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A SOCIO-LEGAL ANALYSIS OF CONSTITUTIONAL SAFEGUARDS FOR TRIBAL EMPOWERMENT IN INDIA: CHALLENGES, PROGRESS, AND POLICY RECOMMENDATIONS

Rutvij Vyas¹

I. ABSTRACT

This research paper delves into the issue of tribal rights with its background, its constitutional provisions, recent Socio-economic and political changes in tribal society, the background, functions and powers of the National Commission for Scheduled tribes, the issues faced by the tribal society in many areas such as healthcare, education, legal aid, finances. etc, and the research paper provides with a 16 point policy suggestions to uplift and empower tribal society in India. Overall the paper deals with the main theme of Constitutional safeguards for tribal rights and in furtherance it is related to socio- economic aspects of the issues faced by scheduled tribes and their solutions in the form of policy measures.

“If there is someone who saved the forests it is our tribal community. Saving forests is a part of tribal Culture”- Narendra Modi, at the National tribal carnival on 25th October 2018

II. KEYWORDS

Tribal rights; Constitutional safeguards; National Commission of Scheduled tribes; Scheduled tribes

III. INTRODUCTION

“A tribe is a social group with a territorial affiliation; endogamous; with no specialisation of functions; ruled by some tribal officers, hereditary or otherwise; united by language or dialect”, is one of the widely accepted definitions of tribe as

¹ Faculty of Law, GLS University

said by Dr D.N. Majumdar². The Constitution of India provides for several fundamental safeguards for the protection of interests and the promotion of the welfare of tribal communities. Article 366 (25) defines Scheduled tribes (ST) as 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". Article 342 concerns the guidelines for tribal communities as declared under an official notification by the President.

Article 244 of the Constitution of India, creates a special provision for administration and governance of certain designated "scheduled/tribal areas"³. The fifth schedule of the Constitution deals with the administration and governance of the Scheduled areas for scheduled tribes other than 10 states⁴. The sixth schedule provides for the administration and governance of tribal areas in Meghalaya, Mizoram, Tripura and Assam. The Hon'ble Supreme Court in *Samantha V. State of Andhra Pradesh* case, recognised the rights of tribal communities over their land and other resources furthermore it created an obligation on the state government, not to alienate tribal lands to non-tribals without the prior approval of the Union government⁵.

The tribal groups, with their rich cultural heritage and distinct traditions seen in their way of living, create a substance in India's collective culture and values. However, institutionalised inequality has made them vulnerable and has reduced them to social, economic, and political marginalisation. Understanding the need to protect, uplift, promote and empower these indigenous groups, the makers of the Indian Constitution incorporated several constitutional safeguards to tribal rights. These constitutional safeguard's purpose is to secure the rights and resources of tribal populations, ensuring their participation in decision-making processes and fostering their development. This study critically examines the implementation and impact of these constitutional provisions for tribal empowerment in India.

² Bhushan V and Sachdeva DR, *Fundamentals of Sociology* (Pearson Education India); 9788131771389

³ M Laxmikanth, *Indian Polity : For Civil Services Examinations* (Tata Mcgraw Hill Education Private Limited 2010); 9789354600357

⁴ Andhra Pradesh, Telangana, Odisha, Jharkhand, Chhattisgarh, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra, and Himachal Pradesh

⁵ 1997 (8) SCC 191, 1997 AIR SCW 3361

One such safeguard is the self-governance of a particular territory, the normal executive & administrative machinery operating in all the states is not extended to the scheduled areas and the Union government has a bit more responsibility for these areas⁶. After 74 years since the constitution was enacted and special provisions were dedicated to the tribal areas, it is important to examine and understand the current conditions of tribes from academic and social perspectives.

IV. RESEARCH OBJECTIVES

1. To comprehensively examine the Constitutional provisions related to Tribal rights and explore the legislative, Executive and Judicial steps that provide and preserve specific rights for tribal groups;
2. To evaluate the impact and effectiveness of the Fifth Schedule of the Indian Constitution on the Social, Economic, and Political conditions of tribal groups;
3. To propose policy recommendations to enhance the strength of the fifth schedule, and to provide wisdom & lucid understanding on how to ensure greater participation as well as representation of tribal groups in the decision-making process.

