

# Political and Constitutional Rights of Tribal Communities in Indian Constitution

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**Abstract:** *The Constitution of India has laid down some basic provisions for the upliftment of the interests of the tribal community and its overall upliftment. Considering the social and economic situation in India, the scheduled tribes should get a fair place in the development of the country in the post - independence era, they should be developed in all respects and social and economic equality should be established, and the feeling of marginalization should not remain in the backward tribes. Specially, there is a provision in our constitution to reserve some seats in legislatures, ministries and administration for backward classes. While preparing the state constitution of the country, it is seen that important provisions have been made in the constitution for the scheduled tribes in order to establish economic and social democracy in the country. In order to establish economic and social justice, it was necessary to make special provisions for the backward classes.*

**Keywords:** tribal community, Scheduled Tribes, constitution, backwardness, provisions

## 1. Introduction

The country became independent on 15 August 1947. After the transfer of power, the question of the fundamental rights of the tribals came before the Constitution Committee of the country. To protect the rights of the tribals, a high committee of the constitution committee was entrusted with the task of fundamental rights of the tribals. Thakkar Bappa was the chairman of that sub - committee. According to his recommendations, some special provisions were made for tribals in the Indian constitution. In terms of Indian citizens, special provisions for tribals were included in the constitution, giving them all the rights of citizens.

After independence, although backward class has not been defined in the Indian constitution, various provisions have been made in the article of the constitution keeping in mind the backwardness characteristics of the backward class with the aim of building an egalitarian society and maintaining social justice.

Although the Constitution uses the term 'Tribe', it has not been defined. However, the President of India can make an ordinance under Article 342 (b) of the Constitution and include a tribal tribe as a Scheduled Tribe in the 5<sup>th</sup> Scheduled Group of the Constitution. Later she gets the status of Scheduled Tribe. That is, the provisions of the Constitution are attached to the constitutional concept of Scheduled Tribes. The constitution has made many provisions for them.1

The Constitution has granted equal fundamental rights to all by eliminating disparities in society based on caste, religion, race, wealth and titles. The protection of law provided by the Constitution is also given equally to all. But Dalits, deprived tribals, caste - tribes who are deprived of education, culture, equal opportunities and rights etc. for thousands of years are deprived of development matters. To provide opportunities for all in the fields of education, government employment and representation in the legislature, giving them some protection to enter these fields. States are empowered under Article 16 (4) of the Constitution of India to make special provisions for

backward castes and weaker sections of society in competitive examinations or elsewhere. the respective constituent states have provided reserved seats for government jobs, medical and engineering colleges and elsewhere for backward caste tribes and weaker sections. Provision of reserved seats has also been made in the Central and State Legislatures. Also, they have been given the opportunity to participate in the political process by creating reserved constituencies.

The title of the constitution is based on the resolution of objectives set out by Pandit Jawaharlal Nehru in the Constituent Assembly on 13 December 1946. "Adequate protection shall be accorded to the minorities of backward castes and tribes" without prejudice to law and social order. All citizens of India shall be protected by providing them with social and economic, justice, equality of opportunity and status, equality before the law, freedom of thought, expression, belief, belief, worship, occupation, association and action etc. This has been confirmed. The Constitution of India has given special attention while making provisions for Scheduled Castes. The title of the Constitution clearly mentions social, economic and political justice as well as equality of status and opportunity. Therefore, extensive and meaningful provisions have been made for Scheduled Tribes in the Constitution and its reflection has been reflected in the Surname.2

## Constitutional Provisions for Tribal community

In order to establish justice, equality, fraternity for the protection of Scheduled Tribes in the Constitution of India, Dr. Babasaheb Ambedkar and his colleagues have made provisions with foresight. Seeing that the social and economic condition of the country is based on inequality, some special provisions have been made in the constitution to bring justice, equality and brotherhood to the backward, weak and poor society. Tribal society has been exploited on a large scale. It was a big challenge to free this society from exploitation. For that, it was necessary to make important provisions in the constitution to bring them into the flow of social, economic and educational development. Special provisions have been made to solve the problems of tribals as follows

**1. Article 14**

All are equal under the law. All are equally protected. The Scheduled Tribes were disproportionately affected. This provision in the constitution made it easier to bring the backward tribes to the level of equality. While accepting the principle of equality before the law, it is also provided that the administration will not be prevented from making special provisions for the development of the socially and educationally backward as well as the citizens of Scheduled Castes and Tribes. On the one hand the principle of equality and on the other hand this special provision has been made for Scheduled Castes and Tribes. Thus, this provision of the Indian Constitution gives a tribal person all the same status as other citizens.

