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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

RIGHTS OF TRIBALS AS UNDER THE INDIAN CONSTITUTION WITH REFERENCE TO UNDRIP, EXPECTATIONS AND REALITIES.

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INTRODUCTION

India has always been a country of multiple cultures. Our cultures stem from our diversity in religion, caste, territory, language etc. Later, during the British period, these cultures got divided into separate groups as per their convenience. One such group came to be known as the “Tribal Group” or “Tribe”. These people are often referred as the indigenous peoples of the land, meaning the original dwellers and the natives. In India they are more commonly addressed as the Adivasis, Vanvasi, Janjati or the Scheduled Tribes. All these terminologies are used interchangeably however; they do not mean the same thing.

Even though, the concept of Adivasis has taken a legal form during the last few decades, their way of identifying themselves connects the most with how we refer to the indigenous peoples in the modern society.

“The International Working Group for Indigenous Affairs (IWGIA) thus states: As adivasis, “we are people with distinct historical, political, and cultural identities. We are united by our histories as distinct societies, by our languages, laws, traditions, and unique spiritual and economic relationships with our lands and territories”¹

It can be assumed that the adivasis are the indigenous peoples of India. But there still lies a problem. India does not comply with the definition of indigenous peoples as given by the United Nations.

¹ IWGIA, *The Indigenous World* (First Published 2000)
<https://egyankosh.ac.in/bitstream/123456789/83141/1/Unit-3.pdf> as accessed on 13th September 2025

TRIBES IN INDIA AND THEIR STRUGGLES

The etymology of the word tribe can be traced back to the Latin word “tribus” which means a group of peoples who are together in a community and come from a common ancestor. After colonisation of various countries however, the meaning of the word tribe shifted from this Latin definition to something which was more suitable for the comprehension of the Europeans. Tribes came to be known as the group of peoples who lived within a given territory amongst each other. Every tribe had its own distinct language, culture, way of living, religion, laws etc. Since Europeans were more technologically aligned or thought of themselves as the flag-bearers of civilised society, they tried to categorise tribes on the basis of the following criteria-

1. Geographical isolation
2. Simple way of living and minimal technology
3. General backwardness
4. Practise of animism
5. Distinct language
6. Physical appearance/ features

But all these were still not enough to categorise people into different subgroups. There was not a clear cut formula to group people together by relating them via one or two characteristics.

As of now, the word tribe has undergone a lot of changes. “It originally meant a political unit consisting of a number of clans. A tribe occupied a definite geographical area. The permanent settlement gave a geographical identity to a tribe”².

Due to the permanent settlement factor, we now classify tribes on the basis of the area where they dwell. For example, we have the Gonds from the Gondwana region, Mizo tribe from Mizoram, Naga tribe from Nagaland, Bhils from Bhilai, and Amazonians from the Amazon, Masaai from the East Africa, and other tribes from the Middle-East and various other parts of the world.

In some countries the terminology used to refer to their community seems very primitive and backward, so they do not use it. Other tribal communities however, have accepted the

² Anil K Kumar, ‘UNIT 3 Indigenous Peoples of India’ (2021) IGNOU
<https://egyankosh.ac.in/bitstream/123456789/83141/1/Unit-3.pdf> as accessed on 13th September 2025

terminology and refer to themselves as such only. Like in India, the most common term used for the indigenous peoples or tribes is “Adivasis”.

Adivasis in India are referred to as the ancient inhabitants or the original dwellers of the land. They have different cultures and laws based on the place of their habitation. Adivasi is a socio-political umbrella term used to refer to all types of tribal peoples of the Indian Subcontinent. They are originally thought of as forest dwellers, hunter-gatherer groups of people who have very primitive characteristics, and are not exposed to technologies, and often do not mingle with the other peoples from the mainland parts of the country. “Adivasis in India are classified on the basis of four categories

1. Economical basis- they are mostly food gatherers, hunters, cultivators, farmers, artisans etc.
2. Cultural basis- original forest habitants, in contact with others from the plains, adapted to agriculture and farming, the ones who have joined the modern society in order to be accumulated with them, and the ones who have adopted the cultural system of the mainland completely but still retain parts of their tribal identity.
3. Language basis- Austric speaking groups like tribes of central India, Dravidian speaking groups like tribes of southern India, Tibeto-Burman speaking groups like tribes from North-Eastern India, and other unclassified languages like speakers of Andamanese, Onge, Jarawa etc.
4. Biogenetic criteria basis- parentage on the basis of their DNAs³.

