



# The Rights of Scheduled Tribes

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## Abstract:

*The Scheduled Tribes are various officially disadvantaged groups of historically disadvantaged people in India. The terms are recognized in the Constitution of India and the various groups are designated in one or other categories. Dr. B. R. Ambedkar in Drafting Committee drafted Constitution of India in 1950. In order to balance caste system in society, they represented certain privileges, reservations for Scheduled Tribes (since in ancient society Scheduled Tribes were treated as untouchables). In ancient time, Scheduled Tribes were ill-treated. They used to do work which other people refused (disgust) to do such work. Because of the above reasons also they might be ill-treated or vice versa else. There is no clear cut neither reason nor answer for which these certain peoples were tortured and been treated as slaves. In this prescribed essay, I talked about who are all Tribal, why they were called Scheduled Tribes and concentrated more towards their (SCHEDULED TRIBE'S) rights and also certain Special Programmes.*

## 1. Tribal People

The tribe is viewed, developmentally, or historically as a social group existing before the development of Nation States, or outside them. A Tribe is a group of distinct people, dependant on their land for their livelihood, who are largely self-sufficient, and not integrated into the National society.

## 2. Tribes Are Called Scheduled- Why?

The reason why they are called SCHEDULE is because they included in one of the Schedule of the Constitution of India. Our Constitution has 12 Schedules. The Scheduled Tribes people are the one who are previously untouchables. According to Hindu Mythology, this is the fifth category in the VARNA system. The Scheduled Tribes people are generally called as ADIVASI.

## 3. Adivasi

Adivasi are the tribal groups population of mainland South Asia. Adivasi make up 8.6% of India's population, or 104 million people, according to the 2011 census, and a large percentage of the Nepalese population. They comprise a substantial indigenous minority of the population of India and Nepal. The same term Adivasi is used for the ethnic minorities of Bangladesh and the native Tharu people of Nepal. The word is also used in the same sense in Nepal, as Janajati, although the political context differed historically under the Shah and Rana dynasties. Adivasis societies are particularly prominent in Andhra Pradesh, Chhattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, West Bengal and some north-eastern states, and the Andaman and Nicobar Islands. Many smaller tribal groups are quite sensitive to ecological degradation caused by modernization. Both commercial forestry and intensive agriculture have proved destructive to the forests that had endured swidden agriculture for many centuries. Adivasis in central part of India have been victims of the Salwa Judum campaign by the Government against the Naxalite insurgency. An example for TRIBE is DEAD HEADS who followed the GRATEFUL HEAD. Example is CHOCTAW AMERICAN INDIANS.

#### **4. Largest Tribe in India**

According to 2011 Census of India, BHIL is the most popular tribe with a total population of 4,618,068 constituting 37.7% of the total ST population. GOND is the second largest tribe, with a population of 4,357,918 constituting of 35.6% MADHYA PRADESH has more than 1.6 Crore ST population who make 21% of state population. MIZORAM and LAKSHADWEEP had the highest percentage of ST population but as number one think CHATTISGARH will top the list.

#### **5. Indian Laws**

##### **5.1 Constitutional Provisions**

According to Art.342 of Constitution of India, the President after consulting with the state governments concerned has promulgated nine orders so far. This promulgation has clearly specified the Scheduled Tribes in relation to concerned State and Union territories. India can proudly be called the largest TRIBAL population in the world. According to 2001 Census, 8.2% of India's population. This interprets into 82 million people. In all,, 698 Scheduled Tribes exist in India. Constitutional Provisions/ Safeguards for Scheduled Tribes can be divided into two parts. 1. Protective. 2. Development

##### **5.2 Basic Safeguards Provided In Indian Constitution**

###### **I. Educational & Cultural Safeguards**

Art. 15(4):- Special provisions for advancement of other backward classes (it includes STs)

Art. 29:- Protection of Interests of Minorities (it includes STs)

Art. 46:-The State shall 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 shall protect them from social injustice and all forms of exploitation, •

Art. 350:- Right to conserve distinct Language, Script or Culture;

Art. 350:- Instruction in Mother Tongue.

###### **II. Social Safeguard**

Art. 23:- Prohibition of traffic in human beings and beggar and other similar form of forced labour;

Art. 24:- Forbidding Child Labour.

###### **III. Economic Safeguards**

Art.244:- Clause(1) Provisions of Fifth Schedule shall apply to the administration & control of the Scheduled Areas and Scheduled Tribes in any State other than the states of Assam, Meghalaya, Mizoram and Tripura which are covered under Sixth Schedule, under Clause (2) of this Article. Art.

