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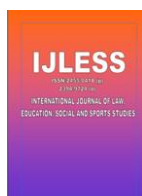
A CRITICAL APPRAISAL OF LIVELIHOOD RIGHTS OF TRIBALS WITH SPECIAL REFERENCE TO PARTICULARLY VULNERABLE TRIBAL GROUPS OF TAMILNADU

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ABSTRACT

The tribes are mostly forest dwellers so they have been living with their culture for generations utilizing forest and forest products for their livelihood. In this situation, the traditional rights of the tribes were restricted by the forest laws enacted during the British period and the Wildlife Protection Act enacted in the same lines after independence claiming to protect the forest scientifically. Fifteen years after the Forest Rights Act was enacted in 2006 to correct that injustice, the tribes are still waiting for their right to livelihood. 75 tribes in India have been found to be the most backward. They are classified as Primitive Tribal Group (PTGs) and renamed in 2006 as Particularly Vulnerable Tribal Group (PVTGs). Of those 75 tribes, six tribes, including the Todar, Kothar, Irular, Kurumbar, Paniyar, and Katunayakkan, live in Tamil Nadu, especially in the Nilgiris district. Therefore, this article is aimed at examining the livelihood rights of the tribes, especially the PVTGs living in the Nilgiris district of Tamil Nadu.

Keywords: Tribes, PTGs, PVTGs, Forest Rights, Individual Rights, Community Rights

Introduction:

Tribal peoples are the first people, in some parts, they are called native peoples. Indigenous peoples began to live in the area they occupied. Various measures have been taken to define tribes or indigenous people under International Law. At one point the International Labor Organization (ILO), the United Nations Organizations (UNO), and the World Bank also made efforts to define who the indigenous people were. Various debates took place in Geneva and India as to whether the Scheduled Tribes in India should be included under the term indigenous people. The Indian Council of Indigenous and Tribal Peoples (ICITP) organized a conference in New Delhi, which was formed in 1987 and affiliated with the World Council of Indigenous Peoples (WCIP) on the topic of who the Indigenous people are. At the conference, ICITP acknowledges that the Indigenous people of India are a part of the term Tribal people.

No one can take better care of the forest and the environment than the indigenous people because their survival and identity depend on it. They are generally excellent protectors and they have

been managing their cultivated lands for many generations.¹ Indigenous peoples around the world have learned to live in the most ecological conditions. The most interesting feature is that these indigenous peoples live in areas rich in biodiversity, and it has been found that there are about 300 million indigenous peoples in the world, half of whom i.e., 150 million live in Asia, In India, 68 million people belonging to 227 ethnic groups and comprising of 573 tribal communities.² India is the second-largest country in the world in terms of tribal population. According to the Census of 2011, tribal people constitute 8.6% of the population of the country.³

Indigenous people living near or within the forest, use many forest products for their livelihood as they depend on the forest for their livelihood. Naturally indigenous peoples have certain livelihood rights and are given certain rights by law. However, there are huge difficulties in the indigenous people achieving their livelihood rights and, moreover, some groups of indigenous people are very backward.

The most backward tribes in India have been classified as a Primitive Tribal Groups (PTGs) and 75 tribes have been identified across India out of which 6 tribes are in Tamil Nadu. These six tribes live in the Nilgiris district of Tamil Nadu. They have been renamed a Particularly Vulnerable Tribal Group (PVTGs) and various schemes have been implemented for them. The indigenous peoples play a major role in conserving the environment, depending on the forest for their livelihood. This article is intended to explore the livelihood rights of the indigenous people and the complexities involved.

Research Methodology:

This research is completely dependent on the doctrinal research method. Researchers have made extensive use of libraries and magazines with online resources to focus on the aboriginal relationship with nature and the problems they face in their daily lives.

Aims and Objectives:

To provide a comprehensive study of the traditional connection of tribes with the forest and the right to livelihoods of Particularly Vulnerable Tribal Groups (PVTGs), as well as Government programs to improve them, its benefits, and the challenges they face in daily life.

Scope:

This study focuses on the livelihood rights available to the tribals under various laws, the relationship between the tribes and the forest, the responsibilities of the agency implementing programs for the improvement of the livelihoods of the Particularly Vulnerable Tribal Group in Tamil Nadu, the success of the project and their progress.

Sources of data:

The sources collected are mainly secondary in nature and the information is collected through Journals, Websites, Articles, and Newspaper reports.

Rights of Indigenous Peoples under International Law:

In 1957 the International Labor Organization adopted the first international tool in world history to recognize the rights of indigenous peoples. The ILO Conference No. 169 was adopted in Geneva, its purpose is to value the preferences and identities of the indigenous people. According to

¹."Tribal People have a crucial role in environment conservation" <https://www.caritasindia.org/tribal-people-have-a-crucial-role-in-environment-conservation/#:~:text=in%20environment%20conservation-,Tribal%20people%20have%20a%20crucial%20role%20in%20environment%20conservation,cultivable%20lands%20for%20many%20generations> accessed on 2.6.2022.)

