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# Tribes and Forest: Securing Forest Rights and Livelihoods of Tribals

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## ABSTRACT

*Nearly 10.4 million tribes live in India, making up 8.6 percent of the country's total population and adding to its overall size by more than 15%. The tribe is extremely closely related to the forest, and they depend on the available forest resources for their survival and food. Government policymakers are forced to transform forest land into massive companies that once again move ahead to the indigenous people from their soils due to the continual drive for economic growth and market pressure on the government. Since the colonial era, forest policies have endangered indigenous members' rights to the forest and ignored their input when laws were being drafted. During the colonial era, the government took control of the right to manage the woods from the communities' hands. The postcolonial law has given tribal people a special status, but without comparable or better advancement in the law and administration in other areas, such as land acquisition, development-induced disarticulation, and political independence, it will not be able to address the issues with tribal people's human rights and means of subsistence.*

## I. INTRODUCTION

About 8.6% of all people in India are from a tribal group. According to the 2011 census, there are a total of 104.3 million Scheduled Tribe people living in India; 94.1 million of them reside in outlying rural regions. According to trend growth, India's overall population and rural tribal population will be around 125 million and 112 million, respectively, in 2020. More than 50% of tribal people are forest dwellers who depend on the land and forest resources for their subsistence (GoI, TRIFED, 2019). According to estimates, the collecting and selling of small amounts of forest food accounts for between 40 and 60 percent of tribal members' annual income, particularly tribal women (GOI, TRIFED, 2019). Tribes have long been a part of the forest ecosystem, which has influenced both their way of life and the civilization they currently inhabit. The majority of them depend on the forest for their livelihood and subsistence and live near to it. As people develop in these woods and draw essentials like clean water, air, food, medicines, shelter, and even leisure getaways from these forests, their whole existence revolves

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on the forest. In addition to gathering different edible and medicinal roots, tubers, creepers, fruits, and leaves, the tribal people also cultivate land in a moving or settled manner for sustenance. MFP is divided into five categories by the National Commission on Agriculture (1976): fibres and flosses, grasses (other than oil-producing), bamboo, reeds, and canes, oil seeds, tames and dyes, gums, resins, and oleoresins, and leaves (Prasad, 2011).

Because of the importance of forests to tribe social life on a variety of levels, including social, psychological, and religious, in addition to economic.

If we examine the geographic distribution of the tribal people in India, we may divide them into three divisions i.e.

1. The North-Eastern Region (NER), which consists of the states of Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura.
2. Rajasthan, Gujarat, Maharashtra, Madhya Pradesh, Chhattisgarh, Andhra Pradesh, Orissa, Bihar, Jharkhand, West Bengal, Dada and Nagar Haveli, and Daman and Diu make up the Central Tribal Belt (CTB).
3. Other States/UTs include Lakshadweep, Andaman and Nicobar Islands, Himachal Pradesh, Uttar Pradesh, Uttarakhand, Karnataka, and J&K.

The predominant tribal-populated States of the country are Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Union Territories of Dadra & Nagar Haveli and Lakshadweep.

This indicates that because of their greater reliance on natural resources and primitive technology, tribal people not only choose to live close to forested regions and actively protect them. These Scheduled Tribes (FDSTs) who live in forests are essential to the health of the forest environment. They reside in the forest settlements that were built during the colonial era in difficult and distant forest areas in order to provide consistent labour for forestry operations (Chaithanaya,2012). However, throughout the consolidation of State forests during the colonial period and subsequently after independence as well, the customary rights of these FDSTs over the area they occupied were not sufficiently acknowledged and recorded. Since these are not revenue-generating villages, the State forest departments have control over them, and they have ownership rights over the forest resources, not the tribe members. As governmental monopoly rights over the forest have been gradually asserted, threatening indigenous existence, large-scale evictions have taken place, and tribal settlements have been uprooted. In truth, if their forest rights are made legally and practically secure, their income from the woods may increase, but their forest rights and way of life have long been a source of concern. Despite recent tribal-friendly regulations like the Scheduled Tribes and Other Traditional Forest Dwellers Act of

2006 (FRA) and the Panchayats Extension to the Scheduled Areas (PESA) Act of 1996, the de facto insecure forest tenure system persists for a variety of reasons. This policy paper examines the major obstacles to preserving tribal members' access to forests and their means of subsistence while also outlining potential solutions. The forest policies placed on them throughout the colonial and post-colonial periods led to their eventual eviction. The examination of India's tribal people's experiences with forest policy is provided below.

