



IMPACT ON TRIBAL PEOPLE AFTER CODIFICATION OF GAUNKARY SYSTEM INTO CODE OF COMUNIDADES

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Abstract

The present research paper makes a modest attempt to analyze the impact of historical law of comunidade system on tribal people in Goa. It endeavor is made to scrutinize the law from the angle of social, economic and political justice which is beneficial to the tribal community. The paper has outlined the history of origin of Gaunkari System, comunidade system and governance in generating revenue in the state of Goa. In fact, this research paper deals with the Impact of the tribal community for after Codification of Gaunkary system into Code of Comunidades. For this purpose, the secondary data from the law books, articles, journals, newspaper etc. have been used.

Keywords: Gaunkari System, Colonial Period, Comunidades, Post Liberation



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1. Introduction

The Gawda tribes had an historical relationship with their land as they are generally descendent of the original inhabitant of such land. They had developed land over many generations and their historical traditional, scientific knowledge of land, natural resources and environment. Their ability to participate in fully sustainable development, practices on their land has tended to limited as a result of economic social and historical nature. The Ruler settlement, Land settlement and Agrarian Reform under Gauncary system was rise during the tribal era for human development and human evolution towards the movement of civilization. The main basis these systems of cooperative endeavours were the families and clans or tribes, generally claiming descend from a common ancestor. They would strongly vouch for common ownership and common unity were generally under the command of one or more leaders.

The Comunidade system¹ was came into existence during Portuguese era. In this period the process of registration of Comunidade lands was begun. After independence, it was seen that there were encroachment on Comunidade lands is taking place due to inefficient functioning of the authorities of Comunidade. According to this code, it

specified to look only the village affairs of a particular comunidade, and most of the authorities of Comunidade are not well educated and Knowledgeable.

It said the Comunidade Code also does not specify educational qualification in order to be elected as the member of managing committee and due to this most of these authorities do not have knowledge about this code. Currently, there are only 223 Comunidades institutions were existed in the state of Goa. It has been continuous debates over the issue of Comunidades lands. In fact, the Comunidade System which was a land based community institution.

The State has powers to make policies to use the comunidaae land for welfare of the people. Besides , the State already constituting the Town and Country Planning Development Authorities, Municipalities, Panchayats, Public Works Department, etc., exercising control over the land of Comunidades. Most of these encroachers are seems to be Migrants on comunidade land.

History of Ruler settlement, Land settlement and Agrarian Reform under Gauncary system in Goa.

In ancient time the Gawda tribes were fully civilized in Goa, and they lead the social and economic development before the colonization period. The Gawda tribes are first Settlers and founders of Villages in Goa, and they are inhabited in forest area and fully attached to the land, forest; livestock, and wildlife etc.

The Gawda tribes had developed the technical skill for domesticating animals, growing cereals and plant and also fabricating crude tools to fashion agricultural implements to dig the land to plants crops. They had its own culture, tradition, custom, and usage. The History of Gawda tribes can be proved on two basis that one had architecture and other on traditional folk songs in the form of folklore such as *Jagor, Dhalo, Fugdeo, Shigmo*, and other folk dances have broad meaning and helpful to trace out the true hidden history of tribal peoples of Goa².

It needs to focus the usual idea for earlier history of the Ruler settlement, Land settlement and Agrarian Reform under Gauncary system in Goa. The process for social development was begun with great idea of the forefathers of Gawda tribes in the form of architecture in Goa. During first stage of the Ruler settlement, the forefathers of Gawda tribes who had surveyed the place by using their common sense, and gradually the land was developed to make use for residence, and morade land in hilly area for cultivation of crops and plantation etc.

In the second stage of the Land settlement, the forefathers of Gawda tribes who had also surveyed the place by using their common sense engineered the sea by reclaiming the land at the bank of the river and prepared Khazan land to use the same for the purpose of paddy field. In earlier civilization period the gawda tribes had a great technical idea to build up Khazan land and in order to construct the internal and external bund to prevent the saline water from the sea for protecting the crop of paddy field. The Gawda tribes had also a capacity to build up the social integration and lead the process of Social development among the communities and took a keen interest in administration of Natural justice to community members.