². Rajiv Rai and Vijendra Nath "The Role of Ethnic and Indigenous People of India and their culture in the conservation of biodiversity" <https://www.fao.org/3/xii/0186-a1.htm> accessed on 2.6.2022.

³. Marcharlla Ramesh, (2020) "Tribes and Forest Rights in India: A Sociological Exploration of Koyas in Telungana " White falcon publishing, p.47.

that convention the tribal people have every right to determine their life priorities and how they want to live their lives. The Universal Declaration of Human Rights (UDHR) is an international tool adopted by the United Nations in 2007. It defines the rights of indigenous peoples, including their rights to culture, identity, language, and more. Article 36 of the Declaration provides that the tribes have a right to the land, territory, and natural resources they originally acquired. It says that tribal people can own, control and use their land and various natural resources. The State has a duty to protect the land and natural resources of the indigenous peoples for the sake of the stability of their cultures and traditions.

Rights of Indigenous People in India- Constitutional perspective:

The identity of the tribal people is not defined in the Constitution of India or any other law but Articles 341 and 342 empower the President to compile a list of those castes and tribes after consultation with the Governor. However, Article 366(25) of the Constitution only provides a process to define Scheduled Tribes: Scheduled Tribes means such tribes or tribal communities or parts of or group within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of the Constitution. India has many constitutional provisions and other laws recognizing the tribal people and their rights. Article 15 protects them against discrimination, under Article 16(4) Government made a reservation in employment for them, and Article 19 (1) (e) confers a right to reside and settle in any part of the country, and for the protection of the interests of any Scheduled Tribe, State can restrict the freedom of movement and residence of non-tribes under Article 19 (5). The Government reserved seats in Lok Sabha and Legislative Assembly under Articles 330 and 332. To protect the economic rights of the tribal people, there is Article 244 of the Constitution of India, which deals with the administration of the Scheduled Area and the Tribal Area. Article 46 directs the Government to promote them with special care and protect them from social injustice. Article 275 also empowers Parliament to provide special grants to the State undertaking development projects for the purpose of promoting the welfare of the Scheduled Tribes. Article 338 grants the right to appoint Commission and National Commission for Scheduled Tribe was created by the Constitution (89th Amendment) Act, 2003.

Tribal people in India:

India has 645 district tribal communities⁴ and is recognized by the Constitution of India as a Scheduled Tribes. During the Fourth Five Year Plan 1969-1974, the Government of India created a sub-category within the Scheduled Tribes to identify the most vulnerable groups considered to be at the lowest level of development among the tribes and formed a separate division among the tribal groups, which formed the Primitive Tribal Groups (PTGs). In 1973, on the basis of the U.N. Dhebar Commission report, a criterion for the identifying Particularly Vulnerable Tribal Groups was established as (i) Pre-agricultural level of technology, (ii) Low level of literacy, (iii) Economic backwardness, and (iv) A declining or stagnant population. The Government of India began to identify the most vulnerable tribal groups as particularly vulnerable tribal groups (PVTGs), declaring 52 such groups in 1975, and adding 23 more groups in 1993. Out of a total of 705 tribes, 75 PVTGs are spread across 17 States and 1 Union Territory. The Particularly Vulnerable Tribal Groups were formerly known as Primitive Tribal Groups. The Government of India renamed PTGs as PVTG in 2006. Particularly vulnerable tribal groups were found to be the most vulnerable tribal groups. Particularly Vulnerable Tribal Groups have some basic characteristics, they are mostly homogenous, with a small population, relatively physically isolated, absence of written language, relatively simple technology, and a slower rate of change. Among the 75 listed PVTGs the highest number is found in the state of Odisha (13), followed by Andhra Pradesh (12), Bihar including Jharkhand (9), Madhya Pradesh including Chhattisgarh (7), Tamil Nadu (6) Kerala and Gujarat having (5) groups each the remaining PVTGs live in West Bengal (3) Maharashtra (3), two each in Karnataka and Uttarakhand and one each in Rajasthan, Tripura, and Manipur. In the Andaman and

⁴ . According to the 2011 Census

Nicobar Islands, the only Union Territory inhabited by PVTGs, four tribal groups in the Andamans and one of the Nicobar Islands are recognized as PVTGs.⁵

Particularly Vulnerable Tribal Groups in Tamil Nadu:

According to the 2011 Census, the listed tribal population of Tamil Nadu is identified as 794,697 and the percentage of Scheduled Tribes population in Tamil Nadu is 1.1% of the total population. They are spread over 38 districts comprising 36 tribes out of which 6 tribes are "Particularly Vulnerable Tribal Group (PVTGs)" i.e. (i) Todas, (ii) Kotas (iii) Kurumbas (iv) Irulas (5) Paniyaas and (6) Kattunayakaas. The above said 6 PVTGs also live in the Nilgiris district.

