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Project Coordinator

Lysiane Haefelin

Authors

Robert Sutton
Esm'eralda Marion
Claire Stein
Kedar Bhasme

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Cover Photo: in Vietnam, in the Mekong Delta, boat seen from above
(Martin Bertrand / Hans Lucas via Reuters Connect 2017)

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Foreword

As 2025 comes to an end, this issue of the Indo-Pacific Peace and Security Monitor focuses on longstanding tensions between state authority and popular demands for accountability, between technological modernisation and traditional governance as well as tensions surrounding environmental and tribal resilience.

Robert Sutton's analysis of Indonesia's "Gen-Z" uprising reveals a generation pushed to the streets not merely by youthful idealism, but by the economic precariousness that defines their daily lives. The protests that gripped Indonesia through August and September represent more than spontaneous outrage—they reflect a fundamental crisis of legitimacy when corruption and extravagance among elites clash with austerity and insecurity for ordinary citizens.

Esm'eralda Marion's examination of the Hmong community in Laos documents a humanitarian crisis that has persisted for decades, now reaching what Genocide Watch characterises as conditions consistent with the early stages of genocide. The systematic denial of indigenous status, the violence and continuous displacement reveal how vulnerable populations can remain effectively invisible to international attention even as their rights are systematically violated.

Claire Stein's analysis of Asia's intensifying storm threats shows how warming seas and hotter atmospheres are not abstract future concerns but present dangers claiming lives and destroying livelihoods across the region. Yet, the author also emphasises a second crisis: the corruption that siphons disaster preparedness funds away from the infrastructure and systems that could save lives, turning natural disasters into preventable catastrophes and fueling the very public anger that drives protests.

Finally, Kedar Bhasme's exploration of India's Digital Personal Data Protection Act reveals how technological modernisation can become a form of dispossession when it fails to account for diverse legal traditions and communal forms of ownership. The collision between the Act's individualistic framework and the collective governance systems of Northeast India's tribal communities represents a broader challenge facing the region: how to harness digital transformation without erasing the cultural and legal pluralism that defines so many Indo-Pacific societies.

Indonesia's "Gen-Z" Uprising

Robert Sutton

Key Takeaways

- Growing economic precariousness amongst young people ("Gen-Z") in Indonesia is fuelling political unrest as the government is seen as failing to address or even complicit in the lack of opportunities and high costs of living.
- This has been exacerbated by public examples of corruption and extravagance amongst political elites, as well as a sense of 'democratic backsliding' and excessive police violence towards demonstrations.
- This situation is not unique to Indonesia, but is evident to varying degrees in other states, which have seen similar unrest. In some respects directly inspired by protestors in Indonesia and the messaging and symbols they used.

Through August and early September, Indonesia was gripped by widespread protests against the entrenched political and military elites. Sparked initially by the People's Consultative Assembly granting its members a substantial housing allowance, protests escalated following the murder of a delivery driver by police on 28 August 2025.¹ Emblematic of the youth-led nature of the uprising has been the use of the "straw-hat pirates" flag, from the hit manga and anime series One Piece, and which has spread via social media across boundaries to appear at protests in Nepal and the Philippines.²

These protests are continuing an already turbulent year for Indonesia, which saw outbursts of public unrest in February, March and July aimed at rising costs of living, controversial government policies, corruption, and a perceived 'democratic backslide'.

Driving Factors

The heart of the protests is ultimately economic. As much as four out of every five jobs created in Indonesia are in the "informal sector", with poor job security and precarious employment conditions.³ The increasing importance of the "gig economy", labour arranged on an incidental basis through online services, to the lives of millions across Southeast Asia is starting to have political effects.⁴ The economic fallout from the COVID-19 pandemic, including lost jobs, declining consumption and stymied growth, have put considerable pressure on Indonesia's working class, pushing more and more into precarious "gig work".⁵ Particularly for younger people, the apparent decline of economic opportunities has brought corruption and extravagance at higher levels into an increasingly sharp focus. Emblematic of this People's Consultative Assembly, Indonesia's elected legislature, voted to substantially increase its members housing allowance at the same time as the Prabowo Government was implementing a "strict austerity" programme.⁶

In the lead up to the 2024 presidential election, Prabowo campaigned on a populist economic platform, promising welfare initiatives such as the now-infamous free-lunch



A protester with a One Piece flag, during a demonstration against corruption under President Ferdinand Marcos Jr's administration, in Manila, Philippines on October 21, 2025 (Daniel Ceng / Anadolu via Reuters 2025)

programme for schoolchildren, alongside major economic growth rates, attracting young voters who have since become disillusioned after his apparent failure to deliver.⁷

A number of regional governments, notably Pati Regency in central Java, have implemented sharp increases to property taxes, which triggered protests by a crowd of some 75,000 people on 13 August.⁸ These increases were in response to the reduction in public funding allocated to the Regencies by the central government, leading to Regency authorities turning to tax hikes in order to make up the shortfall.

A perceived “democratic backslide” underway in Indonesia is also seen as fuelling the protests, convincing even those beyond ‘activist’ sections of the population of a need to confront social and political elites ‘in the streets’. Although coming to the fore in the second half of 2025, the apparent erosion of liberal institutions and political norms is argued to extend back to at least the previous presidential administration under Joko Widodo, which wound back anti-corruption efforts and “manipulated” the constitution, “tainting” the 2024 elections.⁹ Combined with the economic pressure many people face, and the corruption and self-interest displayed by politicians and the well-connected, this drives a sense that ordinary people are ignored, disadvantaged and exploited by Indonesia’s ruling class.

The state’s repression of the protests, further detailed below, has also contributed to their growth. Police violence is cited by protest participants and organisers as further evidence of the government’s moral and functional incapacity.¹⁰ The death of Affan Kurniawan on 28 August was met with a wave of protest and riots which spread across the country from 29 to 31 August.¹¹ These protests frequently involved ‘thousands’ of demonstrators, although a clear number is hard to establish, given the wide geographic spread of the reaction to Kurniawan’s death.

Security Response and Crackdown

According to reporting by Human Rights Watch, police and the Mobile Brigade paramilitary force utilised considerable force in their efforts to disperse protests, including tear gas, water-cannons, beatings and mass-arrests.¹² Government leaders, including President Prabowo would use terms such as “violent”, “anarchic”, “treason and terrorism” to rhetorically castigate the protest movement and justify police violence towards participants.

