

PROSPECTS OF TRIBAL DEVELOPMENT IN THE CURRENT SOCIO-ECONOMIC SCENARIO

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ABSTRACT:

“To deny people their human rights is to challenge their very humanity.” - Nelson Mandela

Human rights are the fundamental rights which every human deserves and has a claim to. The scope of human rights law has increased over the years but it is still devoid of a lot of developments which are taking place in the present everyday society. As the dynamicity of the society increases the demands for human rights also amplify.

One of the most frequent victims of human rights violations are the tribal communities since they do not have the power to raise a voice. In the name of development people have been indulging in deforestation in large numbers thus snatching away the homes of the tribal. The tribal community has not only lost the physical entity of land because of deforestation but has lost its heritage, its culture, its legacy and inheritance because of one simple act of the authorities.

The rationale behind this essay is to bridge the gap between reality and the world law purports to govern. The research paper attempts to present the prevailing status quo of the tribal communities on India and a detailed analysis of the current laws governing them which is enforced efficiently can result in protecting them. Landmark laws like the Constitution of India, 1950; Land Acquisition Act, 1894; Scheduled Tribes and Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006; Land Acquisition, Resettlement And Rehabilitation Act, 2013; among others have been discussed.

The essay is primarily solution oriented. It has in sequence discussed the concept of environment degradation and deforestation, the current status quo, legal provisions which bind the actions of the people and the solutions which could be adopted to remedy the current scenario.

The forced mass displacement of people because of interference of the non-tribe members has not seen its harshest effects as of yet; they will only be visible in the future where the long lasting effects of the exodus will be understood. Giving tribal people their right is not only a legal obligation of the countries under municipal laws but a social and ethical obligation as well. Humanity knows no class, caste, creed or boundary, and that is what we must strive to protect.

I. INTRODUCTION

India is one of the most diverse countries on planet Earth in terms of its demographic features. The country has a rich history wherein every kind of person is accommodated and given adequate means to live. India has an abundance of natural resources accommodating all elements of nature like seas, mountains, rivers, oceans, valleys, plateaus, desserts, forest and so on. Along with these natural resources India even possess the most number of people in its eligible workforce. *A 65.9% qualify to be a part of the working sector of the country i.e. they belong to the working age group of 14-65 years of age.*¹ This means that if the natural resources and human resources are mixed cautiously then it will lead to fast growing balanced growth of the country. But unlike the ideal world, in the real world man indulges in environmentally degrading activities like deforestation, mining, etc. leading to snatching away of the land of the forest dwellers i.e. the tribal community.

¹ India; Office of Registrar General & Census Commissioner. (n.d.). Age Structure and Marital Status, Retrieved 19 October 2016, from http://censusindia.gov.in/Census_And_You/age_structure_and_marital_status.aspx.

1.1. ENVIRONMENT DEGRADATION

*Environmental degradation is the deterioration in environmental quality from ambient concentrations of pollutants and other activities and processes such as improper land use and natural disasters.*²

With the continuous use of the resources present in the world, the rate at which they are depleting is fast. The degradation of environment basically means that deterioration of the resources in the environment which is irreparable in the natural course of nature. Man has not learnt the judicious use of resources and that has led to unwanted waste of precious resources. The resources which have been recognized are exploited by men. As Gandhi rightly put, the world has enough for everyone's need, but not enough for everyone's greed.³ Man's greed to conquer the world has led to the situation we are at.

The practice of environmental degradation affects every human on the face of this planet, the only difference is in the extent of the affect it causes in their daily lives. Environmental degradation is caused by the urban population and its activities but the affected population is the tribal population since they primarily depend on nature for their livelihood. In the following parts of the paper the effects of environmental degradation because of deforestation is discussed.

1.2. TRIBE

According to Oxford Dictionary *a tribe is a group of people in a primitive or barbarious stage of development acknowledging the authority of a chief and usually regarding themselves as having a common ancestor.*⁴

A famous sociologist, D.N Majumdar, defined tribe as *a social group with territorial affiliation, endogamous with no specialization of functions ruled by tribal officers hereditary or otherwise, united in language or dialect recognizing social distance with other tribes or castes.*⁵ In the Indian context, a few features are necessary to be present while defining a tribe like it should have minimal functional interdependence with the rest of the society, should be economically backward i.e. at an underdeveloped stage, geographical isolated, should share a common dialect and abide by customary laws. They are known by various names like Vanavasi, Pahari, Girijan, Adivasi and etc.

