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# Constitutional Provisions for Scheduled Tribes in India

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SENTIKUMLA<sup>1</sup>

## ABSTRACT

*India as a democratic nation strives for socio economic upliftment of all sections in the society as well as preservation and protection of tribal culture and their way of life. According to Article 342 of the Constitution, Scheduled tribes are the tribes or tribal communities which have been declared after consultation with the governor as such by the President by public notification. Special attention has been accorded by the framers of our Constitution for the upliftment of the scheduled tribes considered as a disadvantaged section in the society. Enabling provisions for the development and protection of tribals have been provided in our Constitution. These provisions which act as a safeguard and an uplifting measure for the tribes and their society are reflected in this paper.*

## I. INTRODUCTION

According to the Census of India 2011, the population of scheduled tribes in India stands at 10, 42, 81,034. Scheduled tribe populations represent 8.6% of people in India. Lakshadweep constitutes highest Scheduled Tribes population in a State with 94.5%<sup>2</sup> according to the 2011 Census of India.

India as a democratic nation strives for socio economic upliftment of all sections in the society as well as preservation and protection of tribal culture and their way of life. Special attention has been accorded by the framers of the Constitution for the upliftment of the scheduled tribes, considered as a disadvantaged section in the society. Enabling provisions for the development and protection of tribals have been provided in our Constitution. These provisions which act as a safeguard and an uplifting measure for the tribes and their society are reflected in this paper.

## II. WHO CONSTITUTE THE SCHEDULED TRIBES IN INDIA?

Scheduled Tribes are mentioned under Article 366 (25) of the Constitution which stated, "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the

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<sup>1</sup> Author is an Assistant Professor at Department of Law, Nagaland University, India.

<sup>2</sup> Census 2011, Office of the Registrar General, India

purpose of this Constitution. Article 342. Scheduled Tribes—(1) The President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

As stated, according to Article 342 of the Constitution, Scheduled tribes are the tribes or tribal communities which have been declared after consultation with the governor as such by the President by public notification.

However, Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under 'the said clause shall not be varied by any subsequent notification.'<sup>3</sup>

### **III. CONSTITUTIONAL PROVISIONS SAFEGUARDING SCHEDULED TRIBES:**

Safeguarding the rights and upliftment of the Scheduled tribe population has been an objective of the framers of our Constitution; for these purpose special provisions and safeguards have been provided under different Articles and Schedules in the Constitution which are highlighted below.

**Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth** – (1). The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them.

4. Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

5. Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

**Article 16: Equality of opportunity in matters of public employment:** (1). There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any

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<sup>3</sup> P.M. Bakshi: The Constitution of India, Universal Law Publishing Co. New Delhi. 2012 p-313-314.

office under the State. 2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

4. A. Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

**Article 19: Protection of certain rights regarding freedom of speech, etc.- (1) All citizens shall have the right—**

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(g) to practice any profession, or to carry on any occupation, trade or business.

(5) Nothing in [sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

**Article 29: Protection of interests of Minorities.-** (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same

**Article 46. Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections-** The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Article 164: Other provisions as to Ministers –** (1)...In the states of Chattisgarh, Jharkhand<sup>4</sup>, Madhya Pradesh and Odisha. There shall be a Minister in charge of tribal welfare who may in

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<sup>4</sup> Sub. By the Constitution (Ninety –fourth Amendment) Act, 2006 sec. 2, for Bihar.

addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

**Article: 330 Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.** (1) Seats shall be reserved in the House of the People for-

- (a) the Scheduled Castes
- (b) the scheduled Tribes except the Scheduled tribes in the autonomous districts of Assam; and
- (c) The Scheduled Tribes in the autonomous districts of Assam.

**Article: 332 Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States** (1) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly of Every State

**Article: 334 Reservation of seats and special representation to cease after seventy years –** Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to - Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People and in the Legislative Assemblies of the States ....shall cease to have effect on the expiration of a period of seventy years from the commencement of this Constitution.

**Article 335: Claims of the members of the Scheduled Castes and Scheduled Tribes to Services and posts—**The Claims of the members of the Scheduled Castes and Scheduled Tribes to Services and posts-shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.

**Article 338 A: National Commission for Scheduled Tribes-** There shall be a Commission for the Scheduled Tribes to be Known as the National Commission for the Scheduled Tribes.

**Article 339 Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes-** (1): The President may at any time and shall at the expiration of 10 years from the commencement of this Constitution by order appoint a Commission to report on the administration of Scheduled areas and the welfare of the Scheduled Tribes in the states.

**243D Reservation of seats (1) Seats shall be reserved for-**

- (a) The Scheduled Castes; and

(b) The Scheduled Tribes; in every panchayat...

243T **Reservation of seats** –( 1) Seats shall be reserved for the Scheduled castes and the Scheduled Tribes in every Municipality...

**Article 244: Administration of Scheduled Areas and Tribal Areas** - (1) Provisions of Fifth Schedule shall apply to the administration & control of the Scheduled Areas and Scheduled Tribes in any State other than the states of Assam, Meghalaya, Mizoram and Tripura which are covered under Sixth Schedule, under Clause (2) of this Article.

**Article 275: Grants from the Union to certain States-** Grants in-aid to specified States by the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State.

#### **FIFTH SCHEDULE and SIXTH SCHEDULE**

These two schedules provide for alternate or special governance mechanisms for certain ‘scheduled areas’ in mainland and certain ‘tribal areas’ in northeastern India.<sup>5</sup>

**Fifth Schedule:** Provisions as to the Administration and Control of Scheduled Areas and Scheduled Tribes.

**Sixth Scheduled:** Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.

#### **IV. CONCLUSION**

Constitutional provisions have endeavored to empower the tribal communities and develop tribal areas and society, as is amply evident from the mentioned provisions. Besides the Constitutional provisions for socio-economic upliftment of the Scheduled tribes which is an objective of the government, the focus on developmental interventions with introduction of several welfare schemes and programmes and notable Acts like the PESA ( Panchayat Extension to Scheduled Areas Act) 1996 act as a catalyst for tribes and their development in India.

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<sup>5</sup> B. K Manish, Very little is understood about Fifth and Sixth schedules of Indian Constitution, <https://www.downtoearth.org.in/news/governance/very-little-is-understood-about-fifth-and-sixth-schedules-of-indian-Constitution-58603>

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