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BALANCING FOREST DEPENDENCY AND MODERN DEVELOPMENT: EXAMINING THE LEGAL FRAMEWORK AND ITS IMPACT ON PVTG RIGHTS AND LIFESTYLE

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I. ABSTRACT

Particularly Vulnerable Tribal Groups (PVTGs) of India have been the custodians of forest ecosystems and are dependent on natural resources for their cultural, spiritual and economic sustenance. However, the imposition of modern development projects and the prevalent restrictive legal framework has disrupted their traditional lifestyle. This research paper examines the intersection of forest dependency, the existing legal framework and modern developmental projects thus highlighting its impact and influence on the survival and cultural identity of PVTGs. Developmental projects, like the Great Nicobar Project, have often prioritised the industrial and urban growth over the needs of the indigenous population, drawing significant criticism from environmental activists. Additionally, laws like the Indian Forest Act, 1927, and the Forest Conservation Act, 1980 have centralised the control of forest to the government, often criminalising traditional practices. While Forest Rights Act, 2006 was enacted to address these historical injustices, its implementation is riddled with inconsistencies and delays. This study employs doctrinal methodology relying upon secondary resources to analyse the effects of modernisation and forest laws on PVTGs. It also takes into account the case studies to substantiate how these developments disrupt their livelihood. International perspectives are incorporated to identify the best practices for safeguarding the indigenous rights. The findings of this research reveal the influence of modern developmental projects in changing the forest dependency attitude of the PVTGs. Further exploration of the legal framework aiming to protect tribal right reveals significant challenges and backlashes in its practical implementation. This study contributes to the field of tribal rights and sustainable development recommending inclusive policy reforms which ensure the protection of rights and traditions in development. By addressing these issues, the

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research underscores a balanced approach, thus aligning economic development with legal framework and preservation of tribal heritage.

II. KEYWORDS

Forest Dependency-Rigid Framework-Sustenance-Sustainable Development-Inclusive Reforms.

III. INTRODUCTION

Development of the tribal's should be according to the "lines of their own thinking"- Pandit Jawaharlal Nehru. The tribal population are the aboriginal inhabitants of our country, living with nature in harmony. These communities have distinct cultural patterns which are deeply intertwined with their physical and social environment. India has the largest tribal population in the world and ranks after Africa. According to the 2011 census, the tribal population is 10.43 crore, which comprises 8.6% of the total population and 15% of the country's area. The Indian subcontinent has 705 scheduled tribes and sub-tribes living among which 75 ethnic groups were identified as particularly vulnerable tribal groups (PVTGs).³

The Particularly Vulnerable Tribal Groups or PVTGs, previously known as primitive tribal group, is a subcategory of Scheduled Tribes representing the most marginalised and isolated communities in India. The landscape of the forests serves as a means of sustenance and livelihood. The forests are the sources of their identity, food and shelter, cultural heritage and spiritual traditions. However, the modern projects such as mining, dam construction, infrastructure, connectivity and urbanisation prioritize economic growth over the needs of indigenous population leading to severe consequences in their livelihood such as causing displacement, erosion of cultural heritage etc.

On the other hand, the legal framework governing forest ecosystems, such as the Indian Forest Act of 1927 and the Forest Conservation Act of 1980, has centralised the control over forests to the government which resulted in alienation of tribal

³ Ministry of Tribal Affairs, Swarnajayanti Grant for PVTGs 5 (2024), <https://tribal.nic.in/DivisionsFiles/SwLPVTGs.pdf>.

communities from their lands. While the Forest Rights Act of 2006 sought to address these injustices, it was marred with difficulties in its implementation.

This research paper explores this complex intersection of the aforementioned factors by analysing case studies, legislative measures and international standards, thereby throwing light on the challenges faced by these communities and proposing strategies to achieve balance for inclusive development.

A. HISTORICAL BACKGROUND

The history of tribal communities is intertwined with India's social, cultural and political evolution. Tribals have been an integral part of the society since time immemorial as substantiated by references of the epics of India, namely, the Ramayana and the Mahabharata.

