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The Land and the Associated Rights of the Scheduled Tribes of India

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Scheduled tribes are called scheduled tribes because the identity of these tribes is accommodated in the schedule 5th and 6th of the constitution of India and provisions apply to those particular groups only. The Tribal welfare fund is also available to help these scheduled tribes and improvise their lifestyle within their livelihood but these funds are interrupted and unfortunately ineffective utilized by the people. Officials from the forest service see the STs as competitors in their traditional effort to preserve forests and animals. This is not necessary. More than increasing the nation's economy these industries have depleted the natural resources. Damaging and creating hindrances to save it has been part of the problem but these things directly aim at damaging the life of Scheduled tribes in India. Scheduled tribes roughly consist of 8 % of India's total population but due to these livelihood threats, their being has decreased. For these scheduled Tribal groups land rights generally inherit from their Scheduled tribe membership. Historically the basic occupation of the scheduled tribe are hunting, gathering, and agriculture activities. The presence of a legal frame by the nation and the state government guarantees the efficient and equitable acquisition of land and areas of the scheduled tribes. Which is socially inclusive, politically feasible, and challenging. The constitution of India provides special protections for the scheduled tribes for their livelihood and land rights not only for being their major living but also for their identity, culture, and history.

Keywords: *scheduled tribes, land rights, legal rights, forest dwellers, community rights.*

INTRODUCTION

Scheduled Tribes means an Indigenous people officially regarded as socially disadvantaged. The scheduled tribe of India is defined in the Constitution of India under Article 366 (25) as “such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342¹ to be scheduled tribes for this Constitution”. Scheduled tribes are called as scheduled tribes because the identity of these tribes is accommodated in the schedule² 5th and 6th of the constitution of India and provisions apply to those particular groups only. Exceeding 50% of the scheduled tribe population is in central India such as Madhya Pradesh, Chhattisgarh, Jharkhand, Andhra Pradesh, Maharashtra, Orissa, Gujarat, and Rajasthan. According to the report, Mizoram has ranked highest population place consisting highest number of scheduled tribes. The current population of scheduled tribes in India is 10.43 Crore. The 75 particularly vulnerable tribal groups (PVTGs) situation is still dire; some are on the verge of extinction, such as the Pahari Korbas, Bharias, Dongria Khonds, Onges, and Shompens³. The majority of funds allocated to PVTGs are used for local and regional development. The development plan must be redesigned to put more emphasis on individualised skill development and live hood in light of their extreme backwardness. The Tribal welfare fund is also available to help these scheduled tribes and improvise their lifestyle within their livelihood but these funds are interrupted and unfortunately ineffective utilized by the people. Officials from the forest service see the STs as competitors in their traditional effort to preserve forests and animals. This is not necessary. It would be advantageous to the tribes if the government made it a requirement that one of their constitutional obligations be the protection and prosperity of tribal communities that live in the forest.

The Forest Rights Act of 2006,⁴ which bravely sought to reverse the past expulsion of tribal communities from the lands, has not been broadly understood and forcefully put into effect this cannot be reasonably stated by the Government but it can be voidable considering the sympathy

¹ Constitution of India

² Constitution of India, art 244

³ Viji, ‘Scheduled tribes in India’ (*Vikaspedia*) <<https://vikaspedia.in/social-welfare/scheduled-tribes-welfare/scheduled-tribes-in-india>> accessed 13 November 2020

⁴ Forest Rights Act 2006, s 3

for the Tribal Communities people livelihood. Preservation done by the forest officials appointed by the Government stating it as a reserved forest suddenly and evacuating the living and settled forest Scheduled tribes deprives the guaranteed right by the Constitution of India, 1950.

LIVELIHOOD OF THE SCHEDULED TRIBES

India had been always a developing democratic country and the fastest-growing country as in resources and natural production. It is no doubt that India is one of the corporate hubs for natural resource production. More than increasing the nation's economy these industries have depleted the natural resources. Damaging and creating hindrances to save it has been part of the problem but these things directly aim at damaging the life of Scheduled tribes in India.