V. RESEARCH QUESTIONS

1. What are the Constitutional provisions that provide for rights to tribal groups?
2. Whether the rights provided under the Constitution for tribal groups are sufficient and effective for the socio-economic and political upliftment of tribal groups?
3. What steps are taken by the organs of the State to provide and preserve rights for tribal groups?
4. What policy steps can be taken to ensure greater participation of tribal groups in the political process?

⁶ M.P. Jain, *Indian Constitutional Law*, Wadhwa, Fourth Edition, 1987, p. 23

VI. RESEARCH HYPOTHESES

1. The constitutional provisions created for the empowerment of tribal groups have significantly impacted the lives of tribal communities. Furthermore, the State-led efforts for tribal upliftment, including the implementation of policies and programmes framed to improve the socio-economic and political conditions of the tribal groups have brought up an affirmative change and development in the tribal society.
2. The impact of tribal policies, may vary across different geographical locations, cultures and communities due to several factors such as variations in the implementation strategies and local socio-political factors.
3. Despite having several Constitutional provisions for ST groups, The effectiveness of the Constitutional safeguards for tribal upliftment in India is contingent to the extent of administrative support, political will and financial allocation provided by the Union and state governments.

VII. RESEARCH METHODOLOGY

The research methodology adopted in this paper is purely doctrinal in nature. Doctrinal research, also known as library-based research, is a distinctive method of conducting legal research that involves the study and analysis of existing legal provisions and scholarly works. This methodology is well-suited for examining the theoretical and conceptual aspects of law and for providing a systematic exposition of legal doctrines and principles. The primary sources relied upon in doctrinal research include statutory materials, judicial precedents, and authoritative texts, while secondary sources such as commentaries, articles and legal digests are also consulted. The research process involves

the identification, collection, and critical analysis of these sources to draw logical conclusions and offer insights into the legal issues under investigation. Through doctrinal research, this paper seeks to provide a comprehensive and coherent understanding of the legal framework governing the subject matter at hand.

VIII. LITERATURE REVIEW

The paper draws upon key provisions of the Constitution of India, specifically articles 341(1) and 342(1), 344, 350, 338 and Schedules 5th and 6th respectively. In furtherance, it refers to constitutional law commentaries by J.N Pandey⁷, MP Jain⁸, DD. Basu⁹, HM Seervai¹⁰ and Indian Polity by M.Laxmikant¹⁰ to explain the subsequent articles and schedules. The paper analyses in depth the tribal rights, its background, its effectiveness, the impact of constitutional safeguards, the tribal issues and suggested policy steps to uplift tribal communities for which it refers to books, such as:- Tribes and the Indian Society: An Impact of Tribal Development by R. Panwar¹¹; Tribal Justice¹² by Yogesh Pratap Singh and Suvrashree Panda.

Furthermore, the author has referred to a research paper, 'Constitutional Provisions of Tribal Rights and Statutory Institutions¹³' by Hitabhilash Mohanty and Pragyan Chhotroy, the paper analyses and provides a comprehensive understanding of the constitutional-legal protection dedicated to the scheduled tribes in India by portraying the provisions about the recognition and protection of scheduled tribes embedded in the Constitution of India and by further analysing the functioning of the institutional mechanisms provided therein.

IX. BACKGROUND OF TRIBAL RIGHTS IN INDIA

India is home to many tribal inhabitants and they are an important part of the Nation, as per a report analysis, tribal groups consist of over 8.6% of the total population of India. Every tribe possesses a distinct nature and consequently requires Rights, liberties and freedom¹⁴. The Constitution of India seeks to protect tribal interests,

⁷ Pandey JN and Srivastava SS, Constitutional Law of India (Central Law Agency 2015)

⁸ Mahabir Prashad Jain, Indian Constitutional Law (Haryana, India Lexisnexis 2014)

⁹ Durga Das Basu and others, Introduction to the Constitution of India (Lexis Nexis Butterworths Wadhwa Nagpur 2008)

¹⁰ Seervai HM, Constitutional Law of India (1975)

¹¹ M Laxmikanth, Indian Polity : For Civil Services Examinations (Tata Mcgraw Hill Education Private Limited 2010); 9789354600357

¹² Dr. Ramesh Panwar, Tribes and the Indian Society : An Impact of Tribal Development (2011)

¹³ Pratap Y and Panda S, Tribal Justice (Eastern Book Company 2021)

