Historical Perspectives of Tribal Policies

The colonial period in India began with the British colonizers entering India in the 17th century for trade and commercial enterprises. They observed economic and cultural diversity and heterogenousness in livelihood. So, they categorized the Indian population into certain dwelling and occupational groups and started implementing various laws, acts and policies for the development and benefits of these people.

After decades of policies for tribals during the colonial period and despite various constitutional provisions and Acts, the condition of the tribals still persists. The following sections historically brief the tribal policies of pre-independence and post-independence periods respectively. The post-independence period is further divided into pre and post-economic liberalization.

Tribal Policies during Pre-Independence Period

The history of the tribal polices that interest in forestry was noticed as for back as 1806 with the reservation of teak forest in Malabar during the British period. In 1865, the forest act of 1865 was ordained that empowered the free movement of tribal forest dwellers on the forest. In 1878 another act was made which was particularly concerning with removing uncertainty about the ‘Absolute Proprietary Right of the State.’ This act was designed to make easy strict state control over forest resources. These policies went against the tribal as well as non-tribal communities. The loss of rights and the resulting loss of control over the natural resources stir up the forest dwellers giving rise to revolts in tribal areas and the people did not cooperate with the forest department, then the Indian forest Act of 1927 recognized
yielding and privileges of the forest dwelling tribal people and labourer in respect of cultivations, collection of firewood, timbers for household, consumption of raw materials for crafts etc\textsuperscript{2}.

The rulers of the colonial period realized the difficulties in administration for wide spread tribal areas irrespective of the acceptance of policy of isolation or segregation. British rulers realized that isolation would protect the tribal’s against the aggression and exploitation, which they found on the increase. As isolationists, the British in position asserted certain contiguous and thickly populated tribal belts as excluded and partially excluded areas. The policy of isolation was supported by the then separatist anthropologists who advocated for tribal reserves. Pledging to isolation, Elwoth in 1939 suggested for the establishment of the ‘National Park theory’ within the framework of policy of isolation and the creation of excluded and partially excluded areas, some legislation was enacted\textsuperscript{3}.

The basic idea behind the policy of isolation was to preserve tribals away from the people coming from more advanced communities the protection and preservation of tribal life and culture were guaranteed by the scheduled district act of 1875 that provided for special tribal administration. This excluded the tribal areas from the operation of common laws country. This expulsion from the jurisdiction of provincial government was also suggested by Montague-chelmsford report of 1918. According to government of India act, 1919 the tribal areas were divided into ‘wholly excluded areas and area of modified exclusion’\textsuperscript{4}.

On the day of the independence it was decided to put all the tribal communities, in a separate schedule of the constitution of India. These
‘excluded and partially excluded areas’ were drafted in fifth and sixth schedule. The areas resided by scheduled tribes were termed as scheduled areas. These areas are specially defined in Para 6 of the part C of the fifth schedule of the Indian constitution. The states except Assam, Meghalaya, Tripura and Mizoram are administered under Fifth schedule of the constitution and the remaining states were under sixth schedule. Articles 244[2] and 275[1] are specially meant for sixth schedule areas that were later on reformed as ‘Schedule districts’.

Tribal Policies during Post-Independence Period

In the post-independent period, the British policy of isolation was switched to the integration model of tribal development. Various customary programmers were started in the tribal areas for bringing about social and economic change among the tribal people. Our first Prime Minister Mr. Jawaharlal Nehru, who was concerned about formulating a tribal policy made a herculean contribution to the tribal development policies. Based on his integrationist model Nehru gave the policy of panchsheel. The main characteristics of the policy were:

1. Tribal people develop along the lives of their genius and we should try to encourage in every way their own traditional arts and culture.
2. We should try to train and build up a team of their own people to do the work for administration and development.
3. We should not over-administer these areas. We should rather work through and not in strif with their social and cultural institutions.
4. Tribal people right in land and forest should be respected.
5. We should judge results not by statistics or amount of money spent but the quality of human character that is evolved.

