

Constitutional provisions for gender equality and human rights of the schedule tribe women in India: A study

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“There can be no lasting peace without development and no sustainable development without equality between men and women.”ⁱ (UNESCO, 1995)

Abstract:

There's a type of misconception that women from tribal areas have typically had a greater social status than Indian women overall. Some legal research, however, challenge this notion. In civilizations with tribal traditions, women play a crucial and bountiful role. As per the 2011 Census, the population of tribes makes up around 8.6% of the entire population of the nation. The demographic data indicates that the tribes have been disadvantaged for several years due to their large population living in various rural areas. Tribal women have had issues with reproductive health, economic disadvantage, and education, just as women in other social groups. Both primary and secondary data were used for the study, including pre-existing literature, preliminary studies, published data sets from government reports, and surveys. As a result, the current paper analyses the GDI indicators, which include literacy rate, health, work participation, poverty, and economic resources, to highlight the detrimental effects of gender disparities among tribal women. The GDI indicators have been closely studied and have shown that the main causes of these problems are the persistent disparities in the tribal communities, as well as ignorance, illiteracy, alienation from the land, and isolation from the outside world. Thus, this research paper's main objective is to critically analyse the main causes of gender disparities and identify the important gender issues that have a big impact on tribal women's social lives.

Keywords: Tribal women, gender disparity, social status, GDI, reproductive health.

Introduction:

India officially has a larger tribal population than any other nation in the world, at 104.28 million, or 8.6% of the overall population. They are all socioeconomically and politically backward because just 10% of them reside in metropolitan regions and the majority of them do so in rural ones. It is accurate to characterise the indigenous communities as both victims and refugees of the nation's progress. A tribe is defined as "a collection of families or a group of people occupying the same territorial region, speaking their mother tongue, and adhering to certain positive regulations and religious taboos regarding marriage, professions, and occupation" by Dr. D.N. Mujumdar in his book "Race and culture of India."

The term "tribe" was originally employed by the colonial authorities to refer to the primitive communities that had their own unique culture and language. Tribal perspectives on the world are shaped by several factors, including occultism, naturism, shamanism, and animism. Since they are thought to be the nation's autochthones, they are also presumed to be Adivasis. Due to their tendency of living in forested areas, mountainous and undulating terrain, and isolated locations, Adivasis are also known as Vanyajati.

According to the U.N. report 1980 1.3 billion people of the world live under absolute poverty and 70% of them are women. Women works two-thirds of world's working hours. These working hours of women spent in multifarious works done by them namely; growing food, cooking, raising children, caring for the members of the family and other varieties housekeeping such as maintaining the family hygiene, hauling water, gather woods that are used as domestic fuel. Thus, the overwhelming majority of works that sustains life are done by women.

The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is ratified by India. The Convention makes it abundantly clear that women have the right to equality with men and that all forms of discrimination against them must end. The Convention recognises the fundamental causes of gender stereotyping and discrimination against women, and it defines discrimination broadly as "any distinction, exclusion, or restriction made based on sex which has been intentionally or unintentionally impairing or nullifying the recognition, enjoyment, or exercise of women's rights."

One such nation where gender discrimination is pervasive is India, where women are oppressed and male dominance is strong. In return putting up such hard labour women earn only 10% of the world's income. This is because women's household labour is mostly unpaid and their labour outside is underpaid. Women own 01% of world's property.

Literature Review:

Nadeem Hasnain (2007) has provided a brief overview of the meaning and idea of "tribe." The anthropological profiles of the chosen Indian tribes were made available by the study. Their community's and culture's extensive history has been assessed.

In their 2015 study, **Ashwini Deshpande & Smriti Sharma** discussed the drawbacks of gender and caste being acknowledged as two distinct social stratification variables in India. Inequalities that affect women and girls from lower caste groups include those related to health and nutrition, education, earnings, ownership and profession, control, and access to resources and assets. This study examines the role of women in India's economic development. The problems and challenges faced by Indian women have been investigated in this study. It was noted in the conclusion that significant obstacles to their empowerment and growth include undernourishment, early marriage, poverty, and illiteracy.