¹⁴ Mohanty, Hitabhilash and Chhotroy, Pragyan, Constitutional Provisions of Tribal Rights and Statutory Institutions (October 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3722232> or <http://dx.doi.org/10.2139/ssrn.3722232>

especially their autonomy and rights over their land & other natural resources¹⁵. The first tribal movement for their right can be traced back to the times of the Kolis Uprising, Santhal Uprising, Khond Uprising and Early Munda Uprising during the 18th and 19th Centuries¹⁶. In our constitutional assembly, Mr Jaipal Singh Munda unequivocally represented the tribal groups¹⁷, and their eloquence ensured the rights of tribal groups. The Constituent Assembly pointed out that some social groups are facing fundamental socio-economic-legal backwardness, such as primitive agricultural practices, untouchability, lack of infrastructure, lack of representation, illiteracy and geographical isolation, it was also observed that they require special attention from the State & Society to protect their interests.

Such social groups were officially recognised as Scheduled Tribes (ST) & Scheduled Castes (SC) under Articles 341(1) and 342(1) of the Constitution. Previously, a Commissioner (Special officer) was appointed under Article 338 to ensure safeguards for SCs and STs. Later in 1978, a non-statutory Multi-Member Commission was established, followed by the removal of Office Of Special Officer¹⁸. Moreover, on 19 February 2004, the National Commission for Scheduled tribes was established to advise the government on key tribal policy issues and the empowerment of tribal communities.

X. SIGNIFICANT CONSTITUTIONAL SAFEGUARDS FOR TRIBAL COMMUNITIES

The Constitution of India is an egalitarian & living document with the idea of equal civil liberties, which creates a deliberative democracy with equal treatment to all its citizens irrespective of caste, class, faith, gender, place of birth or race. The Constitution accepts the principles of Equity and Equal protection of the law, which also provides further for several affirmative safeguards to weaker/ less empowered sections of society including tribal societies. Constitutional provisions ensure the

¹⁵ Ministry of tribal affairs; <https://tribal.nic.in/FRA/data/FAQ.pdf>

¹⁶ 'Tribal Uprisings in the 18th and 19th Centuries | Modern History Notes' (BYJUS) <<https://byjus.com/free-ias-prep/tribal-uprisings-in-18th-and-19th-centuries/>>

¹⁷ Bardolia R, 'A "Jungli" in the Constituent Assembly: Jaipal Singh Munda' (NDTV.com 26 January 2017)

¹⁸ <<https://www.ndtv.com/people/a-jungli-in-the-constituent-assembly-jaipal-singh-munda-1652949#:~:text=Jaipal%20Singh%20Munda%20represented%20the>> accessed 14 March 2024

safeguarding of the interests of people in general and special provisions for tribal people in particular¹⁹. Tribal groups being one of the sections, were provided with 4 major safeguards by the makers of the Constitution;

- **Social Safeguards-** The Constitution keeps in its cognisance, the historical impact of the isolation of tribal groups from the mainstream and provides for several safeguards to uplift the tribal society. Articles 23 and 24 provide for the prohibition of traffic in human beings and forced labour, and the prohibition of employment of children in factories, etc²⁰. Which prohibited the historic practice of tribal bonded labour. Article 17 which discusses of abolition of Untouchability, which was further strengthened by the Civil Liberties Act²¹ and the SC&ST Atrocities Act, protected the tribals and Dalits from the draconian practise of untouchability. Furthermore the Right to Equality under Article 14- Equality before law; Article 15- Prohibition of discrimination on the grounds of Sex, caste, race or place of birth; Article 16-equality of opportunity in matters of public employment, also provided for equal treatment to tribal society. Article 15(4), also establishes the provision of the State to make special provisions for the advancement of socially & educationally backward groups, or Scheduled castes and the Scheduled tribes.²¹
- **Educational and Cultural rights:-** As said by Dr BR Ambedkar, “Education is the milk of a lioness, He who drinks it will roar²²”. Education is the most efficient tool for the emancipation of the masses and a tool of collective social liberation. Article 46 under directive principles of State policy, provides for the promotion of educational and economic interests of Scheduled castes,

¹⁹ Soren, Chunuram. (2021). Constitutional provisions for tribal safeguard. *International Journal of Law Policy and the Family*. 3. 6-10.

