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SAFEGUARDING TRIBAL RIGHTS AS A PATHWAY TO EMPOWERMENT

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ABSTRACT:

The commission of ethnical communities is naturally linked to the effective protection of their rights legal, artistic, social, and profitable. In India, tribals or Adivasis, have historically faced marginalization, relegation and systemic neglect, despite indigenous safeguards and devoted programs. This paper examines how ethnical commission is grounded on the protection of their rights to land, education, healthcare, and artistic preservation. It examines the part of legislation like the Forest Rights Act, 2006 and the Panchayats Extension to slated Areas Act, 1996 and evaluates their perpetration and impact. The ongoing difficulties, similar as regulatory obstacles, commercial exploitation, and ethnical populations' lack of mindfulness, are also stressed in the analysis. preface India's population includes nearly one hundred million ethnical people.

INTRODUCTION:

These figures are matched only by the remarkable diversity of India's lines. The two main regions of ethnical agreement are the country's north-eastern countries skirting China and Burma, and the mounds and plains of its central and southern regions. The ultimate is home to over 80 of the lines, which are distinct from the lines in the north-eastern region in terms of race and having endured a lesser "intrusion of the Indian mainstream and of the pan-Indian model of the state, society, frugality, and culture." There are also differences in the extent to which the lines interact with non-tribal communities. The peninsular Indian lines may sometimes attend with non-tribal people, whereas the north-eastern lines are generally insulated communities. The distinction in the extant law is grounded on the two criteria that had guided the social British Indian government in determining the degree of tone- government that the lines would exercise

- Whether or not the lineage was able of handling its own affairs.
- whether the ethnical region in question had a significant non-tribal population. Grounded on these two factors, the Constitution gives the insulated north-eastern lines, which are allowed to be more socially advanced, a lot of autonomy, while the lines in the rest of the country are under the control of parochial governors.

This arrangement has been codified in the Constitution's Fifth Schedule for lines in peninsular India, and the Sixth Schedule for the north-eastern lines. After entering recommendations that the distinct community structures and stations of the lines in the two regions couldn't be treated in a common law, the separate systems were approved by the Constituent Assembly, which was established at the time of independence. nearly all interest groups presume that the fault lies not with the substantial content of the Fifth Schedule or PESA, but with their perpetration.

THE BRITISH AND THE ETHNICAL COMMUNITIES IN INDIA:

The land programs of the British were veritably invasive of the rights of the ethnical communities in India over their inhabited land, constrained taxation systems that eventually led numerous to work as clicked sloggers, attempts by the British to destroy some lines out of internationalism, the spread of complaint pandemics among certain lines, similar as certain Andamanese tribals coming into first contact with the outside world, and the exploitation of timber coffers by non-tribals, particularly private interests, all redounded from these complications in land policy.

The sustainable styles of traditional use of timbers and the requirements of timber ecologies were bulldozed by these profit-centric legislations, which continued after India's independence in 1947. The wide evictions of ethnical communities in India from timbers due to the timber frugality and other profit sources, and the laws legislated that rather of guarding the literal propriety of ethnical over timbers, made their land alienable as marketable property, ultimately led to enterprises over the rights of ethnical communities in India over timbers.

POST-INDEPENDENCE AND ETHNICAL COMMUNITIES IN INDIA:

Another case of ethnical agreement rights not being included in timber legislation passed after independence with the Wildlife Protection Act of 1972. This law defended wildlife territories and created patronage systems for the state. piecemeal from destroying crops sown by ethnical communities, ethnical communities were seen as such a nuisance that frequently timber department officers would start colonies by ethnical lands with the ideal of

evicting them. therefore, indeed in the field of timber conservation, it has been a veritably long time since Indian ethnical communities were granted unrestricted rights to their domestic timbers and to practices like stalking and shifting civilization. numerous ethnical populations, particularly those in eastern India like the Nagas and Khasis, have entered mainstream society, despite the fact that the maturity of Indian ethnical communities have lived in timbers for the maturity of their history.

Still, indeed so these populations are inclusively fairly less well off than the rest of India in the socio- profitable aspects. In terms of socio- profitable development, two groupings of ethnical development in India can be said to have formed. One grouping consists of ethnical populations that have assimilated into the mainstream culture, have experienced acculturation to varying extents, and in numerous cases aren't indeed a primarily agricultural community. They're the primary heirs of the maturity of the Indian government's ethnical development programs, which offer people from ethnical community's openings.