Before the advent of colonial rule, the tribal communities were self-reliant and lived intimately with nature. These groups were spread across forests, hills and remote regions and thrived on hunting, gathering, fishing and shifting agriculture. The arrival of the British in India caused several disruptions in the lives of tribal communities. The colonial government, driven to exploit the natural and forest resources, encroached tribal lands and disrupted their traditional life.

The colonial laws such as the Forest Act of 1865(revised in 1867 and 1927) classified vast forest lands as state property and alienated the tribal groups. Tribals were even subjected to bonded labor on British plantations, mines and railway lines, turning them into cheap labourers due to their vulnerability. Tribal uprisings such as the Santhal Rebellion, the Birsa Munda Movement and the Rampa Rebellion showed resilience of tribal communities.

After Independence, their welfare was prioritised. The term 'Scheduled Tribes' was first mentioned in the Indian Constitution under Article 366(25) which states that scheduled tribes are those communities or groups or parts that are scheduled in accordance with Article 342 of the Constitution. This Article further states that only those communities who are declared as such by the President through an initial public notification or an Act of the Parliament will be considered to be Scheduled

Tribes. Following this, the Indian Government made systematic attempts to study tribal communities, which includes the committee of A.V Thakkar, commission led by Kaka Kalelkar and Renuka Roy. In 1960, significant steps were taken under the guidance of eminent anthropologist Verrier Elwin where specialised interventions were made and Multipurpose Tribal blocks were established for the welfare of tribal population towards developmental strategies.

The turning point was under the report of the Scheduled Areas and Scheduled Tribes Commission chaired by U.N. Dhebar in 1973 which created a subcategory called 'Primitive Tribal Groups'(PTGs), later renamed as, 'Particularly Vulnerable Tribal Groups'(PVTGs) who faced life threatening conditions due to extreme poverty and vulnerability to epidemics.

During the 4th Five Year Plan (1969-1974), which aimed at expansion with stability and self-sufficiency, the identification of PVTGs gained momentum with development criteria focussing on various indicators. These efforts marked a shift in tribal welfare policy which recognised the need for special provisions to uplift these communities. As per reports, PVTGs reside in 18 states and one union territory.⁴

B. REVIEW OF LITERATURE

Himanshu Agarwal in 'Socio-economic Development of PVTGs in India - Problems and Solutions'⁵ suggested that their habitation and dependency on forests urge the government to plan a forest policy which will shift such dependency from collection of forest produce and hunting to alternative sources of livelihood; and enforcement of existing legal measures to prevent tribe indebtedness, bonded labour and other exploitation. B.Ananda Rao in 'Lifestyle of Tribals in India'⁶ presented that even though tribals are voiceless at times of invasions for acquisition of resources by external groups. Sandeep Kumar Pattnaik in 'Recognize Habitat Rights of

⁴ Ministry of Tribal Affairs, Revised Scheme for NGOs Working for Tribal Development 4 (2024), <https://tribal.gov.in/writereaddata/Schemes/4-5NGOREvisedScheme.pdf>.

⁵ Himanshu Agarwal, Socio-economic Development of PVTGs in India - Problems and Solutions, in Developmental Issues of Tribes 92 (1st ed. 2018).

⁶ B. Ananda Rao, Lifestyle of Tribals in India, 8 EPRA Int'l J. Multidisciplinary Research 247 (2022).

Particularly Vulnerable Tribal Groups (PVTGs) Discussion Paper'⁷ suggested strengthening legal literacy, ensuring political will and addressing existing gaps for protection of resources and preservation of culture of PVTGs.

Hari Charan Charan Behera et al. in 'Participatory Livelihood Vulnerability Assessment (PLVA) of the Forest Dwellers: A Study of Fifteen Tribes and Particularly Vulnerable Tribal Groups (PLVAs) in the Eastern Indian Region'⁸ examine stark differences among various tribal groups. The study also highlights the inadequacy of food security programmes and difficulties in implementation of Forest Rights Act and Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996. D.Kadambini et al. in 'Particularly Vulnerable Tribal Groups of India: Issues of Survival and Development'⁹ concluded the study with suggestions to launch tribe-wise upliftment schemes which ensure their right to land and habitat; following Pandit Jawaharlal Nehru's policy on tribal development in letter and spirit; and allowing them to grow and develop at their own pace.