²⁰ Team NIC, ‘Tribals in India: Constitutional Provisions, Issues & Way Forward’ (nextias.com²¹ September 2023) <<https://www.nextias.com/blog/tribals-in-india/#:~:text=>> accessed 14 March 2024

²¹ Rusco, Elmer R. “Civil Liberties Guarantees under Tribal Law: A Survey of Civil Rights Provisions in Tribal Constitutions.” *American Indian Law Review*, vol. 14, no. 2, 1988, pp. 269–99. JSTOR, <https://doi.org/10.2307/20068291>. Accessed 14 Mar. 2024.

²² Chandanpat DRS, ‘DR. B. R. AMBEDKAR’S THOUGHTS on HIGHER EDUCATION’ (2018) 4 *International Education and Research Journal (IERJ)* <<http://ierj.in/journal/index.php/ierj/article/view/1461>> accessed 14 March 2024

Scheduled tribes and other weaker sections and also it would be the duty of the State to duly protect them from social injustice and all other forms of social-economic and political exploitation. The constitution aims to provide all civil liberties and rights to Scheduled tribes²³. Article 350 (b) facilitates the instruction given in the mother language at the primary stage which allows them to protect their distinctive linguistic culture. Furthermore following the same constitutional provisions under articles 15 (4) and 46, the State provides for numerous scholarship and academic benefits to the children of Schedules tribes²⁴.

- **Economic rights:-** Economic rights are the abilities of an individual or a social group or community over access to resources and means of production. Article 335 provides for the special powers in claims of person from Scheduled tribes to services and posts whereby their claim is to be taken into consideration, consistently with the maintenance of administration in making appointments. The National Commission for scheduled tribes under Article 338 A.5(c) to advise the central and state government on the planning process of socio-economic development of the Scheduled tribes²⁵. Article 275 ensures the grants from the Union government to the Scheduled areas which is to be paid out from the consolidated fund of India, this article is a key provision for economic and financial help to the people of Scheduled areas.
- **Administrative rights:-** The Constitution ensures the long-standing procedure of self- administration of tribal communities in their political matters²⁶. Article 244 creates the Scheduled areas and tribal areas, and further application lies in the 5th and 6th Schedule. The fifth Schedule deals with the provisions as to the

²³ Jones B and Parks M, 'Intersecting Laws: The Tribal Law and Order Act and the Indian Civil Rights Act CONTRIBUTING AUTHORS and EDITORS' (2016) <https://law.und.edu/npilc/tji/_files/docs/iltloaicra.pdf> accessed 14 March 2024

²⁴ Agarwal R, 'EDUCATIONAL PROVISIONS for SC (Scheduled Caste)/ST (Scheduled Tribe) - Notes for B.El.Ed Exams' (Beled.in1 July 2021) <<https://www.beled.in/educational-provisions-for-sc-scheduled-caste-st-scheduled-tribe-notes-for-b-el-ed-exams-notes-for-b-el-ed-exams/>>

²⁵ ref. <https://ncst.nic.in/sites/default/files/Socio-economic%20development%20for%20STs.pdf>

²⁶ Menon A, 'Situating Law: Adivasi Rights and the Political Economy of Environment and Development in India' (Christoph Eberhard ed, OpenEdition Books2008) 363 <<https://books.openedition.org/ifp/3926?lang=en>> accessed 14 March 2024

Administration, governance and control of scheduled areas and the scheduled tribes in states other than Assam, Meghalaya, Tripura and Mizoram. The sixth Schedule deals with the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram, and provisions related to tribal autonomous councils. Apart from administration over scheduled areas, the constitution also provides for Article 330, which ensures the reservation of seats for scheduled tribes in the Lok Sabha. Article 332 ensures the reservation of seats for Scheduled tribes in the state legislative assemblies.

XI. THE EFFECTIVENESS OF CONSTITUTIONAL SAFEGUARDS ON TRIBAL GROUPS

One of the major functions of the constitution is to enable the government to fulfil the aspirations of every section of society and to create the conditions for a just, fair and egalitarian society. It is essential to assess the effectiveness of the constitution in fulfilling the aspirations, in the past 75 years the tribal society has seen several changes, such as 'Depeasantization²⁷' where a significant section of tribal group which were historically peasant class, are currently involved in government services, or other non-agricultural occupations. The social and educational sectors have evolved significantly in tribal societies over the past seven decades²⁸. The tribal society has evolved a lot politically, the universal adult suffrage and political activism by tribal leaders can depict the changing political dimensions of tribal society.