After Independence, a new forest policy was formulated in 1952 that boosted the formation of forest development committees in different states of India to hitch the commercialization of forest resources\textsuperscript{7}. In report of the committees on ‘Forest and Tribals in India’(1982), which was developed under the chairmanship of B.K. Roy Burman, an Indian anthropologist saying that “there is a symbiotic relationship between the tribal social organization and forest economy in the specific historical context of our country.” Committee highlighted out that “tribals are not only forest dwellers but also they have evolved a way of life which, on the one have is woven round forest ecology and forest resources is protected against degredation by man and nature.” The committee recommended that “the symbiosis between the tribal communities and forest management should be established though imaginative forestry programmes and conservation and reorganization of traditional skill of labour.” \textsuperscript{8}

Just after Independence tribal development policies were framed in different successive Five year plans by planning commission of making target them incorporated into the mainstream societies or there by making their own destinies of ‘self-development’ by getting rid of exploitation by non-tribals as follows:

**First Five year plan [1951-1956]**

In this period government introduced drapery schemes an education and welfare programmes for providing direct benefits to scheduled tribes
were drawn under the state and central sectors for the economic educational and social progress of this community. The report of scheduled areas and scheduled tribes commissioners (1960-61) shows that out of the sixteen sectors identified for the allocation of the amount for education, agriculture, radical and public health—were given special attention for development. An amount of Rs. 3.6 crores was spent on economic upliftment of tribals and Rs. 6.5 crore towards development of roads and communication in tribal areas. Some 4000 schools, 653 forest labour cooperatives and 312 multipurpose cooperatives were set up.

**Second five year plan [1956-1961]**

It was initiated with a indicative change in the approach to the schemes of development. In the expenditures on economic ascension the amount was raised from Rs. 4.32 crores in the first plan to Rs. 16.86 crores in the second. Forty-three special multipurpose tribal (SMPT) Blocks were established in the scheduled area. To assess the performance of these SMPT Blocks the government of India appointed a committee in 1959 with Verrier Elwin, the well known anthropologist as chairman. After Elwin Committee the Dhebar Commission (1960-61) was appointed to study the whole scale of tribal development.

The Dhebar commission recommendations have gone a long way to strengthen the defensive shell and giving panchayati Raj a tribal bias. The commission’s recommendation on planning and development were more precise for solving the problem of land alienation, indebtedness, promotion of education, protecting tribal interest in forest and sectoral development. The Dhebar commission also recommended institution of tribal cultural
research and training institutes in states for conducting training for official and non-official development functionaries and workers taking part in research studies\textsuperscript{11}.

**Third Five Year Plan [1961-1969]**

On the foundation of second five year plan 415 tribal development blocks were set up to improve the conditions of tribal areas and to involve tribal people in the process of development with the aid of panchayat institutions as well. Priorities were in order of economic upliftment, health, education, communication and housing. The retrospect of the tribal development programme was taken up by a study team under the chairmanship of shilo Ao (1969). The team made a review of the steps undertaken for tribal development during the course of first three five-year plans. The findings of this team had made it well clear that it was necessary to adopt a flexible policy for tribal development\textsuperscript{12}. Although, the accomplishment under the programme had helped ‘bringing about psychological change in the outlook of the tribals’ it was necessary to have a development policy.

**Fourth Five year Plan [1969-1974]**

With the beginning of fourth five year plan 489 tribal development blocks had come in existence for the economic advancement of the schedule tribes and extensive development areas with thick concentration of tribal populations.

A number of new programmes were introduced, In addition to intensifying programmes, which were already popular. Land colonization
schemes were started and several tribal colonies were established. Sectoral planning with schematic budget was also inaugurated during this plan period. With the emphasis the conditions of rural poor, some of the backward tribal regions received greater regard Individual family’s programmes were enclosed and new programmes of the Tribal Development Agencies (TDA) were taken up by the Ministry of Agriculture. Six TDAs were started in the country in which two started in Madhya Pradesh.

**Fifth Five year Plan [1974-1978]**

In this plan, three categories, namely:

1. Area of tribal concentration,
2. Primitive tribal groups (PTGs)
3. Dispersed tribals, were given attention.

The fundamental approach towards tribal development adopted in the fifth plan was to key out larger areas of tribal concentration which included the scheduled Areas, Contiguous Tribal Development blocks and other backward regions having 50 percent tribal concentration. All such blocks in the states were brought under a separate Tribal Sub-Plan.

