

**CONSTITUTIONAL SAFEGUARDS AND WELFARE
MEASURES RELATING TO SCHEDULED TRIBES: A
CRITICAL STUDY WITH REFERENCE TO THE STATE
OF GOA**

A Thesis

Submitted to

GOA UNIVERSITY

In partial fulfilment of the requirement for the Degree of

DOCTOR OF PHILOSOPHY IN LAW

By

Vijay Madhu Gawas

Under the supervision of

Dr. K. Srinivasa Rao

B. A. LLM, Ph. D, PMIR&LW

Associate Professor & HOD

V.M. SALGAOCAR COLLEGE OF LAW

MIRAMAR, PANAJI, GOA

2020

DECLARATION

I hereby declare that this thesis titled **CONSTITUTIONAL SAFEGUARDS AND WELFARE MEASURES RELATING TO SCHEDULED TRIBES: A CRITICAL STUDY WITH REFERENCE TO THE STATE OF GOA**, submitted for the award of the **Degree of Doctor of Philosophy in Law**, to Goa University, Taleigao, Goa, is an original research work done by me.

I also hereby declare that this thesis or any part of it has not been submitted to any other University for the award of any Degree or Diploma or Fellowship.

Place: Panaji

Date:

Vijay Madhu Gawas

CERTIFICATE

This is to certify that the thesis titled **CONSTITUTIONAL SAFEGUARDS AND WELFARE MEASURES RELATING TO SCHEDULED TRIBES: A CRITICAL STUDY WITH REFERENCE TO THE STATE OF GOA**, submitted for the award of the Degree of **Doctor of Philosophy in Law**, is a record of the research work done by **Mr. Vijay Madhu Gawas** under my guidance and supervision during 2015 – 2019.

I certify that this is a *bonafide* work of **Mr. Vijay Madhu Gawas**.

Place: Panaji

Date:

Dr. K. S. Rao,
Research Guide
Associate Professor and H.O.D.,
V.M. Salgaocar College of Law,
Miramar, Panaji-Goa

ACKNOWLEDGEMENT

At the outset, I wish to express my immense gratitude to my guide Dr. K. S. Rao, Associate Professor and H.O.D, V.M. Salgaocar College of Law, Miramar, Panaji, Goa, for his most useful interaction, valuable guidance, suggestions, encouragement, and continuous inspiration to me throughout my research. And also for the tremendous work he undertook to read my entire thesis, and to make necessary alteration and corrections, which were responsible for the successful completion of this research study.

I wish to express my sincere thanks to Prof. (Dr). M.R.K. Prasad, Principal, V.M. Salgaocar College of Law, Miramar, Panaji, Goa, for his encouragement, help and support to me for the successful completion of this research study.

My sincere gratitude to Dr. G. Shaber Ali, Associate Professor & Coordinator for Research Centre, V. M. Salgaocar College of Law, Miramar, Panaji, Goa for his kind assistance and useful interaction, valuable guidance, suggestions, encouragement, and continuous inspiration to me throughout my research.

My profound thanks go to my DRC committee: Prof. (Dr) M. Vishwanth, Professor and Head P.G. Department of Studies in Law, Karnataka University, Law College, Dharwad, and also Dr. Kim Couto, Associate Professor, V.M. Salgaocar College of Law, Miramar, Panaji, Goa, for their insightful comments and guidance, but also their critical inputs, which helped me throughout my research work.

I wish to express my sincere thanks to my colleagues Mr. Ravaji Gaunkar, Assistant Professor, Department of Political Science, Goa University, for his valuable assistance to me in collecting data for the purpose of this study.

My sincere thanks to Dr. Anthony Rodrigues, Department of Commerce, Fr. Agnel College of Arts & Commerce, Pilar, Goa, and also to Dr. Alaknanda P.

Shringare, Assistant Professor, Department of Political Science, Goa University, for their valuable advice and suggestions on my research work.

My sincere gratitude to Adv. Guru Shirodkar for his valuable opinion and constructive suggestions on my chapter V, which helped shape my research work. His suggestions and critical views formed an underlying current in my thought process resulting in some pragmatic recommendations towards the end of this research.

I am highly indebted to Mr. Prakash Velip, Chairperson, Goa State Commission for Scheduled Castes and Scheduled Tribes, Panaji, Goa. I am very grateful to the official staff of several government departments and colleges, as well as aided colleges, for making available to me important statistical data for this research study.

My sincere thanks go to Mr. Mahesh Velip, Senior Assistant, General Administration, Government of Goa, Secretariat, Porvorim, Goa, for his kind assistance in procuring the relevant documents from his office.

I am very grateful to Dr. Geeta Nagvekar, Deputy Director, Department of Water Resources, Government of Goa, Porvorim, Goa, and Mr. Arvind Kuttkar, Additional Collector, Ponda, Goa, for sharing important statistical data for this research study.

I wish to express my sincere thanks to Mr. Durgadas Gaonkar, social activist and Ex-President of Gawda, Kunbi, Velip and Dhangar Federation, for his valuable opinion and suggestions for this research study.

I am very thankful to my friends, Mr. Anand Velip, Mr. Vithu Borkar, Dr. Keshav Duri, Mr. Devu Gaude, Mr. Laxmikant Zalmi and Mr. Gurudas Wadker for their cooperation and help whenever required to enable me to gather some of the requisite data during the period of my research work.

My big thanks go to Dr. Fatima M. Noronha for her sincere cooperation and help while editing my whole thesis.

My sincere thanks are due to Mr. Narayan Sitaram Gauns for his valuable advice, encouragement, and inspiration throughout my research.

I wish to thank in a special way my friend Mr. Clifford Fernandes for his help in the layout of my thesis.

I thank my brothers, Mr. Sitaram Madhu Gauns and Mr. Sapnil Madhu Gauns, for their valuable help in collecting and tabulating statistical data.

With all my heart I thank my father Shri Madhu Sitaram Gauns and my mother Smt. Sudha Madhu Gauns, who have always stood by me in my challenging moments and helped me through them with their prayers and encouragement.

A big 'thank you' to the Librarians and staff of Goa University, V.M. Salgaocar College of Law, Goa State Central Library, Central Library Karnatak University, Dharwad, and Goa Legislative Assembly Library, for their assistance and guidance to me, which I gratefully acknowledge.

I am very thankful to all those who have directly or indirectly helped me to complete this research work.

Vijay Madhu Gawas

CONTENTS		
	DECLARATION	i
	CERTIFICATE	ii
	ACKNOWLEDGEMENTS	iii-v
	CONTENTS	vi-x
	ABBREVIATIONS	xi
	LIST OF CASES	xii-xiv
	LIST OF STATUTES AND RULES	xv
CHAPTER-I		
1.	INTRODCTION	
1.1	Introduction	1-11
1.5	Significance of Study	11-13
1.6	Objectives of the Study	13-14
1.7	Review of Literature	14-24
1.8	Hypothesis of Research	24-25
1.9	Research Questions	25
1.10	Research Methodology	25-27
1.11	Limitation of Study	27
1.12	Scheme of Study	27-30
CHAPTER-II		
2.	THE EVOLUTION OF THE CONCEPT OF RESERVATION AND ITS RELEVANCE IN THE PRE-INDEPENDECNE.	
2.1	Introduction	31-31
2.2	Definition and Meaning of Reservation Policy	32
2.3.	Historical Background of Development of Reservation Policy	32-38
2.3.1	The Government of India Act,1919	38-39
2.3.2	The Simon Commission Report	39-43
2.3.3	Nehru Report 128	43-45
2.3.4	The First Round Table Conference	46-50
2.3.5	The Second Round Table Conference	51-52
2.3.6.	Poona Pact 1932	52-58
2.3.7.	Reservation Under Government of India Act,1935	58-62
2.4.	Conclusion	63
CHAPTER-III		
3.	RESERVATION TO SCHEDULED TRIBES-INDIAN CONSTITUTION	
3.1	Introduction	64-65
3.2	The Constituent Assembly Debates on Reservation Policy	65-76
3.3	Reservation policy after the Indian Constitution	77-78
3.3.1	Definition and identification of Scheduled Tribes under the Constitution of India	78-81

3.3.2	Reservation Policy-fundamental Rights	81-84
3.3.2.1	Reservation in Education Institutions	84-92
3.3.2.2	Reservation Policy in Service	92-108
3.3.3	Reservation Policy in Political Institutions	108-110
3.3.3.1	Time Limit of Law and Policy of Reservation Seats for Scheduled Tribes in Political Institution	110
3.3.3.2.	Reservation of Seats in Local Self-Government	110-111
3.3.3.3.	Reservation of Seats in Municipality	112
3.3.3.4.	Reservation of Seats in the State Legislative Assembly	113
3.3.3.5.	Reservation of Seats in The House of the People	113
3.4.	National Backward Classes Commission and their View	114-115
3.4.1.	Kaka Saheb Kalelkar Commission	115-118
3.4.2.	Mandal Commission Report	119-127
3.5.	Conclusion	27
CHAPTER-IV		
4.	EMPOWERMENT OF SCHEDULED TRIBES IN INDIA	
4.1.	Introduction	128-130
4.2.	Constitutional Provisions for Welfare of Tribal's and their Economic Development	130-139
4.3.	Steering Commission and Committee for Empowerment of Scheduled Tribes In India.	139-142
4.4.	Tribal Empowerment through five year Plans in India	142-147
4.5.	Centrally Sponsored Schemes for Students of Scheduled Tribes	147-148
4.6.	State and Tribal Rights: The Context and Historical Background.	149-152
4.7.	Welfare Schemes under Tribal Sub-Plan for Scheduled Tribes in The State of Goa	153-194
4.8.	Monitoring of the Tribal Sub- Plan	194-195
4.9	Conclusion	195
CHAPTER-V		
5.	ROLE OF GOA STATE COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES	
5.1.	Introduction	196-197
5.2.	Evolution of the National Commission for Scheduled Tribes in India	198-206
5.3.	Goa State Commission for Scheduled Castes and Scheduled Tribes Act,2010	206-211
5.4.	Legislative Framework for Protection of Rights of Scheduled Tribes	211-225
5.5.	Conclusion	225

6.	IMPLEMENTATION OF RESERVATION POLICY AND WLEFARE SCHEMES IN STATE OF GOA	
6.1	Introduction	227-228
6.2	Implementation of Reservation of Policy in the State of Goa.	228
6.2.1	Status of Reservation Policy in Government Departments	228-231
6.2.2.	Status of Reservation Policy in Educational Institution in Service Matters.	231-233
6.2.3	Status of Political Reservation for Scheduled Tribes in Panchayats	233-236
6.2.4	Status of Reservation Seats for Scheduled Tribes in Zilla Panchayats	236-237
6.2.5	Status of Reservation Seats for Scheduled Tribes in Municipal Elections	237-239
6.2.6	Status of Reservation Seats for Scheduled Tribes in Municipality Corporation City in Panaji	240-241
6.3	Allocation of Funds Under Tribal Sub-Plan to Government Departments in The State of Goa	241-244
6.3.1	Allocation of Tribal Sub-Plan Funds to the Directorate of Agriculture	244-245
6.3.2	Allocation of Tribal Sub-Plan Funds to the Directorate of Water Resources	245-246
6.3.3	Allocation of Tribal Sub-Plan Funds to the Directorate of Public Work Department	247-248
6.3.4	Allocation of Tribal Sub-Plan Funds to the Municipal Administration	248-249
6.3.5	Allocation of Tribal Sub-Plan Funds to the Directorate Of Social Welfare	249-250
6.3.6	Allocation of Tribal Sub-Plan Funds to the Directorate Of Education	251-252
6.3.7	Allocation of Tribal Sub-Plan Funds to the Directorate Of Electricity	252-253
6.3.8	Allocation of Tribal Sub-Plan Funds to the Directorate of Sports & Youth Affairs	253-254
6.3.9	Allocation of Tribal Sub-Plan Funds to the Women & Child Development	255-256
6.3.10	Allocation of Tribal Sub-Plan Funds to the Directorate of Health	256-257
6.3.11	Allocation of Tribal Sub-Plan Funds to the Directorate of Animal Husbandry And Veterinary Services	257-258
6.3.12	Allocation of Tribal Sub-Plan Funds to the Directorate of Forest	258-259
6.3.13	Allocation of Tribal Sub-Plan Funds to the Directorate of Rural Development Agency	260-261
6.3.14	Allocation of Tribal Sub-Plan Funds to the Directorate of Panchayats	261-262
6.3.15	Allocation of Tribal Sub-Plan Funds to the Directorate of Fisheries	262-263
6.3.16	Allocation of Tribal Sub-Plan Funds to the Directorate of Craftsmen Training Centre	264
6.3.17	Allocation of Tribal Sub-Plan Funds to the Directorate of Industry, Trade And Commerce	265
6.3.18	Allocation of Tribal Sub-Plan Funds to the Directorate of information Technology.	266
6.3.19	Allocation of Tribal Sub-Plan Funds to the Registrar Of Cooperative Societies	267
6.3.20	Allocation of Tribal Sub-Plan Funds to the Directorate of Skill Development & Entrepreneurship	268-269
6.3.21	Allocation of Tribal Sub-Plan Funds to Directorate of Art & Culture	269-270
6.3.22	Allocation of Tribal Sub-Plan Funds to Directorate of Tourism	270-271

6.4.	Empirical Study on the Performance of SC/ST Commission	271
6.4.1	Complaints of Atrocities on Scheduled Tribes	272-273
6.4.2	Complaints on Non-Implementing Reservation Policy	273-274
6.4.3	Complaints on Promotion for Non-Implementing Reservation	274-276
6.4.4	Disposed or Pending Rate of Complaints of other Issue	276-277
6.5.	Empirical Investigation into the State of SC/ST Commission, Implementation Constitutional Safeguards and Administrative of Schemes	278
6.5.1.	Opinion Survey of Complaints by Questionnaire Method	278-286
6.5.1.1	Suggestion Obtained from Complainants through Questionnaire	287-288
6.5.2	Opinion Survey of Tribal Leaders by Questionnaire Method	288-297
6.5.2.1	Suggestion Obtained from Tribal Leaders through Questionnaire	297-298
6.5.3.	Opinion Survey of Tribal People by Questionnaire Method	298-308
6.5.3.1	Suggestion Obtained from Tribal People by Questionnaire	308-309
6.6	Conclusion	309
CHAPTER-VII		
7.	CONCLUSION	
7.1.	Overviews	310-314
7.2.	Conclusion of the Hypothesis	314-317
7.3	Suggestion	317-321
7.4	Conclusion	321

BIBLIOGRAPHY		
	BOOKS	322-329
	ARTICLES	329-330
	STATISTICAL DATA	330
	REPORT	330
	CONSTITUTIONAL ASSEMBLY DEBATES	331
	CENSUS REPORTS/NOTIFICATIONS	331
	GAZETTES/GAZETTERS	331-332
	WEBSITES	333
ANNEXURES		
	ANNEXURE I – QUESTIONNAIRE 1	334-335
	ANNEXURE I – QUESTIONNAIRE 2	336-337
	ANNEXURE I – QUESTIONNAIRE 3	338-341

ABBREVIATIONS

Art.	Article
BPL	Below Poverty Line
CrPC	Criminal Procedure Code
CPC	Civil Procedure Code
CPA	Consumer Protection Act
DHE	Director of Higher Education
ERA	Equal Remuneration Act
GO	Government Order
GU	Goa University
IPC	Indian penal Code 1860
ITDP	Integrated Tribal Development Project
NCST	National Commission for Scheduled Tribes
NGO	Non-Government Organizations
NVO	Non-Voluntary Organization
MLA	Member of Legislative Assembly
MP	Member of Parliament
MFP	Minor Forest Produce
MOTA	Minister of Tribal Affairs
MWA	Minimum wages Act
PHRA	Protection of Human Rights Act
PTG	Primitive Tribal Group
PCRA	Protection of Civil Rights Act
SC	Supreme Court
ST	Scheduled Tribe
SCA	Special Central Assistance
SG	State Government
SCP	Special Component plan
TAC	Tribal Advisory Council
TRC	Tribal Research Centre
TD	Tribal Development
TSP	Tribal Sub-plan
TW	Tribal Welfare
UGC	University Grant Commission
UT	Union Territory

LIST OF CASES	
1	A.B.S.K.Sangh (Rly) v. Union of India, AIR 1981 SC298.
2	Ashok Kumar Thakur v. Union of India (2008) 6SCC1
3	Arati Ray Chaudhary v. Union of India, AIR 1974SC532
4	Anjan Kumar v. Union of India, AIR.2006, S.C.177.
5	Artiv v. State of J & K., AIR 1981SC1009.
6	Ajitsingh v. State of Punjab AIR1999sc3471
7	Balaji v. State of Mysore, AIR1963, SC, 649
8	Balaji v. State of Mysore, AIR (1964) SC 1823,1833
9	Bhup Singh v. State of Haryana and others AIR 1999SC
10	Charan Singh v.State of Punjab, AIR 1997SC1052,1054;(1997)1SCC151
11	C.A.Rajendran v. Union of India, AIR1968SC507(1968)1SCR721.
12	Champakam v. Union of India AIR1964SC1854
13	Chamorajav.State of Mysore, AIR1967 Mys.21
14	Dr.Neelima v. Dean of P.G.Studies, A.P.Agriculture University, Hyderabad, AIR 1993SC229
15	D.P.Joshi v. State of M.B, AIR1960SC1208
16	D.S.Nakara v. Union of India,AIR 1983SC130 (1983)1SCC305
17	Devadasan v.Union of India, AIR 1964 SC179
18	E.V.Chinnaiah v. State of A.P., AIR.2005SC.162
19	General Manger, Southern Rly.v.Rangachari, AIR1962SC36 (1969)2SCR586
20	Government of A. P v.Vijaya Kumar,(1995)6SCC520
21	Indra Sawheny v. Union of India AIR 1993 SC 477
22	Islamic Academy of Education v. State of Karnataka AIR (2003)6SCC697
23	Indira Sawhney and Others v. Union of India and Others, AIR (1992) SCC,182
25	Jagdish Lal v. State of Haryana AIR1997 SC 2366: (1997) 6 SCC538
26	Jagdish Saran v.Union of India, AIR(1980)2SCC660:AIR1972SC1375
27	Jankiparimoov. State of Jammu and Kashmir, AIR1973SCSCR236:1973(1) SCC420:1973(1) SLR 719:1973 Lab IC565
28	J.C.Mallick v. Ministry of RailwaysAIR 1995SC
29	JanaradhanSubbarayav.State of Mysore, AIR1963 SC702
30	Jayasreev.state of Kerala, (1976)3SCC 293: AIR1971SC1762
31	Khajan Singh v. Union of India, AIR, 1980, Delhi60
32	K. C. Vasanth Kumar v. KarnatakaAIR 1985 SC1495
33	K.S.JayashreeKumariv.state of Kerla AIR,1976SC23810:1976(3)SCC730
34	Kasambhai F.Ghanchi v.Chandubhai DRajput, AIR 1998 SC815
35	Meera Kanwariav.Sunita, AIR 2006SC.597
36	Maalkhan Singh v. Union of India, 1997SCC315
37	Meera Kanwaria v. Sunita & Ors. AIR (2006) (1) SCC344

38	MurlidharDayandeoKesekarv.VishwanathPanduBorde,(1995)2SCC549:1995(2)SCJ553
39	M Nagaraj & Others v. Union of India & Others (2006)
40	P.A.Inamdar and Ors. v. state of Maharashtra and Ors AIR2003, SC, 3724
41	Principle Guntur Medical College v. Y.Rohan.Rao,(1973)3SCC411
42	Preeti Srivastava v. state of M.P., AIR. (1999) SC2894
43	PGI of Medical Education and Research v.K.L.Narasimhan,(1997)6SCC283
44	P.Rajendran. v.state of Madras, AIR 1968 SC1012
45	Perriakaruppan v. State of T.N., AIR (1971) 1SCC38:AIR1971SC2303
46	P.G. I of Medical education & Research v.K.L.NarasimhanAIR1997 6SCC
47	Pradeepjainv.Union of India, AIR(1984)3 SCC 654
48	Parents Association v. Union of India, AIR 2000 SC845
49	P. A. Inamdar v. state of Maharashtra AIR2003, SC, 3724
50	Prithvi pai sing Bediv. Union of India, AIR 1982 S.C.1413
51	P&T Scheduled caste and Scheduled tribe's employee's welfare Assn. v. Union of India,(1988)4SCC147,151:AIR1989SC139,142
52	Post –Graduate Institute of Medical Education and Research Chandigarh v. faculty Association, AIR, 1998 4 SCC1
53	Rajesh Kumar Gupta v. State of U.P, AIR, 2005 SC.2540
54	R.Chitralekha v. State of Mysore, AIR1964 Sc1823
55	SobhaHymavati Devi v.SettiGangadharaSwany, AIR, 2005, SC.800
56	State of M.P v.Nivedita Jain,AIR1981SC1009
57	State of Madras v. champakamdorairajan, AIR.1951SC.226
58	State of M.P v.Mohan Singh, AIR 1996 SC2106
59	State of Andhra Pradesh v. P.Sagar, AIR 1968SC1379
60	State of Andhra Pradesh v. U.S.V. Balaram,AIR(1971)1SCC660:AIR1972SC1375,1395
61	State of U.P. v.PradipTandon,AIR(1975)1SCC293:AIR1971SC1762
62	State of Madras v. Shrimathi ChampakamDorairajan, AIR, 1951, SC 226: 1951SCR525:1951SCJ313
63	Suresh Kumar v. Union of India & others 1995(CAT-Chnadigarh)
64	S.B. I SC/ST Employer Welfare Association v.State Bank of India(1996)4SCC199
65	State of Kerala v.N.M.Thomas,AIR 1976 SC490(1976)2SCC310
66	State of Punajb v.HiralalAIR1976SC490
67	State of U. P,v.Prradhan Sangh Kshetra Samiti, AIR 1995SC1512:1995supp(2)SCC205
68	Sandhya Thakur v. Vimla Devi Kushwah, AIR 2005 SC909:(2005) 2SCC731:JT2005(1)SC566
69	Sanjeev Coke Mfg.co.v.Bharat Coal Ltd.,AIR 1983SC239(1983)1SCC147
70	Sir Manchegowdav.State of Karnataka, AIR 1984 SC1151, 1159

71	TrilokiNath& Another v. state of Jammu Kashmir &Others, AIR 1973SC930 (1973) SC1
72	TrilokiNathv.state of J&K, (1971) 1SCC38:AIR1971SC2303
73	T. M. S. Pai Foundation v. state of Karnataka AIR 2003SC355
74	Union of India v. Madhav, A I R 1997 S C 3074
75	Union of India v. Virpal Singh, (1995)6SCCC 684
76	Union of India & others v. Hari Singh Barkodia AIR1998 SCC137
77	Valsamma Paul v.Cochin University, (1996)3SCC.545
78	Vinod Kumar v. Union of India (1996) 6 SCC 580
79	Valsamma Paul v.Cochin University, AIR 1996SC1011, 1015:1996(3) SCC545
80	Venkataaramanav.State of Madras, AIR 1951SC229
81	Yusuf Abdul Aziz v. state of Bombay, AIR 1954SC.321

LIST OF STATUTES AND RULES	
1.	Bonded Labour System (Abolition) Act 1976
2.	Code of Civil Procedure 1973, Act No.05 of 1908
3.	Code of Criminal Procedure 1973, Act No.02 of 1974
4.	Child Labour (Prohibition and Regulation) Act, 1976
5.	Equal Remuneration Act, 1976
6.	National Commission for Scheduled Tribe Act, 2004
7.	Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
8.	The Constitution of India 1950
9.	The Protection of Civil Right (PCR) Act 1955
10.	The Consumer protection Act, 1986
11.	The Scheduled Castes/Scheduled Tribe (Prevention of Atrocities) Rule, 1995
12.	The Minimum Wages Act, 1948
13.	The Scheduled Castes/Scheduled Tribe (Prevention of Atrocities) Act, 1989
14.	The Panchayats (Extension to Scheduled Areas) Act, 1996
15.	The Prohibition of Employment as Manual Scavengers and other Rehabilitation Act 2013
16.	The Protection of Human Right Act 1993
17.	The Goa Commission for Scheduled Castes/Scheduled Tribe Act, 2010
18.	The Goa ,Daman and Diu Land Revenue Code , 1968
19.	The Scheduled Tribe and other Traditional Forest Dweller (Recognition of Forest Right) Act, 2006.
20.	The University Grants Commission Act, Act No.03 of 1956

CHAPTER-I

INTRODCTION

“Tribal people should be afforded opportunity to develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional culture”¹.

Verrier Elwin

1.1 INTRODUCTION

India’s tribal population constitutes 8.61% of the total population of the country according to the 2011 Census². More than 600 communities were recognized as tribes in all States,³ and notified as scheduled tribes under Article 342 of the Constitution of India. The five main regions of Tribal settlement are the country’s North-Eastern States; the Sub-Himalayan Region including North and Northwest India; Central and East India; Southern Regions and Western Regions.

The Tribal groups inhabit widely varying ecological and geo-climatic conditions (hilly, forest, desert, coastal regions etc.) in different concentrations throughout the country. Despite some regional variations, these tribal communities have essential characteristics in common, including primitive traits, geographical isolation, and distinctive culture, limited contact with the larger community, and economic backwardness⁴.

These Tribes, generally considered to be „indigenous people“, or „original settlers“, are called „Scheduled Tribes“ in Constitutional parlance. The term „Scheduled Tribes“ does not have a common boundary with such terms as Adivasis, Natives, Uncivilized People, Aborigines, Vanyajati, Adimjati, Grijan Janjati, Indigenous etc. The term Scheduled Tribes is administrative in nature and is used to govern specific provisions to safeguard the Constitutional rights and benefits of tribal people who have suffered from

-
1. Mehta Piarey Lal, *Constitutional Protection to Scheduled Tribes in India (In Retrospect and Prospects)*, (1991), 1st Edition, H.K. Publisher, Delhi, at 159.
 2. 2011 Census record Government of India, (2016), available at <http://.gove.in>, last visited on 12th March, 2016
 3. Ministry of Tribal Affairs, Government of India, (2016), available at <http://www.tribal.nic.in>, last visited on 12th March, 2016.
 4. Thomas John K, *Human Rights of Tribal’s -(Status of Tribal’s in India)*, (2005), Vol-I, Isha Book publisher, Delhi, at 1.

exploitation historically, and are more backward than others in certain respects.

For many centuries, the tribals have suffered all kinds of injustices silently, submissively, and helplessly, without resistance. Today, the Central and State governments have been paying special attention to the development of the tribal people.

1.2. Concepts of Tribes

Anthropologists and sociologists have attempted different definition of tribes. However, identity and ethnicity are dynamic and multifaceted concepts of tribes.

1.2.1 Tribe

The English term „tribe“ is derived from the Latin word *tribus*⁵. Tribals were sometimes referred to as the poor or the masses⁶. The word tribe, which denoted a community of persons claiming descent from a common ancestor, only appeared in the English language somewhere in the sixteenth century⁷. Many eminent scholars of sociology explained the term „tribe“ as a race of people who live in primitive or barbarous conditions⁸.

The popular notion of tribe emerged only with the expansion of colonialism, but before colonialism explorers to these continents spoke of peoples, kingdoms etc., who were later, named tribes⁹. During the nineteenth century, colonial administrators and anthropologists labelled the peoples of most parts of Africa and certain parts of Asia as tribals.

5. Ponda N.K, *Policies programmes and Strategies for Tribal Development*, (2006), Kalpaz Publications, New Delhi at 33.

6. *Ibid*

7. *Ibid* 6 at 33-34

8. *See, Supra Note 7*

9. Jaganathpathy, *Tribal Peasantry Dynamics of Development*, (1st Edition 1984), M.C. Mital, Inter –India Publication, New Delhi Pp, at 2.

In ancient Indian literature, there seems to be no equivalent for the English term „tribe“, except for the Sanskrit word „*janah*“ denoting an agglomeration of individuals forming a large group of a non-monarchical type, with a definite territory, kinship, common ancestry and common cultural patterns¹⁰. In the course of time, the food gathering communities and shifting cultivators were also added to the list of the tribes.

According to D. N. Majumdar, who was a pioneer in anthropological research in India, „a tribe is a collection of families or groups of families whose members have certain aspects in common. For instance, sharing a common name, occupying the same territory, speaking the same language, observing certain taboos regarding marriage, profession or occupation, and having developed a thoroughly gauged system of mutual dependence and mutual obligations¹¹.

Hence, it is clear from the above definitions that a tribe is a separate group of persons having their own identity and cultural traits. The tribals have their own mode of management to control their group or society. They have customary laws, which are unwritten, but they obey them strictly. In India, the native tribes have been divided and sub-divided into a large number of sub-tribes. They have endogenous and exogamous clans with their own culture, name, customs, lifestyle, vocational practices, etc.

The tribal communities represent an important social category of Indian social structure. They are often referred to as „tribals“, „primitives“, Adivasis and so on. There is no definition of the term scheduled tribe, but the Constitution refers to it.

10. *Ibid* 9 at 2.

11. Thomas John K, *Human Rights of Tribal's (Empowerment and protection of the Rights of Tribal's)*, (2005), Vol.-II, Isha Book publisher, Delhi.

1.2.2 Scheduled Tribe

During the British Colonial period, anthropologists and different eminent scholars have given an accurate definition of tribes in India. A tribe is „a collection of families bearing a common name, speaking a common dialect, occupying or professing to occupy a common territory, and is not usually endogamous, though originally it might have been so. “ This definition was specified by the *Imperial Gazetteer of India* (1911)¹².

Similarly, the impact of the Government of India Act, 1919 and Government of India Act, 1935 created a good number of partially and fully excluded areas. The tribes of India were considered to be Backward Classes, but later the term was used to denote the weaker sections of Indian society. Until 1919, they were termed the Depressed Class. After The Indian pro-administration committee 1919, a different nomenclature was attempted in the census reports. The first serious attempt to list primitive tribes¹³ was as in the case of depressed classes made in the census of 1931¹⁴. The tribes were categorized as backward tribes¹⁵ for the first time in the government of India Act of 1935. The census report 1941 referred them as tribes,¹⁶ and latterly the census report 1951 referred to them as scheduled tribes¹⁷.

The term „tribe“ has not been defined in the Constitution of India but the term „Scheduled Tribe“ was inserted in the Constitution, wherein the President of India has been empowered to specify the tribes or tribal communities by public notification¹⁸. Similarly, under the Constitution of India, the specific meaning of Scheduled Tribe is: such tribes or tribal communities, or part of or group within the tribes or tribal communities, as are

12. *Ibid*

13. *See, Supra Note 4 at 33*

14. Further the term of depressed classes according to the definition was laid down by the 1931 census. The censuses Commissioner of India comprises the specifying of criterion for classifying of depressed classes i: e all the persons who would pollute a caste Hindu by proximity or touch, all those who are forbidden to enter into the interior or ordinary Hindu Temples and those who are not allowed to draw water from the village wells.

15. *See, Supra Note 3 at 33.*

16. Behura N.K, *Panigrahi Nilakantha, Tribals and the Indian Constitution*, (2006), Prem Rawat for Rawat Publications, Jaipur p-6.

17. *See, Supra Note 9at 3*

18. Art.342 (1)

deemed to be a Scheduled Tribe for the purpose of the Constitution¹⁹. The procedures to be used to specify scheduled tribes have been prescribed in Article 342, which is reproduced below. The term „scheduled tribes“ was inserted in the Constitution vide Article 342(1) which empowered the President of India to specify tribal communities by public notification. In pursuance of this power the following presidential orders have been issued to include the list of Scheduled Tribes, and this order may be called the Constitution (Scheduled Tribes) order, 1950. Similarly, the President from time to time exercises the power given under clause (1) of Articles 342 of the Constitution when necessary to make an amendment, to issue an order, and this order known as the Constitution (Scheduled Tribes) (Part 'C' States) order, 1951. The President has the power to issue an order for the notification of the list of scheduled tribes, and this order is known as the Scheduled Tribes List (Notification) Order, 1956 etc. When the list of Scheduled Tribes was prepared in 1950, primitiveness and backwardness were the tests applied for specifying them as Scheduled Tribes.

The criteria specified under the Constitution of India have all the five essential characteristics of these communities required in order to be notified as a Scheduled Tribe, viz. primitive behaviour patterns, geographical isolation, distinctive way of life, limited contact with the larger community, and economic backwardness²⁰. Other characteristics may be added.

Significant committees relating to reservation in post-Independence India are as follows: The Backward Classes Commission (Kalelkar) 1955, The Advisory Committee on Revision of SC/ST lists (Lokus Committee) 1965, The Joint Committee of Parliament on the Scheduled Castes and Scheduled Tribes Orders (Amendment Bill) 1967, and The Chanda Committee 1969²¹. The

19. Art.366(25)

20. See, *supra* Note 18 at 1.

21. After a preliminary examination of the resultant proposals received from the States and Union Territories, this Committee was appointed by a Resolution of the Government of India in the Department of Social Security, dated the 1st June, 1965 (Appendix II),

Lokur Committee ²² was the first to specify the important features for a community to be categorized as a Scheduled Tribe.

The protection and promotion of the interests of the deprived sections is amply reflected in the Preamble of the Constitution which was amended in 1976.

1.3 Characteristic Features of Tribes

A number of anthropologists, different eminent scholars, commissioner reports of scheduled caste and scheduled tribes of India,²³ and convention reports had to emphasize the characteristic features of Tribes in India. The tribal groups which have been resisting acculturation or absorption, possess certain features which can be considered common features of the tribal groups²⁴. Normally, tribes live excluded from the civilized world, in the remote parts of forests and hills. They belong to one of these three categories: Negritos, Australoids and Mongoloids. They speak the same tribal dialect. They belong to a primeval religion called animism.

The most important element of this religion is the worship of spirits. Tribals practice ancient occupations such as hunting, gathering forest produce, gleaning, etc. They are mainly carnivorous in their food habits i.e. they are primarily eat meat or flesh. They live naked or clothe themselves with leaves or the bark of trees. They are nomadic in their habits. They have distinctive cultural practices, including music and dance, as well as recreational drinking.

22. *See, supra Note 21*

23. As per Article 338(1), the president of India appointed L.M.Shrikant as the first Commissioner (special Officer) on November 18, 1950. The Report states that caste in Hindu society is still the most powerful factor in determining a man's dignity. Such as the caste system is not found anywhere in India and all such professions involve handling of the so-called dirty jobs are allotted to some castes also known as Harijans. It further observes, by the force of habit the Harijan has lost self-respect to such an extent. The L.M.Shrikant as the first Commissioner, undertook an extensive tour to get first-hand information about the dalits. These reports show that historically the development of the dalits problem is continuing on the same pattern as in the past.

24. Thakur Devendra, Thakur D.N, *Tribal life and forest (Tribal life in India)*, (1994), Deep & Deep publication, New Delhi, at p-1,

1.3.1 Characteristics of Tribal Society

The tribe resides in and lives within a specific and common geographical space. The member of a tribe possesses a consciousness of mutual unity and speaks a common language. Till very recently the members of tribal societies used to have strictly inter-tribal marriages, but now due to increased contact with non-tribals there are instances of tribals marrying outside tribal groups as well. A tribe believes in ties of blood among its members. The tribals follow their own political and religious organization which maintains social harmony. Religion is of great importance to them. It even forms the crux of the tribal political and social organization which is granted religious sanctity and recognition.

1.4 Constitutional Provisions and Legislative Framework for the Protection of the Scheduled Tribe

An outline of the Indian Constitution is provided in the Preamble, Fundamental Rights, and Directive Principles of State Policy. In 1950, the Constitution of India was adopted. This gave every member of the Scheduled Tribes the same rights as any other citizen of India. The Constitution of India gave all the citizens of India significant principles of justice, equality, liberty and fraternity.

The Government of India has taken several steps to adopt a policy of integration and advancement of tribal communities aiming at equality, economic viability, upward mobility, and guaranteed proximity to the national mainstream.

The Constitution has committed the nation to two courses of action in respect of Scheduled Tribes: firstly, protection of their distinctive way of life; and secondly, protection from social injustice and all types of exploitation and negative discrimination. With this in view, the Constitution therefore made a Special Provision which as broadly falls into three parts i.e. protective safeguards, developmental safeguards and political safeguards.

1.4.1 Protective Safeguards

Though the Constitution of India does not provide for any direct protection to the Scheduled Tribes, there are certain provisions and safeguards for backward classes and especially for Scheduled Castes and Scheduled Tribes.

The Indian Constitution in its Preamble guarantees equality of status to all. Article 15(1) of the Constitution, clearly indicates that „the State may be prohibited of discrimination on grounds of religion, race, caste, sex, and place of birth or any of them to any citizen of India²⁵. Article 15(4) and Article 46 of the Constitution gives special powers to the State to make special provisions for the improvement and development those who are socially and educationally weak²⁶.

In other words, though discrimination on the ground of caste only is prohibited by clause (1) of the Articles, it would be permissible under clause (4) for the State to reserve seats for the members of the backwards classes or of the Scheduled Castes or Tribes or to grant them fee concession in public educational institutions²⁷.

The Constitution of India has given a wider interpretation of equality of opportunity; all citizens of India shall be eligible for employment or appointment to any office under the State²⁸. The State may reserve any post or appointment for any citizen belonging to a backward class according to them who is not adequately represented in the services under the State²⁹. Article 16 (4A) deals with the power of the State „to make a special provision in favour of Scheduled Castes and Scheduled Tribes projected for reservation in matters of promotion of any class or classes of posts in the service under the State. Moreover, Articles 23 concerns the prohibition of beggary or forced labour or system of Bonded Labour related to Scheduled Tribes.

25. Basu Dr. Durga Das , *Introduction to the Constitution of India*, (2007), (19th edition Reprinted), Wadhwa and company Law publisher, Delhi, pp- 92,

26. *Ibid* 25 at 93

27. *Ibid*

28. Art. 16

29. Art. 16(4)

The Constitutional Mandate to Protect the Right to Conserve Distinct Language, Script or Culture ³⁰. There are several Articles under Directive Principles of State Policy which directly or indirectly secure the interest of Scheduled Tribes.

There is a provision in the Constitution for the establishment of a National Commission for Scheduled Tribes „to investigate, monitor and evaluate all matters relating to the Constitutional safeguards provided for the Scheduled Tribes³¹. In addition, „the President may appoint at any time a Commission to report on the status of the administration of the Scheduled Areas, and the improvement of the Scheduled Tribes in the States after every ten years of the commencement of the Constitution³². As per Article 342, the President may notify any tribes or tribal communities deemed to be Scheduled Tribes.

1.4. 2 Developmental Safeguards

The safeguards for the people belonging to tribal communities are in the socio-economic spheres. The Constitution of India ensures financial aid under the Consolidated Fund ³³ of India each year for promoting the welfare of Scheduled Tribes. In the pursuance of the Constitutional obligation „to provide funds through the Central Sector Scheme Grants under article 275(1) of the Indian Constitution to the states³⁴.

1.4.3 Political Safeguards

The Constitution also provides for the reservation of seats for Scheduled Tribes in Parliament³⁵ and the Legislative Assemblies³⁶. In addition, Article 164 has made a special provision for the appointment of a Minister in charge of Tribal Welfare. Initially, the Constitution of India lay down the provision

30. Art. 29 (1)

31. Art. 338- A

32. Art.342

33. Art. 275(1)

34. *Supra Note*33

35. Art. 330

36. Art.332(1)

for a continued period of the reservation of seats for the Scheduled Tribes in the parliamentary election as well as the same in the legislative assemblies, which has been extended after every ten years through constitutional amendments from the date of the commencement of the Constitution³⁷.

Article 243D and Article 243T of the Constitution provides for reservation of seats for the Depressed Class proportionate to the total population of that Panchayat or Municipality.

1.4. 4 Legislative Enactment

To fulfil the Constitutional provisions pertaining to Scheduled Tribes, India has passed various laws to protect their rights. These include the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1985; the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995; the Bonded Labour System (Abolition) Act, 1976; the Child Labour (Prohibition and Regulation) Act, 1986; and the Forest Conservation Act, 1980. In addition, some of the wider measures which benefit the Scheduled Tribes include the Panchayat Raj Act, 1996; the Minimum Wages Act, 1984, etc. The National Commission for Scheduled Tribes was established by the Central Government to monitor enforcement of these laws.

1.4.4.1 State Legislative Enactment

While upholding the Constitutional mandate, the State of Goa also has taken several legislative measures to ensure the protection of the rights of tribals. The Goa Land Revenue Code Act 1968, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rule Act, 2012 are some of these legislative measures. The State Commission for Scheduled Castes and Scheduled Tribe was established by the State government to monitor the enforcement of these laws.

³⁷. Art. 334

1.5 Significance of the Study

The Schedule Tribes have faced many challenges not only social, economic, and educational, but also in the political arena. The important problems of tribal people are that the concept of the reservation policy is not properly fulfilled, and other welfare measures are not implemented.

This study is based on the provisions of the Constitutional safeguards and other welfare schemes for Scheduled Tribes in the State of Goa. In addition to the above provisions, the judicial response with regard to reservation is discussed. *A Study of Constitutional Safeguards and Welfare Measures relating to Scheduled Tribes: A Critical Study with Reference to the State of Goa* is important for the following reasons:

- (i) The concept of reservation is designed to provide opportunities to the various disadvantaged castes and tribes, in government jobs and enrolment in higher educational institutions. The object of reservation is primarily to address the historic oppression, inequality and discrimination faced by those communities and to give these communities a place to realize the promise of equality enshrined in the Constitution.
- (ii) Reservation is a pedestal for the unequal's in a society. As long as inequality prevails in a society, the need for reservations will continue. In a democratic set-up, it is essential that all sections of society get economic and social justice along with equality of status and opportunities.
- (iii) The ambitions of our Constitutional fathers of delivering social, economic and political justice at every doorstep of this vast country, their resolve to wipe every tear from every eye, are still a distant dream. Are not these huge gaps symptoms of underdevelopment within our democracy? The added importance of reservation and social welfare schemes in such a socio-economic milieu cannot be over-emphasized.

- (iv) India is a developing country, rather the most prominent and promising amongst the developing nations on the globe. Reservation for the destitute and the deprived members of developing societies is essential. It is for this basic reason that the importance of reservation and welfare schemes in India cannot be ignored.
- (v) Merely enacting a reservation policy is not enough on the part of the State. It has also to see that implementation of the policy is done to achieve the objective of social justice.
- (vi) Therefore, reservation is not a charity or a chance but a Constitutional mandate to the State. Reservation and social welfare schemes become the means to achieve social justice only when they become accessible to their targets and when the latter are able to take advantage of the impartiality and integrity of the system.
- (vii) Tribal people in the State of Goa are facing difficulties in availing of the benefits of various schemes due to the complexity of the procedure to avail of the benefits.
- (viii) There is no research work in Goa on the legal aspect of the Schedule Tribes' rights. This research study will be a pioneer work in the field which will further motivate students and researchers in future. The significance of the study lies in the fact that it is the first study of its kind in the State of Goa focusing on the policy, law and practice in respect of Constitutional safeguards and welfare measures for Scheduled Tribes.
- (ix) It has become imperative to carry out a scientific study of the effectiveness of reservation in the State of Goa. The present study will identify the parameters and constraints of social justice given to Schedule Tribes. It will also focus on the strengths and weaknesses of the existing legislations in the State of Goa for Scheduled Castes and Scheduled Tribes.

1.6 Objectives of the Study

The general objective of the present research is to study the concept of reservation and other constitutional safeguards to Scheduled Tribes in India, and their application in contemporary Goa. In studying the said objective, this research attempts to examine the policy, law and practice on the issue of safeguards to Scheduled Tribes. The research further aims to study the prevailing policy of reservation and the legal regime governing welfare schemes, and analyses the gaps between the Constitutional promise and institutional response towards the welfare measures.