While Affan Kurniawan is perhaps the most notable fatality caused by the police, a rickshaw driver also died of complications following exposure to tear gas in Solo on 29 August,¹³ and Rheza Sendy Pratama, a 21 year old student protestor, was beaten to death by police on 30 August in Yogyakarta.¹⁴ During the last days of August, 10 people in total lost their lives in relation to the protests, according to Indonesia’s National Commission on Human Rights (Komnas HAM).¹⁵

Part of the government's response included cracking down on digital activity. Security services have pursued and arrested at least 40 people alleged to be "provocateurs" and "inciters" of protest actions and riots.¹⁶

Social media giant TikTok would notably be affected by this. Although TikTok actually shut down its livestream service during the height of the protests, it would have its status as an 'electronic system provider' suspended on 3 October after Bytedance (its Chinese parent company) failed to provide the full extent of data demanded. Supposedly, this was due to "online gambling" accounts monetising content during the protests.¹⁷ TikTok's licence would be restored two days later after compliance with the Indonesian government's demands.¹⁸ In the context of the ongoing investigation of social media accounts by Indonesian authorities, and considering the measures employed to coerce Bytedance, the claim that the data demanded by the government was only related to 'online gambling' is hard to believe. Although President Prabowo promised reforms and transparent investigations as part of his effort to calm the protest movement, Indonesia's political class and security services have escaped popular outrage without repercussion in the past.¹⁹

Global Connections

The insurrection in Indonesia has been linked to a wave of similar protests across Southeast Asia and beyond. The August uprising in Indonesia was followed in September by mass demonstrations against corruption and wealth inequality in Nepal, the Philippines and Malaysia.²⁰ Symbolically, these movements were linked through the "straw-hat pirates" flag, and a common narrative of "Gen-Z" youth-led political militancy.²¹

As in Indonesia, the initial stirrings of public anger in Nepal were focused on the political elite's wealth and the exploitation of their power by family members. The popular criticism of so-called "nepo-babies", the children of well-connected political and business figures, who exemplify the ever-widening wealth gap in Nepalese society.²² Spurred on by the Government's attempts to push back against online activism by enforcing controls over social media, massive protests beginning 8 September led to the swift overthrow of the Government after just three days.



On December 28, 2025, in Kathmandu, Nepal. A slogan written on chart paper is pictured outside the federal parliament during an art exhibition commemorating the September 8 and 9 Gen Z youth protests (Abhishek Maharjan/Sipa USA via Reuters 2025)

In the Philippines, protests initially began in response to a scandal involving the theft and misuse of public funds intended for flood control and prevention infrastructure, and like Nepal, also took on a vulgar class angle against "nepo-babies".²³

On one hand, the common foregrounding of young "Gen-Z" protestors in opposition to the political status quo is a reflection of the low median age of population across the region, around 30-32 in Southeast Asian countries.²⁴

Power and economic prosperity appear to be hoarded by older generations and denied through corrupt means; "Gerontocracy".²⁵ This has produced a sharper sense of generational antagonism overlaying, or as a proxy for, economic and political antagonisms between classes. The greater online activity and interconnectedness of young people further contribute to the sense of transnational solidarity and the common political challenges faced by "Gen-Z". On the other hand, the media attention given to "Gen-Z", and the symbology associated with them, risks both over-focusing on the aesthetic qualities of the protests rather than the material basis for the unrest.²⁶ This narrative flattens any examination of these protests as a social phenomenon, ignoring the participation of other sections of society and creating a simplified and emotional framework through which the protest wave can be presented without substantive challenge to existing power structures.²⁷

The wave of protests examined in this article could also be compared to last year's 'July Revolution' in Bangladesh, which saw the Awami League government overthrown by a similarly youth-led protest movement, perhaps the initial harbinger of the current wave of "Gen-Z Revolutions." In the cases of both Nepal and Bangladesh, the ouster of leading political cliques was contingent on the defection of the armed forces from the side of the government. While a sufficient display of civil resistance or hostility could prompt such an eventuality, this does not mean that the military is necessarily defecting to the side of the protesters. The Military's actions are just as likely to be motivated by opportunism or the intention to preserve the greater part of the established status quo against a potentially radical movement, and so safeguard its own interests. If the armed forces position themselves as custodians of any transitional government, the risk becomes that they turn this into a kingmaker position, either behind the scenes or simply through a direct coup d'état. Especially in Indonesia, where the military is an expansive and deeply entrenched economic and political actor in its own right, democratic activists would be wise to be wary.

Conclusion

The protest wave which began in Indonesia in late August, and spread across Southeast Asia and beyond, is emblematic of a precarious developmental and political situation common to these nations. Large youth populations, with comparatively poor economic prospects, are increasingly viewing their elders as having monopolised political and economic power for themselves through corrupt means, and see confrontation with an entrenched or dictatorial political elite as serious recourse.

In Indonesia's specific case, anti-government and anti-corruption protests have been a persistent feature of 2025, and these ongoing tensions bely the relative calm since early September. The Prabowo Government will be faced with the choice of serious reform or intensifying crackdowns on unrest when it does appear; with such crackdowns being just as likely to inflame violence as they are to restore order, as seen following the death of Affian Kurniawan.

Policy Recommendations

- The Indonesian government should undertake a full and transparent investigation into the death of Affian Kurniawan, and others who lost their lives during the August-September protests.
- The Indonesian Government must respect the rights of political protest and avoid the violent suppression of demonstrations as noted by bodies such as Komnas HAM and Amnesty International.
- Younger generations ("Gen-Z") should be offered greater involvement in political life by existing parties and factions, to address their concerns over elder generations' monopolisation of both political and economic power.

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Human Rights Abuse in Laos: An Analysis of the Hmong

Esm'eralda Marion

Key Takeaways

- The Lao government's failure to recognise the indigenous status of the Hmong community denies them basic human rights and protections.
- The situation is worsened in the current security landscape where frequent abuses undermine their fundamental rights.
- While military violence continues to make the community more vulnerable, the Hmong are equally subjected to frequent displacement, forced disappearances, and oppression.
- The forcible eviction of the Hmong people as a result of land confiscation by the government has deepened social inequalities and exacerbated the community's humanitarian needs.
- The Hmong human rights situation thus epitomises a humanitarian crisis propelled by impunity and a lack of accountability.

The Hmong population, a celebrated ethnic group with a vibrant culture and resilient character, is estimated to number between four to five million, primarily living in Southeast Asia and the mountainous regions of southern China.¹

Labelled as hostile dissidents for their collaboration with the United States (U.S.) during the Vietnam War, the Hmong have long been deprived of Indigenous status recognition and appropriate legal protections, as well as been subjected to systemic discrimination.² As of the late 1970s, approximately 300,000 people had been displaced and thousands killed in military operations with those remaining in Phou Bia and Xaisomboun, Laos, facing arbitrary detentions, extrajudicial executions, sexual violence, forced disappearances, and protracted military siege conditions.³

Recent documentation, as of May 2025, indicates a renewed escalation in military crackdowns, arbitrary killings, and mass detentions, with an estimated 200 Hmong men detained and at least 67 confirmed deaths between May and August 2025.⁴ The situation has reportedly evolved into a preventable humanitarian catastrophe with women and children deprived of access to food, basic services, and healthcare.⁵

According to Genocide Watch, the Hmong in Laos currently face conditions of dehumanisation, persecution and polarisation consistent with the early stages of genocide.⁶ Critics, journalists, and activists are routinely targeted through violence, enforced disappearances, detention, and censorship particularly when raising concerns about Hmong rights.

This article examines how the persecution of the Hmong people constitutes a pattern of state-led ethnic cleansing and cultural erasure, enabled by impunity and the absence of international accountability.



