

Beyond the Extractive Imaginary: Stories of Repair from Forest Rights Agitations in India

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1 Introduction

The extractive legal imaginary has been productively used to describe law's constitutive role in enabling the 'enclosure' and 'grab' of natural resources (Ranganathan 2019). In the context of India's forests, this political imperative is embedded in the way different actors in the regulatory network interpret laws such that extraction becomes an inevitability. In many areas across India's coal-rich forested stretches, the land is a constitutionally protected area that cannot be sold to non-Adivasi communities (Kodiveri 2023).¹ However, the same land is categorised as a coal-bearing area under India's *Coal Bearing Areas Act* 1957 which can then be easily acquired under this legislation. Presumed constitutional safeguards are discarded in the process, whittled away by legal manoeuvres that further an extractive relationship with forests. Articulating the notion of an extractive legal imaginary provides us with a sophisticated account of the violence enacted by law (Shutzer 2021). It tells us how law's discursive, interpretive and argumentative possibilities are harnessed by actors who use the law in ways that enable extraction (Koskeniemi 2021). In this paper, we go in search of a different imaginary that allows us to identify the law's capacity to conduct repair. Why embark on this quest?

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This paper emerges from conversations that its authors have had over the course of their respective PhD projects. Arpitha's work has examined how legal struggles by forest-dwelling communities in India have transformed the landscape of forest law and democratised governance (Kodiveri 2024). In her interactions with forest-dwelling communities whose land was being acquired for extractive projects, there was strong criticism of extractivism. Alongside this criticism was a range of legal strategies aimed at recognising Indigenous sovereignty² and protecting the forests. While there is a rich vocabulary for describing the harms of extractivism, there is relatively less attention paid towards identifying possibilities for legal relations to be articulated differently. Danish, meanwhile, has attempted to find precisely those articulations of legal possibility in his focus on creative acts of queer dissent against the sodomy law in India (Sheikh 2021). Over the course of his project, Danish found that the idiom of repair helped him better describe the jurisprudential significance of these acts of dissent. It also allowed him to think more carefully about the law as a tool that might enable repair, even as it is used to enact violence against queer communities. Arpitha felt these insights about repair could refract productively back to contestations around forest rights in India.

The idioms that we choose have consequences. There are other ways to describe Adivasi struggle: mobilisation and resistance, for instance, are repeated motifs in other work (Nilsen 2018, Sundar 2024). To speak of mobilisation directs attention to a counter-imaginary operating at a broader level, in terms of geographic scale. To speak of resistance focuses attention on how individuals and communities have refused to comply with the state and, consequently, the extractive imaginary. In different ways, these idioms train our attention towards moments of rupture, and to the breaking away from the dominant imaginary (see Christodoulidis 2009). Even as attention to resistance highlights these moments of opposition, it can potentially overshadow the everyday, constructive efforts of communities to transform the law on their own terms.

The idiom of repair has the potential to describe legal mobilisation

by forest-dwelling communities in India, demonstrating ways in which the law is malleable and can be shaped by marginalised communities who are excluded from it, along with troubling the question of what is considered lawful. If resistance tends to focus on challenging existing legal frameworks through opposition or strategic legal action, repair offers a reimagination of the law's purpose and its possibilities. It also holds the promise of finding different ways of understanding the state's interventions with Adivasis. Thinking about state law reform efforts in terms of repair allows us to gauge the impulses that sit behind these efforts and find different ways of tracking how the law fails to achieve its implied promises.

We anchor these explorations in a story. The story begins with the struggle over control and decision-making between the state and forest-dwelling communities in India's forested regions. Under the colonial forest law framework, these communities were excluded from participating in decisions about conservation and development, with power concentrated in the hands of the state. After India gained independence, the state attempted to decentralise power and authority through constitutional law and changes to the forest law framework (Pathak 2002). As this paper will show, these efforts were acts of legal reform and repair by the state. However, these laws were rarely implemented. In response, Adivasi and forest-dwelling communities pushed back, mobilising the law and staging protests. They called for the implementation of these existing laws and advocated for the creation of new progressive legislation to further the decentralization of authority in these areas, such as the *Panchayat Extension of Scheduled Areas Act* 1996 and the *Forest Rights Act* 2006.

