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"LAND RIGHTS OF SCHEDULED TRIBES IN INDIA: LEGAL PROTECTIONS, CHALLENGES, AND SUSTAINABLE SOLUTIONS"

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ABSTRACT

The land rights of Scheduled Tribes in India are essential for preserving their cultural heritage, ensuring economic stability, and upholding their social dignity. For centuries, tribal communities have depended on their ancestral lands and forests for livelihood and cultural practices. However, the transition to modern governance systems has led to significant challenges, including displacement, land alienation, and restricted access to forest resources. Although constitutional protections and legislative measures exist, tribal communities frequently encounter substantial obstacles in accessing and securing their ancestral lands. This paper explores how effective are the existing legal frameworks and policies in safeguarding the land rights of Scheduled Tribes in India, and what measures can be taken to address issues of land alienation, displacement, and inadequate implementation, with a focus on the Forest Rights Act, 2006, and its impact on tribal livelihoods and also evaluates the efficacy of protective measures under the Fifth and Sixth Schedules, and the role of community participation in resource management. The study adopts a qualitative approach by analysing legislative texts and case laws to gain a comprehensive understanding of the legal frameworks governing the land rights of Scheduled Tribes. The analysis also delves into judicial interpretations and landmark judgments that have shaped the discourse on tribal land rights, thereby explores the gaps and ambiguities in the legal instruments. The paper also underscores issues such as disputes over forest land, insufficient acknowledgment of individual and community rights, and displacement resulting from development projects. It emphasizes the need for inclusive policies, participatory governance, and robust mechanisms to ensure the sustainable use of forest resources while safeguarding tribal land ownership and rights.

INTRODUCTION

India is home to a vast and varied tribal population, with each tribe possessing its own unique characteristics and way of life, necessitating individualized approaches to their needs and concerns. Scheduled Tribes, accounting for 8.6% of India's population as per the 2011 Census¹, primarily inhabit forested and hilly regions. Their socio-cultural identity is intrinsically linked to land, which serves as their primary means of sustenance and cultural expression. However, historical exploitation and modern developmental pressures have alienated them from their lands.

According to the 2011 Census, India's tribal population stands at 104.3 million, making up 8.6% of the total population. Of this, 89.97% reside in rural areas, while 10.03% live in urban areas. The tribal population grew by 23.66% between the 2001 and 2011 Census, compared to 17.69% for the overall population. The sex ratio for the total population is 940 females for every 1,000 males, while for Scheduled Tribes, it is 990 females per 1,000 males.

Tribal communities are primarily concentrated in two geographical regions: Central India and the North-East. Over half of the Scheduled Tribe population resides in Central India, particularly in the states of Madhya Pradesh (14.69%), Chhattisgarh (7.5%), Jharkhand (8.29%), Andhra Pradesh (5.7%), Maharashtra (10.08%), Odisha (9.2%), Gujarat (8.55%), and Rajasthan (8.86%). The other major concentration is in the North-Eastern states, including Assam, Nagaland, Mizoram, Manipur, Meghalaya, Tripura, Sikkim, and Arunachal Pradesh.

More than two-thirds of the tribal population is concentrated in just seven states: Madhya Pradesh, Maharashtra, Odisha, Gujarat, Rajasthan, Jharkhand, and Chhattisgarh. Notably, there is no tribal population in the states of Delhi, Punjab, and Haryana, nor in the Union Territories of Puducherry and Chandigarh, as no Scheduled Tribes are notified in these regions².

In India, a majority of the tribal communities are collectively recognised as Scheduled Tribes under Article 342 of the Indian Constitution. The Constitution of India aims to safeguard the interests of tribal communities, particularly their autonomy and land rights, as outlined in

¹CENSUSINDIA, <https://censusindia.gov.in/nada/index.php/catalog/42611/download/46274/Census%20of%20India%202011-Provisional%20Population%20Totals.pdf>, (last visited Aug 19, 2025)

² AGRICULTURE.VIKASPEDIA, <https://agriculture.vikaspedia.in/viewcontent/social-welfare/scheduled-tribes-welfare/scheduled-tribes-in-india?lgn=en>, (last visited Aug 20, 2025)

Schedule 5 and 6. It establishes a thorough framework to protect indigenous groups from exploitation and ensure their land rights are upheld. The majority of these communities are recognized as Scheduled Tribes under Article 342 (1&2), and they are assured the right to self-determination under Part X of the Constitution.