The Constitution of India does not define the term 'Tribe', though Article 342⁵ mentions the same for the first time. According to the abovementioned article the President may with respect to any State or Union territory, specify the tribes or tribal communities, which shall be deemed to be Scheduled Tribes. *The present list of notified Scheduled Tribes contains 698 district tribes in totality.*⁶ *Total population of Scheduled Tribes as per the Census 2001 accounts for 8.2% of the total population of country. Majority of the Scheduled tribe population live in rural areas and their population is 10.4 % of the total rural population of the country.*⁷

II. PRESENT SENARIO IN INDIA

*Indigenous forest people use their land in many different ways – for fishing, hunting, shifting agriculture, the gathering of wild forest products and other activities. For them, the forest is the very basis of survival and its resources have to be harvested in a sustainable manner*⁸ When an event like deforestation takes place it can lead to conflict within the ecology.

The reduction of the capacity of the environment to meet social and ecological objectives and needs is termed as environmental degradation by the United Nations International Strategy for Disaster Reduction.¹⁰ The human-induced degradation of deforestation leads to the tribal population losing their home so that the urban sprawl can increase. The term 'Deforestation' has been defined by the WWF as *the conversion of forest to another land use or the long term reduction of the tree canopy cover. This includes conversion of natural forest to tree plantations, agriculture, pasture, water reservoirs and urban areas but excludes timber production areas managed to ensure the forest regenerates after logging.*⁹ This means that the primary source on which the tribal communities are

² Glossary of Environment Statistics, Studies in Methods, Series F, No. 67, United Nations, New York, 1997.

³ Govind Singh, Mahatma Gandhi - A Sustainable Development Pioneer, 14 October 2008, <http://ecoworldly.com/2008/10/14/mahatma-gandhi-who-first-envisioned-the-concept-of-sustainabledevelopment/>.

⁴ "tribe" Oxford English Dictionary Online. Oxford University Press, September 2016. Web. 21 October 2016. ⁵Roy, S. C. Folklore 49, no. 3 (1938): 324-26. <http://www.jstor.org/stable/1257488>.

⁵ Constitution of India, 1950, Article 342.

⁶ India; Office of Registrar General & Census Commissioner. (n.d.). SC and ST Lists, Retrieved 20 October 2016, from http://censusindia.gov.in/Tables_Published/SCST/ST%20Lists.pdf.

⁷ India; Office of Registrar General & Census Commissioner. (n.d.). Scheduled Casts and Scheduled Tribes, Retrieved 22 October 2016, from http://censusindia.gov.in/Census_And_You/scheduled_castes_and_scheduled_tribes.aspx.

⁸The Relationship Between Indigenous People And Forests, United Nations Environment Programme, <http://www.unep.org/vitalforest/Report/VFG-03-The-relationship-between-indigenous-people-and-forests.pdf>.¹⁰Environmental Degradation, Terminology, United Nations International Strategy for Disaster Reduction, Retrieved from <https://www.unisdr.org/we/inform/terminology>.

⁹http://wwf.panda.org/about_our_earth/deforestation/.

dependent to survive is being taken away from them in bits and pieces. The sole means of their livelihood and their abode is snatched away from them hence leading to them being categorized as endangered and is an adequate reason for their dwindling numbers.

More than 1.6 billion people around the world depend to varying degrees on forests for their livelihoods – not just for food but also for fuel, for livestock grazing areas and for medicine. *At least 350 million people live inside or close to dense forests, largely dependent on these areas for subsistence and income, while about 60 million indigenous people are almost wholly dependent on forests.*¹⁰ Forest sector is the second largest land use after agriculture. In *remote forest fringe villages about 300 million tribal and other local people depend on forest for their subsistence and livelihood.*¹¹

In a developing nation like India with the second largest population in the world there is heavy pressure on land and so that the needs of the urban population can be satisfied the forest cover is depleting at such an accelerated rate. India has burden of supporting 16% of the planets population even though it just occupies 2.5% area on the world map. This has led to reduction of forest cover in terms of quality as well as quantity.