Flower Hmong mother and baby in Bac Ha market, Vietnam
(Linda De Volder via Flickr 2012)

Laos' Systemic Abuse

Minority groups like the Khmu, Hmong, Christian religious minorities and Indigenous hill tribes, face state-sanctioned oppression, forced evictions, and political exclusion under Laos' authoritarian governance structure.⁷

Christianity has been branded as an external threat to the communist national ideology, making Christian minorities—particularly Hmong Christians—prone to attacks, detentions, village evictions, and church destructions.⁸

Additionally, the Hmong face severe economic reprisals and systemic discrimination that undermine their livelihoods. Targeted attacks on homes and farmland lead to property destruction and forced evictions, eroding economic stability.

Exclusion from economic development initiatives further restricts their capacity to improve socio-economic conditions, while the destruction of agricultural land results in loss of livelihoods, food insecurity, and increased poverty.

They also experience deprivation of educational opportunities, as discrimination in education, driven by scarce resources, and limited access to schools—exacerbated by distance and transportation challenges—yield diminished enrolment and higher dropout and attrition rates. Furthermore, governmental opportunities are restricted through political exclusion and limited access to government programmes and services, further marginalising the Hmong community.^{9 10}

As for employment, the Hmong have been deprived of the right to work and to enjoy just and favourable working conditions. For instance, those involved in mining activities face grave risks, as military personnel impose fines and block mine entrances forcing workers into hazardous working conditions. This often results in the demise of individuals confined inside.¹¹

This economic marginalisation is compounded by restrictions on freedom of movement, as military confinement and surveillance prevent Hmong families from accessing labour markets and basic income-generating activities, deepening their poverty and dependency.¹²

Beyond immediate physical violence, the Hmong face severe limitations of their cultural, social, and economic rights. Despite Laos ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2007, the Hmong community experiences systematic violations including forced relocations, violations of the right to self-determination, inadequate access to health and education services, as well as destruction of cultural life.¹³

Reports have also indicated the usage of chemical weapons, heavy artillery and starvation as a deliberate tactic employed to displace the population.

This has not only impoverished the community but also forced their relocation to military fortified villages and robbed them of their land rights.¹⁴ In addition, civilians are prone to forced labour, gender-based violence, whereas communities and resources are destroyed.^{15 16}

Analysis of Ongoing Repression Against the Hmong

As per reports obtained from fact-finding missions by journalists and the Unrepresented Nations and Peoples Organisation (UNPO), Hmong families live in dreadful conditions and are driven into a cycle of continuous displacement. Despite living in makeshift shelters, the Hmong remain under military surveillance causing severe trauma among the population.¹⁷

On 17 May 2025, coordinated attacks by Lao and Vietnamese troops in Bokeo and Xaisomboun provinces, worsened the already-dire humanitarian situation as the attacks resulted in displacement, forced disappearances, and extrajudicial killings.^{18 19} The military operation was supposedly carried out in retaliation to the deaths of Lao soldiers attributed to Hmong community members despite evidence suggesting their demise was tied to drug trafficking disputes. During these operations or when confined to military facilities, men are often separated from their families while women face abuse, including forced marriages. Pregnant women receive no protection and face lethal conditions during displacement. Children are exposed to starvation, trafficking, and violence, in flagrant violation of the Convention on the Rights of the Child.²⁰

Impunity is entrenched, as forced disappearances, arbitrary detentions, and killings continue without investigation. For instance, in early May 2025, two Hmong men were detained during military crackdowns and remain missing. In the same operation, three children aged 12, 15, and 17 were killed, underscoring the indiscriminate nature of state violence.^{21 22} Despite Laos ratifying key human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR) (2009), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1981) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (1974), the civic space in the country is categorised as 'closed' reflecting severe restrictions on association, expression, peaceful assembly, and religion.^{23 24} Civil society organisations using terms such as "Indigenous peoples" face harassment and prohibition, further silencing advocacy for the Hmong.²⁵



An ethnic Hmong refugee stands inside a truck during an operation to deport of thousands ethnic Hmong asylum-seekers to Laos (Reuters 2009)

International Action

While the United Nations' (UN) Human Rights Council has issued repeated recommendations urging the Lao government to protect Hmong people, these calls have been met with inaction and continued repression.²⁶

The UNPO and the Congress of the World Hmong People (CWHP) submitted two vital reports in August 2025 to UN bodies, including the UN Committee on Economic, Social and Cultural Rights (CESCR) and UN Special Procedures, detailing grave violations against the Hmong people in Laos.²⁷ Additionally, Hmong families are deliberately denied civil documentation and identification, effectively stripping them of nationality and access to social protection or movement outside militarised zones.²⁸

A second report submitted by UNPO, CWHP, and Boat People SOS (BPSOS) to UN Special Procedures raised concerns regarding the joint Lao-Vietnamese military assaults, which may constitute crimes against humanity under international law.²⁹ These assaults contravene: Articles 6 and 9 of the International Covenant on Civil and Political Rights (ICCPR) which safeguard the right to life and the liberty and security of a person; Articles 6, 19, 37, and 38 on the Convention on the Rights of the Child (CRC) which ensure the right to life, protection from violence, and special protections accorded to children in armed conflicts; and Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) ensuring the right to adequate housing and the right to healthcare.³⁰ In addition, although the Lao Government has signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), it has not ratified it.³¹ Thus, the absence of a comprehensive legal framework, along with the current repression, present a significant hurdle for lawyers who seek to take legal action against the Lao government at the international court.

Conclusion

Human rights violations against the Hmong community in Laos have been systematic and dire and often linked to aggression, discrimination and suppression. While Laos has ratified international human rights treaties, the Hmong continue to face violations of their economic, social, and cultural rights. The government's policies have nonetheless resulted in significant cultural suppression, land seizure and increased cases of arrests and fatalities of the Hmong, children included. The government's tight grip on the civil society and media has equally worsened the current situation by fostering an environment where violations of fundamental rights occur simultaneously with impunity. There is therefore urgency for international attention and action to ensure the protection of the Hmong population. The international community should thus hold the government liable for state-sanctioned aggression as well as compel the administration to avert any further abuses against the Hmong.

Policy Recommendations

- The Lao government, through the Committee for Ethnic Affairs, the Ministry of Justice, and the National Assembly, should permit independent and impartial investigations into allegations of human rights abuses and ensure that legal action is taken against alleged perpetrators, regardless of their status.
- The international community, particularly the UN High Commissioner for Refugees and United Nations Children's Fund (UNICEF), as well as regional bodies like the Association of Southeast Asian Nations (ASEAN), should compel the Laos administration to offer humanitarian assistance to the Hmong community, especially to those that have been displaced.
- The Lao government, under the oversight of the Ministry of Interior in collaboration with the Ministry of Justice, should align with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), a global Indigenous rights framework. This can be achieved by implementing legal frameworks that recognise the Hmong as an indigenous group as well as adopting a policy to compensate those whose lands have been seized.
- The government, through the Ministry of Defence and the Ministry of Interior, should also put an end to the violence directed towards the Hmong and instead protect all persons within its territory, as well as ensure that they have access to basic services without encountering any form of discrimination. This can be attained by suspending military aggression against the Hmong and implementing legislation that safeguards the population.