In the recent elections of Chattisgarh legislative assembly, the voter turnout was 76.31 %, which is much higher than the voter turnout of Gujarat legislative assembly elections which was 64.33% in 2022. The Panchayats (Extension of the Scheduled Areas) Act, 1996 is a socialist legislation which was also enacted to ensure the presence of grass root democracy in tribal areas. It was also the watershed movement for tribal

²⁷ Hussain M and Mohdanzarwarr, 'Depeasantization: A Study of Nature, Magnitude and Possession of Land in Pulwama District of Kashmir Valley (India)' (2019) 9 International Journal of Research in Social Sciences International Journal of Research in Social Sciences 2249 <https://www.ijmra.us/project%20doc/2019/IJRSS_JUNE2019/IJMRA-15590.pdf>

²⁸ Shah, B. V. "EDUCATION AND SOCIAL CHANGE AMONG TRIBALS IN INDIA." Sociological Bulletin, vol. 28, no. 1/2, 1979, pp. 25–45. JSTOR, <http://www.jstor.org/stable/23619351>. Accessed 14 Mar. 2024.

communities when Shree Draupadi Murmu became the President of India. The tribal society has also been through a huge diversification in the economy, their way of life and subsistence has been changed significantly compared to that of when the constitution was enacted. Apart from constitutional factors, the policy of Liberalisation, Privatisation and Globalisation have also played their role in social change in tribal society²⁹, but it would be a bit difficult to conclude that all the social change in tribal society is due to constitution, are other factors such as support from NGO's, other state schemes, etc. But all in around, we can affirm the point that the Constitution has played a pivotal role in the emancipation of Scheduled tribes.

XII. NATIONAL COMMISSION FOR SCHEDULED TRIBES

The National Commission for Scheduled Tribes was established in the year 2004 by the 89th Constitution Amendment Act, 2003 by creating article 338A in the Constitution. Hence, it is a constitutional body. Before this amendment, there was a common commission for both SCs and STs which was established by the 65th Constitutional Amendment Act of 1990. The objective of distinguishing the common commission for SC & ST was the social difference of problems of SC and ST community. Furthermore, in 1999, a new Ministry of Tribal Affairs was created to coordinate the welfare activities of the tribal community, the creation of the tribal affairs ministry also reduced the burden of the Ministry of Social Justice and Empowerment.

The objective behind NCST was to oversee the implementation of Constitutional safeguards provided to the Scheduled Tribes (STs) and to aid and advise the Central and State governments on tribal issues³⁰. The NCST is composed of The Chairperson, Vice-Chairperson and other 3 Members who are appointed by the President by warrant At least one woman should be a member. The members (including the

²⁹ Dr. Dinkar Bhadane, 'Impact of Neoliberalism on Tribal Area: One Huge Challenge in Economy, Studies in Indian Place Names, vol.40, no 39,February,2020. [https://www.dsmcollegeumbarthan.ac.in/pdf/criterion-no-3/47\)%20Impact%20of%20Neo%20liberalism%20on%20Tribal%20Area%20One%20Huge%20Challenge%20in%20Economy.pdf](https://www.dsmcollegeumbarthan.ac.in/pdf/criterion-no-3/47)%20Impact%20of%20Neo%20liberalism%20on%20Tribal%20Area%20One%20Huge%20Challenge%20in%20Economy.pdf) .Accessed 14 Mar.2024

³⁰ BYJU IAS Team, 'National Commission for Scheduled Tribes (Article 338) - 89th Amendment Act (Indian Polity Notes)' (BYJUS) <<https://byjus.com/free-ias-prep/national-commission-for-scheduled-tribes-ncst/>> accessed 14 March 2024

chairperson and Vice- chairperson) enjoy their term for 3 years, the constitution provides for not more than 2 terms of repetition of membership.