The tribal sub-plan had two objectives:

1. Promotion of development activities to enhance the standard of living of tribals.
2. Provision of legal and administrative support for tribals.

The TSP laid underline an accountability, non-divertability and utilization of alloted funds for the welfare and development of tribals. This period also marked the beginning of group based programmes like large-
sized Agricultural Multipurpose Cooperative Societies (LAMPS) in order to contribute the tribals in to cooperative movement and eliminate money lenders, forest contractors and middlemen.

**Sixth Five Year Plan [1980-1985]**

In this plan, it was noticed that recognized areas of tribal concentration out side the tribal sub-plan area were still left out of the tribal sub-plan strategy. It was therefore decided during the sixth plan that clusters (villages) having a minimum of 10,000 tribal population of which of least 50 percent are scheduled tribes, should be sculptured for intensive integrated development and modified area development approach (MADA) under the tribal sub-plan\(^{15}\). A definite target of 50 percent of the scheduled tribal families to cross the poverty line was acquired during the sixth plan for the first time.

The objective of MADA was to empower at least 50 of ST families, amounting to nearly 470 million to cross the poverty line. Substantial achievements during this plan period were as follows:

1. Establishment of 245 MADA pockets and 72 primitive tribal projects.
2. About 200,000 hectares of tribal land was brought under soil conservation.
3. Electrification of 9000 tribal villages.
4. Drinking water supply to cover over 80,000 villages.

Under this plan, a total of 75 percent of the tribal population was covered.
Seventh Five Year Plan [1985-1990]

In the seventh plan the target remained to be a mix of area-cum-family development. For this plan period (1985-90) about 40 lakhs scheduled tribe families under the poverty line were targeted to be rendered economic assistance. By the end of 1987-88, a total 184 ITDPs were functioning. The ITDPs areas covered 313.21 lakh tribal populations\textsuperscript{16}.

The main attainments of this plan period were as follows:-

1. Establishment of Tribal Cooperative Marketing Development Federation (TRIFED) in 1987 as a supreme body for state Tribal Development Cooperative Corporations. The Primary task of the TRIFED was to provide remunerative prices for the forest and agriculture produces of tribals.

2. Expansion of educational development schemes for scheduled tribes.

3. Formation of the National Scheduled Caste and Scheduled Tribal Finance and Development Corporation (NSFDC) in 1989 with the objective of credit support for employment generation.

By the end of 7\textsuperscript{th} plan, 184 Integrated Tribal Development Plans were functional covering over 314 lakhs tribal population\textsuperscript{17}.


The major targets and strategies of this plan were make the tribal sub-plan strategies more result-oriented and deliberate special schemes were formulated during this period for the educational development of the scheduled tribes, particularly in the field of women education and reducing
the drop-out rates among the ST students at primary level. It also aimed at providing economic assistance to the tribals to upgrade the productivity level to take above the poverty line and to make grow the economic and educational infrastructure. Thus, efforts were intensified to bridge the gap between the levels of development of STs and other marginalised sections of the society.

During this plan in the panchayati (extension to the scheduled Area) act, 1996 (PESA) was passed to enable and empower tribal society to have control over their own destiny preserve and conserve their traditional rights over natural resources.18

The eighth year plan conceived the following:

1. Collection and marketing of Minor Forest Produce (MFP) through TRIFED and STCC.
2. A new policy on minor forest produces in relation to scheduled tribes to be articulated,
3. The review of the functioning of diverse cooperative institutions including LAMPS.

It laid significance on elimination of exploitation and omission of rights of tribals land alienation, non-payment of minimum wages.

**Ninth Five Year Plan [1997-2002]**

The ninth plan aimed to empower the Scheduled tribes by creating an enabling socio-economically conductive environment for them to workout their rights freely, enjoy their privileges and lead a life of self-confidence and dignity, at par with the rest of society. Hence, a major shift was
visualized in this period so as to envisage their advancement through a process of empowerment. This process essentially encompassed there essential components, i.e.

- Social justice,
- Economic empowerment,
- Social empowerment.