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When Typhoon Winds Match a High-Speed Train: Asia's Intensifying Storm Threats

Claire Stein

Key Takeaways

- Warmer seas and a hotter atmosphere are increasing the conditions for more intense typhoons, even if long-term frequency remains uncertain.
- Typhoons carry enormous human and economic costs, with unequal impacts: vulnerable groups face the greatest disruptions to health services, food systems, water and sanitation, and livelihoods.
- Corruption has weakened disaster preparedness, with ghost projects, inflated contracts, and major fund leakages undermining infrastructure and fueling public anger.
- Despite governance failures, new reforms such as anticipatory disaster laws offer pathways to more transparent and proactive disaster responses, and regional examples (like Vietnam and Japan) show that strong institutions can efficiently reduce risk.
- While climate thresholds have been reached, mitigation and adaptation remain essential, requiring fiscal tools that mobilise green investment, resilient infrastructure, as well as climate actions that prioritise the most vulnerable.

In 2024, the Philippines was hit by six typhoons in 30 days, affecting more than 13 million people.¹ This year, several storms have again formed in the Western Pacific, moving from the Philippines across China, Taiwan, Vietnam, and Thailand. While attributing any single typhoon directly to climate change is complex, scientific evidence shows that global warming is increasing the conditions that allow typhoons to become more intense and more likely to occur in clusters.²

This reality underscores the urgent need not only for rapid emergency responses but also for comprehensive, long-term strategies, as seen in Japan's bōsai system,³ which integrates prevention, mitigation, preparedness, response, recovery, and reconstruction. Achieving this will require sustained political commitment, regional coordination, innovative financing, and careful use of limited fiscal space, especially as many countries confront rising debt and declining official development assistance.

Why Today's Typhoons hit Harder

While scientists cannot attribute every storm directly to global warming, the overall trend is clear: warmer sea-surface temperatures and a hotter, wetter atmosphere provide more "fuel" for typhoons.⁴ In the Philippines, the extreme conditions that enabled six consecutive storms in 2024 are becoming more likely due to human-caused climate change,⁵ and in Japan, research on Typhoon Hagibis showed that climate change increased associated rainfall, causing catastrophic flooding and billions in damages.⁶

Independent analyses similarly find that the potential intensity of Northwestern Pacific typhoons, in terms of rainfall and wind speed, is already increasing in a warmer world,⁷ and additional scientific projections for Southeast China suggest that stronger winds and heavier rainfall could sharply increase future typhoon-related losses.⁸

A Region under Strain

According to the Climate Risk Index (CRI) – one of the longest-running global indices measuring the impacts of climate-related extreme weather – Myanmar, the Philippines, Vietnam, and Nepal were among the countries most affected in 2024.⁹

In Southeast Asia, Typhoon Yagi was especially devastating. In Myanmar, it triggered catastrophic flooding, killed more than 800 people, affected 3.4 million, and caused an estimated USD 222 million in losses. In Vietnam, Yagi brought wind gusts of 280 km/h, which is comparable to the velocity of a high-speed train and strong enough to bring down power lines. In Vietnam, typhoon Yagi killed 345 people and affected 3.6 million, inflicting nearly USD 2 billion in damage.

The Philippines was one of the worst hit, facing six typhoons in 2024 that displaced more than 11 million people, caused hundreds of deaths, and inflicted over USD 700 million in losses. In Nepal, although typhoons were not the cause, intensified monsoon rains produced comparable devastation, triggering landslides across more than 40 districts and killing over 250 people.

This pattern has continued into 2025, with several powerful storms arriving in rapid succession. Super typhoon Ragasa hit the Philippines in September, before moving to Taiwan and southern China, where it caused storm surges up to 9 feet, massive evacuations (over 2 million in China), and substantial infrastructure damage.¹⁰

In the same month, Bualoi followed, which formed near the Philippines and intensified as it reached Vietnam, causing 27 deaths in the Philippines, 51 in Vietnam, injuring hundreds, disrupting power for 2 million Vietnamese households, and damaging 44,000 homes.¹¹

In early November, Typhoon Kalmaegi brought widespread flooding to central Vietnam, uprooting trees, damaging buildings, disrupting transport and agriculture, and leading to the evacuation of over 537,000 people.¹² The most recent storm, Typhoon Fung-wong,



Typhoon Bualoi in Hanoi (photo by author, Claire Stein 2025)

first hit Aurora province, in the Philippines, in early November, and then headed to Taiwan, causing destructive widespread floods, power outages for entire towns, landslides, and displacing more than a million people.¹³ Combined with the damage of Kalmaegi, the widespread destruction prompted President Marcos Jr. to declare a “state of national calamity” in the Philippines¹⁴ and to unlock emergency funds.

Beyond Direct Human Costs, Economic Losses, and Humanitarian Fallout

Beyond human and material tolls, typhoons cause deep economic losses and long-term impacts on livelihoods. A 2022 World Bank report estimated that annual losses from typhoons in the Philippines already reach 1.2 per cent of the Gross Domestic Product (GDP), rising to 4.6 per cent in extreme events like Super Typhoon Yolanda (Haiyan) in 2013. Climate change could push losses to 7.6 per cent of GDP by 2030 and 13.6 per cent by 2040 if left unaddressed.¹⁵ However, the report noted that investing in adaptation, especially climate-resilient infrastructure, could help lower economic losses by 2.5 per cent by 2030 and up to 6.2 per cent in 2025.

Typhoons also deepen inequalities, hitting vulnerable groups hardest, and increase humanitarian needs. For example, after Typhoon Kalmaegi in Vietnam, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) documented widespread disruptions, including damaged roads and power lines, leaving isolated communities without access to essential services such as water supply or health assistance. Storms also damage Water, Sanitation, and Hygiene (WASH) infrastructure, increasing the likelihood of waterborne or foodborne diseases. The report highlighted urgent needs for food aid, agricultural inputs, and repairs to irrigation systems to sustain livelihoods.¹⁶ Vulnerable groups include pregnant and lactating women, young children, and people with disabilities or living with illnesses, who often face heightened risks when nutrition, water, or health services are disrupted. Last, these cascading impacts often extend beyond national borders, interrupting supply chains¹⁷ and contributing to inflationary pressures.¹⁸



Tacloban City was the worst hit by Super Typhoon Haiyan (ILO via Flickr 2013)

The Missing Billions in Disaster Spending

According to Greenpeace Philippines, there are major leakages in the country's disaster-risk management funding. The group estimates that as much as PHP 1.089 trillion in climate-tagged spending since 2023 may have been vulnerable to corruption. This is based on government climate-finance data and testimonies indicating that only 30-40% of some flood-control budgets reach actual implementation.¹⁹ Independent media investigations point to similar issues. The East Asia Forum reported several "ghost projects", including a PHP 55-million flood-control structure in Bulacan that was never built.²⁰ The Philippine Daily Inquirer also reported widespread use of inflated contracts and "cuts" of 20-25%, which leave only a fraction of the funds for real construction.²¹ The Philippine Centre for Investigative Journalism (PCIJ) reported overall deep structural corruption and inequality in the country's flood control programmes.²² Together, these cases reveal deeper governance failures that weaken the country's ability to prepare for increasingly destructive typhoons. One OpEd argued that such corruption not only weakens physical infrastructure but also destroys public trust and fuels social anger,²³ highlighted by subsequent political tension and mass protests.²⁴

However, there is hope for better responses. The Philippines recently passed the Declaration of State of Imminent Disaster Act (Republic Act No. 12287), which formally integrates anticipatory action into the country's Disaster Risk Reduction and Management Framework.²⁵ Developed by the Office of Civil Defence with support from the World Food Programme (WFP), the law enables national and local authorities to act before a disaster strikes, using forecasts and risk assessments to release funds early, protect homes and livelihoods, and reduce humanitarian impacts.