Through the idioms of repair, we have chosen to focus on a crucial story that runs within these accounts, which foregrounds resilience and creativity in engagement with the law. In doing so, we join a scholarly orientation invested in capturing hopeful possibilities within the law. Scholars working along these lines have explored 'efforts to use the language, form, and legitimacy of law to imagine law otherwise' (Cohen & Morgan 2023: 1054), finding resources for the legal imagination

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in unexpected sites (Cooper 2019, Thorpe 2020, Davies 2022, Birrell 2022). Repair has increasingly emerged as a point of interest, with scholars exploring how repair work requires practitioners to cultivate particular kinds of skills (Stauffer 2015) or reading engagements with law reform as different kinds of repair work (Mazel 2022). In the next part of the paper, we will discuss some ways of thinking about repair that are particularly relevant to our enquiry. In Part Three, we provide an account of the State's attempts to conduct repair through a series of legislative and constitutional responses, while Part Four explores points at which these attempts fail. In Part Five, we provide an account of Adivasi attempts to conduct repair, with a focus on the Pathalgadi movement's installation of stones and boards that highlight provisions of the Indian Constitution.

2 Repair

When speaking of repair, it is helpful to start by noting a few things: what is the object that is broken and in need of repair, how is the act of repair conducted and by whom, and what the aim of repair might be. In *Repair: The Impulse to Restore in a Fragile World*, Elizabeth Spelman gives us a set of examples to orient this enquiry (Spelman 2003). Here, Spelman contrasts the story of a mechanic in a garage with an art restoration expert. Both are repair workers, but with different aims and techniques. The mechanic, in this example, deals with a broken car while the restoration expert deals with an artwork that has deteriorated through the ravages of time. The choice of repair act is linked with the aim of repair. The mechanic wants the car to be able to function. It doesn't matter how the specific job is conducted, what tools are used, what spare parts are replaced. The art restorer has a different task – they need to respect the integrity of the painting, to slow and perhaps reverse the effects of time without mutilating the artwork. Here, choices of tools and materials are inextricably linked to the aim of restoration. The artwork certainly can't be altered in the manner that the car might be. Conversely, imposing the level of scrutiny required for repair of the artwork on repair of the car would result in delays and financial

burdens beyond what the mechanic or their customer would desire.

Sometimes, the “thing” that breaks isn’t an object but rather a relationship. In that instance, repair can be approached in relational terms, where the act of repair is oriented towards restoring a frayed relationship (Almassi 2021). Relationships break in uniquely different ways. The task of repair requires an attentiveness to the context of how this damage has occurred. Drawing on Linda Radzik’s work, Ben Almassi asks us to think about relational damage that undermines trust between parties (Almassi 2021). As with the discussion on the repair of objects, there is no one blueprint for how to go about understanding this damage or enacting relational repair. Rather, if we attempt to assess the manner in which trust has been broken, we can have a tailored conversation about how it might be re-established.

The ways in which trust is restored or generated depends greatly on the nature of the relationship in question. A functional relationship doesn’t necessarily have to be a friendly one. The establishment of trust does not require the parties to be in intimate relation. Consider, for instance, Patricia Williams’ anecdote about finding housing in New York around the time her (White, male) colleague Peter Gabel is involved in the same search (Williams 1991). Trust is an important value for both Williams and Gabel, but the differential manner in which it manifests in this context is revealing. Gabel sets up an informal lease with his landlord because he doesn’t want the formality of the lease to come in the way of a friendly relationship. For Williams, on the other hand, a formal lease is precisely the object that will generate trust with her landlord. As a Black woman, she finds that she is not considered trustworthy until she enters the formal life of the law – the contract document enables her to trust and be trusted by virtue of its formality. It enables her to form a relationship with a landlord – even if the relationship is one that is distant and formal, lacking the friendliness and informality that Peter Gabel seems to have.

This account tells us of the curious quality that law’s formality could hold when attempting to enact relational repair. If Spelman asks us to consider bespoke approaches to repair with respect to different objects

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and ends, here law becomes a malleable tool of repair that enables the potential forging of previously non-existent relationships, or the mending of frayed relationships. This raises another line of enquiry: as Erin O'Donnell notes, in attempting to use law as a device of repair, 'we must be explicit about the kind of relationships we want to create, and why' (O'Donnell 2023).

