

## REINVENTING TRIBAL LOCAL GOVERNANCE THROUGH ADMINISTRATIVE REFORMS IN INDIA: WITH SPECIAL REFERENCE TO FIFTH SCHEDULE AREA

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### ABSTRACT

Being a part of our social structure, tribal development is a mandatory function of government. In this manner, development of tribes through socio-political and economic empowerment is a crucial issue. These are major aspects in the functioning of local governance and administration. In fact, tribes were miles away from the development process. So, there was a need of special efforts and administrative reforms on governmental level for their socio-economic development; hence the Government of India has adopted the inclusive pattern of development through the 73<sup>rd</sup> constitutional amendment, *Panchayat Extension to the Scheduled Area Act, 1996* (PESA) and Administrative Reforms for tribal development. It is appropriate to review such kind of administrative reforms and development process in the context of excluded tribes in India. The pattern of local governance has been accepted to bring these tribal in the current of every development. This present paper attempts to shed light on the condition of such excluded tribes and the pattern of administrative reforms by the Government of India. Moreover, the evaluation of these efforts is undertaken here.

**KEYWORDS:** Tribes, Local Governance, Panchayati Raj Institutions (PRI), Administrative Reforms

### INTRODUCTION

Not only in India but across the world, tribes are considered to be the original inhabitants. But due to extreme cultural and geographical diversity they are miles away from the mainstream of development. As a result, even today they are living excluded and even marginalized life.

Tribes in India have a significant degree of cultural and ethnic diversity. They differ in their socio-economic levels and behavioral patterns. Moreover, Tribal situation in country poses particular problems of development, not encountered in other areas. Development is a very complicated task and needs more careful attention than has been paid to it so far. Mostly, such tribal communities live in rural and wild area. So, Local self-government in rural areas (Panchayati Raj Institutions PRIs) played an important role in the tribal development. Panchayat is a nomenclature associated with rural life in India from time immemorial. However, since 1992, following the 73<sup>rd</sup> constitutional amendment, Panchayats have acquired a new meaning as 'institutions of local self-government' with the specific task to prepare and implement 'plans for economic development and social justice' (Oommen, 2004). This Amendment was undertaken to ensure Panchayati Raj system with certain revolutionary and progressive measures (Samal, 2007).

Excluding the operation of part IX of the Indian Constitution the '**Fifth Schedule Areas**', the Parliament had withdrawn the legislative power of the State legislatures and the special powers conferred on the governors to make regulations for the scheduled areas on the Panchayati Raj setup. Taking into consideration the special conditions that exist

in the scheduled areas, the parliament reserved to itself the power to make a separate legislation with necessary modifications for the scheduled areas (Samal, 2007). In the last decade, government of India became more aware about tribal development and especially tribal's participation in Local Governance and their Social & Economic development. The PESA endeavors to enhance tribal representation in local governance and further increased the even to uplift them socio-economically (Chauhan, 2003).

## TRIBES IN INDIA

Majumdar's (1958) definition of a tribe is still relevant in the anthropological understanding of a tribe. As per their definition a tribe is; a relatively isolated or semi-isolated community living mainly in forest, hill or hill clad settings; an autonomous cultural system; economically self-sufficient by exploiting natural resources in a primitive or crude mode, involving a low level of technology and distributed within a well demarcated territory, distinct world-view or belief system, folklore, deities and its own dialect.

Tribals in India constitute 8.6 percent of the total population, (2011 census); and they have distinct cultures, customary practices, dialects and economic pursuits in different ecological settings. The areas inhabited by the tribal constitute a significant part of the under developed areas of the country. The prominent tribal areas constitute about 15 percent of the total geographical area of the country. The Government of India's list of Scheduled Tribes (STs) included 212 tribes in 1950, 458 in 1990 (State of Panchayats Report, 2009) which rose to 533 by 2009. Now, the number of tribes included in the list of STs contributes as a notable section of total population of the Indian society.

Historically, the tribal economy was based on subsistence agriculture and/or hunting and gathering forest produce. However, since the tribal people treated land as a common resource, they rarely had land titles, and thus, lost their lands to outsiders when exploitation of forest resources began. This ensured that a majority ended up as small and marginal landholders. It is fairly well documented that the well-being of social groups in India differs a lot. Recent researches have tried to quantify the disparities in level of living of various population groups. As a population group, STs are at the bottom on the range of development indicators including consumption and poverty (Dubey, 2009). More than half of the rural tribal population is found to be below poverty line as per the latest survey available with the Ministry of Rural Development.

