**Legislative Measures for Indigenous People of India: Major Issues and Challenges**

**By.**

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**Abstract:**

*India is a multilingual, multiclass, multicaste, multi-religious, multi-culturally diverse, and multi-ethnic historical country living together in one nation. Historically, it has been established that the Indian original civilization, known as the Haddapan civilization, existed before the Aryan civilization. India presently has a huge population of Indigenous people, which are referred to as First people, or Aboriginal people.*

*The Vedic order formed the social system of India, which is based on the caste system. According to the Hindu religious book, there are four races. The indigenous are those who are isolated on the basis of the caste system of Hinduism. Some indigenous groups, especially the untouchable, are considered major outcastes and excluded communities from the high-caste Hindu community. After the independence of India, all such isolated indigenous communities grouped together, were given new nomenclature, and were listed as Scheduled Castes and Scheduled Tribes, which make up about 25% of the Indian population. India has made special provisions for the development of these marginalized communities and created some affirmative policies to protect these Indigenous communities from exploitation and discrimination from others. After 70 years of Indian independence, the Indian governments' commitments have failed to meet expectations.*

**Keywords:**

Indigenous people, health, social, educational, economic, exploitation, caste discrimination, violence of women, and ignorance of SC/ST in policy making.

**I) Introduction:**

Indian Indigenous people comprised of Scheduled Castes (SC) and Scheduled Tribes (ST), which are officially designated groups of people among the most disadvantaged socio-economic groups in India, as well as Other Backward Class (OBC). One of the main challenges facing the education system in India is unequal access to education. Many rural and underprivileged communities still lack access to quality education, poverty, illiteracy, a poor social environment, a lack of employment opportunities for the underprivileged, etc. The SC/ST and OBC are said to have inhabited India before the arrival of the Aryans, who found tribal culture. The SC/ST have remained historically isolated and have socio-cultural values different from those of mainstream Hindu society. Recognizing the socio-economic deprivation that these social groups, particularly SCs, faced on account of untouchability and isolation, certain provisions were made in the Indian Constitution to aid their development.

Dr.Bhimrao Ramji Ambedkar is the main architect of the Indian Constitution; he was the one who introduced the final drafts of the Constitution in the constituent assembly and was the chairman of the drafting committee, which was headed by Dr. Ambedkar. He was an Indian jurist, economist, social reformer, human rights activist and political leader. He was the first law and justice minister in India. The Constitution of India is the Supreme Law of India. It provides for a parliamentary form of government that is federal in structure with certain unitary features (Article 141 of the Constitution). Mandates that the law declared by the supreme courts is binding on all courts in India. The Indian constitution has a proper balance between parliamentary sovereignty and judicial supremacy. Indian Constitution Article 46 provides that the state shall promote with special care the educational and economic interests of the weaker sections of society and, in particular, of the Scheduled Castes and Scheduled Tribes (Indigenous People). Articles 14, 15, 16, and 21 provide for giving opportunities and safe guarding to protect the human rights of these people, and as per Article 17, it abolishes untouchability on the basis of race and shall protect them from social injustice, racial discrimination, women trafficking, and all forms of exploitation.

Scheduled tribes have been defined in clause 25 of Article 366 of the India Constitution as such tribes or tribal communities under Article 342 to be scheduled tribes, and Article 341 defines who would be scheduled castes and scheduled tribes with respect to any state or union territory. Some academics and political groups only recognized ST, who are 8% of the total population of India. There are educational health and livelihood issues among the SCs and STs. The percentages of poverty, malnutrition, illiteracy, health issues, and livelihood are much higher.These communities are socially and educationally isolated and deprived of their human rights. The Human Development Index (HDI) among the indigenous people is much lower than that of other Indians. It is discussed the issues of their participation in governments, administration, politically, judiciary, executive, legislation, and participation in government planning bodies. Government decision-making identified the continuation of colonial forest laws aimed at suppressing tribal rights over forests, even after independence, a leading cause of the loss of control of tribal over forested lands. There is a lack of participation of Indigenous people in administration, politics, legislation, and the judiciary based on government action and policies. In India, participation is based on the value of the HDI of particular persons.

**II) Legislative Measures for the Ingenious People of India**

Before the independence period, the British Government initiated progress for the indigenous people. And after getting freedom from Britishers, the first government of India looked after such people who are aboriginal and are part of the community. Every government made different policies and schemes that were passed in parliament. There is a separate portfolio of the ministry as Social welfare and Justice for the SC/ST/OBC, as well as different commissions and research institutions that suggest to the government their socio-economic and political development. The government follows the guidelines of the Indian Constitution.