In a nutshell, the plan laid stress on reliance creation through quality education and strengthening infrastructure and resources of the tribal sub-plan areas. Besides the debuting of the Sarva Shiksha Abhiyan, the main achievements of this plan period were as follows:-

1. An outlay of Rs. 16792.69 lakhs towards tribal area development, integrated waste land development project in TSP areas and assistance to tribal families by launching income generation schemes.
2. Funds were provides for improvement of infrastructure such as roads, staff quarters, education and hostel facilities, community centres, drinking water facility, rural electrification and irrigation projects.
3. The National Scheduled Tribes Financial and Development Corporation (NSTFDC) was set up for financing economically viable projects for scheduled tribes19.

**Tenth Five year Plan [2002-2007]**

This plan concentrated on tracking the unresolved issues and problems on a time bound basis. The National scheduled tribes finance and
development corporation (NSPFDC) was set up in 2001 under which 14.64 lakh STs benefited. The tribal cooperative marketing development federation of India Ltd (TRIFED) provides marketing assistance and remunerative prices to STs for collecting minor forest produces (MEP) and surplus agricultural produces in order to defend them from exploitative private traders and middlemen.20

In order to render focused attention to the survival, protection and development of primitive tribal groups (PTUs) a special scheme launched in 1998-99, was implemented during this plan to put up tribal specific service and support including housing, land, agriculture inputs, cattle rearing, health, nutritional services and income generating programmes. Scheduled tribes and other traditional forest Dwellers (Recognition of forest right) Act, 2006 was enacted revive the traditional forest right of the tribal people.

**Eleventh Five year plan [2007-2012]**

This plan does not make special plan for STs. It rather continues the existing schemes and programmes of the previous plans that were addressed at the socio-economic development of the tribal population through an ‘Area based approach.’ The deportment of Elementary education and literacy and higher education in states have a arrangement for special incentives for ST students which include test books, uniforms, abolition of tuition fees and so on. Special focus is also yielded to ST students under the District Primary Education Programme (DPEP), Kasturba Gandhi Balika Vidyalaya, Mid-day meal programme, National talent search scheme, post-Matric scholarships are open to all ST students whose parents annual income is up to one lakh rupees, to facilitate students to follow professional courses.21
This plan also encourages tribal languages through text books and appointment of tribal teachers who were well skilled in the tribal language. This plan recommends looking after the socio-cultural discrimination faced by disadvantaged groups. It promotes health care of the tribal people and setting up Auxiliary Nursing Midwifery (ANM) training centers in tribal blocks under housing schemes of the plan embraces the Adim Jati for tribal and primitive tribal groups and housing schemes for ST families\textsuperscript{22}.

Finally this plan has laid stresses on poverty eradication in rural and tribal areas which focuses on sustainable development, education, employment access to forest resources and agricultural production and subsidies.

**Twelfth Five year plan [2012-2017]**

The approach of this five year plan is to achieve Overall improvement in the socio-economic conditions of the Scheduled Tribes. Government started focus on administrative strengthening of the implementation of programmes or schemes in the tribal areas. Administration adopt a clear cut policy with regard to positive of officials in respected positions fixity of their tenure and incentivizing these officials for having rendered their services in those areas for a prescribed period. Implementation of schemes must be monitored closely at prescribed periodicity. Some important issues like land acquisition of tribal land to be addressed as required under PESA and displaced tribal population to be resettled and rehabilitated\textsuperscript{23}. The scheme of vocational training centers in tribal is to upgrade the skills of the tribal youth in various traditional/modern vocations depending upon their educational qualification present economic trends and market potential.
In this five year plan tribal Affairs Ministry operates the schemes of Grant-in-aid to voluntary organizations working for the welfare of STs, to NGOs for running 10 or more bedded hospitals and mobile dispensaries in tribal area. To ensure for extension of benefits covered under MGNREGA in tribal blocks government focuses on effective monitoring. Social audits and their reviews should be conducted.

In this plan government introduced the entrepreneurship among tribal youngsters through startup and stand up programme. Government intends the research, information, Mass education and tribal festivals to promote tribal culture, capacity building and awareness generation. In keeping with the objective of more exclusive growth steps are taking to reform the schedule Tribal Sub-Plan (TSP). This new plan proposes a sit of key implementation measures to stretchy. The TSP planning process like early marking of funds from the total plan outlays well in advance of commencement of the financial year. To ensure effective institutional framework for implementation at the state level, there will be on apex body headed by chief minister and designated nodal deportment which will appraise the TSP plan for the state.