Profile of the Nilgiris District:

The Nilgiris district is one of the 38 districts of Tamil Nadu in South India. The Nilgiris district is a small district with an area of about 2545 sq km which is popularly known as the "Blue Mountains", which is an integral part of the Western Ghats and the Nilgiris Biosphere Reserve and is home to tourist attractions including Ooty known as the Queen of the Hills. The Nilgiris is the name given to a mountain range that stretches across the borders of the states of Tamil Nadu, Karnataka, and Kerala. The Nilgiris are part of a larger mountain chain known as the Western Ghats. The district is bounded on the west by Malappuram district in Kerala, on the south by Coimbatore and Palakkad, on the east by Erode, and on the north by Wayanad district of Kerala and on the Chamrajnagar district of Karnataka. The administrative headquarters are located in Ooty. The Nilgiris District comprises six Taluks viz Udhamandalam, Coonoor, Kotagiri, Gudalur, Pandalur and Kundah. The Nilgiris District is divided into four Panchayat Unions namely Ooty, Coonoor, Kotagiri and Gudalur, two Municipalities, Ooty and Gudalur, as well as Wellington Cantonment and Aruvankadu Township. There are 88 revenue villages and 15 revenue Firkas in the Nilgiris district. The district has three revenue divisions namely Udagai, Coonoor and Gudalur. There are 35 village panchayath and 11 Town Panchayath in this District.⁶ As of 2011, the Nilgiris district had a population of 735,394, and the Scheduled Tribes accounted for 4.46% of the population. The Nilgiris was once the abode of the tribal population, Particularly Vulnerable Tribal Groups have been living in the mountain regions of the district, depending mostly on natural resources. The tribal groups are Todas, Kotas, Kurumbas, Irulas, Paniyas and Katunayakas are the original inhabitants of the district. Badugas, Srilankan repatriates, Malayalees, and Kannadigas live in the district.⁷

Demography of the Nilgiris District:

| 2011 Census | Rural | Urban | Total |
|-------------|---------|--------|---------------|
| Male | 145909 | 214234 | 360143 |
| Female | 153830 | 221421 | 375251 |
| Total | 2999739 | 435655 | 735394 |

Source: District Diagnostic Study (DDS)-The Nilgiris district.

⁵ . Tribal Culture Heritage in India Foundation, "Map/Particularly Vulnerable Tribal Groups & Endangered languages" https://indiantribalheritage.org/?page_id=22029#gsc.tab=0

⁶ . <https://nilgiris.nic.in/about-district>

⁷ . <https://tnrtp.org/wp-content/uploads/2020/07/NILGIRIS-FINAL.pdf>

Scheduled Tribe (PVTGs) Population of the Nilgiris District:

| Sl.No | Name of the Block | Male | Female | Total |
|-------|-------------------|--------|--------|--------|
| 1 | Udhagai | 2118 | 2211 | 4329 |
| 2 | Coonoor | 1212 | 1185 | 2397 |
| 3 | Kotagiri | 3074 | 3123 | 6197 |
| 4 | Gudalur | 7610 | 7840 | 15450 |
| Total | | 14,014 | 14,359 | 28,373 |

Source: District Diagnostic Study (DDS)-The Nilgiris district.

Statistics show that the concentration of tribal communities is more than 50% in the Gudalur area, followed by 25 percent of the tribal population in the Kotagiri area, Udhagamandalam, and Coonoor blocks have 16 percent and 9 percent of the tribal population.⁸

Forest Areas and classification of the Nilgiris District:

| Classification | Sub-Type | Areas in Hectare | Areas as % |
|---------------------|------------------|------------------|------------|
| Total District area | | 254,485 | 100% |
| Total Forest Area | | 142,577 | 56% |
| | Reserved Forest | 137,192 | |
| | Reserved Land | 5,777 | |
| | Unclassed Forest | 3,313 | |

Source: District Diagnostic Study (DDS)-The Nilgiris district.