Despite comprising a significant part of the population and cultural diversity of India, the tribal peoples are not uncommon to various atrocities which happen against them as they are thought of less civilised citizens of the society. There have been multiple cases where their culture and rights have been hijacked, misappropriated and violated. The infringement of their rights take place everywhere, every time. They do not know proper redressal mechanisms to address because most of the tribal population hardly get educational facilities or general sensitisation. Some of the difficulties faced by the tribal population can be stated as follows-

³ A.K Kapoor, *Classification and Distribution of Tribes in Indian Anthropology* (first published 2018, Simple Book Publishing) Chapter 14 <https://ebooks.inflibnet.ac.in/antp04/chapter/classifications-and-distribution-of-tribes/> as accessed on 13th September 2025

1. “Due to developmental projects taking place over various parts of the country, the tribals are often displaced from their land without taking their prior consent or providing them with proper rehabilitation means or some form of compensation, for example during the construction of the Sardar Sarovar Dam in Gujarat, a lot of tribals lost their ancestral villages and lands.
2. Rich and powerful corporations along with governmental help in certain cases often harm their environment for their benefits. Tribals become marginalize and their rights are often ignored in the favour of revenue generation.
3. They have a lack of educational and healthcare support which creates a negative impact on their overall growth and development.
4. Due to globalisation and modernisation their original customs, traditions, languages and cultures get accumulated into a homogenous mass and lose their distinct identities.
5. Modernisation and industrialisation are also taking over their agricultural background which is creating losses of livelihood for them.
6. They are often politically ignored. Whenever elections take place they are promised to be represented by the political parties and ruling governments, but after everything ends, they are forgotten and no proper representation is given to them in the government.”⁴

“The situation of tribal women and girls in India remains very worrying, as they are clearly deprived of many of their rights. Collective and individual rights are violated in private and public spaces. Sexual violence, trafficking, killing/branding, militarization or state violence and the impact of development-induced displacement, etc., remain important issues.”⁵

TRIBAL RIGHTS UNDER INDIAN LAW

India has the second largest tribal population in the world. Our tribals refer to themselves as the Adivasis and most of them are protected under the Indian Constitution as “Scheduled Tribes”. Scheduled tribes are given under Article 366(25) of the Constitution which says that “they are those communities who are scheduled under Article 342 of the constitution”⁶.

The concept of Scheduled Tribes in India is given under Article 342 of the Constitution which

⁴ Vajiram, Problems Faced by Tribal Communities in India <https://vajiramandravi.com/upsc-exam/problems-faced-by-tribal-communities-in-india/> as accessed on 13th September 2025

⁵ IWIGA, *The Indigenous World* (First Published 2000)

⁶ Constitution of India 1950

says that-

“1. The President will by the help of governor of a particular state or union territory, may issue a public notification specifying tribal communities or parts of tribal group to be classified as scheduled tribe under the constitution, in relation to that particular state or union territory.

2. parliament has the power to exclude any group from this specified list of scheduled tribes by passing of a law”⁷.

It is very much possible that a group of community declared as a ST under one state, is not given the same declaration in other state. The inclusion and exclusion of communities under the scheduled tribes lists is an ongoing process. If the government thinks that a particular community no longer satisfies the conditions of being under the category of a ST, they remove that community from the list. “The essential characteristics of being declared as scheduled tribe was given by the Lokur Committee in its 1965 report, these are-

1. Primitive traits
2. Distinctive culture
3. Geographical isolation
4. Shyness of contact with the community at large
5. Backwardness”⁸

Along with these, there are other communities which were identified as the “Particularly Vulnerable Tribal Groups (PVTGs) in 1993. They have separate characteristics for their identification, these are-

1. Pre- agriculture level of technology
2. Stagnant or declining population
3. Extremely low literacy
4. Subsistence level of the economy”⁹

All these scheduled tribes belong to a particular state or union territory. That part of the state or UT is called as a scheduled area. These areas are also notified by the government under Article 244(1). The article says that-

“The president may at any given time

1. Direct by order that any area either in whole or in part shall cease to be a scheduled area or a part of such area

⁷ Ibid

⁸ Ministry of Social Justice and Empowerment, *THE REPORT OF THE ADVISORY COMMITTEE ON THE REVISION OF THE LISTS OF SCHEDULED CASTES AND SCHEDULED TRIBES* (1965)