After Ruler and Land settlement, the aboriginal Communities of Gawda tribes formed an institution known as Gavpon or 'Gaonkari' system existing since the time immemorial. The intention of forefathers of Gawda tribes to enforced the Agrarian Reform policy under Gaunkary system in Goa. It is said the first institution of Gavpon or 'Gaonkari' system was introduced by Gawda Tribes fore-fathers in Goa. This period called as golden era of Gawada tribes, who was Governed or Administered in the institution of Goavpon or Gaunkari³ system. The process of social development of Gawda tribes was linked into the social fabric in earlier time. The Gaonkari system is one of the unique and it is a very old socio-economic Political institution.

According to Norms of Goavpon or Gaunkari the main aim was to cultivate crop on co-operative basis and there was no private ownership of land in earlier time. The word of "Gaonkar"⁴, "velip"⁵, and "Jalmi"⁶ originally derived from indigenous peoples of Gawda, Kunbi and Velip tribes and also called them as Gaonkar both in North and South Goa. Thus, this Gaonkars can be termed as village jawlandars i.e. the bureaucrats or administrators.

In Initial stage among the indigenous Communities had appointed the leader called as village headman or Gaonkar to handle the Problems of communities and solve it. In earlier time the village Administration or Governance of indigenous peoples was handled by Gawda, Kunbi and Velip communities called as Gaonkars in some places and other places called as by Budhvonts. i.e. wise men. The indigenous villagers had faith that Gaonkars have good respect or vast Knowledge to settle the dispute among the communities. Besides, this to look after the religious matters of the Indigenous people of Gawda, Kubi and Velip tribes. These communities had appointed a Jalmis' who acted as

priest along with the Velips in Goa.

Under this Governance System the practice of policy of discrimination was not followed and all of them were treated equally, because the Indigenous peoples of Gawda, Kunbi and Velip Communities were handled through democratic manner and also conducted the meetings every tribal village at the place called as Mand.

The members of the Indigenous peoples of Gawda, Kunbi and Velip Communities from the village used to meet at “Mand”⁷ and decide on important community matters and further development of the community. They were taking the collective decision after listening to the entire community and everybody was bound by such decisions as strict adherence to community Policy. At first stage at village level a system called ‘Mand’ was introduced. At the centre of the village was retained an open space called as the ‘Mand’. It is believed to be the most sacred place of the village. The Head of the ‘Mand’ is called the Jalmi or Velip who is the priest or spiritual and religious head of the village. The ‘Mand’ controls all the religious and spiritual activities of the Gawda community in that village. It is the assembly of all the adult members of the Gawda community. The ‘Mand’ was also enforcing some of the judicial powers.

In order to control the land issues independently, a separate institute called ‘Gaonkari’ was introduced and was handed over the control of the land issues. The ‘Mand’ owned the land and the ‘Gaonkari’ was to administer and regulate the control of the land as per the provisions laid down under Gauncaries system. The procedure set up in the ‘Gavpon system was Democratic in nature and all the members of ‘Gaonkari were fully empowered to express themselves and give their opinion on the issues in the meeting generally called as ‘Bhous’ or ‘Bhousar’⁸. At the second stage a system called ‘Bara-jan’ was introduced. It is a circular open space in one of the twelve villages where twelve stone seats were arranged for the twelve members to sit on it and discuss the matter. ‘Bara-jan’ is an assembly of members of the twelve village representatives.

