

Implementation of Constitutional Rights for Encountering Social Discrimination and Deprivation of PVTGs in India: The Right-Based Intervention Approach

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DOI: <https://doi.org/10.51584/IJRIAS.2025.100800036>

Received: 10 August 2025; Accepted: 16 August 2025; Published: 02 September 2025

ABSTRACT

India's Particularly Vulnerable Tribal Groups (PVTGs) are consistently subjected to societal prejudice and lack of resources. This not only prevents their full engagement in communal life but also breaches their basic constitutional protections. This research paper examines the implementation of constitutional rights aimed at addressing these challenges, focusing on the efficacy of a right-based intervention approach. It analyses the existing legal and policy framework, explores relevant case studies, and investigates the impact of various interventions designed to empower PVTGs and ensure their access to essential resources and opportunities. The paper argues that robust right-based approach, emphasizing awareness, accountability, and participatory governance, is crucial for effectively mitigating social discrimination and promoting the socio-economic upliftment of PVTGs in India.

Keywords: PVTGs, Constitutional Rights, Social Discrimination, Deprivation, Right-Based Approach, India, Empowerment, Legal Framework, Case Studies.

INTRODUCTION

India, with its rich tapestry of cultures and traditions, is home to a significant tribal population, including 75 identified Particularly Vulnerable Tribal Groups (PVTGs). These communities, characterized by pre-agricultural technology, extremely low literacy, declining or stagnant population, and economic backwardness, face acute social discrimination and profound deprivation (Ministry of Tribal Affairs, 2014). They are often marginalized, isolated, and lack access to essential services like healthcare, education, and livelihood opportunities. This systematic denial of basic rights not only perpetuates their vulnerability but also violates the constitutional guarantees enshrined for all citizens of India. Many PVTG habitations lack functional schools within walking distance, or the existing ones are understaffed, lacking basic amenities like toilets, drinking water, and teaching materials (UNICEF India, 2016). Literacy rates among PVTGs are among the lowest in India, with numerous communities having male literacy rates below 30% and female literacy rates below 10%, highlighting severe educational deprivation (Ministry of Tribal Affairs, 2023). Land is central to the identity, livelihood, and economic security of tribal communities, especially PVTGs whose existence is intricately linked to forests and land. Many PVTGs traditionally live in remote forest areas, practicing shifting cultivation, hunting-gathering, and collecting Non-Timber Forest Produce (NTFP). Their land use often extends beyond formally recorded ownership. As of March 2023, data from the Ministry of Tribal Affairs shows that over 4.5 million forest rights claims (IFR and CFR) were filed, and nearly 2.22 million titles have been distributed, encompassing about 8.9 million acres of forest land. A high percentage of claims, especially from vulnerable groups, are rejected due to procedural complexities, lack of documentation, and inadequate legal/technical support during the verification process (Campaign for Survival and Dignity, 2015). PVTGs themselves rarely seek legal aid to challenge these rejections.

Separately, the NITI Aayog's National MPI 2021 report, which drew its data from NFHS-4 (2015-16), indicated that Bihar, Jharkhand, and Uttar Pradesh possess the highest proportions of multi-dimensionally poor populations. Many PVTGs reside in these and other high-poverty states. Subsequent reports like the NITI Aayog National MPI 2023 (based on NFHS-5, 2019-21) show a decline in poverty across India, but tribal areas and especially PVTG regions often lag in these improvements (NITI Aayog, 2021; NITI Aayog, 2023).

The Indian Constitution provides a comprehensive framework for protecting the rights and promoting the welfare of tribal communities. However, the effective implementation of these rights remains a significant challenge. This paper argues that a right-based intervention approach, focusing on empowering PVTGs to claim their rights and holding the state accountable for their fulfilment, is essential for addressing the deep-rooted social discrimination and deprivation faced by these vulnerable communities.

OBJECTIVE AND METHODOLOGY

Objective:

- To describe the existing legal and policy framework designed to protect the rights of PVTGs.
- To analysing the impact of specific rights-based interventions on the socio-economic well-being and empowerment of PVTGs.
- To describe the challenges and opportunities in effectively implementing constitutional rights to combat social discrimination and deprivation faced by PVTGs.

Secondary Referenced Methodology:

This research paper has employed a secondary-referenced methodology, has conducted a comprehensive review of existing literature to examine the legal and policy frameworks designed, participatory governance to protect and promoting the rights of Particularly Vulnerable Tribal Groups (PVTGs), analyse the impact of specific rights-based interventions on the socio-economic well-being and empowerment.