<https://socialjustice.gov.in/public/ckeditor/upload/11301676262859.pdf>

⁹ Ibid

2. May increase the size of the scheduled area after consulting with the governor of that state
3. Alter by rectification of boundaries any scheduled area
4. If any alteration happens into the boundary of a state or a new state if formed then an area not previously included can be declared as a scheduled area
5. Rescind, in relation to any State of States, any order or orders made under these provisions and in consultation with the Governor of the State concerned, make fresh orders redefining the areas which are to be Scheduled Areas.”¹⁰

The criteria for declaring these scheduled areas was given by the Dhebar Commission during the 1960-61. “It stated that – for an area to be declared as a scheduled area under the 5th Schedule of the Constitution there should be –

1. Preponderance of tribal population, which should not be less than 50 percent;
2. Compactness and reasonable size of the area;
3. Underdeveloped nature of the area; and
4. Marked disparity in the economic standard of the people, as compared to the neighbouring areas”¹¹.

The purpose of declaring an area as a scheduled area is for the welfare of the tribal population residing there. The central government exercises direct control over these areas and protects the socio-economic and cultural interests of the scheduled tribes. Scheduled areas are mentioned under schedule 5 and 6 of the constitution.

The educational and cultural rights are given under Article 15(4) of the constitution. Similarly, Article 29 protects the interests of the minorities with regards to their language, scripts, culture, and protect their distinct identity.

Article 46 provides for educational and economic welfare of the marginalized sections of the society by the state.

Article 330 provides for reservation of seats for STs and SCs in the parliament, ensuring their proper representation.

Other than the constitutional rights which are provided to the tribal communities, the government has also enacted certain acts and instituted bodies to ensure safeguarding of interests of the tribals and their dwellings. These laws and bodies are-

¹⁰ Constitution of India 1950, Article 244(1)

¹¹ Ministry of Tribal Affairs, *Dhebar Commission Report of the Scheduled Areas and Scheduled Tribes Commission* (Government of India, Volume 2, 1960-61)

1. **“Scheduled Tribes and other Traditional Forest Dwellers Act 2006** – the act recognises the rights of the traditional forest dwelling communities. The forest dwellers are given the right to occupy and reside in the forest, right to access and collect the forest produce, protect the community forest sources, and rights to recognise and settle disputes”¹².
2. **“SC & ST (Prevention of Atrocities) Act 1989-** this act protects the members of scheduled tribes against the crimes which might be committed against them. The act states that the SC and ST continue to face economic and social challenges and therefore, need protection. It is a very important piece of law which aims to protect the dignity of the tribal population and remove the injustice and discrimination faced by them”¹³.
3. **Tribes Advisory Council** – TAC is established under schedule 5 of the constitution. This council ensures that tribal population is being represented in the state legislative assembly. The council advises the governor on the matters of welfare and development of the tribal areas.
4. **National Commission for STs-** Article 338A provides for a separate establishment of a National Commission for Scheduled Tribes. The commission safeguards the rights of STs and ensures participation in planning of their socio-economic development, they make reports and hold enquires in case of any infringement of right takes place. It is vested with the powers of a civil court fir the purpose of investigation and enquiry.
5. **Ministry of Tribal Affairs-** the ministry works towards overall policy planning and coordination programs for the development of the STs.

Even though Indian constitution and laws have a very extensive legal model for development of tribal groups and their welfare, as well as their protection. It is also very clearly witnessed that these rights and redressal mechanisms can only be exercised by the tribal peoples who are declared as Scheduled Tribes under the constitution. The other tribes, however, do not get these special rights and remain at a threat of being compromised in any manner possible.

Which is exactly what led to **Tribal Struggle in Manipur** in 2023.

“The violence took place after the Manipur High Court suggested the state government that the Meitei Tribe be declared as a Scheduled Tribe under the constitution. The Meitei Tribe

¹² Forest Rights Act 2006

¹³ SC and ST (Prevention of Atrocities) Act 1989

demands the ST status in order to gain land rights over their ancestral villages and hills and to protect their tribal culture and heritage. Meanwhile, the Kuki and Naga Tribe of Manipur feared that Meitei's inclusion in the ST would endanger their educational and job opportunities. Along with this, the Meitei tribe identifies as Hindu, meanwhile the Kuki and Naga Tribes largely identify as Christians. This has led to major catastrophe in the state, where thousands have been displaced from their lands, and hundreds have lost their lives. The government has still not been able to control the aftermath."¹⁴