C. OBJECTIVES OF THE RESEARCH

- To analyse forest dependency in the cultural, economic and social life of PVTGs.
- To assess the impact of modern development in the lifestyle and rights of PVTGs.
- To evaluate the effectiveness of the key forest legislations in safeguarding the rights of PVTGs.

D. RESEARCH METHODOLOGY

The methodology employed for this paper is doctrinal, relying on analysis of the Indian forest laws and various other research papers, news articles, government reports and parliamentary documents. A thorough review of literature is conducted

⁷ Sandeep Kumar Pattnaik, Recognize Habitat Rights of Particularly Vulnerable Tribal Groups (PVTGs) Discussion Paper, National Centre for Advocacy Studies (2024).

⁸ Hari Charan Behera et al., Participatory Livelihood Vulnerability Assessment of the Forest Dwellers: A Study of Fifteen Tribes and Particularly Vulnerable Tribal Groups in the Eastern Indian Region, 59 J. Asian & Afr. Stud. 578 (2022), <https://journals.sagepub.com/doi/10.1177/00219096221117074>.

⁹ D. Kadambini et al., Particularly Vulnerable Tribal Groups of India: Issues of Survival and Development, 10 Social Vision 21 (2024).

using the keywords of forest dependency, Particularly Vulnerable Tribal Groups (PVTGs), modern development projects, forest legislations etc., The research systematically evaluates the effectiveness of forest laws in preservation of the rights of PVTGs whilst comparing with international practises.

E. LIMITATIONS OF THE STUDY

Although doctrinal research has its own fair share of advantages however it might not truly representative of the current happenings in the lives of PVTGs due to its over-reliance on pre-existing literature, legal texts and policy documents. This results in a lack of capturing the ground realities of these communities. There is also a potential of political and institutional biases in official reports and documents. Generalisation of problems to all groups results in incomplete understanding of the lives of specific tribal groups.

F. RESULTS AND DISCUSSIONS

Particularly Vulnerable Tribal Groups are those communities who are identified by the Government of India as being the most marginalised and socio-economically disadvantaged communities. The PVTGs are characterised by their small population, pre-agricultural level technology and a declining or stagnant growth rate. The purpose of this classification was to improve the living standards of these endangered tribal groups based on priority.

The parameters used by the Dhebar committee to distinguish PVTGs are as follows:

- Tribal groups which are still practising hunting and gathering as their primary mode of survival
- The population whose growth is either zero or negative and were on the verge of extinction
- Low literacy rates
- Tribal groups who do not have a script and written language to communicate and rely on oral knowledge systems.

The term 'PTG' was introduced in the year 1961 to define the most 'primitive tribal groups' by the Dhebar Committee. The term 'primitive' conveyed a sense of backwardness and attributed to inferior status. After prolonged debates and discussions, the adjective 'primitive' and the acronym 'PTG' was revised and redefined as 'Particularly Vulnerable Tribal Groups' in the year 2006.

G. RIGHTS VESTED UPON PVTGS

1. Constitutional Rights

The constitution of India provides for specific rights and safeguards for tribal communities including the PVTGs, to protect their social, economic and cultural significance. As PVTGs are subset of Scheduled Tribes, they benefit from the broader constitutional safeguards of STs, with more particular focus on their vulnerability.

Apart from the affirmative actions as specified under Article 15(4) and 16(4) for securing seats in reservation and Articles 330 and 332 reservation of seats in Lok Sabha and State Legislative assemblies as well as the duty specified under article 46 for promotion of educational and economic interest, there are other noteworthy and distinctive protection vested by the constitution.

