

ROLE OF NGO'S IN SAFEGUARDING THE RIGHTS AND INTERESTS OF SCHEDULED TRIBES

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INTRODUCTION:

Protection of the inherent dignity and of the equal and inalienable rights of all members of the human family is a well recognized principle of human rights. Human rights are those natural rights which are available to a human being by his birth. Thus the centrality of human rights is the dignity of the individual, liberty and equality of status and the make them a meaningful woven around the rights to education, health shelter, congenial environment without discrimination as basics to unity and fraternity among the people, civil and political rights, social, economic and cultural rights have been elaborated to freed and give content to the Human Rights. According to UN guiding principles on Internal Displacement 'Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights of natural or human-made disasters, and who have not crossed an internationally recognized State border. NGO's are legally constituted orgnizations, operate independently frm the government and are generally considered to be non state, nonprofit oriented groups who pursue purposes o public interest. The primary objective of NGO's is to provide social justice, development and human rights. NGO's are generally funded totally or partly by government and they maintain their non-governmental status by excluding government representatives from membership in the organization.

It has been recognized that the task of the development of Scheduled Tribes cannot be achieved by Government efforts only. The role of voluntary or non-governmental organizations, with their local roots and sense of service has become increasingly important.

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In the era of good governance, NGO's are playing a more proactive role. The failure of the Government gives fertile grounds to the NGO's to work upon and extend a helping hand to tribals.

Various Role played by the NGO's:

In the following ways NGO's plays an important role in safeguarding the interest and rights of tribal peoples.

1. Protection of Rights:- NGO's are playing a protective role by seeing that the tribal rights are Greenpeace is one such organization.
2. Implementation of forest right act 2006 to ensure individual and community rights for tribals over forest and forest produce.
3. Fighting on land issues, restoration of land rights and fighting against injustice. E.g. DongriaKond's fight for land in the Niyamgiri hills.
4. They have helped facilitate free boarding and lodging to the Tribal children for education.
5. Computer centres wee also being established by various NGO's such as Kothari institute.
6. These institutions are directing their energies for socio-economic development of tribes to bring them into fruitful channels of development.
7. NGO's have contributed in a positive note to the development of tribal health and in the protection of their indigenous knowledge base which is either ignored or exploited.
8. Tribals have a profound knowledge of the flora and fauna, the appropriate plant species with medical importance, their location, the parts to be used, time of collection, preparation and administration of their knowledge of ethno-medicine is very important.
9. Privision of food- nutrition programmes and immunization drives against deadly diseases.

10. Environmental Conservation- Protection of sacred groves, water bodies etc which hold cultural significance for tribal population.
11. Fights against construction of dams, roads, industries in the Eco-sensitive zones which can affect the ecosystem.
12. Livelihood enhancement- Self employment by guidance on self occupation, handicraft development etc.
13. To overcome the debt trap, several NGO have formed self-help groups which pool money collected from tribals and provide low interest loans to them.
14. Providing market access to the minor forest produce collected by tribals and the products created by them. This helps reduce the distress migration to cities in search of work.
15. Awareness Generation- The NGO's create awareness among the tribals by demonstrating the conservation and preservation of the forest and its resources. They use the audio visual aids for creating a lasting impression and campaign for ensuring the promotion of important herbal plants in kitchen garden and nurseries.
16. Inclusive Development- Activities related with women's development, formation of women's groups, saving groups of women, training of self employment, women's co-operative society, income generation for women, women's employment etc. and Youth development activities, Formation of youth group.

The Forest Rights Act recognizes and vests forest-related rights in scheduled tribes and other traditional forest-dwelling communities, both of whom have traditionally been living in or depending on forest land for their livelihood needs. In the year 2006 Forest Rights Act was enacted. This act recognized various rights of Scheduled Tribes.