The Chairperson holds the rank of Union Cabinet Minister, the Vice Chairperson holds the rank of Minister of State and the remaining members hold the rank of Secretary to the Government of India. The major duties of NCST include:-

- i. To investigate and monitor all legal and constitutional matters relating to the safeguards provided for the STs.
- ii. To inquire into specific complaints and claims concerning the deprivation of rights and safeguards of the Scheduled tribes and to make further recommendations as to measures that should be taken by the union or a state government on constitutional safeguards, welfare and socio-economic development of Scheduled tribes.
- iii. To participate in the planning process of the socio-economic development of the STs to evaluate the progress of their development and work for more livelihood strategies for the tribal society.
- iv. The Commission shall be duty-bound to provide an annual report on the operation of those safeguards to the President, the report would be further placed before the Parliament.
- v. The NCST shall be further duty-bound to take measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribals.

In doing so, the constitution under article 338A empowered the commission to self-govern its procedure and while investigating any claim or complaint, the NCST has all the powers of a civil court as provided under the Civil Procedure Code of 1908 and subsequent laws³¹.

³¹ M Laxmikanth, *Indian Polity: For Civil Services Examinations* (Tata Mcgraw Hill Education Private Limited 2010); 9789354600357

XIII. ANALYSIS OF 5TH AND 6TH SCHEDULE & ADMINISTRATION OF TRIBAL AREAS:-

The Constitution of India envisages a Sui generis special system of administration of tribal areas. When the issue was raised before the Constituent Assembly on the applicability of laws made by Union and State legislature in tribal areas, the assembly understanding the deep historical significance of self-governance of tribal areas and national integration formed the 5th and 6th Schedule to govern the Scheduled areas³¹.

1. The 5th Schedule includes the “provisions as to the Administration & Control of Scheduled Areas and Scheduled Tribes”; This schedule concerns every scheduled area excluding the State of Assam, Mizoram, Meghalaya and Tripura. The 5th Schedule consists of 4 parts as

- i. General:-** This part includes the interpretation clause, Exclusive power of state government in the scheduled area and the annual report on the scheduled area by the respective governor to the President.
- ii. Administration and control of Scheduled areas and scheduled tribes:-** This part establishes the Tribal Advisory Council with a maximum of 20 members and 3/4th of such members shall be representative of scheduled tribes in the state legislative assembly. The TAC shall be duty-bound to advise on such matters about the welfare and advancement of Scheduled tribes. Clause 5 of the 5th Schedule empowers the governor to declare any particular act of Parliament or State legislative assembly shall not apply to the Scheduled area. Furthermore, the Governor holds the power to make any regulation for peace & Good Governance in Scheduled areas.
- iii. Scheduled Areas:-** This part deals with the definition of Scheduled area, which means such areas as the President may by official order. This part empowers the President to declare any area as a scheduled

area and to declare a specified area ceases to be a scheduled area and to alter increase or diminish the territory of a Scheduled area.

iv. Amendment of 5th Schedule:- This part empowers the Parliament to amend this Schedule.

2. The Sixth Schedule deals with the “Provisions as to the Administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. The Sixth schedule consists of 21 clauses. This Schedule concerns the autonomous administration of tribal areas and in furtherance, the schedule creates, autonomous districts and autonomous regions.

Furthermore, it provides for the constitution of District councils and Regional councils and in furtherance empowers the district and regional councils to make laws. Clause 4 provides for the administration of justice in autonomous districts and autonomous regions and subsequently the conferment of powers under the CPC,1908 and CrPC,1973. Clause 21 empowers the Parliament to make any amendment in the Sixth Schedule³².

XIV. ISSUES FACED BY TRIBAL COMMUNITY

There are around 450 major tribal groups in India³³. The tribal groups in India are facing several severe and significant challenges which make their lives difficult.

1. **The exploitation of their natural resources:-** The policy of liberalisation, Privatisation and Globalisation has opened the door for capitalists to extract key tribal resources such as land, minerals, and trees³⁴. etc which has resulted in ecological damages and a clash with their historical connection with their environment. Industrialisation has challenged

³² ref. Durga Das Basu and others, Introduction to the Constitution of India (Lexis Nexis Butterworths Wadhwa Nagpur 2008)

³³ Maddux, T. R. (1999). [Review of The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources, by D. L. Fixico]. American Indian Quarterly, 23(1), 72–74. <https://doi.org/10.2307/1185937>

³⁴ Munia Nimisha. The problems of tribal people and its challenges. Int. J. Rev. and Res. Social Sci. 2020; 8(1): 01-03. doi: 10.5958/2454-2687.2020.00001.5

their traditional way of living. There is also an internal conflict among the tribal groups for the resources.