The Fifth and the Sixth Schedule of the Constitution play a significant role in safeguarding the rights and governance of tribal population. The fifth schedule applies to states other than the North-eastern States. The President of India after the consultation of State Government under Article 244(1) declares a place to be as a Schedule Area. A Tribal Advisory Council consisting of Tribal representative advice Governor related to its welfare and advancement. The Governor here has special powers to regulate the application of laws in Scheduled areas in protecting tribal interest such as prohibition or restriction of land transfer, regulating allotment of land, modifying and annulling laws etc., Moreover Article 275(1) provides grants-in-aids to states for tribal welfare

The Sixth Schedule applies to the administration of North-eastern states such as Assam, Meghalaya, Mizoram etc as per Article 244(2) and Article 275(1). This schedule provides greater autonomy to tribal areas through Autonomous District

Councils (ADCs). Tribal majority regions are identified in these states which are governed by the Autonomous District Councils which have the legislative, executive and judicial powers. These councils have the power of the government and administer justice through customary law.

2. Panchayats Extension To Scheduled Areas Act, 1996

This act was enacted in extension of the provision of the 73rd amendment of the Constitution where establishment of Panchayati Raj Institutions in scheduled areas and provides self-governance and cultural preservation to Scheduled Tribes. After the Bhuria Committee recommendations in 1995, PESA act 1996 came into existence for ensuring tribal self-governance for people in the notified scheduled areas.

PESA provides the Gram Sabhas or Village Assemblies with significant authority over the land resources and governance. These Gram Sabhas have the authority to even control the minor forest produce and other nature resources like the water bodies, forest and land. It also helps in conserving the customary practises by following the rules in their social and cultural matters. The Gram Panchayats are supposed to work under the guidance of Gram Sabhas in relation to tribal matters.

Moreover, PESA prohibits the transfer of land from tribal to non-tribals in Scheduled areas protecting the ingenuity of land from alienation thus protecting tribal ancestral lands being encroached by external pressures. It is to note that the development projects in Schedule Areas cannot proceed without the due consent of the Gram Sabhas.

3. Habitat Rights

Habitat rights for PVTGs are recognised under the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007)*, and defined under Section 2(h) and forest rights under Section 2(e). The PVTGs, as aforementioned, are communities who have been residing in forests and forest lands for generations, but their tenurial and access rights over their ancestral lands and habitat were not adequately recognised in the consolidation of State forests during the reign of the Crown and after India's independence, due to relocation to make

way for the State's development activities. This Act aims to correct the historical injustice meted out on these communities since centuries by providing for a framework to record, recognise and vest these rights, and the nature of evidence to be relied upon for such recognition and conferment. In order to truly gauge the term '*habitat rights*' it is pertinent to first understand the terms '*forest dwelling Scheduled Tribes*' defined under sub-section (c) and '*other traditional forest dweller*' under sub-section (o) of Section 2. The characteristics common between both groups are - they primarily reside in forests and forest lands; and they depend on forests and forest lands for their bonafide livelihood needs. A '*habitat*' includes areas comprising customary and other such habitats in reserved and protected forests of primitive tribal groups, pre-agricultural communities and other forest dwelling Scheduled Tribes. The forest rights of PVTGs are stipulated in Section 3 and its recognition in Section 4 of the Act.

The Government of India in its Directive (23011/16/2015-FRA) dated 23/04/2015 issued under the Ministry of Tribal Affairs to clarify the term '*habitation*' wherein it was stated that the right to community tenure to habitat and habitation may be recognized over customary territories used by the PVTG for habitation, livelihood, social, economic, spiritual, sacred, religious and other purposes.¹⁰ In *Salem Mavatta Ezpulli Malaivazh vs. State of Tamil Nadu*,¹¹ the court held the aforementioned communities have the right of conversion of pattas or leases or granted as stipulated under Section 3(g) while in *Kathud Ravidashbhai Dharmabhai vs. State of Gujarat*¹² guaranteed the right guaranteed under Section 3(i) (the term '*community forest resources*' is defined under Section 2(a)).