**2. Article 15**

In the case of any citizen, there will be no discrimination on the basis of religion, race, caste, gender, place of birth, but the interests of the Scheduled Tribes have been protected by this provision that the government will not be prohibited from making special provisions for the development of the socially and educationally backward and Scheduled Tribes citizens.

**3. Article 16**

Article 16 of the Constitution provides equal opportunity to all in public service. This has encouraged the creation of a sense of equality. Article 16 (4) provides that the State shall not, for any reason, prevent the State from making any provision for the appointment or reservation of posts in the services under the control of the State for any backward class of citizens who in the opinion of the State are not adequately represented. Article 4C also provides that nothing shall prevent the State from making any provision for reservation in services under State control to Scheduled Castes or Tribes who in the opinion of that State are not adequately represented in services under State control.<sup>3</sup>

**4. Article 17**

Untouchability has been abolished by law under this section. Therefore, untouchability cannot be enforced by law. Such conduct in any form is prohibited. Observance of untouchability is a criminal offence.

**5. Article 19 to 22**

Articles 19 to 22 of the Indian Constitution enshrine the fundamental freedoms of citizens. The basic rights of freedom granted to the citizens of India have enabled every citizen of the country to develop himself. As per the principle of equal opportunity, the tribal person is also provided with the same freedom rights as other Indian persons.

**6. Article 23**

Article 23 of the Constitution provides that no human being shall be subjected to any form of exploitation. The right against exploitation is acknowledged. According to this section, no person can be raped. No man or woman can be exploited financially, socially, educationally. No person can be financially exploited through acts of slavery, servitude, zamindari. No person can be forced to do any work on the basis of caste. This provision in the constitution has helped to stop the exploitation of the tribal community.

**7. Article 29**

According to Article 29 of the Constitution of India every citizen of India has his own Right to preserve language, script and culture. Also, it has been provided that admission to any government recognized educational institution will not be denied on any grounds such as religion, region, caste, language. According to this article every Indian citizen has got the right to cultivate his own language and culture. Adivasi tribes have a lot of diversity in terms of language, festivals, customs, traditions, customs and culture. Despite the fact that tribals are small in number, their linguistic and cultural rights have been protected according to this provision in the constitution. Therefore, it has become possible to protect the language and culture of the tribal tribe.

**8. Article 46**

Articles 36 to 51 of Chapter V of the Constitution of India lay down the guiding principles of state policy. In this the principles of economic, social, political, judicial, foreign relations are mentioned. In the social principles, according to the article of the Constitution of India, the government system shall take care of the education and economic interests of the Scheduled Castes, Scheduled Tribes and weaker sections of the society and the government shall protect them from injustice and exploitation.

**9. Article 243**

Article 243 (d) of the Constitution of India provides for reserved seats for Scheduled Tribes. Seats shall be reserved for Scheduled Tribes in each Panchayat and the ratio of the number of seats so reserved to the total number of seats to be filled by direct election in that Panchayat shall be the ratio of the total population in that Panchayat area. Not less than 1/3rd of the total number of reserved seats shall be reserved for Scheduled Tribe women. Provision has been made that the posts of Chairpersons in Panchayats at village or any other level shall be reserved for Scheduled Tribes in such manner as may be provided by the State Legislature.<sup>4</sup>

**10. Article 275**

Article 275 of the Constitution of India provides for the availability of funds for strengthening the administration in the Scheduled Tribe areas and for the revival of the weaker sections. It provides that such sums as Parliament may by law provide shall be charged annually to the Consolidated Fund of India as grants - in - aid to the revenue of such States as Parliament may determine to be in need of assistance and may fix different amounts for different States. Aggregate of India as grants - in - aid to the revenue of that State such capital and recurring sums as may be necessary to enable the State to meet the expenditure of development schemes undertaken by that State with the approval of the Government of India for the advancement of the welfare of the tribals of a State or for raising the level of administration of the Scheduled Areas of that State to that of the rest of the State. Provision has also been made that funds will be given.

