

## **TRIBAL WOMEN RIGHTS IN INDIA**

*By Megha Indal\**

### **ABSTRACT**

*Tribal women in India face multiple forms of discrimination and oppression, both within and outside their communities, due to their gender, ethnicity, and socio-economic status. They are often denied their rights to own, inherit, or access land and forest resources, subjected to various forms of violence, deprived of quality education and health care, and excluded from political participation and representation. Despite these challenges, tribal women have also shown resilience, courage, and leadership in asserting their rights and challenging the injustices and inequalities that they face. They have organized and mobilized themselves and their communities, formed alliances and networks with other women's groups, human rights groups, and civil society organizations, and participated and represented in the political and social spheres. This paper examines the issues and challenges faced by tribal women in India, the legal and constitutional provisions for their protection and empowerment, the role of the judiciary and the civil society in upholding their rights, and the examples of tribal women's activism and achievements in various fields. The paper also suggests some recommendations for improving the situation of tribal women and ensuring their dignity and equality.*

**Keywords:** Women, Tribal Rights, Constitution, Equality etc.

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## I. INTRODUCTION

India is home to more than 100 million tribal people, who constitute about 8.6% of the country's population.<sup>1</sup> A tribe is a social group that exists before or outside the development of nation-states, and has a distinct culture, identity, and way of life that is often different from the mainstream society. A tribe is usually dependent on land and natural resources for its livelihood, and is mostly self-sufficient and not integrated into the national identity.<sup>2</sup> Tribal rights are the rights and interests of the tribal people that are recognized and protected by the constitution, laws, and policies of the country or the region where they live.<sup>3</sup> Tribal people, also known as Adivasis or Indigenous people, have a distinct culture, identity, and way of life that is often different from the mainstream society. Tribal women, in particular, face multiple forms of discrimination and oppression, both within and outside their communities, due to their gender, ethnicity, and socio-economic status. They are often denied their rights to own, inherit, or access land and forest resources, subjected to various forms of violence, deprived of quality education and health care, and excluded from political participation and representation. Despite these challenges, tribal women have also shown resilience, courage, and leadership in asserting their rights and challenging the injustices and inequalities that they face. They have organized and mobilized themselves and their communities, formed alliances and networks with other women's groups, human rights groups, and civil society organizations, and participated and represented in the political and social spheres.

The aim of this paper is to provide a comprehensive overview of the situation of tribal women in India, the legal and constitutional provisions for their protection and empowerment, the role of the judiciary and the civil society in upholding their rights, and the examples of tribal women's activism and achievements in various fields. The paper also suggests some recommendations for improving the situation of tribal women and ensuring their dignity and equality.

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<sup>1</sup> Shil, Ashim, and Hemraj P. Jangir. "Exclusion of Tribal Women from Property Inheritance Rights: A Study of Tripuri Women of India." *CASTE: A Global Journal on Social Exclusion*, vol. 2, no. 2, 2021, pp. 327–40. *JSTOR*, <https://www.jstor.org/stable/48645685>. Accessed 13 Nov. 2023.

<sup>2</sup> Concept of Tribe and Tribal Community Development, Administration and Development of Tribal Community, [https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004131501351340Neeti\\_SW\\_Tribal\\_Community.pdf](https://www.lkouniv.ac.in/site/writereaddata/siteContent/202004131501351340Neeti_SW_Tribal_Community.pdf)

<sup>3</sup> Khan, Sadia & Hasan, Ziya. (2020). TRIBAL WOMEN IN INDIA: THE GENDER INEQUALITIES AND ITS REPERCUSSIONS. 9. 8-17. <https://www.researchgate.net/publication/345867714>

## II. TRIBAL WOMEN

Tribal women are women who belong to a tribe, which is a social group that exists before or outside the development of nation-states, and has a distinct culture, identity, and way of life that is often different from the mainstream society. Tribal women have historically played an important role in their communities, as custodians of natural resources, providers of food and health care, and leaders of social movements. They have also contributed to the diversity and richness of India's culture, art, and literature. However, tribal women also face multiple forms of discrimination and oppression, both within and outside their communities, due to their gender, ethnicity, and socio-economic status. They are often denied their rights to own, inherit, or access land and forest resources, subjected to various forms of violence, deprived of quality education and health care, and excluded from political participation and representation. Tribal women have a long and rich history of resistance and resilience, as well as creativity and innovation, that can inspire and inform the broader struggles for gender equality and social transformation in the country and beyond

### **Issues and Challenges Faced by Tribal Women in India**

Tribal women in India face a number of issues and challenges that affect their rights and well-being. Some of the major issues are:

- **Land and forest rights:** Land and forest are the sources of livelihood, identity, and dignity for tribal people. However, tribal women are often denied their rights to own, inherit, or access land and forest resources, due to patriarchal customs, laws, and policies. Moreover, tribal lands and forests are frequently encroached, acquired, or destroyed by the state, corporations, or other powerful groups, for the sake of development projects, mining, logging, or conservation. This results in displacement, dispossession, and loss of livelihood for tribal women and their communities.<sup>4</sup>
- **Violence and conflict:** Tribal women are subjected to various forms of violence, such as sexual assault, domestic abuse, trafficking, witch-hunting, and honor killings, both

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<sup>4</sup> Rights of a Scheduled Tribal Woman: a Lost Cause? Available at: <https://vidhilegalpolicy.in/blog/rights-of-a-scheduled-tribal-woman-a-lost-cause/>

within and outside their communities. The perpetrators of violence often enjoy impunity, due to the lack of legal protection, access to justice, or social support for tribal women. Furthermore, tribal women are also affected by the armed conflicts between the state and the Maoist rebels, or between different ethnic groups, in many parts of the country. They are often caught in the crossfire, harassed, tortured, or killed by the security forces or the militants, or forced to join or flee from the violence.<sup>5</sup>

- **Education and health:** Tribal women have lower levels of education and health than the national average, due to the lack of quality, accessible, and culturally appropriate services in their areas. They also face discrimination, harassment, or exclusion in the mainstream educational and health institutions, due to their language, culture, or identity. Tribal women have high rates of illiteracy, maternal mortality, malnutrition, anemia, and infectious diseases, such as tuberculosis, malaria, and HIV/AIDS. They also have limited access to reproductive health care, family planning, and safe abortion services.<sup>6</sup>
- **Political participation and representation:** Tribal women have the right to participate and represent in the political processes and institutions of the country, as per the Constitution and the laws. However, they face many barriers and challenges in exercising their political rights, such as lack of awareness, education, resources, mobility, or security. They also face resistance, hostility, or violence from the dominant political parties, leaders, or groups, who do not respect or recognize their voices, interests, or aspirations. Tribal women have low representation and influence in the local, state, and national levels of governance, despite the provisions of reservation or affirmative action.<sup>7</sup>

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<sup>5</sup> Succession right of tribal women: SC directs Centre to consider amending provisions of Hindu Succession Act. PTI. Available at: <https://indianexpress.com/article/india/succession-right-tribal-women-sc-centre-provisions-hindu-succession-act-8315852/>

<sup>6</sup> 5 times the Supreme Court upheld the rights of women in 2022. Express Web Desk, Available at: <https://indianexpress.com/article/india/supreme-court-2022-womens-rights-abortion-hijab-women-officers-dowry-tribals-8336769/>

<sup>7</sup> Succession rights of tribal women: Time for gender equality. Bar and Bench. Available at: <https://www.barandbench.com/columns/succession-rights-of-tribal-women-time-to-make-them-gender-equal>

### III. LEGAL AND CONSTITUTIONAL PROVISIONS FOR THE PROTECTION AND EMPOWERMENT OF TRIBAL WOMEN IN INDIA

The Constitution of India recognizes the rights and interests of the tribal people and provides for special provisions for their protection and empowerment. Some of the constitutional provisions are:

- **Article 14:** It guarantees equality before law and equal protection of law to all persons, including tribal women.
- **Article 15:** It prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth, and empowers the state to make special provisions for the advancement of any socially and educationally backward classes of citizens, including tribal women.
- **Article 16:** It ensures equality of opportunity in matters of public employment and empowers the state to make reservations in favor of any backward class of citizens, including tribal women, who are not adequately represented in the services under the state.
- **Article 19:** It grants the right to freedom of speech and expression, assembly, association, movement, residence, and profession, subject to reasonable restrictions, to all citizens, including tribal women.
- **Article 21:** It protects the right to life and personal liberty of all persons, including tribal women, and imposes a duty on the state to provide adequate means of livelihood, education, and health care to them.
- **Article 23:** It prohibits trafficking in human beings and forced labor, and empowers the state to take appropriate steps to prevent and punish such offenses, which affect tribal women disproportionately.
- **Article 29:** It protects the right of any section of the citizens, including tribal women, to conserve their distinct language, script, or culture, and prevents the state from imposing any restrictions on their enjoyment of this right.