The institutional response is examined by carrying out an empirical study of government departments, and educational institutions in the State of Goa. The purpose is also to examine whether the prevailing regime is sensitive enough to the rights of Scheduled Tribes in the State of Goa. The research will also help the reader to understand the various methods of recruitment in service, and the preparation of department-wise rosters. The researcher also undertakes to study the major impact of the implementation of the political reservation policy in the State of Goa. This research study will find out the constraints and parameters for non-utilization of reserved development funds for the welfare of the tribal community.

This study is also intended to help evolve a humane approach to development by enriching knowledge in this particular area of study. The present study consists of the following objectives:

- i. To review the Constitutional safeguards for Scheduled Tribes in India and other legislative provisions from the perspective of the tribal community.
- ii. To evaluate the implementation of the reservation policy for Scheduled Tribes in the State of Goa.

- iii. To evaluate the role of the Goa SC & ST Commission in preserving and promoting social justice in the State of Goa.
- iv. To evaluate State level policies with respect to the welfare of tribal communities.
- v. To propose a working model to improve the implementation of the reservation policy and social welfare schemes in the State of Goa, and to suggest a proper course of action.

1.7 Review of Literature

Research is a continuous process, which is always inclined to probe for facts of the empirical world and confirm the truth of investigations by accepting or correcting the existing theories. Taking the advice of Dr. Myneni, S. R.,³⁸ that formulating and defining the research problem is an important step, the present researcher has read through some of the law books, journals, and research articles related to Constitutional safeguards and welfare measures for the Scheduled Tribes in India.

The review of existing literature, in other words, tracing the past as well as the current literature of research through planned investigation, is a major step in a research study. A review of existing literature also exposes amply the existence of research gaps. This research study is undertaken in order to fill a research gap on the various dimensions of the Constitutional safeguards relating to the Scheduled Tribes.

In a different type of study, Prof. Ram Naresh Chaudhary³⁹ analyses the vision of social justice in the Indian Constitution and contrasts it with the plight and needs of the oppressed by an extensive foray into the historical, Constitutional, and sociological contours related to both ideals and realpolitik.

38. R. Dr.Myneni, S. *A Legal Research Methodology*, (2014), Allahabad law agency, Haryana.

39. Chaudhary Prof.Ram Naresh, *Dr.Ambedkar's Vision of Social justice in Indian Constitution*, (2004),Legal Publications ,New Delhi.

Anil Kumar Bajpati,⁴⁰ in his study on the judicial responses to the problem of reservations in India, highlights how the reservation policy helps to improve the socio-economic and political life of the underprivileged groups. His study also analyses the judicial interpretation of the reservation policy in India.

In another study, Aloysius Irudayam SJ and Jayshree P. Mangubhai⁴¹ trace the causes of various problems faced by tribals. Apart from analyzing the various kinds of atrocities that are committed against tribal persons, this book also highlights the lack of socio-economic development as well as the exploitation of tribals in different villages.

The Indian Constitution symbolizes the concept of social justice, as Dr. B.R. Ambedkar, the father of the Constitution has enshrined it in the Preamble and Part III of the Constitution which deals with fundamental rights and Part IV which deals with the Directive Principles of State Policy. Constitutional social justice, with reference to SCs and STs, is the main focus of the study conducted by C.B. Raju⁴².

Dr. J.N. Pandey⁴³ makes an in-depth analysis of the Constitutional provisions, and judgments delivered by various courts in India⁴⁴. He also discusses the Constitutional provisions and historical background of the Constitution of India⁴⁵.

40. Baipati Anil Kumar, *Judicial Responses to the problem of Reservations*, (1995), Banerje for Khama, DaryanGanji Publication, New Delhi.

41. SJ Aloysius Irudayam, Mangubhai Jayshree P., *Adivasis Speak Out, Atrocities against Adivasis in Tamil Nadu*, (2004), Book for Change publication, Bangalore.

42. Raju C.B., *Social justice and the Constitutional of India (with reference to SC's and ST's)*, (1st Edition 1995), Banerjee for Khama, publication, New Delhi.

43. Pandey J.N., *Constituted Law of India*, (2003), Central Law Agency publication, Allahabad.

44. Pandey. Dr.J.N. *Constitutional Law of India*, (41th Edition 2004), Central Law Agency publication, Allahabad-2.

45. Pandey. Dr.J.N, *Constitutional Law of India*, (44th Edition 2007), Central Law Agency publication, Allahabad-2.

G.S. Pande⁴⁶ deals with the Constitutional Law of India (up to the Ninety-Third Amendment) and aspects of Constitutional safeguards. He discusses the Constitution of India as the supreme law of the land. He observes that socio-economic justice has been transformed by several articles, specifically in Part III and Part IV of the Constitution.

Anirudh Prasad, Chandra Sen and Pratap Singh⁴⁷ study the reservation policy, its practice and its impact on society, with a focus on the depressed Classes in India. The writers analyse the judicial interpretation of the reservation policy in India. The policy, they conclude, attempts to ensure that certain underprivileged groups are represented in service, but also share in the governance of the country, according to the notions of Dr. B.R. Ambedkar and the Mandal Commission report.

Amartya Sen⁴⁸ deals with the idea of justice. He discusses the theory of justice in a very broad sense. He attempts to clarify how we can proceed to address questions of enhancing justice by removing injustice rather than by resolving questions about the nature of perfect justice.

Lalita Prasad Vidyarathi and Binay Kumar Rai⁴⁹ have written extensively on the different aspects of tribal culture in India. They have done extensive and in-depth research into the tribal life in India from an anthropological perspective. They also discuss the economic status of tribal people, empowerment, and strategies for the development of tribal people in India. The study also highlights the poverty and exploitation of the Scheduled Tribes in India.

46. Pande G.S, *Constitutional Law of India (As Amended up to Ninety-Third Amendment)*, (Tenth Edition 2007), Vol-I, University Book House(p)Ltd. Publisher, Jaipur.

47. Prasad Anirudh, Singh Pratap, sen Chanrda , *Reservation: Policy Practice and its Impact on Society, on Society scheduled Castes, scheduled Tribes and other Backward Classes*, 1st edition 2016, Vol-I, & Vol-II, Kalpaaz Publications, Delhi.

48. Sen Amartya, *The Idea of Justice*, 2009, Penguin Group, England.

49. Vidyarathi Lalita Prasad, Rai Binay Kumar, *The Tribal Culture of India*, 1985, Concept Publishing Company, Delhi.

L.M. Khanna⁵⁰ in his book on Indian social justice, takes a good look at the socio-economic life of the backward classes. The book also deals with the Constitutional background of compensatory discrimination in favour of the backward classes, with a focus on relevant articles of the Indian Constitution and various judgments related to the backward classes.

Mahesh Kumar, K.R. Tyagrajan, R.V. Manoj Sharma⁵¹ deal with the complex concepts of the Indian Constitution, and discuss the many amendments which have been made to the Constitution since its inception. The authors provide in-depth information about the Indian legal provisions, and the sound judicial system in India, especially the Supreme Court and the High Courts.

In his book on V.N. Shukla's *Constitution of India*, Mahendra P. Singh⁵² discusses the various provisions of the Constitution as interpreted by the High Courts and Supreme Court of India. He also highlights the number of amendments brought by Parliament and judicial review thereon.

N.K. Behura, Nilakantha Panigrahi⁵³ in their book on tribals and the Indian Constitution, discuss the tribal communities in India at different levels of socio-economic development and their distinct socio-cultural identities. They make an in-depth study of the causes of the backwardness of Scheduled Tribe communities in India. They highlight that Indian Union as well as the states are committed to ensure the implementation of the Constitutional provisions for their development.

P.M. Bakshi provides a brief discussion on the various provisions of the Constitution and important decisions of the apex court and high courts including a landmark decision of the Constitutional bench of the Supreme

50. Khanna L.M, *Indian Social Justice: A Case for Review*, 2014, Partridge Publishing, India.

51. Kumar Mahesh Kumar, Tyagrajan K. R, Sharma R.V. Manoj, *Indian Constitution*, (2011), Anmol Publications Pvt..Ltd, New Delhi.

52. Singh Mahendra P, *V.N.Shukla's Constitution of India*, (2008), Eastern Book Company, Lucknow.

53. Behura N.K., Panigrahi Nilakantha, *Tribals and the Indian Constitution*, (2006), Prem Rawat for Rawat Publications, Jaipur, India.

Court of India⁵⁴ . The book also contains accurate details relating to all the Constitutional amendments⁵⁵.

Vijay Hansaria ⁵⁶ deals with the Sixth Schedule to the Constitution operating within the jurisdiction of the North-Eastern states. He highlights the case laws from various high courts of the North-East apart from the Supreme Court, in cases covered by the Sixth Schedule. He also discusses the administration of justice in North-Eastern states, the different schemes for tribal areas and non-tribal areas and the important role of the District Council.

Dr. Subesh C. Kashyap, in his two-volume book, deals with the Constitutional Law of India. The book reflects his vast knowledge of the matter. His study analyses the historical background, to provide an understanding of the concepts of the Indian Constitution. He discusses important aspects of the Preamble, fundamental rights, directive principles of state policy, and also aspects of the legislature, executive and judiciary⁵⁷.

Trimbak Krishna Tope provides a commentary on the Constitution of India. He highlights important provisions and gives interpretations of several sensitive Constitutional issues⁵⁸.

Dr. S.P. Meena examines questions relating to the human rights of tribals. The study points to the urgent necessity to protect the dignity of tribal people and their human rights, while also respecting their cultural and social identity. He highlights the violation of fundamental rights, particularly State brutality that has been perpetrated on tribal people, especially tribal women.⁵⁹

54. Bakshi P.M. *The Constitution of India: With Comments & Subject Index*, (1995), Universal Law Publishing Co.Pvt.Ltd., New Delhi.

55. Bakshi P.M, *The Constitution of India*, (2010), Universal Law Publishing Co.PVT.LTD, New Delhi.

56. Hansaria Vijay, *Sixth Scheduled to the Constitution*, (2010), Universal Law Publication Co.pot Ltd., New –Delhi.

57. Kashyap Dr. Subesh C, *Constitutional Law of India*, (2008), Universal Law Publishing co.pvt. Ltd, Delhi.

58. Tope Trimbak Krishna, *The Constitution of India*, (Third Edition.1971), G.R.Bhatkal for Popular Prakashan, Bombay.

59. Meena Dr.S.P , *Human Rights of Tribes: Problems and Perspective* ,(2015), Pointer publisher ,Jaipur.

P.P. Vijayan, in his book on the reservation policy and judicial activism, deals with Constitutional safeguards for the depressed classes by way of reserved jobs in government service, and educational and political institutions. He also discusses some of the policy's social, economic, political, cultural, administrative and legal ramifications⁶⁰.

S.N. Singh's *Reservation Policy for Backward Classes*⁶¹ discusses the status of backward classes in India. Tracing the history of the reservation policy in India, it considers what would be a fair percentage for representation of the depressed classes in government service, education, and political institutions.

Mamta Rajawat⁶² in her book deals with the depressed classes denied their rights in the social, economic, political and cultural spheres of life. Her study highlights the various laws and provisions that the Government of India has enacted to protect the depressed classes in India. However, according to her observation, the state machinery often proves to be ineffective to protect the rights of the depressed classes.

Dr. R.K. Kshirsagar, in his book *Reservation: A Quest for Justice*⁶³ observes that the Constitution has pledged to raise the weaker sections of society to a higher level by providing certain protective safeguards. He points out that the quest for justice is in vogue with the help of Constitutional safeguards.

Adv. K.K. Jayashankar and Philip Johnson⁶⁴ show that the Constitution, which lays down the basic structure of the nation's policy, is built on the foundation of certain fundamental values. They argue that the Preamble, the fundamental rights section and the Directive Principles are the soul of the Constitution.

60. Vijayan P.P, *Reservation Policy and Judicial Activism*, (2006), Kalpaz Publication Delhi.

61. Singh S.N, *Reservation Policy for Backward Classes*, (1996), Rawat Publication, Delhi.

62. Rajawat Mamta, *Dalit and Law (Encyclopaedia of Dalits in India Series)*, (2005), Anmol Publication Pvt.Ltd, New Delhi.

63. Kshirsagar Dr.R.K , *Reservation: A Quest for Justice*, (2013), Kalpaz Publication, Delhi

64. Adv. K.K.Jayashankar, Philip Johnson, *Constitutional Law*, (2011), Pacific Books International, Delhi .

M.H. Makwana and Richard Pais,⁶⁵ focus their study on issues of social inequality and Constitutional safeguards for backward classes. They also look at the reservation policy based on social justice and the policy's historical Constitutional background. They discuss the benefits of the reservation policy and the important role of the beneficiaries in social change. Sita Ram⁶⁶ discusses Dr. Ambedkar's contribution to the structure of the Constitution of India. A pertinent observation is that without equality it is very difficult to maintain unity in the country. The study focuses on the Dr. B.R. Ambedkar's ideology and his efforts to incorporate the reservation system into the Indian Constitution, to create a social balance based on religious, gender and caste equality.

Dr. I.S. Vidyasagar, in his book *Concept of Humanism of Dr. Ambedkar*,⁶⁷ offers a life sketch of Dr. Ambedkar who faced many adversities and challenges right from childhood. He shows that Dr. Ambedkar was not only thinker but he was also an activist in the social, economic and political fields. He focuses on Dr. Ambedkar's great contribution to the structure of the Constitution of India.

Dr. Pallavi Gupta, in her book *Backward Class Reservation and Concept of Creamy Layer*⁶⁸ deals with indicators of socio-economic life among the Backward Classes. Her study focuses on the cultural pluralism of various religions, castes, languages and regions. She highlights the fact that social, educational and economic inequalities have existed from time immemorial in different social segments of society in India, and that „backward“ classes suffered through the ages due to caste prejudices.

65. M.H.Makwana, Richard Pais, *Backward Classes and Social Justice*, (2011), Rawat Publications, New Delhi.

66. Sita Ram, *Dr.B.R. Ambedkar on Constitutional Maker*, (2010), current publication Agra, (u.p).

67. Dr.I.S.Vidyasagar, *Concept of Humanism of Dr.Ambedkar*, (1st Edition.2005), ABD Publishers ,Jaipur.

68. Gupta Dr.Pallavi, *Backward Class Reservation and Concept of Creamy Layer*, (2012), Deep & Deep Publications ,New Delhi.

Dr. Shyam Shanker Prasad Gupta ⁶⁹ provides a discussion on Ambedkar and caste politics in India. He examines the dehumanisation of the underprivileged in Indian society, and shows the importance of human rights, social freedom and political safeguards in overcoming caste-based discrimination. In the fight against the caste system, to achieve equality and freedom of status, the important role played by Dr B.R. Ambedkar cannot be over-emphasised.

Vikram Singh Jaswal and Shweta Jaswal,⁷⁰ in their book *Justice V.R. Krishna Iyer's Concept of Social Justice*, portray social justice as the abolition of various types of discrimination. The book examines Justice Iyer's views on social, economic, political and cultural justice.

J. Prabhash's *Affirmative Action and Social Changes*⁷¹ examines the positive changes brought about by affirmative action. As a Constitutional mandate, the reservation policy brings social and economic benefits to the traditionally downtrodden groups in Indian society, namely the Scheduled Castes and Scheduled Tribes, and Other Backwards Classes. Thanks to affirmative action, many members of the depressed classes have succeeded in moving to higher positions.

V.K. Garg⁷² covers the caste system and untouchability in India, and the mismatch between the laws and their enforcement. Although the Constitution has abolished the practice of untouchability in India, he points out, the anti-untouchability laws are not enforced seriously by the bureaucracy and judiciary. Moreover, the people are also divided based on caste and religion. He also mentions certain judgments concerning reservation quotas and judgments for fine tuning their implementation.

69. Gupta Dr. Shyam Shanker Prasad, *Ambedkar and Caste Politics in India*, (2010), Centrum press, New Delhi,

70. Jaswal Vikram Singh, Jaswal Sweta, *Justice V.R. Krishna Iyer's Concept of Social Justice*, (2011), Deep & Deep Publication Pvt.Ltd, New Delhi.

71. Prabhash. j, *Affirmative Action and Social Changes*, (2001), Anmol publication Pvt.Ltd, New Delhi.

72. Garg V.K, *Untouchability and Caste System*, (2011), Alfa Publications, New Delhi.

K.D. Purane, in his book *Untouchability and the Law: The Ground Reality*,⁷³ surveys the literature on Hindu society and untouchability. He discusses the philosophy of the Constitution and important pieces of legislation in India, as well as the history of the Protection of Civil Rights Act, 1976, and other important Acts related to the protection of the depressed classes.

T.R. Naval, in his book *Legally Combating Atrocities on Scheduled Castes and Scheduled Tribes*,⁷⁴ explores the history of the practice of untouchability and the commission of atrocities against the depressed classes. He analyses the origin of the caste system, and the factors responsible for atrocities and other problems faced by the depressed classes in India.

R.N. Choudhry and S.K.A. Naqvi, in their book *Commentary on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*,⁷⁵ examine the implementation of this Act. They highlight the important function this Act has played as a legislative measure intended to do justice to members of the Scheduled Castes and Scheduled Tribes.

Neepa Jani, in her journal article *Article 21 of the Constitution of India and Right to Livelihood*,⁷⁶ opines that the tribals in India are assured of all facilities to develop themselves free from traditional restrictions. The article focuses on the right to life, including the right to livelihood and work, as guaranteed under Article 21 of the Constitution.

73. Purane K.D, *Untouchability and the Law: The Ground Reality*, (2000), Gyan Publishing House, New Delhi.

74. Naval T.R. *Legally Combating Atrocities on Scheduled castes and Scheduled Tribes*, (2004), Concept publishing Company, New Delhi.

75. Choudhry R.N, Naqvi S.K.A, *on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*, 2012, orient Publishing Company, New Delhi.

76. Jain Neepa , *Articles 21 of Constitution of India and Rights to livelihood*, (2013), Vol. 2 Issue 2, Voice of Research publication.

Dr. P. Subramanyachary, in his article entitled *Status of Scheduled Tribes in Andhra Pradesh*⁷⁷ says that the tribals have peculiar characteristics such as primitive traits, distinctive culture, being shy of contact with other communities, backwardness, and geographical isolation.

He discusses the need to focus more on the development of the Scheduled Tribes, and the need to implement the different programmes and schemes in every state where there is a larger tribal population. His study also highlights the lack of nutritious food, the ineffective of implementation of schemes, a lower literacy rate and high drop-out rate, and the lack of health facilities in the tribal areas.

Dr. Badal Sarkar⁷⁸ says that the Constitutional provisions are essential and are living instruments for the Scheduled Tribes. In his article he discusses the Constitutional provisions for tribal development under five categories: social, economic, political, service, educational and cultural rights.

Gaurav Redhal and Upasana Dahiya, in their article, *Rights of Tribals in India with Respect to Access to Justice*,⁷⁹ analyse the various provisions inserted into the Indian Constitution to improve the life of the Scheduled Tribes, and the contribution of the judicial system to this improvement.

Seetha Kakkoth, in her article *The Primitive Tribal Groups of Kerala: A Situational Appraisal*,⁸⁰ examines the five tribal communities categorised as primitive tribes in the State of Kerala. The study is focused on the tribals' relationship with their socio-cultural history and social norms. The author highlights that welfare programmes are not implemented, and that there is a

77. Dr. Subramanyachary P., *Status of Schedule Tribes in Andhra Pradesh*, (2013), Vol-I, The Dawn Journal publication.

78. Dr. Badal Sarkar, *Constitutional Provisions for Tribal Development in India*, (2013), Vol-III, Indian Journal of Research publication.

79. Redhal Gaurav, Dahiya Upasana, *Rights of Tribal's in India with Respect to access to justice*, (2013), Volume-2, Issue-I, International Journal of Socio-Legal Analysis and Rural Development publication.

80. Seetha Kakkoth, *The Primitive Tribal Groups of Kerala: A Situational Appraisal*, (2005), volume -3, studies of Tribes and Tribals publication.

need for a specific action plan for the development of these tribal communities.

Krishna Halavath, in his article *Human Rights and Realities of Tribals' Lives in India: A Perfect Storm*,⁸¹ observes that most of the tribal community are exploited and isolated, and after many decades the socio-economic situation remains unchanged.

Uma Pal, in her article *Right to Equality - A Fundamental Right*⁸² identifies the general principle of the right to equality, and points out the exceptions which are admissible under the Indian Constitution. All the above books and articles were found relevant and useful in my search for information related to my thesis.

1.8 Hypotheses

The thesis contains the following three hypotheses:

- (i) The Constitutional mandate protecting the interest of backward classes through reservation is poorly implemented in the State of Goa
- (ii) The State machinery has failed to utilise the funds allocated to the welfare of the Scheduled Tribes.
- (iii) The State commission for SC &ST has been passive in safeguarding the interests of the tribal communities in the State of Goa.

81. Halavath Krishna, *Human Rights and Realities of Tribals' Lives in India: A Perfect Storm*, (2014), Volume 19, Issue 4, Ver. II, IOSR Journal of Humanities and Social Science (IOSR-JHSS) publication.

82. Pal Uma, *Right to equality-A Fundamental Right*, (2014), publication online dated 29th. July 2019.

1.9 Research Questions

In order to facilitate research, the following questions are addressed by the researcher in order to come to some definite conclusions:

- (a) What are the norms, policies and legal practices pertaining to the concern of reservations and welfare measures for Scheduled Tribes at the National and State level, and how far are the implementing authorities informed and responsive to this cause?
- (b) What is the nature and extent of obligations of the Goa State Scheduled Castes and Scheduled Tribes Commission towards reservation and welfare measures for Scheduled Tribes?
- (c) If the national policies and legal norms are sufficient to address the needs of Scheduled Tribes in terms of reservation and welfare measures, what measures should the State authorities undertake to make the concept of reservation and welfare measures more meaningful?

1.10 Research Methodology

The present study attempts to examine the reservation policy in the Indian perspective and in the State of Goa, in particular. The research methodology adopted for the purpose of the present research includes both Empirical and Doctrinal methods.

Stage-I

At this stage the researcher critically analysed the reservation policy regime from a theoretical point of view. The theoretical premise for the analysis is the Constitution of India, and various welfare schemes having a bearing on the research problem.

Various policies of State and Central Governments and the role of the Goa State Scheduled Castes and Scheduled Tribes Commission are also studied. The researcher was able to re-conceptualise the critical issues involved from a legal angle. This also enabled the researcher to develop indicators for study based on research questions and to frame the questions for the interview.

Stage-II

With the help of the indicators or tools developed at stage one, the researcher, at this stage formulated different sets of questionnaires to be used at different stages of the field study. The primary objective of the empirical study was to examine the working of the law and policies on the ground, and to study the impact on the Scheduled Tribes.

For this purpose, the State of Goa was selected and the relevant data collected from various persons including government officers, teachers, students, non-teaching staff in educational institutions, and complainants before the Scheduled Tribes Commission.

While authorities were mostly asked open-ended questions, the questionnaire for the Scheduled Tribes persons and interested persons were structured and closed-ended. As the present study consists of both theoretical and empirical premises, necessary data have been collected from primary and secondary sources.

(a) Primary Data

Primary data are collected from the records as well as statistics etc., available with the government departments, educational institutions and the State Commission on Scheduled Tribes. Data are also obtained from structured questionnaires, interviews and observations. Further, the data so

obtained have been analysed and inferences drawn. Sampling technique was used to identify beneficiaries.

(b) Secondary Data:

Secondary data were collected from published texts, newspapers, journals, periodicals, statutes, opinion of experts and the internet.

1.11. Limitation of the Study

- i. Though there are several works published at the national level dealing with Scheduled Tribes, there is no research conducted in the State of Goa to support or supplement the findings.
- ii. Random sampling method used to collect the primary information may not reflect the selected dimensions completely.
- iii. Not all educational institutions in State of Goa and all government departments could be included in the sample. Twelve Government Colleges, six aided-colleges and eighteen government departments are covered in this study.
- iv. This study is limited only to the field of reservations and social welfare schemes to Scheduled Tribes in the state of Goa.

1.12 Scheme of Study

The study is divided into seven chapters.

CHAPTER I: INTRODUCTION

In this introductory chapter, the research comprises a brief explanation of Constitutional safeguards and welfare measure related to Scheduled Tribes, and then it explains the meaning of Scheduled Tribes. This chapter deals with the significance of the study, the objectives, and the formulation of research questions related to the subject of research. The hypotheses are also defined in

this chapter. Further, the methodology that was adopted in this research and the limitations of the study have been noted.

CHAPTER II: THE EVOLUTION OF THE CONCEPT OF RESERVATION AND ITS RELEVANCE IN PRE-INDEPENDENCE INDIA

This chapter contains a detailed explanation of the historical background of the development of reservation policy during the pre-Independence era. This chapter explains in detail the Government of India Act, 1919, The Simon Commission Report, Nehru Report 1928, the First Round Table Conference, the Poona Pact 1932, and reservation under Government of India Act, 1935.

CHAPTER III: RESERVATION FOR SCHEDULED TRIBES – THE CONSTITUTION OF INDIA

The third chapter analyses reservation for Scheduled Tribes. This chapter is divided into three parts, Part One deals with educational institutions, Part Two deals with reservation in employment, and Part Three deals with reservation in political institutions. The researcher has briefly discussed the Constituent Assembly Debates on reservation policy.

The researcher also discusses the judicial response of the Supreme Court and the High Court's relating to reservation policy and other issues in this chapter.

There are different tests which were laid down by different courts from time to time to identify social and economic backwardness. These have also been highlighted in this chapter.

The researcher has covered the National Backward Classes Commissions, which were set up under the Government of India viz. Kaka Saheb Kalelkar Commission and the Mandal Commission Report.

CHAPTER IV: EMPOWERMENT OF SCHEDULED TRIBES IN INDIA

The fourth chapter of the research contains a detailed explanation of the Constitutional provisions for the welfare of tribals and for their economic development. The researcher briefly discusses the setup of the different Steering Commissions and Committees for the Empowerment of Scheduled Tribes in India. He introduces the policy for tribal empowerment through Five Year Plans in India. The chapter's emphasis is on welfare schemes to Scheduled Tribes in India. This chapter explains in detail the Central Government and State Government schemes for tribal people.

CHAPTER V: THE ROLE OF THE GOA STATE COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

The fifth chapter deals with role of the Commission for Scheduled Castes and Scheduled Tribes in the State of Goa. The researcher has also dealt in this chapter with the concept, powers and functions of the National Commission. The powers and functions of the State Commission are elaborated.

The researcher has enumerated the National Commission for Scheduled Tribes Act, 2004 and the Goa state SC/ST Commission Act, 2010, to deal with the procedure for filing complaints before the SC/ST Commission to settle the dispute amicably. For this purpose, the Goa state SC/ST Commission was established to investigate and monitor the Constitutional safeguards and other Acts related to Scheduled Tribes. The Chairperson of the Goa state SC/ST Commission can play a vital role in settling disputes and reducing the burden on the courts. The researcher also specifies various Acts enacted by the Central Government which are remedial measures to prevent atrocities against the Scheduled Tribes.

CHAPTER VI: IMPLEMENTATION OF RESERVATION POLICY AND WELFARE SCHEMES IN THE STATE OF GOA

The sixth chapter includes the compilation and analysis of the statistical and empirical data collected by the researcher. For the purpose of convenience this chapter divided into two parts. Part A deals with statistical data collected from government departments, educational institutions and the Goa State SC/ST Commission. The data are compiled, analysed and depicted in table form. The data are shown in the form of tables, bar graphs and pie charts.

Part B deals with empirical data collected through the questioner method from various complainants, tribal leaders and tribal individuals. The same are analysed and depicted in the form of tables, bar graphs and pie charts.

CHAPTER VII: CONCLUSION AND SUGGESTIONS

This chapter captures the grey areas surrounding the functioning the Goa State SC/ST Commission. Based on the empirical data and analysis, the researcher has drawn various implications and has given suggestions/recommendations for the effective implementation of the reservation policy and Tribal Sub-Plan, and to strengthen the Goa State SC/ST Commission. The research hypotheses proposed by the researcher are tested in this chapter.

CHAPTER-II

THE EVOLUTION OF THE CONCEPT OF RESERVATION AND ITS RELEVANCE IN THE PRE- INDEPENDENCE

“The Indian constitution is first and foremost a social document the majority of its provisions are either directly aimed at furthering the goals of the social revolution or attempt to foster this revolution by establishing the conditions necessary for its achievement”¹.

Granville Austin

2.1 INTRODUCTION

The Reservation policy was introduced during the British regime. The caste system was the root cause for all types of discrimination in India. In ancient India, Hindu society was stratified into a four-ranked hereditary practical Varna System². The ranks were as follows (in descending order): Brahmins; Kshatriyas; Vaishyas; and Shudras. They had their birth-based fixed social status and duties:³ The Brahmins (teachers, scholars and priests), the Kshatriyas (kings and warriors), the Vaishyas (agriculturists and traders), and the Shudras (service providers and artisans). Shudras were considered lower class. The Shudras were prohibited to acquire education, and were also given the duty of serving the top three Varnas⁴.

The Scheduled Tribes were considered to be uncivilised and always isolated from mainstream society. They were excluded from the social system. The caste system was thus a major reason for the creation and intensification of the reservation system in India. Indeed, the reservation system was introduced in the nineteenth century when the Subcontinent was divided into British India and the Princely States. Hence, the reservation policy came into existence only when the princely states were determined to work for the advancement of the minorities and deprived sections of society.

-
1. Kashyap Subash C, *Jawaharlal Nehru and the constitution*, (1990), B. V Gupta Publication, New Delhi, at 74.
 2. Dr. Samel.H Swapna, *Dalit Movement in South India 1857-1950*, (1st Edition 2004), Serials Publications, Delhi, at 2
 3. Mohammad Shabbir, *Ambedkar on Law, Constitution and Social Justice*, (1st edition 2005), Prem Rawat for Rawat Publications, India, at 53
 4. Pallavi Dr. Gupta, *Backward Class Reservation and Concept of Creamy Layer*, (1st edition 2012), Deep & Deep Publications Pvt. Ltd., New Delhi, at 16

Reservation is considered the best tool for ameliorating the lot of the disadvantaged sections in the society. The disadvantaged are those who suffer multiple deprivations, economic, political and social ⁵. The main goal of reservations in India has been to bring about the improvement and welfare of those who historically had been economically and socially depressed. The reservation system was introduced for the equal progress of all weaker sections of society.

2.2 Definition and Meaning of Reservation Policy

In common parlance, reservation refers to an act of reserving, keeping back or withholding, as in keeping aside something for some particular purpose ⁶. In the Indian context, the term Reservation Policy means the upliftment of the downtrodden sections of society. In other words, a percentage of seats are reserved in public sector units, Union and State Civil Services, and Union and State Government Departments. It also includes reservation of seats in public and private educational institutes, especially for the socially and educationally backward communities, and the Depressed Classes who are inadequately represented in these institutions. The only exceptions to this policy are the religious/linguistic minority educational institutions which are under no obligation to reserve seats⁷.

2.3. Historical Background of the Development of the Reservation Policy during the Pre-Independence Era

In ancient Indian society the „caste system was a legal system⁸ and the Varna system formed the basis of social stratification and differentiation. The caste system enjoyed high support for its functional division of society⁹.

5. Prabhash J, *Affirmative Action and Social Changes Social Mobility of Dalits*, (1st Edition, 2001), Anmol Publications Pvt.Ltd., New Delhi at 8

6. Editor in chief Mish Frederick C. *Meririan-Webster Collegiate Dictionary*, (10th Edition 2001), (Merriam-Webster, Incorporated Springfield, Massachusetts, U.S.A at 140.

7. Garg. V.G, *Untouchability and Caste system*, (1st Edition 2011), Alfa Publication, New Delhi, at.18

8. *See, supra Note 3 at 2.*

9. *Supra Note7.*

During the Indus Valley Civilisation, society was divided into two classes: the dominant or ruler class and labour class, the latter known later as *dasyus*¹⁰. In the early Rig-Vedic period society was divided into three classes of people: Brahman or priest, Rajan or Kshatriya, meaning kings and nobles, and Vaishya or tiller of the soil. During the course of the Vedic period, the Shudra or the service class came into existence as the fourth class or caste¹¹.

A theory based on the old Vedic concept enunciated in the Purusha Sukta in the tenth Mandal of the Rig-Veda. The main idea behind this theory is that „all four castes are originated from Lord Brahma, the supreme being and it stated that the Brahmans came from his mouth, Kshatriyas from his arm, Vaishyas from his thighs and the Shudras from his feet¹².

In the Hindu social order, „caste contributed to a stratified and compartmentalised society based on status, hierarchy, and ritual purity or pollution¹³. As a consequence, the Depressed Classes were socially suppressed, culturally depressed and politically oppressed.

The plight of these oppressed classes was pitiable. „Deprived communities have been victims of age-old caste tyranny and dehumanising untouchability rooted in the caste system prevalent in the country since innumerable centuries¹⁴. They have been deliberately subject to discrimination, exploitation, suppression and oppression.

The beginning of the medieval period of Indian history, also called the Muslim period, „the advent of the Afghans and the Moghuls had a considerable effect on the Hindu social system¹⁵. During this period, the rulers did not make any kind of effort for the improvement of the social status of

10. According the term of Dasyus was traced in the ancient Vedic literature, and it means that the Shudra or tribe people of Indian called as Dasyus or Daas.

11. See, *supra* Note 8

12. *supra* Note 10

13. Makwana M.H., Pais Richard, *Backward Classes and Social Justice*, 2011, Rawat Publication, New Delhi, at 51.

14. *Ibid.*

15. See, *supra* Note 11

Depressed Classes in India. Consequently, the positions of Depressed Classes became worse during the Muslim period.

In the modern period, with the advent of the British, French, Dutch and Portuguese, the social position of the untouchables recorded some high improvement¹⁶. The British also enforced education policies and social reform in India. The British educational system created a new generation of intellectuals and social reformers to sanitise the evil of Hindu society and to elevate the status of the lower castes.

The British Government however also re-introduced the Zamindari and Ryotwari system of land revenue. This again caused a setback to the economic position of the backward classes. They were forced to lead the life of bonded labourers.

The Christian missionaries were the first to take up the cause of the Depressed Classes, and worked to provide welfare for them. As a result, there were social reform movements in many parts of the Indian subcontinent. The Backward Classes movement first gathered momentum in South India particularly in the Madras Province in 1852 and in some Princely States.

In 1858, the Government of Bombay Presidency announced that all schools which were entirely under the Government support should be open to all classes, without any discrimination whatsoever. This policy was hardly enforced by the Government of Bombay Presidency¹⁷. In 1860s, Jyotiba Phule, who was a social activist, highlighted the plight of the victims of caste discrimination, particularly in Maharashtra. Hence, in the 1880s, British officials established scholarships, special schools, and various other programs to benefit the Depressed Classes.

16. *Supra Note 14 at 22.*

17. K.S.Chalam, *Cast-based Reservations and Human Development in India*, (1st Edition 2007), Sage Publications India Pvt Ltd., New Delhi, at 94

In 1882, the Hunter Education Commission¹⁸ was appointed by the British Government, and a demand for free and compulsory education for all was made by Mahatma Jyotiba Phule. Along with this, he insisted on proportionate representation in government jobs¹⁹.

The policy of caste-based reservations was further strengthened with the enactment of the Caste Disabilities Removal Act of 1850²⁰. Another important thing is that the British Government undertook on an extensive scale the listing of Castes/Communities. The process later expanded into the Censuses (1881-1941). An attempt was made by the British Government to introduce the census to categorise the population with regard to caste and race in 1891.

The Reservation movement was started by Depressed Classes in the princely states in 1891. An agitation (in the princely state of Travancore) against the recruitment of non-native candidates into public service, ignoring qualified native people, led to the demand for reservation in government jobs²¹.

In 1901, the forward thinker Rajarshi Shahu Maharaj of Kolhapur, a princely state, introduced a reservation policy in favour of Depressed Classes and backward classes, and it came into force in 1902. The Notification of 1902 was the first official government order providing for reservation for Depressed Classes in India. In Kolhapur, this created 50% reservation in services for backward classes/communities²².

18. The British Government appointed the first Indian Education Commission on February 3, 1882 under the chairmanship of Sir William Hunter, a member of the executive Council of viceroy. This commission is popularly known as Hunter Commission. The British Government desired that the commission should specially bear in mind the great importance which the Government attaches to the subject of primary education. So the development of primary education was one of the main objects contemplated by the Despatch 1854.

19. Madhusoodan Prof. Tripathi, Kumar Dr. Tripathi Adarsh , *Indian Politics and Reservation Policy*, 2012, OMEGA Publication, New Delhi, at 120,

20. *Ibid*

21. *Supra Note 19 at 18.*

22. *Supra Note 21.*

It would be pertinent to note here that in April 1901 the Chandals or Namu-Shudras of the Province of Bengal submitted a representation to the Governor and demanded „special privileges“ at par with Muslims. Many such representations followed during the first decade of the twentieth century, before the Morley-Minto Reforms of 1909. The Depressed Classes of Bengal demanded political privileges of „Separate Representation“ based on a „Separate Recognition“ from the Hindus; at par with the Muslims, as a community ²³. In 1909 the reservation provisions were made in the Government of India Act.

The Census Commission of India was made as a first attempt to determine the population of the „untouchables“ in 1911. The first Depressed Classes organisation i.e., Sadhu Jana Paripalana Sangham (SJPS), or Association for the Protection of the Poor, was formed under leadership of Ayyankali in 1907²⁴. Soon after, Ayyankali²⁵ filed a petition to the British Government about the rights of untouchables, and right to education in particular, through the SJPS. He was nominated as a member of the Srimoolan Praja Sabha in the State of Travancore in 1911. He raised many critical issues pertaining to education, land, housing, agricultural labourers and the stigmatised condition of the Depressed Classes in the State of Travancore in present day Kerala²⁶.

Similarly, the princely state of Mysore also took very significant steps for the implementation of the reservation policy for backward classes and Depressed Classes in the socio-economic history of India. In 1915, the Mysore Social Progress Association was formed and it also held a conference at Bangalore in 1917, with the intention of forming the Aashakta Poshaka Sabha to empower weaker sections of the society

23. Mankar Vijay, *Poona Pact: Historical Harms by Gandhi, Gandhism and Congress- an Inquiry*, (2nd Edition 2013), Blue World Series, Nagpur, at 1

24. Nisar .M, Kandasamy Meena, *Ayyankali:A Dalit Leader of organic Protest*, (1st Edition 2007), published by other books, Kerala, at 72

25. *Ayyankali was a Dalit Leader and he start the first social reform movement in Kerala. He formed social organisation i.e., Sadhu Jana Paripalana Sangam (SJPS) to lead the economic Development of all Dalits peoples in Kerala.*

26. *See supra Note 24 at 2*

With the inspiration of the princely states, the Depressed Classes also started a movement for reservation in Bombay Presidency. They organised the Conference of the Depressed Classes at Madanapura in Bombay on 11th November 1917, under the chairmanship of Narayan Chandavarkar. They appealed to the government to grant them the right to elect their own representatives to the legislatures in proportion to their population²⁷. The initial demand of „separate electorates“ for the Depressed Classes along with all non-Brahmins was however placed systematically by His Highness Rajarshi Shahu Maharaj of Kolhapur on 20 November 1917 before Edwin Montagu, the Secretary of State for India²⁸.

On demands placed by Rajarshi Shahu Maharaj and Dr. B. R. Ambedkar before the Southborough Committee 1919, seats were reserved for Non-Brahmins and the Depressed Classes in the provincial Assemblies in the 1919 Act²⁹. Almost at the same time, the backward class movement began in Mysore Province. In 1918 the King appointed the C. J. Miller Committee to look into the demands of the backward classes with regard to reservation. The report was submitted in 1919 and its recommendations were as follows:³⁰

- a. 75% Reservation;
- b. time-bound target to achieve at least 50% share of jobs for backward classes;
- c. appointment not on the basis of marks, but on the crucially important characterizes of sincerity, honesty, courage and compassion;
- d. fellowships and scholarships for backward classes students;
- e. free seats and land grants for schools and hostels.

27. Kshirsagar.K.R, *Dalit Movement in India and Its Leaders*, 1994, M. D. Publications Pvt. Ltd., New Delhi, at 15.

28. Pawar Jaisingh, *Rajarshi Shahu Smarak Granth*, , 2001, Maharashtra Itihasa Prabodhini, Kolhapur, at18

29. *See Supra Note 23*

30. Nirmal Prof. Raj, *The Distribution of social justice by Rajarshi Krishnraj Wodeyar IV*, 2015, Vol-3, (EPRA International Journal of Economic and Business Review, at 2.

Later in 1919, the Montagu-Chelmsford Reforms were introduced, and reservation provisions were made in the Government of India Act, 1919. Similarly, in 1921-22, Shri Nalavadi Krishnaraj Wadiyar of Mysore agreed with the report of C. J. Miller with regard to reservation for backward and Depressed Classes in his Mysore Province.

Madras Presidency introduced the Communal GO (Government Order) in 1921, which defined reservations as: 44% for Non-Brahmins; 16% for Brahmins; 16% for Muslims; 16% for Anglo-Indians/Christians; and 8% for Scheduled Castes³¹.

2.3.1 The Government of India Act, 1919

The All India Muslim League and the Indian National Congress which came together at Lucknow, in 1916, had agreed to separate electorates for Muslims. It made wide-ranging demands for greater self-government, equality of Indians with other races throughout the British Empire and Commonwealth.

On 20th August 1917, the new Secretary of State for India, Edwin Montagu, officially announced the British government's policy which targeted an increase in the association of Indians in all administration and the steady growth of self-governing institutions. This was done to showcase that the Indian government was an essential part of the British Empire³².

The announcement however came with a proviso which stated that the British Government and the Government of India, on whom the responsibility lay for the welfare and development of the Indian People, must be the judge of time and measures for each advancement. Speaking on the floor of the House of Commons, Montagu said, "The Policy of His Majesty's Government with which the Government of India are in complete accord, is that of the growth of association of Indians in all types of administration and the steady

31. See, *Supra Note 7 at 21*.

32. Kusum Shrama, *Ambedkar and Indian Constitution*, 1992, S.B.Nangia, New Delhi, at 18

development of responsible government in India as an integral part of the British Empire.

The Government of India Act, 1919 was a limited experiment in the parliamentary system to protect the safeguards and restrictions. While speaking in the House of Commons on 14th February, 1922, Montagu said that their policy was the maintenance of the integrity of the British Empire, coupled with the grant of opportunity for development of full self-government within that empire. It is true that when the Act was passed it was intended to be a transition, and that it was described as a first step towards self-government.

Reservations took place as follows. In the Madras Council there were ten members nominated by the Governor to represent nine named castes, which included the Depressed Classes. Similarly, the Governor also nominated members from Depressed Classes as under: Central Province 4, Bombay, Bihar and Orissa 2 each, Bengal and the United Provinces 1 each. There were no such nominated members in the Punjab and Assam³³.

The Government of India Act, 1919 made a provision to the effect that people belonging to Depressed Classes, i.e. tribes etc. should find place in the Legislative Assembly. The representation of the tribes was broadly on the lines followed in respect of the provincial legislatures.

In Britain, there was a controversial decision against communal electorates. The Montagu-Chelmsford position was supported by the Indian moderates and some British Members of Parliament (MPs). The reforms of 1919 failed to satisfy the political aspirations of the country even at the time of their introduction³⁴.

33. Kashyap Dr.Subesh C, *Constitutional Law of India*, 2008,Vol-II, Universal Law Publishing, Delhi, at 267.

34. One of the members of these depressed classes was to be nominated by the Governor – General to the Central Legislative Assembly, and the class also had some representation in provincial Legislatures.

In 1923, the Government decided to cut off aid to those educational Institutions that refused to admit members of the Depressed Classes.