Also, after years of hardship, discrimination, and suffering, the Government of India formally recognized the fundamental rights of forest-dwelling tribes through the enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act in 2006, commonly known as the Forest Rights Act.

This paper aims to analyse the legal, social, and economic dimensions of land rights among Scheduled Tribes and evaluate the effectiveness of measures implemented to secure their rights.

NEED FOR PROTECTING THE LAND RIGHTS OF SCHEDULED TRIBES

Many tribal communities rely on land-based activities such as farming, hunting, gathering, and fishing for their livelihoods. Their knowledge of local ecosystems and sustainable practices has enabled them to live in harmony with nature for generations. Without secure land rights, their ability to sustain their livelihoods is directly threatened.

Without land rights, tribal communities are at risk of land grabs by external forces, such as private companies, state development projects, or even individuals looking to exploit tribal lands for agricultural or mining purposes. Such dispossession often leads to displacement, poverty, and the loss of livelihood. Historically, this has led to widespread exploitation, where tribal people are forced off their land without compensation or alternative means of survival³. As well, without secure land rights, tribal communities lose control over the ecosystems they have protected for generations. This can lead to overexploitation of resources, deforestation, and other forms of environmental degradation, especially when commercial interests take over their land. The loss of tribal land often results in the degradation of the very resources that these communities rely on.

³ B.B. Mohanty, *Land Distribution among Scheduled Castes and Tribes*, 36 EPW, 3857 (2001).

³ Laura Dudley Jenkins, *Another "People of India" Project: Colonial and National Anthropology*, 62 JAS, 1143 (2003).

HISTORICAL PERSPECTIVE

In the Pre-Colonial era, tribal communities in India managed their lands through deeply rooted customary practices that had evolved over centuries⁴. Land ownership and usage were viewed primarily through a communal lens rather than as an individual right, with resources shared among members of the tribe.

The colonial period brought significant changes to the way land was viewed and managed in tribal areas. British colonial policies sought to consolidate control over vast tracts of land and resources in India, often disregarding or undermining the traditional land practices of tribal communities and these policies had long-lasting impacts on tribal land rights. A full-fledged forest department was created in 1864; the first Forest Act was passed in 1865. As commercial interests and the focus on revenue generation took precedence, the previous law was deemed insufficient and was replaced by a much more oppressive Act in 1878. The numerous amendments to the 1878 Act, along with its unclear language, created confusion and called for a single, definitive piece of legislation to eliminate ambiguity. This led to the enactment of the 1927 Act and this Act forms the basis of the Indian forest legislation⁵.

In the post-Independence era, the constitutional provisions along with the Forest Rights Act, 2006 provides for the protection of the tribal land rights, the large-scale projects like dams, mines, and industrialization are leading to significant tribal land alienation.

CONSTITUTIONAL SAFEGUARDS

The Constitution of India provides several safeguards to protect the land rights of Scheduled Tribes (STs), recognizing their unique relationship with land and the historical injustices they have faced, most importantly the 5th and 6th schedule of the Indian Constitution.

Article 244 of the Indian Constitution addresses the governance and administration of Scheduled Areas and Scheduled Tribes in India. The 5th schedule of the Indian Constitution, governs the administration and oversight of scheduled areas and scheduled tribes. There are currently 10 states having scheduled areas which includes, Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and

⁵ Satyakam Joshi, Tribes, Land and Forests: Emerging Legal Implications with reference to PESA and FRA, NIRDPR, (Aug 22,2025, 4:15 pm), http://nirdpr.org.in/nird_docs/srsc/srsc230217-22.pdf.