- **Article 46:** It directs the state to promote with special care the educational and economic interests of the weaker sections of the people, especially the Scheduled Castes and the Scheduled Tribes, and to protect them from social injustice and all forms of exploitation.
- **Article 330 and 332:** They provide for reservation of seats for the Scheduled Castes and the Scheduled Tribes in the House of the People and the Legislative Assemblies of the States, respectively, in proportion to their population.
- **Article 243D and 243T:** They provide for reservation of not less than one-third of the total number of seats for women, including tribal women, in the Panchayats and the Municipalities, respectively, and also of the offices of the Chairpersons of these bodies.
- **Article 244:** It provides for the administration of the Scheduled Areas and the Tribal Areas in accordance with the provisions of the Fifth Schedule and the Sixth Schedule, respectively, which give special powers and autonomy to the tribal people in matters of land, forest, and local governance.
- **Article 338A:** It establishes the National Commission for Scheduled Tribes, which is entrusted with the functions of safeguarding the interests of the Scheduled Tribes, including tribal women, under the Constitution and other laws.

**Apart from the Constitution, there are also several laws and policies that aim to protect and empower the tribal women in India. Some of them are:**

- **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989:** It defines and prescribes punishment for various atrocities committed against the members of the Scheduled Castes and the Scheduled Tribes, including tribal women, such as rape, kidnapping, arson, forced labor, social boycott, etc. It also provides for special courts, special public prosecutors, relief and rehabilitation, and preventive measures for the victims of such atrocities.<sup>8</sup>

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<sup>8</sup> The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

- **The Protection of Women from Domestic Violence Act, 2005:** It defines and prohibits domestic violence in any form, physical, sexual, emotional, or economic, against women, including tribal women, by any person with whom they live or have lived in a domestic relationship. It also provides for protection orders, residence orders, monetary relief, custody orders, compensation orders, and medical and legal aid for the aggrieved women.<sup>9</sup>
- **The Prohibition of Child Marriage Act, 2006:** It prohibits and penalizes the solemnization of child marriages, which affect tribal women disproportionately, and provides for the annulment, maintenance, and custody of such marriages. It also empowers the courts to issue injunctions to prevent and stop child marriages, and appoints child marriage prohibition officers to perform various duties under the Act.<sup>10</sup>
- **The Forest Rights Act, 2006:** It recognizes and vests the forest rights and occupation of forest land in the forest dwelling Scheduled Tribes and other traditional forest dwellers, including tribal women, who have been residing in such forests for generations. It also provides for the recognition of community rights, such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes, and the right to protect, regenerate or conserve.<sup>11</sup>

#### IV. TRIBAL WOMEN'S ACTIVISM AND ACHIEVEMENTS IN INDIA

- **Soni Sori:** Soni Sori is a tribal rights activist and leader from Chhattisgarh, who has been a vocal critic of the police violence and brutality towards tribal people in the state. She was arrested, tortured, and sexually assaulted by the police, on the charges of being a Maoist intermediary, in 2011. She was released in 2014, after being acquitted of most of the charges. She has continued to fight for the rights and justice of the tribal people, especially the tribal women, who have been raped, killed, or imprisoned by the security forces or the militants. She has also contested and won the local elections, and has become a member of the Aam Aadmi Party, a political party that advocates for transparency and accountability

<sup>9</sup>The Protection of Women from Domestic Violence Act, 2005

<sup>10</sup>The Prohibition of Child Marriage Act, 2006

<sup>11</sup> The Forest Rights Act, 2006

in governance. She was awarded the 2018 Front Line Defenders Award for Human Rights Defenders at Risk, in recognition of her dangerous struggle for justice for the tribal community in Chhattisgarh.<sup>12</sup>

- **Dayamani Barla**: Dayamani Barla is a tribal journalist and activist from Jharkhand, who has raised her voice against the land acquisition and displacement of tribal people by the state and the corporations, for the sake of development projects, such as dams, mines, or steel plants. She has led and participated in several movements and campaigns, such as the Koel Karo movement, the Nagri movement, and the anti-Arcelor Mittal movement, to protect the tribal lands, forests, and resources from the external forces. She has also founded and edited a magazine, called Jan Haq Patrika, to highlight and amplify the voices of the tribal, Dalit, and women's issues. She has faced several threats, attacks, and arrests for her activism, but has not given up her fight for the tribal rights and dignity.<sup>13</sup>
- **Purnamasi Jani**: Purnamasi Jani is a tribal poetess from Odisha, who has composed and created over 50,000 devotional songs in Odia, Kui, and even Sanskrit languages. She is also known as Tadisaru Bai locally, which means the one who sings the praises of God. She belongs to the Kondh tribe, which is one of the most marginalized and oppressed tribes in the country. She has never received any formal education, but has learned to read and write from her husband, who is also a poet. She has used her poetry as a medium to express her faith, devotion, and love for God, as well as to raise awareness and consciousness about the social and environmental issues that affect her community and the world. She was awarded the Padma Shri, one of the highest civilian honors of the country, in January 2021, for her contribution to the field of literature and education.<sup>14</sup>