UNDRIP AND THE RIGHTS OF THE INDIGENOUS PEOPLES

"The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UNGA on 13th September 2007."¹⁵ "It says that it aims at recognises the rights of all the peoples to be different and that the indigenous peoples are equal with other people. They should be free from all kinds of discrimination against them. Since they have suffered a lot of injustices due to colonialisation and dispossession of their lands, there is an urgent need to respect and promote their inherent rights. The charter states that there is a hope that this declaration will enhance the harmonious balance between the states and the indigenous peoples and that United Nations will play an active role in safeguarding their rights."¹⁶

The rights which are provided to the indigenous peoples under the UNDRIP include collective rights like right to self-determination, cultural rights, right to maintain their economical educational institution, right to free and prior and informed consent. Right to equality, non-discrimination, education, health, religion, protection of lands territories etc, there are total 46 articles which provide for all types of rights. These rights can be divided as follows-

1. **Self -determination and self- governance rights-** the right of self -determination and self- governance is given under Articles 3 and 4 respectively. Article 5 also states that the peoples have a right to establish a separate institution for their matters while fully participating in state affairs as well.
2. **Cultural, spiritual, and linguistic rights-** Article 8 talks about the Rights against

¹⁴ Nardeep Chawla, 'Manipur atrocities and India's failure to uphold the UN Convention on Human Rights' (2024) <https://www.openglobalrights.org/manipur-atrocities-india-failure-uphold-unchr/> as accessed on 13th September 2025

¹⁵ Convention on Biodiversity 2002 <https://www.cbd.int/traditional/undrip.shtml> as accessed on 13th September 2025

¹⁶ UNDRIP 2007

forced assimilation into the majority's culture of the state. Article 11 talks about the Right of the peoples to practise their own cultural traditions, Article 12 talks about the Right to maintain religious traditions, right to protect language and history is given under Article 13 and Article 14 talks about the Right to establish educational institution of their choice.

3. **Right about Lands, Territories, and Resources-** Article 10 states that Indigenous peoples cannot be forcibly removed from their lands. They have rights to own their lands under Article 26. Redressal mechanisms are given under Article 28. Right to protect their environment is given under Article 29.
4. **Socio-Economic Rights-** are explained under Article 21, 22 and 24. They talk about eliminating socio-economic discrimination.
5. **Free, Prior, and Informed Consent-** which talks about taking FPIC from communities whose resources are being used for the development of the general public. Adequate compensation should be provided to such communities.

These rights are given to all the peoples of the treaty party countries. However, it is a non-binding international treaty so usually it is seen as a benign guideline instead of a hard-law which should be included into the existing models of municipal laws, and implemented strictly.

INDIA AND UNDRIP

India had voted in favour of UNDRIP, but has not ratified it. which means that India does not follow the guidelines of the declaration, but instead has its own set of laws to protect the interest of the tribal peoples. The argument used by India is that "it is not easy to identify indigenous peoples in India". The definition of the term indigenous peoples is taken from ILO convention which says that –

- “1. They are those people who lived in the country to which they belong before colonization or conquest by people from outside the country or the geographical region.
2. They have become marginalized as an aftermath of conquest and colonization by the people from outside the region.
3. They govern their life more in terms of their own social, economic and cultural institution than the laws applicable to the society or the country at large.

This definition looks at indigenous people as victims of conquest and colonisation.”¹⁷

¹⁷ ILO CONVENTION 1989

“In India, the coming of the Aryans is taken as the historical factor for determining the original people of India. However, those belonging to the Dravidian language speaking group have not been considered as indigenous people, even though it is recognised that they were the inhabitants before the coming of the Aryans owing to their non-marginalisation”¹⁸

The migratory nature of the tribes along with the widespread movements like globalisation has led to a cultural accumulation of the tribes and the mainstream Hindu society which cannot be separated. “Even though India does make efforts to maintain and protect its tribal peoples or Adivasis, India has never recognised the application of the international legal concept of ‘indigenous peoples’ within its territory. It denies the existence of particular indigenous groups within its boundaries by maintaining that it regards the entire population of the country at the time of its independence in 1947 and its successors as indigenous”¹⁹

GLOBALISATION AND THE RIGHTS OF TRIBAL PEOPLE

Even though India has not ratified UNDRIP, it has several laws to protect the tribal interests like the Forest Dwellers Act 2005, the PESA Act 1996, the Fifth and Sixth Schedule etc. however, the impact of globalisation on the tribal culture cannot go unnoticed. Globalisation is defined as a “process of trans- nationalisation of invention and capital and evenness of consumerisation with the help of global institutions. It intends to integrate the Indian economy with the economy of the world”²⁰