**1) Legislative Measures for Health**

Health is the primary issue for the indigenous people of India. Tribal people are more likely to catch infectious diseases such as malaria, tuberculosis, leprosy, malnutrition, diarrhea, respiratory infections, and diseases spread by insects or animals due to several factors like poor sanitation and hygiene and limited access to healthcare. Most indigenous people suffer from skin problems, respiratory diseases, parasitic illnesses, and diminishing vision and eyesight. Caste bias is a key reason for SC/ST students' mental health problems on campus. The Indian Institute of Technology (IIT) Bombay has found that caste discrimination is a "central reason" for the mental health problems faced by students who are indigenous. However, on average, 57% of ST and 55% of SC women are found to be anemic. The National Health Policy of 1983 focused on primary healthcare and aimed to reduce infant mortality rates, maternal mortality, and the occurrence of anaemia in girls, among other things. While this benefits high-income populations, most marginalized SC-ST communities exist without basic medical care. There are several government-funded health insurance schemes: the Employees State Insurance Scheme (1952), the Central Government Health Scheme (1954), and the Universal Health Insurance Scheme (2003). But scheme were unable to reach effectively to the door of needy people.

The health department could not conduct the campaign and program at the village level for health and nutrition, sickle cell anemia, due to a lack of manpower. There are 50% sanctioned posts for doctors, and health workers are not filled up. A casual approach was taken by nominating contractual unskilled workers for implementing the national and international health programs of the Ministry of Tribal Affairs, which focuses on the health and nutrition aspects of sickle cell anemia. The national policy-making body *Niti Aayog* recommends improving data linkages between the National Digital Health Mission and the National Health Mission to leverage data on health outcomes. There are many laps in the implementation process; there are no members from SC/ST, tribal community representatives in the policy-making and implementation bodies; special budgetary provision is spent on the actual program; but sometimes the funds are diverted to other departments and should not be diverted to other than specified projects.

**2) Legislative Measures for Education:**

There are 500 million people, and 18% of them are between the ages of 15 and 24 and enrolled in secondary and higher education. Pre-Matric and Post-Matric Scholarships are scholarship schemes for SC/ST students studying at the pre-matric and post-matric levels granted by the central and state governments of India. The government has restricted the beneficiary having their family income annually $ 3000/- (Rs.2.5 lacs per annual). It has been decided to utilize a part of the funds under Article 275(1) of the Constitution for setting up 100 model residential schools (named Eklavya Vidyalaya) from 6th to 10th grade in the States and UTs for tribal students. The Ministry of Tribal Affairs is responsible for the development of Scheduled Tribes. (1) Post-Matric Scholarship for STs/Book Bank; (2) Upgradation of Merit for ST Students; (3) Pre-Matric Scholarship for ST Students (iv) Girls Hostels (v) Boys Hostels (vi) Establishment of Ashram Schools (vii) Research and Training.

All India Survey on Higher Education (AISHE 2020–21) The report released by the Ministry of Education showed that of the 4.13 crore students enrolled in higher education institutes during 2020–21, 14.2 percent belonged to the SC category, 5.8% to the ST category, and 35.8% to the OBC category. Reservations are provided not only with respect to direct recruitment but also with respect to promotions for the SC/ST category (Article 16(4A). The National Education Policy (NEP) 2020 encourages interdisciplinary and multilingual education, fostering the promotion of a flexible curriculum that nurtures diverse skills and encourages seamless attainment of knowledge. As per the reservation provisions for SC & ST, OBC reservation to the SCs, ST, and OBC in case of direct recruitment on all Indian basis by open competition is given at the roles of 15%, 7.5%, and 27%, respectively.

**1) Scholarships for obtaining higher education and coaching schemes:** Top-Class Education for Scheduled Caste Students The scheme is to promote qualitative education amongst students belonging to Scheduled Castes and Scheduled Tribes by providing full financial support for pursuing studies beyond 12th grade in notified institutes of excellence like IITs, NITs, IIMs, reputed medical and law institutions, and other institutions.