#### **(A) Pre-colonial Period:**

The residents of the forest enjoyed the riches of the forest during the pre-colonial era, or before the arrival of the British in India, while the monarch had little to no interest in the forests. The waste and forest areas, according to Guha (1983), "never attracted the attention of prior (pre-British) Governments." Three different types of authorities often asserted their ownership of the woodlands. The first to assert their rights to gather produce, graze cattle, and extend their farming into the forestlands were the village communities. Zamindars and other feudal landlords made up the second category, while the government made up the third. According to Board of Revenue proceedings from the Madras presidency's 5th of August 1871, "Every single one of them is subject to tribal or communal rights, which have existed since the beginning of time and are as difficult to define and value as they are important to the rural people. The woodlands in this area have long been public property" (Prasad, 2011).

#### **(B) During East India Company Rule:**

The company period was marked by a complete disregard for the concerns of forest conservation, and the subsequent established British period saw a furious assault on India's forests. For financial gain, agricultural production, and commercial exploitation, forests were cleared. Thus, a new era in the usage of forest products in India began with the entrance of the British and their exploitation of the country's forest resources. Even though the public enjoyed unrestricted access to the forests, the State had already started to effectively possess the nation's forests and wastelands by this point (Prasad, 2011). The British administration knew that India's forest resources were finite by the middle of the 19th century. The British government had to create legislation to protect the forest resources because of the fast loss of forest cover (Saldanha 1996). The more accessible woodlands were subjected to an extraordinary attack during the early years of railway construction. Forested areas were extensively cleared to provide the need for railway sleepers. There was no oversight of the tree-felling activities, which resulted in the removal of many trees whose logs couldn't be used. Lord Dalhousie established a clear forest policy in 1856 after seeing the effects of forest degradation brought on by the extensive use of

wood in railway construction. The Government of India then determined to take active measures to prevent future destruction of the remaining forests (Smythies, 1925).

**(C) Forest Policies under the Rule of British Crown:**

The authoritarian nature of the British-instituted forest governance put restrictions on the local forest dweller populations by designating the forest as a state property for colonial purposes. These policies took away local livelihoods, rights, and advantages based on the use of the forest for economic gain and national development. The British's forest policy and management decisions are chronologically described in the paragraphs that follow, along with their effects on the socioeconomic well-being of the indigenous people.

**(D) The Forest Act of 1865:**

This law was the first step in limiting the forest residents' access to forest products and establishing the state's monopoly on the forest. The state had the authority to designate any property covered in trees as a forest and to manage it by notice, provided that this notification did not restrict or otherwise interfere with any already-existing rights of people or groups (sec.2). Law was to be used to limit the forest people's socially prescribed behaviours. Thus, the traditional "rights" to use forest products were changed to "privileges." Private woods were not covered by the Act, which only applied to public forests under government authority (Kulkarni, 1987).

**(E) The Forest Act, 1878:**

The state's control over the woods was increased by this Act, which was more thorough than the previous one. This law separated the forest into three sections: village forests, protected forests, and reserved woods. The Act strengthened governmental authority over the forest by outlawing certain behaviours including trespassing and cow pasture (Husnain, 2009). However, this did not apply to nearby woods where local governments still had the legal authority. With the passage of this act, decades of traditional forest use by rural communities throughout India would be erased with the flick of the presidential pen. In order to work these woods for commercial timber production, the Colonial State claimed authority over woodlands that had previously been in the hands of indigenous communities. This resulted in unprecedented levels of interference in the day-to-day lives of the Indian tribes (Prasad, 2011).