Hope Amid the Storms: Some Models of Efficient Response

Vietnam provides an example of coordinated planning and rigorous monitoring response to crises. After Typhoon Yagi, it conducted a multi-sector assessment to guide evidence-based recommendations for sustainable and resilient recovery.²⁶ It has also invested, with World Bank support, in flood-resilient infrastructure projects in the Mekong Delta while involving local authorities in disaster monitoring and response.²⁷ However, Vietnamese leaders, including Prime Minister Pham Minh Chinh, have urged stronger adaptation measures, calling for improved institutions and greater risk management capacity.^{28 29}

Japan, despite facing centuries of earthquakes, tsunamis, floods, typhoons, and volcanic eruptions, has developed highly effective disaster reduction practices, grounded in community involvement and continuous innovation.³⁰ Its *bōsai* approach, which combines prevention, mitigation, preparedness, response, recovery, and reconstruction, integrates both hard technologies (such as resilient infrastructure, sensors, engineering systems) and soft strategies (including education, training, governance, community involvement).³¹ Through the Asian Disaster Reduction Centre, Japan shares knowledge and builds the capacity of officials and researchers, including those from Small Island Developing States (SIDS), who face increasing threats from sea-level rise and stronger tropical cyclones, and often lack the fiscal capacity to respond.³²

Beyond Adaptation: Building a Fair and Resilient Future

While some scientists warn that the world is nearing irreversible climate thresholds, mitigation remains essential and urgent, as underscored by the United Nations (UN) Secretary-General António Guterres.³³ At this year's UN Climate Change Conference (COP30), civil society groups, including voices like Lidy Nacpil, coordinator of the Asian Peoples' Movement on Debt and Development, emphasised that governments must commit to climate justice, fair financing, and a just transition that protects vulnerable populations.³⁴

Although the long-term frequency of storms is uncertain, their severity and destructive potential are projected to worsen, making preparedness and long-term recovery indispensable national priorities. Countries must deploy appropriate fiscal tools, such as green budgeting, targeted tax incentives, green subsidies, and climate-aligned public investment. They must expand green and resilient infrastructure and ensure that climate action supports sustainable and inclusive development, while protecting the most vulnerable communities.

Policy Recommendations

- Independent audit institutions, civil society, and international bodies such as the United Nations Framework Convention on Climate Change (UNFCCC) can play an important role in monitoring whether climate and disaster-response are used as intended.
- Multi-stakeholder partnerships involving national and local governments, development institutions such as the Asian Development Bank (ADB) or Japan International Cooperation Agency (JICA), engineering firms, and local communities could contribute to building and maintaining climate-resilient infrastructure.
- Local governments could partner with meteorological agencies and humanitarian organisations to integrate typhoon impact forecasts with planned relocation and evacuation support for households in high-risk areas.
- Collaboration between governments, UN agencies, and local non-governmental organisations (NGOs) is needed to expand crucial social protection responses, including cash transfers, livelihood support, and temporary income assistance, to help households recover from typhoons and climate impacts.
- Humanitarian agencies, with local governments, should ensure the continuity of essential services during and after typhoons, including health care, nutrition, clean water, and food assistance, with particular attention to pregnant women, young children, people with disabilities, and isolated rural communities.

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India's Digital Personal Data Protection Act (DPDPA) in Action: Digital Individualism vs. Tribal Collectivism

Kedar Bhasme

Key Takeaways

- India's DPDPA precipitates a fundamental constitutional crisis in Northeast India by enforcing a philosophy of "normative individualism" that is structurally incompatible with the collective governance models mandated for tribal communities under the Sixth Schedule and Articles 371A and 371G.
- The digitisation of customary records threatens to fracture communal identity, as the Act's recognition of the "Data Principal" as a singular unit allows individuals to unilaterally alienate or erase data regarding land titles and lineage that constitutes the shared heritage of the entire clan.
- Section 17's broad exemptions for State instrumentalities risk bypassing the "Free, Prior, and Informed Consent" (FPIC) mandates established by the Supreme Court, effectively disempowering Gram Sabhas from exercising their statutory right to control local development and beneficiary data.
- A policy shift toward "Data Pluralism" is essential to reconcile these diverging legal epistemologies, requiring the introduction of "Community Data Fiduciaries" and dual-key consent mechanisms that empower traditional bodies to manage digital rights on behalf of the group.

1. The Collision of Two Legal Epistemologies

The enactment of India's Digital Personal Data Protection Act, 2023 (DPDPA) marks a paradigm shift in the nation's governance of informational privacy, yet it precipitates a fundamental constitutional crisis within the pluri-legal framework of Northeast India.¹ The DPDPA is predicated on a philosophy of normative individualism, identifying the "Data Principal" as a singular, atomic unit empowered with unilateral rights to consent, erasure, and correction.² This statutory architecture is structurally incompatible with the collective governance models constitutionally mandated for tribal communities under the Sixth Schedule, Article 371A (Nagaland), Article 371G (Mizoram), and the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA).³

In these customary jurisdictions, rights over land, lineage, and cultural knowledge are not individual assets but communal estates vested in the clan, village council, or Gram Sabha.⁴ The immediate legal risks arise from the digitisation of traditional records, specifically land titles (under schemes like SVAMITVA), genealogical registers, and customary resource rosters.⁵ Under the DPDPA, an individual clan member may exercise "erasure" or "portability" rights over data that is intrinsically communal, thereby fracturing the integrity of collective records essential for tribal identity and inheritance. Furthermore, Section 17(1) of the DPDPA, which exempts State instrumentalities from consent requirements for "legitimate uses", potentially empowers the central government to bypass the Free, Prior, and Informed Consent (FPIC) mandates established by the Supreme Court in the Orissa Mining Corporation (Niyamgiri) judgment.⁶

The digitisation of governance in India is not merely a technological upgrade; it is a re-engineering of the relationship between the citizen and the state. The DPDPA represents the culmination of a decade-long debate on privacy, sparked by the Aadhaar judgment and crystallised in *K.S. Puttaswamy v. Union of India*.⁷ However, as the Indian state attempts to standardise data processing protocols to fuel a \$1 trillion digital economy, it encounters the friction of India's "asymmetric federalism", specifically, the distinct constitutional status of the tribal communities in the Northeast.⁸