**DRAFT NATIONAL TRIBAL POLICY**

This policy was articulated in order to address the issues concerning tribal groups like lower literacy levels, economic constraints, poor infrastructure, diminishing control over natural resource base, persistent threats of eviction from their habitat, exclusion from mainstream and economy in distribution of wealth and opportunities. It also aims at addressing each of these problems in a concrete way.
The national tribal policy attempts to increase the literacy rate of the tribal which is still low compared to the national literacy rate. The forest dwelling tribal people have passed a kind of knowledge about their surrounding pertaining to medical system, agriculture, ethno-veterinary, environmental conservation and so on which the national tribal policy seeks to conserve and promote\textsuperscript{26}. This policy also seeks to promote the modern health care system and also a synthesis of the Indian systems of medicine like ayurveda and siddha with the tribal system. This policy stipulates that displacement of tribal people is kept to the minimum and undertaken only after possibilities of non-displacement can least displacement have been exhausted.

National tribal policy seeks to formulate state anti-alienation land laws so as to scrutinize the loopholes of diverse state laws and bring them is conformity with the PESA act. It also seeks to amend the Indian registration act in order to identify the transferee whether or not a member of scheduled tribe\textsuperscript{27}.

This policy seeks to develop the primitive tribal groups (PTG) who are the most vulnerable among the tribal population. It envisages developing both the categories of PTGs, i.e. those who are isolated from the surrounding and placed in isolated ecologies niches and those who are located in the fringes of mainstream population. It seeks to develop them economically and to preserve their eco-system, life styles and traditional skills of both the groups of PTG.

The human development indicators (HDI), of the saharia population are much lower than the HDI of the rest of population in terms of all
parameters. Such as education, health, employment, income, etc. hence this policy assures to enhance all the indicators among the tribal population. It intends to check dropout rate of tribal children particularly among girls by providing them various facilities stationery, scholarship. It targets to operate the Eklavya model resident schools with classes sixth to twelfth by the end of the Eleventh plan. It also assures to stop teacher absenteeism by providing employment to the local tribals.

This policy seeks to establish Primary Health Centre (PHC) in most of the tribal regions to arrange safe drinking water, good hygiene and sanitation among STs so at to eradicate disease endemic. It aims to develop livelihood standard of Saharia through different livelihood schemes like vocational training, establishment of Industrial Training Institute (ITI), encouraging traditional arts and crafts or agro-forest based activities. It also encourages marketing of these activates including minor forest produces so as to generate income through Banks, NSTFDC, TRIFED etc. to arrest migration by providing income generating employment schemes in the tribal areas to overcome the various problems like school drop-out, health and like so.

The draft policy also stimulates the NGO’s to work in the tribal areas to reduce the dependence of tribals exclusively on government. It intends functioning of various Acts and laws meant for fifth and sixth scheduled Areas so as to assure their development and security. While dealing with the scheduling and de-scheduling of tribes, this policy aims to follow the criteria developed by Lokur committee. The draft National tribal policy apprises to establish more tribal research institutes, particularly in the states predominantly inhabited by tribals.
Constitutional Provisions and Acts for tribals

The constitution of India is the fundamental law of the country, which came into effect on January 26, 1950. It has tried to spell out the hopes, dreams and ambitions of the people of India, which emerge very powerfully in its preamble 29.

Scheduled tribe is one of the categories, for which the Indian constitution has special safeguards and provisions. These are based on the principle of equality and justice within the framework of social, economic, political and historical processes, which have left the Scheduled Tribes alienated from their resources, exploited and discriminated against by the dominant groups and excluded from society and the benefits of development.

The constitution of India guarantees development of STs. Various provisions made for the deprived groups, do offer measures, which are holistic in nature. These can be categorized in terms of social, economic, political, gender and legal domains 30.