**(F) Forest Policy Resolution-1894:**

In the first forest policy, the state's interests were prioritised over those of the populace. The policy's main goal was to manage state forests for the benefit of the public, but it placed

limitations on those who lived in and around the woods. Additionally, it designated some forest as minor forest in order to meet community requirements (Prasad, 2011). The British Government has limited the forest's community usage because of the forest's commercial importance. The rights of the indigenous people were severely restricted as a result, but it also helped the British increase their money. This colonial forest policy as a result stripped them of their forest rights and distanced them from the forest (Bahrgava, 2002). As a result of this approach, the forest officials have intervened and asserted their power to restrict and legislate the customary tribal rights to the woods (Husnain, 2009).

### **(G) Forest Act-1927:**

Various local government acts have in the past modified the India Forest Act of 1878. Later, the Indian Forest Act, 1927, which is a highly comprehensive Act, took its place. This has formalised all of the forest authorities' procedures in addition to further regulating the people's rights towards the forest. The communities had direct contact with the forest officers, who were essential at the local level. They had a strong sense of authority, exercised their power arbitrary, and caused chaos in the lives of the tribal people. Numerous tribal members were forced to abandon their homes as a result of their coercive tactics and power abuse. The Act removed the 1878 Act's mention of communities' ownership rights over woods. Before the Forest Settlement Officer who was to investigate the claims, people were required to present their claims over forest lands and forest products. Numerous tribal members were forced to abandon their homes as a result of their coercive tactics and power abuse. The Act removed the 1878 Act's mention of communities' ownership rights over woods. Before the Forest Settlement Officer who was to investigate the claims, people were required to present their claims over forest lands and forest products.

As a result, during the colonial era, the government acquired the power to manage woods from the communities they were a part of. The common land had been turned into state property, and village residents had started to feel cut off from the forest. In 1935, Forest was moved from the union to the state list in accordance with the Government of India Act. Even after the country's independence, the state retained this control over forest products.

## **II. POSTCOLONIAL FOREST POLICIES**

### **(A) National Forest Policy of 1952:**

In 1952, the first post-independence forest policy was created with the understanding that "maximum yearly revenue from the woods" was important to national decision-making. By placing stricter restrictions on their ownership of forest resources, this dashed the dreams of the

indigenous people. Although it adhered to the principles of colonial policy makers, it went beyond by violating the rights of the indigenous people. The tribe members' private woodlands, which were unaffected by the previous policy, were now subject to restrictions. While free grazing was permitted under the previous regulation, it was now subject to a charge. Shifting cultivation is allowed, with the caveat that it should be controlled by persuasion rather than compulsion as it was in the past. In this strategy, the "rights" that were turned into "privileges" throughout the colonial eras were changed to "concessions." The former colonial administration's power to cultivate on forest property was withdrawn by the new policy, and it also began to govern the private woods, which were entirely under tribal control during the colonial era. Free grazing in woods was unaffected by the previous regulation. It was the goal of the new policy to regulate it. Fees were implemented, and only minimal grazing was permitted. In especially for the native population, the free India's forest policy of 1952 was thought to be worse than its predecessor's colonial policy of 1894. (Reddy 1995).

A panel headed by UN Dhebar was established by the Indian President to examine the Forest Policy and its effects on the country's indigenous people. The Scheduled Area and Schedule Tribe Commission emphasised the value of forests in the lives of tribal people, pointing out that they provide them with a variety of foods, wild game and fish, wood for building houses, and even income from the sale of forest produce in addition to fuel. They also criticised the government's gradual expansion of its authority over forests, which harms tribal life and the economy. The rights of the indigenous tribes over the forests were also recognised as gradually changing from "rights and privileges" in 1894 to "rights and concession" in 1952, and then remaining as concession. The Commission suggested that the 1952 policy be reviewed and that tribe members be permitted to farm forested lands. We should accept their need for grazing and movable cultivation. Additionally, it outlined the duties of forest officers.