2.3.2 The Simon Commission Report

Dr. B. R. Ambedkar was nominated to the Bombay Provincial Council in December 1925. He started the movement of the Depressed Classes under his leadership. The Bahishkrit Hitkarini Sabha (Depressed Classes Institute) was established on 20th July 1924.³⁵ Another Executive Committee of the All Indian Depressed Classes Association formed in 1926 at Nagpur.

In November 1927, two years before the time laid down in the 1919 statute, under the Indian Statutory Commission, Sir John Simon was appointed to enquire inter alia into the working of the system of Government in British India. He was to report as to whether it was desirable to establish the principle of responsible government and to what extent³⁶. The convention of the representation of the Depressed Classes all over India was held in Delhi on 22-24 December 1927 to discuss the question of reforms and to accord a welcome to the Simon Commission.

The Simon Commission arrived in Bombay on 3rd February 1928 to commence the work of re-examination of the Indian problem as declared in the Act of 1919³⁷. The Indian National Congress opposed the Simon Commission and carried out a great agitation against it throughout the country.

After touring all the Indian provinces, and its findings were based largely on memoranda from the Government of India, from committees appointed by the provincial legislative councils, and from non-official sources, the Simon Commission identified one of the areas where there was the urgent need to protect minorities and other underprivileged members of Indian society.

35. *See, Supra Note 33*

36. *See, supra Note 22*

37. Keer Dhananjay, *Dr. Ambedkar Life and Mission*, (4th Edition 2004), Popular Prakashan Pvt. Ltd, Mumbai, at 114.

Based on its assumption that the true cause of communal conflict was struggling for political power and for opportunities which political power confers, the Committee saw the improvement of the Depressed Classes“ situation as hinging on increased political influence. But there several options emerged, including pursuing a system of nomination, creating separate electorates, and reserving seats in government within a general electorate.

After consultations, the Simon Commission found that most Provincial governments supported a nominating system. The Province of Bihar and Orissa asserted that a nomination was best since the Depressed Classes were too backward to choose their own representatives. Despite this, the Commission discarded the idea, arguing that the Depressed Classes needed opportunities for training in self-government.

The Depressed Classes strongly supported the option of separate electorates. Their representatives demanded a wider franchise, since property and educational requirements significantly restricted their right to vote and to participate in government. The Bengal Depressed Classes Association³⁸lobbied for separate electorates with seats reserved according to the proportion of depressed class members to the total population as well as for adult franchise.

The All-India Depressed Classes Association proposed ³⁹ separate electorates for each of what it termed the four major groups in India the Brahmins, Muslims, Depressed Classes, and Non-Brahmins.

On behalf of the Bahiskrit Hitkarini Sabha, Dr. Ambedkar submitted a memorandum to the Simon Commission demanding joint electorates with

38. *See, Supra Note 29 at 7*

39. *See, Supra Note 38 at 6*

reservation of seats for the Depressed Classes⁴⁰. The Simon Commission rejected separate electorates for the vulnerable groups.

Besides this, the tribal issue also attracted the attention of the Indian Statutory Commission (Simon Commission), which considered the inhabitants of their areas being politically not „advanced“. They required security of land tenure, protection from subjugation and freedom to pursue their traditional livelihood and customs. The Simon Commission felt that the duty of educating these people could not be left to the missionaries or the individual officials. The Government should earmark funds for such educational and welfare activities. The Commission suggested the whole or partial exclusion of these areas from the ambit of generally administered areas in the recognition of these principles.

On 5th August 1928, the Bombay Legislative Assembly elected Dr. Ambedkar to work with the Simon Commission. 16 out of 18 Depressed Classes Associations demanded separate electorates before the Commission. Dr. Ambedkar in his separate report submitted to the Commission on 17th May 1929, in the matter of Provincial Legislatures and significant Constitutional and social issues like franchise, electorates, distribution of seats for tribes etc⁴¹.

The first Report of the Simon Commission was published on 7th June 1930 (Volume I). The report constituted of summary which contained a survey of India comprising of 409 pages and divided into seven parts. It stated the problems regarding the existing Constitutional structure, the working on the reformed Constitution, the administrative system as existing, public finance, growth of education, and it also discussed the communal question⁴².

40. Lohands G.S.Lohande, *Bhimsro Ramji Ambedkar : A study in social democracy*, 1997, sterling publishers private Limited, New Delhi, at183

41. *See, Supra Note 39*

42. *Ibid 41 at 78*

The Simon Commission published Volume-II of the Report on 24th June 1930 which comprised 316 pages. The commission recommended that there should be some reservation of seats for the Depressed Classes in all the Provinces in Non-Muslim Constituencies in proportion to the depressed class population of the electoral area of the Province⁴³.

However, the Commission recommended that in all the eight provinces there should be some reservation of seats for the Depressed Classes on a scale which would secure a substantial increase in the number of members of Legislative Councils drawn from the Depressed Classes.

The representatives of the Depressed Classes proposed combining separate electorates and reserving seats for Depressed Classes. They also demanded a wider franchise, as the economic, educational and social position of these Depressed Classes did not allow them to vote properly.

2.3.3 Nehru Report 1928

After the failure of Simon Commission, there was no alternative for the British Government but to frame a Constitution. But the British Government also knew that the Congress and Muslim League were the two main parties and both parties had differences of opinion.

Lord Birkenhead, the Secretary of State for Indian affairs, in his speech July 10, 1925, declared the transfer of authority to the Swaraj Party. Accordingly, K. M. Gandhi was asked to call meeting of the All India Congress Committee which met at Patna on September 22 and 23, 1925, and at this meeting the transfer was made of Congress machinery to the hands of the Swaraj Party under the banner of the Congress, to be worked by the Congress through the Swaraj Party. After two years the Congress held its session at Madras in December 1927 and at this session the All India Congress Committee, authorised the working committee to draft a Swaraj Constitution.

⁴³. See, *Supra Note 42*

According to the decision of the Congress, more than twenty-eight large and small organizations were invited to the All Parties“ Conference in Delhi in January 1928. More than a hundred delegates of all the parties of the subcontinent assembled and participated in the conference. Unfortunately, the leaders were not able to come to any conclusion because the biggest hindrance was the issue of the right of minorities.

The second meeting of the All Parties Conference duly assembled in Delhi on 12th February 1928. The third meeting was in Bombay on 19th May 1928. It was decided to appoint a Committee under the Chairmanship of Motilal Nehru to determine the principles of the Constitution of India⁴⁴. The Committee consisted of Ali Imam and Shuaib Qureshi, to represent the Muslims, M. S. Aney and M. R. Jayakar to represent the Hindu Mahasabha, G. R. Pradhan to represent the Non-Brahmins, Tej Bahadur Sapru to represent the Liberals, Sardar Mangal Singh to represent the Sikh League, and N. M. Joshi to represented the interest of Labour. Jayakar, N. M. Joshi, Ali Imam and Pradhan dropped out of the Committee⁴⁵.

The Nehru Committee came to the conclusion that separate electorates must be discarded, but it recommended that the election should be held according to the joint or mixed electorates on the issue of reservation to the Muslim in the Central Legislature and the Provincial Legislatures. According to the view of the Nehru Committee, reservation for Muslims should continue in accordance with the Congress-League pact of 1916 and the Montagu-Chelmsford Reforms of 1916⁴⁶. Finally, the Committee also disagreed to put forth the demand of one-third seats in the Legislatures, according to the proportion of the Muslim population.

44. *See, Supra Note 43 at 79-80*

45. *Supra Note 44 at 47*

46. *Ibid*

The All Parties Conference meeting was held at Lucknow on August 28-31, 1928. Motilal Nehru presented the report. It recommended joint electorates all over India and rejected separate electorates. It also stated that the term of reservation would be only for a fixed period of ten years.

The Nehru Committee Report was criticised by the Muslim leaders in the meeting of all parties. The All-India Muslim League conference which was held on 4th & 5th November, 1928 at Kanpur⁴⁷ passed a resolution in favour of separate electorates for Muslims. Similarly, the resolution was passed by Bengal Muslims All Parties Conference⁴⁸ and All India Khilafat⁴⁹ for separate electorates for Muslims.

The Nehru Committee report was criticised for discriminatory electorates⁵⁰. It pertinent to note here that the report tried to completely derecognise the Depressed Classes and their Constitutional rights. Dr. B. R. Ambedkar stated: “We have not made any special provision for the representation of the Depressed Classes. This could be done by way of special electorates or by nomination. We are not prepared to extend this unsound and harmful principle, if we can help it; nor do we think that we will do any good to these classes by ensuring some seats for them in this way. We are still more opposed to nomination”⁵¹.

2.3.4 The First Round Table Conference

The British Government convened three Round Table Conferences in London during 1930-32 consisting of the representatives of all the political parties and various interests. The first Conference of the All India Depressed

47. *See, Supra Note 46 at 48*

48. Bengal Muslims all-parties Conference convened in Calcutta on 23rd December, 1928 and passed a resolution for separate electorates from Muslim.

49. All India Khilafat Conference were held in Calcutta on 25th -27th December 1928 under Ali Brother and passed a resolution for separate electorates from Muslim.

50. Dr.B.R.Ambedkar evaluated the Nehru Committee Report and criticized on his editorial of Bahishkrit Bharat dated 18-11-1929

Class Congress was convened on 8th to 11th August 1930 at Nagpur.⁵² The conference was convened under the chairmanship of Dr. B. R. Ambedkar and he played a historic role for the political uplift of the „untouchables“. The main effort of the Conference was to bring all the Untouchable Classes under a single banner. Dr. Ambedkar was chosen as the leader of the „untouchables“ unanimously to represent them at the Round Table Conference (RTC). They accepted the Round Table Conference (RTC) as the best means of solving the Constitutional problems.

The conference passed thirteen resolutions on significant matters like dominion status, adequate representation of Depressed Classes in legislative councils and public services etc.

On 6th September 1930, Dr. Ambedkar received an invitation to the Round Table Conference by His Majesty's Government. Mr. Rao Bahadur Srinivasan from Madras Province was another representative of Depressed Classes, who was called to participate in the Round Table Conference (RTC) which was inaugurated by King George V on 12th November 1930. The Round Table Conference (RTC) was of great significance to the Depressed Classes, being the first time their delegates Dr. B. R. Ambedkar and R. B. Srinivasan were present. The Congress leaders, including M. K. Gandhi, boycotted the Simon Commission and the Round Table Conference. They also launched a civil disobedience movement against the British.

On 12th November, 1930 a Scheme of Political Safeguards for the Protection of the Depressed Classes was submitted by Dr. Ambedkar to the Round Table Conference. The following are the salient features of the memorandum:

(i) Elimination of untouchability

B. R. Ambedkar specified the elimination and abolition of untouchability and secured equality of citizenship. Therefore, he proposed that

51. See, *Supra* Note 62

52. *Supra* Note 51 at 7

the fundamental rights under Articles 14, 15, 16 and 17, concerning equality, social and educational empowerment, safeguarding of service, and the abolition of untouchability respectively, should be made part of the Constitution of India.

The idea of fundamental rights was adopted by Dr. B. R. Ambedkar from the Constitution of the U.S.A. Thereby, all subjects of the State of India were considered equal before the law and possessed equal civic rights. Any existing enactment, regulation, order, custom or interpretation of law which imposed any penalty, disadvantage, or disability upon any subject of the State, or discriminated against any subject of the State on account of untouchability, would cease to have any effect after the Constitution of India came into operation⁵³.

(ii) Enjoyment of Equal Rights

Dr. B. R. Ambedkar proposed the concept of offence of infringement of citizenship, by drawing the same from the Reconstruction Civil Rights Protection Act in the United States. „Whoever denies to any person except for reason by law applicable to person of all classes and regardless of any previous condition of untouchability the full enjoyment of any of the accommodations, advantages, facilities, privileges of institution, educational institutions, roads, paths, streets, tanks, wells and other watering places, public conveyances on land, air or water, theatres or other places of public amusement, resort or convenience, whether they are dedicated to or maintained or licensed for the use of the public shall be liable for fine or punished with imprisonment for a term of five years⁵⁴.

It is implicit in this proposal that Equal Citizenship entails equal access to public utilities or public spaces. It means the Depressed Classes can peacefully enjoy rights. The most common form of obstruction is social boycott and it is the most formidable weapon in the hands of the Orthodox

53. Chanchreek, K. L, Prasad Mrs.Saroj, Kumar Rakesh, *Dr.B.R.Ambedkar (1891-1991) patriot Philosopher and Statesman Fight for the Rights of the depressed Classes*, (1st Edition 1991), volume-I , H.K.Publishers and Distributors, Delhi at137

54. *Ibid* 53 at 138.

Classes. Therefore, „the report of the Committee appointed by the Government of Bombay in 1928 is to enquire into the educational, economic and social condition of the Depressed Classes (untouchables) and of the Aboriginal Tribes in the Presidency and to recommend measures for their uplift⁵⁵.

(iii) Protection against narrow-mindedness and distinctions

Similarly, Dr. B. R. Ambedkar also proposed safeguards against discrimination in terms of assurance of legislative or executive orders being made in the future that might threaten the Depressed Classes in the terms of discrimination. The same was done in terms of providing the following Statutory Provisions specifically made under the Constitution of India. „This includes while making and enforcing contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property. They shall be eligible for entry into the civil and military employ and to all educational institutions except for such conditions and limitations as may be necessary to provide for the due and adequate representation of all classes of the subjects of the State. However, it entitles them to the full and equal enjoyment of the accommodations, advantages, facilities, educational Institutions, privileges of inns, rivers, streams, wells, tanks, roads, paths, streets, public conveyance on land, air and water, theatres, and other places of public resort or amusement except for such conditions and limitations applicable alike to all subjects of every race, class, caste, colour or creed. It deems them fit for and capable of sharing without distinction the benefits of any religious or charitable trust dedicated to or created, maintained or licensed for the general public or for persons of the same faith and religion. It also claims for them full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by other subjects regardless of any previous condition of untouchability, and be subject to like punishment, pains and penalties and to none other⁵⁶.

55. *Ibid*

56. *Ibid* 55 at 143

(iv) Sufficient Representation in the Central and State Legislatures

In order that the welfare of the Depressed Classes was made secure, they would need to have sufficient political power to influence legislative and executive action. Keeping this object in mind, the Committee demanded the insertion of the following provisions in the electoral law so as to give them: firstly, the „right to adequate representation in the legislature, Provincial and Central; secondly, the right to elect their own men as their representatives by adult suffrage, and by separate electorates for the first ten years and thereafter by joint electorates and reserved seats, it being understood that joint electorates shall not be forced upon the Depressed Classes against their will unless such joint electorates are accompanied by adult suffrage⁵⁷.

(v) Sufficient Representation in the Central and State Services

Dr. Ambedkar provided the following guidelines with regard to recruitment in public posts. „There shall be a Public Service Commission in each Province to undertake the recruitment and control of the Public Services. No member of the Public Commission shall be removed except by a resolution passed by the Legislature, nor shall he be appointed to any office under the Crown after his retirement. However, it shall be the duty of the Public Service Commission, subject to the tests of efficiency as may be prescribed, to recruit the persons in public services in such a manner as will secure due and adequate representation of all Communities⁵⁸.

(vi) Remedy against Detrimental Action

The visionary knew very well that the future rule would be the orthodox classes and it would not enable the Depressed Classes to surface and prevail over the prejudice to their interest by the orthodox rule. A dire necessity was felt for specially providing against prejudice to their interest and sheer neglect of their basic needs. In view of the same, the following provision was sought to be made in the Constitution of India while borrowing such a provision from Sec. 93 of the British North America Act, 1867. In each Province of India, „it shall be the duty and obligation of the Legislature and

57. Ibid 56 at.143-144

58. Ibid 57 at 145

the Executive or any other Authority established by law to make adequate Provision for the education, sanitation, recruitment in Public Service and other matters of social and political advancement of the Depressed Classes and to do nothing that will prejudicially affect them. Where in any Province or in India the provisions of this section are violated an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial Authority and to the Secretary of State from any Act or decision of a Central Authority affecting the matter. In every such case where it appears to the Governor-General in Council or to the Secretary of State the Provincial Authority or Central Authority does not take steps requisite for the due execution of the provisions of this Section then and in every such case, and as far only as the circumstance of each case require, the Governor-General in Council or the Secretary of State acting as an appellate authority may prescribe, for such period as they may deem fit, remedial measures for the due execution of the provisions of this Section and any of its decisions under this Section and which shall be binding upon the authority appealed against⁵⁹.

(vii) Representation of the vulnerable groups in the Cabinet

It was necessary for the Depressed Classes to have the power both to influence government action and to have a voice in the shaping of the general policy of the government. And it was possible only in terms of finding a berth in the Cabinet. It was therefore obvious that at par with other minorities their moral right be acknowledged in the cabinet and with said purpose an obligation be placed upon the Governor and the Governor-General to attempt to secure the representation of the Depressed Classes in his cabinet⁶⁰.

2.3.5 The Second Round Table Conference

Many Indian delegates from various interest groups participated in the Second Round Table Conference. This conference began on 7th September 1931 and it comprised British Representatives, Indian States Representatives and British Indian Representatives. Dr. B. R. Ambedkar expected that political

⁵⁹. *Ibid* 58 at 146

⁶⁰. *Ibid* 59 at 149

safeguards would be incorporated in the future Constitution of self-governing India⁶¹.

The Federal Structure Committee was presided over by Lord Chancellor Lord John Sankey and the Minorities Committee by Prime Minister Ramsay Donald⁶². Dr. B. R. Ambedkar pleaded before the Federal Structure Committee that the Depressed Classes should be treated as a separate community for political purposes in the same way as the Muhammadans and the Christians. He also demanded special representation in the Provincial Legislatures as well as both the houses of the Central Legislature.

M. K. Gandhi presented the case on behalf of the Congress at the Federal Structure Committee on 15th September 1931⁶³. On 23rd September 1931 Dr. B. R. Ambedkar stated, "I want that the problems of the Depressed Classes should not hereafter be looked upon as a purely local or provincial problem, it should be looked upon as national problems. I want the Government at the Centre to take upon itself the duty of bringing the jungle tribes which number probably as many as the Depressed Classes themselves, within the pale of civilisation. I want that Government to take upon itself certain functions in respect of what are called the backward tracts. In other words, my submission is that the Government at the Centre should take at least such welfare functions upon itself as will guarantee what I call the minimum of civilised life to every individual and to every community⁶⁴.

On 4th November 1931, the political safeguards for Depressed Classes supplementary on the claim of the Depressed Classes for special representation, were submitted to the Round Table Conference (R.T.C.) by Dr.

61. *See Supra Note 40 at 187*

62. *Supra Note 61 at 54*

63. *Ibid*

64. *Supra Note 63 at 40*

B. R. Ambedkar and Rao Bahadur R. Srinivasan⁶⁵. The political safeguards for Depressed Classes specified the following points as under:

(i) Magnitude of Special Representation

The Depressed Classes demanded special representation in proportion to their population as suggested by the Simon Commission Report Volume-I and the Indian Central Committee report,⁶⁶ viz. in the Madras Province, the Depressed Classes should have twenty-two per cent representation⁶⁷. With Sindh continuing to be part of the Bombay Presidency, the Depressed Classes should have sixteen per cent representation. Similarly, in the federal Legislature (in both Houses) the Depressed Classes should have representation in proportion to their population in India. They also assumed that the federal legislature would include the Depressed Classes on the basis of their population in Indian states, centrally administrated areas and excluded areas.

(ii) System of Representation

It was specified that the Depressed Classes would have the right to elect their representatives to the Provincial and Central Legislatures through separate electorates of their votes. The demand was as follows: „that in any system of proportional representation arrangement shall be made to guarantee to them their quota of seats⁶⁸.

2.3.6 Poona Pact 1932

On 16th August, 1932, the Communal Award (Grant of Separate Electorate) was announced by His Majesty's Government. Seats in the Legislative Councils in the Governor's Provinces were reserved for the Depressed Classes i.e. primitive tribes or aboriginals or hill tribes⁶⁹.

65. Mamta Rajawat, *Human Rights and Dalits: - Encyclopaedia of Dalits in India*, (1st Edition 2014), Vol.-7, Anmol Publications Pvt.Ltd. New Delhi, at32.

66. *Supra Note 64 at 41*

67. *Ibid.*

68. *Supra Note 67 at 42.*

69. Mehta Lal Piarey, *Constitutional Protection to Scheduled Tribe in India-In Retrospect and Prospects*, (1st Edition 1991), H.K.P ublisher & Distributors, New Delhi at 81

The Award conceded the demands of the „untouchables“. Muslims, Sikhs, Indian Christians, Anglo-Indians, Europeans and Depressed Classes were to be provided with separate representation. The Scheduled Castes got 71 seats out of 1463 Legislative Assembly seats in the eight British Provinces: Madras (18); Bombay (10); Bengal (10); United Provinces (12); Bihar and Orissa (7); Central Provinces (10); and Assam (4). These seats were to be filled by election, from special Constituencies in which only electorally qualified members of the Depressed Classes would be entitled to vote⁷⁰.

Mahatma Gandhi criticised the Communal Award. However, the Award was strongly backed by Dr. B. R. Ambedkar and other minority groups. Very soon M. K. Gandhi objected to it and addressed a letter to the British Prime Minister J. Ramsay MacDonald, threatening a fast, if the Communal Award for the Depressed Classes were not withdrawn. On 18th September 1932, Gandhi commenced his fast⁷¹.

A deputation consisting of Sir Mathuradas VasANJI, Sir Chunilal Mehta, and Sir Purushotamdas Thakurdas arrived to brief Gandhi on some sort of compromise on a system of joint electorates with reserved seats. M. K. Gandhi told them that he was opposed to the reservation of seats and preferred a scheme which would give the Hindu community an opportunity of demonstrating its change of heart and manners towards the Depressed Classes by seeing that their candidates were returned. There should be a provision for the allotment of additional seats by a suitable system that might be agreed upon. He further told them that „he would not and could not make the reservation of seats an issue in the fast, which would end as soon as the separate electorates were replaced by joint electorates⁷². After twenty-four hours Gandhi broke his fast.

Dr. B. R. Ambedkar was invited by M. M. Malaviya to the third Round Table Conference at Bombay. On 19th September 1932, the discussion

⁷⁰. Kshirasagr. Dr.K.R, *Reservation: A Quest for justice*, (1st Edition 2013), Kalpaz Publication, Delhi, at17

⁷¹. See, *Supra Note 68 at 129*

⁷². *Supra Note73*

revealed unanimity of opinion on two points in the conference, that Gandhi's life must be saved at all costs and the blot of untouchability must be eradicated at the earliest⁷³.

Again, the majority of people joined in the deliberations on 20th September 1932. It was quite clear from the stand of Mahatma Gandhi, that he would neither agree to separate electorates nor to reservation of seats. The most important difference to be noted here is that Gandhi was opposing the safeguards of the Depressed Classes on an emotional level and on the other hand Dr. B. R. Ambedkar was fighting for their justice and rights to be integrated in the Constitution.

The Communal Award was opposed by M. K. Gandhi on the grounds that it would disintegrate Hindu society. He commenced his „fast unto death“ at Yerawada Jail on 20th September 1932 at 12 o'clock noon to protest the Communal Award.

Meanwhile, a new committee was formed to negotiate the matter at the earlier conference held at Bombay on 19th September 1932. The new committee lay down the following view of Mr. Gandhi in connection with his opposition to the decision of awarding separate electorates for the „untouchables.

After the listening the proposals of Mahatma Gandhi regarding the Communal Award, Dr. B. R. Ambedkar said: “Today in the negotiation in this difficult situation, I am in a stranger position than all others. Unfortunately, in these peaceful negotiations I appear to be acting as villain for the protection of just demands of my people. I am willing to suffer to any extent in order to get fulfilled the just demands of my people. I tell you I shall not be deterred from my pious duty and betray the just and legitimate interests of my people even if you hang me on the nearest lamp-post in the street. The question faced today is not to be solved by succumbing to emotions, but by

73. *Supra Note 72 at 131*

Constitutional means as it involves the countless brethren who have been suffering in slavery for ages⁷⁴.

Meanwhile, Sir Tej Bahadur Sapru drafted a scheme of primary and secondary elections for the reserved seats. Dr. B. R. Ambedkar welcomed the scheme and directed him to put forth the charter of demands before the committee meet on 20th September 1932 in Bombay.

In the charter of demands, one was for a larger representation for the Depressed Classes and there were also demands for reservation in public service and a statutory education grant. Dr. B. R. Ambedkar submitted the charter of demands on the eve of Mahatma Gandhi's fast.

The charter of demands was divided into two parts. In the first part concerned representation in the legislature, as under:

- (i) To reserve a number of seats for Depressed Classes in the provincial legislatures.
- (ii) The method of election to those seats would be joint electorates. It provided for the first ten years in constituencies of Madras Province, Bombay Province and the Central Provinces. It also stated that there would be held before the general election a primary election of the voters of the Depressed Classes for electing two persons to constitute a panel who thereafter would contest on behalf of the Depressed Classes in the joint electorate.
- (iii) The system of a primary election would cease to be in operation after the first ten years, and all seats without exception would continue to be filled by direct election on the system of joint electorates and reserved seats.
- (iv) The right of the Depressed Classes to special representation through joint electorates and reserved seats would be continued for a further period of 15 years. It said after the period the matter would be settled on the basis of a referendum to the voters of the Depressed Classes.

⁷⁴. *Supra Note 73*

- (v) Representation to both Houses of the Central Legislature would be recognized on a population ratio on the same terms and in the same manner as provided for in the case of the provincial legislatures.
- (vi) There would be adult suffrage at least for the Depressed Classes. The franchise of the Depressed Classes would be in the provincial and the Central legislatures⁷⁵.

The second part of the charter of demands was as under:

- (i) The Depressed Classes shall be allowed representation in all the Provinces in all Municipalities, local boards, District and Taluka, Village Union, School Boards of Panchayats and any local body existing or to be constituted in the future on the population basis.
- (ii) The Depressed Classes shall be guaranteed appointments in all public services, central and local according to their population ratio or minimum subject to qualifications as may be laid down for the same. The provision shall be made for reaching the quota by relaxing other than statutory rule that may be in existence in matters other than educational qualifications.
- (iii) The educational grant a sum equivalent to the population ratio of the Depressed Classes in every province. Each province shall earmark a minimum for providing educational facilities to the Depressed Classes.
- (iv) There shall be a provision in the Constitution allowing the Depressed Classes the right to appeal to the Governor and the Viceroy for any neglect of their interest in the matter of education, sanitation, recruitment in public services, etc⁷⁶.

As a result, many volunteers pleaded with Gandhi to accept the formula put forth by Dr. B. R. Ambedkar. Gandhi suggested that after ten years the system of primary elections and reserved seats should cease, and the number of voters should be ascertained from the Lothian Committee Report⁷⁷.

75. Supra Note 74 at 132-133

76. Supra Note 75 at 134

77. Supra Note 76 at 135

On 23rd September 1932, the Hindu leaders organised a conference to discuss the matter with Dr. Ambedkar and other leaders of the Depressed Classes. Again On 24th September 1932, the negotiation was restarted against 198 seats under joint electorates and Dr. Ambedkar agreed upon 148 seats.

This led to a compromise between depressed class leaders like Dr. Ambedkar, who had thus advocated for separate electorates and the others who were opposed to the caste system. The new agreement between the high caste Hindus and the „Untouchables“ was signed on 24-9-1932 is known as the Poona Pact, which was accepted and implemented by the British Government as part of the Communal Award.

When the Poona Pact came into effect on September 25, 1932, the Depressed Classes gained more advantage while it increased the number of reserved seats in the legislatures. The Poona Pact was later incorporated into the Government of India Act, 1935.

The text of the Poona Pact was as follows.

There shall be seats reserved for the Depressed Classes out of the general electorate's seats in the provincial legislature. Even the Election of seats shall be by joint Electorates, subject to the procedure. All the members of the Depressed Classes, registered in the general electoral roll in constituency, will form an Electoral college, which will elect a panel of four candidates belonging to Depressed Classes for each of such reserved seats, by the method of single vote; the four getting the highest of votes in such primary election shall be candidates for election by the general electorate. However, the Representation of the depressed classes in the central legislature shall likewise be on the principle of joint Electorates and reserved seats by the method of primary election in the manner provided for in clause (ii) above, for their representation in the provincial legislatures. In case the Central Legislature, eighteen per cent of seats allotted to the General Electorate for British India in the said Legislature shall be reserved for the Depressed Classes. The system of primary Election to a panel of candidates for election to the central and provincial Legislatures as herein before mentioned, shall

*come to an end after the first ten years, unless terminated sooner by mutual agreement under the provision of clause (vi) below. The system of representation of the Depressed Classes by reserved seats in the Provincial and Central Legislature as provided for in clauses (i) and (iv) shall continue till decided by mutual consent and settlement between two concerned parties. The Franchise for the Central and Provincial Legislatures for the Depressed Classes shall be as indicated in the Lothian Committee report. There shall be no disability attaching to anyone on the ground of his being a member of the Depressed Classes in regard to any election to local bodies or appointment to the Public Service*⁷⁸.

2.3.7 Reservation under Government of India Act, 1935

After the conclusion of the third Round Table Conference in London, a White Paper was issued in March 1933 giving details of the basis of the working of the new Constitution of India. The Government of India Act, 1935 drew its materials from the Simon Commission Report,⁷⁹ the Nehru Report,⁸⁰ the discussions at the three Round Table Conferences,⁸¹ the White Paper,⁸² the Joint Select Committee Report,⁸³ and the Lothian Report⁸⁴.

The Government of India Act, 1935 was an elaborate enactment comprising Fourteen Parts and Ten Schedules. The Act for the first time

78. *Supra Note 77 at 83*

79. The British Government appointed a Simon Commission to enquire into the working of the Government of Indian Act 1919 and suggest further reform in the system of administration. This commission is known as a Simon Commission

80. All parties Conference was organised at Bombay on 19th May, 1928. This conference appointed a committee, under the chairmanship of Pt. Motilal Nehru, "to determine the principle of the constitution of India. The report of the committee, which was later to become famous as the Nehru Report.

81. There are three Round Table Conference of 1930-32 were a series of conference organized by the British Government to discuss Constitutional reforms in India.

82. The term white paper refers to an official government report or policy statement and it also considers as the future government of India. In particular, examined the report upon the proposal in command paper commonly known as the white paper.

83. The Report and minutes of proceeding of the joint Committee on Indian Constitutional Reform. Further, the Records as may be laid upon the Table by the committee shall, take place simultaneously in Great Britain and in India.

84. The British Government appointed Lothian Committee in December 1931, to formulate a system of franchise whereby all sections of the people would be represented in the legislature. The Committee was specifically required to "investigate the need, justification and methods to ensure adequate representation for the Depressed Classes.

provided for a federal system, including not only the Governors' Provinces of British India but also the Chief Commissioners' Provinces and the Princely States. It finally broke up the unitary system under which British India had hitherto been administrated.

Under the Act, the Provinces were for the first time recognized in law as separate entities, exercising executive and legislative powers in their own field.⁸⁵ The proposed federation could come into being only after representatives of not less than half of the aggregate population of the Indian States acceded to it. It entitled them to one half of the seats allotted to them collectively in the Federal Upper Chamber. This Scheme of Federation laid down in the Act was *sui generis*.

The Chief Commissioners' Provinces were to be governed on a purely unitary basis, and the federal jurisdiction of the Governors' Provinces would normally extend over all the subjects included in the Federal Legislative list and the Concurrent Legislative list. So far as the Indian States were concerned, the range of federal powers, both legislative and executive, was restricted to matters and governed by the limitations specified in the Instrument of Accession of each State.

The federal government, under the Act, was to be an anarchical government. The subjects of Defense, Ecclesiastical Affairs, External Affairs (with the exception of relations between the federation and any part of His Majesty's authority), and Tribal Areas were kept in the control of the Governor-General, to be administrated by him at his discretion⁸⁶. With regard to the remaining federal subjects, there was to be a Council of Ministers, responsible to the Federal Legislature, to aid and advise the Governor-General in the discharge of his functions.

85. See *Supra Note.35*

86. *Supra Note 78 at 83-84*

The special responsibilities of the Governor-General included inter alia the safeguarding of the legitimate interests of minorities and Depressed Classes. The Federal Legislature was to be bicameral. The Indian States were allotted one-fifth of the seats in the Council of State (the Upper House) and one-third of the seats in the Federal Assembly (the Lower House). As regards British India, the distribution of seats among the Provinces in respect of both Houses was mainly on population basis, the seats of each Province being allocated to separate communal electorates.

The history of reservation of seats for Depressed Classes in the legislature properly dates to the Government of India Act, 1935⁸⁷. There was no major change in the reservation policy for aboriginals or primitive tribes in allocating seats to the federal legislature in 1935.

The main feature of the Act of 1935 was the provision of the responsible Government with safeguards. The reservation of seats for the Depressed Classes was integrated into the Government of India Act of 1935.

The change was that separate electorates for Depressed Classes were withdrawn in consonance with the terms of the Poona Pact. The Government of India Act 1935 gave the Hindus, who formed more than 70 per cent of the population, only 105 general seats in the Federal Assembly which included 19 seats reserved for the Depressed Classes⁸⁸. According to this Act, there was no provision of reservation to the Depressed Classes, including primitive tribes, in the Council of State. The Act carved out the ward areas. Tribes were reserved seats in the provincial legislatures in accordance with the scheme enshrined in the fifth schedule of the Act⁸⁹. The Governor-General was responsible for the allocation of seats reserved for the Scheduled Tribes and representatives belonging to backward classes.

87. See, *Supra Note 69 at 273*

88. *Supra Note 86 at 274*

89. *Supra Note 88*

It is very clear that the Government of India Act, 1935 made special provisions for the reservation of seats for the people belonging to backward areas and tribes in six Provincial Legislative Assemblies. The seats reserved in all the six assemblies were 24 in toto⁹⁰.

The Governor of Madras issued an instrument of instructions under the Government of India Act, 1935 on March 8, 1937 to the effect that the Governor-General „shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial or religious communities for the members of which special representation is accorded in the Legislature, and those classes of the people committed to his charge who, whether on account of the smallness of their number or their primitive conditions or their lack of material advantage or from any other cause, cannot as yet fully rely for their welfare upon joint political action in the Legislature, shall not suffer, or have reasonable cause to fear, neglect or oppression⁹¹.

This Act of 1935 elaborated the term Scheduled Caste, considering it to mean „such tribes or tribal communities, or part of or group within the tribal communities, which has been defined by His Majesty in Council to correspond to the classes of persons formerly known as the Depressed Classes. Later, the British gave a vague classification through the Government of India (Scheduled Castes) Order, 1936, which issued the list or schedule of Scheduled Castes throughout the provinces of British India.

Similarly, the Government of India Act, 1935, also treated the Scheduled Districts as wholly or partially excluded ⁹². Most of the areas notified as Partially Excluded Areas under 1935 Act were declared V Schedule Areas and the Wholly Excluded Areas mostly became VI Schedule

90. *Supra Note 89 at 275*

91. *Supra Note 90*

92. Notification to this effect was issued Under Sections 91 of the Government of India Act, 1935, these backward areas were classified as excluded areas and partially excluded areas. Under Sections 92(1) & (2) of this Act, the administration of these areas was exclusively vested into the Governor of the Province S.92 (1), (2) & (3).

Areas. They embody principles followed in declaring „Excluded Areas“ and „Partially Excluded Areas“ under the Government of India Act 1935.

A small number of Excluded Areas were placed under the personal rule of the Governor acting in his discretion, while Partially Excluded Areas were within the field of Ministerial responsibility. But the Governors exercised a special responsibility in respect of the administration of all these areas, and they had the power in their individual judgment to overrule their ministers if they thought fit to do so. In fact, no Act of the federal or provincial legislature would apply to any of these areas. But the Governors had the authority to apply such Acts with such modifications as they considered necessary⁹³.

In addition to the Excluded Areas and Partially Excluded Areas, there were certain Tribal Areas. The powers exercisable in these areas were described as arising out of treaty, grant, usage, and sufferance or otherwise. The Indian Government Act, 1935 contained a specific authorization enabling these powers to be exercised as part of the executive authority of the Central Government and the Governor-General acting at his discretion, and therefore outside the areas of responsibility of the Ministry. The actual extent of administrative authority exercised in each of these Tribal Areas differed⁹⁴.

2.5 Conclusion

The deep-rooted caste system is the actual cause of the necessity of the reservation system in India. When the caste system came into existence, the dominant class enjoyed a high status and lower castes were fully exploited. The positions of the local caste hierarchy are related to the division of the Hindu society into four castes or Varna's.

93. *See Supra Note 91*

94. *Supra Note .93*

In India, the 19th century Renaissance and social reform movements created a new awareness of caste inequalities. The movement of certain castes for a greater share in government services started in southern India before Independence. The idea of a reservation policy came into existence in pre-Independence India.

CHAPTER-III

RESERVATION TO SCHEDULED TRIBES-INDIAN CONSITUTION

“Rights are protected not by law but by the social and moral conscience of society if social conscience is such that it is prepared to recognize the rights which the law chooses to enact, rights will be safe and secure. But if the fundamental rights are opposed by the community, no law, no parliament, no judiciary can guarantee them”¹.

-B.R. Ambedkar

3.1 INTRODUCTION

Social stratification and hierarchy have resulted in an unequal society. There is a need to reduce the widening gap of the social and economic spheres in society. This is the basic principle prompting the Indian Constitution to recommend the reservation policy in order to improve the position of the Scheduled Tribes. Dr. Ambedkar, the Founding Father of the Indian Constitution and architect of Modern India, dreamed of establishing India on the principles of equality, liberty and fraternity. Articles 15(4) and 16(4) of the Constitution provide for special treatment of SCs, STs, and OBCs. The doctrine of „Protective Discrimination“ or „Compensatory Justice“ or „Affirmative Action“ or „Social Justice“ or „Reservation“ has been provided for uplift of socially and educationally backward classes of citizens.

Reservation is one of the facets of social justice. The principle of reservation is inherent in the principles of equality. Article 14 of the Constitution itself permits reservation policies for the protection of the weaker sections of society. The Supreme Court of India is the guardian of the Constitution. Therefore, the approach of the Courts must be compatible with the Constitutional philosophy of social justice. To keep the judiciary keenly alive to its social responsibility, it requires an inclusive policy of SCs, STs and OBCs in the judiciary and particularly in the higher judiciary.

Several provisions were incorporated in the Constitution of the India to give substance to protective discrimination, thus safeguarding the interests of the Scheduled Tribes. They are enabled to join the national mainstream

1. Lal Shyam Lal, Saxena K. S, *Ambedkar and nation building*, (2008), Prem Rawat for Rawat publications, Jaipur- (India), pp.at 263

through the provisions of equality before the law and prohibition of discrimination on grounds of race, religion and caste².

The purpose of the reservation policy is to eliminate social, educational and economic disparities. The Constitution mandates the State to adopt such affirmative action in the form of reservation. The government decides to reserve a certain number of seats in educational institutions as well as public service in favour of Scheduled Castes and Scheduled Tribes.

In this chapter, the researcher deals with the debates over reservation policy in the Constituent Assembly, as well as the progress of the reservation policy after the Indian Constitution came into existence, with emphasis on the National Commission of Kaka Saheb Kalelkar and the Mandal Commission which gave flesh to the reservation policy in India.

3.2. The Constituent Assembly Debates on Reservation Policy

The Constituent Assembly was constituted through nominations by the provincial legislative assemblies³. On 13th December 1946, Mr. Jawaharlal Nehru moved the historic Objectives Resolution⁴ in the Constituent Assembly.

2. Dr.Pallavi Gupta, *Backward Class Reservation and concept of creamy Layer*, (2012), Deep & Deep Publications Pvt.Ltd, New Delhi, at 1

3. The members of the Constituent Assembly met for the first time on 9th December 1946. The first temporary two-day president of the Constituent Assembly was Dr. Sachchidananda Sinha, and latter Rajendra Prasad was elected president of the Constituent Assembly. The Constituent Assembly set up a Drafting Committee under the Chairmanship of Dr.Ambedkar to prepare a draft Constitution for India. Dr.B.R.Ambedkar, "Jawaharlal Nehru, C. Rajagopalachari, Rajendra Prasad, Sardar Vallabhbhai Patel, Maulana Abul Kalam Azad, Shyama Prasad Mukherjee were some important figure in the Assembly. The Prominent jurists like Alladi Krishnaswamy, Sir B.N.Rao, Syed M. Sadullah, Sir. N.Gopaldaswami Iyengar, K. M. Munshi, Sir B.L.Mitter and Shri D.P.Khaitan"³. Subsequently, the Drafting Committee was reconstituted due to cause of death of Shri D.P. Khaitan. In Latter, Shri, N. Madhava Rao was appointed to replace Sir, B. L. Mitter and Shri. T. T. Krishnamachari instead to fill the vacancy caused by the death of Shri D.P. Khaitan.

The main objective of the Resolution was in the nature of a pledge, a statement of policy and an introduction to the philosophy underlying the Indian Constitution.⁵ The Resolution was adopted on January 22, 1947.

The Objectives Resolution gave expression to the principles and hopes of the people of India. Its purpose was to guide the Constituent Assembly in its deliberations while framing the Constitution. The principles embodied in the Objectives Resolution were incorporated into the Preamble of the Constitution of India.

This resolution which was moved by Nehru was welcomed by different communities represented in the Indian Constituent Assembly. In no uncertain terms, it assured the protection of the interests of the Minorities, Backward Classes, including Scheduled Tribes. However, Nehru opposed a similar demand made by the Muslim League for job reservations for Muslim minorities in public services, and also denied its incorporation in the Constitution and statutory enactments.

4. Further Some of the Objectives Resolution read:

- a. This, Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution.
 - b. WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories, as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and
 - c. WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting there from; and
 - d. WHEREIN all power and authority of the Sovereign India, its constituent parts and organs of government, are derived from the people, and
 - e. WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political: equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and
 - f. WHEREBY shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea, and air according to justice and the law of civilized nations, and This ancient land attain its rightful and honoured place in the world and makes its full and willing contribution to the promotion, of world peace and the welfare of mankind.
5. Mishra Vinay Chandra, Dr. Parmanad Singh, *Reservation Crisis in India-Legal and Sociological Study on Mandal Commission Report.*, (1991), Bar Council of India Trust Universal Book Traders, Delhi, at 323

He also stated that State appointments should be fairly and adequately distributed and that no community should have cause to complain. According to Nehru, fairness could be attained by convention and agreement, and he also emphasised that the backward communities should give special educational training to bring them up to higher level⁶.

However, the Congress Party always attempted to oppose the continuation of the British policy of communal reservation. They were also not in favour of providing any reservation for any vulnerable group in public service.

Thereafter, many members gave suggestions about the formation of the cabinet mission plan and advisory committee. They also suggested setting up five sub-committees in the Constituent Assembly, containing due representation of all sections of society i.e., Hindus, Muslims, Scheduled Castes, Scheduled Tribes, Sikhs, Indian Christians, Parsis and Anglo Indians.

When the Constituent Assembly adopted this historic Objectives Resolution on 22nd January 1947⁷, it formed the basis of various provisions of the Constitution and also the Preamble. The members of the Constituent Assembly unanimously approved the resolution and resolved to draw up a Constitution, guaranteeing the same, inter alia.

After the Constituent Assembly adopted the aforesaid resolution, the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas came into existence by a resolution proposed by Pt. Govind Ballabh Pant⁸. The first meeting of the Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas⁹ was held on 27th February 1947. This Committee set up four sub-committees, including the Fundamental

6. *Ibid* 5 at 324

7. *Dr. Subesh C. Kashyap, Constitutional Law of India, 2008, Vol-II, Universal Law publishing co.pvt.Ltd, Delhi, at 497.*

8. *Ibid*

9. Sardar Vallabhai Patel was elected the chairman of Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Area of the constituent Assembly of India.