It is also worth noting the different weights and consequences attached to the status of the repair worker. When we think of the gathering momentum calling for reparations against colonial injustice (Rao 2019) and addressing the ongoing legacy of racial violence, slavery, genocide and colonialism (Klein & Fouksman 2022), the state is often the entity called upon to do the work of repair. Reparations demands oriented towards the state range from the material to the symbolic, encompassing compensation, redress, atonement, recognition, land, artefacts, public apologies and programs, for individuals or communities. The state is required to *do* something for reparation and repair to take place. The task of the scholar is to painstakingly document the many forms of injustice that have taken place, in order to hold the state to account. Further, the task extends to ensuring that once the state has indeed recognised its responsibility towards reparation, the process of providing reparations is conducted in a just manner (see de Greiff 2006).³ Reparations in this vein may be considered as 'claims for structural justice through negotiated agreement' (Mason-Case & Dehm 2021).

Contrast this notion of the 'state as repair worker' with repair as imagined in the work of queer theorist Eve Sedgwick. In this account, repair emerges not from the state, but rather from individuals and communities who attempt to conduct repair in the immediate moment, on their own terms. Sedgwick asks us to think about reparative practice in terms of 'the many ways selves and communities succeed in extracting sustenance from the objects of a culture – even of a culture whose avowed desire has often been not to sustain them' (Sedgwick 1997: 280). Given our quest for counter-imaginaries to the *extractive*, it is interesting to note how the term appears in this articulation of

repair.⁴ Here, the object of extraction is flipped: if the extractive legal imaginary works to reduce nature to a resource, the imaginary of repair often starts with an object that is designed to alienate the self. The work of extraction here is to receive sustenance from this object. To sustain is to bear the weight of something, to go on. The degree to which one might go on is unclear, but by itself, to find sustenance is to find a way to live with something. To pay attention to repair work is to then pay attention to how we find a way to live with something (Dao & Sheikh 2024).

These repair workers are not placed equally. Different consequences attach to doing and refusing to do repair. As we go on to note in Part Three, when called upon to do repair work, the State has the option to refuse, an option that it often exercises without immediate, meaningful consequence. On the other hand, repair work that emerges from Adivasis in Part Five can come at great cost, sometimes being met by State violence. Without displacing the state's responsibility to address harm, identifying Adivasi practices as forms of repair allows us to think about repair as a constructive project (Táíwò 2022). In this register, we are able to think about how Adivasis engage in the task of world-making, with the constructive work of reparation geared towards how we get to a re-imagined just world.

3 The State as Repair Worker

The (broken) relationship at the heart of our story is one between the state and forest dwelling citizens in India. It is a relationship mediated by the law, and shaped through varying notions of sovereignty and stewardship of forest land (Lele & Menon 2014). In this section of our paper, we describe how the state has attempted to create opportunities for repair by way of legal reform aimed at decentralising decision-making power in forested areas.

The relationship between the state and the forest-dwelling citizen was historically configured through colonial laws in such a way that state-state decision making marginalised non-state actors and perspectives. Historically, Indian forest law had few avenues for the

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participation of non-state actors, such as forest-dwelling citizens, in decision making. The state, through the forest department, had wide discretionary power to declare areas as reserve forests or protected forests (Pathak 2002, Guha 1990). Once declared under these categories of protection, the capacity for forest-dwelling citizens to exercise their forest rights was limited.

There is significant overlap between forest areas and areas which have been declared as Schedule V areas. Constitutionally, Schedule V designates areas where the population of scheduled tribes exceeds fifty percent and includes safeguards against the alienation of land. The Governor at the state level holds the power to pass laws prohibiting the sale of land from a tribal to a non-tribal person as well as passing of others laws in the area and the Tribes Advisory Council (TAC) advises the Governor in making these decisions. Scheduled areas are governed through a governance arrangement that allows for self-governance for forest-dwellers, relying on the powers of the governor and the TAC to represent their interests on aspects of land acquisition, development and implementation of other laws (Sundar 2023). Thus, while forest laws cement state sovereignty in decision making, in scheduled areas the assertion of state sovereignty is mediated through the TAC. A more negotiated model of sovereignty emerges in such areas, creating an opportunity for dialogue and to repair the relationship by addressing the underlying issues that have led to the fissures and cracks in the relationship between forest-dwellers and the state (Almassi 2020).