Telangana, whereas the 6th schedule of the Indian Constitution pertains to the administration of tribal areas within the states of Assam, Meghalaya, Tripura and Mizoram⁶.

The 5th schedule provides for the creation of Tribal Advisory Councils (TACs) in states with scheduled areas. The Governors of the states having scheduled areas have the power to make regulations for the peace and good governance of the scheduled areas. The provisions aim to prohibit or restrict the transfer of land involving members of Scheduled Tribes within these areas and regulate the allotment of land to ensure it is allocated appropriately among tribal members.

The 6th schedule provides for the creation of Autonomous District Councils (ADCs) in the tribal areas of Assam, Meghalaya, Tripura and Mizoram. These Autonomous Councils administers various departments and development programmes and also have the powers to make laws on a variety of subjects which includes land, forest, etc⁷.

FOREST RIGHTS ACT, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), safeguards the rights of forest-dwelling Scheduled Tribes and traditional forest dwellers by recognizing their long-standing occupation of forest land. Under Section 4(5), the Act prohibits the eviction or removal of these communities from forest land until their claims are verified and recognized. The Forest Rights Act (FRA) aims to vest forest rights in these communities, ensuring that their traditional connection to the land is acknowledged, especially for those whose rights were previously undocumented. The Act seeks to address the historical injustices inflicted on forest-dwelling communities by government policies during both colonial and independent India, which stripped these communities of their claims over forest resources starting in the 1850s. By recognizing their rights, the Act not only restores their access to resources but also supports sustainable forest conservation through traditional practices, offering tribes a means of livelihood.

Section 5 of the Act empowers the Gram Sabha to regulate access to community forest resources and prevent activities that harm wildlife, forests, or biodiversity. However, the

⁶ IPLEADERS, (Aug 16, 2025, 8:00 pm), <https://blog.ipleaders.in/indian-constitution-and-protection-of-tribal-rights/#:~:text=Article%20244%20of%20the%20Indian,Meghalaya%2C%20Tripura%2C%20and%20Mizoram.>

⁷ Rajendra Nayak, *Powers of the Governor under the sixth schedule to the Indian Constitution*, 9 JILI, 237 (1967).

recognition of such rights is contingent upon evidence that the land was occupied before December 13, 2005.

To facilitate the effective and prompt implementation of FRA, the Ministry has consistently issued advisories to State Governments and Union Territories, emphasizing the importance of ensuring that eligible claims are processed without unjust rejections. This coordinated effort underscores the government's commitment to preserving the rights of forest-dwelling communities and fostering sustainable forest management.

The importance of the Act lies where, it complements the constitutional provisions in the Fifth and Sixth Schedules, which protect the rights of indigenous communities over the land and forests they inhabit⁸. By identifying Individual Forest Rights (IFR) and Community Forest Resource (CFR) rights, the Act aims to integrate these communities into forest governance and address the alienation that contributed to movements like Naxalism in states such as Chhattisgarh, Odisha, and Jharkhand⁹.

CHALLENGES IN SECURING LAND RIGHTS FOR SCHEDULED TRIBES

Securing land rights for Scheduled Tribes (STs) in India involves navigating a complex legal landscape where constitutional provisions, statutory laws, and judicial pronouncements are often hindered by gaps in implementation and enforcement.

Tribal communities often face significant challenges in protecting their land rights due to various factors that lead to displacement, resource loss, and disputes over ownership. Encroachment by non-tribal settlers is a major issue, as the resource-rich and remote areas inhabited by tribes attract commercial interests, government projects, and non-tribal settlers. Such encroachments frequently result in the loss of access to essential resources, displacement, and conflicts over land ownership.

Forest conservation and wildlife protection measures, such as the creation of protected areas and wildlife sanctuaries, have further exacerbated the issue. These policies often involve the

⁸ Madhusudan Bandi, *Forest Rights Act: Towards the End of Struggle for Tribals?*, 42 EPW, 63 (2014).

