

LOCAL GOVERNMENTS AND TRIBAL INTERFACE IN INDIA- A SYNOPTIC VIEW

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Abstract

Tribal peoples' culture and identities form an integral part of their lives. Their ways of life, customs and traditions, institutions, customary laws, land use and forms of social organization, etc are usually different from those of the dominant population. Special measures are therefore, required to be taken to ensure that they are protected and appropriate participatory mechanisms are evolved and implemented in the governance of Scheduled Tribes and Scheduled Areas. Effective implementation of existing constitutional provisions specifically provided for the Scheduled Areas and strengthening of supporting mechanism is equally necessary to achieve the desired objectives.

Index Terms: Tribe, Governance, Local Government

Introduction

India, a land of diverse cultures and traditions, is home to a multitude of indigenous tribes, each with its unique identity and heritage. The tribal population in India, as per the 2011 Census, constitutes approximately 8.6% of the total population, representing over 104 million people. These tribes are scattered across various states, with a significant concentration in the states of Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Maharashtra, Gujarat, Rajasthan, and the northeastern states. The interface between local governments and tribal communities is a critical aspect of governance, development, and social justice in India.

This article delves into the intricacies of local governance structures in tribal areas, the legal and constitutional provisions that safeguard tribal interests, the challenges faced, and the initiatives taken to foster a more inclusive and participatory governance model. By examining these dimensions, we aim to provide a comprehensive understanding of how local governments interact with tribal communities in India.

Historical Context of Tribal Governance

Pre-Colonial and Colonial Periods

Before the advent of British colonial rule, tribal communities in India had their own systems of self-governance, often based on traditional customs and practices. These systems were largely autonomous and functioned independently of the mainstream administrative frameworks. Tribal leaders, often chosen by consensus or hereditary succession, played pivotal roles in maintaining law and order, resolving disputes, and managing resources within their communities.

The British colonial administration, however, disrupted these traditional systems. The introduction of new land revenue systems, forest laws, and administrative divisions led to significant changes in tribal areas. The colonial government often classified tribal regions as 'excluded' or 'partially excluded' areas, thereby limiting their integration into the mainstream administrative machinery. This period also witnessed several tribal uprisings and revolts against British policies that threatened their traditional way of life.

Post-Independence Developments

After India gained independence in 1947, the framers of the Constitution recognized the unique status and needs of tribal communities. Special provisions were incorporated into the Constitution to protect tribal interests and promote their welfare. Articles 244 and 244A provide for the administration of scheduled areas and tribal areas, and the Fifth and Sixth Schedules outline the governance frameworks for these regions.

The Fifth Schedule pertains to the administration of scheduled areas in states other than Assam, Meghalaya, Tripura, and Mizoram. It grants significant autonomy to tribal communities in these areas, allowing them to manage their affairs through Autonomous District Councils (ADCs) and Regional Councils. The Sixth Schedule provides for a greater degree of autonomy and self-governance in the northeastern states, with provisions for the creation of Autonomous District Councils and Autonomous Regional Councils.

Constitutional and Legal Framework

Fifth Schedule

The Fifth Schedule of the Indian Constitution applies to tribal areas in states other than Assam, Meghalaya, Tripura, and Mizoram. It provides a framework for the administration and control of scheduled areas and scheduled tribes. The key features of the Fifth Schedule include:

1. **Tribal Advisory Council (TAC):** Each state with scheduled areas is required to establish a TAC, consisting of representatives of the scheduled tribes in the legislative assembly of the state. The TAC advises the Governor on matters related to the welfare and advancement of scheduled tribes.
2. **Governor's Powers:** The Governor has the authority to make regulations for the peace and good governance of scheduled areas. This includes the power to prohibit or restrict the transfer of land by or among members of scheduled tribes, and to regulate the allotment of land.
3. **Law-Making Powers:** The Governor can modify or annul any law of the state or parliament that applies to the scheduled areas, if it is deemed not in the best interest of the scheduled tribes.

Sixth Schedule

The Sixth Schedule applies to the administration of tribal areas in the northeastern states of Assam, Meghalaya, Tripura, and Mizoram. It provides for a greater degree of autonomy through the establishment of Autonomous District Councils (ADCs) and Autonomous Regional Councils (ARCs). The key features of the Sixth Schedule include:

1. **Autonomous District and Regional Councils (ADC):** These councils are empowered to make laws on a range of subjects, including land, forest, water resources, agriculture, village administration, and inheritance. They can also set up courts for the trial of certain types of cases.
2. **Financial Powers:** ADCs and ARCs have the authority to levy and collect taxes, fees, and tolls. They also receive grants from the consolidated fund of the state to carry out their functions.
3. **Judicial Powers:** The councils can establish village courts to adjudicate disputes and administer justice among tribal communities.

Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA)

Recognizing the need to extend the Panchayati Raj system to scheduled areas, the Indian Parliament enacted the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA). PESA aims to ensure self-governance for tribal communities through the traditional Gram Sabha and Gram Panchayat systems. The key provisions of PESA include:

1. **Gram Sabha Empowerment:** The Gram Sabha (village assembly) is vested with significant powers, including the approval of development plans, control over natural resources, management of minor water bodies, and the right to be consulted on matters affecting them.
2. **Land and Resource Management:** PESA mandates that the Gram Sabha should be consulted before land acquisition for development projects and the resettlement and rehabilitation of displaced persons.
3. **Dispute Resolution:** The Gram Sabha is empowered to resolve disputes through traditional methods and customs.