In Goa, at each Taluka level all the heads and priest of the villages and the priests used to meet at the place called Barazan. The heads of ‘Mand’ from the twelve village assembles together in a place specially created for the purpose and discussion and decisions on the crucial issues which cannot be solved by the ‘Mand. In this sense the committee of Barzan was an appellant body to that of mind. There is a place called ‘Bara-jan’ in Dhulapi ward of Corlim Village in Tiswadi Taluka, there is a ‘Bara-jan’ in Usgaon Tisk in Ponda Taluka. There is a ‘Barajan’ in Bhironde village in Sattari Taluka, there is a ‘Bara-jan’ in

ward kokarem in Bhati village in Sanguem Taluka and there is a 'Bara-jan' in Khoti Gaon Village in canacon Taluka. The 'Bara-jan' was also empowered with judicial powers. Similary there is a place Barazan at village Dhadhaba in Bicholim Taluka.

At the third stage the system introduced was called as 'Varg'⁹. It is a big open space where met all the head members of the Mand and Bara-jan assemblies twice in a year and discusses and finalizes the various issues which could not be settled by 'Mand' or 'Bara-jan'. It was a big Assembly Ground. Such a place is identified at the Bambolim Plateau at the military campus it's on the way leading to Curca village. Some of the old villages of Gawda community from Carambolim, Chimbhel and Curca village when contacted some ten years back have provided us with this information and guided us to locate and identify the same place. But till this day there is no mention of this place called 'Varg' in any records. The meetings were conducted on democratic principles. But Kunbis and Dhangars tribes shared close relationship with Gawdas in the past. These tribes are most hard workers and inhabited in forest areas for their dwellings. So this was the Social Order passed by our ancestors in order to regulate the village administration and to control and manage the land issues in a proper and peaceful manner.

After long time the settlement of Aryan's in Goa, the Second Colonization process began in Goa, Which come under the direct political way of ancient and medieval kingdoms, such as Bojas, Konkan Mauryes, Chalukyas of Badami, Rashtrakats, Kadambas, Yadavas, Bahmani Sultanat¹⁰. At the time of colonization process one after other the medieval kingdoms had come to power and began oppressing to tribal community. With the fear of the kingdoms all the tribal people had taken shelter from Tract Mountain and forest because of a fear that they may be made slaves under the Rulers.

Goa had come under several dynasties "there was no organized judicial or policing system in those days, except for traditional governance by absolute rulers and local Chieftains¹¹. Even the boundaries of these Kingdoms were not clearly defined and the king was content to consider their dominion as extending over many villages, which paid tribute and owed them allegiance. The dynasties after dynasties and different rulers came and disappeared but these Kingdoms had not disturbed the indigenous peoples except collecting revenue from them and using their skilled labour for the purpose of development of infrastructure.

Impact on Tribal people after Codification of Gaunkary system into Code of Comunidades during Portuguese period.

After third colonization process began with the Portuguese; Afonso de Albuquerque conquered Goa on November 25, 1510 and from this day began the day to day written history of Goa¹². During the times of Portuguese period, the Gawda tribes' went on moving towards the interior of forests. They had their Custom in Goa stable with settlements in different regions with independent administration based on oral tradition. The repeated conquerors in the history of Goa left land relations untouched. Besides, this indigenous Peoples of Gawda, Kunabi, and Velip Communities had established a very unique village life system known as Gavpon. Through, the Gaonkary System they were fully guaranteed and assured of all Village indigenous Peoples to protection of the land, resources, their own rights then prevailing the laws, which were based on usage and customs since time immemorial. When Portuguese arrived in Goa, some of the administrators & scholars had taken a keen interest in this 'Gaonkari' system when they saw there are vast potential for revenue generation in 'Gaonkari' system. But the scenario of Goa was quite different from other state because this vast plane of lands was not owned by the State or any other private parties, but this land was come under controlled of gavponi: e the old 'Gaonkari System'.

That means the entire land was under possessions of the Gawda community. Everybody knows that Gaonkaris system was established by the original settlers of Goa i.e. Gawda, Kunbi, and Velip tribes and not created by any king or ruler. But the Portuguese may be had realized in late, that the Gaonkary System was an indigenous institution of a peculiar character. Neither State could not be its creator nor the owner of the land in Goa, since the institution to be prior in time and hence absence of State landlordism.