The Nilgiris is a densely forested hill district. Forests cover 56% of the total district area. Forests account for 56.4% of the total geographical area and 6.7% of the total State Forest area. The Mudumalai Tiger Reserve was formed in the year 2007, it covers 32,050 hectares. The main objective of the division is to protect the forests and wildlife.⁹

Specification of PVTGs in the Nilgiris:

(i) Todas:

The Toda people are a Dravidian ethnic group living in the Nilgiris of Tamil Nadu, India. The total population of Toda was 2,002 at the 2011 census. Toda traditionally lives in settlements called *Mund*, 3 to 7 small thatched houses, built in the shape of half-barrels, located on the slopes of grazing land where they raise domestic buffaloes. Their economy was based on buffaloes, whose milk products they traded with their neighbors in the Nilgiris.¹⁰ Toda Lands, currently part of the Nilgiris Biosphere Reserve, has been declared a UNESCO World Heritage Site by UNESCO-designated International Biosphere Reserve. They speak 'Toda' as their mother tongue Dravidian family is associated with Tamil and Malayalam. Traditional small pastoral community but now commercial farming especially cultivates vegetables like cabbage and potatoes. Todas are known for their embroidery materials, an attractive type, with shiny skin and their eyes ranging from brown to grey. Todas worship mountains

⁸. <https://tnrtp.org/wp-content/uploads/2020/07/NILGIRIS-FINAL.pdf> p.12-13 accessed on 5.6.2022

⁹. <https://tnrtp.org/wp-content/uploads/2020/07/NILGIRIS-FINAL.pdf> p.12-13 accessed on 5.6.2022

¹⁰. Toda people-Wikipedia, https://en.m.wikipedia.org/wiki/Toda_people

and mountains for two main reasons (i) grass mountains are important to buffaloes and (ii) mountains are firmly believed to be the abode of the Gods. Their Malleswaram Hills are located in the Attappadi Valley of the Nilgiris, which is associated with the worship of the Hindu gods Shiva and Todas.¹¹

(ii) Kotas:

The name "Kota" is derived from the Dravidian root word "kov" meaning "mountain". The Kota tribes are minority community of about 1500-2000 living in the seven villages of New Kotagiri, Lower Kotagiri, Kunda, Kollimalai, Kudalur, Trichigadi, and Sholur in the Nilgiris district of Tamil Nadu. Kotas are effective healers; they use their herbal medicine in their treatment. Famous for their traditional pottery and carpentry. They claim to be industrialists and manufacture agricultural equipment and weapons of war. They are considered to be the oldest population in the country and strictly follow their traditional customs and ethnic practices. Kotas worship fire, the moon, and nature and perform their pujas in front of the Peepal tree.

(iii) Kurumbas:

In the Nilgiris district, the Kurumbas are divided into five separate groups. They are Mullu Kurumbas, Jenu or Teen Kurumbas, Alu or Palu Kurumbas, Urali Kurumbas, and Betta Kurumbas. Among the Kurumba tribes, the Aloo Kurumbas specialize in traditional medicine. Kurumbar is one of the six ancient tribal groups in Tamil Nadu. Hunting and collecting forest produce and being well versed in the technique of collecting honey are means of living for the Kurumbar Tribe. The Kurumbas are known for their paintings and witchcraft. Wild fruits, wild tubers and small forest products are the staple food of the Kurumbar tribe. Due to population growth and deforestation, they have migrated to the mainland and are now working as agricultural laborers and laborers on tea and coffee plantations. Kurumbas speak the language "Kurumba," which is a combination of words from Kannada and Tamil, one of the primitive South Dravidian languages. The deity worshiped by the god "Shiva" as "Bhairava" is the primary deity of the Kurumba tribe and they worship other Birds, Animals, Trees, Snakes, and Rocky Mountains.¹²

(iv) Irulas:

Irula, also known as Iruliga, is a Dravidian ethnic group inhabiting in Tamil Nadu. The Irula community is the second-largest tribal group and they usually live near the mountains. People of Irula ethnicity are called Irular and speak Irula. The total population in Tamil Nadu as per the Census 2011 is 189,621.¹³ Trapping snakes and rats are the primary occupations of Irulas. Fishing is also a small business practiced by the Irula Tribes. The Irular worship the Goddess "Kanniyamma" and follow special cultural and religious practices.¹⁴

(v) Paniyas:

The Paniar tribe is also known as "Paniyar" and "Paniyan". The word "banian" means "worker". It is a modified form of the Malayalam word "Panikkar" (workers), who live on the border between Kerala and Tamil Nadu. The Paniyans speak the "Pania" language along with Malayalam and Tamil. Their primary god is called "Kali" and they also worship "palm trees". The appearance of the Paniyan tribe can be described by their broad, dark skin, short nose, and curly or wavy hair. Therefore, they are generally believed to be of African descent.¹⁵ The main occupations of the Paniyan tribe are

¹¹. Balasubramanian Ganesh "Particularly vulnerable tribal groups of Tamil Nadu, India: A sociocultural anthropological review" *Indian Journal of Public Health* (2021) Vol. 65 Issue 4, p. 403-409

¹². Kurumba (tribe)- Wikipedia [https://en.m.wikipedia.org/wiki/kurumba_\(tribe\)](https://en.m.wikipedia.org/wiki/kurumba_(tribe))

¹³. Irula people-Wikipedia, https://en.m.wikipedia.org/wiki/Irula_people accessed on 4.6.2022.