In the Act, the lines Have a Right

- Right to enjoy and use timber land for particular or collaborative use for habitation or tone- civilization as a means of subsistence by a Scheduled Tribe or other traditional timber residents;
- Community rights similar as nistar, by whatever name called, including those used in quondam Kingly countries, Zamindari or similar central administrations;
- The right of power, access to collect, use, and dispose of minor timber yield includes all non-timber timber yield of factory origin) which has been traditionally collected within or outside the boundaries;
- Other community rights of uses of entitlements similar as fish and other products of water bodies, grazing and traditional seasonal resource access of vagrant or pastoralist communities;
- Rights for pre-agriculture communities and primitive ethnical groups, similar as community tours of niche and habitation;
- Rights in or over disputed lands under any title Timbers and timber land for a living are eligible to admit rights.
- Further, either the descendant must be a member of the slated lines listed in that area or must have been abiding in the timber for 75 times.

PROCESS OF RECOGNITION OF RIGHTS:

The Act provides that the gram sabha, or vill assembly, will originally pass a resolution recommending whose rights to which coffers should be recognised. Thesub-division(or taluka) position, followed by the quarter position, defenses and approves this resolution. The webbing panels correspond of three government officers(timber, profit and Tribal Welfare departments) and three tagged members of the original body at that le vel. also, these panels hear prayers.

PROTECTION AGAINST EVICTION, DIVERSION OF timber LANDS AND FORCED RELOCATION:

Section 4(5) of the Act is veritably specific and provides that no member of a timber dwelling Scheduled Tribe or other traditional timber residents shall be evicted or removed from the timber land under his occupation till the recognition and verification procedure is complete. This clause is of an absolute nature and excludes all possibilities of eviction of timber dwelling slated lines or other traditional timber residents without agreement of their timber rights as this Section opens with the words "Save as else handed".

In case, any evictions of timber dwelling slated lines and other traditional timber residents have taken place without agreement of their rights due to similar major diversions of timber land under the timber (Conservation) Act, 1980, the District Level panels may be advised to bring similar cases of evictions, if any, to the notice of the State Level Monitoring Committee for applicable action against violation of the vittles contained in the Act. The Act envisages the recognition and vesting of timber rights in timber dwelling slated lines and other traditional timber residents over all timber lands, including National Parks and Sanctuaries.

No exercise for revision of the rights of the timber residents or their resettlement from the National Parks and Sanctuaries can be accepted, unless their rights have been honoured and vested under the Act. No eviction and resettlement is admissible from the National Parks and Sanctuaries till all the formalities relating to recognition and verification of their claims are completed. The State/ UT Governments may, thus, insure that the rights of the timber dwelling slated lines and other traditional timber resides, abiding in National Parks and Sanctuaries are honoured first before any exercise for revision of their rights or their resettlement, if necessary, is accepted and no member of the timber dwelling Scheduled Tribe or other traditional timber resident is evicted from similar areas without the agreement of their rights and completion of all other conduct needed under the Act.

Slated lines and other traditional timber resides who have been immorally evicted or displaced from timber land without entering their legal annuity to recuperation should be covered by the State Level Monitoring Committee for compliance with the Act's Littles, which fete their right to in situ recuperation and indispensable land, as well as Section 4(8) of the Act, which recognizes their right to land when they're displaced from their lodging and civilization without entering land compensation due to State development interventions.

RESETTLEMENT FOR WILDLIFE CONSERVATION:

The Act lays out a procedure by which people can be resettled from areas if it's set up to be necessary for wildlife conservation.

- The first step is to show that relocation is scientifically necessary and no other volition is available; this has to be done through a process of public discussion.
- ii. The alternate step is that the original community must assent of the resettlement. Eventually, the resettlement must give not only compensation but a secure livelihood.

- cover the wildlife, timber, and biodiversity. Make certain that the ecologically sensitive areas, water sources, and conterminous catchments are adequately defended. ii. cover slated lines and other traditional timber residents' territories from any destructive practices that might peril their artistic and natural heritage. Insure that the opinions taken in the Gram Sabha to regulate access to community timber coffers and stop any exertion which negatively affects the wild creatures, timber and the biodiversity are complied with.