Under the Gaonkary System the membership was restricted only to those who were tilling land for agricultural purposes. As all the tribal's were tilling the land they were all the members of the Gavpon. The system of cultivation was on co-operative basis and there was no private ownership of land.

The concept of private property was introduced and implemented by Portuguese Colonial rulers, though Prior to this there has never been private ownership of property in Goa but Contemporary Comunidade System as was known by the

indigenous as Gavpon, (it also Called as Gaonkary System means the institution were established by Gawda tribes after Settlement in Goa) was the system of the original indigenous peoples of Gawda Kunbi and Velip Communities of Goa.

The Portuguese colonial rulers named the village Communes as “Comunidades at the time of Portuguese Regime in Goa. Through the Codification of the traditional practices, the Portuguese Government interfered in the management of the Comunidades.

The term Comunidade was the Portuguese appellation for ‘Gaonkari’ system. They are in the form of self -government established by the indigenous people by Gawda, Kunbi and Velip communities ,who stood the tests of time through various invasions by different rulers, finally succeeded by a bi-lateral treaty with the Portuguese. This system is popularly known as the Gaonkary System even before the arrival of the Portuguese in Goa during & after the post liberation period of Goa.

The Comunidades system was a trade off for conversion introduced by the Portuguese rulers supported by the local elites. Accordingly, Indigenous ‘Gaonkari’ system was introduced as codified system, while including convention, tradition, & life style of Gavpon into the one single integrated code called the code of comunidade. Thereafter, the codification of Gaonkary system the tribal Communities had insufficient land unfortunately they lost their own land.

During the Portuguese Colonial period, Portuguese ruled through a written codification and transferred large quantum of land into the private hands of upper or affluent Class and Tribal’s had to lose their own land, as they became voiceless, powerless for protecting their own Land in Goa. Thus, it was treacherously and forcefully snatched from Gawda Tribes forefathers by the high-class society. This is tribal’s were ignorant about the tricks played with them by affluent class in society

When codification was exercised, the tribal’s were lost their own land and they could not keep of written records due to illiteracy. During the Portuguese colonial rule, the State entering into the pact with those newly converted tribal peoples into Christianity and therefore, the Tribal peoples were also lost their identity and Converted to Christianity due to force and ignorance.

The Religions have played vicious role to keep the tribes divided on religious lines. Further there is inroads of religious fundamentalists amongst the tribal communities seeking to promote de-tribalism. These tendencies must be fought and

efforts need to be made to retain tribal culture along with scientific temper.

During the Portuguese Colonial period, the ruler introduced new legislation to control over the land revenue. But the Indigenous fore-fathers were unaware about the new legislation. Silently the affluent class had registered the land on their own name and kept quite. By the time this trick was realized by tribal fore-fathers the possession of the fore-fathers was lost and they were asked to pay the share to the new owners. Thus the Social Order introduced by tribal fore-fathers was uprooted and destroyed by the so called affluent class society.

The affluent class had adopted the new tactic against the Gawda community called as 'Sugar Knife' but in Konkani called as "Sakharechi Suri¹³ and whole tribal societies were poisoned with the help of this tactic. The tribal initiation as an owner of land was diluted by 'Sugar Knife' and idea of land ownership was totally removed from their mind. Gradually at the passage of time the forest and the land controlled by the system 'Gaonkari' which were introduced by tribal fore-fathers, the ownership of the same was grabbed by the so called affluent class without the notice of tribal fore-fathers. But the land remained in the possession of tribal fore-fathers as care-taker not as an owner of land. Hence, there was no revolt against the land ownership or establishment of tribal rights on land.

During the Colonial time total tribal rights were abolished including the Social Order introduced by the fore-fathers of the Gawda community. The Gawda community was divided under two sections – Christian Gawda and non-Christian Gawda, so that they will never come together to fight for their own right on land. There was no enactment to protect tribal's land which was fraudulently were passed under Portuguese regime to high class people even after the liberation of Goa.