¹⁴. Ibid 7.

¹⁵. Ibid 7.

working as laborers in tea and coffee plantations, engaging in animal husbandry, agricultural activities, identifying and harvesting medicinal plants and tubers, and collecting and selling firewood. However, the traditional occupations of the Paniyan tribe are hunting and collecting. The total population of the Paniyans in Tamil Nadu is 10,134.¹⁶

(vi) Kattunayakan:

The word “Kattunayakkar” means King of the forest in both Tamil and Malayalam. They are considered to be the foremost inhabitants of the Western Ghats. They are engaged in the collection and gathering of forest produce, mainly wild honey and wax. The Kattunayakas speak mixed languages such as Tamil and Telugu and they also speak other languages such as Kannada and Malayalam as they are nomadic people.¹⁷ The monogamy system is the general rule among the Kattunayake community. They worship "Jakkamma" and "Mallayara" as the Gods of the mountains. Nayakar is the main deity of the Kattunayakkar tribe. They also worship animals, birds, trees, rock hillocks, and snakes, along with other Hindu deities.¹⁸

Forest policies and livelihood rights of PVTGs of Nilgiris:

(a) PVTGs development program:

Particularly Vulnerable Tribal Group (PVTGs) is an Indian Government classification created with the intention of promoting change within the conditions of tribal communities, especially with low progress records. The Scheme for the development of PVTGs was first implemented on 1st April 2008. Ministry of Tribal Affairs is implementing a program to upgrade PVTGs. The Conservation cum Development (CCD) Plan was approved by an expert panel nominated by the Ministry of Tribal Affairs. The schemes for activities like education, lodging, land distribution, land advancement, agrarian improvement, and development like roads, etc. for the socio-economic improvement of PVTGs.

Although the Government implemented various welfare schemes for the development of the tribes, some of the livelihood rights of the tribes who depended on the natural resources in the forest remained natural. They are also called forest rights because those natural rights arise in the forest. Indigenous communities have lived in the forest for many generations, they began to live in the forest and their livelihood depends on agriculture and the cultivation of various crops such as bamboo or tent leaves. Their livelihood rights have not been affected for many years as long as there is deforestation.¹⁹

(b) Colonial Forest policies and Forest Legislations:

During the colonial government, the focus shifted from protecting the rights of local communities to the commercial interest for the purpose of further farming the land where the communities lived. It is a historical fact that the traditional forest rights of the tribes in India under British colonial rule were greatly disturbed because the British Forest Policy was aimed at commercially exploiting the forests at the cost of the safe livelihood of the experiments. The English-dominated Government gradually increased its control over the forests. The Forest Department was established in 1864²⁰ and the Indian Forest Service was established in 1867²¹, with the primary aim of regulating the

¹⁶ . Paniya people-Wikipedia, https://en.m.wikipedia.org/wiki/Paniya_people accessed on 4.6.2022.

¹⁷ . Ibid 7.

¹⁸ . Kattunayakan-Wikipedia, <https://en.m.wikipedia.org/wiki/kattunayakan> accessed on 4.6.2022.

¹⁹ . Bheeni Goyal, (2021), “Right to livelihood of forest dwellers and conservation of forest” <https://blog.iplayers.in/right-livelihood-forest-dwellers-conservation-forest/> accessed on 9.6.2022.

²⁰ . Wikipedia, Indian Forest Service

https://en.wikipedia.org/wiki/Indian_Forest_Service#:~:text=The%20modern%20Indian%20Forest%20Service,about%2019.32%25%20of%20the%20country. accessed on 9.6.2022.

²¹ . Imperial Forest Service. (History of Indian Forest Service <http://ifs.nic/hist.aspx> accessed on 9.6.2022.)

rights of the people over forest land and forest products, by claiming to manage the forests in India. The first forest legislation, The Indian Forest Act was passed in 1865, subsequently revised in 1878, and then finally, in 1927. The Indian Forest Act of 1865 expanded British colonialism in India and claimed the forests in India. The 1865 Act was a precursor to the Forest Act of 1878, which cut off communities from the centuries-old traditional use of their forests and protected Colonial Governments' control over the forest. A law of 1865 declared any forest land as a State forest and empowered the British Government to make rules for its management. The Government mainly used wood to make railway sleepers. The law also made teak wood a State property. The migration of forests took place in 1880, followed by the classification of forests into the Reserved forests, Protected forests, and Village forests. After 1878, the British introduced the first formal Forest policy in 1894²². Some of the main objectives of the Forest Policy of 1894 were to manage the forests for the well-being of the country and to preserve the physical and climatic conditions and maintain sufficient forests to meet the needs of the people. Subject to these objectives the Forest Policy 1894 laid down that permanent cultivation should come before the Forestry and the satisfying local needs at a competitive rate without regard to revenue. Although Forest policy did not encourage the need to meet local needs, a revenue-based approach to forest management is also put forward by policy, and as a result, forests are classified based on their primary function Categories: Protection, Commercial production, minor forests, and grazing. Later the Indian Forest Act 1927 was enacted, which, in accordance with the aims mentioned in the Forest Policy of 1894, assessed the three types of forest under the Indian Forest Act 1927 rights granted under the Act of 1878. The Indian Forest Act 1927 is still a bulwark for forest management, used for colonizing forests and tribals.²³