1.1 The DPDPA's Individualistic Architecture

The DPDPA is built upon the edifice of the "Data Principal", defined strictly as the individual to whom the personal data relates.⁹ The Act constructs a privacy framework where this individual is the sole locus of authority, empowered to grant consent, withdraw it, and demand the erasure of their digital footprint. This model aligns with the Supreme Court's ruling in *Puttaswamy*, which recognised privacy as a fundamental right flowing from individual dignity and liberty under Article 21.¹⁰ It draws heavily from Western legal traditions, particularly the European Union's General Data Protection Regulation (GDPR), which views privacy as the protection of the individual against intrusion.¹¹ However, this architecture assumes a homogenised citizen-subject who exists independently of their community. It fails to account for "informational privacy" in societies where the "self" is constituted through relationships such as kinship, clan, and village.¹² By centralising power in the individual and the State (through broad exemptions), the Act ignores the intermediate layer of community rights that defines social and legal life for millions of tribal citizens. The Act's silence on "group privacy" or "community data" concepts extensively debated by the Kris Gopalakrishnan Committee but ultimately discarded creates a legislative vacuum that threatens tribal autonomy.¹³

1.2 The Customary Legal Order of Northeast India

In contrast to the DPDPA's individualism, the legal order of Northeast India is fundamentally collectivist. The Constitution of India, through the Sixth Schedule and special provisions like Articles 371A (Nagaland) and 371G (Mizoram), creates a "state-within-a-state" mechanism.¹⁴ Here, legislative competence over key areas such as land, inheritance, marriage, and social customs is transferred from the Parliament and State Assemblies to Autonomous District Councils (ADCs) and traditional village authorities.¹⁵ In these jurisdictions, an individual's rights are derivative of their membership in a community. Land is often owned by the clan (Ri Kur in Meghalaya) or the village; inheritance is determined by customary lineage laws; and justice is dispensed by tribal courts that prioritise restorative community harmony over individual adversarial vindication.¹⁶ The legal subject here is not just the individual citizen, but the member of a collective.

1.3 Digital Sovereignty vs. Digital Colonialism

This clash is not merely administrative; it is ontological. The concept of Indigenous Data Sovereignty (IDS), which asserts that Indigenous peoples have the right to control data about their communities, lands, and resources, frames this conflict as a struggle against "digital colonialism".¹⁷ Just as colonial legal systems historically derecognised collective land tenure to facilitate extraction (labeling it *terra nullius*), the DPDPA's refusal to recognise collective data rights threatens to extract information from tribal communities converting sacred lineages and community resources into tradeable "digital assets" without the collective consent required by their customary laws.¹⁸

This report, serving as a continuation of previous work on data sovereignty in Australia and New Zealand (ANZ), analyses this conflict through the lens of legal precedents and offers a roadmap for reconciling these diverging legal epistemologies. It leverages the theoretical frameworks of the CARE Principles and the empirical realities of India's Northeast to demonstrate why a "one-size-fits-all" data law is constitutionally untenable.



Ao Naga at Chuchuyimlang village, India (Retlaw Snellac Photography from Belgium via Wikimedia Commons 2007)

Personal Data (2020), which explicitly proposed the recognition of "Community Data" and "Community Rights" to prevent the exploitation of aggregated data sets that belong to a group rather than any single individual.²⁰

In the context of tribal communities, this omission is fatal. Tribal identity is rarely singular; it is relational. A "Naga" or "Khasi" individual's data such as their clan affiliation, their village of origin, or their customary land holding is inextricably linked to the data of their entire kinship group. By recognising only the individual, the DPDPA allows a single member to alienate, sell, or delete data that constitutes the shared heritage of the entire group. This mirrors the "individualisation of tenure" that colonial powers used to break up communal lands; today, it is the individualisation of data about tenure.²¹

2.2 The Consent Mechanism and its Customary Incompatibility

Section 6 of the DPDPA mandates that consent must be "free, specific, informed, unconditional, and unambiguous".²² While this sets a high standard for individual autonomy, it fails to accommodate "Collective Consent" protocols mandated by customary law.

In many Sixth Schedule areas, an individual cannot authorise the sharing of family or clan records without the approval of the Kur (clan) head or the village council. The DPDPA ignores this hierarchy. If a fintech company seeks access to a tribal individual's land data for a loan, and the individual consents, the DPDPA treats this as valid. However, under customary law (e.g., in the Khasi Hills), that land may be ancestral clan property (Ri Kur), and the individual may have no right to encumber it or share its details without the clan council's durbar.²³

The Act grants Data Principals the Right to Erasure (Section 12). If a disgruntled family member demands the erasure of their name from a digitised family tree, the DPDPA

2. The Legal Architecture of DPDPA 2023 and the Exclusion of Collective Rights

To understand the depth of the conflict, one must first dissect the operational mechanics of the DPDPA 2023 and identify specifically where it structurally excludes collective rights. The Act's definitions and mechanisms are designed for a liberal, market-based society, creating friction when applied to customary, kinship-based societies.

2.1 The "Data Principal" as an Atomic Unit

Section 2(j) of the DPDPA defines a "Data Principal" as the individual to whom the personal data relates. Where the individual is a child or a person with a disability, the definition extends to their parents or lawful guardians.¹⁹

The Act contains no provision for a "Collective Data Principal" or a "Group Data Principal." This is a significant departure from the recommendations of the Kris Gopalakrishnan Committee on Non-

Personal Data (2020), which explicitly proposed the recognition of "Community Data" and "Community Rights" to prevent the exploitation of aggregated data sets that belong to a group rather than any single individual.²⁰

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compels the Data Fiduciary to comply (unless retention is required by “law”). This unilateral erasure could destroy the genealogical proof required by the entire clan to prove their Scheduled Tribe (ST) status or inheritance rights in a customary court. Because “law” in the DPDPA typically refers to statutory law, it is unclear if customary law requirements for record retention would be respected as a valid exception to erasure.²⁴

2.3 Section 17: the State’s Override Power and the FPIC Bypass

Perhaps the most contentious provision regarding tribal autonomy is Section 17, which exempts the “State and its instrumentalities” from the requirement of notice and consent for processing data for “legitimate uses,” including the provision of subsidies, benefits, certificates, or in the interests of the sovereignty and integrity of India.²⁵

This section effectively allows the central or state government to digitise tribal records (land, census, health) without seeking the consent of the Gram Sabhas or Autonomous District Councils.

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA), specifically empowers the Gram Sabha to approve all plans, programs, and projects for social and economic development. By allowing the State to process data for “benefits” without consent, Section 17 of the DPDPA bypasses the Gram Sabha’s statutory right to verify beneficiary lists and control local development data.²⁶

The Forest Rights Act (FRA), 2006, vests the authority to recognise forest rights in the Gram Sabha. Digitisation of forest rights data by the State without Gram Sabha consent, enabled by Section 17 violates the spirit of the Niyamgiri judgment, which mandated collective decision-making.²⁷

Table 1 – Examples of DPDPA conflicting with Northeast India Customary Law

Feature	DPDPA (Section 6)	Customary Law (Northeast India)	Conflict Point
Locus of Consent	Individual Data Principal	Gram Sabha / Village Council / Clan Head	Individual can bypass community checks.
Withdrawal	Unilateral right of the individual	Often requires community consensus	Individual withdrawal disrupts collective records.
Purpose	Specific usage (e.g., loan, service)	Holistic community welfare	Commercial use vs. Customary prohibition.
Authorisation	Digital verification (OTP, Biometric)	Public deliberation / Consensus	Lack of transparency in digital consent.