CONSTITUTIONAL AND LEGAL FRAMEWORK FOR THE PROTECTION OF PVTG RIGHTS:

The Indian Constitution provides several provisions aimed at protecting and promoting the rights of tribal communities, including PVTGs. These provisions can be broadly categorized into:

- **Fundamental Rights:** Article 14 guarantees equality before the law, while Article 15(4) allows the state to make special provisions for the advancement of socially and educationally backward classes, including Scheduled Tribes (STs). Article 16(4) provides for reservation in services under the state for STs. Article 17 abolishes untouchability, a practice that disproportionately affects tribal communities.
- **Directive Principles of State Policy:** Article 46 mandates the state to give particular attention to improving the educational and financial well-being of the less privileged segments of the population, including Scheduled Castes and Scheduled Tribes. Additionally, it requires their safeguarding against societal unfairness and any kind of abuse.
- **Specific Safeguards:** Article 244 and the Fifth and Sixth Schedules of the Constitution provide for special administrative arrangements in tribal areas, granting autonomy in governance and resource management. Article 330 and 332 provide for reservation of seats for STs in the Parliament and State Legislative Assemblies.
- **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** This Act aims to prevent and punish atrocities against members of Scheduled Castes and Scheduled Tribes, providing legal recourse against discrimination and violence.
- **The Panchayats (Extension to the Scheduled Areas) Act of 1996, also known as PESA:** PESA is a law that authorizes Gram Sabhas (village assemblies) in Scheduled Areas to administer their natural

resources, manage local development plans and community assets, and preserve their traditional rights and customs.

- **The Forest Rights Act (FRA) of 2006:** FRA officially acknowledges and grants forest and occupancy rights to Scheduled Tribes who live in forests, as well as other long-term forest inhabitants. This law aims to correct past unfair practices and encourage sustainable management of forests.

SOCIAL DISCRIMINATION AND DEPRIVATION FACED BY PVTGS:

Despite the constitutional and legal safeguards, PVTGs continue to experience pervasive social discrimination and deprivation in various forms:

- **Land Alienation:** PVTGs are often dispossessed of their ancestral lands due to development projects, mining activities, and illegal encroachment (Fernandes & Pereira, 2007).
- **Forced Displacement:** Infrastructure projects and conservation efforts often lead to the displacement of PVTGs from their traditional habitats, disrupting their livelihoods and social structures (Xaxa, 2004).
- **Lack of Access to Education:** Low literacy rates, inadequate infrastructure, and cultural barriers hinder access to quality education for PVTG children (Tilak, 2006).
- **Poor Healthcare:** PVTGs suffer from high rates of malnutrition, infectious diseases, and maternal mortality due to limited access to healthcare facilities and trained medical personnel (Mahajan, 2016).
- **Economic Vulnerability:** Limited livelihood options, dependence on traditional occupations, and exploitation by middlemen contribute to the economic vulnerability of PVTGs (Dreze & Sen, 2013).
- **Social Exclusion:** PVTGs face social stigma, discrimination, and exclusion from mainstream society, limiting their opportunities for social and economic mobility (Thorat, 2009).
- **Denial of Political Participation:** Despite reservations in political institutions, PVTGs often lack effective representation and voice in decision-making processes.

THE RIGHT-BASED INTERVENTION APPROACH:

A right-based approach (RBA) to development emphasizes the realization of human rights as the ultimate objective. It focuses on empowering rights-holders (in this case, PVTGs) to claim their rights and holding duty-bearers (the state and other relevant actors) accountable for their obligations (United Nations, 2006). Key elements of an RBA include:

- **Awareness and Empowerment:** Providing PVTGs with information about their constitutional rights, legal entitlements, and available resources.
- **Participation and Inclusion:** Ensuring the active participation of PVTGs in decision-making processes that affect their lives.
- **Accountability and Transparency:** Ensuring that individuals or bodies with official responsibilities (duty-bearers) are held answerable for meeting their obligations to safeguard and advance the entitlements of Particularly Vulnerable Tribal Groups (PVTGs), with clear and open processes.
- **Non-Discrimination and Equality:** Addressing systemic inequalities and ensuring equal access to opportunities for PVTGs.
- **Legal Empowerment:** Providing legal assistance and remedies to PVTGs who have experienced violations of their rights.

CASE STUDIES OF RIGHT-BASED INTERVENTIONS:

The following case studies illustrate the potential of right-based interventions to address the challenges faced by PVTGs:

- **Case Study 1: Mendha-Lekha (Maharashtra) – Community Forest Resource Management:** The Mendha-Lekha village, inhabited by the Gond tribe, successfully claimed their rights under the Forest

Rights Act (FRA) in 2009 and gained control over their traditional forest resources. This success was achieved through a sustained awareness campaign, community mobilization, and legal advocacy. With control over their forest resources, the community has been able to improve their livelihoods, conserve biodiversity, and promote sustainable development (Pathak et al., 2018).