(c) Post-Colonial Policies and Legislations:

After India's independence, it sought to formulate forest policies to address the current situation, accordingly, the Government of India introduced the first National Forest Policy of Independent India in 1952. The first post-independence forest policy in 1952, created the maximum annual income of the forest in the national formation. It belied all the beliefs of the tribal people by imposing high restrictions on their rights to forest resources. It followed the ways of the colonial policy classifiers, but it transcended the privileges of the tribes. The old policy of not touching the private forests of the tribe was subject to restrictions under the new policy. Free grazing was approved under the old policy but imposed on a few new policies. Priority is given to alternative cultivation by the rule that it should be controlled by coercion and not by coercion as before. Thus, rights that were converted into privileges during the colonial period became concessions in this policy. The new policy revoked the right to forest land given to agriculture by the colonial predecessors and began to control the private forests that had been under tribal control during the colonial period. The old policy did not touch free grazing in the forest but the new policy sought to bring it under control. Fees were introduced and grazing should be kept to a minimum. The forest policy of independent India in 1952 was considered worse than the colonial producer policy of 1894, especially for the tribal people. In 1960, the President of India set up a commission headed by U.N. Dhebar to analyze the overall situation of tribal groups, including forest policy and its impact on tribals and the alienation of land in tribal areas. For many years after independence, the Government was unable to protect the rights of the forest dwellers and their rights were always compromised. Indigenous rights were neglected despite the desire to protect wildlife and forests from any degradation, such as the Wildlife Protection Act 1972. The Forest

²² . Dhruv Gupta, (2020), "Forest Policies In India", <https://elsnuals.wordpress.com/2020/07/04/forest-policies-in-india/> accessed on 9.6.2022.

²³ . Bejoy, C.R. (2017) "Forest Rights Struggle: The Making of the Law and the Decade After", *Law, Environment and Development Journal*, Vol.13, No.2, p.73.

(Conservation) Act of 1980 is an Act by the Parliament of India, it was enacted, in order to control the ongoing deforestation of the forests of India.

The free Indian National Forest Policy 1952 imposed restrictions on the access of tribals and others to timber and non-timber forest products. The liberation from British rule in independent India resulted in a new form of slavery for the tribal people. With the enactment of the Wildlife Protection Act 1972 and the Forest Conservation Act 1980, wildlife and forest conservation became the main concern of the Government, and tribals were considered criminals and encroachers of their own forest land.²⁴

The tendency to recognize forest rights

(1) National Forest Policy, 1988

The process of recognizing forest rights began in 1988 during the National Forest Policy. The National Forest Policy, 1988 clearly recognized the full protection of the rights and privileges enjoyed by indigenous and other forest communities.²⁵ It recognized that conservation and the livelihood of the people are equally important. Following the 1988 policy, the Ministry of Environment and Forests issued a circular on June 1, 1990, outlining the need and process for involving village communities in the conservation, development, and rehabilitation of degraded forests. This promoted a village-level organization for forest management.²⁶

(2) Forest Rights Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, passed in India on 18 December 2006. It has also been called the Forest Rights Act. The Forest Rights Act, (FRA) 2006 recognizes the rights of the forest-dwelling tribal communities and other traditional forest dwellers to forest resources, on which these communities were dependent for a variety of needs, including livelihood, habitation, and other socio-cultural needs. The Act encompasses Rights of Self-cultivation and habitation which are usually regarded as individual rights; and Community Rights such as grazing, fishing and access to water bodies in forests, Habitat Rights for PVTGs, Traditional Seasonal Resource access of Nomadic and Pastoral community, access to biodiversity, community right to intellectual property and traditional knowledge, recognition of traditional customary rights and protection of any community forest resource for sustainable use; Right to recreate or protect or manage. It also provides rights to the allocation of forest land for developmental purposes to fulfill the basic infrastructural needs of the community.

Therefore, the Act provides for the access and use of forest resources in the traditional manner by the forest dwellers, to protect, preserve and manage the forests, to protect the forest dwellers from illegal encroachments, and to provide basic development facilities to the community. For foresters access to education, health, nutrition, and infrastructure.