**2) National Fellowship for SC and ST Students:** The scheme provides financial assistance to SC students for pursuing research studies leading to M.Phil. and Ph.D. and equivalent research degrees, as well as minority fellowships for Buddhist and Christian communities, most of which belong to indigenous people and were converted into these religions. These fellowships were awarded by the University Grants Commission of India (UGC).

**3) Legislative Measures for Economic Matters:**

National Scheduled Tribes Finance & Development Corporation. The government's plan includes various economic upliftment schemes for SC, ST, and OBC communities, but their feasibility study on effective implementation and larger coverage indicated that livelihoods could not be archived and most of the budgetary funds were diverted to non-economic development programs. The government is providing free food grain to 80 crore people, which itself indicates that more than 60% of the population of India is below the poverty line for getting the free food grain. In India, those earning below Rs. 26 per day in rural areas and Rs. 32 per day in urban areas come under the scheme.

**4) Legislative Measures for SC&ST Women:**

It found that on average, 71% of ST women lived in rural areas compared to 56% of SC women in 2005–06. The country witnessed a 45% rise in reported cases of rape among SC women between 2015 and 2020. SC women are frequently exposed to domestic violence, physical assaults as punishment for being lower castes, human trafficking, and prostitution. The economic, social, educational, and political status of SC and ST women are directly related to violence and subjugation, which does not give them the space to fully enjoy constitutional rights.

They face violence in public spaces and streets, women's toilet areas, fields, etc., in and around their villages and towns. The violence they mete out is physical, verbal, and sexual, often in response to SC/ST women asserting their economic rights, that is, challenging caste-class relations by demanding their right to wages or land, or their right to sexual integrity, that is, the right to choice in sexual relations. Cases of rape against SC women (including minors) account for 7.64% and ST women account for 15% of the total cases reported. The report has also tabled detailed numbers for cases of rape against SC. cases of minor rape, attempt to rape, assault on women to outrage her modesty, and kidnapping of women and minors, which cumulatively stood at 16.8% in SC women and 26.89% in ST women.

**5) Legislative Measures of the Society:**

The annual report of the National Crime Records Bureau (NCRB) for crime-related statistics in 2021. NCRB reports have been a valuable compilation of statistics over the years on offenses ranging from crimes against indigenous women to economic and financial crimes. The organization has called upon the Government of India to robustly enforce and implement the Law made for protection and safeguarding the SC/ST community, the new provisions of the amended Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (2015), and take swift and robust action against the dominant caste perpetrators violating the human rights of SC and ST, Scheduled Tribes (Prevention of Atrocities Amendment Act, 2015), and prosecute those government and police officials who are found to have aided and abetted criminals.

**III) Summing Up**

There are several schemes, bills, projects, and policies for the indigenous people that have been passed in the parliament as well as in the legislative assembly in every state of India. There are various issues in India, like economic, social, educational, health, women, caste, and class problems among the indigenous people. They have been considered a marginalized or subaltern society as compared to the elite class, upper caste, or class. The Indian constitution has made special or separate provisions for the indigenous people's upliftment and development. But these schemes and policies have not become the effective to beneficiaries. Their lack of participations in policy making and implementations. It has not been known by the indigenous people due to non-enrollments, lacks of participation in process, illiteracy or the unknown. Therefore, the indigenous people have not been part of the main stream of society. Lack of sensitization about the humanitarian attitudes. They are still deprived of the government's schemes and policies. There are some major findings, as follows:

**Major Findings:-**

1. Lack of sensitization among implementation agencies, the information about legislative measures not known to the people.
2. There are no participation of indigenous people in policy making and implementations process.
3. There is no provision in the annual budget as per the census or universities for SC/ ST.
4. Due to casteism, a lot of people embraced the various religions like Buddhism and Christianity by the indigenous people, but the government does not pays attention to their social problems.
5. There are no special Doctors and medical technical manpower in hospitals or clinics for scheduled castes in the rural areas.
6. A lot of scheduled tribes from remote areas are depriving themselves of the schemes and policies of the government.
7. There is no free and compulsory education as per the choice, up to age of 20 years.
8. The government schemes and policies are insufficient for the time being.
9. There is no provision to acquire or get the open space or land on lease from a business point of view as compared to the elite class.

Human Development Indies of Indigenous communities are much lower than the average HDI of high-caste people in India. The participation of SC/ST in cabinet ministerial, executive, and judicial bodies as well as in decision-making government bodies is negligible. Atrocities, exploitation, and caste discrimination on the basis of their birth are common features in India.

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