Odisha, a home to 13 PVTGs, is the harbinger of habitat rights in the nation, with having approved five habitat rights for PVTGs under the Act of 2006 in different districts in the state. Paudi Bhuyam of Deograh district in over 32 villages, Juangs of

¹⁰ Tribal & Scheduled Caste Dev. Dep't, Gov't of Chhattisgarh & UNDP, Process of Recognizing the Habitat Rights of Particularly Vulnerable Tribal Groups (PVTGs) Under the Forest Rights Act, 2006 (2023), (pvtg_d3_english_web.pdf).

¹¹ *Salem Mavatta Ezpulli Malaivazh vs. State of Tamil Nadu*, W.A. No. 376 of 2008, [Madras High Court] (Oct. 20, 2009).

¹² *Kathud Ravidashbhai Dharmabhai vs. State Of Gujarat*, C/SCA/11559/2017, Gujarat High Court, (Aug. 2, 2017).

Jaipur district covering 13 villages, Juangs of Keonjhar district covering 134 villages, Chuktia BHunjia of Nuapada district covering 35 villages and Saoras in Gajapati district covering 128 villages.¹³ On the International Day of the World's Indigenous People, (ie) on 9th August, in Chattisgarh, in 2023, the Kamar tribe, spread across four districts – Gariyaband, Mahasamund, Dhamtari and Kanker,¹⁴ and exactly one month later, the Baiga, tribe, spread across nineteen villages in the Gaurela-Pendra-Marwahi (GPM) district,¹⁵ were granted habitat rights. The Bharia tribe of Madhya Pradesh have also been bestowed with habitat rights.

IV. IMPACT OF MODERN DEVELOPMENT PROJECTS ON THE VULNERABILITY OF PVTGS

India's push to develop has often been at the expense of the PVTGs, who depend on forests and natural ecosystems for their livelihood. Multi-billion-dollar projects – ports, mines, dams and infrastructure expansions – can bring economic growth, but also displace communities, destroy habitats and disrupt traditional models of living. The question arises whether modern projects truly coexist with the preservation of indigenous cultures and communities. The experience of PVTGs has only illustrated a complex reality where progress and preservation and survival of indigenous ways are increasingly odd.

A. DISPLACEMENT AND HABITAT DISTRUCTION

The ₹72,000 crore Great Nicobar Project seeks to turn the island into a global trade hub involving ports, roads and power plant. However, for the Shompen tribe it endangers their very existence. This relatively uncontacted community of around 250 people relies exclusively on the island's forests and rivers. Although the project has utility-scale environmental clearances, critics are concerned about permanent

¹³ "Odisha Leads Habitat Rights for PVTGs," Tathya (Jan. 19, 2025), <https://tathya.in/odisha-leads-habitat-rights-for-pvtgs/>.

¹⁴ "Chhattisgarh Looks to Give Habitat Rights to Vulnerable Tribal Group," Hindustan Times (Aug. 11, 2023), <https://www.hindustantimes.com/india-news/chhattisgarh-looks-to-give-habitat-rights-to-vulnerable-tribal-group-101691693377951.html>.

¹⁵ "PVTGs Baiga Tribes Gets Habitat Rights in Chhattisgarh," Utkarsh (Aug. 9, 2023), PVTGs Baiga Tribe Gets Habitat Rights in Chhattisgarh.

harm to both the tribe and the island's delicate ecosystem.¹⁶ The long-term effect include not only the physical displacement and loss of livelihood but also the cultural heritage which was preserved for centuries in the untouched forest of Great Nicobar.

B. MINING AND ENVIRONMENTAL DEGRADATION

The Bondos and Dongria Kondhs, in Odisha, have been devastated by mining, which has stripped them of forests they rely on. Soil erosion, water pollution and biodiversity loss not only damaged their environment, but made it impossible for many to stay, cutting them off from ancestral lands. Health vulnerabilities created by contaminated water and the socio-economic challenges of displacement emphasize the negative impact of resource extraction.¹⁷ Though the project was stopped by the court's intervention, it took years of legal battle for these tribes to reclaim their ancestral property.