The various rights that are recognized and can be claimed are as follows:

1. Right to hold and live in forest land under individual or common occupation for habitation or self-cultivation. • Community rights

- such as nistar (user rights) used in erstwhile princely states (zamindari) or such intermediary regimes.
2. Right to own, collect, use, and dispose of minor forest produce that has been traditionally collected within or outside the village.
 3. Other community rights of use or entitlement such as rights to fish and other products of water bodies and grazing or traditional seasonal access to natural resources by nomadic or pastoralist communities.
 4. Community tenure of habitat for particularly vulnerable tribal groups and pre-agricultural communities.
 5. Rights in or over lands under any categorization in any state where there are disputes over claims to such lands.
 6. Rights to convert leases or grants issued by any local authority or any state government on forest lands to titles.
 7. Rights to settle and convert the forest villages, old habitations, un-surveyed villages, and other villages in forests into revenue villages.
 8. Rights to protect, regenerate, conserve, or manage any community forest reserves that the individual or community has been traditionally protecting and conserving for sustainable use.
 9. Rights recognized under state laws or laws of any autonomous district council, or accepted as rights of tribals under any traditional or customary law of the concerned tribes of any state.
 10. Right of access to biodiversity and community rights to intellectual property for traditional knowledge related to biodiversity and cultural diversity.
 11. Any other traditional rights enjoyed that are not mentioned above. However, this excludes the traditional right of hunting or trapping or extracting a part of the body from any species of wild animal (including outside of protected areas).
 12. Rights to rehabilitation on the individual's or community's currently occupied land or alternative land, in cases where they

have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation.

13. Rights to development facilities. The Central government will use forest land to provide for development facilities to be managed by the government, and these lands and facilities will be exempted from the operation of the Forest Conservation Act 1980. However, the use of forest land can be allowed only if the forest land to be used in each case is less than one hectare, not more than 75 trees are felled per hectare, and the clearance of such developmental projects is recommended by the gram sabha (village assembly).

Forest Rights Act also has special provisions for sanctuaries and national parks. Areas inside such protected areas can be declared 'critical wildlife habitats'. These are important wildlife areas that are to be kept free of human activity that is scientifically and objectively shown to damage wildlife.

The Constitution of India, Article 366(25) defines Scheduled Tribes as "such tribes or tribal communities or part of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution'. Under Article 342, procedure to be followed for specification of Scheduled Tribes is prescribed. However, it does not contain the criterion for the specification of any community as scheduled tribes. As well established criterion being followed is based on certain attributes such as;-

- Geographical Isolation – They live in cloister, exclusive remote and inhospitable areas like hills, forests, mountain areas.
- Backwardness – Livelihood based on primitive agriculture, low cost closed economy based on low level of technology which leads to their poverty. They have a low level of literacy and health.

- Distinctive Culture, Language and Religion – They have developed community wise their own distinctive culture, language and religion.
- Shyness of contact – They have margin degree of contact with other cultures, people such urban culture and contact with urban people, due which they have a shyness which makes them to stay away from the other peoples.

To overcome with these problems of the displaced Scheduled Tribes and to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

Whereas the recognized rights of the forest dwelling scheduled tribes are responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwellings Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem. It has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling scheduled tribes who were forced to relocate their dwelling due to State development interventions², Parliament enacted the act called as Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, in short Forest Rights Act in the year 2006.

Over a period of last time after the implementation of the Forest Rights Act, some problems impeding the implementation of the Act in its letter and spirit have come to the notice of the Ministry of Tribal

²Forest Rights Act, 2006 Act, Rules and Guidelines published by Ministry of Tribal Affairs Government of India.

Affairs. They are convening of Gram Sabha meetings at the Panchayat level resulting in exclusion of smaller habitations not formally part of any village, non-recognition of un-hindered rights over the minor forest produce to forest dwellers, non-recognition of other community rights, harassment and eviction of forest dwellers without settlement of their forest rights, rejection of claims by insisting on certain types of evidences, inadequate awareness about the provisions of the Act and the Rules etc., In case of a project involving land acquisition on behalf of a requiring body, an exercise for fast-track updating of land records shall be undertaken concurrently with the land acquisition proceedings. Persons who have acquired any right prior to the date of issue of the notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (or such notification under any other Act of the Union or a State for the time being in force under which land acquisition is being undertaken) as per the updated records shall also have right to proportionate compensation along with the original landowners referred to in the said notification.