Rights Sub-Committee,¹⁰ Minorities Sub-Committee,¹¹ North-East Frontier Tribal Areas and Assam Excluded and Partially Excluded Areas Sub-Committee,¹² and Excluded and Partially Excluded Areas (Other than those in Assam) Sub-committee¹³. During the next meeting which was held on 24th March 1947, two minority communities, namely the Sikhs and the Anglo-Indians made a special demand for the reservation of posts for their communities.

Dr. B. R. Ambedkar was the chief spokesperson on behalf of the „untouchable“ communities. He made a very strong case for boosting the socio-economic condition of the Depressed Classes, with adequate representation in the legislatures and services commensurate with their population. He drew the attention of the sub-committees to the deprivation and the disadvantages suffered by the downtrodden masses for many centuries, and also insisted that the policy of preferential treatment was imperative for their upward socio-economic mobility.

During the discussion of the aforementioned clause, Prof. K. T. Shah proposed to add the terms „Scheduled Castes“ or „Backward Tribes“ for their advantage, safeguard and betterment. He further stated his object as under: “In regard to the Scheduled Castes and backward tribes, it is an open secret that they have been neglected in the past; and their right and claims to enjoy and have the capacity to enjoy as equal citizens happens to be denied to them because of their backwardness. I seek therefore by this motion to include them also within the scope of this sub-clause (2) Article 9, so that any special discrimination in favour of them may not be regarded as violating the basic principles of equality for all classes of citizens in the country. He further elaborated that at least for some time they need to be given special treatment

10. Acharya Kripalani was elected the chairman of Fundamental Rights sub-committee of the constituent Assembly of India.

11. Harendra Coomar Mookerjee was elected the chairman of Minorities Sub-Committee sub-committee of the constituent Assembly of India.

12. Gopinath Bardoloi was elected the chairman of North –East Frontier Tribal Areas and Assam Excluded and Partially Excluded Area Sub-Committee of the constituent Assembly of India.

13. A.V.Thakkar was elected the chairman of Excluded and Partially Excluded Area (other than those in Assam) Sub-committee of the constituent Assembly of India.

in regard to education, opportunity for employment, and in many other cases where their present inequality and their present backwardness is only a hindrance to the rapid development of the country¹⁴.

Dr. B. R. Ambedkar opposed Shah's amendment stating that similar clauses existed: Article 16 Clause (4) which discussed reservation in service, and Article 15 Clause (4) which safeguarded the rights of the reserved categories in the educational field, by stating that the State could open separate educational and other facilities exclusively for the Scheduled Castes and Scheduled Tribes without offending the equality guaranteed in Articles 14, 15 and 29¹⁵.

The advisory committee did not incorporate any provision in Part IV of the Constitution that requires the State to secure adequate representation to the backward classes in public service, since it felt that Article 46 of the Constitution was broad enough to cover all compensatory measures to benefit the backward groups. But they incorporated the same in article 16(4) in Part III of the Constitution by way of abundant caution.

Another important debate was surrounding Article 15(4). Who can be considered as belonging to the socially and educationally backward classes? Prof. K. T. Shah proposed an amendment for the addition of the word „economically“ along with the words „socially“ and „educationally“. Shah's aim was that Article 15(4) should also be able to eradicate economic backwardness.

Nehru, however, was not of the same opinion, stating that: “[M]y difficulty is that when we chose those particular words (socially and educationally) there we chose them because they occur in Article 340 and we wanted to bring them bodily from there. Otherwise, I would have not the slightest objection to add economically.” Nehru explained that a person should

¹⁴. Prof. K. T. Shah had moved an amendment under clause (2) of article 9 of the constitutional draft (now present Articles 15 clauses 3 of Indian Constitution) in the constituent Assembly.

¹⁵. *See, Supra Note 6 at 333*

be helped socially as it is a word having a much wider meaning including many things and certainly including economically. Finally, the selected committee report also made similar clarifications for not including the word „economically“ in Article 15(4).

Nehru accepted that the reorganisation of castes and communities went against the principles of equality and non-discrimination. He also felt that: “[W]e have to deal with the situation where for a variety of causes for which the present generation is not to blame, the past has the responsibility, there are groups, individuals, communities...who are backward.” He further stated that there are various ways to interpret the term „backward“ viz. economically, socially and educationally. He believed that the aim of compensatory or protective discrimination was to eliminate inequalities based on past prejudices associated with discrimination prevalent in society. He believed that in raising the backward groups, equality was the ultimate goal¹⁶.

Dr. B. R. Ambedkar stated that backward classes are nothing but a collection of certain classes. Many members of the Constituent Assembly were fearful that Article 15(4) might be misused by the State in creating a communal quota. Thus, it might perpetuate casteism and communalism in the country. However, Ambedkar assured the select committee about the inclusion of Article 15(4), stating that it was: “Not likely to be and cannot indeed be misused by any government for perpetuating any class distinction against the spirit of the Constitution by treating non-backward classes as backward for the purpose of conferring privileges on them¹⁷.”

(i) Test to determine Backward Class.

When the criteria were being drawn up to determine who are the backward classes for whom a special provision for reservation of service posts was made in the Constitution, some members expressed the view that the term backward classes meant only the „untouchables“; others stated that it included

16. *Supra Note 15 at 335*

17. Dr. B. R. Ambedkar defending clause (4) under Article 15 and clause (4) under Article 16 justified the reason for their classification under two Articles.

the broader group of people who were educationally, economically and socially backward, regardless of their religion, race or caste; while still others said that they were the members of historically disadvantaged groups.

Thereafter, Dr. B. R. Ambedkar proposed a resolution to change the term „classes“ in clause 5 draft under Article 10 which read: „Nothing herein contained shall prevent the State from making provision for reservations in favour of classes who, in the opinion of the State, are not adequately represented in the public services¹⁸.

C. Rajagopalachari opposed the suggestion, saying that it would enable the State to make reservation even for the majority community when the sole aim of clause 5 under Article 10 was to protect minorities. According to him the word „minorities“ should be used instead of „classes“, as the former term would include even political minorities. But some members believed that the word of „classes“ should replace the word „minorities“.

The Drafting Committee prefixed to the word „classes“ the word „backward“ under the draft Article 10(3) of the Constitution, which lays down that the State has been empowered to make any provisions relating to reservation of appointments or posts in favour of any backward class of citizens, who are not adequately represented in the service under the State¹⁹. The article clarifies the real beneficiaries of protective discrimination. Finally, by using the word „backward“, the Drafting Committee made very clear that a minority could not be entitled to have the benefit for reservation instead of the backward classes who were socially, economically and educationally weak.

A majority of the members were of the opinion that the meaning of the term „backward class“ and the term „backwardness“ was too vague. Some members were undecided on the use of the term „backward“ in judicial review,

18. The constitutional draft under Article 10(3) (presently articles 16 clauses 4 of Indian Constitution) was moved in the Constituent Assembly,

19. *Ibid at 18*

or to rather use the term „scheduled caste “or„depressed classes“ instead of backward classes.

According to K. M. Munshi, during the negotiations that proceeded, mooted the argument that except backward classes who are economically and socially backward and the scheduled castes and scheduled tribes who have a special claim of their own, no other minority should be recognised in the Constitution. He also observed that the scheme of reservation was pursued for the fulfilment of the social and economic needs of the backward classes who as result of historical circumstances were denied equal opportunity in socio-economic life.

When the question of whether there was any intention of including them in the backward classes was raised by some members of the Scheduled Castes, K. M. Munshi replied: “I cannot imagine for the life of me now, after an experience of one and a half years of the Constituent Assembly, that any honourable member of the scheduled castes should have feelings that they will not be included in the backward classes so long as they are backward. I also cannot imagine a time when there is a backward class in India which does not include the scheduled castes. „Backward class“ covered not only scheduled castes and scheduled tribes but also covered other socially, educationally and economically backward classes²⁰.

K. M. Munshi further said that draft Article 10(3) was read with draft Article 301 to make clear beyond doubt that the term „backward“ was significant, rather than the class of people. It does not matter who is called „untouchable“ or „touchable“. But what was significant is whether they belonged to a depressed class community or class of people who are so backward that special protection is required in the services. In order to clarify the doubts of some members regarding „who are the backward classes?“ he

20. K. M. Munshi also clarified through article 301 of the draft constitution (now present article 340 of the Indian constitution). The expression term of backward class as used in draft article 10(3) draft of the constitution (now present article 16(4) of the Indian constitution).

stated that Article 301 (now present article 340) makes it clear that there will be a commission appointed for the purpose of investigating who are the backward classes, which includes not only the Scheduled Castes and Scheduled Tribes but also other backward classes, who are economically, educationally and socially backward. We need not therefore define or restrict the scope of the word backward to particular community²¹.

K. M. Munshi made a speech in the Constituent Assembly to the effect that the word „social“ includes „economic“ also, and that the word „backward“ includes even economic backwardness is reinforced by the wording of Article 46 which directs the State to encourage particularly the depressed classes – those who are economically and educationally backward.

He also cleared the doubts of all the members of the Constituent Assembly that article 16(4) should be read with Articles 340 and 46. The expression „weaker sections“ would certainly include educationally and economically backward classes. He further said that Article 46 also used the term „social justice“ along with economic interest. In the constituent assembly, he also stressed the need to include economically backward classes i.e., the weaker sections of society, for the purpose of securing social justice to those people, by making reservations in employment for them²².

While referring to the arguments regarding the use of the word „backward“ in clause (3) of the draft of Article 10, Dr. B. R. Ambedkar said that the Drafting Committee had to reconcile opposing points of view to yield a “practicable solution which will be accepted by all.” If this was borne in mind, it would be seen that no better formula could be produced than the one embodied in clause (3). Further, he added, “Unless you use some such

²¹ K. M. Munshi clarified that the expression economically, socially, and educationally backward class was the legitimate way to acquire benefits under the present article 16(4) read with article 340 of the Indian constitution. He stated that neither article 16(4) nor article 340 use the expression economically.

²² *Supra Note 8 at 330*

qualifying phrase as „backward“ the exception made in favour of reservation will ultimately eat up the rule altogether²³.

An analysis of the entire debates on both Articles 15(4) and 16(4) indicates that the drafters themselves were not all clear about the meaning of the term „backward classes“.

The terms „communities“ and „castes“ were proposed to be included for protective discrimination. This was clarified by the chief architect, Dr. B. R. Ambedkar, under article 15(4) and 16(4) which gave preference to the class rather than to the individual.

The decision was taken in the Constituent Assembly after recommendation of the Advisory Committee on fundamental rights. Similarly, sub-clause (4) of Article 294 laid down that the number of seats reserved should be in proportion to the population of the depressed classes in the concerned Province²⁴.

(ii) Time Limit for Reservation

A special meeting was held to discuss the said Article 292 (the present article 334 of the Constitution) and also the time limit of reservation. The majority of the members of the Advisory Committee supported granting reservation for a period of ten years to the Depressed Classes. The Advisory Committee proposed that the reservation should be provided only for the Depressed Classes, which proposal was adopted by the Constituent Assembly.

Dr. Ambedkar moved an amendment to the constitutional draft of Article 292 for providing reservation of seats for Scheduled Tribes in the

23. After clarification still doubts prevailed among the members of the constituent assembly regarding exact meaning and scope of the word backward class. T. T. Krishnamachari was of the opinion that the Article 10(3) of the constitution drafts the term backward class as a paradox for lawyers, leading to a lot of litigation.

24. On October 1947 sub-clause (4) of Article 60 was drafted by the Constitutional Adviser to provide for reservation of seats in parliament inter alia for scheduled castes and Scheduled tribes.

parliamentary elections. Further, he proposed a separate declaration of the Scheduled Tribes in the autonomous districts of Assam and of those outside.

The revised draft also laid down that the number of seats would be reserved according to the population. Ambedkar mentioned that this revised draft article was an exact reproduction of the decision of the Advisory Committee. Ambedkar's amendment made provision for reservation in all the states – irrespective of whether they were in Part I, Part II or Part III of the First Schedule²⁵.

Dr. Ambedkar also made a demand through his constitutional draft under Article 294 that the reservations should be confined in the State Assemblies to Scheduled Tribes and should be proportionate to the number of seats reserved in the autonomous districts of Assam. He also stated in his constitutional draft that a person who is not a member belonging to a Scheduled Tribe would be eligible for election from an autonomous district of Assam.

The reservation of seats for Scheduled Castes and Scheduled Tribes would apply to all the States mentioned in Part I and Part II of the First Schedule ²⁶ i.e., all the Provinces and all the Indian States except those constituted as Chief Commissioners' Provinces. This article was adopted without any amendment.

Simultaneously, T. T. Krishnamachari moved an amendment to add a proviso to the effect that in case the ten-year period ended in the midst of the term of a House, the termination should take effect only on the dissolution of the existing House or Assembly. Ambedkar accepted the amendment suggested by T. D. Bhargava and T. T. Krishnamachari, that the period for reservation of seats would be necessary for a longer period because the ten

25. On February 1948 the drafting committee prepared a draft of Article 292 which sought to reserve seats in the House of the people for Muslims, scheduled castes, Scheduled Tribes, etc...

26. The most important feature of the revised new constitutional draft under article 294 (now present under article 330) was the debate in the Constituent Assembly.

years“ period was the result of a general agreement among the parties accepted by the Constituent Assembly, and it would not be right to go back on those provisions at that stage. At the end of ten years, if the condition of tribes had not improved or they wanted a further extension of the period, he stated, it would not be beyond their capacity or their intelligence to invent new ways of getting the same protection which they promised here.

Ambedkar envisaged reservation to Scheduled Tribes would be necessary for a longer period, but the other members who had spoken about reservation specified that it should end after ten years²⁷.

Ambedkar moved an amended clause restricting the Scheduled Tribes to any special treatment in the matter of recruitment in public service, but extending the scope of preference to Part III states i.e. Indian states²⁸. When the Constituent Assembly gave its concurrence to the reopening of the issue, an acrimonious debate followed that no change should be made in the constitutional draft Article 296. Ambedkar moved an amendment making it clear that in regard to public service, the Constitution should require the Central and State governments to give special consideration to all minorities including Scheduled Tribes. Finally, the amended draft as proposed by Ambedkar was adopted by the Assembly.

The draft was amended in two important aspects. Firstly, the jurisdiction was limited to Scheduled Tribes, Scheduled Castes, Anglo-Indians, and other backward classes. Secondly, there was to be only one

27. Dr. Ambedkar moved a new draft under Article 295A to incorporate an Amendment of Thakur Das Bhargava which was adopted by the House in earlier time. According to this new draft Article 295A, reservation of seats for Scheduled castes and Scheduled Tribes would cease to be in force after the expiration of ten years from the commencement of this constitution. Notwithstanding anything contained in the foregoing provision of this part, the provisions of this constitution relating to the reservation of seats for the Scheduled Castes and the Scheduled Tribes either in the House of the people or in the Legislative Assembly of a state shall cease to have effect on the expiration of a period of ten years from the commencement of this constitution. With the amendments accepted by Ambedkar, Article 295-A was added to constitution by the constituent Assembly.

28. The constitutional draft Article 296 relating to preferential treatment to be given to scheduled tribe, etc...in the matter of public appointment came up for discussion in the constituent Assembly.

special officer to be appointed by the Union Government who would function for the Centre, as well as, for the States.

The draft of the Constitution was finally adopted by the Constituent Assembly on Nov 26, 1949.

3.3. Reservation policy after the Indian Constitution came into force

The Indian Constitution contains a special clause for the advancement of any socially and educationally of backward classes ²⁹ . The Constitution mandates that the Scheduled Castes and Scheduled Tribes to be the primary beneficiaries of reservation. The reservation offered for SCs and STs are trifold:

- (i) Preference in admission to educational institutions;
- (ii) Employment in public Services;³⁰
- (iii) Representation in law-making bodies and local self-governing institutions³¹.

The Kalekar Commission was established to assess the situation of the socially and educationally backward class in 1953. The report of the commission was accepted as far as Scheduled Castes and Scheduled Tribes were concerned. The recommendations for Other Backward Classes were rejected³² .

Much later, the Mandal Commission was established to assess the situation of the socially and educationally backward classes in 1979. In 1980, the commission submitted a report and recommended changes to the existing quotas, and increased them from 22% to 49.5 %³³.

29. Art. 15(4)

30. Prabhas J, *Affirmative Action and Social Changes –Social Mobility of Dalits*, (1st Edition 2001), Anmol Publications Pvt.Ltd, New Delhi, at 1

31. Constitution provision has also Separate Constituencies allocated to Scheduled Castes and Scheduled tribes to ensure their Political representation for 10 years. These were subsequently extended for every 10 years through Constitutional amendment.

32. Garg V.K, *Untouchability and Caste system*, 1st Edition 2011, Alfa Publication, New Delhi, at 22.

33. *Ibid*

In 1990, the recommendations of the Mandal Commission were implemented in government jobs by Prime Minister Vishwanth Pratap Singh. In 1991, the Narasimha Rao government introduced 10% separate reservations for the poor among forward castes. Thereafter, the Supreme Court of India upheld reservation for Other Backward Classes³⁴.

In 1995, the parliament introduced the 77th Constitutional Amendment to insert Article 16(4) (A) and permitted reservation in promotions to the Scheduled Castes and Scheduled Tribes. Later, it was further amended by the 85th amendment to include consequential seniority.

On 12th August 2005, the Supreme Court delivered a unanimous judgment by seven judges, that the State cannot impose its reservation policy on minority and non-minority unaided private colleges, including professional colleges³⁵. The 93rd Constitutional Amendment, 2006 was brought in to ensure reservations for OBCs and Scheduled Castes and Tribes, in admission to Private educational institutions.

3.3.1. Definition and Identification of Scheduled Tribes under the Constitution of India

According to the Constitution, Scheduled Tribes are those tribes or tribal communities or parts of or groups thereof, as the President may notify³⁶. The President may under Article 342 (1) of the Constitution by public notification specify the Scheduled Tribes with respect to each State or Union Territory. In case of the States, the President issues the notification after consultation with the Governor of the State concerned.

The Constitution does not specify the castes or the tribes, or who are the persons belonging to scheduled tribes. Article 342, however, empowers the

34. Indra Sawheny v. Union of India AIR 1993 SC 477

35. P.A.Inamdar and Ors. v. state of Maharashtra and Ors AIR2003, SC, 3724.

36. Art. 366 (25)

President to draw up a list of these tribes for any inclusion or exclusion from the presidential notification. The lists of castes and tribes mentioned in Presidential orders can be amended only by Parliamentary legislation. They cannot be disturbed by State Legislatures or any State Executive³⁷.

(a) Reservation Benefits After Conversion of Religion

An important question arose before the court, where a person originally of a Scheduled Caste or Scheduled Tribes converted to another religion and thereafter reconverted in order to claim the benefit of reservation of seats in a medical college under article 15(4) of the Constitution.

The court held that a person whose parents belonged to a Scheduled Caste before their conversion to another religion could, on reconversion to Hinduism, be regarded as member of the scheduled caste only if he or she was accepted as member of that caste by the other members of the caste. On such acceptance, he or she would be eligible for the benefit of reservation of seats for Scheduled Castes in the medical college³⁸.

(b) No entitlement to reservation benefit in inter-caste marriage

A non-tribal woman marrying a man belonging to a Scheduled Tribe is not entitled to the benefit of reservation available to Scheduled Tribes³⁹. Similarly, if a high caste Hindu woman marries a person belonging to Scheduled Caste, she is not entitled to take the benefit of reservation under articles 15(4) and 16(4) of the Constitution.

Therefore, „it was held that she could not acquire the status of scheduled caste and could not contest election on a seat reserved for scheduled

37. E.V.Chinnaiah v. State of A.P., AIR.2005SC.162.

38. Principle Guntur Medical College v. Y.Rohan.Rao,(1973)3SCC411.

39. Dr. Neelima v. Dean of P.G. Studies A.P. Agriculture University, Hyderabad, AIR 1993SC229

caste. Mere acceptance of family of husband is not sufficient. Strict proof of acceptance by community of husband is necessary⁴⁰.

The case involved a woman belonging to a forward class but married to a man belonging to a Scheduled Tribe. She contested the election to the legislative assembly from a constituency reserved for Scheduled Tribes. Her election was declared invalid. The court held that even recognition of a woman as a member of a backward community in view of her marriage would not be relevant for reservation under articles 16(4)⁴¹.

In the case of a tribal woman married to a non-tribal, their son was brought up in a forward caste family. The Supreme Court held that offshoots of such marriage cannot claim the status of Scheduled Tribe. The casual visit to the mother's village in the holidays would not constitute acceptance by the community.

The following conclusions were drawn:

- (i) Merely because a person belonging to a higher caste by birth is married to a man of a backward caste or community, she cannot claim the benefit of reservation.
- (ii) Acceptance of the marriage must be by the caste or community at large. Acceptance by family members or relatives of the husband will not be enough.
- (iii) In deciding whether the community accepted the marriage or not, rites and ceremonies of marriage, any special ceremony, whether before or after marriage, for conversion of her caste, are relevant matters for consideration⁴².

40. Meera Kanwaria v. Sunita, AIR 2006SC.597.

41. SobhaHymavati Devi v. Setti Gangadhara Swamy, AIR, 2005, SC.800.

42. AnjanKumar v. Union of India, AIR.2006, S.C.177.

(c) Territorial Limitation with regard to Reservation

A person who is recognised as a member of the Scheduled Castes / Scheduled Tribes in his original state, will be entitled to all the benefits of Reservation under the Constitution in that state only, and not entitled to the benefits of Reservation if he migrates to another state / Union Territory for the purpose of employment or education.

(d) Benefits of reservation extended to adopted children

The case arose in Delhi High Court that a male above the age of 21 years, belonging to the Jat community, was adopted by a member of a Scheduled Caste. The court held that he was entitled to reservation as a member of a Scheduled Caste⁴³.

3.3.2 Reservation Policy under Fundamental Rights

The origin of the concept of Fundamental Rights led to the natural law theory, and this theory is most closely associated with modern theories of human rights⁴⁴. Part III of the Constitution of India deals with Fundamental Rights. The construction of the provision of the Fundamental Rights must be broad and liberal. The Fundamental Rights in the Constitution of India are in accordance with the trend of modern democratic thought, the idea being to preserve that which is an indispensable condition of a free society.

These Fundamental Rights represent the basic values cherished by the people of India, and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his or her personality to the fullest extent⁴⁵.

43. Khajan Singh v. Union of India, AIR, 1980, Delhi 60.

44. Acharya B.C, *A Handbook of women's Human Right*, (2011), wisdom press, New Delhi, at 9

45. *Ibid* at 48

Fundamental Rights impose a negative obligation on the State not to encroach on individual liberty in its various dimensions. The declaration of Fundamental Rights in the Constitution serves as a reminder to the Government in power that certain liberties, assured to the peoples by the Constitution, are to be respected.

Another purpose behind the inclusion of the chapter on Fundamental Rights in the Indian Constitution is to establish a government of law and not of man, namely, a governmental system where the tyranny of the majority does not oppress the minority⁴⁶ by encroaching on the citizen's basic rights and liberties.

Equality before the law is the most precious democratic right of an Indian citizen and it is enshrined in Article 14 of the Constitution of India. Equality before the law and equal protection of the law⁴⁷ is not only the right of every Indian citizen but also the right of non-citizens.

In *Meenakshi Mills v. Visvanatha Sastri*⁴⁸ the Supreme Court had held that this article not only guarantees equal protection as regards substantive laws but it also guarantees equal protection as regards procedural laws. The concept of equality before the law and equal protection of the law has been taken from the British and the American Constitutions respectively.

Equality before the law is one of the true interpretations of the Rule of Law according to A.V. Dicey, who defines it as the equal subjection of all classes to the ordinary law of the land administered by ordinary law courts⁴⁹.

The second concept of equal protection of the law is positive in content. It does not mean that the same law should apply identically to all persons, or that every law must have a universal application within the country

46. *Ibid* at 49

47. Pandey Dr.J.N, *Constitutional Law of India*,(44th Edition 2007), Central Law Agency, Allahabad, at 73

48. A.I.R.1955 S.C .13

49. Kumar Mahesh, Tyagrajan KR, Sharma RV Manoj, *Indian Constitution*, (1st Edition 2011), Anmol Publications PVT.LTD, New Delhi. At 78

irrespective of difference of circumstance. There shall not be arbitrary discrimination made by laws themselves in their administration⁵⁰.

The rule of law embodied in Article 14 is a basic feature of the Indian Constitution. Hence it cannot be destroyed even by an amendment of the Constitution under article 368 of the Constitution⁵¹. The rule of law has been described by Prof. Dicey as „the guarantee of equality before the law“. It means that no man is above the law; all are equal in eye of law.

Article 14 permits classification but prohibits class legislation. The equal protection of law guaranteed by article 14 does not mean that all laws must be general in character. Separate treatment is required for the fluctuating needs of different classes of persons.

In fact, identical treatment in unequal circumstances would amount to unequal treatment. Thus, a reasonable classification is permitted for the development of society. Article 14 forbids class legislation but it does not forbid reasonable classification. The classification, however, must not be arbitrary, artificial or evasive, but must be based on some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation⁵².

Article 15(4) and 16(4) provide reservations for backward classes. There are two conditions to be satisfied in order to pass the test of permissible classification. Firstly, the classification should be based upon an intelligible differentiation to distinguish persons or things to be left out of the groups, and secondly differentiation must have a balanced relation to the object which has to be accomplished by the statute. This classification may also be founded on different bases namely, geographical or territorial basis.

50. Chnader Shailja, *Justice V.R.Krishna Iyer on Fundamental Rights and Directive Principles*, (1992), Deep & Deep Publications, New Delhi, at 87

51. Edited by Rao Dr. R. B , *Bharat-Ratna Dr. Ambedkar*, (1993), Chugh Publications, Allahabad India

52. Pandey Dr.J.N, *Constitutional Law of India*, (2003), Central Law Agency, Allahabad-2 at 77

3.3.2.1 Reservation in Educational Institutions

Article 15(4) of the Constitution has specified the seats reserved for Scheduled Tribe students in educational institutions such as government-run or aided educational institutions. There are number of schemes which seek to implement the provisions of Article 15(4), Article 46 and Article 275.

Article 15(2) provides that no citizen shall be discriminated against on the grounds of religion, race, caste, place of birth or any of them based on any disability, restriction or condition with regard to access and use of places mentioned in sub-clauses (a) and (b)⁵³. It is intended to eradicate certain customs prevailing in Indian society which do not allow persons of certain castes and religions to use wells, ghats and other public places.

Clause (3) of Article 15 empowers the State to make special provision for women and children. This Article 15(3) provision has been described by Constitutional experts as protective discrimination for women, including tribal women. It is intended to give an initial advantage to women including tribal women, so they can compete with men in various fields effectively.

50% reservation for women in the recruitment of Assistant Teachers is not violative of Article 15(1)⁵⁴. Clause (3) has been enacted to improve the status of women and their participation in all activities.

Relaxation of minimum qualifying marks for admission is another special provision. The Supreme Court upheld the validity of an executive order of the State government which had greatly relaxed the minimum qualifying marks in the entrance examination for admission to the medical colleges of the State, in respect of candidates from the Scheduled Castes and Scheduled Tribes. It was held by the court that the State was obliged under

53. Clause (2) Articles 15

54. Rajesh Kumar Gupta v. State of U.P, AIR, 2005 SC.2540.

article 15(4) to do what it could for the uplift of Scheduled Castes and Scheduled Tribes⁵⁵.

Article 15(4) envisages the policy of compensatory or protective discrimination, but it should be reasonable and consistent with the ultimate interest, i.e., national interest and the interest of society as a whole⁵⁶. Where a candidate belonging to a Scheduled Caste or and Scheduled Tribe is selected for admission to a course on the basis of merit as a general candidate then the admission should be treated as of a reserved candidate⁵⁷.

(a) Provisions relating to socially and educationally backward classes of citizens

The State is empowered to make provision for the advancement of any socially and educationally backward class, besides the Scheduled Tribes under Article 15(4) and Article 15(5). The expression „special provision for the advancement“ has a wide connotation. It may include many things such as reservation of seats in educational institutions, financial assistance, scholarships, free housing etc. Similarly, the State can make provisions for the reservation of appointments or posts in favour of any backward class under Articles 16(4).

Thus, under clause (4) of Article 15, two things are to be determined: who are the socially and educationally backward classes, and what is the limit of reservation. „Backward class“ is not defined in the Constitution. However, the President is authorised to appoint a commission to investigate whose condition is socially and educationally backward⁵⁸. On the basis of the report of the commission the President may specify who are to be considered to be Backward Classes.

55. State of M.P v. Nivedita Jain, AIR1981SC1009.

56. Preeti Srivastava v. state of M.P., AIR. (1999) SC2894.

57. PGI of Medical Education and Research v. K.L.Narasimhan, (1997)6SCC283.

58. Art. 340

Since the Constitution of India was silent on the criteria to be adopted in the identification of socially and educationally backward classes, the States adopted criteria of their own for giving effect to articles 15(4) and 16(4).

The State has the responsibility to take special care of the backward classes with respect to educational and economic interests⁵⁹. The protective discrimination recognised by the provisions of the Constitution is largely concerned with certain classes of citizens of India.

The court has not only decided the matter in constitutionality but set certain trends in the law relating to reservations. Various leading judgments of the Supreme Court and the high courts are discussed below, to project the law of reservation in education. The decisions throw light on the judicial perspectives on the law of reservations.

(b) Magnitude of Reservation

The reservation policy for Scheduled Castes, Scheduled Tribes and Other Backward Classes is 15%, 7.5% and 27% respectively. The various governments have implemented reservation in educational institutions and governmental jobs to the maximum possible extent.

The question relating to the extent of reservation came before the Supreme Court.⁶⁰ In this case the Government of Mysore had issued an order reserving 68% of the seats available for admissions to the medical, engineering and other technical colleges within the state. Out of 68% seats, 28% were reserved for backward classes, 22% for more backward classes, 15% for Scheduled Castes and 3% for Scheduled Tribes. Only 32% seats were made available for the general category. The government order was challenged as not permissible under Article 15(4). The criteria for deciding which class was backward were questioned. It was further pointed out that 68% reservation was excessive and unreasonable in protecting interests of the

59. Art.46

60. Balaji v. State of Mysore, AIR1963, SC, 649.

general candidates. As result, the Supreme Court struck down the G.O. reserving 68% of seats as unconstitutional and ultra-vires.

(c) Criteria for Identification of Social and Economic Backwardness

The two important factors to be taken into account to define backwardness are economic condition and profession. The Supreme Court held that though the caste of a group of citizens might be a relevant circumstance for ascertaining their social backwardness, it could not be the sole or dominant or even essential test in that behalf. The court accepted the measures implemented by the Mysore Government for determining the backwardness of a class⁶¹.

Geographical and cultural factors make the identification of the Scheduled Tribes fairly straightforward. The question arises as to who are deemed to be Other Backward Classes, and what criteria should be adopted in determining them for the purpose of reservation in jobs and educational institutions. The expression „backward class“ in clause (4) of Article 16 has the same meaning as the expression socially and educationally backward class in clause (4) of Article 15.

The list of backward classes has been quantified by caste, but it does not essentially mean caste is the sole basis of backwardness. The main criterion for inclusion in the list is social and educational backwardness of the class based on their occupation.

In another case, the Supreme Court held that the classification of backward classes on the basis of castes is well within the purview of articles 15(4) provided those castes are shown to be socially and educationally backward. But the court advised that the Government should not proceed on the basis that once a class is considered backward it should continue to be considered a backward class for all times. Such an approach, the court said, would defeat the very purpose of reservation.

61. R.Chitralekha v. state of Mysore, AIR1964 Sc1823.

The Government should always keep under review the question of reservation of seats and only the classes which are really socially and educationally backward should be allowed to have the benefit of reservation. Reservation of seats should not be allowed to become a vested interest. The Government decision in this regard is open to judicial review.⁶² In other words, the court observed that the caste-based test of backwardness was permissible so long as such castes were socially and educationally backward, though it warned against the vested interests being created in favour of castes and asked for constant revision of the test⁶³.

The Supreme Court took appropriate steps to invalidate a Government of Andhra Pradesh notification, apparently based exclusively on the caste criterion. With the observation that in Article 15(4), the expression class means a homogenous section of the people grouped together because of a certain likeness or common traits and the determination of which caste cannot be excluded altogether. But in the determination of a class a test solely based upon the caste or community cannot be accepted⁶⁴.

Similarly, in another case the Supreme Court struck down a Jammu and Kashmir Government order reserving 50% of the vacancies for the Muslims of Kashmir, 40% for the Hindus of Jammu and 10% for the Hindus of Kashmir, with the observation that a backward class was not synonymous with a caste or community.⁶⁵ In this case, it was also observed by the Supreme Court regarding the criteria to be adopted for the purpose of providing the benefits of the policy of reservation: that a caste is also a class of citizens and as such may be socially and educationally backward. The reservation made for such persons will have to be upheld if after collecting the necessary data, it is found that a caste as whole is socially and educationally backward, notwithstanding

62. Perriakaruppan.v. State of T.N., AIR (1971) 1SCC38:AIR1971SC2303.

63. *Ibid*

64. State of Andhra Pradesh v. P.Sagar, AIR 1968SC1379

65. TrilokiNath v. state of J&K, (1971) 1SCC38:AIR1971SC2303.

the fact that a few individuals or a group may be both socially and educationally above the general average⁶⁶.

The Government of Kerala passed an order under which reservation in medical colleges for members of socially and educationally backward classes was available only to those who came from families whose annual income was below Rs. 10,000. In the case in question, the candidate belonged to a backward community but her family income was above Rs. 10,000. Therefore, her claim to the medical seat was rejected and a candidate from her own community, with less marks, was admitted. The order passed by the Government of Kerala was challenged in the Supreme Court. It was argued that the government order was violated of article 15(4) of the Constitution. It was further argued that there was no reason to exclude a section of the community only on the basis of income as income was not a criterion. The Court held that it may not be irrelevant to consider the caste of the group of citizens for determining the social backwardness of a class of citizens, but the castes cannot be made the only test as social backwardness could be the outcome of poverty. Neither caste nor poverty could be the only determining test of social backwardness. Further, it was held that the impugned order prescribing an income limit was valid. The classification was based not on income alone but on social and educational backwardness. Therefore, the economic criterion for eligibility for reservation was held valid⁶⁷.

Residence as Criterion

Some of the states adhered to the policy of giving district and regional residential preferential treatment. The Uttar Pradesh Government reserved seats in the state's medical colleges for candidates coming from the rural areas, hill areas and Uttarakhand. The classification made for the rectification of regional imbalance, without identifying the areas suffering from imbalance,

66. State of Andhra Pradesh v. U.S.V. Balaram, AIR (1971) 1SCC660 :AIR1972SC1375, 1395.

67. Jayasree v. state of Kerala, (1976)3SCC 293: AIR1971SC1762.

was vague and arbitrary and therefore violative of Article 15(4) of the Constitution.⁶⁸

The residence requirement for admission to medical colleges was challenged. The Supreme Court held that such a condition was inconsistent with the idea of national unity and integration. At the time, it could be justified both under article 14 and 15(1). The court further pointed out the necessity to select the best and most meritorious students for admission to the technical institutions and medical colleges by providing equal opportunity to all citizens in the country. The court also expressed the view that reservation of seats for admission in the medical colleges for M.B.B.S. and post-graduate medical courses on the basis of domicile is valid⁶⁹.

In another case, a rule which reserved 70% of the seats in the postgraduate medical courses to Delhi University medical graduates, while keeping 30% open to all, including the Delhi University graduates, was challenged by a medical graduate from Madras University as violating Article 15⁷⁰.

Another case which the Supreme Court decided was the allotment of 50% seats for pre- and post-1942 settlers in the Andaman and Nicobar Islands. In this case the court found the allotment had not violated Articles 14 and 15(4) of the Constitution⁷¹.

Unaided Educational Institutions

The provision of Article 15(4) is very wide and there is nothing to restrict the application to aided or unaided educational institutions. Private unaided institutions are established with a view to imparting education in a certain structured manner without much interference by the State. However, taking into consideration the importance of education in society, to ensure

⁶⁸. *Arti v. State of J. and K.*, AIR 1981SC1009.

⁶⁹. *Pradeepjain v. Union of India*, AIR(1984)3 SCC 654

⁷⁰. *Dr. Jagdish Saran and other v. Union of India*, AIR (1980) SC820

⁷¹. *Parents Association v. Union of India*, AIR 2000 SC845.

social uplift, it is quite clear that here have to be some restrictions on these private institutions. In the context, the law was applied to reservation in private educational institution.

Consequently, Parliament introduced article 15(5) in the Constitution 93rd Amendment Act, 2006⁷². The amendment was clearly intended to bring all private institutions, aided or unaided, under the purview of the government policies on reservation and fee structure.

Impact of 93rd Constitutional Amendment

The Constitutional provision guarantees to all linguistic and religious minorities the right to establish and the right to administer educational institutions of their own choice⁷³. The 93rd Amendment was enacted to nullify the concept that State cannot impose its reservation policy on private unaided institutions.

In certain high profile cases, such as *T. M. S. Pai Foundation v. state of Karnataka*⁷⁴ and *P. A. Inamdar v. state of Maharashtra*,⁷⁵ the Supreme Court had earlier held that the State cannot make reservation of seats in admission to private-run educational institutions.

In the Supreme Court judgement given in the case of the *Islamic Academy of Education V. State of Karnataka*⁷⁶ the court held that the State could fix quotas for admission to minority-run educational institutions but it could not fix fees, and moreover admission could be done on the basis of a common admission test and on the basis of merit.

⁷². The said article run under: Nothing articles 15 or in sub-clause (g) of clause (1) of articles 19 shall prevent the state from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizen or for the scheduled castes or the scheduled tribes in so far as such special provisions relate to their admission to educational intuitions including private educational institutions, which aided or unaided by the state, other than the minority educational institutions referred to in clause (1) of article 30.

⁷³. Clause (1) Article 30

⁷⁴. AIR 2003SC355.

⁷⁵. AIR2003, SC, 3724.

⁷⁶. AIR (2003)6SCC697

The 93rd Amendment enables the State to make provisions for reservation for backward classes in admission to private educational institutions. However, the Amendment keeps the minority educational institutions out of its purview.

3.3.2.2 Reservation in Recruitment

The Constitution of India also lay down that 15% and 7.5% of vacancies to Government-aided educational institutions and for jobs in the Government or Public Sector would be the reserved quota for Scheduled Caste and Scheduled Tribe candidates respectively for a period of five years, after which the situation was to be reviewed. The Supreme Court also held that the total reservation could not exceed 50%⁷⁷.

The words „employment“ and „appointment“ are wide enough to included tenure, duration, emoluments, and duties and obligations, whether the employment is temporary or permanent. The court held that it not merely the initial appointment, but also salary, increments, revision of pay, promotion, gratuity, leave, pension and age of superannuation⁷⁸ which are covered.

(i) Reservation for Backward Classes in Service/Employment

According to Article 16 Parliament has the power to regulate by law the extent to which it would be permissible for a state to depart from the above principle. The promotion and advancement of the socially, economically and educationally backward classes, the provisions for the reservation of posts under the government have been also incorporated. The State has the power to make provisions for the reservation of posts in government jobs in favour of any backward class of citizen, which is not adequately represented in the services under the State⁷⁹. The reason for the incorporation of Article 16(4) is especially the uplift of those people belonging to socially, economically and

77. Balaji v. State of Mysore, AIR (1964) SC 1823,1833

78. Champakam v. Union of India AIR1964SC1854.

79. Art.16 (4)

educationally backward classes, and not adequately represented in the service of the State. Article 16(4) must be interpreted in the light of Article 335⁸⁰. The reservations for backward classes should not be unreasonable. It should be considered having regard to the employment opportunity of the general public.

The concept of any backward class of citizen in Article 16(4) is much wider than the backward class defined under articles 15(4). It is not correct to say that social backwardness is an essential characteristic of the backward class under Article 16(4). The object of Article 16(4) is to provide job reservation for the backward sections of those classes of citizens which are not adequately represented in the state services.

(a) Reasonable classification on the basis of the economic criterion

In the context of Article 16(4), the economic criterion is essentially relevant. The State is prohibited from discriminating on the basis of race, religion or caste in any form by articles 15(1), 16(2) and 29(2). The Supreme Court has also held any classification made on the basis of religion, race or caste to be opposed to the Constitution and a clear violation of the fundamental rights⁸¹.

The provision for reservation in appointment under Article 16(4) is not aimed at economic uplift or alleviation of poverty. Article 16(4) is especially designed to give a share in state power those who are socially and educationally backward. The causes of backwardness are carefully examined in Article 16(4). Non-representation in the administration of the country is seen as both a cause and consequence of backwardness. In *Indra Sawhney v. Union of India*, the Supreme Court held that article 16(4) is not an exception to Clause (1) of article 16 thereof⁸².

80. which says that the claim of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration, in the making of appointments to service and posts in connection with the affairs of the Union or State

81. *State of Madras v. Shrimathi champakam Dorairajan*, AIR, 1951, SC 226: 1951SCR525 :1951SCJ313.

82. AIR 1993 SC 477.

Clauses (1) and (2) of Article 16 may permit classification using the economic criterion, and the purpose of such classification is only to alleviate poverty or relieve unemployment. The classification permitted under clause (1) and (2) of Article 16 and the concession in favour of the backward classes have to be reconciled in such a manner that they do not unreasonably encroach upon the field of equality⁸³.

Similarly, Article 14 and Article 16(4) permit of reasonable classification. While in the case of *Indra Sawhney v. Union of India*,⁸⁴ the court observed that actually the provision effectuates the Constitutional mandate engrafted in article 16(1), as it would offer equal opportunity in matters relating to employment and it would not be monopolised by a specified category of persons in the feeder category to get promotion.

(b) Classification of Backward Class

The expression „backward class“ as used in Article 16(4) includes within its cover Scheduled Castes and Scheduled Tribes, and in the same sense Article 15(4) also speaks about socially and educationally backward classes of citizen. The court held that „inadequate representation would not be deemed to determine the backwardness of the section“. It has also been highlighted that the term backward class is not identical with backward caste or backward community. It also determines that the section of population forms a Backward Class for the purpose of Article 16(4). The sole determination test based upon caste or community cannot be accepted, because Article 15 forbids the State from discriminating against any citizen based on caste, community, race, religion, sex, descent, place of birth or residence. It would directly violate Article 16(2)⁸⁵.

83. Post –Graduate Institute of Medical Education and Research Chandigarh v. faculty Association, AIR, 1998 4 SCC1.

84. AIR 1993 SC 477.

85. TrilokiNath & Another v. State of Jammu Kashmir & Others, AIR 1973SC930 (1973) SC1.

Article 16, while providing for equality of opportunity to all without any distinction and irrespective of forward or backward classes of citizens, directs the State to reserve posts for backward classes if they are not adequately represented in governmental services as, „inequality does not harm only the unequal, it hurts the entire society⁸⁶.

The apex court held that it is necessary to remember that a special provision is contemplated for classes of citizen and not for individual citizens as such, and so though the caste of the group of citizen may be relevant, its importance should not be exaggerated. If the classification is based solely on the caste of the citizen, it may not be logical⁸⁷.

The expression any „backward class of citizens“ in Article 16(4) of the Constitution as understood till date means socially and educationally backward class of citizens. It was observed Articles 15(4) speaks about socially and educationally backward classes of citizens. While Article 16(4) speaks only of any backward class of citizens, it is now settled that it refers to any socially and educationally backward class of citizens, as in Article 15(4)⁸⁸.

Article 16(4) does not envisage any reservation in services independent of backwardness. But reservation of posts was made on the basis of various castes and communities like Harijans, Backward Hindus, Muslims, Hindu Brahmins, Non-Brahmins and Christians. The reservation was upheld by the court „for the benefit of Harijans and Backward Hindu and those posts were reserved not on the ground of religion, caste, race, etc.“ It is necessary to make provision for reservation regarding to those posts for the benefit of the backward classes of citizen. The reservation of posts in support of any backward class of citizen cannot be annulled. The reservation of posts for Hindus, Muslims and Christians invades Articles 16(1) and 16(2)⁸⁹.