According to the statistics released by FAO, *between 1950 and 1980 India lost about 4.3 million has of forest land for non-forest use like development of agriculture, heavy industries and other developmental process.*¹² The satellite survey conducted by the Forest Survey of India published a State of Forests Report in 2015. *As per this report the total forest cover in India is 7,01,673 sq km which has increased by 3775 sq km since the 2013 assessment. The geographical area it occupies in the country is 21.34%.*¹³

Among all the states the maximum forest cover compared to its own geographical area is found in the state of Mizoram followed by Lakshadweep Islands. And as per the data furnished by the Ministry of Tribal Affairs, *the maximum tribal population is present in the state of Mizoram and Lakshadweep Islands respectively each housing 94.5% tribal population.*¹⁴ Hence it can be reasonably deciphered that there is a direct and proximate nexus which is positively correlated between the abode of tribal people and the forest cover. The basic three necessities which every human needs to survive on this planet are three components i.e. food, water and shelter. These three have been discussed below to show that the basic necessities to carry on life as a tribal are not being satisfied because of deforestation.

2.1. FOOD

Food is a *sine qua non* element of human life. Tribes are dependent on the different indigenous animals which live in the forests or the fruits and vegetables which grow in the forests or on fishing if there is a water body in the vicinity. The moment the trees are cut these animals lose their habitat. The fruit and vegetable bearing trees are no more. This creates an imbalance in the staple diet of the tribes living in that area and sometimes even leads to starvation. *One tribal while being interviewed said, 'If we have no forest, we can't feed our children and we will die'*¹⁵

2.2. WATER

Potable water is most primary element for survival. The provision of drinking water is not available in urban areas let alone rural areas. Tribes have to travel distances just to fetch water which is to be used for survival the day. Dwelling amidst hills, forests, coastal areas, deserts, tribes over the centuries have gained precious and vast experience in combating environmental hardships and leading sustainable livelihoods.

2.3. SHELTER

The natives of the forests are severely affected by deforestation. In ancient times the people used to stay near the forest so that they could use an abundance of natural resources in their vicinity to survive. With passage of time many migrated to form villages and towns and urban cities but some stayed back in those forests. Those people in today's date are called tribals. The forests are their home and it provides them shelter to stay there. When outsiders go there for works like mining or logging these tribes have to surrender their homes without proper eviction schemes and some are even persecuted or hunted by the so called authorities. The only problem is not that they do not receive basic necessities for livelihood but even apart from that they have to face innumerable obstacles to survive.

10 World Bank (2006). India: Unlocking Opportunities for Forest Dependent People in India. Report - IN, World Bank: South Asia Region 85:34481.

11 Biswas. P. K., Forest, People and Livelihoods: The Need for Participatory Management, Food and Agriculture Organisation of the United Nations <http://www.fao.org/docrep/ARTICLE/WFC/XII/0586-C1.HTM>.

12 Biswas. P. K., Forest, People and Livelihoods: The Need for Participatory Management, Food and Agriculture Organisation of the United Nations <http://www.fao.org/docrep/ARTICLE/WFC/XII/0586-C1.HTM>.

13 India State of Forest Report 2015, Forest Cover, Forest Survey India, <http://fsi.nic.in/isfr-2015/isfr-2015forest-cover.pdf>.

14 State wise Tribal Population in India of Scheduled Tribes, Ministry of Tribal Affairs, <http://tribal.nic.in/content/statewisetribalpopulationpercentageinindiascheduletribes.aspx>.

15 Chamberlin Gethin, They're Killing Us: World's Most Endangered Tribe Cries for Help, 22 April 2012, <https://www.theguardian.com/world/2012/apr/22/brazil-rainforest-awa-endangered-tribe>.

III. LEGAL PROVISIONS

A law is enacted so as to make sure that the rights of its beneficiaries are protected. But if the legislation is not enforced by the authorities in its spirit then the purpose of the law fails. In this segment the provisions under the Constitution and the Central laws which safeguard their rights are discussed.

3.1. CONSTITUTION OF INDIA, 1950

The Constitution and the other centre and state enacted laws have made provisions to protect tribal rights but they aren't complied with in all scenarios thus leading to their miserable conditions. The 5th Schedule of the Constitution read with state laws enacted in the respective states prohibits the transfer of land of the tribal people have not been abided by. Further on by the 44th Amendment Act, 1978, the status of the fundamental right of right to property was given a constitutional status under Article 300 A which states '*No person can be deprived of his property except by authority of law*'.¹⁶

3.2. LAND ACQUISITION ACT- 1894

Along with the Constitution a landmark legislation in the same field i.e. the Land Acquisition Act- 1894, allows the government to exercise its sovereign powers and take any land which they want under the garb of the arbitrary term public purpose mentioned in Section 4 of the Act. The legal maxim *saluspopuliest supreme lex* i.e., the interest and claim of the whole community is always superior, has lost its meaning in the present world. There are defects in the existing law like the method of fixing the compensation is on the basis of the market value of the preliminary notification, no consideration for rehabilitation, etc.