Status of Claims Under FRA till 2020

According to the Ministry of Tribal Affairs, the various States have rejected 1.75 million land rights claims filed by tribals, and other traditional forest dwellers have also been rejected by the State Government. As per the statistics of the Ministry till March 2020, the 20 states in India including Tamil Nadu have rejected 17,52,553 claims and the state of Tamil Nadu has rejected 11,742 claims of tribals

²⁴. Government of India, MoRD (2004) Report of Expert Group on Prevention of Alienation of Tribal Land and its Restoration, Ministry of Rural Development, New Delhi.

²⁵. Aim and objectives under Forest Policy, 1988, MoE,FCC
<https://pib.gov.in/newsite/erecontent.aspx?relid=57051>

²⁶. Haque.T, "Securing Forest Rights and Livelihoods of Tribals Challenges and way forward",
http://nirdpr.org.in/nird_docs/srsc310820n.pdf

and traditional forest dwellers. The number of land titles awarded, so far, is slightly more at 1.98 million.²⁷

Analysis of Forest Rights of the Tribals

The Indigenous peoples who lived in dense forest areas relied on forest resources as livelihood sources. None of the rights of the tribes were affected when various Kings came to rule the lands. The rights traditionally enjoyed by the tribes during British rule were denied. The development of "forest rights" dates back to the 18th century, and in 1856 Lord Dalhousie realized that they needed a definite forest policy. The need arose because they could not get enough timber to build the railway at that time.

India's forests are governed by two main laws, the Indian Forest Act 1927 and the Wildlife Protection Act 1972. The former empowers the Government to declare any area a Reserved forest, Protected forest, and Village forest. The latter allows any area to be protected, such as a National Park, Wildlife Sanctuary, Tiger Reserve, or Community conservation area. The Indian Forest Act came into force in 1927, which gave the state the right to declare any forest as a protected forest. Section 5 (3) of the Indian Forest Act provides that after the allotment of a particular part of the forest is reserved, then there would be no protection of the rights in that area. At that time the rights of the tribes were neglected. After the enactment of the Wildlife Protection Act of 1972, the question of the protection of forests and wildlife was raised in defending the rights of the indigenous peoples living in the forest. Reports on the objects and causes of the law state that after the government makes arrangements for the relocation of indigenous peoples for the protection of wildlife, no individual will claim ownership of the property unless the person has any ancestral property. This law was also not in favor of tribes because they were displaced and their livelihood was severely affected.

The Government enacted the Forest Rights Act in 2006 after formulating various policies for forest protection including the National Forest policy in 1988. It aims to protect the rights of forest dwellers and aborigines and to protect them. According to the 2011 Census listed tribes as about 8.6 % of the total population. All the people who lived there depend only on the forest neither the Government nor the Judiciary is involved in protecting the rights of these residents.²⁸

The Central Government vide S.4 of the Act recognizes and grants 'forest rights' mentioned in S.3 of the Act to Scheduled Tribes and traditional forest dwellers, notwithstanding anything contained in any other laws for the time being in force. What this means is that the rights granted to tribals under section 3 of the Forest Rights Act have been recognized and granted by the Central Government, regardless of any prohibitions in force such as under the Indian Forest Act, 1927, The Tamil Nadu Forest Act, 1882 and the Wildlife Protection Act, 1972. In the Forest Rights Act 2006 on the one hand, rights were granted to minor forest produce (MFPs) and on the other hand, there is a fear among the tribes that the forest department will continue to register a case under the Colonial Indian Forest Act and Wildlife Protection Act without understanding the Forest Rights Act.

The Forest Rights Act has been passed to undo the historical injustice inflicted on the tribal communities and traditional forest-dwellers by denying them rights to resources from forests where they have lived for generations. S.6 of the Act lays down a multi-layered and hierarchical procedure for the recognition of forest-dweller claims. Under this provision, the Gram Sabha is the statutory body for receiving and examining claims for forest rights, and also for managing and protecting the forest lands, and other appellate committees at the district level. Under the Forest Rights Rules, the State

²⁷ . https://m.economictimes.com/news/politics-and-nation/1-75-lakh-forest-rights-claims-rejected-by-state-governments/amp_articleshow/7828875.cms

²⁸ . Ibid 27.

Government are bound to inform applicants of the reasons, why their claims have been rejected, so that they can move an appeal.

Enforcement of the Forest Rights Act remains challenging, with the Central Government recognizing the rights of tribes that have been denied by forest laws for generations but reluctant to accept it by forest officials from the colonial-minded forest bureaucracy, who treat the tribes as criminal occupiers of Government lands. The tribes still tolerate the misery of not being able to achieve the forest right recognized by law.