86. IndraSawhney v. Union of India, AIR 1993 SC,447.

87. K.S. JayashreeKumari v. state of Kerla AIR,1976SC23810:1976(3) SCC730.

88. In jankiparimoo v. state of jammu and Kashmir, AIR 1973 SC930@197303
SCR236:1973(1) SCC420:1973(1) SLR 719:1973 Lab IC565.

89. Venkataaramana v. State of Madras, AIR 1951SC229.

It has been held by the Supreme Court that the State could exercise its power of reservation under Article 16(4) which comprehended reservation in the matter of promotion. It means that reservation in government service could be made from a lower to a higher post or cadre i.e., not only at the initial stage of recruitment but in the matter of promotion also⁹⁰.

The scope of clause (4) first came into the consideration of the Supreme Court on the constitutional validity of the carry forward rule framed by the government to regulate the appointment of persons belonging to backward classes in government service. The court held that „the rule of carry forward was not ultra-vires and invalid but the rule which was amended in the year 1955 on the ground that the power vested in the State under Article 16(4) could not be so exercised as to deny reasonable equality of opportunity in the matter of public employment to members of classes other than backward.“ The majority thought that the object of the provision was to ensure that the members of the backward classes were not unduly handicapped by their backwardness when it came to public employment. From the premise, it was further held by the court that where the reservation was as excessive in its character as to deny in practice a reasonable opportunity to other classes, it amounted to a fraud upon the Constitution. Since in the instant case, the number of vacancies reserved by virtue of carry forward rule could go up to 54% of the total vacancies, which was not below the 50% limit laid down, the rule was declared invalid⁹¹.

In the case of the *State of Punjab v. Hiralal*,⁹² the Supreme Court allowed the carry forward rule though framed in different form and held that the recruitment of each year must be measured by itself. The reservation for each year should not be in excess of 50%. The court further held that reservation should be less than 50%.

90. General Manger, Southern Rly. v. Rangachari, AIR1962SC36 (1969)2SCR586.

91. Devadasan v. Union of India, AIR 1964 SC179

92. AIR1976SC490.

In another case the court observed that Article 16(4) is only an enabling clause and no writ can be issued ordinarily compelling the government to make the reservation. However, the fact is that the court directed the Central Government to confer the same advantages on the Scheduled Caste and Scheduled Tribe employees in the P&T Department as were enjoyed by the Scheduled Caste and Scheduled Tribe employees in the other departments of the government because the equality clauses of the Constitution was violated by the less advantageous treatment of the P&T employees⁹³.

It was further held that allotting reservations under Article 16(4) is not a Constitutional duty imposed on the government, either at the initial stage of recruitment or at the stage of promotion. Therefore, Article 16(4) was an enabling provision⁹⁴.

(c) Temporary relaxation of test qualification

The important question arose for consideration before the Supreme Court of India, whether it was permissible to give preferential treatment to Scheduled Castes and Scheduled Tribes under clause (1) of Article 16, that is, outside the exception clause (4) of Article 16. The majority of 5:2 judges held that to allow the employees belonging to Scheduled Castes and Scheduled Tribes an extended period of two years, for the purpose of passing departmental tests held for promotion, was reasonable and just.

The court explained that equality was envisaged by Article 16(1) between the members of equivalent classes of employees, but not equality between the members of separate and independent classes. The court observed that the classification basis of backwardness did not fall within Article 16(2) and was legitimate for the purpose of Article 16(1). The temporary relaxation of test qualification made in favour of Scheduled Castes and Scheduled Tribes was warranted in the services in view of their overall backwardness.

93. P&T Scheduled caste and scheduled tribe's employees' welfare Assn.v. Union of India, (1988)4SCC147,151: AIR1989SC139,142.

94. C.A.Rajendran v. Union of India, AIR1968SC507(1968)1SCR721.

The above rules do not impair the test of efficiency in administration inasmuch as members of Scheduled Castes and Scheduled Tribes who are promoted will have to acquire the qualification of passing the test ultimately. The only relaxation is that they are granted two years more time to acquire the qualification. Thus, according to the majority judgement, reservation for backward classes may be even outside the scope of clause (4) of Article 16. The government rules and the order were, therefore, not violative of Articles 14 and 16(2), and therefore valid. This is a new interpretation of Article 16(1) of the Constitution⁹⁵.

(d) Maximum limit of reservation cannot exceed 50%

The scope of Article 16(4) has been growing. The judiciary has passed many significant pronouncements. The Supreme Court upheld the validity of the Railway Board Circular under which reservations were made in selection of posts of Scheduled Caste and Scheduled Tribe candidates, based on which some guidelines were made by the apex court in matters of reservation.

17.5% posts for Scheduled Caste and Scheduled Tribe candidates was the reservation provided by the impugned Railway Board rule. The court upheld that the carry forward rule resulted in the reservation quota in the third year for these categories coming to about 64.4%. The Court further held that the quantum of reservation was not excessive in the particular year but had to be seen in the context of overall representation of the Scheduled Caste and Scheduled Tribe candidates. It was said that the rule of 50% as laid down in earlier case was only for the guidance of judges. The court said that no fixed rule could be laid down. Mathematical precision could not apply in dealing with human problems⁹⁶.

95. State of Kerala v. N.M.Thomas, AIR 1976 SC490(1976)2SCC310.

96. A.B.S.K.Sangh (Rly) v. Union of India, AIR 1981 SC298.

The above ruling was overruled in *Indira Sawhney v. Union of India*,⁹⁷ where the court held that the maximum limit of reservation cannot exceed 50% and there can be no reservation in promotions.

(e) Maintenance of a Reservation Roster

Every appointing authority officer should maintain a reservation roster as per prescribed instructions to give more effect to the reservation policy. So the reservation rosters are based upon the vacancies. The court held that the roster is implemented in the form of run-in account for the year to year. The purpose of a running account is to make sure that the SC/ST and OBC gets their percentage of reserved posts. The only way to assure the proper representation of ST/SC/OBC is to permit the roster to operate till the time the respective appointees/promotees occupy the posts meant for them in the roster.⁹⁸

In case of *Bhup Singh v. State of Haryana and others*,⁹⁹ it was held that the utility of a roster is to provide a guideline for filling up the reserved quota for different groups vis-a-vis the candidates from the general category. Once the quota is achieved for one or the other group of communities entitled to reservation, the roster will cease to have utility for that community because the guideline would have already been followed.

In the case of scientific and technical posts the court was held that those posts which were not accorded cannot be excluded from reservation unless specifically approved by the government. Therefore, the statutory bodies are bound by the reservation policy¹⁰⁰. Similarly, it was held that a general category applicant has no right to force the authorities to de-reserve a post which is otherwise meant for a reserved candidate¹⁰¹.

97. AIR 1993 SC477:1992 Supp. (3) SCC27.

98. J.C.Mallick v. Ministry of Railways AIR 1995SC,

99. AIR 1999SC–

100. Post Graduate Institute of Medical Education & Research v. K. L. Narasimhan , AIR , 1997 6SCC

101. Suresh Kumar v. Union of India & others 1995(CAT-Chnadigarh)

(f) Creamy layer principle not applicable to SCs and STs

The creamy layer principle is one of the parameters to identify backward classes. Therefore, the court also laid down that the creamy layer principle cannot apply to SCs and STs as they are separate classes by themselves¹⁰².

(g) No reservation in service after inter-caste marriage

A person, who was born in the upper caste and transplanted into a backward caste by adoption or marriage or conversion, does not become eligible for the benefit of reservation either under Article 15(4) or 16(4). In one case the court held that a high caste Hindu woman does not automatically become entitled to get the benefit of reservation merely because of marriage to a man of scheduled caste, even after his family has accepted her, unless there is a strict proof of acceptance by the community of her husband.¹⁰³

(h) Backlog Vacancies

In case the required numbers of ST candidates are not available then the vacancies shall remain unfilled until the next recruitment year. Such vacancies will be treated as backlog vacancies for ST candidates. The court held that „the reservation meant for Scheduled Tribe candidates cannot be exchanged for Scheduled Caste candidates in the third recruitment year and vice versa¹⁰⁴.

In another case of *Union of India & others v. Hari Singh Barkodia*,¹⁰⁵ the court held that if a post reserved for candidates of the Scheduled Tribes could not filled for want of availability of candidates, then in the third recruitment year that post would be converted to a post reserved for Scheduled Castes and an SC candidate would be entitled to be appointed thereto. However, a Scheduled Caste candidate shall have no right to be appointed till the time of conversion of the post from ST to SC.

102. Ashok kumar Thakur v. Union of India (2008) 6SCC1

103. Meera Kanwaria v. Sunita & Ors. AIR (2006) (1) SCC344

104. Maalkhan Singh v. Union of India, 1997SCC315.

105. AIR1998 SCC137.

(I) Guidelines by the Apex Court in matters of Reservation

In *K. C. Vasanth Kumar v. Karnataka*,¹⁰⁶ the Supreme Court has given the following guidelines to be followed in the matter of reservation for Scheduled Castes and Scheduled Tribes.

- (i) Reservation in favour of the Scheduled Castes and Scheduled Tribes must continue as at present, that is, without the application of a means test, for a further period of 15 years. Another 15 years will make it 50 from the commencement of the Constitution, a period reasonably long for these classes to overcome the baneful effects of social oppression, isolation and humiliation.
- (ii) The means test, that is, the test of economic backwardness ought to be applicable even to the Scheduled Castes and Scheduled Tribes after 15 years (after 2000AD).
- (iii) So far as other backward classes are concerned two tests should be applied: -
 - a. That they must be equivalent to the Scheduled Castes and Scheduled Tribes in the matter of their backwardness;
 - b. That they should satisfy the means test laid down by the State in the framework of prevailing economic conditions;
- (iv) The policy of reservation in employment, education and legislative institutions should be reviewed every five years or so. This will afford an opportunity to the State to rectify distortions arising out of particular facts of the reservation policy.

In the case the Supreme Court examined the scope and extent of Article 16(4) in detail, and clarified various aspects on which there was a difference of opinion in various earlier judgments. The majority opinion of the court on various aspects of reservation provided in Article 16(4) may be summarised as follows¹⁰⁷.

¹⁰⁶. AIR 1985 SC1495.

¹⁰⁷. Indira Sawhney v. Union of India AIR 1993SC477

- (i) The backward class of a citizen in Article 16(4) can be identified on the basis of caste and not only on economic basis.
- (ii) Article 16(4) is not an exception to Article 16(1). It is an instance of classification. Reservation can be made under Article 16(1).
- (iii) Backward Classes in Article 16(4) are similar to „socially and educationally backward“ in Article 15(4).
- (iv) The creamy layer must be excluded from the backward classes.
- (v) Article 16(4) permits classification of backward classes into backward and most backward classes.
- (vi) A backward class of citizens cannot be identified only and exclusively with reference to economic criteria.
- (vii) Reservation shall not exceed 50 per cent.
- (viii) Reservation can be made by executive order.
- (ix) No reservations in promotion.
- (x) Permanent statutory body to examine complaints of over-inclusion/under-inclusion.
- (xi) Mandal Commission Report – no opinion expressed.
- (xii) Disputes regarding new criteria can be raised only in the Supreme Court.

3.3.2.3 Reservation in Promotions 16(4) (A)

Earlier, the members of the Scheduled Castes and Scheduled Tribes of the different states enjoyed the facility of reservation in appointments as well as promotions. Since Article 16(4) came under the Supreme Court’s interpretation, the reservation of appointments under Article 16(4) of the Constitution is confined to initial appointments and does not extend to the matter of promotion¹⁰⁸.

Further, the Supreme Court made two important normative points: (a) 50 per cent cap on reservations, grounded in the rationale that backwardness

108. Indira Sawhney and Others v. Union of India and Others, AIR (1992) SCC,182

does not exist in the abstract; it depends on the average in society; (b) reservations in public employment could only exist at the entry level¹⁰⁹.

The court explained its opinion in the light of Article 335. But the government opined that this ruling of the Supreme Court would adversely affect the interests of the Scheduled Castes and Scheduled Tribes of the country. The government further opined that representation of the SCs and STs in the services in the State have not reached the required level. This was a conflict of the judiciary and the executive.

The amendment bill was introduced in Parliament, which after being enacted came into force as Constitution (77th Amendment) Act, 1995. According to this Act, the State is empowered to make any provision for reservation in matters of promotion for Scheduled Castes and Scheduled Tribes after the newly added clause (4-A) in Article 16, for the reason that Scheduled Castes and Scheduled Tribes are inadequately represented in the services under the State.

The 77th Amendment provides that „the State shall have power to make any provisions for reservation in the matters of promotion to any class or classes of posts in the service matter in favour of the Scheduled Castes and Scheduled Tribes, which in the opinion of the State are not adequately represented in the services under the State¹¹⁰. Later it was further amended by the 85th Constitutional Amendment Act, 2001 to include consequential seniority.

(a) Reservation of Single Post

The reservation of the post in a single post cadre amounts to 100% reservation in the cadre, while keeping the post beyond the realm of reservation might render it almost inaccessible to the reserved category of candidates. In the earlier decision in the M. R. Balaji case no reservation of seats beyond 50% could be made. The Supreme Court clearly held there

¹⁰⁹. *Ibid*

¹¹⁰. . Constitutional 77th Amendment Act, 1995

should not be excessive reservation which would create a monopoly or disturb excessively the valid claim of other communities¹¹¹.

Whenever there is one post in a cadre, there can be no reservation with reference to that post either for recruitment at initial stage or for filling up a future vacancy in respect of that post. However, the Supreme Court held that reservation in a single post cadre neither violates Article 16 nor contravenes the mandatory rule, if the rule of rotation and roster is strictly followed by such posts¹¹².

(b) Determination of Seniority

Granting of seniority to those members who had been promoted to higher grade by virtue of reservation in promotion following the roster system created a serious problem. The interest of the government servants, belonging to the Scheduled Castes and Scheduled Tribes, was adversely affected by the judgment in the matter of seniority or promotion to the next grade. The court held that accelerated promotion was provided by the rule of reservation, and accelerated consequential seniority was not given by it. Further the court explained the need to achieve the reasonable balancing of the rights of the general candidates and reserved candidates. The court opined that it was open to the State if it was so advised to say that while the reservation is to be applied and the roster followed in the matter of promotion to or within a particular service, class or category, the candidate promoted earlier by virtue of the rule of reservation/roster shall not be entitled to seniority over his senior in the feeder category and that as and when a general candidate who was senior to him in the feeder category is promoted, such general candidates would regain his seniority over the reserved candidates notwithstanding that he has been promoted subsequent to the reserved candidates¹¹³.

111. Arati Ray Chaudhary v. Union of India, AIR 1974SC532

112. Union of India v. Madhav, AIR 1997 S C 3074

113. Union of India v. Virpal Singh, (1995)6SCCC 684.

In *Ajitsingh v. the State of Punjab*¹¹⁴ the court held that the roster point cannot determine seniority where a general candidate was senior to a reserved candidate but the reserved candidate was appointed to a promotional level earlier than the general candidate, when the general candidate is promoted later. It was considered necessary to maintain a balance between right under article 16(1) and reservation. To nullify the impact of this judgment the Constitutional (Eight-Fifth Amendment) Act, 2001 was passed.

The lapsed vacancies due to non-availability of reserved category candidates cannot be revived retrospectively. In a case, the State Bank of India SC/ST Employers Welfare Association has challenged the reservation policy framed by the State Bank of India reserving certain posts for employees belonging to SC/ST's in promotion. Under the scheme, 15% reservation was made in favour of Scheduled Castes and 7.5 % in favour of Scheduled Tribes. As per the policy, where the number of vacancies could not be filled, they would be carried forward from the first year to the next year up to a period of three years. But if after three years such vacancies could not be filled, such vacancies would be treated as lapsed. However, it provided that the maximum reservation in any year would not exceed 50%. The circular gave further relaxation in service norms, that is, the relaxation to continue for five years of service. The court held that the policy of reservation in promotion was not violative of Article 16(4) and (4-A) and the vacancies which lapsed due to non-availability of reserved category candidates with required length of service could not be revived and filled retrospectively.

Article 16(4) which is an enabling provision with deliberate discretionary powers conferred on the government to make reservation at the initial stage of recruitment or promotion in favour of a backward class of citizens, which in the opinion of the State is not adequately represented in the service of the State. Article 16(4) does not impose a duty on the government to make such reservation. Hence no person can claim it as a matter of right¹¹⁵.

114. AIR1999sc3471.

115. S.B.I SC/ST Employer Welfare Association V. State Bank of India (1996)4SCC199

Through the Constitution 81st Amendment Act, 2000, another important new clause 16(4-B) was added, which sought to the end the 50% limit for Scheduled Castes and Scheduled Tribes and other backward classes in backlog vacancies which could not be filled due to the non-availability of eligible candidates of these categories in the previous year or years¹¹⁶. In what came to be called the „carry forward rule“ the 81st Amendment allowed the government to break the 50% ceiling on reservations by carrying forward unfilled vacancies from previous years.

3.3.2.4 Claim of a member of a Scheduled Tribe to services or posts in association in the dealings with the Union and State

The 81st Amendment Act, 2000 has added a new provision to Article 335¹¹⁷. The background for the amendment was that court held that the various government instructions providing for lower qualifying marks/lower standard of evaluation in the matter of promotion for candidates belonging to SC/ST are not permissible in view of the provisions contained in Article 335. In view of this decision the various orders regarding lower qualifying marks/standard of evaluation for SC/ST in the matter of promotion were withdrawn by the Government with effect from 22.7.97¹¹⁸. However, Parliament decided to restore the relaxations and concession in promotion and the following proviso to Article 335 was added¹¹⁹.

116. Constitutional 81st Amendment Act, 2000

117. It provides that nothing in this article shall prevent the state in making of any provision in favour of the member of scheduled castes and Scheduled tribes for relaxation in qualifying marks in any examination or lowering of standard of evaluation for reservation in matter of promotion to any class or classes of service or posts in connection with the affair of the Union or a state.

118. S. Vinod Kumar v. Union of India (1996) 6 SCC 580

119. Which empower the state for making of any provisions in favour of the members of the scheduled castes and scheduled tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation for reservation in the matter of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.

3.3.2.5 Challenging the Constitutional Amendments

The Central Government passed four amendments of the Constitution viz. 77th, 81st, 82nd and 85th to provide not only for reservations in promotion but also for consequential seniority on that basis. The validity of these amendments was challenged in the Supreme Court through various petitions clubbed together, on the ground that these altered the basic structure of the Constitution.

The court upheld the amendments because they did not alter the basic structure of the Constitution. The court further held that these provisions are merely enabling provisions. If a state government wishes to make provisions for reservation to SC/STs in promotion, the state has to collect quantifiable data showing the backwardness of the class and inadequacy of representation of that class.

The Supreme Court made it very clear that Article 16(4A), which was inserted through these amendments, was only an enabling provision. In essence every time a government or legislature sought to provide reservation in promotions under Article 16(4A), while justifying each attempt to provide reservation in promotions, the State would have to demonstrate the beneficiaries' class backwardness, inadequacy of representation and maintenance of efficiency¹²⁰.

The conditions laid down in the Nagaraj case raised a number of concerns. Since Article 16(4A) permits reservation in promotions only for the SCs/STs and not for the OBCs, the first condition in Nagaraj requiring the State to demonstrate backwardness of the beneficiaries is problematic because it may lead to bringing in the „creamy layer“ test for SCs/STs through the backdoor. However, Supreme Court held repeatedly that the „creamy layer“ test is not applicable to SCs/STs¹²¹. The settled position of law is that all members of recognised SC/ST groups automatically satisfy the condition of

120. In the M Nagaraj & Others v. Union of India & Others (2006) 8 SCC 212

121. *Ibid*

backwardness and there is no burden on the State to further establish the backwardness of those individuals benefiting from reservation.

3.3.2.6 117th Constitutional Amendment (Promotion in Reservation) Act, 2012

The response of the government has now come in the form of 117th Constitution Amendment Bill, 2012¹²² introduced in the Rajya Sabha. On this new amendment the proposed Article 16 (4A), which seeks to substitute the existing Article 16 (4A), has done away with concerns of efficiency by stating that nothing in Article 335 can be an impediment, and the reference to „adequacy of representation“ has been deleted.

3.3.3 Reservation of Seats in Political Institutions

The democratic political processes are generally validated on the basis of the levels of the political participation¹²³ and political reservation of seats for Scheduled Tribes. After the Independence of India, it adopted liberal and democratic institutions like Parliament and legislative assemblies, political parties, and interest groups, made universal adult franchise the basis of elections, without sufficient economic development and social transformation¹²⁴. The Scheduled Tribes had to establish their ability to take part in politics to gain access to power.

The civic rights and democratic political climate played a major part in the politicisation of the Scheduled Tribes in India. The strict adherence and

¹²². In Article 16 (4A) as per this new 117th Constitutional Amendment (Promotion in Reservation) Bill Act, 2012 speaks as follows: Notwithstanding anything contained elsewhere in the Constitution, the Scheduled Castes and the Scheduled Tribes notified under article 341 and article 342, respectively, shall be deemed to be backward and nothing in this article or in article 335 shall prevent the State from making any provision for reservation in matters of promotions, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes to the extent of the percentage of reservation provided to the Scheduled Castes and the Scheduled Tribes in the services of the State.”

¹²³. Khan P.Hussain , *Political Participation of Scheduled Castes in India*, 1st Edition 2009, Alfa Publications, New Delhi, at 59

¹²⁴. Bajpai Anil Kumar, *Judicial Response to the problems of Reservations*, 1st Edition 1995, Banerjee for Khama publishing, New Delhi, at 59

insistence on the implementation of civic rights and adult franchise changed the political situation of the Scheduled Tribes radically.

Articles 243D, 243T, 330 and 332 deal specifically with the reservation of seats for Scheduled Tribes. Initially, political reservation provided in both the Houses of Parliament and in the State Legislature was only for the benefit of the Scheduled Tribes, but not other backward classes. The Constitutional provisions regarding political reservation of seats for Scheduled Tribes are mandatory. According to the reserved constituencies, only a person belonging to the Scheduled Tribes can contest the election.

The main Constitutional objects of providing such a kind of reservation were to enable the Scheduled Tribes to give voice to the grievances of the deprived section of society. The Constitutional framework for inclusive policy towards empowerment and representation at the state and national levels was ensured by a system of reservation of seats for Scheduled Tribes. However, there was no provision in the Constitution under which there should be any representations of these communities in the Council of States (Rajya Sabha) and the Legislative Councils in the States.

There are 78 seats for Scheduled Castes and 39 for Scheduled Tribes reserved in the Lok Sabha, and 544 for Scheduled Castes and 281 for Scheduled Tribes in state assemblies¹²⁵.

Affirmative action through reservation for Scheduled Tribes in the Lok Sabha, State Legislative Assembly and in the Panchayati Raj Institutions has established the growing strength of Scheduled Tribes, not only in terms of their participation in the democratic processes of the country since Independence, but also their increased representation in the political decision-making institutions. The reservation policy is an improvement upon the Government of India Act, 1935 which ensured reservation of seats on communal lines in both the Houses of the Legislature.

¹²⁵. *Ibid* 123 at 59

The political reservation of seats for Scheduled Tribes is discussed here under four broad headings.

3.3.3.1 Time limit of law and policy of reservation seats for Scheduled Tribes in political institutions

When the Constitution of India was adopted in 1950, the first political reservations which allotted or facilitated access to valued positions for Scheduled Castes and Scheduled Tribes were provisional for a period of ten years, as indicated in Article 334.

The term „twenty years“ was substituted for „ten years“ by the Constitution 8th Amendment Act, 1959. Again, the word „thirty“ was substituted by the Constitution 23th Amendment Act, 1969, for the word „twenty“. The word „forty“ was substituted by the Constitution 45th Amendment Act, 1980, for the word „thirty“ in the Article 334 of the Constitution. The word „fifty“ was substituted by the Constitution 62nd Amendment Act, 1989 for the word „forty“, then „sixty“ for „fifty“ by the Constitution 79th Amendment Act, 1999, finally „seventy“ for „sixty“ by the Constitution 109th Amendment Act, 2009, thus extending the reservation of seats for Scheduled Castes and Scheduled Tribes. That means reservation would continue up to 25th January, 2020.

3.3.3.2 Reservation of Seats in Local Self Government

M.K.Gandhi was in favour of a Constitution for Independent India with the village and panchayats at the centre of the polity. Local self-government and Panchayati Raj law came into existence in India. Through the 73rd Constitutional Amendment Act, 1992 a new part IX was added to the Constitution, consisting of 16 Articles and the Eleventh Schedule. The Act envisages the Gram Sabha as the foundation of the Panchayati Raj System, to perform functions entrusted to it by the state legislature. This Amendment provides Constitutional sanction to democracy at the grassroot level.

The passing of the Panchayati Raj Amendment is in accordance with directives envisaged in Article 40 under Part IV¹²⁶. The 73rd Amendment Act provides Constitutional guarantees to basic and essential features of self-government in rural areas, including regular elections to Panchayats, reservation of seats to Scheduled Castes and Scheduled Tribes and women, and devolution of financial and administrative powers. It ensures mandatory protection against discrimination, and reservation in favour of Scheduled Castes and Scheduled Tribes including women belonging to Scheduled Castes and Scheduled Tribes.

Article 243D provides that seats shall be reserved for the Scheduled Castes and Scheduled Tribes in every panchayat, however, the reserved seats shall be allotted by rotation to different wards in the panchayat. Among them the total number of seats reserved, which as specified under clause (1) should not be less than 1/3 seats, to be reserved for women belonging to the Scheduled Castes and Scheduled Tribes¹²⁷. Similarly, the office of the chairperson reserved for the SC's and ST's in the Panchayats at each level in proportion of the total population of the SC's and ST's.

Clauses (1) and (2) of Article 243D specify the reservation of seats. Similarly, the reservation of office of Chairperson, other than the reservation for women specified under clause (4) shall cease to have effect on the expiration of the period of 50 years specified in the articles 334¹²⁸.

3.3.3.3 Reservation of Seats in Municipalities

Part IX-A was added to the Constitution by 74th Constitutional Amendment Act, 1992. This amendment has added 18 new Articles and a new Schedule – the Twelfth Schedule, relating to urban local bodies in the Constitution. This Amendment provides for Constitutional sanction to the

126. Kasyap Subhash C, *our Constitution: -An Introduction to India's Constitution and Constitutional Law*, (1ST Edition 1994), the Director, National Book trust publication, New Delhi., at315

127. Clause (2) Article 243D

128. Bakshi P.M, *The Constitution of India*, (13th Edition 2015), Nexis (A division of Reed Elsevir India(Pvt)Ltd., Haryana, India, at 45.

urban self-governing institutions, ensuring regular elections, and enabling them to play a greater role in the development of urban areas. It provides for reservation of seats in every municipality for Scheduled Castes, Scheduled Tribes and Women.

Article 243T lays down that in every Municipality there is reservation of seats for Scheduled Castes and Scheduled Tribes in proportion to the total number of seats to be filled by direct election in that Municipality, which is based on the total population of the Scheduled Castes and Scheduled Tribes in that municipal area.

However, the seats may be allotted by rotation to different the constituencies in the Municipality. It is also indicated that, in every election of the Municipality, in rotation, there shall not be less than one-third of the total number of seats reserved for women belonging to the category of Scheduled Tribes¹²⁹.

The office of Chairperson of the Municipality is to be reserved for women as the legislatures have the discretionary power to provide for the same for other backward classes. A woman who by birth did not belong to a backward class or community would not be entitled to contest a seat reserved for a backward class or community, merely on the basis of her marriage to a man of the community¹³⁰.

3.3.3.4 Reservation of Seats in State Legislative Assemblies

The Constitution of India provides for reservation of seats for Scheduled Castes and Scheduled Tribes (except the Scheduled Tribes in the Autonomous District of Assam) in the Legislative Assemblies of every state¹³¹.

129. Art. 243T clause (2) and (3)

130. Sandhya Thakur v. Vimla Devi Kushwah, AIR 2005 SC909:(2005) 2SCC731:JT2005(1) SC566

131. Art. 332

The number of seats reserved in any State or Union Territory for such castes and tribes will be made on the basis of the population. As per the Constitution 84th Amendment Act, 2001 the reference to population was to be construed as a reference to the 1971 census. It also provides that in every State Legislative Assembly seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the same proportion as the population of the Scheduled Castes and Scheduled Tribes in that constituency area bears to the total population of that constituency area.¹³² However, the reserved seats may be allotted by rotation to the different constituencies in the proportion of their share in the population of the SCs and STs in the respective constituency of the State Legislative Assembly.

3.3.3.5 Reservation of Seats in the House of the People

The objective of the Indian Constitution is to secure social and economic justice to all. In the legislative assemblies of every state the Constitution of India provides reservation of seats for Scheduled Castes and Scheduled Tribes (except the Scheduled Tribes in the Autonomous District of Assam)¹³³. In any State or Union Territory seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Lok Sabha in the same proportion as the population of the SCs and STs in that constituency bears to the total population of that constituency¹³⁴.

132. *Ibid*

133. Art. 332

134. In Earlier the Constitution 7th Amendment act, 1956 inserted the words or union territory in clause (2) of article 330 to clarify that for purpose of this article state include Union territory act, 1956 inserted the words or union territory in clause (2) of article 330. It inserted the following clause (3) to article 330: Clause (3) notwithstanding anything contained in clause (2), the number of seats reserved in the house of then people for he scheduled tribes in the autonomous district of Assam shall bear to the total number of seats allotted to that state a proportion not less than the population of the scheduled tribes in the said autonomous district bears to the total population of the state. Similarly, the constitution 42nd amendment act, 1976 inserted in clause (3) the explanation that the expression population. It means that the population as ascertained at the last preceding census of which the relevant figures have been published. The constitution 51st amendment act 1984 substituted sub-clause (b) the scheduled tribes except the Scheduled tribes in autonomous district of Assam; and in clause (1) of article 330. Again the constitution 84th Amendment Act has Amended with the explanation to Article 330 and Article 332. It substituted the figures 2000, the figures 2026, which as the expression population means the population an ascertained on the basis of 1971 census. It has amended the proviso to article 330. It substituted the figures 2001; the figures 1991, which has the expression population means the population will be ascertained on the basis of 2001 census. The allocation of the seats in the Lok Sabha for Scheduled caste and Scheduled tribes shall be frozen till the year 2026. This means there will be no increase in the strength of Lok Sabha till the year 2026.

3.4 National Backward Classes Commission and their view

The Constitution of India does not define who are the persons or who belong to the backward classes. It depends on the Union and State Governments to specify such classes of persons for the purpose of reservation.

The President of India appoints a Commission within the territory of India to investigate the conditions those who are socially and educationally backward classes. Thereafter suggestions are given by the Commission regarding the steps to be taken by the Union or any State to improve their conditions¹³⁵. The matter referred to the Commission is investigated by the Commission, and thereafter a report is submitted to the President regarding the facts found by them and making such recommendation as it thinks proper¹³⁶.

The first National Commission for Backward Classes was appointed in 1953, to determine the criteria on the basis of which a class may be considered as a backward class. But this first Commission could not find criteria for such classification.

The Mandal Commission for Backward Classes was appointed in 1979, to determine the criteria for defining the socially and educationally backward classes. It is necessary to review the reports of the commissions in brief for a proper understanding of the criteria to be followed for the identification of the socially and educationally backward classes.

3.4.1. Kaka Saheb Kalelkar Commission

In view of Article 16(4) of the Constitution, in response to demands for reservation and other benefits for the backward classes, the President of India appointed a Backward Classes Commission under Article 340 of the Constitution on 29th January 1953.

135. Art.340 (1)

136. Art. 340(2)

The First Backward Classes Commission, under the chairmanship of Kaka Saheb Kalelkar was popularly known as the Kaka Kalelkar Commission. The object of the Commission was to determine the criteria to be adopted in considering whether any section of the people in the territory of India (in addition to the Scheduled Castes and Scheduled Tribes, specified by notifications, issued under article 341 and 342 of the Constitution) should be treated as socially and educationally backward classes¹³⁷.

The Commission was also directed „to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations: (a) as to the steps that should be taken by the Union or any State to remove difficulties and to improve their conditions; (b) as to the grants that should be made for the purpose by the Union or any State government and the conditions subject to which such grants should be made; (c) to investigate such matters as the President may hereafter refer to them; and (d) to present to the President a report setting out the facts as found by them and making such recommendations as they think proper¹³⁸. This Commission used the term classes as synonymous with castes and communities.

After two years the Commission listed 2,399 backward Castes and Communities out of which 837 castes as „most backward castes“ for the purpose of development and upliftment, and the remaining 1562 castes as only „backward castes“. Out of these 2,399 castes 913 castes accounted for an estimated population of 115 million (about 32% of the total population of India)¹³⁹. The Commission recommended various measures for their economic and social development.

137. Prasad Anirudh , Singh Pratap, sen Chanrda , *Reservation: Policy Practice and its Impact on Society, on Society scheduled Castes, scheduled Tribes and other Backward Classes*, 1st edition 2016, Vol-I, & Vol-II, Kalpaaz Publications, Delhi, at 37.

138. *Ibid* 138 at 58

139. *Ibid* 138 at 69

The Commission also identified various causes of educational backwardness among the backward communities¹⁴⁰. It would be pertinent to note here that two tests have been laid down by the Commission as to who are socially and educationally backward classes. Which caste or community is in a low position in the traditional caste hierarchy of Hindu society due to lack advancement depressed class. Which caste or community is inadequately represented in government service and in the fields of trade, commerce and industry¹⁴¹.

The Kaka Kalelkar Commission gave some important recommendations to the Central Government of India to keep caste-wise records of population in the Census of 1961. It should seek to relate the social backwardness of a class to its low position in the traditional caste hierarchy of Hindu society. The Commission concluded all women should be treated as backward. In addition, a recommendation was made by the Commission for the uplift of women belonging to the backward classes¹⁴².

¹⁴⁰. As the traditional apathy for education, on the account of social and environmental conditions or occupation handicaps; (a) poverty and lack of educational institutions in rural areas; (a) living in inaccessible areas; (a) lack of adequate educational aids such as free studentship ,scholarship and monetary grants; (a) lack of residential hostel facilities; (a) unemployment among the educated which acts as a damper on the desire of the members to educate their education ; and (a) defective educational system which does not train students for appropriate occupation and professions.

141. Such as

- (a) A clear enunciation and effective implantation of the Policy of Social Solidarity and national progress;
- (b) Necessary legislation on marriage and inheritance;
- (c) Prohibition of social disabilities by law;
- (d) Arrangement for production and distribution of literature on Social problems;
- (e) Liberal use of the press, films, platforms and radio for removal of social evils;
- (f) Prohibition of all observances tending to promote caste feelings in governmental activities;
- (g) Reorganization of the educational system with special emphasis on the dignity of the manual labour;
- (h) Full assistance to promote education as speedily as possible among the backward classes;
- (i) Adequate representation in government service ad government controlled establishments of these sections whom had no chance so fair;
- (j) Encouragement of art, literature, special cultural groups and assistance and promotion of cultural activities with this social end in view.

142. Such as

- (a) free education at all levels to all girls whose parent's income is less than Rs.3000 per annum;
- (b) scholarship for girls belonging to the backward classes;
- (c) Residential Hostels for girl's students, with priority for girls of the backward classes;
- (d) Samta Ashrams for girls of all communities to be run by trained staff of women and men;
- (e) Creation of special facilities for girls to study medicine, home sciences and other subject specially;
- (f) More facilities for training women in the fine arts and in social services;
- (g) Reformative measures for women, rescue homes and social worker's involvement in tackling women problems to encourage.

The Commission also proposed reservation in service for listed Castes and Communities of at least 25% in class I, 33.5% in class II, and 40% in class III and IV services. It recommended 70% of reserved seats in all medical, scientific, technical and professional institutions for qualified students of the backward classes.

Finally, the Commission suggested the creation of a separate ministry for the welfare of backward classes. It would be pertinent to note here that Commission could not present a unanimous report because the members were opposed to linking caste with backwardness, and they were also opposed to the reservation of posts on the basis of caste. The report recorded divided opinions, as 5 out of the 11 Commission members recorded their dissent against treating caste as a measure of backwardness.

The Chairman strongly felt that backwardness could be determined by factors other than caste. Kaka Saheb Kalelkar forwarded note to the President and stated, "I was prepared to recommend to the government that all special help should be given only to the backward classes and even the poor and the deserving among the upper classes may be safely kept out from the benefit of this special help. But my eye was, however, opened to the dangers of suggesting remedies on the caste basis when I discovered that it is going to have the unhealthiest effect on the Muslim and Christian sections of the nation. It is only when the report was being finalized that I started thinking anew and found that backwardness could be tackled on a basis or number of bases other than that of caste. I only succeeded in raising the suspicious of the majority of my colleagues that I was trying to torpedo the recommendation of the Commission¹⁴³.

The report of the Commission was placed before both Houses of Parliament on 3rd September 1956 along with a memorandum. It met with many objections or criticism by the Government. Govind Ballabh Pant, home

¹⁴³. See, *Supra Note 137 at 91*.

minister in the Government of India, was totally against caste-based reservation.

The Kalelkar Commission had failed to provide positive and workable criteria and therefore, the Centre requested all state governments to undertake an ad hoc survey to determine the number of backward classes in accordance with their existing lists and also such others who in their opinion deserved to be considered as socially and educationally backward in the existing circumstances.

The Central Government over the next half-decade discussed the report of the Kaka Kalelkar Commission, and in 1965 once again condemned the caste criterion as repugnant to the Constitution. Thereafter, the Central Government decided not to draw up any list of backward classes and other backward classes. It advised all the states to draw their own lists using the economic test rather than go by caste, because for this it had support of the judiciary.

3.4. 2 Mandal Commission Report

The Government of India appointed the second Backward Classes Commission ¹⁴⁴. It was headed by Indian parliamentarian, Bindheshwari Prasad Mandal, to consider the question of reservations to redress caste discrimination.

¹⁴⁴. Mandal commission appointed on 1st of January 1979 “to identify the socially or educationally backward under article 340 for the purpose of articles like 15 and 16

The Commission adopted eleven criteria which could be grouped under three major headings, namely social, educational, and economic, in order to identify the Other Backward Classes¹⁴⁵.

The Commission did not have exact figures of sub-castes, known as the „other backward classes“ (OBC), as used in the 1930 Census data. It further classified 1,257 communities as backward and it estimated the OBC population at 52% of the total population of India.

As the above three groups are not of equal importance for the purpose, separate weightage was given to indicators in each group. All the social indicators were given a weight of three points each, educational indicators a weight of two points each, and economic indicators a weight of one point each. In addition, the economic indicators were considered more important as they directly flowed from social and educational backwardness. This also helped to highlight the fact that socially and educationally backward classes are economically backward too. It will be seen that from the values given to each indicator the total score adds up to 22. All these 11 indicators were

145. The Mandal Commission adopted the various methods and techniques to collect the necessary data and evidence which as under; **(i) Social**

- (a) Castes/classes Considered as socially backward by others.
- (b) Castes/classes which mainly depend on manual labour for their livelihood.
- (c) Castes/classes where at least 25% females and 10% males above the state average get married at an age below 17 years in rural areas and at least 10% females and 5% males do so in urban area.
- (d) Castes/classes where participation of females in work is at least 25% above the state average

(ii). Educational.

- (a) Castes/classes where the number of children the age group of 5-15 years who never attended school is at least 25% above the state average.
- (b) Castes/classes where the rate of student drop-out in the age group of 5-15 years is at least 25% above the state average.
- (c) Castes/classes amongst whom the proportion of matriculates is at least 25% below the state average.

(iii). Economic

- (a) Castes/classes where the average value of family assets is at least 25% below the state average.
- (b) Castes/classes where the number of families living in kuccha houses is at least 25% above the state average.
- (c) Castes/classes where the sources of drinking water is beyond half a kilometer for more the 50% of the household.
- (d) Castes/classes where the number of households having taken consumption loans is at least 25% above the state average.

applied to all the castes. All castes which had a score of 50% (i.e.11 points) or above were listed as socially and educationally backward and the rest were treated as advanced¹⁴⁶.

There is no doubt that social and educational backwardness among non-Hindu Communities is more or less of the same order as among Hindu communities. The set of eleven indicators, being caste-based, could not be applied to non-Hindu communities. In view of this, a separate set of criteria was evolved for the identification of non-Hindu backward communities¹⁴⁷.

The population of Scheduled Castes and Scheduled Tribes amounts to 22.5 % of the total population. Working on the above basis, the Mandal commission gathered caste/community-wise population figures from the Census records of 1931 and then grouped them into broad caste-clusters and religious groups.¹⁴⁸

Caste-wise Census figures beyond 1931 are not available. So the Commission requested the states/union territories to use 1931 census data, to analyse the trend and estimate by using statistical methods for extrapolating the current population. These well-established scientific methods were the best possible option at that time to calculate the number of OBCs.

The population of Hindu OBC"s could be derived by subtracting from the total population of Hindus, the population of Scheduled Castes, Scheduled Tribes and backward communities, and that of Forward Hindu Castes and communities and it worked out to 52%. Assuming that the proportion of OBCs amongst non-Hindus was of the same order as amongst the Hindus, the

¹⁴⁶. *Supra Note 2 at 50*

¹⁴⁷. It evolved the following "rough and ready criteria for identifying non-Hindu OBC"s is as under;

- (a) All untouchables converted to any non-Hindu religion, and
- (b) Such occupational Communities as are known by the name of their traditional hereditary occupation and whose Hindu counterpart have been included in the list of Hindu OBCs i.e. Dhobi, Teli, Dheemar, Nai, Gujar, Kumhar, Darzi, Badhai etc.

¹⁴⁸. These collectivises were subsequently aggregated under five major heads (i) scheduled castes and scheduled tribes; (ii) Non-Hindus Communities, religious group, etc.; (iii) Forward Hindu castes and communities; (iv) Backward Hindu Castes and communities, and (v) Backward non-Hindu Communities.

population of non-Hindu OBCs was also taken as 52% of their known population of 16.16%, or 8.40% of the Indian population. The total population of Hindu and Non-Hindu OBCs therefore naturally added up to nearly 52% of the country's population.

Major Recommendation of the Mandal Commission

The basic question is that of social and educational backwardness. Poverty is only a direct consequence of these two crippling caste-based handicapped. Therefore, for the uplift of the OBC's, the Mandal Commission suggested certain recommendations as under:

(i) Reservation in Government service and education institutions for the candidates of OBCs

The attitude of ruling elite has to change as pertains to the provision of reservation in Government services and educational institutions for the candidates of other backward classes. By favouring reservation, the Commission stated „It is not at all our contention that by offering a few thousand jobs to OBC candidates we shall be able to make 52% of the Indian population as forward. But we must recognise that an essential part of the battle against social backwardness is to be fought in the minds of the backward people. In India, government service has always been looked upon as a symbol of prestige and power. By increasing the representation of OBC's in government services, we give them an immediate feeling of participation in the governance of this country. When a backward class candidate becomes a Collector or a Superintendent of Police, the material benefits accruing from his position are limited to the members of his family only. But the psychological spin-off this phenomenon is tremendous; the entire community of that backward class candidate feels socially elevated. Even when non-tangible benefits flow to the community at large, the feeling that now it has its own man in the corridors of power acts as morale booster¹⁴⁹.

¹⁴⁹. *Supra* Note 146 at 54

The Commission also believed that in a democratic set-up every individual and community has a legitimate right and aspiration to participate in ruling this country. Any situation which results in a near-denial of this right to nearly 52% of the country's population needs to be urgently rectified.

In order to do so, the chief merit of reservation is not that it will introduce egalitarianism amongst OBCs when the rest of the Indian society is seized by all sorts of inequalities. But reservation will certainly erode the hold of higher castes on the service and enable OBCs in general to have a sense of participation in running the affairs of their country¹⁵⁰.