2. **Forced displacement:-** In the past several years, many infrastructural projects have been initiated by the State or Union government on tribal land. Due to such large Multi-purpose and developmental projects, thousands of tribal families have been displaced³⁵. One such notable example in recent years is The displacement of Narmada tribals occurred as a result of the construction of the Sardar Sarovar dam in Gujarat.
3. **Disparity in reservation for ST:** It has been around 70 years of providing reservations to the ST community in educational and employment-related institutions, but it has been observed by many scholars that the selected tribes contribute to a significant share of benefits of reservation which deprives other tribes of their reservation.
4. **Lack of political representation:** The tribals are even though represented in parliament as per their population, It can be inferred that the powerful individuals and the wealthy still hold a disproportionate amount of influence over the tribal masses, resulting in a lack of true representation for the common people in tribal society.
5. **Medical issues:-** Several health reports assert that the poor medical infrastructure of tribal areas creates a plethora of health-related issues for tribal society and there are distinct variations between national healthcare policy and its governance³⁶. We can observe the strikingly shorter life expectancy due to several widespread diseases like 'Sickle cell anaemia'. The infant mortality rate is around 57/1000 in the total population of India, in tribal society it is 62.1/1000 live births.

³⁵ Biswaranjan Mohanty. "Displacement and Rehabilitation of Tribals." *Economic and Political Weekly* 40, no. 13 (2005): 1318–20. <http://www.jstor.org/stable/4416394>.

³⁶ Mutatkar RK. Tribal health issues: Need of tribal health policy. *Indian Journal of Medical Research*. 2022 Aug;156(2):182-185. doi: 10.4103/ijmr.ijmr_3217_21. PMID: 36629177; PMCID: PMC10057368.

6. **Left-wing Extremism-** In several tribal areas, we can notice that due to lack of resources and lack of state support, the tribal youth chooses the path of Communist Violent struggle against the State. In several tribes of Jharkhand and Chhattisgarh or for that matter any tribe located in the red corridor, the intersectionality of tribal rights with the rights of Proletariats can be seen³⁷.
7. **Ethnic Conflicts:-** As said earlier, there are also ethnic conflicts among the tribes to gain higher status and more access to resources. Such conflicts may also result in large-scale violence in the community.
8. **Lack of education:-** Even though Article 21 A provides for the right to education, Article 46 provides for educational rights to STs, and Article 15(4) provides for the reservation of tribal groups in educational institutes and all other constitutional safeguards unfortunately many tribal groups are struggling to attain their educational right³⁸ ; the ground reality seems to be ironical. There is a lack of educational infrastructure in tribal areas, also there is a lack of girl child education in tribal areas which results in to lack of education in tribal society. As per a report, only 4 % of all IIT students belong to scheduled tribes, which is less than the reservation mandate of 7.5%. As per the census of India (2011), the tribal literacy rate is around 58% which is strikingly lesser compared to 73% of all other Social groups.
9. **Lack of entrepreneurial opportunities:-** As the youth of other parts of India and the world booms in the field of entrepreneurship, the tribal youth lacks the minimum basic knowledge of economics and business studies. The license raj policy followed in many scheduled areas creates an insult to the injury thus the environment of tribal society in itself makes the ease of doing business difficult for the youth.

³⁷ ref. GD Bakshi, Left Wing Extremism in India: Context, Implications and Response Options; Manekshaw papers, vol 09, 2009; https://www.claws.in/static/MP9_Left-Wing-Extremism-in-India-Context-Implications-and-Response-Options.pdf

10. **Lack of Financial Support:-** To develop any particular social group it must be ensured that they are financially supported. However, the tribal group lacks a basic financial understanding and only 45% of the households avail the banking services. Nearly half of the tribal inhabitants are below the poverty line in rural areas. Such statistics show the lack of financial capability of scheduled tribes and their society³⁸.

XV. SUGGESTED POLICY STEPS

To protect the interests of tribal groups in India and safeguard their rights and well-being; The State- Community & Individuals should take several key measures and policy changes. Here are some key Policy-Political steps which can be taken by the State:-

- **Social & Cultural Preservation-** The state should take conclusive measures to protect the cultural heritage of tribal communities, in doing so the State may also encourage traditional practices and crafts which also include the protection of their sacred sites and cultural locations.
- **Healthcare reforms:-** A conclusive healthcare policy can be formulated by the state, building healthcare centres and Mohalla clinics in tribal areas would also ensure affluent healthcare in Tribal areas.
- **Education:-** A conclusive educational policy can also be formulated by the state to ensure the educational welfare of tribes. The improvement in the quality of education can also benefit the tribal society. As said, When we educate a boy, we educate an individual but when we educate a girl, we educate future society. Hence, the State should also ensure that women students participate in academic institutions. The government through educational institutions may incorporate indigenous knowledge systems and vernacular languages in educational curricula.