3. The Customary Legal Order: Constitutional Shields in Northeast India

To appreciate why the DPDPA’s application is contested, one must examine the robust constitutional shields that protect the “customary mode of life” in Northeast India. These are not merely cultural recognitions; they are jurisdictional bars against the automatic application of parliamentary law.

3.1 Article 371A: The Nagaland Paradigm

Article 371A of the Constitution stands as the strongest bulwark against legislative encroachment. It states that “no Act of Parliament” in respect of:

- Religious or social practices of the Nagas;
- Naga customary law and procedure;
- Administration of civil and criminal justice involving decisions according to Naga customary law;
- Ownership and transfer of land and its resources.

shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.²⁸

The digitisation of land records involves processing data about “ownership and transfer of land.” Since Article 371A explicitly excludes Parliament’s jurisdiction over Nagaland, the DPDPA’s provisions regulating the processing of digital land records are arguably unconstitutional in Nagaland unless ratified by the Assembly.²⁹ The DPDPA dictates how land data is stored, shared, and erased functions that impinge on the substantive right of “ownership and transfer.”

Naga customary law relies on oral and written records maintained by village councils. The DPDPA’s imposition of a “Data Protection Board of India” (a central body) to adjudicate disputes regarding these records constitutes an interference in the “administration of civil justice” according to customary law, which Article 371A forbids.³⁰

3.2 Article 371G: The Mizoram Context

Similar to Nagaland, Article 371G provides that no Act of Parliament concerning Mizo customary law, social practices, or land ownership shall apply to Mizoram unless the State Assembly resolves to adopt it.³¹

The Mizoram Assembly has previously exercised this power to block or modify central acts (like the Forest Conservation Amendment Act, 2023) to protect local rights.³² The DPDPA, by regulating the “digital” aspect of Mizo identity and land data, falls squarely within the ambit of “Mizo customary law and procedure.” Without a resolution from the Mizoram Assembly, the enforceability of DPDPA on Mizo tribal data remains legally precarious.

3.3 The Sixth Schedule and ADCs

In Assam, Meghalaya, Tripura, and Mizoram, the Sixth Schedule creates Autonomous District Councils (ADCs) with legislative powers over land, forests, and inheritance.³³

Paragraph 3 of the Sixth Schedule empowers ADCs to make laws regarding “inheritance of property” and “social customs.” Data regarding these subjects (e.g., a digital will or a digital marriage certificate) is, therefore, subject to ADC legislation. The DPDPA’s attempt to regulate this data centrally creates a federal conflict, as it encroaches upon the legislative domain reserved for these autonomous bodies. The Governor, under Paragraph 12(1)(b), has the power to direct that an Act of Parliament shall not apply to an autonomous district or shall apply with such modifications as he may specify.³⁴

4. The Conflict Vectors: Where Data Meets Custom

The conflict between the DPDPA and customary law is not abstract; it manifests in specific categories of data that are currently undergoing digitisation.

The Government of India’s Digital India Land Records Modernisation Programme (DILRMP) and SVAMITVA scheme aim to create a centralised, digital database of land ownership.³⁵ The goal is to provide “conclusive titling.” In tribal areas, land is often held communally or under “usufructuary” rights that do not translate easily into the “exclusive individual ownership” model of digital databases. When a surveyor enters a name into the database as the “owner” (Data Principal), they effectively erase the underlying community title. Under DPDPA, this individual “owner” can then consent to share this land data with banks or real estate developers.

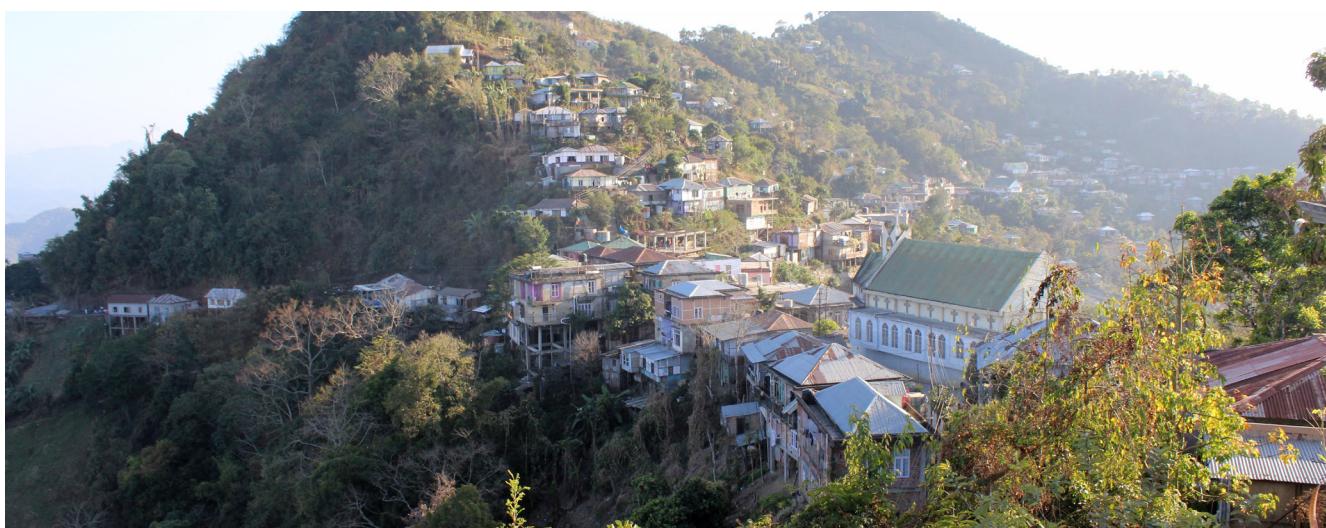
Customary law requires the Village Council to approve any land transfer. The DPDPA allows the “Data Principal” to share land data directly with third parties, bypassing the Council’s oversight and potentially facilitating land alienation to non-tribals, a practice strictly prohibited in Sixth Schedule areas.³⁶ The SVAMITVA guidelines themselves note the complexity of implementing in Sixth Schedule areas due to these conflicts.³⁷

Tribal identity in Northeast India is strictly lineage-based. The Khasi inherit lineage from the mother (Kur), while Nagas follow patrilineal clan lines. Records of these lineages are maintained orally or in clan registers. A member of a Khasi clan converts to a different religion or leaves the community and, exercising their rights under Section 12 of the DPDPA, demands the erasure of their personal data from the clan’s digital lineage register.