#### **(B) The Recommendation of National Commission on Agriculture, 1976:**

From the perspective of the indigenous people, the National Commission on Agriculture's (NCA) 1976 suggestion was terrible. It promoted the commercialization of forests at any costs, disregarding the nourishment that forest people obtained from the woods, and it suggested a significant reduction in the people's rights over the forests and the products they generate. The Commission advocated the regularisation of forest dwellers' rights over forest output and declared, "the production of industrial wood should be the *Maison* for the existence of forests. Actually, many other values that have been asserted or given attention to forests thus far can be incorporated in this value (NCA 1976). According to the report, indigenous people and forest residents are destructive forces who have adopted an extreme conservationist stance toward the

forest and its goods. Due to their unfettered resource extraction and little maintenance efforts, the local population was thought to be responsible for the destruction of the forest. In order to eliminate inconsistencies in state-by-state forest laws and the proliferation of legally recognised entities involved with forestry issues, it was suggested that the forest legislation be strengthened by altering the forest policy and enacting universal forest laws. Additionally, it was suggested that all forest areas be functionally divided into protected forests, producing forests, and social forests. By virtue of the 42nd Constitutional Amendment, which granted the centre legislative authority, the Forests issue was added to the concurrent list in 1976.

### **(C) Forest Draft Bill-1980:**

A measure with provisions to limit people's rights to produce and forestland was created based on the recommendations of the NCA (1976). The Government had the authority to designate any type of land as a forest. The Act forbade the state governments from designating any reserve forest or portion thereof as unreserved, from allocating any forestland for any purpose without the prior consent of the federal government, and from making any special provisions against the rights of the forest people. Thus, the whole right to the forest and the products it produces was reserved by the central government. Later, the parliament approved this measure, and it was made into an Act.

### **(D) Committee on Forests and Tribals:**

The Government of India established a Committee in 1980 to provide principles for the re-orientation of forest policy to serve the forest economy under the head of Dr. B.K. Roy Burman, a renowned anthropologist, in order to develop a coordinated strategy. The importance of the forest in tribal life was emphasised in the report that the committee submitted in 1982. The committee noted that in addition to the essential necessities of fuel, food, and wood that tribal people have, one-third of their revenue comes from the sale of minor forest products. The committee believed that the best long-term answer to the issue of afforestation, preservation, productivity, and land management was for a national forest strategy to acknowledge the significance and beneficial role of the residents in sustaining forests (Burman Committee report, 1982). The committee placed greater attention on the forest industry and minor forest products since it was more concerned with the tribal economy, but it also made insightful comments about how important forests are to tribal life. The committee emphasised that the indigenous people should gain from forestry conservation programmes and acknowledgement of their forestry expertise. The fundamental needs of the tribal people should not be hindered during policy design or implementation, and policymakers should take into account the individual,



communal, and national interests viewpoints.

The Department of Forests was then moved from the Ministry of Agriculture to the newly formed Ministry of Environment and Forests in 1985. It was this ministry that wrote the National Forests Policy Resolutions that were eventually passed by Parliament in December 1988.

**(E) Forest Act-1988:**

The Forest Act of 1988's fundamental goals were as follows: "The major goal of forest management must be to maintain ecological balance, including atmospheric equilibrium, which is essential for the survival of all living forms, including humans, animals, and plants. This primary objective must come before any immediate economic advantage ". Through this statute, the idea of shared forest management developed. Although this policy includes more provisions that are focused on the requirements of the general public, it retains the idea of exclusive state ownership of forests and refers to industrial demands as national needs (Choudari, 1987). For a period of three years, shifting cultivation was legal. Punitive procedures were specifically intended to deter encroachments on reserve forests. Village woods, with the exception of reserve forests, may be created by the state. Cattle trespassing in reserved, protected, and community woods is prohibited, and the penalty for such offences are quite harsh. The Resolution has a specific clause about tribal members and forests. Regarding the symbiotic link between tribal people and forests, it is claimed that all authorities in charge of managing forests should ensure that tribal people are closely involved in the preservation, regeneration, and development of forests in order to give them profitable work (Hiremath et.al 1994).