⁹ DRISHTIIAS, (Aug 17, 2025, 4:40 pm), <https://www.drishtiias.com/to-the-points/Paper2/forest-rights-act-2006>.

relocation of tribal communities from their ancestral lands, creating tension between conservation goals and tribal rights.

Large-scale infrastructure projects, including mining, dams, and industrialization, also contribute significantly to the displacement of tribal populations. These projects frequently involve the acquisition of tribal lands, often without adequate compensation, proper consultation, or effective rehabilitation, leading to widespread land disputes and social unrest. Adding to these challenges is an ambiguous legal framework, characterized by unclear land laws regarding tribal rights and the recognition of customary practices. Inconsistent interpretation and enforcement of these laws further intensify disputes and hinder the resolution of issues related to tribal land ownership and governance.

Although the FRA, 2006, serves as an essential legal framework for acknowledging the land rights of Scheduled Tribes, its effectiveness is hindered by ambiguities in its provisions and shortcomings in implementation.

In *Wildlife First v. Ministry of Environment, Forest and Climate Change*¹⁰, the validity of the FRA was challenged, arguing that it encouraged deforestation and environmental degradation. Petitioners sought the eviction of claimants whose rights had been rejected under the FRA. The Court held that FRA is not violative and strike down a provision which gave preferential treatment to the forest dwellers and also ordered the eviction of over one million forest-dwelling families whose claims had been denied. However, the decision was later stayed after widespread criticism and concerns over procedural lapses in claim rejection.

At the same time, there are rulings in favour of the tribal and upholding the principles of FRA as in *Orissa Mining Corporation v. Ministry of Environment and Forests*¹¹. These divergent rulings on the FRA illustrate a lack of consistency in balancing tribal rights with environmental and developmental goals.

Several instances of tribal land displacement illustrate the significant challenges these communities continue to face. For example, the construction of the Sardar Sarovar Dam in Gujarat led to the submergence of extensive areas, displacing thousands of tribal families. In

¹⁰ *Wildlife First v. Ministry of Environment, Forest and Climate Change*, Writ Petition (Civil) No. 109 of 2008.

¹¹ *Orissa Mining Corporation v. Ministry of Environment and Forests*, (2013) 6 SCR 881.

1979, it was estimated that slightly over 6,000 families would be displaced by the Sardar Sarovar Reservoir. By 1987, this number had doubled to 12,000, and by 1991, it had escalated dramatically to 27,000 families¹². Similarly, mining activities in Odisha and Chhattisgarh have forced tribal populations to leave their ancestral lands, often without sufficient compensation or proper rehabilitation. The creation of wildlife sanctuaries and national parks, such as those in Madhya Pradesh as in the case of Kuno Wildlife Sanctuary and Sariska Wildlife Sanctuary Rajasthan, has also resulted in the relocation of many tribes, disrupting their traditional lifestyles. These examples highlight ongoing issues of land alienation, inadequate protective measures, and the marginalization of tribal communities under the pressures of development and conservation efforts.

The case of Attappady in Kerala highlights the issue of unjust displacement and land alienation that has persisted since the 1950s. Situated at the foothills of the Nilgiris, Attappady is known for its agricultural potential and vibrant tribal communities. Recently, in the Vattalacki hamlet, 55 acres of land used by tribal families and Tamilians were claimed by Vidyadiraja Vidyasamajam. Large corporations have been acquiring land from Adivasis at extremely low prices, often treating them as encroachers on their ancestral lands. Ownership disputes over tribal land remain ongoing. According to a survey, tribal communities lost approximately 4,064 hectares between 1960 and 1977. The report further reveals that since the 1940s, non-tribal populations from Tamil Nadu and Kerala settled in Attappady, leasing land from tribal owners and exploiting them by making them sign blank papers or obtaining sale deeds at negligible rates to forge ownership documents. Similarly, the Kadar Tribes in Kerala, has faced displacement multiple times due to the developmental projects, especially for the hydel power projects.