C. INDUSTRIALISATION

The construction of infrastructure in the state of Andhra Pradesh has effectively displaced the Chenchu, Yanadi and Konda Reddy tribes. The building of roads as well as setting up of industries led to industrialisation in their regions. The same has also led to fragmentation which has made it tremendously difficult for them to make ends meet.

D. DEFORESTATION

The Birhor and Asur Tribes of PVTG in the state of Jharkhand also experienced mass deforestation. The more the forests disappear so do their Houses, Food and Cultural Defines. As a result, several have been displaced into new places where there is a

¹⁶ "Indigenous Nicobar Islanders Face Destruction as Mega Development Advances," East Asia Forum (Sept. 28, 2024), Indigenous Nicobar Islanders face destruction as mega development advances, East Asia Forum.

¹⁷ "Dongria Kondhs Continue to Fight Bauxite Mining in Odisha's Niyamgiri Forests," The Hindu (Mar. 16, 2024), Dongria Kondhs continue to fight bauxite mining in Odisha's Niyamgiri forests - The Hindu.

guarantee for Psychological survival. Their health and survivorships become vulnerable due to pollution as well as the degradation of the environment.¹⁸

E. THE NARMADA-DAM PROJECT

The Narmada Dam Project has displaced thousands from the Bhil and other tribes, submerging their lands and severing them from their roots. While the dams provide irrigation and power, they leave behind communities struggling to rebuild their lives.¹⁹

V. WHY THE LEGAL FRAMEWORK FAILS TO PROTECT THE RIGHTS OF PVTGs

A. CONUNDRUM WITH OTHER LAWS

The Forest Conservation Act of 1980 emphasised on centralised ownership of forest and management of resources upon the government. In contrast, the Forest Rights Act of 2006 aimed to rectify the historical injustices of forest dwellers views an opposite approach. The recent amendments to the FCA such as the Forest Conservation Rules of 2022,²⁰ diluted the provisions of FRA. The new rules remove requirements of approval from the Gram Sabha for forest land diversion undermining the very purpose of the Act. The Forest Act of 1927, a colonial era law, criminalizes the practises of hunting and shifting cultivation which disrupts the socio-economic livelihood of tribal communities. There is no still clear clarification as to overriding effect of the act.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 aimed to ensure fair compensation for land acquisition has not overlooked the unique relationship of PVTGs with their environment. Large scale development projects like dams or mining have led to

¹⁸ Gov't of Jharkhand, Sustaining the Non-Timber Forest Products (NTFPs) Based Rural Livelihoods of Tribals in Jharkhand: Issues and Challenges 5 (2024), 97.-Sustaining-the-Non-Timber-Forest-Products-NTFPs-Based-Rural-Livelihoods-of-Tribals-in-Jharkhand-Issues-and-Challenges.pdf.

¹⁹ "Narmada Issue Overview," Cultural Survival Quarterly (Jan. 2024), The Narmada Issue: An Overview - Cultural Survival.

²⁰ Press Information Bureau, "Government of India Announces New Measures for Sustainable Development," Press Information Bureau (Jan. 19, 2024), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1845824>.

disruption and displacement of PVTGs without adequate consultation. For instance, the Mankidia Tribe who had resided in the Simlipal Forest for generations were forcefully evicted as the forest was declared as a Tiger Reserve. Despite the FRA, 2006 the conservation laws took precedence.

B. PRACTICAL IMPLEMENTATION DIFFICULTIES

The implementations of the laws have always been challenging and difficult at the ground level. In 2018, nearly 50% of FRA claims were rejected in Madhya Pradesh without proper justification. It is to note that local forest departments often resist the implementation process due to fear of losing control over the forest resources. The Claims under FRA remains pending for several years because of bureaucratic delays.

