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TRIBAL LAWS, ISSUES AND CHALLENGES: IN INDIA

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Abstract

Tribals are among the most deprived and oppressed sections of India. Half of the adivasi people do not have land. Poverty, deprivation and now the reduction of government expenditure on basic medical health facilities is reflected the absolutely poor health condition of adivasi women and children. Their fundamental human rights are violated in every step of life. Tribals are backward and poor, living in naturally isolated regional inhabitant. Tribals in remote areas are still devoid of common infrastructure facilities of road and communication, health and education and safe drinking water and sanitation, which do not allow them to absorb technological and financial help provided by government. Scheduled tribes are indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness. The tribal population of the country is 10.43 core, constituting 8.61% of the total population. The paper tries to understand the different aspects of Indian tribal life, like distribution of tribes in India, history of tribes, etc. The paper highlighted the major issues like tribal laws, issues and challenges in India.

Key Words: Scheduled Tribes Deprived Poverty, Health, Human Rights.

1. Introduction:

One of the marked features in terms of which tribes in India came to be conceptualized is geographical and social isolation from the larger Indian society. This meant they were conceptualized in relation to the larger Indian society and not in relation to stage of their social formation. That explains as to why wide ranges of groups/communities at different level of social formation have all come to be identified and defined as tribes. Tribals are confined to economic and social backwardness and it is one of the important problems in the country. Tribals in this country can be described as the poorest among the poor. Tribals

living in forests and depending on forests for livelihood are being uprooted along with forests. On the one side, they are losing the basic support of life and on the other side they are not being brought into the mainstream of modern Indian development process. The principle of social justice demands that the marginalized sections of the people be given protection and preferential treatment for furthering their progress and development. The tribals of India constitute one such group who must be supported and protected by the government. The founding fathers of our constitution desired to secure justice, social, economic, and political for all citizens. They, therefore, considered it necessary to provide specific safeguards in the constitution for the Scheduled Castes and Scheduled Tribes, who were the most deprived, weak and vulnerable amongst the various sections of the society.

2. Objectives:

1. To study the major Tribal laws /Acts in India and Andhra Pradesh.
2. To examine the socio-economic conditions of tribal in India.
3. To analyses the issues and challenges tribal development in India
4. To suggest ways and means for making these Tribal laws effective

3. Review of literature

Mehta (2000) presents an overall review of the tribal development measures adopted during the 20th century. According to him the government failed to provide them basic minimum needs for their subsistence. The first halves of the century were administered by the British government and the local rulers. They were not bothered about their needs and welfare. Hence, during the first half of century they were exploited by the then rulers.

The article written by Deshmukh (2003) found that the existing welfare strategies did not overcome the tribal from inferiority and atrocities on them. It is now recognized that the welfare needs of tribal consists of purposive efforts by tribal, self-motivation and self-determination course of action which will enable the tribal to achieve the quality of lifestyle they aspire.

Methodology:

The Secondary data has been obtained from the annual reports, action plan and other documents of the Government of India. Information and reports have been collected from the Tribal Cultural Research and Training Institute, Hyderabad. Relevant information is also collected from GCC offices and census documents are used to collect population data.

4. Significance of the Study:

India has been described as a melting pot of races and tribes. India has the second largest concentration of tribal population in the world next to Africa with 10.40 crore tribal population. In India, approximately there are about 705 Scheduled Tribes who constitute 8.6% of the nation's population and 15 % geographical area as per 2011 censuses. Among them 75 tribes are Particularly Vulnerable Tribal Groups (PVTG). Land and Forest are the only source of livelihood for more than 90% of tribal population even today in agency areas. Even after 70 years of independence, Tribals in the State continue to suffer. The budgetary allocations never reach to the poor and no change is noticed in their life style. Successive governments continue to ignore the welfare of Tribals and whatever promises they make get restricted to either election manifestoes or plans on paper. Their socio economic condition still remains the same with poor implementation of ST sub plans and diverting the funds meant for their economic development it's an emerging research to study in tribal areas throughout the India. In this junction there is need to study the tribal laws, issues and challenges to overcome the problems, and awareness among the tribals about land and forest rights. The proper implementation of tribal laws is possible through education and awareness about tribal rights and laws.