Forest Rights Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, commonly known as the Forest Rights Act (FRA), is another significant legislation aimed at recognizing and vesting forest rights to tribal and other traditional forest-dwelling communities. The key features of the FRA include:

1. **Recognition of Rights:** The FRA recognizes individual and community rights over forest land and resources. This includes the right to cultivate land, collect minor forest produce, and protect and manage community forest resources.
2. **Democratic Process:** The process of recognizing and vesting rights is to be carried out through a democratic and participatory process involving the Gram Sabha.
3. **Empowerment and Livelihood:** By securing legal rights over forest land and resources, the FRA aims to improve the livelihoods of forest-dwelling communities and ensure their participation in forest management.

Local Governance Structures in Tribal Areas

Panchayati Raj Institutions (PRIs)

The Panchayati Raj Institutions (PRIs) form the backbone of local governance in rural India. The 73rd Constitutional Amendment Act, 1992, provided a constitutional status to PRIs and introduced a three-tier system of governance at the village, intermediate, and district levels. In tribal areas, the implementation of PRIs is guided by PESA, which ensures that traditional governance structures and practices are integrated into the Panchayati Raj system.

Role of Gram Sabha

The Gram Sabha, comprising all adult members of a village, plays a pivotal role in local governance in tribal areas. Under PESA, the Gram Sabha is empowered to:

- Approve plans, programs, and projects for social and economic development.
- Identify beneficiaries for government schemes.
- Protect and manage minor water bodies, minor forest produce, and community resources.
- Resolve disputes through traditional methods.

The Gram Sabha's active involvement ensures that the developmental needs and aspirations of tribal communities are adequately addressed

Gram Panchayat and Higher Levels

The Gram Panchayat, elected by the members of the Gram Sabha, functions as the executive body at the village level. It is responsible for implementing development schemes, maintaining public infrastructure, and delivering essential services. At the intermediate (block) and district levels, elected bodies such as Panchayat Samiti and Zila Parishad coordinate and oversee the implementation of development programs and policies.

Autonomous District Councils (ADCs) and Regional Councils (ARCs)

In the northeastern states, the Sixth Schedule provides for the establishment of Autonomous District Councils (ADCs) and Autonomous Regional Councils (ARCs) to administer tribal areas. These councils enjoy a high degree of autonomy and have legislative, executive, and judicial powers.

Functions and Powers of ADCs and ARCs

ADCs and ARCs have the authority to:

- Make laws on subjects such as land, forest, water resources, agriculture, village administration, and inheritance.
- Establish and manage primary schools, health centers, and other public institutions.
- Levy and collect taxes, fees, and tolls.

- Administer justice through village courts.

The councils play a crucial role in preserving tribal culture, customs, and practices while promoting socio-economic development.

Challenges in Tribal Governance

Despite the robust legal and constitutional framework, several challenges hinder effective governance and development in tribal areas. These challenges include:

Administrative and Bureaucratic Hurdles

The administrative machinery in tribal areas often faces challenges such as inadequate infrastructure, shortage of trained personnel, and bureaucratic red tape. These issues can impede the timely and effective implementation of development programs and policies.

Socio-Economic Disparities

Tribal communities often experience socio-economic disparities, including high levels of poverty, low literacy rates, limited access to healthcare, and inadequate livelihood opportunities. Addressing these disparities requires targeted and sustained efforts by local governments and development agencies.

Land and Resource Conflicts

Land and resource conflicts are a significant challenge in tribal areas. Issues such as land alienation, displacement due to development projects, and encroachment on tribal lands can lead to tensions and conflicts. Ensuring secure land tenure and fair compensation for displaced persons is crucial for mitigating these conflicts.

Integration of Traditional and Modern Governance

Integrating traditional governance systems with modern administrative structures can be challenging. While traditional systems are rooted in tribal customs and

Political Representation and Participation

Ensuring adequate political representation and participation of tribal communities in local governance is vital for inclusive development. However, factors such as low awareness, socio-economic barriers, and political marginalization can limit their active participation in the decision-making process.

Initiatives and Success Stories

Despite the challenges, several initiatives and success stories highlight the potential for effective governance and development in tribal areas. Some notable examples include:

Model Villages and Community-Led Development

Several tribal villages have emerged as models of community-led development, showcasing the power of participatory governance. These villages have successfully implemented initiatives related to sustainable agriculture, water conservation, education, healthcare, and women's empowerment. The active involvement of the Gram Sabha and local leaders has been instrumental in these success stories.

Tribal Cooperative Marketing Development Federation of India (TRIFED)

TRIFED, established by the Government of India, aims to promote the socio-economic development of tribal communities by marketing their produce and handicrafts. TRIFED provides a platform for tribal artisans and producers to showcase and sell their products, thereby enhancing their income and livelihoods.

Policy Recommendations

To strengthen the interface between local governments and tribal communities and promote inclusive development, the following policy recommendations are proposed:

Strengthening Capacity Building

Enhancing the capacity of local governments and administrative personnel in tribal areas is essential. This includes training programs, infrastructure development, and the deployment of skilled professionals to ensure effective governance and service delivery.

Promoting Participatory Governance

Encouraging active participation of tribal communities in the decision-making process is crucial. This can be achieved by empowering the Gram Sabha, promoting awareness about rights and entitlements, and ensuring transparency and accountability in governance.

Addressing Socio-Economic Disparities

Targeted interventions are needed to address socio-economic disparities in tribal areas. This includes programs focused on poverty alleviation, education, healthcare, and livelihood enhancement. Special attention should be given to vulnerable groups such as women, children, and elderly persons.

Securing Land and Resource Rights

Ensuring secure land and resource rights for tribal communities is vital for their socio-economic development. This includes effective implementation of laws such as the Forest Rights Act, 2006, and protection against land alienation and displacement.

Fostering Cultural Preservation

Promoting and preserving the cultural heritage of tribal communities is essential for their identity and well-being. This includes supporting traditional art, crafts, music, and festivals, as well as documenting and disseminating indigenous knowledge and practices.

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