & Julian Quan, *Better Land Access for the Rural Poor Lessons from Experience and Challenges Ahead*, (2006), https://www.iied.org/sites/default/files/pdfs/migrate/12532IIED.pdf (last visited Feb 4, 2024).

vii. Discrimination based on caste, religion, ethnicity, or socio-economic status exacerbate the marginalization of underprivileged communities and hinder their access to fair treatment in matters concerning nazul lands.[105][106]

viii. The forced removal of marginalized communities from nazul lands, without proper support or alternative means of sustenance, can perpetuate cycles of poverty and marginalization, hindering their pursuit of social justice.[107]

To address these challenges, a comprehensive strategy is needed that encompasses legal and policy reforms, robust implementation and enforcement mechanisms, capacity building initiatives, awareness programs, empowerment of marginalized communities, and efforts to tackle long-standing socio-economic disparities. Effective collaboration among government agencies, civil society organizations, and affected communities is crucial to uphold social justice in the governance and management of nazul lands.

VI. SUGGESTIONS AND CONCLUSION

The surveys conducted by the National Sample Survey Office lacks in detailed information on specific caste groups. Several of these surveys focused solely on agricultural land, disregarding the significant shifts in land use and the evolving significance attached to it. It is important to accurately document the caste/religion-related patterns associated with non-agricultural land uses. Conducting a caste census could offer valuable insights into the variations within different sects and religious communities, as well as shed light on issues such as land ownership and tenancy. Enhancing transparency and accountability in nazul land management, rigorous enforcement of laws and severe consequences for violations, improving collaboration between government agencies and departments responsible for managing these lands, increasing awareness and encouraging community involvement in monitoring and reporting illegal activities related to land disputes, as well as protecting vulnerable communities from unlawful

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[105] Tarini Manchanda, *Learning from Dalit Women Fighting for Land Rights in Punjab*, (2020), https://www.openglobalrights.org/learning-from-dalit-women-fighting-for-land-rights-in-punjab.html (Feb 4, 2024).

[106] Awanish Kumar, *B R Ambedkar on Caste and Land Relations in India*, 10 REVIEW OF AGRARIAN STUDIES (2020).

[107] *Supra* note 86.

land acquisitions, are important measures to address these issues and safeguard underprivileged communities in nazul land disputes.[108]

In conclusion, the Haldwani Railway Encroachment Case highlights the complex relationship between land rights and social justice. This case shows how difficult it is to balance the interests of underprivileged populations and government. The encroachment of nazul property in Haldwani drives the need for equitable, inclusive, and rights-based land governance. The case emphasizes the need of recognizing and defending marginalized people' land rights, who often suffer from socioeconomic inequities and historical injustices. The case also emphasizes the need for transparent and responsible land administration institutions that preserve the rule of law and promote fair land resource access. Social justice in land governance requires strengthening legal frameworks, enforcement mechanisms, and community engagement in decision-making. Policymakers, government agencies, civil society organizations, and the judiciary must collaborate to address structural concerns that cause land encroachments and conflicts. More inclusive and equitable society that respects the rights of all people, especially marginalized ones, by promoting discourse, land tenure stability, and social justice needs to be created. The Haldwani Railway Encroachment Case highlights the need for land governance reforms that promote social justice and preserve land rights for future generations of the affected people.

Journal for Law and Justice
Law Centre-II, Faculty of Law
University of Delhi

[108] Satish K. Puri, *Integrating Scientific with Indigenous Knowledge: Constructing Knowledge Alliances for Land Management in India*, 31 MIS QUARTERLY 355 (2007).