TRIBAL LAWS, ISSUES AND CHALLENGES

5. Constitutional Laws:

The Constitution of India provides social, economic and political guarantees to disadvantaged sections of the people. Some provisions specific for the Scheduled Tribes are:

- Social: Equality before Law (Article 14);
- The State to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes [Article 15 (4)]; Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16); The State to make provisions for reservation in appointment, posts in favor of any backward class citizens, which in the opinion of the State is not adequately represented in the services under the State [Article 16 (4)]
- The State to make provisions in matters of promotion to any class or classes of posts in the services in favor of the Scheduled Castes and the Scheduled Tribes [Article 16 (4A)]
- A National Commission for Scheduled Tribes to investigate, monitor and evaluate all matters relating to the Constitutional safeguards provided for the Scheduled Tribes (Article 338 A).
- Appointment of a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States [Article 339 (1)].

- Appointment of a Commission to investigate the conditions of socially and educationally backward classes and the difficulties under which they labour and to make recommendations to remove such difficulties and to improve their conditions (Article 340).
- To specify the tribes or tribal communities to be Scheduled Tribes (Article 342).

6. Economic laws:

- The State, to 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 protect them from social injustice and all forms of exploitation (Article 46).
- Grants-in-Aid to be made available from the Consolidated Fund of India each year for promoting the welfare of the Scheduled Tribes and administration of Scheduled Areas [Article 275(1).
- The claims of the members of the Scheduled Castes and the Scheduled Tribes in the appointments to services and posts in connection with the affairs of the Union or of a State to be taken into consideration consistent with the maintenance of efficiency of administration (Article 335).

7. Political laws:

- Special provisions, spelt out in the Fifth Schedule, for the administration and control of Scheduled Areas and the Scheduled Tribes in any State (other than the States of Assam, Meghalaya, Tripura and Mizoram), Annual Reports are to be submitted by the Governors to the President of India regarding the administration of the Scheduled Areas, Tribes Advisory Councils are required to be set up (especially in Fifth Schedule States) to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes {Article 244 (1)}.
- Special provisions, spelt out in the Sixth Schedule for the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram by designating certain tribal areas as Autonomous Districts and Autonomous Regions and also by constituting District Councils, Autonomous Councils and Regional Councils {Article 244(2)}.
- Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People (Article 330).
- Reservation of seats for the Scheduled Castes and the Scheduled Tribes in the Legislative Assemblies of the States (Article 332).
- Reservation of seats for the Scheduled Castes and the Scheduled Tribes in every Panchayat (Article 243D).
- Extension of the 73rd and 74th Amendments of the Constitution to the Scheduled Areas through the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 to ensure effective participation of the tribal in the process of planning and decision making.

8. Issues and challenges

8 (a). Land Alienation: Tribal population mainly depend on natural resources for their livelihood. However, during the colonial rule after the discovery of minerals and other resources in the tribal regions, they were forcefully displaced. After independence, these regions came under state control, which negatively impacted the tribal way of life. They lost their forest rights, which resulted in tribal people trapped in the hands of money lenders and landlords. Indebtedness increased, and their livelihood lost.

8 (b). Identity Crisis: Displacement of these tribes from the mining areas and for development of industries in these regions has forced them to live either on the periphery of these industrial pockets or to move to urban centres in search of livelihood. Disconnect from their homeland and unawareness and unpreparedness to the urban lifestyle have led to an identity crisis for these people. This gave birth to various psychological issues like depression, low self-esteem, low confidence, a feeling of un-belongingness, etc.

8(c). Illiteracy: According to the Population Census of India, 2011 the literacy rate for ST is 58.96 per cent (literacy rate for the male is 68.53 per cent and for female is 49.35 per cent) which is lower than the national average of 74.04 per cent (for male 82.14 per cent and female 65.46 per cent). Their traditions and customs, prevailing poverty, the tendency of isolation, nomadic lifestyle, and lack of necessary infrastructure and teachers suitable for their needs.

8(d). Gender Issues: Despite better sex ratio of 990 females per 1000 males of the Scheduled tribes in India (While the national average is 943 females per 1000 males) women of the community also have to face various challenges. Due to their sudden exposure to the urban lifestyle and their inability to adapt to the changes that occurred as a result of their forced displacement post-independence, women of society became more vulnerable. Consumerism and commoditization of women have weakened their position in society.

9. Conclusion: Tribes are in situation, where the Government's efforts of tribal Welfare with protective and developmental measures do not make any remarkable impact on tribal development. Tribal development is challenge for government till now. Hence, researcher felt appropriate to investigate the impact of welfare measures on tribals with social work perspective.

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