*Property may be needed and acquired under this power for government offices, libraries, slum clearance projects, public institutions, highways, public parks, railways, telephone, dams, and water systems and many other projects of public interest convenience and welfare.*¹⁷ But the use of the acquired land for public welfare purposes is a rare sight. Like in a recent judgement the Supreme Court quashed the land acquisition of 997 acres of land made by the West Bengal government in the name of public purpose and asked the government to return back the land to its rightful owners.¹⁸

3.3. SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

The Act only deals with forest dwelling Scheduled Tribes which have been staying on those lands before 25th October 1980 and not with any other community which is dependent on the forest for their livelihood. But ambiguity creeps in since the phrase *livelihood needs* has been left undefined. Further on it does on paper guarantee 12 kinds of rights to the forest dwellers but rarely are they upheld.

3.4. LAND ACQUISITION, RESETTLEMENT AND REHABILITATION ACT, 2013

A new legislation in land matters was passed by the UPA II government during its regime. It made a few amendments to the arbitrary provisions in existing laws and brought new checks and balances into the picture. One of the most glaring flaws according to the act is the Tribal Displacement Plan which is to be draw up only if a minimum of 100 or more STs are affected by the government actions. While in reality it is a known fact that the tribal community is never found in such large groups.

IV. SOLUTION AND SUGGESTIONS

*India has the second largest tribal concentration in the world.*¹⁹ This data automatically puts a lot of responsibility on the authorities to make sure that the laws are properly formulated and enforced. It has been reasonably established that the practice of deforestation has led to land degradation which has led to the tribal habitat disappearing further affecting the cultural values hence giving enough reason for immediate action. A few of the immediate solutions which could be adopted by the appropriate authorities are listed down.

The only way possible to the save the lifestyle of the Tribal community is by protecting them and giving them the rights which they have been allotted. A proper implementation of the existing laws can change the current status quo of the indigenous groups. Although the current laws do have flaws in them but those can be amended with time. For the time being if the rights accorded to them under the Constitution and state and central laws are awarded their status can be uplifted.

¹⁶ Constitution of India, 1950, Article 300 A.

¹⁷ V.N. Shukla's 'Constitutional Law of India', (Mahendra P. Singh, rev'd. Eastern Book Company, 12th ed. 2008) pp 298-99.

¹⁸ Kedar Nath Yadav v. State Of West Bengal & Ors, 2016.

¹⁹ Thomas Ticy, Rights of Tribals, Centre for International Legal Studies, School of International Legal Studies, JNU. Retrieved from <http://www.jnu.ac.in/huriter/righttribals.htm>.

The Ministry of Tribal Affairs can also form autonomous Tribal councils so that the Tribal people can look after themselves while keeping their traditions and culture free from outside interference. The Councils would only be answerable to the Centre, so that would give them discretionary powers to handle the matters as per their circumstances.

Another option which could be implemented by the government is by offering tax breaks to the companies who help in the upliftment of the tribal community in their vicinity. Since one of the primary reasons deforestation takes place is the setting up of industries and factories on these sites the minimal they could do is offer compensation and provide them with a facility of relocation. If the company is successful in doing so they could be offered a tax break if not then charged with a penalty for the same.

V. CONCLUSION

The tribal community of the country is facing a great threat of extinction as it is forced to leave their homes and face displacement in the name of human development. Humans harm the ecology of nature by indulging in practices like deforestation. Even though these practices are regulated by law on paper but in reality the laws aren't enforced objectively. This has led to the community facing difficulties not only on the personal front but on the legal front as well. It has led to them being trapped in a cycle of abuse since their rights are violated and they cannot even approach the appropriate authorities for the redressed of the same. Above this they are also economically backward so they do not even have the financial luxury to resettle or find jobs to fend for their needs.

Sustainable forest management is key to the sustainable rural livelihood. There has to be a harmonious balance between conservation of forests and development of communities through livelihood security. Sustainable livelihood of the tribal community is increasingly linked to environmental conservation. Here, it is apt to quote a Tribal Chief who said:

Only after the last tree has been cut down

Only after the last river has been poisoned

Only after the last fish has been caught

Only then will you find that money cannot be eaten.²⁰

20 Biswas. P. K., Forest, People and Livelihoods: The Need for Participatory Management, Food and Agriculture Organisation of the United Nations <http://www.fao.org/docrep/ARTICLE/WFC/XII/0586-C1.HTM>.