Social Domain

Exceptions in the Constitution for Scheduled tribes

Constitution provides equality before the law. In article 15[1], there is a prohibition of discrimination on grounds of religion, race, caste, sex, place of birth. However, there is an exception in articles 15[4], 16[4] for the empowerment of the scheduled tribes.
Safe guards for a Dignified Life

Article 19. provides protection of certain rights regarding freedom of speech, freedom to assemble to form associations, etc.

Article 25. ensures freedom of conscience and free profession, practice and propagation of religion entry into temples of Hindu religious institutions of a public character.

Article 38. make provision for state to secure a social order for the promotion of welfare of the people.

Educational and cultural safe safeguards

Article 15[4]:- this article empower the state to make special provision and to reserve seats for STs in educational institutions.

25. Article 16:- provides special provision regarding opportunity in matters of public employment for STs.

Article 46 is a comprehensive to promote educational and economic interests of the people, particularly of STs and protect them from social justice and various forms of exploitation.

Prohibition of Untouchability, Human Trafficking and forced Labour

Article 17:- prohibits untouchability and its practice in any farm. The enforcement of any disability arising out of untouchability is considered to be an offence punishable in accordance with law.

Article 23:- prohibit human trafficking, bonded labour and other similar forms of forced labour and provides that any contravention of this provision shall be an offence punishable in accordance with law.
Economic Domain

Article 275[1] speaks of grant-in-aid from the consolidated fund of India every year for promoting the welfare of STs and administration of scheduled areas.

Article 335 provides the claims of the members of STs in the appointments of services and posts consistent with the maintenance of efficiency of administration.

Administrative Domain

Article 16.4 makes a provision in the states of Madhya Pradesh, Jharkhand, Chhattisgarh and Odisha, a minister in charge of tribal welfare who may in addition be in charge of the welfare of STs.

Article 338 [A] provides for the national commission for STs.

Article 339. makes provision for appointment of a commission to report on the administration of the scheduled Areas and welfare of the STs in states.

Article 342. has provision for the list of STs, which parliament may by law include in or exclude from the list of STs specified in a notification issued.

Article 244 [1] has the provisions of the fifth schedule applicable to the administration and control of the scheduled and STs in any states other than states of Assam and Meghalaya.
Positive discrimination

The positive discrimination measures, known as the provisions of reservation, are seen as the main means of empowerment of under positive discrimination.

1. Reservation in the educational institutions,
2. Reservation of services and posts in the government
3. Reservation of seats in the legislature

In line with article 15[4] of the constitution, which empowers the state to make special provisions for the development of STs, the Indian government and state government currently allows the reservation of 7.5% and 8.6% of seats respectively for saharia (STs) in universities and colleges and in public sector jobs.

Articles 330 and 332, speaks about, Rights of scheduled tribes of India, acts, commissions and recommendations reservation of seats for STs in the parliament and assemblies. The 73rd constitution amendment act 1992 fur ther provides reservation for weaker sections in the local governance unit [Art. 243(D)]

Legal Measures

The overall goal of the constitution of India is to promote equality, justice and dignity for every citizen. It aims to protect and safeguard the interest of scheduled tribes. In the post independence period, legislations have been enacted to ensure rights, dignity and justice to tribals their
preservation, protection and promotion area facilitated by following legislations.³²


The scheduled caste and the scheduled tribes (prevention of atrocities) act, 1989 was promulgated to prevent the offences of atrocities against the members of the scheduled caste and scheduled tribes, to provide special courts and the exclusive special courts for the tribal of such offences and for matters connected. There with or incidental there to this act enacted by parliament in the 14th year of republic³³.

The important aspect of this act is that the punishment for committing atrocities of STs and SCs is applicable to anyone who is not a member of a SC and ST.

Some of the areas of atrocities on STs demanding a stringent punishment can be highlighted here in terms of the following-

- Dehumanizing treatment / humiliation
- False accusation
- False information
- Forced dispossession and physical torture,
- Deprivation of rights
- Destruction of property and forced labour
- Legal and administrative negligence
The provisions of the panchayats [Extension to the scheduled areas] act, 1996

The provisions of the panchayati (extension to the scheduled areas) act, 1996, also known as PESA act, came into effect on 24 December 1996. The notion behind this act was to extend the 73rd constitutional amendment of 1993 to the scheduled areas so as to enable tribal society to assume control over their own destiny to preserve and conserve their traditional rights over natural resources. This act recognizes the prevailing traditional practices and customary laws of the local people besides management and conversation of natural resources through gram panchayat. It encourages the organization of people through gramsabha and state. It empowers the gramsabha:

- To approve the plans programmes and projects for social and economic development before they are taken up for implementation by the village panchayat.
- To identify beneficiaries of poverty alleviation programmes.
- To give certification of utilization of funds by the panchayats for the above programmes.