C. LACK OF AWARENESS

Many PVTGs are unaware of the legal framework and rights vested upon them due to high illiteracy rates and insufficient outreach programs. Also, the FRA requires for a proper documentation for recognising the rights of the tribals such as the evidence of continuous occupation of forest land which is not available to these tribal communities. This shows the systemic failure to account the oral customs and unwritten traditions in protecting the tribal communities.

D. LACK OF MONITORING MECHANISMS

Though laws provide protection and enhancement of PVTG rights, there is no well-established monitoring body to control the violations. Government authorities collude with corporation for facilitating of encroachments and land acquisition hindering PVTG interest. In Chattisgarh, land acquisitions in tribal areas were made without consultation of the Gram Sabhas leading to unrest and displacement.²¹

E. INADEQUATE REPRESENTATION IN POLICY MAKING

PVTGs are rarely involved in consultation during formulation of policies or execution of development projects. This lack of inclusivity violates the right of participation in decision making which directly affects their livelihood. This can be

²¹ "Land Woes Continue to Ail Scheduled Tribe Communities in Chhattisgarh," The New Indian Express (Nov. 5, 2019), <https://www.newindianexpress.com/nation/2019/Nov/05/land-woes-continue-to-ail-scheduled-tribe-communities-in-chhattisgarh-2057741.html>.

seen in the recent Forest Conservation Rules of 2022, the Great Nicobar Project where none of the tribals were represented during discussions.

F. JUDICIAL GAPS

Although courts have played a significant role in upholding the PVTGs rights, the delays in judicial process have hindered the inaccessibility of these communities. For example, it took years for the Dongria Kondh, a PVTG in Odisha's Niyamgiri hills to reclaim and stop the mining project of Vedanta Alumina Company. It was only through the Supreme Court direction, the proposal was stopped though proper document verification and approval was given by the government,

VI. INTERNATIONAL STANDARDS AND PRACTISES

A. UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

It is a legally non-binding resolution adopted in the year 2007 which outlined the framework of minimum standards for the survival, dignity and well-being of the indigenous peoples. It also elaborated on the existing human rights standards and freedoms that apply to the specific indigenous peoples. This declaration recognised self-determination and collective rights to be vested and supported the idea of Free, Prior and Informed Consent before implementing any measures which may adversely affect them. It also recognised the land, resource rights of the indigenous people in their habitat with protection of their educational and knowledge systems. Several countries have adopted this framework in their legal and policy frameworks.

B. INTERNATIONAL LABOUR ORGANISATION CONVENTION NO.169

It is a legally binding international convention focussing on the tribal and indigenous people rights. One of the central principles of ILO C169 recognized was self-identification which is a key criterion on determining rights of tribal communities. People are granted the right to define their own identity which equal respect to other cultures. The government is required to take steps only after consultation and participation. Land and resource rights are another critical aspect of ILO C19 where governments are prevented from exploiting the lands without

consultation. Till date, there are 24 countries who have ratified this convention and ratification remains limited in Asia and Africa who often contend the term of Indigenous Peoples.

VII. CASE STUDIES ON INDIGENOUS RIGHTS RESTORATION

A. KLAMATH RIVER RESTORATION

The Yurok tribe one of the indigenous tribes in America headed the removal of four hydroelectric dams on the Klamath River, making it the largest river restoration project in history. The dam construction had effect on disrupting the fish migration and traditional fishing practises. Yurok tribes showcased a successful model for conservation of natural resources by collaboration with government agencies.²²

B. BAYAKA PEOPLE AND CONSERVATION EFFORTS (CONGO BASIN)

The Bayaka tribals indigenous to the Congo basin were during 1970 to 1990 due to establishment of protected areas deprived them from accessing their ancestral lands resulting in local tensions and conflicts. With the intervention of welfare organisations and NGOs, these tribes were given employment opportunities in these national parks. Despite efforts for larger land rights, their livelihood was protected with limited hunting-gathering and preservation of traditional knowledge.²³

C. SIEKOPAI NATION'S LAND RECLAMATION

The Siekapoi, an indigenous group in the Amazon, who were displaced due to logging, oil extraction from their ancestral lands, reclaimed a significant portion of their land after persistent legal battles. The landmark judgment affirmed their ownership and has set precedents for claims for other indigenous land.