(ii) Quantum of Reservation

The Mandal Commission argued regarding the quantum of reservation that Schedule Castes and Scheduled Tribes constitute 22.5% of the country's population. Accordingly, a pro-rata reservation of 22.5% has been made for them in all services and public sector undertakings under the Central Government. Similarly, in the States also, the reservation for SCs and STs is directly proportional to their population in each State.

The population of OBC's is around 52% of the total population in India and accordingly 52% of all posts under the Central Government should be reserved for them. But this provision may go against the law laid down in a number of Supreme Court judgments wherein it has been held that the total quantum of reservation under Article 15(4) and 16(4) of the Constitution should be below 50%. According to the view of the Commission, the proposed reservation for OBC's would have to be pegged at a figure which, when added to 22.5% for SC's and ST's remains below 50%. In view of this legal constraint, the Commission is obliged to recommend a reservation of 27% only, even though their population is twice this figure.

¹⁵⁰. *Supra* Note 149

The states which have already introduced reservation for OBC's exceeding 27% will remain unaffected by this recommendation.¹⁵¹

Such a scheme of reservation in toto should also be made applicable to all recruitment to public sector undertakings both under the Central and State governments. It also recommended that all private sectors undertaking which have received financial assistance from the government in one form or the other should also be obliged to recruit personnel on the aforesaid basis. Hence, all universities and affiliated colleges should also be covered by the above scheme of reservation.

(iii) Educational concession

The Commission knew very well that most backward class children are irregular and indifferent students and their dropout rate is very high. According to the Commission's observation, there are two main reasons for this. Firstly „these children are brought up in a climate of extreme social and cultural deprivation“ and consequently the families lack motivation for sending their children to school. Secondly, most of these children come from very poor homes and the families cannot afford to send their children to school. Therefore, their parents are forced to press them into doing small chores from a very young age.

The Mandal Commission recommended providing special educational facilities to OBC students, especially a residential school in their area, to provide a climate especially conducive to serious studies. As well, „separate coaching facilities should be provided in technical and professional

¹⁵¹. With the above general recommendation regarding the quantum of reservation. The “commission proposes the following overall scheme of reservation for OBC's: -

- (a) Candidates belonging to OBC's recruited on the basis of merit in an open competition should not be adjusted against their reservation quota of 27%.
- (b) The above reservation should also be made applicable to promotion quota at all level.
- (c) Reserved quota remaining unfilled should be carried forward for a period of three years and de-reserved thereafter.
- (d) Relaxation in the upper age limit for direct recruitment should be extended to the Candidates of OBC's in the same manner as done in the case of SC's and ST's.
- (e) A roster system for each category of posts should be adopted by the concerned authorities in the same manner as presently done in respect of SC and ST candidates

institutions to OBC students to enable them to catch up with students from the open quota¹⁵².

According to the view of the Commission, if all the above facilities are given to OBC students, they will be able to compete on an equal footing with others in securing admission to technical professional institutions.

Again the Commission recommended that „seats should be reserved for OBC students in all scientific, technical and professional institutions run by the Central as well as the State Governments. These reservations, under Article 15(4) of the Constitution, should be of the same quantum as in government service, i.e., 27%. Those states which have already reserved more than 27% seats for OBC students will remain unaffected by this recommendation.

The Commission also observed that „while implementing the provision for reservation it should also be ensured that the candidates who are admitted against the reserved quota are enabled to derive full benefit of higher studies. It has been generally noticed that these OBC students coming from an impoverished cultural background, are not able to keep abreast with other students. It is therefore, very essential that special coaching facilities are arranged for all such students in our technical and professional institutions. The concerned authorities should clearly appreciate that their job is not finished once candidates against reserved quota have been admitted to various institutions. In fact, the real task starts only after that, unless adequate follow-up action is taken to give special coaching assistance to these students, not only will these young people feel frustrated and humiliated but the country will also be launched with ill-equipped and substandard engineers, doctors and other professionals.

(iv) Financial Assistance

The Commission also recommended making special programmes for upgrading the skill of village artisans and subsidized loans from financial

¹⁵². *Supra Note 150* at 56.

institutions be granted to them for setting up small scale industries. The Commission also emphasised the recommendation „to promote the participation of OBCs in the industrial and business line of the country“. To ensure the upliftment of OBCs a „separate network of financial and technical institutions should be created by all State Governments.

(v) Structural change

The bulk of the small landholders, tenants, agricultural labourers, impoverished village artisans, unskilled workers etc. belong to the Scheduled Castes, Scheduled Tribes and Other Backward Classes. According to the Commission's view, „OBCs continue to remain in mental and material bondage of the dominant castes and classes. Unless these production relations are radically changed through structure changes and progressive land reforms implemented all over the country, OBCs will never become truly independent.

Therefore, the Commission strongly recommended that all state governments should be directed to enact and implement progressive land legislation, so as to effect basic structural changes in the existing production relations in the countryside. At present surplus land is being allotted to the Scheduled Castes and Scheduled Tribes. A part of the surplus land becoming available in future as a result of the operation of land ceiling laws etc. should also be allotted to the OBC landless labour.

(vi) Miscellaneous

- (a) There are certain sections of occupational communities like fisherfolk, Banjaras, Bansforas, Khatwes etc. who still suffer from the stigma of untouchability in some parts of the country. The Mandal Commission listed them as OBCs but their inclusion in the lists of Scheduled Castes/Scheduled Tribes may be considered by the Government.
- (b) The Commission also recommended setting up a Backward Classes Development Corporation at the Central and State levels to implement various socio-educational and economic measures for their advancement.

- (c) It also suggested that setup a separate Ministry/Department for OBCs at the Centre and the states should be created to safeguard their interests.
- (d) With a view to giving better representation to certain very backward sections of OBCs, like the Gaddis in Himachal Pradesh, Neo-Buddhists in Maharashtra, fishermen in the coastal areas, and Gujjars in J & K, it was recommended that areas where they are concentrated may be carved out into separate constituencies at the time of delimitation.

(vii) Central Assistance

The Mandal Commission recommended that since at that time no Central assistance was available to any state for implementing any welfare measures for other backward classes, the welfare programme specially designed for OBCs should be financed by the Central Government in the same manner and to the same extent as done in the case of SCs and STs.

The Commission also recommended that the entire scheme should be reviewed after twenty years. It suggested that this period of one generation of the raising of social consciousness is a generational progress.

The Mandal Commission submitted its report to the Central Government and this report was placed before parliament in 1982 for debates. All political parties supported the report but they did not oppose the caste criterion. The Minister of Home affairs, Government of India, had decided to create a backward classes cell which consisted of five officers for the preparation of replies to questions posed in Parliament.

On 13th August 1990, the V.P Singh government issued an executive order to reserve 27% post in Central service for OBCs. There was strong anti-reservation agitation and a writ petition was filed in the Supreme Court to stay the government order till its final judgment of 16th November 1992. Finally, the Supreme Court in a majority judgement found the 13th August 1990 order as Constitutional. Subsequently the Mandal Commission Report was executed with effect from 8th September, 1993.

3.5 Conclusion

The reservation policy which was intended as a means of social engineering has now become a measure of reparation. The Scheduled Tribes really need reservation in public jobs and education by implementing the core concept of social welfare and social justice system. The framers of the Indian Constitution gave the first time specific remedial steps in the form of Constitutional Directives, resulting in the policy of reservation. The Constitution of India gave assurance of the upliftment of the Scheduled Tribes.

Part III of the Constitution dealing with fundamental rights has played a vital role in rendering social justice to the Scheduled Tribes. The Directive Principles of State Policy contained in Part IV specify the socialist goals to be achieved.

The judiciary has effectively preserved and safeguarded the fundamental rights of the weaker sections of society. It is also observed that the judiciary plays an important role by reminding the State of the Constitutional objectives.

Therefore, the Legislative, Executive and Judicial arms should work collectively to render the social, economic, political and cultural rights to the Scheduled Tribes in India, ensuring their human dignity and bringing them into the mainstream.

CHAPTER-IV

EMPOWERMENT OF SCHEDULED TRIBES IN INDIA

“Social justice is generous concept which assures to every member of society a fair deal, any remedial injury, injustice, inadequacy of disability falls within the liberal connotation of social justice”¹

Justice V.R. Krishna Iyer

4.1 INTRODUCTION

There has been an on-going need to ameliorate the lot of the underprivileged people living in India, particularly the Scheduled Tribes and other backward classes traditionally given an inferior status.

After independence, the Government of India felt that there was an urgent need to support the depressed classes, namely Scheduled Castes and Scheduled Tribes, by various means like reservations and implementing various welfare schemes for their amelioration. This has been a standard policy of government aimed at bringing the Scheduled Tribes at par with the general population. The Scheduled Tribe populations inhabit all the states of India

However, tribal areas have been designated as reserved areas under the Andaman & Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956. The entry of non-tribals into reserved areas is prohibited. The interests of tribals in respect of their lands and trades in the reserved area are adequately protected².

According to Jawaharlal Nehru's view, development should be pursued within the broad framework of the five fundamental principles, known as the „Tribal Panchsheel“:

- (i) Avoid imposing anything on the tribals.
- (ii) Respect tribal rights to lands and forests.
- (iii) Train and build a team of tribal people.

1. Jawal Vikram Singh, Jaswal Sweta, *Justice V.R. Krishna Iyer's Concept of Social Justice*, (2011), Deep & Deep Publication, New Delhi, pp, at 123.
2. Prasad Ishwari, *Reservation action for special Equality*, (1986), Criterion Publications, New Delhi pp at 90

(iv) Do not overwhelm them with a multiplicity of schemes.

(v) Do not judge results by statistics but by the quality of the human character evolved³.

There are numerous government policies for ensuring the welfare and wellbeing of the Scheduled Tribes. State governments as well as the Central Government have made sustained efforts to provide opportunities to these communities for their economic development by eradicating poverty and health problems, and developing communication systems to remove their isolation.

Development of the Scheduled Tribes is the collective responsibility of the Central as well as State Governments and Union Territory administration. The state governments have made separate departments to look after the welfare of the Scheduled Tribes. Their administrative set-up, however, varies from state to state. A number of voluntary organisations also promote the welfare of the Scheduled Tribes. For instance, in the State of Goa, the important such organisations are the Gaud Maratha Samaj, the United Tribal Association (UTTA), and the Gawda, Kunbi, Velip and Dhangar Federation (GKUVED).

The Ministry of Tribal Affairs deals with the overall policy and coordination of matters relating to the development of the Scheduled Tribes. Through special programmes it tries to amplify the schemes implemented by other Central departments for their uplift. The Ministry of Tribal Affairs is also concerned with the implementation of the (Prevention of Atrocities) Act, 1989, related to the Scheduled Castes and Scheduled Tribes, by the state governments and Union Territory administrations.

3. SJ Irudayam Aloysius, Mangubhai Jayshree P, *Adivasis Speak Out, Atrocities against Adivasis in Tamil Nadu, 1999, Book for Change (A Unit of Action Aid Karnataka Projects) publication, Bangalore.pp.at 1.*

42 Constitutional Provisions for the Welfare of Tribals and their Economic Development

Special provisions have also been made for the welfare of the Scheduled Tribes in the Constitution Part IV Directive Principles of State Policy, along with Part IX and Part IX-A, i.e. Fifth and Sixth Schedules respectively. The Directive Principles impose certain obligations on the State to take positive action in a certain direction in order to promote the welfare of the people and achieve economic democracy⁴. The Drafting Committee of the Indian Constitution had realised that political democracy would be useless without economic democracy. Accordingly, they incorporated a few provisions in the Constitution with a view to achieve amelioration of the socio-economic conditions of the masses⁵.

In the present era, the Welfare State seeks to promote the prosperity and well-being of the people. The architecture of the Indian Constitution includes the Directive Principles to usher in social and economic democracy in the country. Therefore, the Directive Principles give direction to the legislature and the executive in India as regards the manner in which they should exercise their power⁶.

It was observed by Drafting Committee that equal protection requires affirmative action for those handicapped due to the historical fact of untouchability practised for millennia (now abolished by Article 17), as well as for tribes living away from the national mainstream due to social and educational backwardness⁷

The Constitution of India has given wide scope for the economic development of the Scheduled Tribes through the Directive Principles of State Policy, read with the Fifth and Sixth Schedules. The broad egalitarian

4. Sing Mahendra p, *VN. Shukla's Constitution of India*, (11th Edition 2008), Eastern Book Company publication, Lucknow, at 385
5. Jain *Prof.M.P, Indian Constitutional Law* ,(5th Edition 2008), Lexis Nexis Butter worth"s wadhwa Naggpur, New Delhi, at 1363
6. *Ibid*
7. Valsamma Paul v. Cochin University, AIR 1996SC1011, 1015:1996(3) SCC545.

principle is implicit in every directive principle, in order that democratic socialism may achieve a socio-economic revolution to end poverty, ignorance, disease and inequality of opportunity⁸. The law ought to be designed so as to promote broader egalitarian social goals to ensure economic justice for all⁹.

The aim of social justice is to attain a substantial degree of social, economic and political equality¹⁰. There are a number of provisions contained in Part IV of the Constitution for the welfare of the people, including economic safeguards for the Scheduled Tribes. It directs the State to endeavour „to inform all the institutions of national life to promote the welfare of the people by securing and protecting justice, social, economic and political¹¹. Similarly, Clause (2) of Article 38 directs the State to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also groups of people residing in different areas or engaged in different vocations¹². Article 39(b) and (c) are very significant Constitutional provisions related to distribution of ownership and control of the material resources of the community.

Besides, the State also requires to secure living wage, conditions of work ensuring a decent standard of life and full employment of leisure and social and cultural opportunities to all workers, agricultural, industrial or otherwise, by suitable legislation or economic organisation, or in any other way which the State has, to promote cottage industries on an individual or cooperative basis in rural areas¹³.

Articles 42 and 43 show that the Constitution makers felt a deep concern for the welfare of workers¹⁴. The Supreme Court of India developed

8. D.S.Nakara v. Union of India, AIR 1983SC130 (1983)1SCC305.

9. Sanjeev Coke Mfg.co. v. Bharat Coal Ltd., AIR 1983SC239(1983)1SCC147.

10. *See supra* Note 6 at 1367

11. Art. 38(1)

12. Art. 38(2)

13. Art. 43

14. *See Supra* Note 10 at 1384

the concept of distributive justice¹⁵ and under Article 46, clarified that affirmative action to protect and preserve the economic interests of persons belonging to the Scheduled Tribes and prevent their exploitation would not infringe Article 14 of the Constitution.¹⁶ Distributive justice means the removal of economic inequalities and rectifying the injustice resulting from dealings or transaction between unequal's in society¹⁷.

The doctrine of economic empowerment of the weaker sections of the society entails that the right to economic empowerment of the tribes and the poor is a part of distributive justice and is a fundamental right¹⁸.

421 State to Establish Special Ministry for the Welfare of the Scheduled Tribes

The Constitution provides for the appointment of a Minister of Tribal Welfare in the States of Chhattisgarh, Jharkhand, Madhya Pradesh, and Orissa. It also provides that the Minister in charge of tribal welfare can also be put additionally in charge of the welfare of Scheduled Castes, Backward Classes or any other work¹⁹. Before Independence, the development of Scheduled Tribes was made part of the Backward Classes Sector which handled the welfare and development of Scheduled Castes, Scheduled Tribes, Backward Classes and Minorities.

According to Article 164(1) the Minister of Tribal affairs is to be a full-fledged cabinet rank minister, whose key role is to attend to the following mandate:

- (i) Tribal welfare – planning, policy formulation, research and training.

15. *See Supra Note 14 at 1389*

16. *Sir Manchegowda v. state of Karnataka*, AIR 1984 SC1151, 1159.

17. *Ibid at 16*

18. *Murlidha Dayandeo Kesekar v. Vishwanath Pandu Borde*, (1995)2SCC549:1995(2) SCJ553.

19. Art. 164(1)

- (ii) Tribal development, including scholarships to the Scheduled Tribes.
- (iii) Promotion of voluntary efforts in the development of the Scheduled Tribes.

Thus, the Ministry of Tribal Affairs has become the nodal ministry responsible for empowering the Scheduled Tribes, to bring their overall status on par with the rest of society. The ministry in its nodal capacity is expected to formulate policies and programmes, enact or amend legislations affecting STs and coordinate the efforts of both governmental and non-governmental organisations.

The Ministry of Tribal Affairs extends special Central assistance in the form of a Tribal Sub-Plan (TSP) to promote family-based income generation activities to improve the economic conditions of the Scheduled Tribes. Unfortunately, these programmes have also suffered from all those handicaps being faced by several poverty alleviation programmes.

4.2.2. Administration of Scheduled Area and Tribal Area

The Indian Constitution has evolved a system, which is democratic as well as federal, for the people from different areas to carry on their own administration, and also maintain their social and cultural identity.

Part X of the Constitution deals with the administration of Scheduled and Tribal areas which were specified in Schedules V and VI. The Scheduled areas are treated differently from other areas in the country.

According to Schedule V, under Article 244 (1) the Constitution authorises the Governor to direct that a particular law or notification passed by Parliament or Legislative Assembly shall not apply to the Scheduled Area or any part thereof, or shall apply subject to certain exceptions and modifications.

The Governor is also authorized to make regulations for peace and good government in the Scheduled areas of the state²⁰.

4.2.3 Administration and Control of Scheduled Areas of Scheduled Tribes under the Fifth Schedule

The Constitution defines Scheduled Areas as such areas as the President may by order declare to be Scheduled Areas after consultation with the Governor of that state²¹. The provisions laid down under the Fifth Schedule relate to the administration and control of the Scheduled Areas of Scheduled Tribes in any state other than Assam, Meghalaya, Tripura, Manipur, Nagaland, Arunachal Pradesh and Mizoram²².

The Fifth Schedule of the Indian Constitution is divided into four parts.

- (i) Part-A deals with interpretation of the expression State and executive power of the State in Scheduled Areas.
- (ii) Part-B deals with the administration and control of Schedule Areas and Schedule Tribes.
- (iii) Part-C deals with the Creation of Scheduled Areas
- (iv) Part-D deals with the Amendment of the Schedule

As per Part A of the Schedule, the States of Assam, Meghalaya, Tripura and Mizoram are excluded from the interpretation of „State“ with regard to administration and control of Scheduled Areas and Scheduled Tribes. In general, the executive powers of a state extend to the Scheduled Areas. The Governor reports to the President with regard to the administration of Scheduled Areas²³.

20. Johari j.C. *The Constitution of India: A Politico-Legal Study*, 1995, Sterling Publishers Private Limited, New Delhi. pp.255

21. Art.244(1)

22. Behura N.K.Behura, panigrahi Nilakantha , *Tribal's and the Indian Constitution* , (2006), prem Rawat for Rawat Publications, Jaipur.pp.59

23. *See, supra Note 22*

Where Part B is concerned, a Tribes Advisory Council shall be established in each state having Scheduled Areas and also in any state having Scheduled Tribes, in case the President so directs. The said council has to advise in matters relating to the welfare and advancement of the Scheduled Tribes. The regulations prohibit or restrict transfer of land from the tribals, while laying down the procedure for the allotment of land among members of the Scheduled Tribes in such an area. All regulations made under this Part B shall be submitted forthwith to the President of India and, until assented to by him, or shall have no effect.

Part C deals with the interpretation of Scheduled Areas and the powers of the President with regard to declaration and prescribing the boundaries of Scheduled Areas. Part D deals with the powers of Parliament with regard to amending the provisions of the Schedule.

4.2.4 Administration and Control of Scheduled Areas and Scheduled Tribes under the Sixth Schedule

The Sixth Schedule of the Constitution relates to those areas in the states of Assam, Meghalaya, Tripura and Mizoram, which are very different from those in the other „tribal areas“. The former areas are divided into large districts inhabited by single tribes or fairly homogenous groups of tribes with a highly democratic and mutually exclusive tribal organisation²⁴. These areas are treated differently by the Indian Constitution and a significant amount of autonomy has been given to their inhabitants.

The Governor is empowered to include or exclude any area from any parts of the table appended to paragraph 20 of the Sixth Schedule. He can also create a new autonomous district. Each autonomous district has district council consisting of 30 members, out of whom 4 are nominated by the Governor and the remaining 26 are elected on the basis of adult franchise.

²⁴. Art. 244 (2)

The term of elected members is five years, and nominated members hold office at the pleasure of the Governor. If a district has several Scheduled Tribes, then autonomous regions may be created therein by the Governor. The Sixth Schedule creates District Councils and Regional Councils for each autonomous district and provides its constitution and powers²⁵. These councils have wide ranging legislative, judicial and executive powers. The state-wise details of tribal areas as covered under Sixth Schedule of the Constitution of India.

The councils are empowered to make laws for certain matters of proximate interest to the tribal peoples, e.g., marriage, social customs, inheritance of property, village administration, shifting cultivation, forests, land, use of canal or water-course for agriculture, etc. These laws come into force after being assented to by the Governor.

The administration of justice is carried out by village courts, the District Council or the Regional Council. The councils may constitute village councils or courts for the trial of suits and cases between parties belonging to the Scheduled Tribes. The High Court shall have such jurisdiction over these areas as the Governor may by order specify²⁶. There is a district fund or a regional fund to which all moneys received by the district council or the regional council are credited. The district and regional councils have the power of taxation.

The Governor may annul or suspend acts and resolutions of district and regional councils if he is satisfied that it is likely to endanger the safety of India. Such an order of the governor is to be laid before the state legislature, and it remains in force for twelve months unless revoked by the legislature. The legislature can pass a resolution to extend the duration of the order further by twelve months at a time²⁷.

25. *See, supra Note 24 at 591*

26. *Ibid at 25*

27. *Ibid 27 at .469*

The provisions under the Sixth Scheduled may be amended from time to time by Parliament by passing a law for the purpose. Perhaps, any changes introduced by parliamentary legislation under the Sixth Scheduled are not to be deemed to amount to an amendment of the Constitution for the purpose of Article 368.

Constitutional provisions have been made under Article 244-A for the creation of an autonomous state within the state of Assam, consisting of the tribal area mentioned in Part-I of clause 20 of the Schedule VI, by a law of Parliament.

Article 244-A states that, consistent with the need to provide adequate scope for the political aspirations of the hill people and the well-being of the people inhabiting the other parts of the state of Assam, the overall unity should be preserved. Similarly, a Council has been set up to provide for a unified and coordinated approach to the development of the entire North-Eastern region. The region comprises the states of Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh and Mizoram. Sikkim was added in 1975. The Council consists of the Governors and Chief Ministers of the states, and a Union Minister to be nominated by the President²⁸. The North Eastern Council is an advisory body to discuss any matter in which some states may be interested and may advise the Central Government and the State Government as to the action to be taken.

4.2.5. Promoting the Welfare of the Scheduled Tribes and Administration of Scheduled Areas

The Constitution lays down the provisions of control by the Union over the administration of Scheduled Areas and the welfare of the Scheduled Tribes²⁹. The President of India may appoint a commission at

28. *Ibid* 28 at 470

29. Art.339

any time or after ten years from the date of commencement of the Constitution. The commission appointed by the President has to report on the welfare of the Scheduled Tribes in the states and the administration of the Scheduled Areas³⁰. The executive power of the Union shall extend to the giving of directions to a state as to drawing up and execution of schemes specified in the direction to be essential for welfare of the Scheduled Tribes in the state³¹.

The Constitution envisages and provides for several forms of grants for promoting and welfare of the Schedule Tribes in India. The specific allocations may be made from the Consolidated Fund of India to be given as grant-in-aid for each state³² having Scheduled Areas for meeting the cost of schemes of development and for promoting the welfare of the Scheduled Tribes or for raising the level of administration of the Scheduled Areas in the state.

A similar provision exists for such special grants for the creation of Scheduled Areas for the formation of autonomous regions and regional councils. The management of resources according to custom also receives directions under Article 275(1). Thus, all the welfare programmes for the Scheduled Tribes is based on Article 46 and the required funds are provided under Articles 275(1) of the Constitution.

These grants are given at the discretion of the Centre for supporting such activities as the Centre may wish to promote to achieve the desired national goals.³³ The Scheduled Tribes live in contiguous or thick forest areas, not like other communities. Therefore, the Scheduled Areas are the approach for development activities as well as regulatory provisions to protect their interests. In order to protect the interests of the Scheduled Tribes with relation to land and other social issues, the various provisions have been enshrined in the Fifth Schedule and the Sixth Schedule of the Constitution.

³⁰. Art.339(1)

³¹. Art.339(2)

³². Art. 275(1)

³³. *See, supra Note 31 at .641*

The hundred per cent grants are released by the Union Ministry of Tribal Affairs under a Central Sector Scheme. For instance, the Central grant is payable to Assam equal to the average excess of expenditure over the revenues during the two years preceding the commencement of the Constitution in respect of the administration of the Tribal Areas in that State³⁴. But the cost of such schemes of development as may be undertaken by the state with the approval of the Centre. During each five-year plan, grants are allocated and released for promoting the welfare of the Scheduled Tribes under Article 275(1) of the Constitution.

4.3 Steering Commission and Committee for Empowerment of Scheduled Tribes in India

Post-Independence, the Government of India appointed a number of commissions and committees to look after the problems of tribal development in the country. The commissions and committees have recommended a number of measures to remove the socio-economic imbalances of tribal communities in India. They recommend the breakdown of the old psychological barriers which have existed in the tribal areas.

The first Social Welfare Team of the Committee on Plan Projects was formed in 1959 and it also known as the Renuka Ray Committee. It emphasized that each aspect of development is important its own place. It suggested that commercial exploitation of forest produce be entrusted to the forest labour co-operatives rather than to contractors and the profit be utilized for tribal welfare³⁵.

34. *See, supra Note 34*

35. Mehta Prakesh Chandra, *Development of Indian Tribes, 2006*, Discovery publishing house, New Delhi, pp at 20.

In 1959, the Government of India appointed a committee under the chairmanship of Verrier Elwin to review the Special Multi-Purpose Tribal Blocks. The Commission promoted Nehru's Community Development Programme in tribal areas by recommending the formation of Tribal Development Blocks. The committee supported Nehru's policies on tribals because this policy was more oriented towards implementation than formulating tribal policy. Further, the committee emphasized the attitude and methods in tribal change rather than specific programmes³⁶.

The study team on tribal development headed by P. Shilu Ao in 1969 comprehensively reviewed the T.D. Block programme. This team suggested that there should be no attempt to transform the tribal peoples who were at various stages of development (from food gatherers to advanced communities) overnight into carbon copies of sophisticated plainsmen, but rather foster all that is good and beautiful in their culture – their aesthetic sense, honesty, zest for life³⁷. The study team pointed out that the aim of tribal welfare policy should be defined as the progressive advancement, social and economic, of the tribes, with a view to their integration with the rest of the community on a footing of equality within a reasonable span of time. The period had necessarily to vary from tribe to tribe, and it might be five or ten years in case of certain tribes³⁸.

The Commission recommended an integral approach based on the essentials like food, drinking water, employment, education, health and village roads in tribal areas. It recommended a reconsideration of the 1952 Tribal Policy, keeping in view the rights of the tribals. It supported the Nehru Panchsheel policy, including protection of the tribals' land, their right in forests, and their rehabilitation. Further, it suggested the formation of a Forest Labourers' Cooperative Society and a Cooperative Finance and Development Corporation for the empowerment of the Scheduled Tribes.

36. *Ibid*

37. Das S.T, *Tribal Development and Socio-Cultural Matrix*, 1993, Kanishka publishing Distributor, New Delhi, pp at 200.

38. *Ibid*

A need was felt to evaluate the working of Constitutional safeguards for the tribals, and the tribal development programmes³⁹. The task force on the development of tribal areas suggested that the ecological, occupational and social parameters of the tribal population should be properly assessed for the formulation of policy and its implementation so that a steady flow of benefits could be assured to the tribal people⁴⁰.

The Dube Committee in 1972 tried to define a new strategy for tribal development and suggested that the problems of tribal development should be defined at the national level and national efforts required for tackling them should be worked out. It also suggested an integrated area development approach in consonance with the genius and aspiration of the tribal people⁴¹. The expert committee opined that the slow growth of the co-operative movement was due to its structural weakness, defective operations, inefficient management and faulty procedures not suitable for the tribal economy⁴².

In 1973 the Government of India formed the Study Group on Relief of Indebtedness, Land Alienation and Restoration in Tribal Development Agency Areas, under the chairmanship of P. S. Appu. The recommendations of the committee in brief were that the legislation made in Andhra Pradesh and Madhya Pradesh for the scaling down of debt might be adopted. The method adopted for setting up a debt relief court and appointing debt relief inspectors could be emulated for the relief of indebtedness in tribal development agency areas. The appointment of staff could be made on the Madhya Pradesh lines. Further, the committee also recommended maintaining land records and dealing with the problem of land alienation in the agency area⁴³.

39. The Scheduled Areas and Scheduled Tribe Commission was set up under chairmanship of shri U.N. Dhebar in 1961 refereed to this policy approvingly and observed that the problems of problems not to disturb the harmony of tribal life and work for their advancement and integration as part of the Indian family.

40. The Government of India setup special Task Force on Development of Tribal Areas -1972.

41. The Tribal Sub Plan strategy was developed by an Expert Committee set up by the Ministry of Education and Social Welfare in 1972 under the Chairmanship of Prof. S. C. Dube for the rapid socio-economic development of tribal people and was adopted for the first time in the Fifth Five Year Plan. The strategy adopted continues till this day

42. The Government of India setup Study Team on Co-operative Structure in Tribal Development Project Areas -1976.

43. *See, surpa Note 39 at77*

In 1978, a study team chaired by K. S. Bawa recommended strengthening the co-operative structure in the Tribal Development Agency areas in the interests of speedy and efficient implementation of the tribal development programme, generating credit to the tribals, and linking it with marketing functions⁴⁴.

During the Seventh Five-Year Plan (1985-1990), there was much more attention on faster movement towards social justice, with a focus on employment and poverty elimination. The Government-appointed Working Group framed a strategy of Tribal Sub-Plan comprising identification of funds, and formulation of appropriate policies and programmes⁴⁵.

4.4 Tribal Empowerment through Five-Year Plans

The Constitution of India made a several provisions for the development of Scheduled Tribes. As such, many schemes were formulated and implemented for tribal development through Five-Year Plans. The Government made several attempts to develop the Schedule Tribes socially, educationally, economically, politically and culturally. Various models, approaches and theories were used for tribal development, as proposed under different Five-Year plans, such as Integrated Tribal Development Projects, Tribal Sub-Plan, and Centrally Sponsored Schemes.

The welfare of the Scheduled Tribes has been given special attention in the Five-Year Plans. The Tribal Development Programme was launched in 1951 through the first Five-Year Plan (1951-56). It envisaged that the programmes under various sectors of development would benefit Scheduled Tribes. It outlined a positive policy for assisting the tribal people to develop their natural resources and create a productive economic life. It also suggested

⁴⁴. The Government of India in December 1978, set up a study team of Marketing, Credit and Cooperation in Tribal Areas under the Chairmanship of Shri.K.S.Bawa for examining the working of the Co-operative organisations in the project areas of Tribal Development Agencies.

⁴⁵. The Government of India setup Working Group on Development of Scheduled Tribes during the 7th Five Years Plans (1985- 90).

changes in their religious and social life. The first Five-Year Plan led to community projects for all-round development in rural areas⁴⁶.

The second Five-Year Plan (1956-61) took the community development approach. Accordingly, the Ministry of Home Affairs provided funds to the Ministry of Community Development to establish Special Multi- Purpose Tribal Blocks (SMPT) in areas with a prominent tribal population. The plan promised to ensure that the economic benefits accrue more and more to the relatively less privileged classes of society in order to reduce inequality. Recognizing the socio-economic conditions prevailing in the tribal areas, concrete developmental schemes were planned⁴⁷.

The third Five-Year Plan (1961-66) emphasised equality of opportunity and a reduction in disparities in income, ⁴⁸ wealth and the distribution of economic power. During the third plan, Special Multi-Purpose Tribal Blocks were renamed as Tribal Development Blocks (TDB), with the suggestion that TDBs be opened in all areas with more than sixty per cent tribal population.

The fourth Five-Year Plan (1969-74) envisaged the basis goal as „rapid increase in the standard of living of the people through measures which also promote equality and social justice“. Under this plan the implementation of an administrative framework in the form of a Tribal Development Agency (TDA) was established for each project. According to this plan the strategy of development for tribal people took necessary steps at various stages, and special attention was paid to the development of the most backward tribal areas⁴⁹.

46. Dr.Harishankar Banothu , *Tribal Economic Development in Indian* , 2016, volume –III, Issue 1(3), *international journal of Multidisciplinary Advanced Research trends*, p.at 31

47. *Ibid*

48. Misal Dlip M., *International Tribal Progress Plans and Sub-plans in India*, 2016, volume 5, Issue-I, *International Journal of Humanity and Social Science*, pp at79-80.

49. *Ibid*

In the fifth Five-Year Plan (1974-78) the Government of India launched a new strategy to spell out the problems of tribal development and enforce the Tribal Sub-Plan (TSP) for the direct benefit of the Scheduled Tribes. The concept of a sub-plan was to improve the quality of life of tribal communities, and narrow down the gap between the levels of development of tribal areas, and to achieve the social and cultural integration of the tribals with the rest of society⁵⁰. The Tribal Sub-Plan stipulated that funds of the state and Centre should be quantified on the basis of the proportion of the tribal population.

The Planning Commission set up a task force during fifth Five-Year Plan to review the development of tribal areas and also issued the tribal sub-plan guidelines. The main objects of the sub-Plan were to eliminate all forms of exploitation, while bringing about socio-economic changes and strengthening the tribal people⁵¹.

The sixth Five-Year Plan (1980-85) marked a shift in the approach to the development of the Scheduled Tribes. Its special emphasis was laid on the implementation of the newly launched Modified Area Development Approach (MADA), devised for pockets of tribal concentration within the population. The objectives of the sixth Five Year Plan were reduction of poverty, unemployment and inequality, an increase in income and wealth, and an improvement in the quality life of the tribal people. It emphasized family-oriented economic activities rather than infrastructure development schemes⁵².

In the seventh Five-Year Plan (1985-90) there was a substantial increase in the flow of funds for the development of Scheduled Tribes under SCP from the state and the Centre, and special central assistance (SCA)⁵³. Priority in the seventh Five-Year Plan was given to the educational development of the Scheduled Tribes.

50. *Ibid*

51. Dr. Devath Suresh, *Development through five year plans*, 2014, volume 3, issue-I, The Dawn journal, .pp at795

52. *Ibid*

53. *Ibid*

Of the two national level institutions for the economic development of the Scheduled Tribes, the Tribal Cooperative Marketing Development Federation (TRIFED) was set up in 1987. The National Scheduled Castes and Scheduled Tribes Finance and Development Corporation (NSFDC), under the control of the State Tribal Development Co-operative Corporation, was set up in 1989. The main attention was given to the socio-economic development of tribal areas, including the development of agriculture, horticulture, forestry and village and cottage industries⁵⁴.

The eighth Five-Year Plan (1992-97) intensified the effort to bridge the gap between the development of the Scheduled Tribes and other sections of society. It was envisaged that all forms of oppression of the Scheduled Tribes – especially the suppression of their rights, land alienation, limits on the right to collect minor forest produce, non-payment of minimum wages etc. – would be eliminated, so as to enable them to avail the benefits of all developmental efforts⁵⁵. The strategy of the eighth Plan specifically aimed at improving the living standard of the tribals by giving them better social and civic amenities.

In the ninth Five-Year Plan (1997-2002), the approach adopted towards empowering vulnerable groups was holistic in nature, to accomplish their all-round development through (1) social empowerment, (2) economic empowerment and (3) social justice, with an inter-sectoral focus and inputs from both governmental and non-governmental agencies. The plan was committed to empower the Scheduled Tribes through socio-economic changes and development. Literacy was recognized as one of the key indicators of socio-economic development. Infrastructure facilities and basic amenities were strengthened.

54. See, *supra* Note 51 at 33

55. See, www.planningcommission.gov.in dated 3rd January 2019

In the tenth Five-Year Plan (2002-2007) the issues addressed were land alienation, indebtedness, rehabilitation, displacement, deterioration of forest villages and shifting cultivation etc. The tenth Plan formulated a comprehensive national policy for empowering tribals, and to provide the basic requirements, especially education, healthcare, drinking water and basic sanitation.

The aim of the tenth Five-Year Plan included the expansion of economic and social opportunities, and also ensuring significant progress towards improving the quality of life for all the Scheduled Tribes in India. It suggested solutions to the unresolved issues of development. Since solutions depended on the eradication of deprivation and exploitation of the Scheduled Tribes, the Plan was adapted to that end⁵⁶.

The eleventh Five-Year Plan (2007-2012) aimed at rapid and inclusive growth. An inclusive growth process with respect to STs is operationalized through the adoption of a triple strategy, namely, social empowerment, educational development, and economic empowerment. The Plan's approach to development was social justice for the eradication of various issues of exclusion, exploitation, marginalization and unrest. It aimed at the empowerment of the Scheduled Tribes, while keeping in mind the necessity of good governance in the tribal areas. The Plan emphasized the preservation of the traditional ecosystem, skills and economics.

The twelfth Five-year Plan (2012-2017) emphasized the importance of formulating data on various tribal groups in India, including their customs, practices, traditions, faith and languages. Attention was given to the following activities, namely, retail marketing development activity and minor forest produce marketing development activity; vocational training, skill enhancement and capacity building of Scheduled Tribe artisans and minor forest produce gatherers; and research and development. Under the Twelfth Plan the suitable programmes for the Scheduled Tribes included better and

⁵⁶. *Ibid*

immediate implementation of PESA and FRA Institutional Mechanism of Conflict Resolution⁵⁷. With the Planning Commission dissolved, there will not be a thirteenth Five-Year Plan.

4.5 Centrally Sponsored Schemes for Students from the Scheduled Tribes

It is the Constitutional obligation of the government to protect the interests of the Scheduled Tribes and also to protect them from social injustice and atrocities. The Central Government provides various schemes for their social, economic and educational upliftment. Some of the important centrally sponsored schemes are: -

4.5.1 Schemes for Pre-Matric and Post-Matric Students

The Pre-Matric Scholarship to the Scheduled Tribes students studying classes IX and X is a centrally sponsored scheme implemented by state governments. The main objective of the schemes is to support parents of Scheduled Tribes children for the education of their wards studying in classes IX and X, so that the incidence of dropping out, especially in the transition from the elementary to the secondary stage, is minimized. Secondly, by improving the participation of students in classes IX and X of the pre-matric stage, they can perform better and have a better chance to progress to the post-matric stage of education. ST students whose parental income is less than Rs. 200,000 per annum are eligible for this benefit. The state Government provides scholarships in the range of Rs.150 per month for 10 months, and also books and an ad hoc grant of Rs.750 per annum. The post-Matric scholarship is a centrally sponsored scheme implemented by the state Government.

⁵⁷. *Ibid*

4.5.2 Book Bank for Students

The main objective of the scheme is to establish a book bank for ST students in each medical college (including Indian system of medicine and homeopathy), colleges of engineering, agriculture, veterinary science, polytechnics, law, chartered accountancy, MBA and bio-sciences. The state Government provides financial assistance under the scheme for one set of books for two students. Eligibility is restricted to those students who receive the post-Matric scholarship under the centrally sponsored scheme.

4.5.3 National Fellowships for Higher Education of Scheduled Tribes Students

This scheme provides fellowships for Scheduled Tribes students to pursue MPhil and PhD courses. The objective of the scheme is to encourage Scheduled Tribes students, a section of society with the lowest literacy level in the country, to acquire higher education in the form of MPhil and PhD courses, with a view to create qualified professionals to hold posts of teachers and professors and other higher rungs of employment.

4.5.4 National Overseas Scholarship

The state provides scholarships for Scheduled Tribes students to pursue Master level courses, PhD courses and post-doctoral courses overseas.

4.6. State Policy and Tribal Rights: The Context and Historical Background

As per the 2011 Census, the total population of the State of Goa is 14.59 lakhs. The total Scheduled Tribal population in the state is 1,49,275, i.e about 10.23% of the total population of Goa⁵⁸.

During colonial times, way back in 1850, the administration launched a Census enumeration in Goa and labelled the Gauda, Kunbi, Velip and Dhangar communities as „Primitive Tribes“⁵⁹. These tribal communities of Goa are currently collectively and known as the “Gakuvéd”⁶⁰

In ancient times, tribals were considered to be the primitive segment of Goan society. They lived in the foothills and forest areas of the Western Ghats with an agrarian lifestyle, and they speak mostly the Konkani language.

The Scheduled Tribe of Gauda/Gawda, Kunbi and Velip have been the most vulnerable communities in an unequal society. In Goa, the tribal people had a long history before the arrival of the colonial rulers. The tribal societies that existed in ancient times had their own rights and duties within their autonomous sovereign framework.

58. <http://www.censusindia.gov.in> 21st March 2016

59. Maske Dr.Pradeep, *Tribal Communities in Goa: Uncertain Future Under Mafia-Minster-police Raj*. (2011), Atharva publication journal, Goa.

60. *Gawda, Kunbi, Velip and Dhangars (GAKUVED) an organization working for the welfare of tribal peoples in Goa, was established in the year of 1980.*The main objective of (GAKUVED) federation to fight for status for Scheduled Tribe of these four communities in the list of Scheduled cast and Schedule tribes order 1950 under constitution of India .During the year of 2000 there are all four organization came together such as GomantakGoud Maratha Samaj,MullGoenkaranchaEkvott and DhangarUnnatiSamaji and formed Goa state Scheduled Tribe Action Committee. This movement was popularly known as GAKUVED movement.

The Gawdas had a legal system in the form of customary law. They followed the *ganvkari*/Gaonkary system,⁶¹ a form of village self-governance and collective land ownership. It was an uncodified legal system, where a council of the male elders of the village decided all community matters and dispensed justice. Significantly, they also planned the economic development of the village community. Agricultural practices included riverside farming involving very sophisticated systems of dams and sluice gates.

Some of the customs and usages traditionally observed among the Scheduled Tribes in Goa still continue.

During the colonial era, Portuguese scholars like Filip Nery Xavier and others were successful in codifying the traditional institution of Gaonkary into the Code of Comunidades⁶². By that time, however, the Scheduled Tribes had long lost their rights over their land. The Code of Comunidades did not restore to the tribal people the traditional rights which they had already lost centuries before the Portuguese landed in Goa. The Code recorded their lower status as a matter of fact.

During the Portuguese colonial period in Goa, the Scheduled Tribes continued landless. They lived on the social margins. Some lived in isolated or semi-isolated villages, while those who lived in the mainstream villages became the agricultural labourers of well-to-do landlords, in a kind of feudal relationship. Some of those in isolated areas led a life of extreme poverty.

61. The original name of this institution is called Gaonkary or Gavpon system was an ancient tribal association as a community of village and represented by means of tribal groups belong to Gawda, Kunbi and Velip communities in Goa. This system is independent and economically self-reliant institution. They are owner of whole land in Goa and cultivated crops on agricultural land on cooperative basis, and there was no private ownership of land. During ancient period the Gawda, Kunbi and Velip Tribes are administrated and governed by their own laws based on usage, custom and tradition. During the Portuguese regimes the Gaonkary or Gavpon system was codified into code of comunidade.

62. Code of comunidade is compilation of the practices of the village Gaonkaries in the respect of agricultural and all allied of aspect of village life, to which Portuguese Government from time to time added administrative rules and regulation to ensure proper administration and financial control over the land revenue. The code was originally made in 1735 again in 1904, 1933 & 1961. In latest the law has been officially translated and notified under Articles 348 constitution of India.