Comunidades Law impact on Tribal peoples during Portuguese Period and Status of Tribal peoples after post-liberation of Goa.

The Portuguese arrived with intention to establish their political rule and also trading with the East and India. They decided to collect the revenue from the Comunidades through taxes for the purpose of their survival. The foral charter introduced by the Portuguese ruler with intention to impose the taxes to the Comunidades. The Foral Charter was the first Portuguese legislative document which as directly regulated and interfered in the comunidades issue.

During the Portuguese period, the Legislative Diploma was clearly established the rights and privileges of the Gauncars. They also codified some of the rules and norms of the administrative, legal and monetary nature. They were made attempts to control and legislate upon the performance of the comunidades. The Portuguese government thought of codifying all legislations and as there is many small lawmaking enactments to make them into one single Code of Comunidades in 1880. Hence a verdict was issued making the Code of Comunidades in 1880, due to this it led to the getting of tax by the Portuguese Government which was called as Foro¹⁴.

After Post- liberation of Goa, the Panchayat System came into existence. Hence, the position of the Comunidade System and the Panchayat System became two equivalent systems in process in the Villages of Goa. The Comunidade system based on the socio-economic and socio-political system which as the supportive groups of the villagers. However, the Panchayat System based on the Socio-Political system and more of a democratic system .In earlier, the Comunidade system which was more of a socialistic system. Even after, the liberation state did not tried to restore back the land to indigenous people as they have insufficient documents to claim the ownership title of land.

Agriculture is the main occupation of Gawda, Kunbi, and Velip communities and as they are mostly depends upon agricultural land in Goa. The Gawda tribes deemed as original cultivators of agricultural land of Goa. Currently, very few Indigenous families have found enough ownership title of land.

Under such circumstances the Goa Tenancy act and Goa Mundkar act came into existence after post –liberation of Goa. Thereafter, the ownership right over land of tribal’s peoples was automatically deleted. The tenancy act was enacted for land to the tiller and the same government is preventing tenants from cultivating. According to the Goa Tenancy Act and Goa Mundkar Act, it stated that everyone had right to cultivate but they cannot hold joint titles along with the landlord.

When the state conducting the first survey, the majority of tribal people was unaware about the land survey, as a result they could not succeed in retaining their own land. Unfortunately, the person belongs to indigenous communities were not included in the ownership title of land in occupant column in the record of I &IV form of the survey plain.

However, in earlier the state had not recognized the older document of Matríz but it remain controversial remark about the clear title of land document to Scheduled tribes

of Goa namely Gawda, Kunbi, and Velip. Some of the indigenous communities had a tax payment receipt or Matriz document who had continued to pay the taxes during Portuguese Colonial Rule. After the liberation such kind of tax payment receipt documents were not recognized by the state.

These people had to ultimately loss their traditional occupation of cultivation of different crops on comunidade Land. The same authorities refused and denied to transfer the said land to the tribal communities for the purpose cultivation, even when these communities hold the necessary documents such as payment of taxes to that effect. Land is shown to be owned by local comunidades even after 75 years of possession and enjoyment of the land, the ownership title of the land is not granted to them. In similar some comunidade has refused to issue NOC to the Tenant to bring legal heirs on records of rights of I& IV Form, resulting in impediment in enjoyment of agricultural right and earning of the livelihood the tenants¹⁵.

In the South Goa district, sizable section of the tribal communities who were cultivating the molo was forcibly denied their agricultural rights by the local communnidade.

Suggestions and Conclusions:

The comunidade land is not state property but it's the property of the community. The role of the state is only to Administrative powers over the administration of the Comunidade. After post –Liberation of Goa, it can be seen that one of the important reasons behind encroachment of comunidade land is due to inefficient functioning of administration of comunidade. It basically concerned with the Curbing the menace of encroachment in the comunidade land. There should be need some strict laws to prevent the encroachment on comunidade land.