Constitutional law through the designation of Schedule V areas offered an opportunity for forest-dwelling citizens and scheduled tribes in particular to check the dominant assertion of state sovereignty. Social movements led by forest-dwelling communities have aimed to reshape forest laws to create more avenues for participatory and deliberative decision making. This began with the *National Forest Policy* 1988, which recognised the importance of forest-dwelling communities' participation in conservation. More radical deliberative experiments coincided with the 73rd and 74th Amendments to the Constitution, which decentralised the governance structure in rural and urban

areas with the three-tier panchayat system. Decentralisation was an important step in the direction of relational repair. However it was also inadequate, and did not translate to the effective devolution of authority in decision-making in forest areas, with the state retaining considerable authority and power (Joseph & Joseph 2018).

The more radical deliberative experiments in the democratisation of forest governance and devolution of authority in scheduled areas were through the passing of the *Panchayat Extension of Scheduled Areas Act 1996* (PESA) and *The Forest Rights Act 2006* (FRA). PESA facilitated significant decentralisation by extending executive powers to local institutions in scheduled areas following the 73rd amendment of the Indian Constitution. This legislation empowered the Gram Sabha or Village Assembly to govern scheduled areas in accordance with customs and traditions. The Act aimed to decentralise decision-making and enable self-rule, recognising the role of customary law and institutions of dispute resolution. The Gram Sabha, as a statutory and regulatory authority, possesses the power to revive and safeguard customary practices. The Act includes a provision that explicitly defines the scope of power granted to the Village Assembly concerning matters of development and governance of natural resources. The powers of the Gram Sabha are as follows:

- (i) Safeguarding and preserving:
 - (a) Traditions, customs, and cultural identity of the people.
 - (b) Community resources.
 - (c) The customary mode of dispute resolution.
- (ii) Carrying out executive functions to:
 - (a) Approve plans, programs, and projects for social and economic development.
 - (b) Identify beneficiaries under poverty alleviation and other programs.
 - (c) Issue certificates for the utilization of funds by the Panchayat for plans, programs, and projects.

The PESA framework facilitated self-determination by requiring

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community approval of all social and economic development plans affecting their village. The Gram Sabha, serving as a statutory and regulatory authority, played a crucial role in decision-making within the village. PESA acknowledged the significance of customary law and dispute resolution institutions through empowering the Gram Sabha to revive and protect customary practices. It is worth noting, however, that PESA applied only to scheduled areas.

Adivasi communities residing in non-scheduled areas did not benefit from the decentralisation of governance that came with PESA (Kannabiran 2018). This unequal access to self-governance within the legal framework was rectified by the *Forest Rights Act* 2006 (FRA). The FRA introduced forest governance decentralisation, granting the Gram Sabha the authority to conserve and manage forest areas, as well as the right to provide and refuse consent before any deforestation activities. The right to provide and refuse consent however has not been adequately implemented, with instances of the state bypassing this procedural requirement like the creation of fake Gram Sabha resolutions (Choudhury & Aga 2018). More recently this right has been erased with amendments brought to the Forest Conservation Act, 1980 in 2021 (Joshi & Sethi 2022). These provisions applied to all forest areas, not just scheduled areas, thereby expanding the legal avenues available for Adivasi communities to assert their right to self-governance (Bandi 2013).

Decentralisation in law and governance is described by Adivasi communities as a way to insert their voices into state decision-making and assert their claims to Indigenous sovereignty. Nonetheless, the nature of adivasi sovereignty that the laws recognise is procedural rather than substantive. The reason for describing sovereignty within the law as procedural is because it requires mere consultation with the Village Assembly. Under the Constitution, in Scheduled Areas the TAC works with the governor to inform decisions being made about development and the environment which impact the village. Similarly, with PESA and FRA too, the Village Assemblies have to work with the formal state apparatus to make decisions on conservation and development for

the village. These reforms by creating avenues within the governance architecture for forest-dwelling communities to inform and shape the decisions being made by the formal state act as an opportunity for relational repair through dialogue.