Globalisation, as a mass-movement has provided opportunities for the development of the country at an international level but has also increased the inequalities between the marginal peoples and rest of the other peoples. “The shift from subsistence -based economy to a market -based economy has harmed the tribal communities at different levels.”²¹ There have been multiple impacts like-

¹⁸ Anil K Kumar, ‘UNIT 3 Indigenous Peoples of India’ (2021) IGNOU

<https://egyankosh.ac.in/bitstream/123456789/83141/1/Unit-3>. As accessed on 13th September 2025

¹⁹ Anaya, J. (2010). Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous Peoples (A/HRC/15/37/Add.1) at 94, para 206,

²⁰Dr. Mahadev Dattu Dongre, ‘Indian Tribes and Effects of Globalisation’ (2020) 5 (2), Pune Research Times <http://puneresearch.com/media/data/issues/5e988ee354467.pdf> as accessed on 13th September 2025

²¹ Dr. Nagaraja S, ‘ Globalization and Tribes: Social Justice in India’ (2024), 30(1) Educational Administration: Theory and Practice <https://kuey.net/index.php/kuey/article/view/9163/6958> as accessed on 13th September 2025

1. Even though globalisation has opened up the economy, tribals struggle because they have limited technical know-how and access to education and other resources of the supposedly advanced civilisation.
2. Globalisation has brought a prevalent threat of dominant cultural influences harming the local indigenous cultures and traditions. It has led to a cultural erosion, where the younger generation stray away from their traditional practises.
3. Even though constitutional safeguards are given to them, they still do not have the basic amenities like education, healthcare, food and water.
4. “Tribal peoples often get politically marginalised, and are not given to chance to participate in the government decision making process, even though the constitution clearly mandates for it.
5. Globalisation has led to acquiring the tribal peoples land without their consent. It threatens their livelihood and displaces their communities from the lands they have since generations.
6. Mining and logging, and quarrying activities disrupt the ecological balance of the environment the tribals consider as home²².
7. “The government policies and laws aim at integrating them with the majority culture instead of letting them practise their own culture and tradition”²³.

PERSISTING ISSUES AND CASES

Despite various constitutional remedies and provisions, a lot of issues still persist with regards to forced development or protections of the Tribals in India. Majority of the government policies aim at extending the tribal areas towards the outsiders, for them to enter and settle their and carry out their business activities. As tribal territories have huge forest covers, minerals, and other profitable resources, government has time and again enacted legislations like the Coal Bearing Act 1957, in order to acquire land in the name public good or sovereign functions.

“The Wildlife Protection act was enacted to provide environmental protection, but instead it has restricted the rights of tribal peoples living in that environment which are now considered as wildlife sanctuaries, and taken away all rights in matters of places notified as national parks.

²² *ibid*

²³ Minority Rights Group International, ‘ The Adivasis of India’ (1998)
<https://minorityrights.org/communities/adivasis-2/>

The tribals are forced to abandon their daily basic survival activities which they used to carry out since time immemorial in these areas”²⁴.

However, there have been landmark judgements as well which have protected the rights of tribal peoples and forest dwellers. These cases show that even though the issues still persist, the government and judiciary can still be looked upon to.

1. *Orissa Mining Corporation v. Ministry of Environment and Forests 2013*- where “it was held that Free Prior, and informed consent is very necessary to be taken from the tribal population of the area where the bauxite mining was supposed to be taking place. It also held that the Gram Sabha would be deciding authority to provide the consent of diverting the land and upholding the religious and cultural rights of the tribals.”²⁵
2. *Samantha v. State of Andhra Pradesh*- “which held that the state should act as the trustee of the tribal land, and it cannot transfer that land to private entities for mining and business. This case laid the groundwork for the Forest Rights Act 2006”.²⁶

Along with these successful cases which indeed protected the environment and the individuals, we also have cases which have been a source of significant conflict between the forest dwellers and the government. One such case is the **Kaziranga National Park Case**.

In this particular matter several PILs have been filed in different high courts for issues like illegal poaching and mining of the one-horned rhinoceros, illegal mining and construction activities in the animal corridor, shoot on sight policy for the “illegal dwellers” in the territory of the national park and eviction of the long residing tribal communities from the territory of the national parks etc.