Scheduled tribes roughly consist of 8% of India's total population⁵ but due to these livelihood threats, their being has decreased. Not only inside India, but there are also numerous Scheduled Tribes present in Andaman Nicobar Island and Lakshadweep Island. Middle states of India have more than 75% population of scheduled tribes. There are 573 communities recognized and established as Scheduled Tribes by the Government of India who are therefore eligible to receive special benefits and to compete for reserved seats in legislatures and schools⁶. Numerous Scheduled Tribe traits have been customarily entrenched in Tribal groups rather than caste identity. Those are languages, slang they speak, social organization, religious association, economic motif, geographic location, and individual identification. Not all scheduled tribes are recognized some are recognized some are not due to their lifestyle and being.

Unlike others, the Scheduled Tribes groups have complex and interrelated economic exchange patterns. Mostly Scheduled Tribes tend to form their self-sufficient economic units. They perform swidden farming commonly at their place. They are egalitarian, its leadership is based on the ties of personality a kinship instead of hereditary status. Tribes generally incorporate segmentary lineages where extended family provides the root for social control and social

⁵ Jagran Josh, 'Schedule tribe in India' (*Jagran Josh*) <<https://www.jagranjosh.com/general-knowledge/schedule-tribes-in-india-1448689214-1>> accessed 15 November 2020

⁶ *Ibid*

organization. Unlike other caste or religious hegemony, Tribal groups will never accept any other person's authority outside the scheduled tribal groups. Some of the Tribal such as Gonds are tremendously stratified. The Forest Rights Act states that a Scheduled Tribe member who has lived on and used a plot of forest land since 2005 but does not now have official legal title to it is entitled to one. These rights are also available to non-tribal communities known as Other Classic Forest Dwellers, but they must show documentation that they have lived in the forest area for multiple generations.

THE LOST RIGHTS OF THE SCHEDULED TRIBES

Land rights refer to the unassailable ability of Individuals in India to freely obtain, use and possess land at their circumspection, as ever their activities and performance on their land do not affect any other individual's rights. For these scheduled Tribal groups land rights generally inherit from their Scheduled tribe membership. Historically the basic occupation of the scheduled tribe are hunting, gathering, and agriculture activities⁷. The scheduled tribes often use the barter system method to get the products where they lacked to improve their livelihood and infrastructure such as iron, salt, cooking utensils, etc. In the twentieth century, the areas and lifestyle of these Scheduled tribes have been extensively developed both in the form of communication and transportation. These may be the only positive goodness of the Scheduled tribes of India according to the eye of Indian citizens.

The harsh truth is that the development had craved deep intrusions into the tribal which completely damaged their circumstances of a basic livelihood. Various government policies are involved but on non-favorable terms of the scheduled tribes. In the 19th century, enormous areas fell into the hands of non-tribal groups, where the government opened the region for homestead settlement such as for farmhouse building and amenities for the non-tribal peoples. Many sudden immigrants received free land for cultivating agricultural land. Even though the tribal people could apply for land titles, they could not ensure the permanent settlement of their land belonging to themselves. This shows the foreign ownership of the land of the forest against the

⁷ Vasht, 'Scheduled Tribes' (*Toppr*) <<https://www.toppr.com/guides/history/tribes-nomads-and-settled-communities/tribal-societies/>> accessed 04 December 2020

Indian Tribal people. According to the scheduled tribes land was never subjected to ownership their titles for nature's ownership were only introduced by the colonial but later for lawful existence, it is still being continued.⁸

The scheduled tribes considered the land as nature and communal resources stating that it can be used by anyone who needed it. later by the spin of time, the scheduled tribes felt the importance of obtaining official title to their lands, but when they claimed it they had lost the opportunity which was only handed to the non-tribes by this time they lost their opportunity of having their lands who would have been having their rightful being in it. The root cause for these problems is, these scheduled tribal people are disadvantageous to reach the government officials who gave them land titles. Which exists till now.

Pre-Independence period the colonial realized the exploitation of these tribal people and protected them from depletion and prohibited the tribal areas and lands from sale and slavery. Even though, the important means for land leases were left unclosed whereas their exploitation continues. The rich non-tribal people bribed the local official for land holdings in their areas, which ruined the capacity of the scheduled tribes to hold their land and its titles. The means protective legislation was horde; local officials continued to ignore the land acquisition of the non-tribal peoples. The process that created suffrage is land acquisition and the lease of plots. The loss of government official interest in these land holdings and lease period checks are also the major cause that the non-tribal people took as an advantage to relinquish it.