4 Techniques of State Control in Adivasi Areas: Fracturing the Relationship

Where the preceding section details attempts by the state to craft a relation of repair, this section describes some of the ways in which the state has reneged on its reparative attempts. Each of these moves by the state involves the use of law to seize control: pitting one set of forest laws against another while interpreting laws in a manner that retains state sovereignty; the non-implementation of laws that require participation by scheduled tribes; and the use of criminal law as a threat against movements for Adivasi assertion (Kodiveri 2024). Care in the form of a state that is deliberative is stripped away from the legal relationship between the state and the Adivasi (Kikkon 2019), leading to a fracture in the relationship.

A Conflicting Laws and Interpretive Control by the State

Indian forest laws are inherently in conflict. *The Indian Forest Act 1927* (IFA) and *the Wildlife Protection Act 1972* (WPA) aim to conserve forest areas by excluding forest-dwelling communities from participating in forest governance. This legal framework is rooted in exclusionary conservation, where conservation efforts, often driven by global and national environmental agendas, view forest-dwelling communities as threats to biodiversity rather than as stewards of the environment (Saberwal, Rangarajan & Kothari 2001). This perspective leads to the displacement of these communities and the violation of their rights. Similarly, laws like the *Coal Bearing Areas Act 1957* recognise the state's significant power to acquire land deemed necessary for coal extraction, to the exclusion of the rights of forest-dwelling communities (Pathak 2002).

While the *Forest Rights Act* (FRA) and the *Panchayats Extension*

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to *Scheduled Areas Act* (PESA) that we have discussed in the preceding section were created to establish a governance structure that decentralises power, the aforementioned laws continue to centralise authority in the hands of the state. This conflict remains unresolved. The interpretative clauses in the FRA and PESA require that these laws should be read together with the IFA and WLPA. However, no corresponding amendments have been made to the IFA and WLPA to recognise the democratised forest governance structure. The manner in which these laws are reconciled in forest areas by the forest bureaucracy allows them to assert interpretive control, often enabling resource extraction (Ranjan 2016). The court has intervened in an ongoing case where the constitutionality of the Forest Rights Act 2006 is being challenged where it has limited the nature of forest rights that can be recognized where it the right to cut trees will require permission from the forest bureaucracy (Kodiveri 2024).

Take the example of the Himgiri coal block in Sundergarh in the eastern Indian state of Odisha where a large open-pit coal mine, surrounded by dense forests, has been operated by Mahanadi Coal Fields India Ltd since 1987. The villages around the mine, largely occupied by Adivasi communities, find themselves in a state of limbo. As residents describe, their land is now ‘banned’ – legally categorised as forest land, a Scheduled Area, and a coal-bearing area. These multiple legal classifications bring with them various conflicting laws that either recognise or silence the political claims of Adivasi sovereignty.

In this case, the land was designated as a coal-bearing area under the *Coal Bearing Areas Act* 1957. This Act grants the state the privilege of disregarding other claims to sovereignty and control over forest land, prioritising the state’s right to extract coal for nation-building. The laws in Adivasi areas however, have the potential to challenge the state’s right to extract coal. The overlapping statutes have been interpreted by the bureaucracy in a way that reasserts state control (Choudhury & Aga 2018).

As a senior bureaucrat working with Coal India in coal-bearing areas across India explained in an interview:

Coal is a national necessity. We cannot compromise the state's right to eminent domain to secure the land rights of forest-dwelling communities. They will have to be relocated, and we must ensure they are well compensated; that is the only way. (Interview by Kodiveri in July 2019)

This statement encapsulates the forest department and district collector's interpretive control of when forest rights and the decentralised forest governance architecture are recognised and when they are silenced. The state's interpretive authority under the CBA, IFA and WLPA allows it to selectively enforce laws and governance arrangements in forest areas.

B Non-Implementation of Laws

The state often retains control in forest areas through the non-implementation of PESA and the FRA. This strategy prevents the operationalisation of decentralised forest governance structures, allowing the *Indian Forest Act* (IFA) and the *Wildlife Protection Act* (WLPA) to function without integrating the provisions of PESA and FRA (Mongabay 2021).

The failure to implement PESA is largely due to sub-national governments not passing the necessary Rules in scheduled areas that would make the PESA and FRA operative. Only 40 per cent of states with Scheduled Areas have done so, and significant Adivasi-populated states like Chhattisgarh, Jharkhand, Madhya Pradesh, and Odisha have not enacted the Rules (Mongabay 2021). This has stalled the alignment of other laws related to local self-governance and forest governance with the PESA.