One of the major concerns is the illegal displacement of the tribal population which used to reside in that area, now declared as a national park. For these peoples, the area of the national park is their home, a part of their cultural and traditional identity. They have been displaced from their territory without any proper or adequate compensation which is a violation of the Forest Rights Act 2006. The government has introduced a shoot on sight policy to prevent

²⁴ Minority Rights Group, ‘ The Adivasis of India Report’ <https://minorityrights.org/resources/the-adivasis-of-india/> as accessed on 13th September 2025

²⁵ *Orissa Mining Corporation Ltd. V. Ministry of Environment and Forest* (2013) 6 SCC 476

²⁶ *Samantha v. State of Andhra Pradesh* (1997) 8 SCC 19

illegal rhino poaching. This policy empowers the guards of the park to shoot any “suspected” poacher without prior questioning. This violates a lot human rights and the rights of the tribals to access their own land as well. This protection model of the park has become excessively militarised because now armed forces patrol the areas and constantly harass the local tribal population or innocent villagers.

Another such case is the *Wildlife First & Ors. v. Ministry of Forest and Environment*- “ this case was filed by the organisation challenging the validity of the Forest Rights Act. The organisation argued that the act was resulting in massive encroachment and deforestation of the forest by the forest dwelling communities, thus harming the wildlife. In 2019, the Supreme Court passed a controversial order which stated that all the forest dwellers whose claims under Act has been rejected would be evicted from their dwellings. This led to a public outcry and major protest throughout the country. Later, the court stayed its own order, and thus uncertainty looms over the tribal population”²⁷.

With reference to these situations, we can see that the fight of the tribal population is a never-ending struggle between their existence, their ways of living, their cultural and traditions and the government which is trying to protect their identities.

SUGGESTIONS AND RECOMMENDATIONS

Some suggestions and recommendations that the government should take into account to protect the tribal interests, and uphold their rights are-

1. The profits and revenue generated by activities which take place on the ancestral land of the tribals should be distributed to them to a certain extent.
2. A partnership should be fostered between government and tribal population to create developmental frameworks.
3. The PESA Act should be fully implemented all throughout the country instead of just limiting it to the 5th and 6th scheduled areas because this act provides the Gram Sabha control over local resources like land, water, and forest areas.

²⁷ *Wildlife First and others v. Ministry of Forest and Environment and others*, WP(C) 109/2008

4. Initiatives like the TRIFED (Tribal Cooperative Marketing Development Federation of India) which promotes the commercialisation of tribal produced goods should be encouraged.
5. More extensive policies for tribal healthcare should be introduced which would include training the healthcare workers and integrating the tribal traditional knowledge with that of modern medicine.
6. UNDRIP should be implemented in India in a sui-generis model which protects the tribal interest without compromising on the sovereignty of the country. This could prove to be very beneficial for the tribal population because under UNDRIP, the rights are given to all the indigenous peoples whereas the constitution of India only provides rights to the tribals declared as Scheduled Tribe under the constitution.
7. The traditional knowledge of the tribal peoples should be protected strictly under the Indian Intellectual Property regime. It is a part of their culture and remains at a stake of constant violation.

CONCLUSION

The purpose of this research was to understand the situation of tribal population in India and how government helps in protection of their rights by implementing laws and policies. Indian constitution and statutes provide various mechanisms for upholding tribal rights by providing them with various redressal mechanisms as well as making sure that they have an equal right to representation. However, the biggest criticism of the Indian tribal framework is that the rights are only provided to tribes which are declared as Scheduled Tribes. Other groups of tribal population would not be given the special rights under the Forest Rights Act, or the Wildlife Protection Act, or even the constitution itself. This puts them at a huge risk of losing everything including their cultural identities, land, traditional knowledge, resources, and forest produce.

Meanwhile, UNDRIP provides rights for all the indigenous peoples. It provides for the principle of local self-government, free and prior informed consent, protection of cultural identities and practising their cultural religion. Even though, India says that all its citizens are indigenous, that in itself becomes a huge contradictory statement because the purpose of creating special laws and institutions for protection of tribal rights comes to a moot point.

While Indian courts and laws have time and again upheld the land rights of the tribal people, it

has also in the garb of globalisation and development, sacrificed the rights of these tribal people by taking away their lands for construction of unnecessary projects without taking their consent. The government has used the forest resources without giving due credit to the tribal population from whose territory such resources are generated, and has displaced the tribals from their own lands to create wildlife sanctuaries and national parks without providing them with reasonable compensation or proper rehabilitation.

We have come a long way, from looking towards the tribal population as backward and technologically deficient, to celebrating the **Adivasi Diwas** recognising the rights and identities of the tribal population and understanding that this needs to be protected. We have a longer way to go.

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