

# The Tragedy of Scheduled Tribes' Human Rights

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**Abstract:** *The proposed research paper exposes the pathetic situation of the human rights of schedule tribes in the world's largest democracy of India in general and particularly of Gujarat. The tribals are the people whose existence has remained precarious since centuries. They were made helpless by the colonial British governments and after independence, all the Indian successive governments also carried forward tribals' state of helplessness. The Constitutional rights enshrined in the V and VI Schedules have remained pious promises only on paper. On the contrary, many unjust and anti-tribal laws have remained in force and the governments have hardly take notice of the situation of tribal seven after 75<sup>th</sup> years of independence and 72 years of republic.*

**Keywords:** Tribals, Human Rights, Laws, Acts, Constitution

## I. INTRODUCTION

The struggle to preserve, protect and promote basic human rights continues in every generation in every society (Baxi, 1987) but in era of globalization, the concept of human rights has become a key in almost all debates and discussions around the world. The rights and legal claims of deprived people have become central concern for the enactment and drafting of key legal and moral treaties and conventions at national as well as at international levels. The noble law of the land i.e. Constitution of India also ensures fundamental rights to all its citizens and in case of weaker and historically deprived, depressed and oppressed classes like Scheduled Castes (SC) and Scheduled Tribes (ST), there has been made special provision for affirmative action to redress historical wrongs suffered by these sections. Despite such provision, not only realization of rights but the mere imagination and slight assertion of rights by the SC/ST creates unrest in the heart of dominant castes and class in India.

## II. ORIGINS OF HUMAN RIGHTS DISCOURSE

The term "human rights" is a new formulation of the classic phrase "The Rights of Man" and appears to have been used by Franklin Roosevelt in his famous message to Congress in January 1914 (Kalon, 2010). As a basic condition (Kalon, 2010) for a happy life, he stated four freedoms, namely freedom of speech, freedom of religion, freedom from want and freedom from fear. Of course, Plato as a first philosopher used "Human rights" in his treatise "Civil Disobedience" to seek and protect the citizens of ancient Greece in his grand scheme of justice (Assadi, 2011). The origin of human rights can be seen in the Magna Carta of 1215, but the Magna Carta was not the character of human rights, rather it was the basis and form of a limited political and legal agreement to deal with specific political circumstances (Das, 2014). Technically, human rights means rights relating to "life, liberty, equality and dignity of the individual guaranteed by the constitution of a country or enshrined in an international covenant enforceable by courts (Chandra, 2010). In short, it is difficult to define precisely the human rights discourse (Kalon, 2010), but the right to be human is the leitmotif of all human rights, thoughts and actions (Baxi, 1987). Human rights are inalienable and even the state cannot take away human rights from any individual, except under certain conditions established by law or during situations of national emergency or security (Rhoda E. Howard Hassmann, 2011).

### **The importance of human rights in the life of an individual:**

Francis Fukuyama argues that all people desire to be respected and that the ultimate form of personal respect finds satisfaction in the idea of human rights (Clapham, 2007). It is not only important to have legislations and policies that strive for equality, but equality should be an experienced reality in the streets and in everyday life (Mrs.S.Mishra, 2013). Human rights enable us to fully develop and utilize human qualities, abilities, intelligence, talents and conscience to fulfil our spiritual and material needs (Rao, 2006) on this earth.

**Origin of the word "tribe":**

There is no generally accepted definition of tribal people. The concept of 'tribe' was introduced by colonial administrators. Even the Indian constitution has not defined the term 'tribals'. The fact is this that tribals are at the bottom of society; they have been left as the poorest, marginalized, oppressed, depressed and deprived in this country for centuries.

**Indian Constitution and Human Rights of Tribals:**

The tribes are the original inhabitants of India, but the laws and ways of their life, customs and culture etc. are different. This fact was never forgotten while drafting the Constitution of India, Dr. Ambedkar discussed the tribals' culture and did best for the socio-economic development of Scheduled Tribes through special provisions in V and VI schedules as well as enacting several articles for sake of safeguard in the Constitution.

The central theme of the Indian Constitution is to assure all its citizens; justice, equality, freedom and to develop brotherhood among all fellow citizens. The question arises, have the tribals gained independence or have they still remained passive victims of state laws like the Forest Act of 1927, the Land Acquisition Act of 1894 and other anti-tribal laws and rules? Indian independence has remained nothing more than a mere transfer of power from the hands of the British colonizers to the so-called upper castes and class in India. At the national level, there are two types of political processes that have been constitutionally recognized for the realization of tribals' rights, one is under the fifth schedule and the other is under the sixth schedule. The constituent assembly paid special attention to the matters relating to the governance and administration of tribals' lands. The responsibility for the development and welfare of the Tribals in India is vested in the Government of India and the development plan was to be implemented by the respective state governments (J.K.Das, 2001), but observing the situations of tribals it becomes clear that majority of the state governments have not played their role fairly and honestly.