275:- Grants in-Aid to specified States (STs&SAs) covered under Fifth and Sixth Schedules of the Constitution.

###### **IV. Political Safeguards**

Art.164 (1):- Provides for Tribal Affairs Ministers in Bihar, MP and Orissa;

Art. 330:- Reservation of seats for STs in Lok Sabha;

Art. 337- Reservation of seats for STs in State Legislatures;

Art. 334:- 10 years period for reservation (Amended several times to extend the period.);

Art. 243:- Reservation of seats in Panchayats.

Art. 371:- Special provisions in respect of NE States and Sikkim

###### **V. Service Safeguards**

(Under Art.16(4),16(4A),164(B) Art.335, and Art. 320(40)

**Other Provision In Regards With Rights of Scheduled Tribes in Indian Constitution**

**Art.15( 4). Promotion of Social, Economic And Educational Interests**

This article empowers the state to make any special provision for the advancement of socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

This clause has been especially incorporated to prevent any special provision made by a state for the advancement of socially or educationally backward classes of citizens from being challenged in the law courts on the ground of discrimination.

### **Art.19 (5) Safeguard of Tribal Interests**

While the rights of free movement and residence throughout the territory of India and of acquisition and disposition of property are guaranteed to every citizen, special restrictions may be imposed by the state for the protection of the interests of any Scheduled Tribe. (For example state may impose restrictions on owning property by non tribals in tribal areas.)

### **Art.23 Human Trafficking**

Traffic in human beings, begar and other similar forms of forced labour are prohibited". This is a very significant provision so far as Scheduled Tribes are concerned.

### **Art.29 Cultural and Educational Rights**

According to this article a cultural or linguistic minority has right to conserve its language or culture. The state shall not impose upon it any culture other than the community's own culture.

### **Article.164**

It provides for a Minister-in-charge of tribal welfare in the states of MP, Chattisgarh, Orissa and Jharkhand. These states have substantial tribal population and special provision of a Minister looking after tribal welfare is an evidence of the concern of the framers of the constitution for safeguarding the interests of Scheduled Tribes.

## **6. Cases**

### **6.1 Bhauri Lal Jain and Anr. Vs Sub-Divisional Officer and Ors**

In this case, Mr. Sinha has urged that Section 42 of the Act is discriminatory, inasmuch as if action for election is taken before a Civil Court, there will be a defence that the suit is barred, if brought after twelve years, in case of non-Scheduled Tribe, or 30 years, in case of Scheduled Tribes, as under amended Article 65 of the Limitation Act, by Regulation I of 1969, but, there will be no defence, if action is taken before the Deputy Commissioner, under Section 42 of the Act, for eviction. The position, therefore, comes to this that whereas the suit will fail before the Civil Court, if such a defence is sustained, but if the plaintiff will go before the Revenue Court, i.e., the Deputy Commissioner; he will get the desired relief. Therefore, this was a harsher remedy and Section 42 was hit by Article 14 of the Constitution, as it was a denial of "equality before law or equal protection of laws." He also urged that under Section 42 of the Act, the Deputy Commissioner may choose to interfere in one case and may not choose to interfere in another. This is discriminatory between a citizen and citizen. He has also urged that the true scope of the power of the Deputy Commissioner under Section 42 is administrative as laid down in the case of 1957 BLJR 820. That is to say, he can exercise those powers where eviction is sought for within twelve years of wrongful possession and the question of title does not fall for consideration, which question can only be decided, in a suit, by a Civil Court.

### **Prevention of Atrocities Act, 1989**

Assistance is provided to states/UTs for implementation of Scheduled Tribes (Prevention of Atrocities) act, 1989. Financial assistance is provided to the States/ UTs for implementation of these Acts, by way of relief of atrocity victims, incentive for inter-caste marriages, awareness generation, setting up of exclusive Special courts, etc. Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (No.1

of 2016) was notified in the Gazette of India (Extraordinary) on 01.01.2016. The Amendment Act came into force on 26.01.2016.

## 7. Conclusion

Certain Privileges, Rights, Duties, and also Reservation Quotas were given to Scheduled Tribes (as represented above). To stimulate the development equals to other caste, those Rights, Reservations were given to Scheduled Tribes. Though there is Reservation and Special Schemes for Scheduled Tribes, they are still refusing to adopt certain changes, schemes since they consider such changes as against their customs and tradition. Apart from above privileges, in certain areas like villages Scheduled Tribes are till treated as UNTOUCHABLES.

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