Social and human rights activists established a movement that viewed tribal rights over local resources as sacred and unnegotiable, and they started working to get these rights recognised by the constitution. The government was compelled to revise the Vth schedule in 1996, under the name Panchayats Extension to Schedule Areas (PESA), as a result of these protests and the Bhuria Committee's proposal. It acknowledged the historic rights of tribal peoples over "community resources," which include land, water, and forests, and decentralised current ways to forest administration by placing the Gram Sabha in the spotlight. Not only did PESA grant a wide range of rights and advantages, but it also established a foundational premise for future legislation pertaining to indigenous people (Patnaik, 2007).

Tribal people were labelled as "encroachers" and told to leave the forest in a 2002 circular issued by India's Ministry of Environment and Forest. The creation of the Protected Area Network, which meant more sacrosanct areas with no or negligible rights over forests and forest land by

the tribals, made forest-dwelling tribal members even more incapacitated and allowed the State to evict them without resolving their legitimate rights to residence (Patnaik, 2007).

#### **(F) The Forest Act, 2006:**

In the development of the government's policy toward the tribal people, the forest Act of 2006 is a significant piece of legislation. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (the "Act") was passed by Parliament in response to the Honourable Supreme Court's decision in 2004 and is intended to "undo the historical injustices" that tribal communities experienced during the colonial and postcolonial periods. The Act's goals are to recognise forest-dwelling communities' rights and to promote their involvement in the preservation and management of forests and animals. The "encroachers" were seen as crucial agents for managing and conserving the woods and animals. The law makes a difference between non-tribal forest dependent tribal people and Schedule tribes that rely on the forest for food and for commercial purposes (Bhullar, 2008). Without equal or better advances in law and administration in other areas, such as land acquisition, development-induced displacement, and political autonomy, law would not be able to tackle tribal people's human rights and livelihood challenges.

#### **(G) Status of Implementation of FRA:**

According to the Ministry of Tribal Affairs, Government of India, up to 30,06,2022, about 44,46,104 claims (42,76,844 individual and 1,69,260 community claims) has been filed and 22,35,845 titles (21,33,260 individual and 1,02,585 community titles) has been distributed. A total of 39,09,688 (87.94%) claims have been disposed of.

##### Total of 5 states [Chhattisgarh, Maharashtra, Orissa, Rajasthan and West Bengal]

Individual =	11,53,380	Titles =	20,42,784.36 acres
Community =	61,568	Titles =	79,86,606.50 acres
Total =	12,14,948	Titles =	1,00,29,390.86 acres

##### Total of 9 states [Andhra Pradesh, Assam, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Tripura, Uttar Pradesh]

Individual =	8,73,913	Titles =	21,84,487.50 acres
Community =	40,235	Titles =	34,87,525.20 acres
Total =	9,14,148	Titles =	56,72,012.70 acres
Grand Total =	21,29,096	Titles =	1,57,01,403.56 acres

The Government of Bihar has not furnished information regarding extant of forest land for which titles has been distributed.

Table: State wise details of claims received, titles distributed and the extent of forest land for which titles distributed (individual and community), as on 30.06.2022, in States/UTs, is indicated below:

S. No.	States	No. of Claims received upto			No. of Titles Distributed upto			Extent of Forest land for which titles distributed (in acres)		
		30.06.2022			30.06.2022			distributed (in acres)		
		Individual	Community	Total	Individual	Community	Total	Individual	Community	Total
	1	2	3	4	5	6	7	8	9	
1	Andhra Pradesh	2,74,078	3,294	2,77,372	2,10,828	1,822	2,12,650	4,36,606	5,26,454	9,63,060.00
2	Assam	1,48,965	6,046	1,55,011	57,325	1,477	58,802	NA/NR	NA/NR	NA/NR
3	Bihar	8,022	NA/NR	8,022	121	0	121	NA/NR	NA/NR	NA/NR
4	Chhattisgarh	8,71,457	50,889	9,22,346	4,46,041	45,764	4,91,805	8,98,685.31	49,00,036.27	57,98,721.63
5	Goa	9,758	378	10,136	138	11	149	299	16.93	315.92
6	Gujarat	1,82,869	7,187	1,90,056	91,686	4,597	96,283	1,56,924.55	12,36,490.19	13,93,414.74
7	Himanchal Pradesh	2,746	275	3,021	129	35	164	5.96	4,741.80	4,747.76
8	Jharkhand	1,07,032	3,724	1,10,756	59,866	2,104	61,970	1,53,395.86	1,03,758.97	2,57,154.83
9	Karnataka	2,88,357	5,938	2,94,295	14,691	1,343	16,034	19,989.01	36,340.40	56,329.41
10	Kerala	43,466	1,109	44,575	26,745	183	26,928	35,448.94	0	35,448.94
11	Madhya Pradesh	5,85,326	42,187	6,27,513	2,66,609	27,976	2,94,585	9,02,750.46	14,63,614.46	23,66,364.92
12	Maharashtra	3,62,679	12,037	3,74,716	1,65,032	7,084	1,72,116	3,92,928.73	27,36,660.68	31,29,589.41
13	Odisha	6,28,093	15,282	6,43,375	4,52,376	7,624	4,60,000	6,66,187.82	3,37,043.36	10,03,231.18
14	Rajasthan	97,243	2,375	99,618	45,487	410	45,897	63,968.19	12,294.16	76,262.35
15	Tamil Nadu	33,755	1,082	34,837	8,144	450	8,594	9,626.44	NA/NR	9,626.44
16	Telangana	2,04,176	2,808	2,06,984	97,434	102	97,536	3,10,916.00	3,631.00	3,14,547.00
17	Tripura	2,00,696	277	2,00,973	1,27,931	55	1,27,986	4,60,182.41	91.17	4,60,273.58
18	Uttar Pradesh	92,577	1,162	93,739	18,049	861	18,910	19,190.27	1,20,776.00	1,39,966.27
19	Uttarakhand	3,587	3,091	6,678	184	1	185	0	0	0
20	West Bengal	1,31,962	10,119	1,42,081	44,444	686	45,130	21,014.27	572.03	21,586.29
21	Andman & Nicobar Islands	0	0	0	0	0	0	0.00	0	0.00
22	Ladakh	0	0	0	0	0	0	0.00	0	0.00
	<b>TOTAL</b>	<b>42,76,844</b>	<b>1,69,260</b>	<b>44,46,104</b>	<b>21,33,260</b>	<b>1,02,585</b>	<b>22,35,845</b>	<b>45,48,119</b>	<b>1,14,82,521</b>	<b>1,60,30,640.68</b>

### III. CONCLUSION

The indigenous peoples were regarded as destroyers of the woods and animals by colonial and post colonial forest regulations. These rules have historically governed tribe members' rights to forest resources and territory. The British have seized the majority of the rights to the woods and started the commercialization of forest products under the pretence of "National Interest." The indigenous people who had long enjoyed the woodlands had little choice but to submit to the powerful forces. They were compelled to leave their ancestral home and alienate the forest as a result. For their nutrition and way of life, they were dependent on the good will of the colonial lords. Their own Indian authorities, who forbade them from accessing the forest resources and exploited them for commercial gain in the guise of nation-building and progress,

made their misery even worse. Communities no longer have influence over the business sectors utilising these resources for profit; they now do. Despite this, officials still view tribal people as forest encroachers and destroyers. Throughout the colonial and post-colonial periods, the indigenous people's fight for autonomy and identity called for the state to recognise the integrity of their culture and environment. Tribal and forest policies of the state could not be constructed on principles that were irreconcilable since, in the eyes of the tribes, the forest is inextricably linked to their survival. However, the state never complied with this requirement (Mullick, 2007). Due to laws that do not respect collective customary rights of people to forest areas, tribal people suffer from physical relocation (Mathur, 2009). The problem of deforestation and degradation cannot be solved by displacing millions of tribes from their own lands. Delegating rights to forest inhabitants should be a priority since they are the only ones with the traditional, conservative knowledge necessary to manage forest resources properly. Government officials and decision-makers must recognise the significance of indigenous peoples and grant them rights. The advantages of the programmes are not being felt by the intended population because of a lack of knowledge about the law and rights. Undoubtedly, the Forest Act of 2006 has provided the indigenous peoples a chance to gain ownership of the forest's resources and territory, but appropriate implementation is still required.

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