**Table 1: Percentage of Population below Poverty Line in India (2004-05)**

Sr. No.	Level	Rural %				Urban %			
		S. T.	S.C.	OBC	Other	S. T.	S.C.	OBC	Other
01.	India	47.20	36.80	26.70	16.10	33.30	39.90	31.40	16.00

**Source:** Planning Commission of India

As per the Planning Commission of India, the incidence of poverty among STs is a critical issue for country. As compared to other groups of community, ratio of below poverty line is quite higher among STs. Another survey conducted by NCAER (National Council of Applied Economic Research, India) gives more clear picture of spoiled tribal economy. The survey shows that there is a higher incidence of poverty in the STs Population. The tribal economy is structured around two key elements; land and forest. This is operationalised in three different ways; by gathering of minor forest produce, by shifting agriculture, and by settled agriculture. Traditionally, barter was an effective mechanism to share resources, especially related to the minor forest products. With increased exposure to non-tribal customs this has changed dramatically. For example, the level of awareness among tribal concerning the use of money and the value of their

products is generally poor. As a result, they are often victimized by unscrupulous traders, who buy tribal produce at low prices. This leaves the tribal's economically vulnerable and open to exploitative labor practices. Moreover, encroachment by non-tribal into tribal lands in search of timber and other resources has pushed tribal deeper into the remote areas, thus further marginalizing them (Shankar, 2005).

### **NEED OF REFORMS IN TRIBAL LOCAL GOVERNANCE**

- Tribes, being disproportionately poor, most heavily suffer the ills of an inequitable and ineffective education system in India. Tribal are so ignorant due to the lack of education and hence they are too far from the jobs and modern resources of income. Government is trying for their education but the efforts are falling short as there is a meager response from tribes.
- Poverty among tribal is on a large scale. The following factors are responsible for the poverty in tribal communities; Dependency on conventional production resources; undeveloped farming and negligible participation in jobs; unawareness of detachment from the other world and unavailing of government scheme.
- Tribes mainly suffer from hunger and malnutrition. Tribal starvation is a grave issue mainly because of their dependency on traditional foodstuffs, natural vulnerability and isolation from the outward. Some improvements have taken place because of governmental efforts. However, comprehensive efforts are needed to uplift the tribal.
- The forests are not only the source of livelihood for tribal but there is an intricate relationship between tribal and forests in forest eco-systems. The depleting forest resources are threatening imminent food security for a good portion of the tribal population.
- There is a lack of awareness among tribal population about various developmental programmes launched by the government of India and States. This lack of awareness results in tribal exploitation.
- The Tribal have been given numerous rights and concessions under various statutes of Central as well as State Governments. But unfortunately, they are deprived of the benefits due to their ignorance and apathy of enforcing agencies.

### **ADMINISTRATIVE REFORMS IN TRIBAL LOCAL GOVERNANCE**

Governance is the medium of development and tribal development is a mandatory object of Indian governance. The Constitution of India also mentioned the way of tribal development. In this regard, the local self-government is a carrier of developmental work in India for a long time. From the pre Vedic and Vedic period to the formation of Indian Republic, the important and role of local governance was so elementary in the process of development. After Independence, village panchayats came to be established more systematically with defined powers and functions through the Constitution of India.

#### **Administrative Reforms Commission – I**

It is in times of grave economic crises that the attention of a nation's leadership turned to administrative reforms. The first Administrative Reform Commission (ARC) was setup in 1966 in India with a view of comprehensive examination of India's public administration under the chairmanship of Morarji Desai (later Hanumanthaiya).

Actually, first ARC did not pay sufficient attention to the administrative reforms for tribal development and also to the implementation of recommendations by the government.

### 73<sup>rd</sup> Constitutional Amendment

The 73<sup>rd</sup> Constitutional Amendment (1992) made provision of SC, STs and women's reservation and began a new era of local governance for tribal development. Prior to the Constitutional Amendment 1992, the representation of the tribal in Panchayats at three tier levels was also not very adequate. Some of the important features of the Panchayat amendment include;

- The key role is assigned to the *Gramsabha*.
- An uniform three-tier structure across the country.
- Direct elections at all levels is made regular and mandatory
- Reservation for SCs and STs, one third (now ½ as per Constitutional amendment 110<sup>th</sup>) of the total seats to women.
- Identifying 29 subjects in the XI schedule of constitution and
- Setting up of a State Finance Commission and election commission.