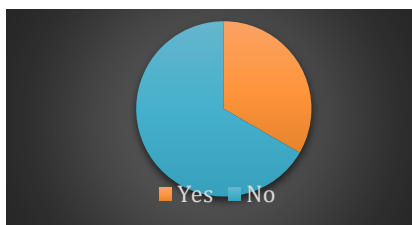
OFFENCES AND PENALTIES:

Where any authority or Committee or officer or member of similar authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of timber rights, it, or they, shall be supposed to be shamefaced of an offence under this Act and shall be liable to be progressed against and penalized with fine which may extend to one thousand rupees. still, if a member of the authority or Committee, the department head, or any other person appertained to in this section can demonstrate that the offense was committed without his knowledge or that he took every palladium to help it, also nothing in this sub-section applies to them. Nodal agency The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the perpetration of this Act. A possible result for this is resettlement, if the timber resides or trials are evicted from their places indispensable land and cash compensation should be given. In some well- proved cases, similar as in the Western Ghats, indispensable land and cash compensation induced tribals to move out of core areas. One illustration is Nagara hole National Park, where the recovery of barracuda consistence over three decades demonstrates that the outgrowth has been salutary to both people and wildlife. State governments need to pursue similar programmes in a humane and vigorous fashion).

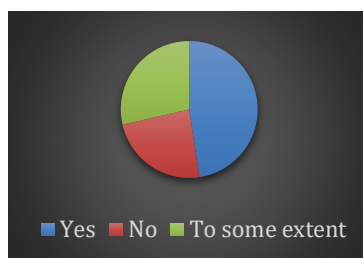
DATA INTERPRETATION:

The present check reveals the data as to mindfulness among the people regarding the rights of ethnical people and the legislative protection available to them.

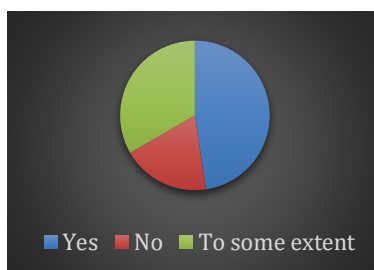
Have you personally come across any tribal individual/ group?



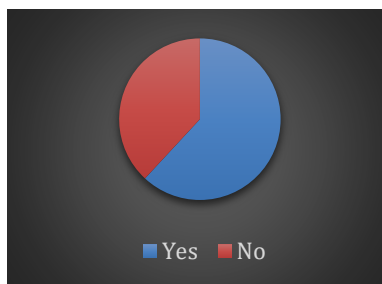
Have you ever heard about their rights?



The Indian Constitution exclusively provides for the protection of the rights of tribes. Are you aware of the provision?



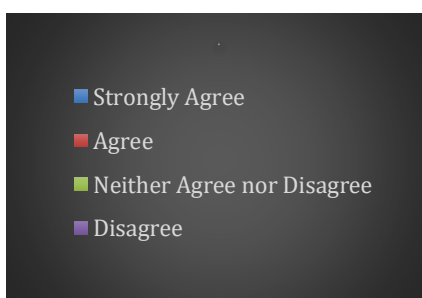
Whether there is any specific legislation for the protection of tribal rights in India?



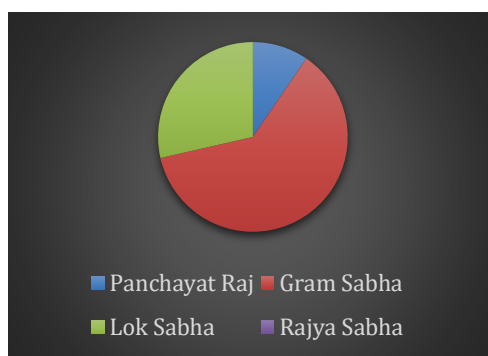
The Scheduled Tribes and other Traditional forest-dwellers (Recognition of Forest Rights) Act, 2006 ensures the complete protection of rights to the people those who dwell in forests especially to the tribes.



The Central Government under Section 3(2) provides for the diversion of forest land into schools, hospitals, etc. for which it allows the felling of trees not exceeding 75 trees per hectare. This doesn't amount to deforestation.



Which is the authority under the 2006 Act to determine the community rights of the tribes and other forest dwellers?