Under DPDPA, the Data Fiduciary (the Clan Council or researcher) might be legally obligated to erase the data. However, under customary law, the integrity of the lineage record is paramount for determining the inheritance of ancestral property (Ri Nongtymmen). The erasure of one link breaks the chain of evidence for the entire group. Here, the individual’s “Right to Erasure” directly destroys the community’s “Right to Cultural Preservation” and legal evidence for succession.³⁸

The Naga Hoho and other bodies have vehemently opposed the patenting or unauthorised digitisation of traditional designs and medicinal knowledge.³⁹ If a researcher collects data on traditional medicine from an individual healer and obtains their individual consent under DPDPA, the processing is lawful. Customary law views this knowledge as the collective property of the tribe. An individual cannot consent to its alienation. By validating individual consent, the DPDPA provides a legal veneer for biopiracy, allowing corporations to bypass the collective authorisation required under the Nagoya Protocol and customary norms.⁴⁰ The Traditional Knowledge Digital Library (TKDL) attempts to protect this, but DPDPA does not explicitly integrate TKDL’s defensive mechanisms into its consent framework.

Genomic research often targets indigenous populations due to their unique genetic markers. The uploaded research highlights the risks of “overvaluing individual consent” in such studies.⁴¹ Genetic data is inherently shared; an individual’s DNA reveals information about their parents, siblings, and tribe. The DPDPA allows an individual to consent to genetic sequencing. This data can stigmatise the entire community (e.g., if a predisposition to alcoholism is “discovered”). Tribal communities require collective consent for genetic research to assess group harm, a provision standard in ANZ research ethics but absent from the DPDPA.⁴²



Melthum veng, Aizawl, Mizoram, India (R London via Wikimedia Commons 2014)

5. Comparative Insights: Learning from the ANZ Experience

The conflict in India is not unique; it mirrors the struggles of Indigenous peoples in Australia and New Zealand (ANZ), offering valuable comparative insights for policy formulation.

In New Zealand, the Waitangi Tribunal has recognised Māori data as “taonga” (treasure), protected under Article 2 of the Treaty of Waitangi. This legal status requires the Crown to partner with Māori in data governance, rather than merely consulting them.⁴³ The shift from census to administrative data (using existing government records) was opposed by Māori groups because it created “deficit data” focusing on crime and health problems rather than cultural resilience. Where in New Zealand, Te Mana Raraunga (Māori Data Sovereignty Network) was established and Māori data governance protocols integrated into New Zealand’s statistics, India lacks an equivalent “Tribal Data Sovereignty Network” or statutory recognition of tribal data as taonga. The Global Indigenous Data Alliance (GIDA) proposed the CARE Principles (Collective Benefit, Authority to Control, Responsibility, Ethics) to complement the FAIR principles (Findable, Accessible, Interoperable, Reusable) used by scientists.

Australia’s new framework emphasises “decolonising bureaucracy” by shifting from consultation to co-design.⁴⁴ It requires government agencies to partner with Indigenous communities throughout the data lifecycle. In contrast, India’s DPDPA was drafted with minimal consultation with tribal bodies, reflecting a top-down imposition rather than a co-designed partnership.

Table 2 – Comparison between the DPDPA and CARE approaches

Principle	DPDPA Approach	CARE / Indigenous Approach	Recommendation for India
Collective Benefit	Benefit to individual or economy	Benefit to the community ecosystem	Mandate “Community Benefit” assessments for tribal data processing.
Authority to Control	Control with Data Fiduciary/State	Control with Indigenous governance bodies	Recognise Gram Sabhas as “Community Data Fiduciaries.”
Responsibility	Accountability to Data Protection Board	Accountability to the people/relations	Decentralise grievance redressal to ADCs.
Ethics	Minimising individual harm	Minimising collective harm	Introduce “Collective Harm” as a category in DPDPA rules.

6. Toward a Pluralistic Data Democracy

The DPDPA represents a significant leap in India’s digital governance capabilities, but its uniform application threatens to replicate the historical injustices of colonial resource extraction in a new, digital guise. By treating data as a purely individual asset, the Act renders invisible the complex web of collective rights and customary duties that sustain the tribal societies of Northeast India.

The “conflict” described here is not merely technical; it is a test of Indian federalism. If the “special provisions” of the Constitution (Articles 371A, 371G, Sixth Schedule) are to have meaning in the 21st century, they must extend to the digital domain. Data about land is as sensitive as the land itself; data about lineage is as sacred as the bloodline.

Failing to address this will likely lead to extensive litigation, with tribal bodies invoking the Niyamgiri and Ratan Singh precedents to challenge the DPDPA’s constitutionality. Alternatively, India has the opportunity to become a global leader in Indigenous Data Sovereignty, demonstrating how a modern digital economy can coexist with, and empower, ancient systems of collective wisdom. The path forward requires moving from “Data Protection” to “Data Pluralism,” where the digital rights of the individual do not come at the cost of the digital sovereignty of the community.

Policy Recommendations

To resolve this conflict and prevent a “digital mutiny” in the Northeast, where tribes may refuse to participate in digital census or land surveys, the Government of India must adopt a pluralistic approach to data governance.

- The Act should be amended to introduce a ‘Community Data Fiduciary’ status for traditional bodies like Gram Sabhas and Clan Councils. These bodies would hold the rights of a Data Principal on behalf of the group for datasets that are collectively owned. Furthermore, for data tagged as ‘Tribal’ or ‘Scheduled’, the Act must mandate a ‘dual-key’ consent mechanism: requiring collective consent via the Village Council in addition to individual consent. This ensures that individual data sharing does not harm collective interests and aligns the statute with customary governance.
- State-level constitutional powers must be activated to create specific exemptions. The Governors of Assam, Meghalaya, Tripura, and Mizoram should utilise Paragraph 12(1)(b) of the Sixth Schedule to notify that the DPDPA applies with modifications, specifically designating ADCs as appellate authorities for customary data disputes. Simultaneously, the Legislative Assemblies of Nagaland and Mizoram must pass resolutions under Articles 371A and 371G respectively, applying the DPDPA only if it incorporates specific rules protecting customary data ownership, thereby forcing the Central Ministry to issue state-specific regulations.⁴⁵
- Instead of tribal data residing in the silos of corporate fiduciaries or the State, it should be held in Data Trusts managed by the community. The Trust would act as a legal intermediary, negotiating terms of access with third parties (banks, researchers, government). This can leverage the existing Account Aggregator framework but replace the commercial intermediary with a Community Trust. This ensures that the economic value of data (monetisation) flows back to the tribe, aligning with the Kris Gopalakrishnan Committee’s vision of community economic rights over data.⁴⁶
- Digital platforms like Bhu-Aadhaar (land records) or health registries operating in tribal areas must build FPIC workflows directly into their code. When a surveyor attempts to digitise a land parcel in a Sixth Schedule area, the software should require two digital signatures: one from the individual holder and one from the Village Headman (Rangbah Shnong/Gaon Burha). Without the Headman’s digital authorisation (signifying community consent), the record cannot be finalised in the central database.⁴⁷

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Platform for Peace and Humanity
office@peacehumanity.org
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