Post-Liberation, the socio-economic condition of the Scheduled Tribes initially remained unchanged. In theory, they enjoyed the same political rights as other citizens, but in fact they did not enjoy the political advantage of their numbers because they were not organized. On the economic front, rapid development carried out in the state of Goa to a great extent excluded the Scheduled Tribes, the earliest known settlers of Goa.

In between 1963 and 1972, the first Chief Minister of the Union Territory of Goa attempted to notify the tribal communities under the Scheduled Tribes Category. However, the tribal leaders felt that inclusion as Scheduled Tribes was like accepting a status similar to the Scheduled Castes⁶³.

The Government of Goa made a second attempt to pursue tribal related demands at the Centre, and wrote a letter to the Registrar General of India for the notification of tribes in Goa. Exercising of the powers conferred by Clause (1) of Article 342 of the Constitution of India, the President, after consultation with the state governments concerned, including the Government of Goa, promulgated so far nine orders specifying the Scheduled Tribes in relation to the states and Union Territories.

The Government of Goa notified the Gawda, Kunbi Velip and Dhangar tribes in the list of Other Backward Classes (OBC) in 1980. In the same year, the Government of Goa revoked the order of OBC status, after objections and agitations by people belonging to these groups.

As per the Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968, and as inserted by Act 18 of 1987, five communities were notified as Scheduled Tribes namely Dhodia, Dubla, Naikda, Siddi and Verli, from Daman and Diu.

63. *See, Supra Note57*

Under the Goa, Daman and Diu Reorganization Act, 1987, the tribes from Daman and Diu were considered to be tribes from Goa, while the three ethnic Goan communities, namely Gawda, Kunbi and Velip, were excluded from the list of Scheduled Tribes.

The Goa Legislative Assembly passed important enactments like the Goa Land Revenue Code, 1968. The latter, in Subsection (2) of Section 24, clearly provided that „occupancies belonging to persons of Scheduled Castes and Scheduled Tribes shall not be transferred except with the sanction of the Collector of the respective District⁶⁴. In this way, land could not easily be alienated from the tribals who lived there.

Basically, the livelihoods of the Scheduled Tribes of Goa depended upon the land. They traditionally cultivated food crops for many generations. Fishing went hand-in-hand with agriculture in many areas. Like tribal people everywhere, the tribals of Goa had a direct relationship with the land, natural resources and the environment – such being the true identity of tribal people.

For several decades, the Gawda, Kunbi and Velip communities“ organisations fought for the status of Scheduled Tribes to avail of the Constitutional benefits. The Government of Goa, after changing its stance⁶⁵ more than once, finally in 2002, acceded to their demands. As per as the Constitution (Goa, Daman and Diu) Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002, [Central Act 10 of 2003], three communities

64. Agrawal N.D, *Goa Land Revenue Code (Act No.9 of 1969)*, (2003), Goa Institute of Rural Development & Administration, Ela Farm, Old Goa, p. at 25

65. The Government of Goa issued the order No.13/3/84-LAWD/OBC dated 12-6-87 and thereafter the deleted the order No.13/3/84-LAWD/OBC dated 9-7-87 and Addendum No.13/1/97-SWD/ (Vol.II)/4094 dated 6-12-2001 due to inclusion of the communities in the list of Scheduled Tribes, published in official Gazette, Government of Goa issued Notification No.13/14/90-SWD (Vol.II)/191.

were notified as Scheduled Tribes namely Gawda, Kunbi and Velip⁶⁶.
Dhangars were excluded from the list of Scheduled Tribes.

4.7 Welfare Schemes under Tribal Sub-Plan for Scheduled Tribes in the State of Goa.

The concept of a Tribal Sub-Plan was started in 1974-75⁶⁷ with the twofold strategy of socio-economic development of the tribals and their protection from exploitation through legal and administrative measures. Most of the States and Union Territories have implemented the Tribal Sub-Plan through integrated tribal development projects.

The Government of Goa introduced the Tribal Sub-Plan in 2005-2006 during the 10th Five-Year Plan, for the socio-economic amelioration of the tribal communities who comprise 12% of the population in the state of Goa.

The objective of the Tribal Sub-Plan is to utilize the funds received through the Central Ministries and Departments for the development of the Schedules Tribes in proportion to their population. The Tribal Sub-Plan makes certain provisions for providing adequate educational and health services, and physical and financial security against all types of exploitation and oppression.

However, the general schemes and programmes were designed for the overall development of the economy, which hardly improved their socio-economic status. Similarly, the benefit of such welfare schemes did not percolate through to most of the tribals of the country. The Tribal Sub-Plans are integral to the Annual Plans as well as Five-Year Plans. The Planning

66. The Scheduled castes and Scheduled Tribes order(Amendment)Act,2002(central Act10 of 2003) which has been passed by the parliament and assented to by the president of India on 7-1-2003 and published in then Gazette of India, Extraordinary, part II, Section 1, dated 8-1-2003 published official Gazette, Government of Goa under Notification No.10/3/2003-LA.

67. Tribal Sub plane strategy was adopted under fifth five-year plan (1974-75).

Commission of India issued guidelines for the implementation of the Tribal Sub-Plan in major tribal areas.

The Tribal Sub-Plan fund should not be diverted to any other purposes, but be allocated for infrastructure development activities in tribal areas. Its budget should focus on the empowerment of the tribal community through training, exposure and education. The annual Tribal Sub-Plans have a realistic physical target for its schemes / programmes. The state has no periodical benchmark surveys regarding the socio-economic status of the tribal people in Tribal Sub-Plan areas. There is no perspective plan, no vision document for long term goals.

The Tribal Sub-Plan programmes are financed from four sources, namely, state plans, ⁶⁸ centrally sponsored schemes, ⁶⁹ Special Central Assistance,⁷⁰ and grants under Article 275(1) of the Constitution⁷¹.

The strategic plans were designed according to the balanced growth and economic development of the country. After the completion of four Five-

68. ~~Amongst the major achievement in the field of tribal development can be mentioned the very substantial increase in the flow of funds in tribal sub-plan are hiring the Plans.~~

69. Explanation Note: Centrally Sponsored Schemes are implemented by state governments but are largely funded by the Central Government with a defined State Government share. The purpose of the Schemes grants (or loans) extended by Central Government to states regarding to encourage the plan and implement programmes to that help attain national goals and objectives.

70. Special Central Assistance grants are allocated under Tribal Sub-Plan is given by the Ministry of Welfare to the Tribal Sub-Plan States/UTs as an additive to the State Plan to fill the gaps in the budgetary provisions towards TSP so that meaningful programmes for the development and welfare of Scheduled Tribes may be taken up. It is basically meant for family oriented income generating schemes in sectors like agriculture, horticulture, minor irrigation, soil conservation, animal husbandry, forest, education, co-operatives, fisheries, village and small industries etc., and infrastructural development incidental thereto. The pattern of assistance is 100%. It is expected to act as a catalyst for giving a boost to investment by the State Governments and financial institutions. The criteria for allocation of Special Central Assistance have been fixed on the basis of certain norms. At present 70% of the SCA. fund is spent on family oriented schemes and only 30% on the infrastructure incidental to such schemes. Under the Tribal Sub-Plan funds including Special Central Assistance are treated as non-divertible. Once financial allocation to tribal sub-plan areas/programmes is decided and exhibited in the budget, diversion of funds to non-tribal areas/programmes, is not permissible, in the case of SCA, it is required to be invested mainly in the family oriented programmes. However, instances have come to the notice where substantial amount from SCA is being utilized by some States for meeting establishment and other expenses.

71. The Tribal Sub-Plan funds are allocated from the consolidated fund of India under article 275(I) is a central sector scheme under which 100 per cent financial assistance is being provided to the states through the nodal Ministry of Tribal Affairs. All revenues received, loans raised and all moneys received by the Government in repayment of loans are credited to the Consolidated Fund of India and hence the communities and civil societies have a role to monitor it. Under the scheme funds are released to the State Governments to meet the cost of such schemes of development as may be undertaken by them for promoting the welfare of Scheduled Tribes and for raising the level of administration of the Scheduled Areas. The objective of setting up of model residential schools is to provide quality education to tribal students. This will make them able to avail of the facility of reservation in educational institutions and jobs in Government services and Public Sector Undertakings.

Year Plans, the Planning Commission realised that the Scheduled Tribes still remained behind the mainstream of development.

The important Role of the Ministry of Tribal Affairs is to covers schemes for the educational development, economic development and social development of the Scheduled Tribes; the protective measures schemes under the SC/ST (Prevention of Atrocities) Act; and the policy of positive discrimination in public employment and education. Most of these schemes are administered by the Ministry of Tribal Affairs and are mostly implemented through the state governments, Union Territory administrations, and voluntary organisations, as a Centrally sponsored scheme.

In every Five-Year Plan, it was expected that benefits would accrue to the tribals in due proportion under various schemes and programmes. The concept of development with focus on the growth of tribal communities was accepted for the tribal areas.

According to the guidelines of the Planning Commission, the State Government would allocate 12% of the budget in the Annual State Plan for the implementation of the Tribal Sub-Plan. This fund would be allotted in all departments, namely, Water Resources, Public Works, Panchayats, Education, Higher Education, Youth Affairs and Sports, Art and Culture, Health Services, Labour, Municipal Administration, Social Welfare, Women & Child Development, Craftsmen's Training Centre, Agriculture, Animal Husbandry, Fisheries, Social Welfare, Forests, Science, Technology and Environment, Electricity, Tourism, Tribal Affairs, Information Technology, Cooperatives, and Industries.

Every government department has to prepare the following schemes and under Tribal Sub-Plan for the development of the Scheduled Tribes in the State of Goa.

4.7.1. Scheme for Major and Minor Irrigation projects

The objective of the scheme is to utilise surface water and ground water to ensure irrigation facilities to all parts of the State, and to make agriculture self-sustainable and economically viable. The implementation of irrigation projects in the command areas for the exclusive benefit of the Scheduled Tribes community is one of the important concepts.

4.7.2. Scheme to prevent/minimize damage to property against command area development, flood control, anti-sea-erosion and drainage works, under Western Ghats Development Programme

The objective of the scheme is to provide financial assistance to prevent/minimise damages and losses caused due to floods and sea waves by improving the drainage system in the state, and through construction of flood protection and anti-sea-erosion structures such as retaining walls, concrete blocks, and embankments.

4.7.3. Scheme for Free Water Supply in Rural Areas

The scheme was designed by the Public Works Department under the Rural Water Supply Programme. The objective of the scheme is to provide public taps, free tap connections and open-wells as per site conditions to the tribal families.

4.7.4. Scheme for Road Connectivity in Rural Areas

The scheme was designed by the Public Works Department and its objective is to provide road access in all the villages connected with link roads in the area of tribal habitations.

4.7.5. Special Component Plan for Scheduled Tribes Development Scheme

The objective of this scheme is to construct public toilets, community halls and mini markets; to maintain roads, footpaths, street lights, drainage, gutters, etc.; and to develop parks, gardens, roads and playgrounds.

4.7.6. Dayanand Social Security Scheme

The objective of this scheme is to provide financial assistance under the Tribal Sub-Plan to tribal people including senior citizens, single women and disabled persons. A beneficiary under the scheme gets financial assistance of Rs. 1000/- p.m. The financial assistance goes to the spouse on the death of the member.

4.7.7. Rajiv Awas Yojana Scheme

The objective of this scheme is to provide financial assistance for the construction of a new house. The quantum sanctioned is Rs. 25,000/- and Rs.12500/- for upgradation.

4.7.8. Scheme for Financial Assistance to Tiny Enterprises

The objective of the scheme is to provide financial assistance, and motivate of unemployed of young men and women belonging to the Scheduled Tribes, to set up their own enterprises.

4.7.9. Scheme for Meritorious Scholarship to Scheduled Tribe Students

The objective of the scheme is to give impetus to education to Scheduled Tribe students by granting scholarships for their meritorious performance. ST students who obtain 50% marks and above in class five to class ten are eligible to avail of the benefit of the scheme. The rate of scholarship per month for 10 months is as follows: classes five and six –

Rs.900/-; classes seven and eight – Rs. 1000/-; class nine – Rs. 1100/-; class ten – Rs. 1600/-.

4.7.10. Scheme for Monthly Stipend to Scheduled Tribe Student.

The objective of the scheme is to provide financial assistance to Scheduled Tribe students at the following rates: classes five to seven Rs. 3575/- per annum (Rs.325/- p.m. for 11 months); classes nine and ten 4125/- p.a. (Rs.375/- p.m. for 11 months). Eligibility includes that the income of the parents does not exceed Rs. 1,50,000/- per annum.

4.7.11. Kanya Dhan to Scheduled Tribe Students

The objective of the scheme is to promote education among girl students of Scheduled Tribe communities and to assist this weaker section of society. The girl child who passes the class ten examination and joins class eleven of any stream (Science, Arts, Commerce, Vocational or ITI) is eligible to avail the benefits of the scheme.

4.7.12. Scheme for Grants to Voluntary Organizations for Running Hostels

The objective of the scheme is to provide a grant-in-aid to voluntary social organisations to run hostels for Scheduled Tribe students to enable them to pursue their studies away from their permanent place of residence. The financial assistance is sanctioned to the institution for ten months of the year. The detailed financial assistance to be sanctioned to the hostel as under existing grants per month is Rs. 1500/-. Salaries are at the rate of: warden Rs. 10000/-, clerk Rs 10000/-, and cook Rs. 8000/-. The rent contribution is Rs. 5000/- in urban areas and Rs. 2500/- in rural areas.

4.7.13. Scholarship to Scheduled Tribe Community Students in Nursing Courses

The objective of the scheme is to provide financial assistance to Scheduled Tribe students undergoing courses in nursing: (a) Home Nursing Course for 6 months Rs. 3500/- per course or actual whichever is less; Rs.1000/- for expenditure incurred on books, uniforms, stationery etc. and maintenance allowance Rs. 500/- p.m. for day scholars and Rs. 800/- p.m. for hostellers; (b) Diploma Course in Nursing for 1 year Rs.5000/- per course or actual whichever is less; Rs. 2000/- for expenditure incurred on books, uniforms, stationery etc.; and maintenance allowance Rs. 500/- p.m. for day scholars and Rs. 800/- p.m. for hostellers; (c) Degree in Nursing for 3 years Rs.10000/- per course or actual whichever is less, Rs. 3000/- for expenditure incurred on books, uniforms, stationery etc. and maintenance allowance of Rs. 500/- p.m. for day scholars and Rs. 800/- p.m. for hostellers; (d) Health Worker, one-year course, Rs.3500/- per course or actual whichever is less, Rs. 2000/- for expenditure incurred on books, uniforms, stationery etc. and maintenance allowance of Rs. 500/- p.m. for day scholars and Rs. 800/- p.m. for hostellers.

4.7.14. Prashikshan Yatra Scheme

The objective of the scheme is to provide financial assistance to educational institutes in tribal dominated areas to conduct study tours/excursions across the country, to cover places of historic, cultural and educational importance, during school vacations. Financial assistance up to Rs 100,000/- to educational institutions to conduct study tours/excursions will cover the following expenditure: actual travelling cost of students up to 40 students and two teachers by rail (Second Class Sleeper Non- AC) and / or by bus. The duration of the tour shall be for a period of six days or more. Educational institutes in Goa recognized by the Goa Board / CBSE, having Scheduled Tribes students, can seek financial assistance to conduct study tours/excursions for them.

4.7.15. Gagan Bharari Shiksha Yojana

The objective of the Gagan Bharari Shiksha Yojana scheme is to provide additional financial assistance to Scheduled Tribe Students as the maintenance allowance given under the Post-Matric Scholarship is inadequate to meet their expenses on food and travel. It also aims to cover the expenses of Scheduled Tribe students with some disability as the disability allowances given under the Post-Matric Scholarship is not sufficient to meet the expenses of disabled students. The additional maintenance allowance amounts to Rs. 750/- p.m. for day scholars and Rs. 1500/- p.m. for those staying in a hostel during the academic year (for ten months). Additional disability allowance of Rs. 750/- p.m. during the academic year (for a period of ten months) is given.

4.7.16. Scheme for Coaching to Scheduled Tribe Students

The objective of this scheme is to provide Scheduled Tribe candidates a better chance to succeed in competitive examinations, by overcoming any lack of knowledge, skill or a positive attitude. It also enables them to appear in competitive examinations and succeed in obtaining an appropriate job in the public or private sector like banks, the Railways, insurance companies etc.

4.7.17 Merit based Award

In recognition of high performance in the Board examinations of SSC and HSSC in the State of Goa, this scheme aims to motivate students by giving a merit-based award based on the benchmark of the performance and to provide a financial incentive to high performing students who are economically weak. Students belonging to the Scheduled Tribes are eligible if they have qualified in the SSCE Board Examination / HSSCE Board Examination of Goa Board or any recognised Board which has conducted SSCE / HSSC examinations for the students in the State of Goa.

The eligibility and benefits proposed under the scheme are:

- A. Felicitation of RANK HOLDER Students: under the scheme, amongst the Scheduled Tribe students the first five rank holders of SSCE and

the first five rank holders of HSSC board examinations (separately for all streams of Science, Commerce, Arts and Vocational) will be felicitated at a public function. A Certificate of Appreciation will be given at the time of felicitation. A financial award of Rs.20000/- will be transferred electronically into the bank account of the rank holder students. There is no restriction on the basis of income ceiling.

B. Merit Based Award for Scheduled Tribe students whose annual family income is less than Rs. 200000/-, having secured the requisite benchmark percentage:

- a) Students securing marks in the range between 50% to 59.99% will be given a financial award of Rs.5000/-.
- b) Students securing marks in the range between 60% to 69.99% will be given a financial award of Rs.8000/-.
- c) Students securing marks in the range between 70% to 74.99% will be given a financial award of Rs.10000/-.
- d) Students securing 75% marks and above will be given a financial award of Rs. 15000/

4.7.18 Schemes for Pre-Primary Schools for Scheduled Tribe Children in Remote Areas

The objective of this scheme is to provide financial assistance for setting up pre-primary schools in remote tribal areas which lack the facility of pre-primary education for the tribal population. Financial assistance in the form of the rent amount payable for the premises; fixed remuneration to one teacher and one helper; teaching aids/ equipment and toys; and the mid-day meal will be provided under the scheme. Besides, financial assistance will be provided to existing private schools interested in setting up pre-primary schools in tribal dominated areas, or to any NGO who has the experience of three years in running such pre-primary schools. Financial assistance for the purpose will be under the following heads:

- a) Rent: Rent amount up to Rs.2000/- p.m. recurring expenditure depending upon the quality of facility.
- b) Snacks: Rs.300/- p.m. per student as refreshment expenses.
- c) Teaching aids/ toys and other teaching material: a fixed amount of Rs.25000/-.
- d) Remuneration of Trained Teacher: Rs. 10000/- p.m. fixed remuneration.
- e) Remuneration of the helper at the rate prescribed under the Minimum Wages Act as revised by the Government under the Minimum Wages Act from time to time.
- f) Every year incremental raise of 10% to the trained teacher may be given subject to satisfactory performance during the preceding year.

4.7.19. Financial Assistance to NGO's / Institutions

The objective of the scheme is to provide financial assistance to Non-Government Organizations / Institutions which run normal schools or special schools, having at least 50% students from Scheduled Tribes Communities. The assistance is for construction of a new school building or for repairing or upgrading the existing school building.

4.7.20. Sahayata Scheme

Financial Assistance is given for creating awareness about schemes/ programmes for the Scheduled Tribes, and for the implementation of the same. The scheme gives assistance for organizing workshops, seminars and cultural activities so that the schemes and programmes become popular among ST people.

4.7.21. Atal Asra Yojana Scheme for Financial Assistance for Construction of New House and Repairs

The objective of the scheme is to provide supplementary financial assistance for the construction and repairs of houses for members of the

Scheduled Tribes. In addition to the amount sanctioned under Rajiv Awas Yojana or Indira Awas Yojana, so that cost of borrowing is reduced for the construction of houses by poor tribal families, financial assistance for construction of new house may be provided up to Rs. 200,000/- and for repairs of an existing house up to Rs.70000/-.

4.7.22. Scheme for Construction of Multipurpose Community Halls

The objective of the scheme is to help the ST community by providing infrastructure in the form of a „Sanskriti Bhavan“ Multipurpose Community Hall in a village dominated/ inhabited by Scheduled Tribe communities. The Multipurpose Community Hall is to serve as a marriage hall and a facilitation point for organizing awareness programmes, conducting training and seminars, holding meetings of Forest Right Committees, and for other socio-cultural events.

4.7.23. Scheme for Water Storage Tanks for Scheduled Tribe Households

The objective of the scheme is to provide water storage tanks of 500 litres to Scheduled Tribe households, to store water for human consumption as well as for cattle rearing in hilly areas. The scheme was supposed to be implemented in a phase manner so as to cover all households during the twelfth Five-Year Plan.

4.7.24. Naisargik Apatti Adhar

The objective of the scheme is to give financial assistance to cover damages to life and property due to wild life attack, or fire, or tree felling. It covers crop damages, property damages, or injuries to forest dwelling tribals due to wild animals. This scheme is in addition to the benefit given under natural calamity relief sanctioned by the Collector. Maximum financial assistance for damage to property will be Rs. 50000/- or actual loss whichever is less. Compensation for loss of life will be Rs. 200,000/- (Rupees Two Lakhs).

4.7.25. Antya Sanskar Yojana

The objective of the scheme is to grant of financial assistance for performance of funeral and religious ceremonies related to the last rites of a person of the ST community. ST families whose income is less than Rs. 200,000/- can avail of the benefit of the scheme. Rs.20000/- is sanctioned.

4.7.26. Mundkarache Ghar

The objective of the scheme is to provide financial assistance to needy Mundkars (traditional tenants) of ST category to enable them to exercise their right to purchase their own dwelling house at the price determined by the Mamlatdar under the G.D.D. Mundkar Act, 1975. The ceiling of the land area is 200 square metres in urban areas and 300 square metres in rural areas, or the area of the house as per the option of the Mundkar in the purchase.

4.7.27. Scheme to support orphan child/ children of widows belonging to the Scheduled Tribes community

The objective of the scheme is to give financial support to the orphan children and the children of widows for meeting the expenditure on food, clothing, and shelter till the child attains the age of 18 years. The benefit under the scheme is a fixed maintenance allowance of Rs. 1500/- per month, per child of a widow and Rs.2000/- per month, per orphan child. Any widow who is a DSS beneficiary belonging to the Scheduled Tribes community and having minor child is eligible, subject to the benefit being limited to 2 children. Any orphan who is under the care of a guardian, namely, a grandparent or near relative, or in a protective home, is eligible up to the age of 18 years.

4.7.28. Matrutva Yojana

The objective of this scheme is to provide financial assistance for In Vitro Fertilization (IVF) to such couples who are unable to conceive a child even

after two years of marriage. Rs.30000/- is sanctioned for undergoing IVF treatment.

4.7.29. Scheme for Land Acquisition for construction of houses for Scheduled Tribes people residing in forest areas.

The objective of the scheme is to acquire land to develop a house site of 100 square metres in forest areas, in order to avail of the Atal Asra Yojana and Indira Awas Yojana schemes. The scheme aims to benefit about 100 needy forest dwelling ST households.

4.7.30. Scheme for Tribal Heritage

The objective of the scheme is to preserve and propagate the cultural heritage of the tribal community, to conserve age-old traditions and customs, and relate a scientific attitude to traditions and customs in order to prove relevant in the modern age. The scheme finances heritage fairs and exhibitions as well as technological interventions supporting traditional artefacts and handicrafts of the Scheduled Tribes.

4.7.31. Scheme for Financial Assistance to Scheduled Tribes for upgrading traditional skills of tribal folk artists

The objective of this scheme is to provide required training and exposure to tribals famous for their traditional folk dances, arts and culture. This will help to make them employable in the tourism industry, while also reviving the glory of traditional Goan tribal culture.

4.7.32. Scheme for Construction of Tribal Bhavan

The objective of this scheme to provide accommodation for tribal students for higher studies.

4.7.33. Scheme for Setting up of Tribal Research Institute

The objective of this scheme to set up a Research, Training & Evaluation Centre which will help effective evaluation and training for capacity building of the scheduled Tribes and the officers implementing the schemes /programmes.

4.7.34. Scheme for Relief to Scheduled Tribes victims of atrocities

The objective of this scheme is the rehabilitation of Scheduled Tribes victims of atrocities as also of their surviving dependents by giving grants in accordance to the type of atrocities suffered by them.

4.7.35. Scheme for Financial Assistance to Scheduled Tribes trainees acquiring skill up gradation in vocational courses

The objective of the scheme is to provide financial assistance to Scheduled Tribes trainees acquiring skill upgrading for vocational courses in recognized institutions, such as courses recognized by Human Resource Foundation Society, Government of Goa.

4.7.36. Scheme for Learning Requirements of Tribal Students

The objective of the scheme is to conduct special programmes for teachers of the schools in tribal areas on the learning requirements of tribal students and to provide modern teaching aids to the schools.

4.7.37. Scheme for additional supplementary nutritious food and play material for Anganwadis in tribal dominated areas

Under this scheme each child studying in the Anganwadi centres will be provided with additional supplementary nutritious food worth of Rs. 300/- per month per child.

4.7.38. Scheme for Financial assistance to support forest dwelling Scheduled Tribes

The objective of this scheme to provide financial assistance to support forest dwellers in land development for increasing agriculture productivity, growth in non-timber minor forest produce, floriculture, horticulture, green fodder, medicinal plants, vermi-composting, honey bee-keeping etc.

4.7.39. Chief Minister Rozgar Yojana

Beneficiaries of this scheme belonging to the ST category have been made eligible for 30% additional interest free capital.

4.7.40. Ladli Laxmi Scheme for Scheduled Tribe Girls

The main objective of the scheme is to overcome financial difficulties faced by parents during their daughters' marriage, and provide financial assistance of Rs. 100,000/- to each girl for her marriage. Women in the age group of 18-40 years are benefited under this scheme.

4.7.41. Dearness Allowance for Scheduled Tribe Housewives

The main objective of the scheme is the economic empowerment of Scheduled Tribe women in the state of Goa.

4.7.42. Infrastructure development projects in Scheduled Tribes areas

It is seen that many tribal areas lack basic infrastructure, making their life difficult. It is therefore proposed to identify critical gaps in the rural infrastructure of the tribal dominated areas through the Gram Sabhas of the respective Panchayats. The infrastructural projects essential for the development of tribal people as required for the development of tribal areas will be taken up through the concerned department.

4.7.43. Post Matric Scholarship

The objective of the scheme is to provide financial assistance to Scheduled Tribe students studying at post matriculation or post-secondary stage to enable them to complete their education. The rate of maintenance allowance varies from post matriculation level and courses up to degree, and post-graduation level courses. In order to be eligible for the benefits under the scheme, the total annual income of the parents should not exceed Rs. 200,000/-.

4.7.44. Ashram Schools in Tribal Sub Plan Areas

The objective of the scheme is to increase education among Scheduled Tribes and the financial assistance on 50:50 basis will be given for a non-recurring item of expenditure.

4.7.45. Subsidy for Purchase of Motorcycle (Pilot)

The objective of the scheme is to encourage self-employment as a motorcycle „pilot“. Subsidy to the extent of Rs.15000/- is provided for the purchase of a motorcycle.

4.7.46. Scheme for Subsidy for Motor Driving Training (Light & Heavy vehicles)

The objective of the scheme is to provide training to youth from the ST community in driving light and heavy motor vehicles. The entire cost of the training, i.e. Rs.3000/- per candidate, is borne by the state government.

4.7.47. Upgradation of Merit to Scheduled Tribes Students

The objective of the scheme is to provide remedial and special coaching to Scheduled Tribe students studying in classes nine to twelve, with

a view to prepare them for competitive examinations for entry into professional courses. A package grants of Rs.15000/- per student per year for a batch of 5 students each in classes nine to twelve, inclusive of Rs. 7000/- per student per year, as honorarium to the Principal and experts, and other incidental charges. The scheme is 100% centrally sponsored.

4.7.48. Vocational Training for Scheduled Tribes in Tribal Areas

In Goa, the Scheduled Tribes are the most marginalised section of society. Therefore, to assist their socio-economic development there is a pressing need to provide more employment, revenue and income generation opportunities. This scheme aims at upgrading the skills of tribal youth in various traditional/ modern vocations, depending upon that their educational qualifications and market potential, as well as present economic trends, to enable them to gain suitable employment or become self- employed.

4.7.49. Sarva Shiksha Abhiyan

The objective of the scheme, launched in October 2005 in Goa, was to provide useful and relevant education to all children in the age group of 6-14 years by 2010. This is a centrally sponsored scheme with the Centre providing grants to the tune of 65%, the balance 35% being the state share.

4.7.50. Mid-Day Meal Programme

The objective of the scheme is providing hot cooked food to all government and government-aided primary and upper primary schools, and to AIE Centres in the state.

4.7.51. Scheme for free Supply of Textbooks, Notebooks, Uniforms and Raincoats

The objective of the scheme is to provide free textbooks, notebooks, uniforms and raincoats to Scheduled Tribe students of classes two, three and

four. Free textbooks are provided to students of classes one to seven of government and government-aided schools.

4.7.52. Grants for Girls

The objective of the scheme is to ensure 100% enrolment and retention of girl students in schools. An incentive of Rs.200/- per annum is provided for girl students whose family income is less than Rs.150000/- per annum, in six educationally backward talukas of the State of Goa.

4.7.53. Grants for Children with Special Needs

The main objective of the scheme is to improve educational opportunities for children with special needs, by providing financial assistance to the parents of such children. This scheme has been designed to make children with disabilities independent and earning members of their families so that they need not be a liability to the family.

The financial assistance shall apply to children with special needs studying in recognized schools from classes one to twelve, who are classified as under: Mentally Challenged, Slow Learner/ Learning Disabled, Autistic Child, Hearing and Speech Impaired, Orthopedically Handicapped (including polio and accident cases) and Visually Impaired. Under these scheme children with special needs are entitled to the following financial assistance:

- a. Grants for books and stationery per annum Rs.500/-;
- b. Fixed amount for uniforms per annum Rs.800/-;
- c. Traveling allowance for 10 months @ Rs.200/- per month;
- d. Escort allowance for 10 months @ Rs.200/- per month subject to 60% attendance;
- e. Actual expenses on equipment required for facilitating the child's education up to a maximum of Rs.5000/- once in 3 years (to be given in the first year).

4.7.54. Bharat Yatra

The scheme is for the students of secondary and higher secondary schools. The main objective of the scheme is to encourage them to undertake educational tours to far-flung areas in northern and southern India, to acquaint themselves with Indian culture and topography. The amount of grant for an educational tour (Bharat Yatra) is Rs.500/- per student.

4.7.55. Grants to new Primary Schools opting to impart primary education in Konkani/ Marathi

The main objective of the scheme is to provide grants for new primary schools set up in tribal areas to spread literacy among the tribal communities.

4.7.56. Revised Opportunity Cost Scheme for Students

The main objective of the scheme is to provide a cash incentive to the parents of SC/ST students whose family income is less than 150000/- for enrolling their children in schools. The details are Rs.750/- per annum for classes one to four; Rs.1000/- per annum for classes five to seven; Rs.1200/- per annum for classes eight to ten; and Rs.1500/- per annum for classes eleven and twelve.

4.7.57. Cyber Age Students Scheme

The main objective of the scheme is to provide advanced multimedia computers with ink-jet printers, UPS and software (both operation system and anti-virus etc.) for students of class eleven.

4.7.58. Scheme for Providing Tablet PC/ Note Book/ Laptop.

The objective of the scheme is to empower students belonging to the Scheduled Tribes by providing a Tablet PC/ Note Book/ Laptop.

4.7.59. Electrification Benefiting the Tribal Population in the State

The main objective of the scheme to carry out public works benefiting the tribal population. Electrification works benefiting the tribal population directly, as well as in areas having more than 40% tribal population, are being taken up for execution.

4.7.60. Development of Playgrounds

Under this scheme the relevant department undertakes to acquire suitable land and available open space at the village level for developing them into standard playgrounds with requisite facilities such as Indoor Stadium/ Multipurpose Hall/ Pavilion/ Gymnasium etc. Land acquisition proceedings have been commenced at 17 different places of all the 12 talukas for the development of playgrounds.

4.7.61. Scheme for Physical Education

The main objective of the scheme is promoting allied activities relating to physical education, games and sports, Bharatnatyam, yoga, NCC, NSS, Scouts and Guides, Red Cross, etc. The scheme provides need based facilities inclusive of sports kits, sports material etc. to talented budding sportspersons of the Scheduled Tribes, besides conducting refresher courses, seminars and in-service training to Physical Education teachers and coaches to update their knowledge in keeping with modern trends, to ably train their students of this backward community thereby enhancing their level of performance.

4.7.62. Scheme for Youth

The main objective of the scheme is to develop the all-round personality and leadership qualities of talented Goan Youth.

4.7.63. Sports and Youth Affairs

The scheme is available to Physical Education teachers, coaches and other technical officials to update their knowledge and enable them to enhance the performance of the talented ST sportspersons / youth, ensuring positive results at the national and international level.

4.7.64. Sports Authority of Goa

The main objective of the scheme is to organise state level sports festivals and rural sports competitions involving participants at taluka / district and all-Goa levels. The coaching wing is strengthened and coaching is provided to talented sportspersons in rural and urban areas. A special incentive by way of a prize is also awarded to meritorious sports persons who have bagged medals at national and international levels.

4.7.65. Integrated Child Development Services Scheme (ICDS)

The main objective of the scheme is to improve the nutritional and health status of children in the age group of 0-6 years.

4.7.66. Yashasvini

The main objective of the scheme is to provide financial assistance to self- help groups or unemployed women capable of undertaking a specific activity. The financial assistance proposed under this scheme shall be to a maximum of Rs. 100,000/- per group. The financial assistance would include a 75% interest free loan repayable in four years to avail of 25% subsidy. There are 32 different activities under this scheme. This scheme is implemented through the State Welfare Board, Mala, Panaji.

4.7.67. Mamta

A financial incentive of Rs.5000/- is provided to the mother soon after delivery of a girl child, so that her post-delivery nutritional requirements are taken care of. Incentives are to be paid to all the eligible mothers through account payee cheques for a maximum of two deliveries.

4.7.68. Rajiv Gandhi Scheme for Empowerment of Adolescent Girls – Sabla

The main objective of the scheme is empowering adolescent girls of 10-18 years, with a focus on out-of-school girls, by improvement in their nutritional and health status and upgrading various skills like home skills, life skills and vocational skills. Rs. 380,000/- is provided to each ICDS block. Supplementary nutrition is provided to the beneficiaries @ Rs.5/- per day for 300 days in a year.

4.7.69. Nutrition Programme for Children, and Pregnant and Lactating Women

The main objective of the scheme to provide sufficient quantities of calories and proteins in the food packages per child per day. The children are provided with a nutritious and protein-packed diet of cereals and pulses for minimum of 300 days a year.

4.7.70. Construction of Anganwadi Centre and Godown

The main objective of the scheme is to improve the infrastructure of the Anganwadi Centres (AWCs) to pucca buildings preferably in the vicinity of primary schools.

4.7.71. Supply of Free Medicines

The objective of the scheme is to provide free medicine to ST people predominately residing in rural areas. In order to ensure effective and proper delivery of benefits to the targeted group, medicines are procured and distributed to the beneficiaries through various outlets of Urban Health Centres, Primary Health Centres and Community Health Centres.

4.7.72. Other Contractual Services

Special importance has been attached to maintaining cleanliness in the premises of Community Health Centres and Primary Health Centres. The scheme also provides a special diet to in-patients in Primary Health Centres and Community Health Centres in areas where there is a sizeable ST population.

4.7.73. Financial Assistance for Specialised / Super-Specialised Treatment to Scheduled Tribes Persons of Goan Origin (Mediclaime)

The main objective of the scheme is to provide financial assistance to the maximum extent of Rs. 150,000/- per illness for availing of super-specialised treatments which are not available in State Government Hospitals. Beneficiaries have to be residents of Goa, who have been staying in Goa for a minimum of 15 years and whose annual household income is less than Rs.150000/-.

4.7.74. Scheme for Purchase of Vehicle

The scheme provides financial assistance for the purchase of five ambulances for Primary Health Centres and Community Health Centres in remote areas.

4.7.75. Scheme for Purchase of Medicines and Machinery or Equipment

The scheme provides financial assistance for purchasing of medical machinery and equipment for Primary Health Centres and Community Health Centres according to their requirements, so as to ensure that people residing within the jurisdiction of these Health Centres are provided with quality healthcare.

4.7.76. Upgradation of Hospitals or Sub-Centres in backward talukas

The main objective of the scheme is upgrading or repairing hospitals or sub-centres in backward areas consisting of ST habitations.

4.7.77. Kamdhenu Scheme (Sudharit)

The objective of the scheme is to encourage dairy farming. The scheme releases a subsidy along with premium and transport cost incentives directly to the beneficiaries' loan account by Electronic Clearing Service (ECS). The amount of subsidy to a beneficiary in the SC/ST category for the purchase of one to ten animals is 90%, for ten to twenty animals is 75%, and for more than twenty is 50% of the unit cost of Rs.40000/- per animal. There is also a Rs.6000/- subsidy towards the reimbursement of the insurance premium and Rs.1500/- per animal towards transport cost.

4.7.78. Scheme for Veterinary Services and Animal Healthcare

The objective of the scheme is to control disease by a systematic time-bound programme of vaccination against various contagious and infectious diseases. In Goa, diseases affecting the livestock and poultry population include anthrax, haemorrhagic septicemia, foot-and-mouth disease, black quarter, clostridia infection, Ranikhet Disease, fowl-pox, Gumboro, and swine fever. Programmes envisaged for the control of these diseases are (i) Rinderpest Eradication, (ii) Assistance to State for Control of Animal Disease, and (iii) Clinical Investigation Unit.

4.7.79. Scheme for Establishment of Backyard Poultry Production Unit

The scheme envisages special provision for Scheduled Tribes families for setting up poultry units. Assistance limited to Rs.2000/- per unit including the cost of feed is provided for setting up of backyard poultry production units.

4.7.80. Pashupalan Scheme

The objectives of the scheme are to encourage and uplift the ST communities by financially assisting the farmers to feed the local animals and to rear crossbred calves and buffalo calves purchased along with Kamdhenu animals.

4.7.81. Incentive to Milk Producers

The objective of the scheme is to encourage the farmers to increase milk production and rear good animals to give a boost to the dairy industry, to reduce dependence on neighboring states for milk, and to reduce the feed cost burden of the farmer.

4.7.82. Dairy Kit for ST Families

The objective of the scheme is to assist the dairy farmers of the Scheduled Tribes of the state and to strengthen the infrastructure so as to uplift the farmers of the sector. Every farmer will be providing 5000/-.

4.7.83. Grant of financial assistance for purchase of agricultural inputs

The main objective of the scheme is financial assistance provided to Scheduled Tribe farmers in the form of 75% subsidy on the cost of purchased agricultural inputs. The subsidy will be restricted to Rs. 8000/- per hectare.

4.7.84. Crop production and inputs management

The main objective of the scheme is to encourage members of the Scheduled Tribes to purchase and use the required land to cover an area.

4.7.85. Development of agriculture extension

The main objective of the scheme is to impart training to farmers in the field of crop production technology and to expose them to new advancements in agriculture by organising exhibitions and shows, by conducting field camps in the villages and study tours outside the state to create awareness and acquaint them with developmental schemes and dissemination of new technology.

4.7.86. Development of Horticulture

The main objectives of the scheme are: -

1. To provide quality planting material and vegetable seeds to meet the requirement of the farmers in the state.
2. To set up progeny orchards for large scale multiplication of quality planting material.
3. To conduct trials on improved technology for its adoption in farmer's fields.
4. To organise demonstrations of new genotypes in farmer's fields.
5. To promote the cultivation of vegetables and mushrooms.
6. To provide assistance for area expansion and rejuvenation of crops like cashew, coconut, and fruits like banana, mango, chickoo, etc.
7. To provide incentives for inter-cropping plantation crops with spice, aromatic and medicinal crops like pepper, nutmeg, bixa, patchouli, and fruit crops like pineapple, banana etc.
8. To promote floriculture of gladioli, tuberose, anthurium and orchids by providing assistance for plantation material and other inputs.

9. To provide assistance for development of horticulture crops on commercial lines.
10. To establish marketing network centres for the sale of vegetables, flowers and fruits.
11. To promote eco-tourism.
12. To provide assistance for processing of areca nut.
13. Value addition in horticulture production.
14. To promote coconut cultivation for sale of tender coconuts and copra, thus generating employment. Development programmes for crops like cashew nuts, coconut, mango, chickoo, oil palms and spices are being taken up under the Central Sector/ National Horticulture Mission.

4.7.87. Market Intervention Scheme (MIS)

This scheme provides a support price or compensation for certain types of produce. Through the Market Intervention Scheme (MIS) of the Government of India, the State has to share 50% of losses or bear the entire 100% burden. The main objective of the scheme is to assist small and marginal farmers who have to bear heavy crop losses due to fire/ floods, etc. and which are not classified under natural calamities as the losses are in limited areas of the district.

4.7.88. Scheme for maintenance of firewood depots

The main objective of the scheme is to ensure that it brings substantial improvement in the standard of living of the beneficiaries from the Scheduled Tribes who maintain the firewood depots.

4.7.89. Social Forestry Scheme

The objective of the scheme is to benefit members of the Scheduled Tribes engaged in raising plantations and other related works of the Forest Department, thereby generating employment opportunities amongst the Scheduled Tribes.

4.7.90. Scheme for creation of high-tech nurseries

The scheme benefits members of the Scheduled Tribes engaged in the creation of high-tech nurseries and plantations of medicinal plants.

4.7.91. Scheme for Raising of Nursery and Plantation including Maintenance

The scheme benefits members of the Scheduled Tribes engaged in raising or maintaining nurseries or plantations, and other related works of the Forest Department.

4.7.92. Scheme for Maintenance of Parks/ Gardens, Lawns & Demonstration Plots

The Scheduled Tribe beneficiaries of the scheme are engaged in the maintenance of parks, gardens, lawns and demonstration plots, and other related works of the Forest Department.

4.7.93. Demarcation of forest and fixing of granite stone

The Scheduled Tribe beneficiaries of this scheme are engaged in demarcating the forest boundaries by fixing granite stones.

4.7.94. Desilting of water holes and eradication of Eupatorium

The objective of the scheme is to assure assistance to Scheduled Tribe beneficiaries engaged in desilting water holes and in eradicating Eupatorium.

4.7.95. Construction of roads, rubble walls, check dams, *bandharas* etc.

The objective of the scheme is to assure assistance to Scheduled Tribe beneficiaries engaged in construction of roads, rubble walls, check dams/ *bandharas*.

4.7.96. Promotion of Eco-tourism

The objective of the scheme is to assure assistance to Scheduled Tribe beneficiaries engaged in the maintenance of view lines and maintenance of eco-tourism complex at Hathipaul in Canacona, and as trekkers in the Forest Department.

4.7.97. Aajiveeka or GSRLM

The objective of the Aajeevika scheme, also known as the Goa State Rural Livelihoods Mission (GSRLM), is to raise the BPL families above the poverty line by covering all aspects of self-employment. It helps to organise them to form Self-Help Groups (SHGs) for starting any economic activity of their choice by providing them training, credit, technology, infrastructure and marketing. The cost of the scheme is shared 75:25 by the Government of India and the Government of Goa respectively. The subsidy under this scheme for STs is 50% of the project cost subject to a ceiling of Rs.10000/-

4.7.98. National Rural Employment Guarantee Scheme (NREGS)

The objective of the scheme to provide for the enhancement of livelihood and the security of the household in the rural areas in the State of Goa by providing at least 100 days of guaranteed paid employment in a financial year to every household whose adult member volunteers to do unskilled manual work. Any adult (between 18 and 60 years) belonging to the Scheduled Tribes, who have resided in a rural household for more than 15 years, and who is willing to do semi-skilled/ unskilled manual labour at the minimum wage specified by the scheme, will be entitled to apply for the same. The household should be certified bona fide by local residents of the area where he or she works. The pattern of assistance is 60:10 by Central and State Governments.