The Comunidade system also known as Gauncary system and it is duties of state to protected and preserved this system. The main purpose of comunidade system to maintained the religious institution, agriculture, fishing, horticulture etc.

During Colonial period, the tribal's people had lost their land or ownership title due to codification of Gauncary system into code of Comunidade. Many tribal's people Future depends on land but it needed for sustainable economic development and the degree of the self sufficiency. It said that livelihood of tribal people were depend upon the land and natural resources. But many traditional indigenous people were inhabited in forest lands in Goa and surviving by cultivating the crop on Kumeri land.

Even today they do not have any legal documents to prove the title of ownership of land and now their rights are unsecured. They also require more legal protection to claim the title of ownership of land or to prove the possession of land by their forefathers for many generations. Therefore, whatever the document of the tribal's people have has already Non-recognized by the state. The tribal people have some oldest documents known as matriz, as which was issued by the Portuguese government but this documents are insufficient to produce title of ownership of particular land in Goa.

Besides, there are huge number of land has been covered under possession of Comunidade in some of the talukas but majority of tribal people were cultivating crop only on comunidade land. Sometime the harassment and atrocity were committed by the authorities against tribal's people in Goa. Base on demand of tribal's their need to have land reforms to ensure the distribution of surplus lands to the land less tribal families.

There is a vast population of tribal Communities residing in different talukas. They are traditionally cultivating the crop on the Comunidade land. Their livelihood depends on land to use for cultivation purpose to survive the life. The Comunidade authority do not have right to deprive their livelihood. Therefore, the liabilities born to state to provide better protection of tribal rights and to enforce tribal laws in Goa, either by declaring Vth Schedule area or by implementing the tribal Sub-Plan in the State of Goa. Though many acts or codes are enforced in the State they are not too effective to deal with the better Security for tribal land in Goa.

When the state Government enforced Goa land revenue Code it did not take into confidence the Indigenous people in relation to land issues, culture, customs, traditions, and Usage. In historically the indigenous People have direct relationship with their land, natural resources and environment which is the true identity of tribal people.

The state Law commissions' has Key role to play for the purpose of recommending the state Government the amendments in relation to land laws to provide easier route and effective remedy in Provisions of land law to restore the tribal land. Therefore, the state law commission should take immediate Steps to make for amendments to different acts or codes of laws relating to land and to provide appropriate remedy for critical problems for protection of tribal rights over land but Government has always adopted the policy to neglect enforcement of law or implementation of tribal development policy in Schedule areas. The State also needs to design the appropriate remedy for bringing into amendments or inserting a new Provision to restore the tribal land. Under Such circumstance, Government has to

recognize old document known as Matríz because these document was issued during the Portuguese Colonial rule to tribal people who had the possession of land. It is duty of law Commission to forward the proposals to the state Government to modify and amend the laws for better protection in consonance with the proposed amendments of land laws. The Commission in its full wisdom is duty bound to forward the Government proposal to make amendments in certain laws including the Land Revenue Code 1968 and to frame Rules there under to carry out the Purposes mentioned in tribal's protection legislation. The state Government is supposed to show keen interest in tribal people and ensure that their rights are better protected.

Endnote

1. The word 'Comunidade' is a Portuguese appellation for Gaunkary.
2. Vijay Gawas, (2017), Human Right and Indigenous People in Goa, Broadway publishinHouse, panaji-Goa, pp at 5
3. Ibid
4. Village headman
5. Priest of tribal communities
6. Ibid at 5
7. Holy place
8. Ibid at 6
9. Class of special people
10. Liuse de Assis Corriea, (2006), Goa History from 10000BC-AD1958, published by Maur publish pvt.Ltd. panaji-Goa pp.at 25
11. Ibid
12. Ibid
13. See, https://en.wikipedia.org/wiki/Comunidades_of_Goa dated 12 /10/2018
14. Ibid at3
15. Ibid at14

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