**11. Article 330, 332**

Article No.330 of the Constitution of India provides for reservation of seats in the Lok Sabha through reserved constituencies for Scheduled Tribes. According to Article No.332, seats are reserved for Scheduled Tribes in the State Legislative Assemblies. Clause 1 provides that the proportion

of seats reserved for Scheduled Tribes in the Legislative Assembly of any State to the total number of seats in the Legislative Assembly shall be equal to the proportion of Scheduled Tribes to the total population of that State or its area. As per this provision, Lok Sabha seats are reserved for Scheduled Tribes throughout the country. In Maharashtra, 4 (four) seats in the Lok Sabha and 18 seats in the State Legislative Assembly have been reserved for Scheduled Tribes.<sup>5</sup>

### 12. Article 335

Article 335 of the Constitution of India gives the right to give services and posts to Scheduled Tribe candidates.

### 13. Article 338

According to Article 338 (C) of the Constitution, provision has been made for the establishment of National Commission for Scheduled Tribes for the Scheduled Tribes. Provision has been made that this Commission shall consist of a Chairman, a Vice - Chairman and three other members

### 14 Article 339

Article 339 of the Constitution provides that the President may by order at any time appoint a commission to report on the welfare of tribals. But he has to be appointed as soon as ten years have passed from the commencement of this constitution. It is provided that the Commission may determine the composition, powers and procedure of the Commission and may include such ancillary or auxiliary provisions as the President may deem necessary or desirable.<sup>6</sup>

### 15 Article 340

Article 340 of the Constitution of India provides for the appointment of a commission to inquire into the condition of backward classes. To inquire into the condition of the socially and educationally backward classes in the territory of India and the difficulties faced by them and what measures should be taken by the Union or any State to remove such difficulties and improve their condition, The President may appoint a commission composed of such persons as he may think fit to make recommendations regarding that and for that purpose what grants should be made by the Union or any State and the procedure to be followed by the commission shall be determined by the order appointing such commission. Due to this provision in the constitution, the President can give special attention to the socially and educationally backward Scheduled Tribes.<sup>7</sup>

### 16. Article 342

- 1) Article 342 of the Constitution provides that the President shall, in the case of any State or Union Territory after considering its Governor, by public notification, be deemed to be Scheduled Tribes for the purposes of this Constitution in relation to that State or Union Territory. That tribe or tribal group or parts of tribe or tribal group or groups thereof may be specified.
- 2) Parliament may by law include or exclude from the Scheduled Tribes any tribe or group of tribes or part of any tribe or group of tribes or group thereof specified in a notification made under clause (1) Article 164 of the Constitution of India provides that an independent Minister for Tribal Welfare and Development shall be appointed in the Cabinet of Ministers of the constituent

states where tribal population is high. According to this provision, an independent minister is being appointed as per this provision as tribal population is high in the three constituent states of Orissa, Bihar and Madhya Pradesh. But today, in fact, in many parts of the state, the number of tribals is high. There, one minister in the cabinet of the constituent state belongs to the tribal tribe. Even in the cabinet of the state of Maharashtra, there is a minister from the tribal tribe as the tribal development minister.<sup>8</sup>

The Union Cabinet also includes at least one tribal person as a minister. The number of tribal tribes is very high in Assam and Assam region i. e. Northeast India. The nature of this tribal question is also complex. Keeping this in mind, a special provision has been made in the constitution. According to Article 244 of the Fifth Schedule of the Constitution, a separate arrangement has been made for the administration of tribal areas. The Constitution of India provides for the appointment of a Tribal Advisory Board to advise the Governor for tribal welfare in states having tribal tribes.

## 2. Conclusion

The Constitution of India has made many provisions for the protection of Scheduled Tribes. In order for this weaker section to get a special opportunity to come along with others and to establish justice, freedom, equality, fraternity and disparity, the framers of the constitution have made such provisions with foresight. Based on these provisions of the constitution, the central government and the state government have also made various laws for the protection of scheduled tribes. Laws are considered an important tool for social change. The central government and the state government have brought about transformation in the Scheduled Tribes by passing some important laws. The protection of the law is considered a boon to the Scheduled Tribes. The tribal laws protect the interest of the tribal community from the interference of the non - tribal community. Along with the development programs for tribals, various laws have been passed from time to time to support the standard which has been beneficial to the tribals. Keeping in view the provisions of the Indian Constitution for the Scheduled Tribes, the government decided to provide special opportunities for the all - round development of the tribals in the post - independence period. Accordingly, it can be seen that central and state governments have taken an important step for the development of tribals by passing various laws. The objectives, fundamental rights and guiding principles of the Constitution of India have provided equal opportunities for development to all without any discrimination among individuals and treat them as equal before the law. However, women, children, Dalits and tribals are still not free from social injustice.

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