In case of a project involving land acquisition on behalf of a requiring body:

(a) The compensation award shall be declared well in time before displacement of the affected families.

(b) The compensation award shall take into account the market value of the property being acquired, including the location-wise minimum price per unit area fixed (or to be fixed) by the respective State Government or UT Administration.

(c) Conversion to the intended category of use of the land being acquired (for example, from agricultural to non-agricultural) shall be taken into account in advance of the acquisition, and the compensation award shall be determined as per the intended land use category.

(d) The applicable conversion charges for the change in the land use category shall be paid by the requiring body, and no reduction shall be made in the compensation award on this account. In case of a project involving land acquisition on behalf of a requiring body, and if the requiring body is a company authorized to issue shares and debentures, the affected families who are entitled to get compensation for the land or other property acquired, shall be given the option to take up to twenty per cent. of the compensation amount due to them in the form of shares or debentures or both of the requiring body, as per the guidelines to be notified by the Central Government: Provided that the appropriate Government, at its discretion, may raise this proportion up to fifty per cent. of the compensation amount.

Land compulsorily acquired for a project cannot be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the appropriate Government.

If land compulsorily acquired for a project or part thereof, remains unutilized for the project for a period of five years from the date of taking over the possession by the requiring body, the same shall revert to the possession and ownership of the appropriate Government without payment of any compensation or remuneration to the requiring body. Whenever any land acquired for a public purpose is transferred to an individual or organisation (whether in private sector, public sector or joint sector) for a consideration, eighty per cent. of any net unearned income so accruing to the transferor, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired. The fund shall be kept in a separate account which shall be administered in such manner as may be prescribed.

Involuntary displacement takes place on account of land development projects, in lieu of land-for-land or employment, such affected families would be given site(s) or apartment(s) within the development project, in proportion to the land lost, but subject to such limits as may be defined by the appropriate Government.

In case of a project involving land acquisition on behalf of a requiring body, each affected family which is involuntarily displaced shall get a monthly subsistence allowance equivalent to twenty-five days minimum agricultural wages per month for a period of one year from the date of displacement.

The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons, of such amount as may be prescribed by the appropriate Government subject to a minimum of five hundred rupees per month.

In case of linear acquisitions, in projects relating to railway lines, highways, transmission lines, laying of pipelines and other such projects wherein only a narrow stretch of land is acquired for the purpose of the project or is utilised for right of way, each khatedar in the affected family shall be offered by the requiring body an ex-gratia payment of such amount as the appropriate Government may decide but not less than twenty thousand rupees, in addition to the compensation or any other benefits due under the Act or programme or scheme under which the land, house or other property is acquired:

The affected families may be given the option to take a lump-sum amount in lieu of one or more of the benefits the amount being determined by the appropriate Government after consultation with the requiring body.

CONCLUSION:

It is an undeniable fact that the NGO's have emerged universally as a Universal Third Force in tribal development in India. However, there is lack of coordination among them. Developmental role of NGO's is preparing the people for a change which is basically an advocacy role, viz. development of education, incorporating self-sustainable development philosophy, and form public opinion about government policies or social issues, consciences for environmental problem, literacy, health, use of appropriate technology for family planning and empower the poor to overcome psychological inhabitations and opposition of appraisers.

Land is not only the most important productive resource base for the tribals, but also occupies as important place, as the ministry of their social and religious practices. Over a period of time, this resource base of the tribal communities has tended to get eroded not only through acquisition for public purposes but also through fraudulent transfers, forcible eviction, mortgages, leases and encroachments. The lack of political and administrative will continues to be the cause for perpetuation of the problem of land alienation amongst the tribals as reflected in the reluctance to amend legal provisions and plug the existing loopholes and swift administrative action to identify alienated land and restoring it to the tribals with delivery of possession.