The non-implementation of the FRA is mainly due to the rejection of forest rights claims, particularly by the sub-divisional level committee, which includes members of the forest bureaucracy. This committee often prioritises exclusionary conservation, leading to the denial of rights. A recent study found that these governance tensions persist, with forest bureaucracy continuing to prioritise exclusionary conservation over the rights of forest-dwelling communities (Lee &

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Wolf 2018).

Legal and bureaucratic obstacles, including a lack of political will, resistance from state forest departments, and complex procedures for recognising rights under the FRA, have contributed to the slow and incomplete implementation of these laws. This enables state agencies to maintain control over forest lands, often in ways that contradict the intent of PESA and the FRA (Kodiveri 2024).

C Criminalising Forest Rights

Another technique of state control in Adivasi areas is the use of criminal legal provisions within the IFA and WLPA to prevent the exercise of forest rights by forest-dwelling communities. The case study of the arrest of Madappa (name changed) provides insights into how criminal charges get filed against forest-dwelling communities and the impact it has on the recognition of forest rights in the summer of 2016, Madappa and his friends were returning home after a long day at work with a bag of catfish they had caught from a local pond in the Cauvery Wildlife Sanctuary. A forest guard saw them, asked them to stop, and began investigating the contents of the bag. When the guard discovered the fish, he immediately confiscated the bag and arrested them for hunting within the sanctuary, a crime under the *WLPA* 1972 (Kodiveri 2024).

Madappa and his friends were shocked. Fishing in the local pond was vital for their community's sustenance, and they felt unjustly arrested for accessing a source of nutrition. To complicate matters, they were accused of catching the nearly extinct Mahseer fish, native to the Cauvery River. This wildlife offence allowed the forest department to arrest them without a warrant and confiscate the fish as legal evidence.

The injustice here is multifaceted. The wide discretionary power enjoyed by the forest department enables them to charge forest-dwellers with criminal offences and adjudicate these offences under the IFA and WLPA. In this case, the forest guard was empowered to charge Madappa with hunting, arrest him without a warrant, and confiscate what was essentially his dinner.

Wildlife and forest offences serve as instruments of coercion in forest areas, where the exercise of rights, like the collection of minor forest produce or subsistence farming, continues to be criminalised. Cases like Madappa's are common in India's forests, reinforcing state control over forest governance, with forest-dwelling communities often living under the threat of imminent arrest.

Taken together, these techniques of seizing control result in the states reneging on its avowed aims under the FRA and the PESA. The state as repair worker has failed in its promises, resulting in a relationship with Adivasis that is frayed, riven with mistrust if not outright violence. But as we have suggested earlier in this paper, it is important to consider repair work that emerges from individuals and communities on their own terms. In the next part of the paper, we take up the example of the Pathalgadi movement as a series of reparative tactics that aim to bring the state back into relation with Adivasis.

5 Adivasis as Repair Workers

As we travelled to the village we were greeted by giant green metal boards bearing the key provisions from the Constitution, PESA and the FRA. The board highlighted that we were now in a scheduled area where the Village Assembly had decision making authority.⁵

These fieldnotes by Arpitha capture the moment of her encounter with artefacts from the Pathalgadi movement in Sundergarh, a mineral rich forested district in northern Odisha. Despite its legal designation as a scheduled area, the PESA and the FRA had not been implemented here. This led the village community to make the decision to join the Pathalgadi movement, a creative legal mobilisation effort where communities remind the state of the constitutional legal protections and recognition of Adivasi sovereignty by inscribing provisions from Schedule V of the Indian constitution onto a piece of stone. As we have noted earlier, Schedule V provides special protections and decentralized administrative arrangements for the governance of designated regions with significant tribal populations. The Sundergarh inscriptions focused on Article 244(1) within the schedule, which pertains to the

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administration of scheduled areas. In this instance, the provisions were inscribed in white paint upon a green metallic board which was installed at the entrance of the village. As described by Adivasi communities in Sundergarh, the practice attempts to re-articulate the rights that should be respected before entering the area, at a time when other laws that support this recognition are being diluted.