These powers make the gramsabha a powerful body in implementation of projects for social and economic development of tribal communities.
Prospects of the PESA act, 1996

This act opens up range of prospects for safeguarding and promoting the interest of tribes. Some of the major prospects are:

a. The act has a constitutional mandate and a binding law to put a legal and moral pressure on the government and its machinery to implement it.

b. There is a qualitative change in the very nation of tribal development. There is no more distribution of funds but a paradigm shift which consists in its basic assumption.

c. Development is projected as collective. The approval of plans, programmes and projects for social and economic development is the responsibility of entire village.

d. The idea of empowerment is based on the nation of decentralization. The higher level of panchayats do not interfere with the lower.

e. There is a provision for accountability to monitor all kinds of financial transaction to avoid any irregularities.

f. Gram sabha is supreme and is endowed with the power to have control over water, minor minerals, drinks, minor forest produce, alienation and restoration of tribal land, market and over the system of debt.

g. There is recognition of traditional way of settling disputes. This avoids the bureaucratization of justice.

h. Women empowerment gets a boost as the act ensures one third [33%]/50% of women participation in the panchayat. 


The provisions of PESA act 1996, despite many provisions, has with in its own inbuilt “Policy level struggles”. There is, in the process of empowerment, a clash of interests. Vested interests at every place either in bureaucracy and political party or in the village itself try their best to throttle the process of tribal empowerment. A battle between entrenched vested interests and new social forces seems to be emerging at the grassroots. Bureaucrats probably, are uncomfortable about the powers of the panchayat. There is also lack a awareness and understanding among elected functionaries and officials.

With the new panchayat act most villages, especially tribals, hope that their dreams of a dignified life will be fulfilled. They are hopeful that the new act will bring them equality and justice. They hope that their alienated lands be restored to them. They want to have control over the resources and their management. They believe that the new act will provide them a mechanism to be masters of their own destiny without falling prey to the bureaucratic set up of government.

**Forest Dwelling scheduled tribes [FDST] and precognition of Forest [TFD] Act, 2006**

This act is the revised of the scheduled tribes (Precognition of Forest Rights) Bill, 2005. It recognizes the rights of the STs and forest dwelling communities (FDC) on forest land that include the protected forest, reserved forest, wildlife sanctuary and national parks. This act recognizes the forest rights and Occupations of scheduled tribes and Forest Dwelling Community who have been residing in such forests for generations but whose rights were not recorded. This Act provides a framework for recording and recognizing
the rights of other forest dwelling communities in respect to forests and forest based resources. It seeks to strengthen the conservation regime while ensuring livelihood and food security of the scheduled tribes.\(^{37}\)

India has a forest cover of only 21.34 percent of the land mass, while Madhya Pradesh has 30.71 percent. Majority of the tribals in the country and states inhabit the forests and eke out their living from the forest resources. This act overemphasizes on the positivistic Jurisprudence while acknowledging individual proprietary rights linked to forest management. This act seeks to convert the forest villages into revenue villages. Such conversion is due for a long time in order to ensure the democratic means of governance and infrastructural development.

Though the act speaks about grassroots management through gramsabhas it is conspicuously silent on the inclusion of Panchayati Raj Institutions at tehsil and district level. The act is totally silent on the role of traditional tribal institutions including those related to forests. The act does not envisage any provision for ensuring their role in forest management. The act fails to dilute the overarching control of the state. This is obvious from the stipulation that rights of forests can be exercised only for bonafide livelihood purposes and not for exclusive commercial purposes.\(^{38}\)

Undoubtedly, the scheduled tribes and other traditional forest dwellers (recognition of forest rights) act, 2006 is another landmark measure for protection of the forest rights of tribals. This act is a forward step in preserving the traditional right and livelihood of the tribal and forest dwelling people. This act needs to be developed in consonance with the
objectives of a final policy for tribals, which is itself under consideration and not yet finalized by the same ministry of tribal affairs.