These are some of the faces and stories of the tribal women's movement in modern India, which reflect the challenges and opportunities that they encounter in their quest for rights and justice. Tribal women have a long and rich history of resistance and resilience, as well as creativity and

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<sup>12</sup> The Indigenous World 2022: India. Available at: <https://www.iwgia.org/en/india/4650-iw-2022-india.html>

<sup>13</sup> 7 Faces of India's Adivasi and Tribal Activism You Should Know. Available at: <https://feminisminindia.com/2019/12/11/faces-indias-ativasi-tribal-activism/>

<sup>14</sup> Tribal Women's Movement In Modern India. Available at: <https://feminisminindia.com/2021/03/05/tribal-womens-movement-modern-india/>



innovation, that can inspire and inform the broader struggles for gender equality and social transformation in the country and beyond.

## V. LEGAL SUGGESTION

- The state should ensure the effective implementation and enforcement of the existing legal and constitutional provisions for the protection and empowerment of tribal women, such as the Forest Rights Act, 2006, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the Protection of Women from Domestic Violence Act, 2005. The state should also monitor and evaluate the impact and outcomes of these provisions on the ground, and take corrective and preventive measures to address any gaps or challenges.
- The state should also review and amend the existing laws and policies that are discriminatory, oppressive, or exploitative towards tribal women, such as the Land Acquisition Act, 1894, the Indian Forest Act, 1927, and the Wildlife Protection Act, 1972. The state should also enact new laws and policies that are responsive and inclusive of the needs and aspirations of tribal women, such as the Recognition of Forest Rights Bill, 2021, the Prevention of Witch-Hunting Bill, 2016, and the Tribal Women's Empowerment Policy, 2018.
- The state should also ensure the participation and representation of tribal women in the decision-making processes and institutions that affect their rights and interests, such as the Gram Sabhas, the Panchayats, the District Planning Committees, the State Legislative Assemblies, and the Parliament. The state should also provide adequate training, capacity-building, and support to the tribal women leaders and representatives, and protect them from any threats, harassment, or violence.
- The state should also promote and protect the cultural and linguistic rights of tribal women, and respect and recognize their diversity and identity. The state should also provide quality, accessible, and culturally appropriate education and health care services to tribal women, and ensure their access to information, communication, and technology. The state should also support and encourage the tribal women's initiatives and innovations in various fields, such as art, literature, environment, etc.

- The state should also collaborate and cooperate with the civil society, the media, the international community, and other stakeholders, to raise awareness and consciousness about the issues and challenges faced by tribal women, and to mobilize resources and support for their rights and empowerment. The state should also acknowledge and appreciate the contributions and achievements of tribal women, and celebrate and honor their role and leadership in the society.

## VI. SUMMARY

The paper provides a comprehensive overview of the situation of tribal women in India, the legal and constitutional provisions for their protection and empowerment, the role of the judiciary and the civil society in upholding their rights, and the examples of tribal women's activism and achievements in various fields. The paper examines the issues and challenges faced by tribal women in India, such as the denial of land and forest rights, the exposure to violence and conflict, the deprivation of education and health care, and the exclusion from political participation and representation. In the paper it also discusses the legal and constitutional provisions for the protection and empowerment of tribal women in India, such as the articles 14, 15, 16, 19, 21, 23, 29, 46, 244, 243D, and 243T of the Constitution, and the laws such as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Protection of Women from Domestic Violence Act, 2005, the Prohibition of Child Marriage Act, 2006, and the Forest Rights Act, 2006. The paper highlights the role of the judiciary and the civil society in upholding the rights of tribal women in India, by citing some landmark judgments and interventions that have recognized and enforced the tribal rights, such as the *Samatha vs State of Andhra Pradesh* case, the *Narmada Bachao Andolan* case, the *Vedanta* case, and the *Salwa Judum* case. It showcases the examples of tribal women's activism and achievements in various fields, such as Soni Sori, who is a tribal rights activist and leader from Chhattisgarh, Dayamani Barla, who is a tribal journalist and activist from Jharkhand, and Purnamasi Jani, who is a tribal poetess from Odisha. Lastly, the paper concludes by suggesting some recommendations for improving the situation of tribal women and ensuring their dignity and equality.

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