³⁸ Narla SVR, 'Education for Tribal Communities in India: Challenges and Solutions' (Medium 5 September 2023) <<https://medium.com/@vardhansaireddy1245/education-for-tribal-communities-in-india-challenges-and-solutions-23b9ec378dce#:~:text=Challenges%20Faced%20by%20Tribal%20Communities%20in%20Education%3A&text=The%20lack%20of%20proper%20roads>> accessed 14 March 2024

- **The Strong Tribal Institutions:-** The tribal society can be empowered by providing them with strong institutions built with strong fundamental structures. This report suggests an affluent eco-system of tribal institutions which includes- Financial institutions such as Banks, and corporate financial lenders; Educational institutions such as open universities, skill-providing institutions, women-oriented academic institutions; Business institutions; cooperative societies .etc
- **Promotion of tribal co-operative society:-** The cooperative society is an autonomous socio- economic association of individuals who voluntarily join together to a common socio- economic and cultural needs and aspirations through a jointly owned and democratically managed society. Cooperative societies are based on the ideas of self-help, self- responsibility, equality, and democracy³⁹. The State can also provide aid and assistance for tribal Cooperative societies.
- The Government may ensure the land title of the tribal individuals and the collective recognition and protection of tribal communities in land matters.
- The government can ensure while issuing tender notice, the free, prior, and informed consent (FPIC) of tribal communities for development projects impacting tribal lands.
- Strengthen traditional indigenous justice systems followed by tribal communities historically, following the modern ideals of the rule of Law", "Constitutionalism" & "Natural Justice".
- The Government should take appropriate steps as it may deem fit for the benefit of tribal communities foster tribal entrepreneurship and economic development and provide financial aid and intellectual assistance to the startups run and managed by tribal communities.
- The Government can further enforce 4.5% employment and educational quotas for tribal women to promote tribal women's workforce and in furtherance of doing so

³⁹ Building Cooperative Power: Stories and Strategies from Worker Cooperatives in the Connecticut River Valley" by Emily Kawano, Tom Maloney, and Joseph Blasi;"The Cooperative Business Movement, 1950 to the Present" by Patrizia Battilani and Harm G. Schröter.

must ensure the principle of equal pay for equal work. The 4.5 % quota discussed herewith is inclusive of 7.5 % Scheduled tribes quota.

- Preserve and promote tribal languages and in doing so may also promote the tribal literature through Jnanpith awards and other academic fora.
- The State in collaboration with self-empowered women's associations or allied non-profit associations may empower tribal women through targeted policies and programs.
- The government in furtherance of land title rights may develop housing and infrastructure policies and schemes in tribal areas.
- The National legal services Authority may collaborate with the State or District Legal Services Authority to establish a legal aid clinic for tribal communities.
- The government may collaborate with tribal communities on climate change adaptation and Sustainable development goals.
- The State through NCST may ensure inclusive tribal representation in decision-making bodies.

XVI. CONCLUSION

“A tribe is a social group with a territorial affiliation; endogamous; with no specialisation of functions; ruled by some tribal officers, hereditary or otherwise; united by language or dialect”. The Constitution of India provides several safeguards and protection of interests for tribal communities. However this report concludes on 3 key important notes, firstly the Constitution established all required safeguards for the protection of tribal communities and such safeguards are also followed on the bureaucratic level as well and the safeguards have provided the STs with affirmative actions that benefit tribal societies. Secondly, The constitutional safeguards have been successful in bringing socio-political and economic affirmative changes in tribal societies, such change is not ideal or utopian and has not made the social-educational and political status of these tribes equivalent to mainstream India, but has performed the best possible outcome as an impact to tribal communities. Thirdly, In the current scenario the tribal communities are facing several key structural-economic and

educational issues which further is the duty of the state to resolve and in doing so, the state stands duty bound to provide all necessary forms of justice to the tribal society.

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