**Bonded Labour system [Abolition] act, 1976**

Bonded Labour refers to a system of labour in slave like conditions in order to repay a debt. The poor people largely belonging to scheduled tribes incur debt for survival and meeting certain urgent and basic necessities of life for which they charged exorbitant interest. Due to their illiteracy, lack of bargaining power and extremely low wages, creditors manage to create a situation where a debt is never liquidated and consequently the debtor has to render labour in lieu there of. The bonded labour Abolition act, 1976 abolished all agreements and obligations, can could their outstanding debts and prohibited creation of any new bondage agreement. This act also mandatorily provided for economic rehabilitation of freed bonded labour by the state. Keeping a bonded labour is a violation of law and is punishable with sentence of 3 years imprisonment and line of Rs 2,000.39

**Child Labour [Prohibition and Regulation] act, 1986**

This act is very significant for scheduled tribes as a substantial portion, of child labour engaged in hazardous employment belong to scheduled tribes. This act prohibits the engagement of children in certain employments and regulates the conditions of work of children in certain areas. The act also provides for a child labour technical advisory committee to advise the control government about occupations and industrial processes in which the employment of child labour should be prohibited40. This act outlines severe penalties for those who violating its provisions.
Tribal Territories and Common Property Resources

Ever since the origin of the human beings, they have been living in close proximity with natural environment-both biotic and abiotic. Biotic environment constitutes living organism such as a forest, animals and abiotic environment constitutes non-living organism, i.e. land, water, air, etc. all these two resources are considered natural or free gift of nature.

Common Property Resource (CPRs) refers to the natural resources commonly owned by a village or a community\(^{41}\). It is considered as the source of livelihood for the poor, landless and marginalized sections of the communities. Jodha N.S. defines CPRs as “the resources accessible to the whole community of a village and to which no individual has exclusive property rights. The CPRs are of great importance to the rural poor including tribal people as they potentially meet their needs such as fuel, fodders, green manures, food, timbers and other materials\(^{42}\).

In the forest region, the importance of CPRs lies in their role in terms of minor forest produce for sale, food during lean periods, medical plants and other products of local use and sites for cultivation. Since the past, these resources have been contributing a lot to the village economies. CPRs plays a crucial role in the economies of the poor, who have very little access to remunerative income earning opportunities\(^{43}\). Forest and land are the most important CPRs of the tribal community.

The common property resources are reported to have been declining particularly in a dry tropical region such as Gwalior Chambal region of Madhya Pradesh. Population pressure, market forces, outsiders interventions, mining, technological changes and environmental stresses are
always attributed for the decline of CPRs. Privatization of resources is a main cause of its degradation. Displacement due to development, conservation, disasters or conflict, often leads to tremendous alienation for CPRs such as forests, land, fodder or water subaltern groups including tribals, dalits and other marginal groups lack legal titles (Patta) to these resources, which are often communally owned or managed. Today land alienation in the tribal areas is a common problem. The tribals voice against the alienation, but the polities of the state do not recognize them, their culture and livelihood. Across the Adivasi regions, the struggle against the alienation has been intensified. Some of the struggles today are the demand for the rights over ‘jangal Jamin.’ Along with the recent tribal forest right act, their struggles have been decisively politicized. So as to evacuate the tribals and people living in and around forest areas. The deprivation of the Adivasis from it has resulted in various problems such as health, education and vulnerability. The hand of bureaucrats and the state is clearly visible in these ventures. The state one the one hand speaks about the protection of tribal communities while on the other hand acts as an agent for selling tribal land to private companies.44

However, the analysis of the forest Policies shows that the state control of resources, particularly over land and forest, which are crucial CPRs, has encouraged the Outsider mafia groups to entre in to tribal world of resource conservation thereby depriving the tribals from accessing them traditional rights over forest resources. There is a need to ensure the establishing social control of forest communities over India’s forests to protect, preserve, and promote forests.
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