This report, written by **Dr. Ramakrishnappa** (2015), discusses the socioeconomic standing and female empowerment of Karnataka's scheduled tribes. The study found that there are big differences between the real independence of indigenous women and legislation and advancements. The economic, social, and political identities and weight of women also play a role in determining their level of empowerment. The majority of indigenous women live in rural areas, where they have limited access to resources for health, education, and other necessities.

Objectives

- To assess and review the status of tribal women in India.
- To explore the plight of tribal women concerning the extent of gender inequalities.

Methodology:

The current investigation was started using data from a secondary source. I have used public data from a variety of sources, including websites, books, journals, newspapers, government reports, and census statistics.

Status of Tribal Women in India:

The northeastern states of Mizoram and Lakshadweep (94.4%), Meghalaya (86.1%), and Nagaland (86.5%) are home to the majority of the tribal population. Delhi, Punjab, Haryana, Chandigarh, and Pondicherry are the non-tribal states. We have said that 8.6% of India's overall population is tribal, as reported previously. In the patriarchal tribal areas, there is a great deal of discrimination against women. Tribal women are also denied basic rights in large towns. In every area, they are without options. Life decisions are made without the agreement of the deceased.

The tight rules, ceremonial servitude, and restrictive culture of their community, which keep women oppressed and oblivious to their rights, are common causes of gender discrimination.

It also showed that, generally speaking, women's socioeconomic standing in tribal society was significantly lower than that of non-tribal society. In actuality, though, they experience oppression, sexual harassment, and dominance in a similar manner to other social groupings.

As per 2011 census India has 623, 7248 male and 586,469,174 female. Female constitute 48.46% of the total population. Out of these population the scheduled tribe constitute 8.6%. Scheduled tribe is the official term used in Indian Government document to identify former tribes or adivasis. The Government has special concern and commitment for the development of scheduled tribes. These people are not only for long time down trodden and backward socially, politically and economically but also isolated from main stream population. Schedule tribes in India generally considered to be 'adivasis' meaning indigenous or original inhabitants of the country. Tribal communities are the product of different historical and social conditions. They belong to different racial stocks and religious backgrounds and speaks different dialects. The main stream Hindu population considered the general tribal population as primitive, illiterate and backward, social mobility and any interrelation with these people was not accepted by them. Thus, the tribal communities who never mixed with the mainstream Indian society are categorized as in Scheduled Tribe.

There are some significant measures taken up by the ministry of tribal affairs that aim to safeguard the inclusive educational development of the tribal women, are given below:

- The scheme of Ashram schools in tribal areas.
- The scheme of girls' and boys' hostels for STs.
- The scheme for STs Girls of low literacy districts to strengthen the education level among them.
- To promote Higher Education, there are some schemes in the form of scholarships such as Pre- Matric and Post Matric Scholarship, Rajiv Gandhi National Fellowship, etc.

Constitutional Provisions for the Safeguard of the Human Rights of Scheduled Tribe Women:

Human Rights are not merely ideals and aspirations, nor are they some rights granted by the existence of particular set of laws, rather human Rights are almost a form of religion of modern democratic states. Today these rights are moral claims and are accepted by all the nations.

In the U.N. Charter equal rights are given to both men and women. Since India is a signatory to various international conventions, covenants and protocol on Human Rights, and thus assumed the responsibility to provide various rights accordingly. India has adopted a clear policy on human rights for the welfare and protection of citizens. Indian Constitution declares the human rights for the citizen of country through the preamble to the constitution, the Directive Principles of State Policy (Part-iv) and more specifically on the Fundamental Rights Chapter (Part-iii).