How can we approach Pathalgadi practice as a distinct form of Adivasi-led repair work? We begin by noting the role of tangible artefacts like stones and boards in expressing the law. This allows us to consider the dual purpose served by these artefacts: as a reminder to the State of its obligations, along with an invitation to engage in dialogue. state go on to discuss the manner in which the State's sometimes violent cognisance of these efforts bolsters the jurisgenerative significance of Pathalgadi practice.

A Objects of Repair and the Invitation to Dialogue

Repair work begins with an object. The repair worker attends to the object (Fawaz 2019). We might take the object here to be the constitutional provisions that the state has systematically flouted. In one sense, the state's disregard of its constitutional obligations has led to a state of disrepair. These promises are broken. The repair worker's negotiation with the broken object involves a form of reassembly, the creation of a new object composed of elements of the old (Sedgwick 2003). Here, the objects that Pathalgadi practice creates are tangible artefacts that reconstruct broken promises. The stones do not simply point to a legal statute - they become a material expression of the law.

The Pathalgadi movement initially began in the state of Jharkhand in the village of Khunti where the Munda community installed these stones to protest the dilution of the *Chota Nagpur Tenancy Act* 1908 and the *Santhal Pargana Tenancy Act* 1908. The practice, as scholar Rahul Ranjan shows, is derived from an historical practice of erecting stones in burial sites as a mark of respect:

These rituals help to ceremonialize the erection of stone slabs and attach social prestige to the material object. In turn, they form a

cosmological belief structuring the lifeworld of the community-making the landscape a 'cultural process' mediated by memory, experiences and traditional practices (Ranjan 2023)

The Pathalgadi movement draws from this tradition of memory and cultural relationship to land being mediated by the materiality of stone. The act of remembering is an act of reparation (Figlio 2017). The state often conducts symbolic acts of reparation through the creation of statutes and memorials (see Koozarch).⁶ With Pathalgadi boards and stones, we have the creation of structures that serve as Adivasi memory while also reminding the state of its obligations. The reminder to the state might also be considered to serve a different reparative purpose: to offer an invitation to dialogue and the creation of a different relationship between Adivasi and the Indian state.

In a manner that recalls Patricia Williams' deliberations on the formality of the lease agreement as a pathway to a relation with her landlord, the performed formality of the boards and stones provides a pathway towards a conversation. Trust has been frayed as a result of the State's dereliction of its own proclaimed obligations. The artefacts generated by the Pathalgadi movement can be seen as an attempt to restore trust through speaking in a shared language. In conversation with Arpitha, a group of Adivasis in the district of Sundergarh described the Pathalgadi ritual as a process of reclaiming interpretive power, through which they could have a dialogue with the state about the terms and conditions on which their relationship might be built. This conversation is part of the work of relational repair.

The specific choice of materials to conduct repair is intrinsically tied to our desired aims, as we saw from the discussion of the mechanic and the art restorer in Part Two. In this particular instance, the community chose to use boards instead of stones because the former 'would be more official and will last longer'.⁷ The formality was important. The erection of the board was an event to which the local bureaucracy was invited, which they accepted. While we do not have evidence of whether the relationship proceeded on more equal terms after this encounter, we hold on to this story for the imaginative resources it furnishes.

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B Jurisgeneration and the Violent Reality of the Law

The installation of these structures is also a jurisgenerative act, creating and giving meaning to law (Cover 1982). With the stone becoming a material expression of the law, a seemingly symbolic act went on to gather real-world consequences of re-energising Adivasi movements and their legal assertions over their lands and territories (Dungdung, Padel & Damodaran 2022). Robert Cover asks us to think of law as a bridge between reality and an imagined alternative, constructed through accreting narratives (Cover 1982). These narratives, even when untethered from legal reality, might cause reality to rush back in. Cover uses the example of a Vietnam War Crimes Tribunal put together by Bertrand Russell and Jean Paul Sartre that claimed to be ‘merely’ engaging in acts of dramatisation (Cover 1984). That claim was offset by the French Government’s attempts to shut down the tribunal, alarmed by its juridical form. ‘Mere’ symbols can attract the law’s attention and, in so doing, become part of a normative universe. Partaking in this universe also results in an exposure to law’s violence (Cover 1986).