**Table 2: Tribal Representations in Panchayati Raj of India**

Gram Panchayat (2,33,622)				Panchayat Samiti (6,094)				Zilla Parishad (545)			
Category			Total No.	Category			Total No.	Category			Total No.
Gen.	S.C.	S.T.		Gen.	S.C.	S.T.		Gen.	S.C.	S.T.	
1864207	506329	320482	2691018	113646	33304	11548	158498	11228	2711	1711	15650

(Source: State of Panchayats, Report of Ministry of Panchayati Raj, Govt. of India, 2009)

In essence, the 73<sup>rd</sup> Constitutional Amendment is a key aspect of reforming process in the local governance. It has also increased tribal participation in the three tier system of local governance.

### Panchayats (Extension to the Scheduled Areas) Act, (PESA)

The Ministry of Rural Development, government of India constituted a committee of selected members of Parliament and experts to make recommendations on the salient features of the law for extending provisions of Part XI of the Constitution to the Scheduled Areas.

In December 1996, the Parliament passed the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, (PESA), and subsequently, the President's assent was accorded on 24<sup>th</sup> December 1996 to make it a part of the Constitution, recognizing the tribe's right to self-rule. PESA act is a Central legislation that extends the constitutional provisions of Panchayati Raj to Fifth Schedule Areas, subject to certain exceptions and modifications. Nine States, namely, Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan have Fifth Schedule Areas. For the purpose of effective implementation and Tribal's participation a review meeting of the PESA States on implementation of the PESA Act, 1996 was held on 13th November, 2007 in New Delhi. An action plan for implementation of PESA in letter and spirit was agreed to by the States in the review Meeting. Salient features of the Extension Act may be discussed under following heads.

- A village in scheduled areas "...shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs".
- Every village shall have a Gramsabha consisting of persons whose names are included in the electoral rolls for the panchayats at the village level.
- PESA takes cognizance of the fact that political empowerment is the beginning of economic development. It, hence, reserves a minimum of 50 percent of the seats for the members of the tribal communities and also all posts of chairpersons in the Scheduled Areas, even where the population of tribals have been reduced to minority status.
- The chairperson's post at all levels of the panchayats shall be reserved for STs. In case some ST communities have no representation at intermediate or district level panchayats, the state government shall nominate such underrepresented STs but such nomination should not exceed one-tenth of the total elected members of the panchayats.
- Every legislation on the panchayats in fifth scheduled area shall be in conformity with the customary law, social and religious practices and traditional management practice of the community resources.
- PESA, unlike the IXth Schedule, empowers the Gramsabha and not the Gram Panchayat to approve plans, programmes and projects and to issue utilization certificates, select beneficiaries for poverty alleviation and other programmes.
- In a very significant move, the PESA makes a consultation with the Gramsabha mandatory before any acquisition of land in the village or before resettlement and rehabilitation of the Project Affected Persons in the village.
- The Gramsabha has been vested with the command over natural resources in the village including the minor minerals, water bodies, and the minor forest produce. No mining lease can be granted without the prior recommendation of the Gramsabha.
- PESA also empowers the Gramsabha to have control over village markets, all plans and Tribal Sub-Plan resources, and control money-lending in the village (State Panchayats, 2009, Pal, 2000).

### Experiences after 'PESA'

As per provisions of the 'PESA' Act, all of the nine state have taken necessary action. But, the objects of the PESA Act are partially fulfilled. This Act gives powers to the Tribal Panchayat, but it needs more clear and transparent provisions. The PESA act is one of inclusive pattern for tribal development. But goals cannot be achieved because of limitations in the implementation by government and governmental institutions. Besides the lack of awareness in the tribal community is a major hurdle in the performance of the PESA. In this connection, this study has observed the following facts by way of its findings of field work organized in the fifth schedule area of Maharashtra State;

- The reducing rate of poverty, illiteracy, hunger and malnutrition is not notable.
- The rate of child mortality, women illness, crimes against tribes are very high than among non tribes despite of the efforts undertaken by PESA.

- More than 95 % of tribal villagers know nothing about PESA act and its provisions. They are also ignorant about special status of their Village Panchyats.
- More than 65 % of tribal people prefer Traditional Panchayat (Jat Panchayat) over Village Panchayat. Out of total members of local self-institutions, 60% of representatives are already active members or their relatives in traditional panchayats.
- PESA made 50% of reservation in Panchayat Institutions which belongs to fifth scheduled of Indian Constitution but the More than 50 % of tribal don't know about such reservation policy. It is found that even tribal leaders representing their people have little knowledge of the reservation policy at panchayat level.
- More than 50% of tribes are not satisfied about the performance of PESA as an inclusive pattern for tribal development. They want transparency and more autonomy in village panchayats.
- Approximately, 10 % of village panchayats are working without individual office. The office of village panchayats runs in house of Sarpancha or Gram Sevak (Rural Development Officer).