The Forest Rights Act should be implemented by the Central Government in collaboration with the States with proper sensitivity. There are about 200 million indigenous and other traditional forest dwellers in India, who mainly drive their livelihood from the forest resources. However, due to the lack of proper survey, settlement, and land registration, their regular rights over forest land are always under threat. They are often considered occupiers of the land on which they live.

The manner in which various State Governments have ignored or delayed the Forest Rights Act in the post-2006 period speaks volumes about the plight of tribal forest rights. The Supreme Court order of February 13, 2019, asking states to evict people who have been rejected by their claims to forest land is a clear example of this. The Supreme Court's eviction order was based on affidavits filed by the States, fortunately, the Central government filed a petition in the Supreme Court seeking a stay against the eviction order. Although the eviction order has been suspended, the rights of tribals and other traditional forest dwellers remain largely uncertain.

Findings:

As mentioned above, in the study of the laws regarding the forest rights, and the rights to the livelihood of the tribe, it is learned that the Central Government has enacted the Forest Rights Act recognizing forest rights of tribals. Particularly, Section 3 of the Forest Rights Act, 2006 reaffirms the forest rights of tribals to their traditional forest rights, which were stripped away by British law and independent Indian law. Forest officials should be aware that the rights granted by the Forest Rights Act should not be denied despite the prohibition in other laws in force. But the fact is that the Forest department is denying the rights granted to the Tribes by the Forest Rights Act, 2006.

Suggestions:

- i. Periodically the Government should create joint legal awareness among both the forest officials and the indigenous people, in order to prevent the forest department, the enforcement authorities of the Forest laws and Wildlife laws, from continuing to refuse the uneducated tribals forest rights.
- ii. The Ministry of Tribal Affairs should take adequate steps to reconsider the claims of the rejected tribal people.
- iii. The Tribal Welfare Department should work with NGOs to uphold the rights of the tribal people.
- iv. Indigenous peoples should be provided with employment opportunities in collaboration with the Forest Department in the field of forest conservation.

Conclusion

The Tribes not only use the forest as a source to meet their basic needs but also as a livelihood. The Forest Rights Act, which was brought in to correct the injustices perpetrated against the tribes in the past, continues today against the tribals as it hinders their implementation. It is necessary to ensure that the possibilities of the Forest Rights Act are maximized. Many steps need to be taken to achieve the goal of the law. The intervention strategies of each State will be different depending on the unique history of the forest and the landscape. As a result, political and administrative interventions must be

made to strengthen law enforcement at the grassroots level, so that it is possible for the tribal people to claim their legal rights. In a situation where Grama Sabha are struggling to file petitions for tribal people, it is important for the State machinery to create an environment that allows tribal people to exercise their rights recognized under the Forest Rights Act. That is the coordination of grassroots challenges between administrative divisions, an effective monitoring system that focuses on accurate data collection and mapping of forest and revenue landscapes, orientation to authorities, and timelines for achieving the minimum potential of the Forest Rights Act

References

- [1]. Rajiv Rai and Vijendra Nath "The Role of Ethnic and Indigenous People of India and their culture in the conservation of biodiversity"
- [2]. Marcharlla Ramesh, (2020) "Tribes and Forest Rights in India: A Sociological Exploration of Koyas in Telangana" White falcon publishing, p.47.
- [3]. Balasubramanian Ganesh "Particularly vulnerable tribal groups of Tamil Nadu, India: A sociocultural anthropological review" *Indian Journal of Public Health* (2021) Vol. 65 Issue 4, p. 403-409
- [4]. Tribal Culture Heritage in India Foundation https://indiantribalheritage.org/?page_id=22029#gsc.tab=0
- [5]. "2011 Census of India" (Excel). Indian government. 16 April 2011.
- [6]. District Census Handbook, The Nilgiris (PDF). Chennai: Directorate of Census Operations, Tamil Nadu.
- [7]. Premkumar, Rohan (10 March 2018). "The clandestine gold diggers of the Nilgiris". *The Hindu*.
- [8]. "Census Info 2011 Final population totals - Nilgiris district". Office of The Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India. 2013.
- [9]. Census 2011. Office of the Registrar General & Census Commissioner, India, Ministry of Home Affairs, Government of India.
- [10]. Dhruv Gupta, (2020), "Forest Policies In India", <https://elsnuals.wordpress.com/2020/07/04/forest-policies-in-india/> accessed on 9.6.2022.
- [11]. Bejoy, C.R. (2017) "Forest Rights Struggle: The Making of the Law and the Decade After", *Law, Environment and Development Journal*, Vol.13, No.2, p.73.
- [12]. Haque.T, "Securing Forest Rights and Livelihoods of Tribals Challenges and way forward", http://nirdpr.org.in/nird_docs/srsc310820n.pdf