The non-tribal people also lured the scheduled tribes which made them indebted and mortgaged and lost in the process of the whole pay for credit. Soon, the scheduled tribes became landless labourers in their area. The other indirect problem that the tribal are facing is the cash economy when they cultivate crops, and cotton the merchants buy at low rates and make the scheduled tribe people depend more on the non-tribal groups for their basic livelihood and living. The next cause is the construction of dams and mining activities have paved the path for foreign investments and abduction. Extention of geographical areas such as roadway constructions and

⁸ *Ibid*

distribution of forest lands. There is only 13% of scheduled tribes' land area in India but they generate 90% of minerals for the nation⁹. This clearly shows the deep meaning behind the scheduled tribal areas being scrutinized.¹⁰

LEGAL PROVISIONS

The presence of a legal frame by the nation and the state government guarantees the efficient and equitable acquisition of land and areas of the scheduled tribes. Which is socially inclusive, politically feasible, and challenging. The constitution of India provides special protections for the scheduled tribes for their livelihood and land rights not only for being their major living but also for their identity, culture, and history. Scheduled tribe rights are one of the vulnerable, impoverished, and suffering ones in India. Due to the construction of dams, mines, research centres, and industries. Parks and sanctuaries in most of the scheduled tribal areas have been depleted from their hands regardless of any legislation by the government and its officials. The constitution and legislation by the government are contradictory and fragmented. But these legal provisions failed despite several attempts to save the STs of the tribal area. The eminent rights of the Scheduled tribes have been deprived by other powerful national laws such as the forest act, the mining act, and the land acquisition act. These laws damage not only the rights but also the identity of the scheduled tribes. There is certain welfare allocated for the protection of scheduled tribes by the governments but it is still, unhappening to them due to inappropriate system of administration. There are few provisions available to safeguard the rights of the Scheduled Tribes such as:

- Article 342¹¹ provides for the specification of tribes or tribal communities or parts of or groups within tribes or tribal communities which are deemed to be for the Constitution the Scheduled Tribes about that State or Union Territory.

⁹ Namita Wahi & Ankit Bhatia, 'The Legal Regime and Political Economy of Land Rights Of Scheduled Tribes in the Scheduled Areas of India' (*CPR India*) <<https://cprindia.org/briefsreports/the-legal-regime-and-political-economy-of-land-rights-of-scheduled-tribes-in-the-scheduled-areas-of-india/>> accessed 24 November 2020

¹⁰ *Ibid*

¹¹ Constitution of India, art 342

- Article 366¹² of the Constitution defines "Scheduled Tribes" which means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for this Constitution.
- Article 19¹³ provides everyone the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
- Article 46¹⁴ provides The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.
- Article 335¹⁵ provides the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or a State.
- Article 338¹⁶ of the Constitution provides for the appointment of a Special Officer for the Scheduled Castes and Scheduled Tribes who are charged with the duty to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution. ¹⁷

CONCLUSION

There are also other provisions available for the scheduled tribes drafted by the state governments to protect and prevent them from further exploitation and enhance welfare. There are a lot of corporate and prestigious rich minds behind the depletion of the scheduled tribes and their land. Apart from their livelihood being exploited, there are also the nation's resources

¹² Constitution of India, art 266

¹³ Constitution of India 1950

¹⁴ *Ibid*

¹⁵ *Ibid*

¹⁶ Suratha, 'Tribal exploitation in India' (*Springer Link*) <https://link.springer.com/chapter/10.1007/978-981-15-5382-0_7> accessed 09 September 2022

¹⁷ Constitution of India, art 338

being spoiled and destroyed. To summarise, tribal land alienation continues in various states of India, in general, and in the Koraput district (Odisha), in particular, despite several laws and laws to protect tribal land. Tribals have raised their voices and organised movements to assert their rights to land, water, and forest resources in terms of their life, livelihood, freedom, and identity. However, the post-independence state has decided to follow colonial legacies and is attempting to suppress tribal voices by silencing their movement and labelling tribals as Maoists in the pursuit of peace, development, and democracy, as seen in the case of the Narayanpatna movement¹⁸. The state is fighting its own people without addressing the root cause of the tribal problem. As a result, even after 70 years of independence, tribals in India remain underdeveloped and impoverished, with no freedom, rights, or dignity.

¹⁸ Suratha (n 16)