In this instance, law’s violent reality rushed in when the Adivasi villagers in the village of Khunti, Jharkhand who began the movement were charged with the crime of sedition. The invitation to dialogue and repair by Adivasi communities was met with violence by the state. This tension shows how attempts to repair by Adivasi communities are seen as a threat by the Indian state. Nandini Sundar asks why this deep engagement with constitutional questions is considered dangerous and worthy of criminalisation (The Wire 2018). Sundar recounts how the state government in Jharkhand had been distributing pamphlets asking citizens not to be swayed by the constitutional interpretations being offered. News headlines around the Pathalgadi movement in Odisha and Jharkhand positioned it as a separatist movement.

Where was this perceived danger emerging from? In conversation with the Adivasi youth in the village, they stated: ‘The threat is not one of interpretation but one of re-articulation of laws that they have forgotten as they make decisions to dispossess us from these forested

stretches' (Interview with Kodiveri in July 2018). The community was acutely aware of the state's perception of these activities as a threat. Following extensive consultation with members of the village about the advantages and disadvantages of taking up Pathalgadi practice, the decision to go ahead was made once it was acknowledged that the entrance of extractive industries and dispossession posed a greater threat.

As we noted earlier, different consequences attach to repair depending on who is performing it. When the State is called upon to engage in legal repair, it can falter or simply refuse, often without immediate repercussions. With Adivasi communities, however, the attempt to engage in legal repair, when perceived as a challenge to state authority, is met with a violent response. In one sense, the State's response actively negates the relational repair work done by the Pathalgadi movement, as the State refuses to engage in the invitation offered. Repair work fails. At the same time, the violence of the State's response suggests that another aspect of this repair work has been effective, in that it has actualised its jurisgenerative potential. The State's actions here echo the alarm of the French government in Cover's example: the 'mere' symbols in both instances become part of a normative universe. We are left with an uneasy sense of the consequences of power asymmetry when it comes to engaging in repair work.

6 Conclusion

Our legal struggle is defined by our quest for respectful dialogue with the state. The state uses multiple strategies to avoid entering into a meaningful dialogue with us, and we do everything we can to be heard (Interview with Brahmaro Das, Dalit forest-dweller and activist).

As the above quote suggests, the quest for dialogue and desire for deliberation with the state encapsulate the reparative approaches of forest-dwelling communities in India as they counter extractivism. The Pathalgadi movement extends an invitation to the state, practicing a form of relational repair. The state's refusal to engage with this

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invitation, coupled with its violent responses, undermine the possibility of repair, while also reinforcing an extractivist imaginary. This refusal, and its accompanying violence, does not negate the significance of Adivasi repair work. Rather, it highlights the resilience and ingenuity of Adivasi communities in navigating a complex and often hostile legal environment.

Adivasis are not simply resisting the state's extractive policies; they are actively engaging in world-making, proposing alternative futures where law serves as a medium for relational repair and dialogue rather than merely a mechanism for resource extraction. The stakes of articulating repair work are profound. To speak of repair is to acknowledge ways in which forest laws and the web of relationships they foster are broken, but it is also to insist on the possibility of mending and reimagining these legal relations. It shifts the focus from resistance alone to the potential for renewal and transformation, emphasising that the struggle for justice is not only about contesting power but also about constructing better ways of being in relation.

The Pathalgadi movement allows us to consider how communities might creatively use the law to reclaim interpretive power and support relational repair. It reminds us that the law is not merely a tool of governance but a dynamic space for dialogue, where the voices of forest dwelling communities are integral to the creation of a just and sustainable future.

Endnotes

1. Adivasi is a term used by forest-dwelling communities that identify and describe themselves as the original inhabitants of India.
2. Indigenous sovereignty is a contested term with multiple meanings across India's forested stretches. In this paper, based on interviews with forest-dwelling communities in Odisha, the term refers to self-governance of indigenous territories through the Village Assembly and implementation of the constitutional arrangement of scheduled area governance as described later in the paper.
3. For a useful overview of the different contexts of use of the term 'reparations', see de Greiff 2006.
4. We would like to acknowledge the editors' insights that helped us appreciate this point.
5. Fieldnotes on file with the authors.
6. <https://www.koozarch.com/interviews/experiments-in-reparations>
7. Fieldnotes on file with the authors.

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