- **Case Study 2: Dongria Kondh (Odisha) – Resistance Against Mining:** The Dongria Kondh, a PVTG in Odisha, have waged a long and successful struggle against Vedanta Resources' attempts to mine bauxite from the Niyamgiri Hills, which they consider sacred. Their resistance, based on their cultural rights and environmental concerns, gained international attention and ultimately led to the Supreme Court upholding their right to protect their traditional lands and livelihood. This case highlights the importance of recognizing and respecting the cultural rights of PVTGs and ensuring their meaningful participation in development decisions (Bebbington & Hinojosa Valencia, 2015).
- **Case Study 3: Sahariya Tribe (Madhya Pradesh) – Food Security and Livelihood Enhancement through MNREGA:** In specific regions of Madhya Pradesh with a high concentration of the Sahariya PVTG, targeted interventions were implemented under the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) to address food insecurity and enhance livelihood opportunities. These interventions involved creating specific work projects tailored to their traditional skills and needs, ensuring timely wage payments, and promoting awareness of their rights under the Act. This resulted in improved food security, reduced migration, and increased economic empowerment for the Sahariya community (Jha & Gaiha, 2011).

CHALLENGES AND LIMITATIONS IN IMPLEMENTING A RIGHT-BASED APPROACH:

Despite the potential benefits, implementing a right-based approach faces several challenges:

- **Lack of Awareness:** Many PVTGs are unaware of their constitutional rights and legal entitlements.
- **Weak Implementation of Laws:** Existing laws and policies are often poorly implemented due to bureaucratic inefficiency, corruption, and lack of political will.
- **Capacity Constraints:** Government agencies and civil society organizations lack the capacity to effectively implement right-based programs.
- **Social Barriers:** Deep-rooted social prejudices and discrimination hinder the effective realization of PVTG rights.
- **Conflicting Interests:** Development projects and conservation efforts often conflict with the rights and interests of PVTGs.

RECOMMENDATIONS FOR STRENGTHENING THE RIGHT-BASED APPROACH:

To effectively implement a right-based approach for addressing the social discrimination and deprivation of PVTGs, the following recommendations are proposed:

- **Enhance Awareness Campaigns:** Launch comprehensive awareness campaigns to educate PVTGs about their constitutional rights, legal entitlements, and available resources.
- **Strengthen Legal Aid Services:** Provide free legal aid and support to PVTGs who have experienced violations of their rights.
- **Promote Participatory Governance:** Ensure the active participation of PVTGs in decision-making processes that affect their lives.
- **Strengthen Monitoring and Evaluation:** Establish robust monitoring and evaluation mechanisms to assess the impact of right-based interventions.
- **Strengthening Capabilities:** Provide funding for initiatives designed to enhance the expertise and abilities of public servants, civil society groups, and community representatives from PVTGs.
- **Address Social Discrimination:** Implement targeted programs to address social prejudices and promote social inclusion.

- **Enforce Compliance:** See to it that state actors and other duty-bearers adhere to their commitments regarding the protection and enhancement of PVTGs' rights.
- **Strengthen the Implementation of PESA and FRA:** Ensure the effective implementation of PESA and FRA to empower Gram Sabhas and protect the forest rights of PVTGs.
- **Invest in Education and Healthcare:** Prioritize investments in education and healthcare to improve the human development indicators of PVTGs.
- **Promote Sustainable Livelihoods:** Support sustainable livelihood options for PVTGs based on their traditional knowledge and skills.

CONCLUSION

The persistent social discrimination and deprivation faced by PVTGs in India represent a significant challenge to the principles of equality, justice, and human dignity enshrined in the Constitution. A robust right-based intervention approach, focusing on empowering PVTGs to claim their rights and holding the state accountable for their fulfilment, is essential for addressing these challenges. By strengthening awareness campaigns, providing legal aid, promoting participatory governance, and ensuring accountability, it is possible to create a more just and equitable society where PVTGs can fully realize their potential and contribute to the development of India. The case studies presented in this paper demonstrate the potential of right-based interventions to empower PVTGs and improve their lives. However, sustained efforts and a strong political commitment are needed to overcome the challenges and ensure the effective implementation of a right-based approach for the protection and promotion of PVTG rights in India. Further research is needed to evaluate the impact of various right-based interventions and to identify best practices for empowering PVTGs.

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