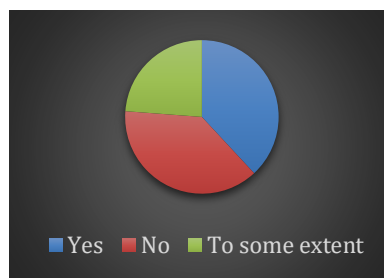
Which of the following is the immediate superior authority to Gram Sabha?

- State Government
- District level Committee
- Sub-Divisional Committee

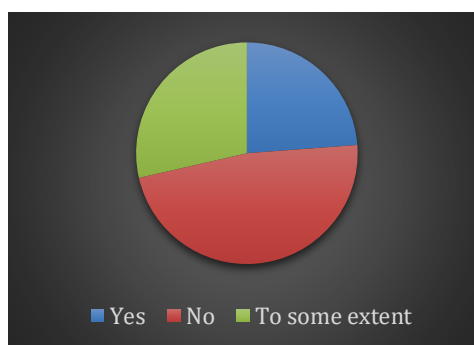
Which among the following is the nodal agency for the implementation of the provisions of the 2006 Act?



Are you aware of the case Wildlife First v. Ministry of Environment & Forests and Ors.?



Do you think there is a proper procedure followed before rejecting the claims of forest dwellers/ tribes, while deciding the case of their encroachment and before ordering their eviction?



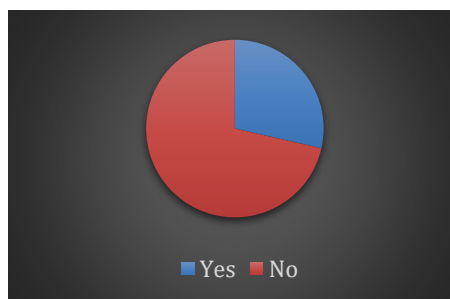
The judgment delivered by the SC in Wildlife First case to evict those whose claims got rejected is erroneous.



In this case, the stay of eviction pronounced by the Court, guiding the States to submit the affidavit that whether fair treatment of law had been followed in dismissing the claims is just and reasonable.



In spite of challenging the Constitutional validity of the Act, do you think that the Act provides complete protection to the forest dwellers especially the tribes?



CONCLUSION:

A group of primitive people living in the hills and forests with their own language and culture is referred to as a tribe in modern Indian society. Obviously, there is a wide variation in the social organisation, customs and intuition of the tribes from the general people of India. The tribal societies in India particularly remained till the attainment of independence comparatively isolated from the mainstream of national life. The introduction of PESA in 1996 definitively signalled the Indian Parliament's intention to abandon command-and-control for "new governance" in the tribal areas. However, by choosing decentralization the law-makers made the mistake of matching the right idea with the wrong solution. Although decentralization—including its many subtypes: devolution, de-concentration, delegation and divestment—has proven indispensable whenever national or provincial government have desired local solutions for local problems, the system is demonstrably inapposite for tribal governance. Instead, the right solution is some form of autonomous tribal government grounded in the Indian Constitution and supported by the conventional administration and civil society.

While "The decisions of the decentralized organs may be replaced by the state; the decisions of autonomous organs may be annulled but not definitively replaced," autonomy is preferred to decentralization. To put it another way, what I've proposed is "freedom within the law" for nearly 100 million tribal people. This is certainly achievable, and the legal change would be "a highly effective way of transforming ideology to create a sense of entitlement amongst the tribes." Significantly, this paper examined the constitutional and statutory law governing tribal territories in India rather than reforms in civil administration by state departments and development programs.

There were two reasons for this choice. One was that

- The current literature on tribal law in India treats tribal concerns within the "larger problem of efficient implementation of development policies" and bureaucratic apathy, rather than as a distinct issue in constitutional and statutory law requiring more systemic change.
- The Tribal development policies and state administrative departments provide area-specific solutions.

The Fifth Schedule, as part of the Constitution, applies to pockets of tribal areas scattered within the peninsular regions of a vast country. Incorporating all of these issues into a single work runs the risk of trivializing the various issues the tribes face. Keeping in view the socio-economic backwardness of tribes the framers of Indian constitution provided special privileges for their development in independent India. In order to integrate the tribes into our ideal democratic system, numerous laws and a separate administrative system have been gradually enacted in response to the circumstances.

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