**Exploitation of Adivasi People from History to Global Era:**

Poor economic conditions and illiteracy have kept the Adivasi people vulnerable and powerless for centuries. They are often forced to work without fair remuneration or at low wages. Since British rule, contractors have continued to employ unskilled labourers. Low wages have made their economic situation miserable and vulnerable. Outsiders came and cheated them during sale of forest products, gave loans at exorbitant rates, and then seized their land and convert them into labourers. The fruits of the development plan initiated by the central government as well as various state governments could not have reached to the local tribals, on the contrary, it has adversely affected tribals' culture and livelihood.

The Constitution empowers the President of India and the Governors of the respective states to withhold any laws which are considered prejudicial to the interests of the tribals in the scheduled tribes areas. Schedule V and VI of the Constitution of India provide special privileges to scheduled tribes and even PESA, 1996 is especially designed to offer protection to these people. However, in practice, most laws limit the rights and even control the forest communities. In particular, the Indian Forest Act (IFA), Forest Conservation Act (FCA) and Wildlife Protection Act (WLPA) continue to be used across the country to hunt and harass the forest dwellers even today.

For the first time, the National Forestry Policy of 1988 envisages the involvement of tribals in the development and protection of the forest. The primary task of all bodies responsible for forest management, including the forest development society, should be the close involvement of tribals in the protection, restoration and development of the forests, as well as income-generating activities for the people living in and around the forests.

However, the National Forestry Policy of 1988 was never translated into law. It has remained essentially a broad statement of government intent, and so done little in the way of specifying any legal rights and obligations of forest communities.

In ancient India, it was generally accepted that forests and forest communities did not follow rules because the forest was not seen as a source of income or commercialization. However, the Indian Forest Act of 1878 recognized the nation as a sole owner of classified forest land. After the declaration of independence, the forests were included in the state list, which gave the state right to issue laws. Thus, in post-independence India, commercial exploitation and degradation of forests increased dramatically.

**Land grabbing and tribals' displacement:**

Grabbing of tribals' land by non-tribals is widespread across India. More than 5.06 cases of tribals' land alienation covering 9.02 acres of land have been registered. Even today, the land and forest have remained main source of livelihood of the tribal population, but they are not the legal owners of the land on which they survive and earn their living.

The Government of India continued many such unjust acts and laws after independence and used them indiscriminately to acquire land for development projects with little or sometimes without compensation and handed over tribals' land to the industries and corporations violating the Constitutional provisions and other numerous laws. The state legislature is subject to schedule V under Article 245. It is constitutionally binding on the state government that the state legislature does not violate the provisions. At least 55 percent of people displaced due to development projects in India are the indigenous people. They constitute 8.6 of India's population and about 40 percent of them have been displaced only on name of development projects. Relocation also is rarely achieved without the use of threat and coercive forces. Even occasional displacement is carried out by the state in a ruthless manner (Ray, 2011).

**III. CONCLUSION**

The forest is the centre around which the life of the tribals revolves, but for the state, forest has remained only a source of raw materials for industry and revenue. In 1992, the United Nations Prithvi Conference was attended by many countries of the world and their leaders came to a common conclusion that if they want to save the *Prithvi* (nature), they must save the Adivasi (tribals). Neither the forest department nor the army should interfere in the life and livelihoods of Adivasis. Of course, India did not sign this treaty and has continued injustice to Adivasi. It is a fact that where the Adivasi live, the forest remains, whereas the rest of India has become a mere a jungle of cement and concrete. But the political leaders must not forget the last words of warning uttered by Dr. Ambedkar in Parliament when he introduced the final draft of Constitution of India. He said: "*We have equality in politics and we still have inequality in social and economic life. In politics, we recognized the principle of one man, one vote and one vote, one value. But in our socio-economic life, because of our social and economic structure, we will continue to deny the principle of one person, one value. How much longer will we live in such a contradictory life? How long will we continue to deny equality in our social and economic life? If we continue to deny this, we will only do so by endangering our political democracy*".

Mere political democracy is of no use, it must become a socio-economic democracy so that it is not blown up by the marginalized and deprived sections of society who have been victims of historical wrongs, oppression, suppression, depression and deprivation in social, economic and political life. If a nation cannot protect its citizens, then that nation cannot condemn these people who undertake this task themselves (Hamilton, 1970). The inability of political parties to truly represent and protect the rights of common men may lead them to seek or depend on an alternative institutions to ensure security and human rights (Kavadi, 2009).

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