India has given equal status to women. In the Constitution freedom, liberty and equality has been granted through various articles. Article 14 provides that the state shall not deny to any person equality before law or the equal protection of law within the territory of India. Article 17 prohibits the practice of any form of untouchability. Women enjoy right to equality and any discrimination against them shall be violations of equality of right and respect for human dignity. The makers of the Constitution were aware of the fact that only by discrimination on the ground of sex will not improve the conditions of women, so there are some special provisions for women to improve their position in society. It has been again elaborated in Article 15(3) says that state may make "special provisions for women and children." Article 15(4) empowers the state to make provisions for the advancement of any society and educationally backward people. Article 16(4) empowers the state to make special provisions for reservation in

appointments or posts in favour of any backward class of citizens, which in the opinion of state is not adequately represented in the services under the state.

The Constitution lays down certain Directive Principles of State Policy which though not justifiable, are fundamental in the governance of the country, and it is the duty of the state to apply these principles in making laws. The obligation of the state to protect and promote women are contained in the Directive Principles of State Policy. Under Art39 equality of sex is provided in many clauses i.e. working hour, equal pay for equal work. More elaborately Art 39 (a) articulates the duty to provide adequate means of livelihood equally for men and women. Art 39 (e) says that state should make policy to protect the health of men and women and workers. Art 39 (A) directs the state to secure a legal system promoting justice on the basis of equal opportunity and to provide free legal aid for securing justice for its citizens. Art 39 (d) demands a policy equal pay for equal work for both men and women. Art 40 provides 1/3 seats reservation in Panchayat. Art42 directs the State to make provisions for just and human conditions for work and maternity relief. Art46 enjoins upon the state to promote with special the educational and economic interests of the weaker sections of the people and in particular the scheduled tribes promise to protect them from social injustice and all forms of exploitation. Art 51A(c) vests a duty on the State to renounce practices that is derogatory to the dignity and status of women.

Again, there are some acts which helps development of this weaker section of society. These are, under Art164 there is provision for appointment for a special Minister for tribe welfare in the States of M.P. Bihar & Orissa.

Art 275 (I) provides special grant-in-aids to the states for promoting the welfare of STs and for raising the level of administration of the Scheduled Areas for the tribal welfare. Art 330 and 332 allows reservation of seats for the SC/ST in the Parliament as well as State Legislatures. Art335 allows relaxation in qualifying marks for admission in education for STs. Art338/338A/339 establish a National Commission of SCs and STs, Art339 allows the Central Govt. to direct states to implement and execute plans for betterment of SC/STs. Art340 empower the President to appoint a Commission to investigate the condition of socially and economically backward classes.

Besides, the above acts there are some special measures which are specially meant for women of all sections of this country, e.g. the exclusion of women from all offence of adultery (section 497 of the Indian Penal Code). Laws providing for reservation of seats for women in the local bodies and educational institution and giving special rights to women in respect of bail have been judicially uphold. Under 498(A) of IPC women can prosecute and adulterous husband for cruelty.

These acts of the Indian Constitution will definitely help the upliftment of the human rights of the ST women. The 5th Schedule to the Indian Constitution lays down certain prescriptions about the Scheduled Areas as well as Scheduled Tribes in states other than Assam, Meghalaya, Tripura and Mizoram by ensuring submission of Annual Reports by the Governors to the President of India regarding the Administration of Scheduled Areas and setting up Tribal Advisory Councils to advise on matters pertaining to the welfare and advancement of the STs (Art244(I)).

The 6th Schedule to the Constitution also reports to the administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram by designating certain tribal areas as Autonomous District, and Autonomous Councils and Regional Councils (Art 244(2)). To ensure effective participation of the tribal in the process of decision making.

The 73rd and 74th Amendments Acts of the Constitution are being extended through Scheduled Areas through the Panchayats Extension to Scheduled Areas. Act 1996 or PESA is law enacted by the Government of India to cover the Schedule areas. Which are not covered in the 73rd amendment or Panchayat Raj Act of the Indian Constitution.