These case studies reveal that while there are legislations to protect the tribal rights, its implementation faces practical challenges. Also, the tribal communities' efforts are needed to reclaim and protect their rights. However, many tribes remain

²² "Amy Bowers Cordalis," Time (2024), <https://time.com/7172485/amy-bowers-cordalis/>.

²³ "In the Congo Basin, Environmental NGOs Step Up Efforts to Include Indigenous Populations," Le Monde (Sept. 20, 2024), https://www.lemonde.fr/en/le-monde-africa/article/2024/09/20/in-the-congo-basin-environmental-ngos-step-up-efforts-to-include-indigenous-populations_6726774_124.html.

excluded due to limited knowledge and education levels making them vulnerable and marginalised. It is important that each and every country consisting of indigenous or tribal population must bridge these gaps and focus on empowering them using capacity building rather than formulation of laws.

VIII. FINDINGS

- The study acknowledges the fact that the livelihood of PVTGs is intertwined with the nature and are dependent on forest and its resources.
- India has a comprehensive legal framework from the constitution to the various statutory enactments for the protection of tribal interest, mostly focusing on self- governance and tribal autonomy for protection.
- Despite the presence of rights, their practical implementation remains flawed due to bureaucratic inefficiencies, lack of awareness and knowledge, health and other threats of the external environment, legal ambiguities etc., and leading to a confused state.
- Although courts being the saviour of rights of PVTGs, it has taken several years for legal recognition and struggle which is not possible for all the tribal communities.
- It is also found that the Developmental often displace and disrupt the traditional way of life which are highlighted in the case studies thus increasing their vulnerability.
- International framework and foreign case studies offer guidance however lack of application, acting only as directions rather than solutions Even in foreign context, PVTG-like communities often endure challenges and prolonged protest to safeguard their interest.

IX. SUGGESSTIONS

- **Strengthening Legal Protection:** There needs to amendments to the existing laws to resolve contradictions affecting the tribal rights. Introducing explicit provisions as to rehabilitation is needed.
- **Implementation monitoring Mechanisms:** The government has to dedicate PVTG cells to ensure adequate claims or complaints regarding other welfare schemes are redressed. Creating independent monitoring bodies would oversee the implementation of related laws thus preventing corruption and inefficiencies
- **Strengthening Autonomy:** The autonomy of areas of Fifth and Sixth Schedules should be enhanced with less interference of governments. Empowering the Gram Sabhas to make binding decision on tribal related matters
- **Capacity building and Awareness:** Campaigns and literacy programs must educate PVTGs about their legal entitlements. Training to Gram Sabha members would enable better implementation of Self- governance.
- **Inclusivity:** Developmental activities in tribal areas must undergo social and environment impact assessments without any lapses and with the consent of PVTGSs. They have to be involved in the discussion forums for bringing welfare schemes. An alternative livelihood program of PVTGs has to be ensured as per their cultural and ecological preferences.
- **Judicial Reforms:** The judiciary has to expedite cases relating to tribal lands through fast-track courts or specialized tribunals. Suo-moto actions and Public Interest Litigation would be appreciated as the knowledge of entitlements is very less among PVTGs.
- **Granting Habitat Rights:** Habitat rights must be carefully curated and granted to other 72 PVTGs of the nation. Their inclusion and participation in granting rights suitable to each community's tradition and culture must be kept in mind.

X. CONCLUSION

Therefore, the road to the rights of the PVTGs is an uphill task. Even though they have a robust legal framework for their protection, but the threats to their rights come from the position of the law due to the gaps in its implementation and bureaucratic lethargy.

Enhancing protection by law, provision of autonomy with good governance, raising awareness and inclusive development are some of the key ways forward. There are needs for judicial reforms and independent monitoring mechanisms to protect their interests. A comprehensive and local terms responsive strategy is needed that ensures development and the protection of their customary rights and livelihoods.

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