CONCLUSION & SUGGESTIONS

The protection of land rights for Scheduled Tribes is not only a matter of securing land for survival; it is about recognizing their identity, culture, and way of life. It ensures that these communities can continue to practice their traditions, maintain their sustainable livelihoods, and contribute to the broader social and environmental health of the nation. Furthermore, protecting tribal land rights is essential for rectifying historical wrongs, ensuring justice, and

¹² Lalit Narayan, Moving Beyond Economic Analysis: Assessing The Socio-Cultural Impacts Of Displacement And Resettlement By Sardar Sarovar Project, India, (Aug 19,2025, 6:00 pm), <https://ges.rgo.ru/jour/article/view/>

fostering political empowerment and self-determination. By safeguarding these rights, we honor the valuable role that tribal communities play in preserving India's rich biodiversity and cultural heritage.

The effective enforcement of laws such as the Forest Rights Act (FRA) of 2006 and the Panchayats (Extension to Scheduled Areas) Act (PESA) of 1996 is essential for safeguarding the land rights of Scheduled Tribes. To achieve this, governments must allocate sufficient resources, including funds and manpower, to strengthen the administrative systems responsible for implementing these laws. Additionally, providing training to officials, community leaders, and local bodies on the legal provisions can enhance compliance and enforcement. Regular monitoring and evaluation of the implementation process are necessary to identify gaps, ensure accountability, and promote transparency. Introducing penalties for intentional delays or violations of tribal land rights can further deter exploitation and strengthen the protection of these rights.

Scheduled Tribes rely on communal ownership and participatory governance, which are integral to their way of life. Strengthening community-based governance systems is crucial to ensuring that tribal voices lead decision-making processes. Allowing tribal communities to uphold their traditional land-use practices, which are often sustainable and ecologically sensitive, further supports their autonomy. NGOs and Civil Society Organizations can play a vital role in fostering dialogue between tribal communities and government agencies, promoting inclusivity and transparency. Establishing legally backed tribal councils can provide structured platforms for collective decision-making and effective conflict resolution¹³.

In *Azadi Bachao Andolan & Others v. State of UP & Others*¹⁴, it was held regarding the displacement of tribal that there should be no displacement without the rehabilitation having been completed. Also in *Samatha v. State of Andhra Pradesh*¹⁵, a case in which the rights of tribal communities in Andhra Pradesh were addressed, the Supreme Court of India dealt with the meaning of various expressions like 'person', 'forest', and 'peace and good government' to protect the interests and rights of the tribal and scheduled people living in scheduled areas. Irrespective of these decisions, there exists a lacuna. Establishing a specialized judicial

¹³ C.H. Hanumantha Rao, *Inclusive Growth: Recent Experience and Challenges Ahead*, 44 EPW, 16 (2009).

¹³ *Azadi Bachao Andolan & Others v. State of UP & Others*, AIR 2000 SC 3751.

¹³ *Samatha v. State of Andhra Pradesh*, AIR 1997 SC 3297.

framework can ensure timely and equitable resolution of tribal land disputes, minimizing delays and upholding justice. Implementing fast-track processes within this framework can further enhance the efficiency of handling land-related conflicts. Additionally, providing Scheduled Tribes with access to legal aid and representation is essential to ensure fairness and inclusivity in these proceedings.

Many Scheduled Tribes lack awareness of their constitutional and legal rights, making them vulnerable to exploitation. Empowering these communities through targeted awareness campaigns can help them claim and safeguard their entitlements. Legal literacy drives, including workshops, community meetings, and campaigns, are vital for educating tribes about key laws like the FRA and PESA. Developing multilingual resources in regional and tribal languages ensures that educational materials are accessible to all. Leveraging technology, such as mobile apps, community radio, and social media platforms, can further disseminate information effectively. Additionally, grassroots advocacy through the training of local tribal leaders and activists can strengthen community engagement and serve as a bridge between the tribes and authorities.