Besides the above all these acts and amendment to the Constitution there are a number of developmental policies for the development of ST women. Among these the most prominent are the National Nutrition Policy, 1993 recognizes the problem of malnutrition and under-nutrition prevalent amongst tribal women and children and strongly advocates the need for controlling the same. In pursuance of the commitments of the policy, the Department

of Women and Child Development through its nationwide programme of Integrated Child Development Services (ICDS) continued to provide the much-needed nutritional and health inputs/services for the benefit of tribal children, adolescent girls and expectant and nursing mothers living in the remote tribal areas with relaxed norms. Of the total 4,608 ICDS projects in action by the end of the 9th plan, 758 (13.4%) were Tribal Projects through which a package of 6 services viz, health checkups; immunization, supplementary feeding; referred services; referral services; non-formal pre-school education; health and nutrition education were being extended to 4.77 million children and 0.96 million mothers. The concept of Mini Anganwadies introduced in the tribal areas was only to ensure that ICDS reach the tribal women and children even in the remotest tribal areas.

The National Commission for women has made a series of recommendations for legal reforms and other measures that deserve consideration but have so far been ignored by the Government. In recent time the Indian Govt. reported to the U.N. Committee on the status of implementation of the Convention on the Elimination of Discrimination of women and was congratulated for bringing women into Panchayats.

The status of tribal women is in some ways better than that of other women, for instance, female infanticide is lowest among tribal people. Tribal women work shoulder to shoulder with men and have higher status than many upper caste Hindu women do. For e.g. among the Nagas, women enjoy considerable freedom and high social status, they exercise significant decision making- power within their societies. They have the freedom to choose their husband and not forced to marry against their will. So, the tribal women enjoy greater freedom and higher status than Hindu Women. Moreover, Sati system or widow burning, occupational segregation and lowest status in the family and in the society have been absent from many tribal communities. Some of the tribal have matrilineal societies e.g. the Khasis of Meghalaya. Women in such societies inheritance right and privileges that are absent in patriarchal societies. Still violence and oppression are a common occurrence. Tribal women in India are subjected to violence within their own group because of various factor such as for poverty and related factor for consumption liquor, for the practice of black magic or witch craft etc. Even in these days of 21st century there prevails some of social evils e.g. the concept of which and the women falloff these evil concepts.

Again, regarding the tribal people, it may be said that these people are doubly depressed as part of a community that is among India's most deprived people. Their customary access to the forest has been restricted with the government appropriating forest produce through a series of damaging legislations. Large number of tribal people have displaced from their homes by modern so called "development" projects including mines, giant industrial plants, dams and electricity projects as well as defense installations like missile range.

However, there are differences among the tribal community regarding the rights of women. Tribal women display considerable heterogeneity in terms of their role within the tribal community. In some north-eastern states where the tribes constitute majority in terms of total population; tribal women seem to be better position in terms of literacy rate, sex ratio, work patterns and fertility rate. On the other hand, the most of tribal women of the other states like M.P. Bihar, Andhra Pradesh still remain backward and are subjected to exploitation of the upper caste people. They are poor illiterate and are unable to get the benefit of various constitutional provisions meant for them.

Conclusion:

Despite numerous constitutional provisions for protection of tribal people specially women for bringing them mainstream but still there is gap in this sphere. Needless to say, that mere legal system cannot help us in this regard. It is the collective work of people to see to it how to protect these rights. The Constitution have devised checks and balances but the best check are the people themselves, because human rights are for the people. It is the time to mobilize the public opinion in this regard for giving due importance to the human rights. The Scheduled Tribe Women should be concerned with their own rights and should have the full information of this matter. These women can play a very important role in mobilizing the public opinion among the mass for the protection and promotion of human rights and fundamental freedom.

The purpose of the present study is to ascertain the causes of gender inequality in tribal communities and the detrimental effects it has on women's lives, especially those of women living in tribal areas generally. In its

—Global Gender Gap 2020 study, the World Economic Forum ranked India 112th out of 153 nations. From the 108th rank in the 2018 report, it has fallen. The top three places are once again topped by Finland, Norway, and Iceland. The report's study illustrates the findings based on the advancements made by the States as markers of gender parity in the areas of work, literacy, political engagement, and health.

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