## ADMINISTRATIVE REFORMS COMMISSION - II

The second Administrative Reform Commission was setup under the chairmanship of Shri. Veerappa Moily on August 31, 2005. The commission made as many recommendations on various aspects of administration including reforms in the various areas. A part of such document is directly related to fifth scheduled area. The eight recommendations out of total 256 under the document of 'Local Governance' are related to tribal development and working of tribal panchayats. These recommendations and action taken by the government may create ideal model of local governance for tribal development.

**Table 3: Recommendations (Second ARC) and Government's Decision**

S. No.	Recommendations Made by Administrative Reforms Commission	Government's Decision
01.	<b>31. Local Government in the Fifth Schedule Areas</b> a) The Union and State legislations that impinge on provisions of PESA should be immediately modified so as to bring them in conformity with the Act. (127)	(a) Accepted.
02.	b) If any State exhibits reluctance in implementing the provisions of PESA, Government of India may consider issuing specific directions to it in accordance with the powers given to it under Proviso 3 of Part A of the Fifth Schedule. (128)	(b) Not accepted.
03.	<b>32. Effective Implementation of PESA</b> a. Regular Annual Reports from the Governor of every State as stipulated under the Fifth Schedule, Part A (3) of the Constitution must be given due importance. Such reports should be published immediately and placed in the public domain. (129) b. In order to ensure that women are not marginalized in meetings of the Gram Sabha, there should be a provision in the PESA Rules and Guidelines that the quorum of a Gram Sabha meeting will be acceptable only when out of the members present, at least thirty three per cent are women. (130) c. Each State should constitute a group to look into strengthening of the administrative machinery in Fifth Schedule areas. This group will need to go into the issues of (i) special administrative arrangements, (ii) provision of hardship pay, (iii) other incentives, and (iv) preferential treatment in accommodation and education. All expenditure in this regard should be treated as charged expenditure under Article 275 of the Constitution. (131)	(a) to (c) Accepted subject to the views of MHA being obtained in this matter.

Table 3: Contd.,

04	<p><b>33. Effective Implementation of the Tribal Sub-Plan (TSP)</b></p> <p>a. Keeping in view the inadequacy of the past efforts, State Governments should form a special planning unit (consisting of professionals and technically qualified personnel) to prepare their Tribal-Sub Plan. <b>(132)</b></p> <p>b. A certain portion of the allocation under TSP should be made non-lapsable on the pattern of the Non Lapsable Central Pool of Resources (NLCPR) created for the North-Eastern States. A special cell may be set up in the Ministry of Tribal Affairs to monitor expenditure from this fund. <b>(133)</b></p> <p>c) The government may consider preparing an impact assessment report every year with respect to the States covered under PESA. This exercise may be assigned to a national level institute which has done similar work in the past e.g. National Council for Applied Economic Research (NCAER), National Institute of Public Finance and Policy (NIPFP), National Sample Survey Organisation (NSSO) or some other suitable agency. This agency will rate the performance of the State on predetermined indices. <b>(134)</b></p>	<p>(a) to (c) Accepted subject to consultation with the Ministry of Finance and the Ministry of Tribal Affairs on the recommendations.</p>
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Source: <http://darpg.nic.in/arpq-website/6thReport-LocalGov.pdf>

- The recommendations made by ARC have been accepted by government up to some extent.
- Government is positively thinking for the upliftment of the STs through the help of PESA Act.
- Government has given certain parameters to the state legislatures for handy implementation of PESA Act.
- Government will provide adequate fund by Finance Ministry for the betterment of STs.
- Government is willing uniformity in local governance of Scheduled Area through PESA Act. In nine states the act implemented.
- Government has clearly determined the authority of Gram Sabha and Panchayat for empowerment of STs.

## CONCLUSIONS

Since last six decade government of India has made some different efforts. However, desired results have not been seen yet. Lack of awareness among STs and administrative problems in the implementation of PESA Act and other administrative reforms are the prominent hurdles in the developmental process. If we work on the limitations, this Act and such reforms might prove as a milestone in the inclusive development of excluded tribes.

We should admit that Indian tribal are still not in the main-stream of development. But, Indian government has implemented the pattern of administrative reforms for tribal local governance with the help of 73<sup>rd</sup> Constitutional amendment, PESA act and by doing continuous administrative reforms suggested by various committees and commissions. Guarantee of representation in PRIs through reservations and efforts towards sustainable economic development are nucleus of the pattern.

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