4.7.99. Indira Awas Yojana (IAY)

The scheme provides assistance to BPL families (Scheduled Tribes and others) to construct new houses and upgrade the existing houses. For construction, assistance provided by the Centre & State is Rs. 45000/-. In addition, the Goa Government provides additional assistance of Rs.25000/-. Thus the assistance provided is Rs.70000/-. For upgrading a house, the local assistance is Rs.15000/-, funded in the ratio 75:25 by Central and State Government respectively. A household (either BPL or APL) whose income does not exceed Rs.32000/- per annum is eligible for a subsidy of Rs.12500/- on a bank loan of Rs.50000/- as credit-cum-subsidy. This subsidy is shared by the Central and State Governments in the ratio of 75:25.

4.7.100. Indira Gandhi National Old Age Pension Scheme (IGNOAPS)

This scheme provides a pension of Rs. 200/- per month to an applicant (Scheduled Tribe male or female) 65 years and above. The applicant must be destitute in the sense of having little or no regular source of income or financial support from family members or other sources.

4.7.101. Indira Gandhi National Family Benefit Scheme (IGNFBS)

Under this scheme, Rs.10000/- is given to the family on the death of its primary breadwinner. The following criteria are adopted to obtain assistance under this scheme. The primary breadwinner shall be the member of the household, male or female, whose earnings contribute substantially to the total household income. The death of such a primary breadwinner should have occurred whilst he or she was in the age group of 18 to 64 years. The bereaved household qualifies as below poverty line to receive the assistance.

4.7.102. Goa Gramin Urja Yojana (GGUY)

The objective of the scheme is to provide cooking facilities to BPL (Scheduled Tribes) families. The need is felt to provide them with the L.P. Gas

installation which includes a gas stove with two burners and two cylinders, at a total cost of Rs. 5327/- for each installation to be met from the provision of the State Budget and as a one-time grant.

4.7.103. Goa Gram Samrudhi Yojana

The objective of the scheme is to create a durable community, with social and economic assets and infrastructural development in rural areas according to their grade. The state provides hundred per cent (100%) financial assistance through Village Panchayats under the scheme. The works under the scheme, including the construction of community halls, libraries etc., will be executed by the engineers of the District Rural Development Agency in the respective blocks. The funds will be given to Panchayats in villages which have an ST population.

4.7.104. Rural Infrastructure Development by Village Panchayats

The objective of the scheme is to enable the Village Panchayats to undertake various developmental programmes as envisaged in the XIth Schedule of the Constitution and also as per Schedule I & II to the Goa Panchayati Raj Act. The Government releases grant-in-aid to the Village Panchayats as Infrastructure Development Grants to carry out various infrastructure development works in villages.

4.7.105. Rural Infrastructure Development by Zilla Panchayats

The objective of the scheme is to enable the Zilla Panchayats to undertake various developmental programmes as envisaged in the XIth Scheduled of the Constitution and also as per Schedule I & II to the Goa Panchayati Raj Act. The Government releases grant-in-aid to the Zilla Panchayats as Infrastructure Development Grants to carry out various infrastructure development works in villages.

4.7.106. Grants to Village Panchayats in lieu of Octroi

The objective of the scheme is to make up for the abolition of octroi which was earlier levied by the Panchayats on petroleum products at different rates. The government has raised sales tax by 2% on petroleum products at a uniform rate, out of which 1.5% is released to the Panchayats as grant-in-aid in lieu of octroi, and 0.5% is reserved for the Zilla Panchayat.

4.7.107. Financial assistance for purchase of Outboard Motors (OBM)

The scheme provides financial assistance to traditional fishermen for the purchase of outboard motors (OBM) for their boats to enable them to reach distant fishing ground for a better fish catch. Financial assistance for the purchase of OBM, subsidy will be to the extent of 50% of the cost limited to Rs. 40000/- per OBM.

4.7.108. Financial assistance for purchase of wooden / FRP craft

The scheme provides financial assistance to traditional fishermen for construction of fishing craft of wood or FR plastic. A subsidy to the extent of 50 % of the cost, limited to Rs.40000/- per craft, will be provided.

4.7.109. Financial assistance for purchase of fishing requisites.

The scheme provides a subsidy to fishermen for the purchase of fishing requisites like gill nets, monofilament twine, nylon twine, sinkers, floats, ropes and other accessories. The subsidy is to the extent 50% of the actual cost, limited to Rs. 20000/-.

4.7.110. Supply of insulated boxes

The objective of the scheme is to supply insulated boxes to preserve the fish in hygienic conditions for marketing purposes. A person engaged in selling/ marketing of fish will be eligible for one box of 50 litres capacity and

will be entitled to a subsidy to the extent of 75 % of the cost limited to Rs.1500/-. The applicant engaged in fishing at sea with a canoe will be eligible for one box each of 100 litres and 50 litres capacity and the subsidy is to the extent of 75% of the cost limited to Rs.3000/-. The applicant engaged in fishing at sea with a mechanised fishing vessel of up to 6 cylinders will be eligible for one box of 220 litres capacity and to receive a subsidy to the extent of 75% of the cost limited to Rs.4000/-.

4.7.111. Group Accident Insurance Scheme for Fishermen

This is a centrally sponsored scheme implemented by the State of Goa on a 50:50 basis. The objective of the scheme is to provide insurance cover to active fishermen who are prone to accidents at sea due to rough weather and natural calamities. The annual premium payable is Rs.15/- per beneficiary. The compensation available under the scheme: on death due to accident Rs.100000/-; permanent/total disability due to accident Rs.100000/-; and partial disability due to accident Rs.50000/- .

4.7.112. Housing scheme for fishermen

The state government has notified a centrally sponsored (50:50 basis) „Development of Model Fishermen Village“ housing scheme that aims to provide financial assistance to a group of not less than ten fishermen to build their houses, as well as a community hall for recreation and a common working place. The plinth area and cost of construction of house would be limited to 35 square metres and Rs.50000/- respectively.

4.7.113. Subsidy for purchase of kerosene for OBM

The scheme provides a subsidy of Rs 30000/- to OBM operators for the purchase of kerosene for OBMs, the maximum consumption per year being 2000 litres.

4.7.114. Interest subsidy on loan for fisheries and allied activities

The objective of the scheme is to ease the fishermen's interest burden on loans in the fisheries sector. It covers loans for the purchase of canoes, outboard motors, fishing nets, fish finders and Global Positioning System (GPS) for fishing vessels, construction of fish hold vessels, setting up of aquaculture farms, mussels farming, aquarium fish farming, drying and processing units, ice plants for fisheries, and repairs/modification of fishing vessels.

4.7.115. Industrial Training Centres and Expansion

The objective of the scheme is to ensure a steady flow of skilled workers in different trades for domestic industry, and to raise industrial production quantitatively and qualitatively by systematic training. The scheme also aims at reducing unemployment among educated youth by providing them employable training, which cultivates a technical and industrial attitude in the minds of the younger generation.

4.7.116. Western Ghats Development Programme

The objective of the scheme is to reduce unemployment by imparting skills. The scheme covers new training centres in bamboo craft, coir craft, wood carving, tailoring, embroidery, computer, as well as traditional arts and other skills for the economically backward.

4.7.117. Village and Small Scale Industries

The objective of the scheme is to start 200 new centres all over the State of Goa, so as to empower unemployed youth and school dropouts by imparting training in employable skills.

4.7.118. Conduct of Cultural Courses/ Camps/ Festivals/ Competitions

The scheme provides resources for conducting courses/ camps/ festivals/ competitions for ST youth of this state to develop their talents. Training is imparted in art, crafts, classical music, dance, etc. at various places in Goa. ST artists/ groups are also deputed to other states.

4.7.119. Kala Sanman Scheme

The objective of the scheme is to provide financial assistance to artists in indigent circumstances. Persons who are distinguished in literature are eligible for a stipend of Rs.1250/- per month under the general category or Rs.1600/- per month for state awardees.

4.7.120. Cultural Exchange/ Shows/ Celebrations

The objective of the scheme to create opportunities by which people from different part of the country will get to know about one another's culture, thus promoting cultural integration. Under the scheme, cultural exchanges take place. Selected troupes of folk artists, musicians, dancers and dramatists are deputed to visit other states, and troupes from neighbouring states are received in Goa to present their programmes. Grants are released to cultural institutions/ groups/ individuals for conducting cultural programmes, shows, events, etc. from Goa, at the rate of 80% of the estimated cost, or a maximum of Rs.500000, whichever is less, provided the programme is of cultural importance.

4.7.121. Scheme for grants to schools for the promotion of cultural activities

In order to promote art and culture in aided schools all over Goa, the government provides financial help. Each school is sanctioned Rs.20000/- towards the purchase of cultural equipment, and Rs.90000/- is sanctioned

towards the payment of remuneration to music teachers, junior artists/ accompanists.

Under this scheme to develop and encourage cultural activities in Goa, the state government provides regular annual maintenance grants to 20 to 25 voluntary cultural organisations functioning all over the state, on the basis of 75% of their total admissible expenditure or the deficit whichever is less. The institution should be registered under the Society Registration Act 1860.

4.7.122. Supply of bhajani and choir equipment to groups

The main objective of the scheme to encourage and sustain such bhajani troupes and choirs. A grant is given to purchase cultural equipment. The aim is to promote traditional bhajan singing and Western music in rural as well as urban areas in Goa.

4.7.123. Financial assistance for the purchase of costumes and drapery

The scheme provides grants for cultural groups/ institutions to the tune of Rs.15000/- to Rs.25000/- for the purchase of costumes and drapery.

4.7.124. Kalakar Kritadnyata Nidhi

The scheme provides financial assistance to the needy aged artists for the marriage of their daughters, for their medical expenditure, etc.

4.7.125. Grants to voluntary organisations/ libraries.

The scheme provides grants to voluntary agencies like Mahila Mandals and Youth Clubs, as well as to Village Panchayats which intend to start libraries in Goa.

4.7.126. Financial assistance to Goan authors and publishers

The scheme provides some financial support to Goan authors and publishers for writing and publishing their books.

4.7.127. Grants to amateur groups to purchase theatre related equipment

The main objective of the scheme is to encourage theatre by providing financial support to groups/ artists for the purchase of theatre related equipment to present their shows.

4.7.128. West Zone Cultural Centre

The main objective of the scheme to organise participation by Goa's local troupes in programmes in other states.

4.7.129. Scholarships to students of art and culture

The scheme provides scholarships to Goan students seeking education in the fields of art and culture.

4.7.130. Presentation of awards to eminent artists

The scheme honours eminent Goan personalities/ artists who have contributed significantly to art and culture at national and international levels.

4.7.131. Scheme for Celebration of Lokotsav.

The main objective of the scheme is to provide a platform and to encourage traditional craftspersons and folk artists. It supports cultural programmes of folk dances, folk music, songs, etc.

4.7.132. Entrepreneurship Development Programme

The scheme is aimed at prospective entrepreneurs among traditional artisans, and primary, middle and high school educated unemployed persons, with preference to women, self-help groups and members of cooperative societies. The Entrepreneurship Development Programme encourages them to produce better quality agricultural equipment, handicrafts and other products. This scheme also envisages the establishment of an Entrepreneurship Development Institute for Scheduled Tribes.

4.7.133. Marketing Assistance for Scheduled Tribes Handicrafts and Entrepreneurs

The objective of the scheme is to assist Scheduled Tribe artisans and entrepreneurs to market what they produce in their homes, common production centres or industrial houses. It assists the producer to sell the items through market outlets in towns and cities, showrooms of hotels and through the emporia of the State Handicrafts Corporation. The products are sold as value added items when presented in exhibitions, *melas* and trade fairs organised by the State Handicrafts Corporation, Mahila Mandals, Self Help Groups and the Development Commissioner (Handicrafts), New Delhi.

4.7.134. Subvention to Industrial and Handicrafts Multipurpose (Non-Farm Sector) Cooperative Societies

The scheme provides grants-in-aid to industrial and handicraft multipurpose cooperative societies to promote non-farm sector activities among the Scheduled Tribes. Industries and business activities in the cooperative mode can reach the target group effectively in hilly, remote, rural or urban areas. District-level and state-level associations are to be provided with grant-in-aid to enrol members from distant tribal villages, to coordinate entrepreneurship and other programmes, to purchase and sell products produced by the Scheduled Tribes, to provide financial assistance by way of loans to the members, etc.

4.7.135. Scheme for 50% Subsidy to Scheduled Tribes Artisans and Entrepreneurs for Machinery

The objective of the scheme is to encourage artisans and entrepreneurs to start handicraft and industrial production activity in their houses, common production centres in cooperatives, or in the industrial sheds of the industrial estates. The Scheduled Tribe families in hilly, rural or urban areas are financially poor, and assistance to the extent of 50% is given to purchase machinery and equipment for the entrepreneurial activity to improve.

4.7.136. Technical workshops to upgrade the product profile of Goan handicrafts done by Scheduled Tribes

The objective of the scheme is to assist the district-level and state-level associations of tribal bodies to organise and conduct technical workshops by deploying experts and resource persons having proficiency in improving the quality of handicrafts and other products made by tribal artisans and entrepreneurs. The members of the community may also get extensive counselling on new products, prototypes, goods in demand in the market, creating excellent products for high value customers, channelising the products to the markets, and marketing strategies, and to suggest strategies for implementation of handicraft schemes, coordination and improved cooperatives.

4.7.137. Self-Employment and Employment Generation Programme for the Notified Tribal People of the State of Goa

The scheme allots industrial plots to ST entrepreneurs at 20% subsidy in order to facilitate self-employment among ST unemployed youths. They shall be provided with entrepreneurship training to start their enterprise in a plot of land.

4.7.138. Empowerment of Scheduled Tribe communities using ICT tools through Information Technology Knowledge Centres

The objective of scheme is to encourage the use of information technology to empower the Scheduled Tribes. This scheme is available in all the IT Knowledge Centres operated by the Info Tech Corporation of Goa Ltd. where the students belonging to the Scheduled Tribes are eligible for taking up any courses of their choice available in the ITKCs.

4.7.139. Stipend to trainees belonging to the Scheduled Tribes enrolled under various Labour Welfare Centres in the State of Goa

The scheme gives financial benefits under the Tribal Sub-Plan to trainees belonging to the Scheduled Tribes. Training in crafts like embroidery, needlework, tailoring etc. is imparted to the families of industrial workers in different parts of Goa.

4.7.140. Cooperative societies provided financial assistance under the Tribal Sub-Plan

Under this scheme, Taluka Farmers/ Marketing/ Consumer/ Dairy Cooperative Societies whose members/ shareholders belong to tribal communities are considered under TSP Cooperatives for financial assistance at the rate of 35% loan and 65% subsidy for constructing a godown-cum- office building. Besides the dairy cooperatives with 70% or more ST members are considered as TSP dairy cooperatives and provided financial assistance at the rate of 10% loan and 90% subsidy up to a maximum of Rs. 120000/-. The taluka farmer's/ processing cooperative societies and their branches (having minimum 40% ST shareholders) receive financial assistance up to Rs. 100000/- for societies having three or fewer branches, and up to Rs. 200000/- for societies having more than three branches, for the purchase of computers and furniture, being 35% loan and 65% subsidy.

4.7.141. Scheduled Tribes Development Scheme Other than Scientific Research

The Science, Technology and Environment Department have earmarked a special provision for the economically backward tribal people under the Tribal Area Sub Plan for the upliftment of the people. The objective of the scheme is to sponsor programmes like seminars for ST communities, and to give grants to institutions and other NGOs situated/ working in tribal areas. Such institutions working in tribal areas are entitled to various scientific aids, equipment, etc.

4.7.142. Scheduled Tribes Development Scheme for awareness of Ecology & Environment

The Science, Technology and Environment Department have proposed to undertake various projects for upgrading environmental conditions in tribal localities. The objective of the scheme is to provide proper facilities for treatment/ disposal of solid wastes, sanitation, development of roads and infrastructure in deserving local bodies dominated by tribal communities.

4.7.143. Interest-free loan scheme for Scheduled Tribe students

The objective of the scheme is to promote the pursuit of higher education and technical education among candidates from the Scheduled Tribes. It ensures financial difficulties are reduced, to assist eligible candidates by way of interest free-loans to undertake approved degree and diploma courses at undergraduate and post-graduate levels, in India and abroad. Eligibility includes a parental income less than Rs. 200000/- per annum, or in case of candidates seeking admission abroad, the income limit of Rs. 500000/-

4.7.144. Fee waiver scheme for Scheduled Tribes students

The objective of the scheme is to provide free access to higher education for students of the Scheduled Tribes in government colleges and government-aides colleges. The student must have resided in Goa for at least the last fifteen years.

4.8. Monitoring of the Tribal Sub-Plan

The erstwhile Department of Tribal Welfare handled the Annual Tribal Sub-Plan. It mandated a monitoring mechanism designed as follows.

4.8.1. Executive Committee

The Government of Goa constituted the Executive Committee for evaluation and monitoring the implementation of the Annual Tribal Sub-Plan. The function of the Executive Committee was the appraisal of the perspective of Tribal Sub-Plan document, and monitoring and evaluation of implementation as per the prescribed procedure and guidelines. Regular meetings of the Executive Committee were scheduled every six months⁷².

4.8.2. District Level Planning and Monitoring Committee

The key function of the District Level Planning and Monitoring Committee was to formulate the Tribal Sub-Plan at the district level and get the approval of the Executive Committee. It also reviewed the implementation of the TSP every month and communicated the quarterly performance review report to the Executive Committee⁷³.

72. The Government of Goa, issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2273 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute Executive Committee of the state of Goa for evaluation and monitoring of implementation of the Annual Tribal Sub plan.

73. The Government of Goa, issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2274 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute District Level Planning & Monitoring Committee for North Goa District of the state of Goa for evaluation and monitoring of implementation of the Annual Tribal Sub-plan.

4.8.3. Tribal Advisory Council

The Government of Goa constituted the Tribal Advisory Council to formulate, implement and monitor the TSP at a higher level on a regular basis and to provide necessary guidance to all implementation agencies. The key function of the Tribal Advisory Council was to formulate policies relating to the TSP and approve the perspective TSP document and the Annual TSP. It also suggested measures for proper planning and implementation of the schemes by the departments. It also reviewed and monitored the progress of the TSP to take timely corrective measures for improving the performance of the departments. The Tribal Advisory Council was to meet once in every six months⁷⁴.

4.9. Conclusion

The socio-economic conditions of the tribal people of Goa continue to be very low. Moreover, the tribal development schemes and programmes have not brought sufficient changes in the life of the majority of the tribal people in Goa. The fruits of development have not become available and accessible to the tribal population of Goa. It is necessary that steps should be taken to keep them informed about the available development schemes. At the same time procedures for sanctioning of the schemes should be made easy so that the number of total benefited families will increase.

⁷⁴. The Government of Goa, issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2275 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute Tribal Advisory Council of the state of Goa to formulate, implement and monitor the Tribal Sub plan at higher level on regular Basis.

CHAPTER-V

ROLE OF GOA STATE COMMISSION FOR SCHEDULED CASTES AND SCHEDULED TRIBES

“The untouchables are usually regarded as objects of but they are ignored in any political scheme the score that they have no interests are greatest not that they have large property to protect from confiscation but they have this very person confiscated the socio religious disabilities have dehumanized the untouchables and their interests at stake are therefore the interests of humanity”¹.

Dr.B.R.Ambedkar

5.1. INTRODUCTION

The important role of the Goa State Commission for Scheduled Castes and Scheduled Tribes is to investigate and implement Constitutional safeguards and various Acts related to the Scheduled Castes and Scheduled Tribes in the State of Goa. The Goa State Commission for Scheduled Castes and Scheduled Tribes Act, 2010 incorporates several provisions and lays down the procedure to take appropriate steps to prevent the violation of rights of the Scheduled Tribes.

The Universal Declaration of Human Rights incorporates the basic declaration that „All human beings are born free and equal in dignity and rights². The Constitution of India also assures every individual in India the basic rights, namely, the right to life, liberty, equality, and dignity. In light of this, the Goa State Commission for Scheduled Castes and Scheduled Tribes, 2010 provides for protection, security and social justice to the Scheduled Tribes.

The Goa State Commission for Scheduled Castes and Scheduled Tribes is an advisory body of the Government of Goa, therefore the Commission neither executes orders nor are its orders binding on any other authority.

The Constitution of India has provided for development programmes in Scheduled Areas, and the reconstruction of tribal society, at present dogged

-
1. Chaudhary Ram Naresh, *Dr. Ambedkar's Vision of Social justice in Indian Constitution*, (2004), Regal Publications, New Delhi at 5
 2. Article 1, Universal Declaration of Human Right.

by inequality, and absorption into an egalitarian society. The Indian Constitution grants equality, as enshrined in the Preamble, Fundamental Rights, Fundamental Duties and Directive Principles of State Policy in Part IV. In these matters, our Constitution resembles the UN's Universal Declaration of Human Rights.

After Independence, India's Parliament passed several beneficial pieces of legislation in favour of the Scheduled Castes and Scheduled Tribes. Of these, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was one of the most important steps towards safeguarding the rights of SC/ST citizens. After that, several legislative acts were passed by Parliament with the intention of abolishing untouchability and removing the barriers of discrimination that hinder the socio-economic development of the Scheduled Tribes.

Article 17 of the Indian Constitution, which is about Fundamental Rights, abolishes untouchability and forbids its practice in any form. This provision specifies the direction to liberate society from blind and ritualistic adherence and traditional beliefs which are devoid of all legal or moral base. It seeks to establish a new ideal egalitarian society to bring equality, by removing disabilities, restrictions or prohibitions on the grounds of caste or religion. It seeks to make opportunities universally available, and to create a sense of each citizen being a participant in the mainstream of national life. The Constitution of India provides for security of life and liberty to the tribal people, and liberty from oppression by other communities.

For the purpose of the effective implementation of social, economic, educational and political safeguards, the Goa State Commission for Scheduled Castes and Scheduled Tribes should be headed by a High Court or District Court judge.

5.2. Evolution of the National Commission for Scheduled Tribes in India

In 2004 the first National Commission for Scheduled Tribes was established ³. It replaced a series of offices or commissions for Scheduled Castes and Scheduled Tribes for which special officers were appointed as laid down in Article 338 of the Constitution.

Since 1950, the functions or powers as such have existed in one form or another. Initially, in 1950, the Special Officer was designated as the Commissioner for Scheduled Castes and Scheduled Tribes, and had certain responsibilities, including to implement the Constitutional safeguards and other Acts related to the weaker sections of the Society. At the end of every year, the current Commission has to submit a progress report to the President or to be placed before Parliament. The Commission has no power to execute an order like a Civil or Criminal Court. The Commissions are formed by the State or Central government only for the purpose of inquiry and not for judicial investigation. The Non-statutory body called the Commission for Scheduled Castes and Scheduled Tribes was established in 1978 by the Central government with one Chairperson, four members, and one Special Officer⁴.

Meanwhile, the statutory office of the Commission co-existed with the non- statutory Commission. In the years 1981-1985, the statutory office of the Commission remained unfilled. Similarly, the function of the Commission was modified in 1987. Later, in 1990, it was renamed the National Commission for Scheduled Castes and Scheduled Tribes, a statutory body responsible for the protection and promotion of Constitutional safeguards and other rights related to the Scheduled Tribes in the country⁵. Similarly, the National Advisory body was set up to advise the government on broad policies for the social, economic, and political development of the weaker sections.

3. The information has been taken from the First Report of the National Commission for Scheduled Tribes, 2004-5 and 2005-6, Delhi, and pp.at 1-7. See, <https://www.ncst.gov.in>

4. The Central Government has established the first Commission for scheduled castes and Scheduled tribes under Chairman Shri Bhola Paswan Shastri.

5. Constitution (Sixty fifth Amendments) Act, 1990.

Thereafter, the National Commission for Scheduled Castes and Scheduled Tribes was given Constitutional status⁶. The chairperson and vice-chairperson of the Commission have been given the status of Union Cabinet Minister, and Minister of State respectively.⁷ The first National Commission was constituted with a Chairman Shri Ram Dhan⁸. The second Commission was under the chairmanship of Shri H. Hanumanthappa,⁹ and, while the third Commission was under the chairmanship of Shri Dileep Singh Bhuria¹⁰.

In 1987, through a Resolution, the Central government modified the functions of the Commission. It became a national level advisory body to advise the Central government on broad policy issues concerning the development of SCs and STs. It suggested to the Central government various welfare policies to be made and implemented at each and every stage for the upliftment of the depressed classes¹¹.

The functions related to the Scheduled Tribes gradually began to be separated from the functions relating to the Scheduled Castes. In 1999, the creation of a new Ministry of Tribal Affairs was reflected in the creation of a separate Tribal Development Division in the Ministry of Home Affairs. The National SC & ST Finance Development Corporation was also bifurcated to create a separate National ST Finance and Educational Development Corporation in 2001.

On 19th February 2004 the Central government amended Article 338 and adding a new Article 338A with the first Report of the National Commission for Scheduled Tribes¹². But even before the Amendment was passed, the government replaced two separate Commissions, namely, the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes. Due to the magnitude and vastness of the problems of the

6. Constitution (Sixty fifth Amendments) Act, 1990.

7. See, <http://www.vikaspedia.in>, dated 12/06/2019

8. The first constitutional commission was come into existence on March 12th 1992.

9. The Second constitutional commission was come into existence on October 5th 1995.

10. The Third constitutional commission was come into existence on December 16th 1998.

11. *See supra Note 10*

12. Constitution (Eighty-ninth Amendment) Act, 2003.

Scheduled Tribes in India, the National Commission for Scheduled Tribes was set up under Article 338A. The aim was to investigate the proper implementation of Constitutional safeguards provided to Scheduled Tribes¹³ and to recommend action against any guilty officers.

5.2.1. Constitutional Provision for Setup National Commission for Scheduled Tribes

Through the Amendment of Article 338, the Central government established the National Commission for Scheduled Tribes and inserted a new clause i.e. Article 338A in the Constitution¹⁴. The composition of the Commission would be Chairman, Vice-Chairman and three other members. The appointment of the members and fixing their tenure and conditions of service of the Commission would be determined by the President.

The duties and powers of the Commission were laid down under Article 338 of the Constitution. „The President may at any time before the expiration of ten years from its commencement appoint a Commission to submit a report on the administration of the Scheduled Areas, and the welfare of the Scheduled Tribes in the State¹⁵. The Central government may be authorized to give directions to a state to draw up and execute a plan for the welfare of the Scheduled Tribes¹⁶.

Similarly, the Goa State Commission for Scheduled Castes and Scheduled Tribes Act specified that the Commission had no power to execute or order as decree of Civil or Criminal Court, because it is an advisory body of the state government.

13. The first National Commission for Scheduled Tribes was constituted with Chairperson Shree Kunwar Singh on 2004. Second Commission was constituted with Chairman Shree Urmila Singh on 2007, third commission was constituted with Chairman Shree Rameshwar oraon Bhuria on 2010, fourth Commission was constituted with Chairman Shree Rameshwar oraon Bhuria on 2013, and fifth Commission was constituted with Chairman Shree Nand Kumar sai on 2016.

14. *See, supra Note 11*

15. Art. 339(1)

16. Art. 339(2).

The framers of the Indian Constitution also observed that the depressed classes suffered from extreme social, educational and economic backwardness, as well as geographical isolation from the mainstream society. Therefore, these communities needed a special provision for their acceleration in socio-economic development. As per the Constitutional provision, these communities were notified as Scheduled Tribes¹⁷ and were assured protection against exploitation.

After Independence, the Government of India brought in the reservation policy in favour of these communities to ensure their equitable participation in the society by getting a reasonable share in government jobs, educational institutions and elected offices.

The Constitution provided for the appointment of a Special Officer for the implementation of various legislations and the protection of Constitutional safeguards for the SCs & STs¹⁸. Further, the Constitutional mechanism under Article 338A also provides protection against the exploitation of STs, and the special provisions have been made in the Constitution to promote their social, educational, economic and cultural interests. The Special Officer is called the Commissioner for SCs or STs, as the case may now be.

5.2.2. Duties and functions of the Commission

The Composition of the Commission shall consist of Chairman, Vice-Chairman and three other members. The Constitution of India under Articles 338A has allotted some duties and function to the Commission. The Commission should perform the following functions which have been laid down under clauses (5), (8) and (9) of the Article 338A of the Constitution. The duties of the Commission are laid down under clause (5) of Article 338A of the Constitution.

¹⁷. Art. 341(1).

¹⁸. Art. 338A

It is the duty of the Commission to investigate and monitor matters of interest to the Scheduled Tribes, and to safeguard their interests. It also evaluates the working of such safeguards, whether they are properly implemented by the state under the Constitution of India or under an order passed by the government or under any other law for the time being in force¹⁹.

The Commission has power to make inquiry on any specific complaints relating to the deprivation of rights and safeguarding interest of the Scheduled Tribes²⁰.

However, it also requires participation and advice pertaining to the subject matter for the advancement of the Schedule Tribes. It also evaluates the level of progress of the Schedule Tribes for their advancement under the Union and any other states²¹. The Commission should make recommendations to the Union or any states for the effective implementation of safeguards related to the Scheduled Tribes, and also take steps to provide them protection from all forms of exploitation²².

Finally, the Commission may, if deemed fit, present annual reports to the President about the working of the above safeguards²³.

This Act assigns the additional duty to the Commission to suggest measures to be taken and adopted for conferring ownership rights in respect of minor forest produce, safeguard rights over mineral and water resources etc. However, the major thrust of the Commission is to suggest and monitor steps towards the welfare and development of the tribals.

19. Art. 338A(5)(a)

20. Art. 338A(5)(b)

21. Art. 338A(5)(c)

22. Art. 338A(5)(e)

23. Art. 338A(5)(d)

5.2.3. Investigation and Inquiry

The Commission may adopt various methods for investigating matters relating to safeguarding the interests of the Scheduled Tribes. The investigation or inquiry may be done by the Commission on specific complaints²⁴.

The Commission issues notice to the concerned parties against whom the complaint is made or who are required to be heard with due notice to the general public. Due information through public notice is given to the members belonging to the Scheduled Tribes who are affected in the matter under investigation or inquiry. The investigation should not be conducted by any officer below the rank of Research Officer or Section Officer.

The Commission may decide on the matter to be investigated or inquired through the investigating team of officials of the Commission and thereafter a decision is taken by the Chairperson.

Thereafter, it may initiate necessary correspondence, if required, including issue of the notice for production of documents.

The investigating team may decide on the scope and procedure of the investigation by visiting in the concerned area for the said purpose.

The head of the investigating team shall be responsible for preparing and presenting the report which shall be submitted to the Secretary of the Commission or subordinate officer within the stipulated time.

Appropriate action in the matter on the report submitted shall be taken by the Chairperson of the Commission.

24. Choudary R.N.Choudary, Naqvi. S.K.A, *commentary on the scheduled castes and Scheduled tribes (prevention of Atrocities Act, 1989)*, (2nd edition 2014), orient publishing company, New Delhi, pp.at 274.

After the investigation or inquiry report is submitted, the Officer-in-Charge shall take the decision of the concerned state office. The investigation or inquiry shall be done through interrogation, spot visit, or discussion and correspondence, and examination of documents. The Secretary of the Commission from time to time issues general instructions.

The head of the state office can make appeal to the Commission regarding the production of any document or compelling a person to appear. The special report with full facts can be prepared by the designated officer to be submitted to the Secretary of the Commission²⁵. The state office shall submit the report to the Secretary of the Commission after completion of the investigation or inquiry, and suggest the course of action to be taken in the matter.

5.2.4. Powers of the National Commission for Scheduled Tribes

Article 338A of the Constitution under sub-clause (a) and (b) of clause (5) empowers the Commission to regulate its own procedure and vests it with the powers to investigate any matter. The Commission is empowered to exercise the powers as are vested in a civil court under the Code of Civil Procedure when trying a suit, in respect of discovery, inspection, granting adjournment, reception of evidence taken on affidavit, enforcing the attendance of witness, compelling the production of documents, issuing commissions etc. Before taking any decision, the Union and State Governments shall consult the Commission on matter of major policy affecting the Schedule Tribes²⁶. The Commission shall have the power to control its own procedure²⁷.

25. *Ibid* 24 at 275

26. Art.338(9)

27. Art.338(4)

5.2.5. Monitoring of the Commission

The Commission has to determine subjects relating to the Constitutional safeguards provided for the Scheduled Tribes or relating to any other law for the time being in force, or under any order of the Government. The Commission acts upon the various Constitutional Articles or any other law in respect of the Scheduled Tribes, in order to prevent human trafficking or forced labour; ²⁸ implement the ban on child labour; ²⁹ implement the educational safeguard in case of reservation of seats in educational institutions: ³⁰ implement economic safeguards in Scheduled Areas as envisaged in the Fifth and Sixth Schedules;³¹ to see to the release of grants for raising the level of administration in tribal areas; ³² to protect a distinct language, script or culture; ³³ and to implement the service safeguard ³⁴ by providing for adequate representation of the Scheduled Tribes in appointments or posts³⁵. The Commission has the power to act to enforce various laws related to the Scheduled Tribes.

5.2.6 Annual Report of the Commission

The Commission shall prepare a report in a particular form and at a particular time, for every financial year. The annual report is to give a full account of its activities during the previous financial year. A copy of the report is to be forwarded to the President of India.

The Constitution (Sixty-Fifth Amendment) Act, 1990 through Article 338A (6) imposes the duty upon the President of India to cause all the Reports of the National Commission for Scheduled Tribes to be laid before each House

28. Art.23

29. Art.24

30. Art.15(4)

31. Art.244

32. Art.275(1)

33. Art.29(1)

34. Art. 16(4),

35. Art.335

of the Parliament. Each House is required to specify details about the action or proposed action to be taken including the reasons for the non-acceptance of any issue relating to the Union. A copy of the said report shall be sent to the state Governor in case any matter is related to a state Government. In that case, it shall be placed before the legislature of that state.

The reports of the Commission depend more on statistical data about the Scheduled Tribe communities. There is a pressing need for reliable data on a variety of subjects, including the extent to which reservations in educational institutions and public employment have effected a social transformation. In this regard, by taking into account the experience in reserved constituencies in Parliament as well as in the state legislatures etc., the Commission would become more responsive to societal issues.

5.3. The Goa State Commission for Scheduled Castes and Scheduled Tribes Act, 2010

Under this Act, the Commission shall investigate, monitor and record any violation of Constitutional rights of the tribals, and any violation of other Acts related to the Scheduled Tribes.

5.3.1. Composition of the Commission

This Act lays down that the state government constitute a body under the Goa State Commission for Scheduled Castes and Scheduled Tribes Act, 2010. The Government of Goa shall appoint a Chairperson and members of the Commission from among persons of ability and integrity. The Chairperson must be chosen from among eminent persons not below the rank of Secretary to the Government of India, and having outstanding record of selfless service, or being a retired High Court Judge³⁶. He or she shall be eligible for

³⁶ Sub-section 1 of the section 5 of Goa State Commission for Scheduled Castes and Scheduled Tribes Act, 2010.

reappointment for a second term. The Commission shall have a Secretary or Chief Executive Officer who will discharge his functions keeping with the powers delegated to him.³⁷

5.3.2. Term of Office and Conditions of Service of the Chairperson

According to Goa State Commission for Scheduled Castes and Scheduled Tribes Act, 2010, the Chairperson shall see to the efficient performance of the functions of the Commission. The term of the Chairperson shall be three years from the date of assumption of office, or till the age of 65 years, or until further orders. On ceasing to hold office, the Chairperson and members of the Commission shall be ineligible for further appointment under the Government of Goa. The Commission may appoint other administrative, technical and scientific staff it considers necessary, in conformity with the rules made on behalf of the state government.

By an order of the Government of Goa, the Chairperson of the Commission may be removed from office on the grounds of misbehaviour or incapacity, after the decision of the competent Court.

The Government of Goa may remove the Chairperson from office if he is adjudged an insolvent, or is convicted and sentenced to imprisonment for an offence, or declared to be of unsound mind by a competent court³⁸. In case any issue arises about the resignation from office, the Chairperson or any member may at any time by writing under his hand make an address to the Government of Goa³⁹.

37. Sub-section 2 of the section 5

38. Sub-section 4 of the section 6

39. Sub-section 2 of the section 6

5.3.3 Procedure and Regulation

The Commission has set up elaborate procedures to monitor and investigate alleged violations of rights of members of the Scheduled Tribes. The Commission is competent to investigate suo motu, or on the basis of a petition filed by the complainant on the ground of violation of Constitutional law or other Acts related to the Scheduled Tribes.

The Act specifies that the Commission has powers to regulate its own procedure for meaningful performance ⁴⁰ and also to frame its Rules of Procedure, including the places at which they shall have their sittings, duration of oral hearings etc. The Commission shall have the power to gather relevant information including requisition documents or any other such information as may be required for the purpose of this Act. It also shall have the power to set up the necessary mechanism for its effective implementation of the provisions of this Act⁴¹.

5.3.4. Power of the Commission to Act as a Civil Court

The Commission shall be bound by the procedure laid down by the Code of Criminal Procedure, 1973 (Central Act 2 of 5 of 1974), but shall be guided by the principles of natural justice and subject to the other provisions of this Act or of any rules made by the Government of Goa⁴².

Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 192 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of section 195 of the Code of

⁴⁰. Sub-section 2 of the section 9

⁴¹. Sub-section 4 of the section 9

⁴². Under section 10 clause 1 stated that commission can exercise the power on the subject matter namely,:- (i) Summoning and enforcing the attendance of any person from any part of India and examining him on oath.(ii) Requiring the discovery and production of any documents, (iii) Receiving evidence on affidavits (iv) Requisitioning any public record or copy thereof from any court or office, (v) Issuing commission for the examination of witness and documents (vi) Any other matter which may be prescribed.

Criminal Procedure, 1973 (Central Act 2 of 1974)⁴³. The Commission may call upon such experts from the fields of economics, commerce, accountancy or from any other discipline, as it deems necessary, to assist the Commission in the conduct of any inquiry or proceeding before it.

The Goa State Commission for Scheduled Castes and Scheduled Tribes has power to investigate the specific complaints filed by the victim. However, the execution of an order of the Commission shall not bind any other court or any authority. The Act links this to the fact that the Chairperson of the Commission is appointed by political nomination.

5.3.5. Functions of the Commission

The Commission is vested with power as a civil court⁴⁴ in regard to suits in respect of the following matters namely:

- (i) To investigate or inquire suo motu or on the basis of the petition filed by the victim or any other person on his behalf;⁴⁵
- (ii) To investigate and monitor all matters relating to safeguarding the interests of the Scheduled Castes and Scheduled Tribes;⁴⁶
- (iii) To evaluate the working of various safeguards and civil rights accruing to the Scheduled Castes and Scheduled Tribes according to the law or order passed by the Union or State Government;⁴⁷
- (iv) To make recommendation for suitable measures for the effective implementation and enforcement of all safeguards under the Constitution of India;⁴⁸

43. Sub-section 2 of the section 10

44. Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

45. Further i:e (i) violation of any rights provided in the civil Rights Act, 1955 (Central Act 22 of 1955) and the scheduled castes and the scheduled tribes (prevention of Atrocities) Act, 1989 (central Act 33 of 1989) and rules framed thereon or abetment thereof, (ii) Negligence in the prevention of such Violation by a public servant, (iii) inquire and recommend to the concerned disciplinary authority to initiate disciplinary action in cases where the commission is of the view that any public servant has been grossly negligent or grossly indifferent in regard to the discharge of his duties in relation to the protection of the interest of the scheduled castes and scheduled tribes.

46. Protection of civil Right Act, 1955 (Central Act 22 of 1955) and the scheduled castes and the scheduled tribes (prevention of Atrocities) Act, 1989 (central Act 33 of 1989)

47. *See, Supra Note 46.*

48. *See, Supra Note 47.*

- (v) To review the effective implementation of the policies pursued by the government which are related to the Scheduled Castes and the Scheduled Tribes.
- (vi) To inquire into specific complaints in respect of deprivation of rights and safeguarding of interests of the Scheduled Castes and Scheduled Tribes.
- (vii) To inquire into any unfair practice against the Scheduled Castes and Scheduled Tribes, or take decisions thereon and also make recommendations to the government to take action in this matter;
- (viii) To spread the knowledge of legal rights among various sections of society ⁴⁹ and also to promote awareness programmes about the safeguards and rights of the Scheduled Castes and Scheduled Tribes, through publication in the media, seminars, and other modes;
- (ix) To conduct studies, research and also to reveal any kind of discrimination against the Scheduled Castes and the Scheduled Tribes;
- (x) To suggest appropriate legal steps and welfare measures for government to undertake in respect of the protection and advancement of the Scheduled Castes and the Scheduled Tribes;
- (xi) To investigate and monitor complaints from women belonging to the Scheduled Castes and the Scheduled Tribes women;⁵⁰
- (xii) To identify the areas in the enforcement of laws which are not adequately effective or not streamlined, and also make recommendation for measures to be taken such as executive or legislative action;
- (xiii) To invite one or more prominent persons to participate in the meeting to give advice on such matters as may be necessary;

^{49.} *Ibid at 48*

^{50.} (a) on receiving a written complaint from any scheduled castes and the Scheduled tribes“ women alleging that she has been subjected to any unfair practice or on a similar complaint from her mother or father or sister or brother or from any organization, (b) to cause investigation or inquire to be made by the Director of tribal welfare on issues of importance concerning scheduled castes and the Scheduled tribes particular SC/ST women and issues concerning unfair practice and to report thereon to the government on the corrective measures to be taken.

- (xiv) To encourage all NGOs and other institutions working in the field of human rights for the upliftment, and betterment of the Scheduled Castes and the Scheduled Tribes;
- (xv) To make periodical reports to the Government of Goa of work done by the Commission;
- (xvi) To exercise the powers and perform the functions which are conferred by the Act or rules made thereunder;
- (xvii) To make recommendations to the National Commission for Scheduled Castes and Scheduled Tribes.

5.3.6. Financial Account and Audit

According to this Act, the Government of Goa may think fit to grant such sums of money to the Commission to be utilised to perform its functions, or treat such sums as expenditure payable out of the grants referred to in subsection (1). The Commission is responsible for a proper maintenance of accounts, relevant orders and records. It also prepares an annual accounts statement in the prescribed form and such an account shall be audited by the competent authority.

5.3.7. Annual Report

The Commission is required to prepare an Annual Report for presentation to the Goa Legislative Assembly, giving a full account of its activities during the previous financial year. A copy of the Annual Report is therefore forwarded to the state government.

5.4. Legislative framework for the protection of the rights of the Scheduled Tribes

One of the important functions of the Commission is to monitor various legislations with regard to the Scheduled Castes and Scheduled Tribes.

The Scheduled Tribes have been the most marginalized, isolated and deprived community in India. Certain special laws have come into force to prevent discrimination against them. Some examples follow.

5.4.1. Protection of Civil Rights Act 1955

According to the recommendations of the Perumal Committee,⁵¹ the Protection of Civil Rights Act, 1955 was comprehensively amended in 1976 and it replaced the former. The amended Act came into existence on 19th November 1976. According to this Act, the preaching and practise of untouchability shall be deemed to be a cognizable and non-compoundable offence. The term of imprisonment is specified by this law.

The important feature of the Protection of Civil Rights (Amendment) Act, 1976 is that all untouchability offences will continue to be cognizable and those which could earlier be compoundable have been made non-compoundable under the amended Act. Direct or indirect preaching of untouchability or its justification on historical, philosophical, religious or traditional grounds has been made an offence under this Act. Importantly, those persons convicted under this Act are debarred from contesting election to Parliament and state legislatures.

Compelling a person belonging to a depressed class to do manual scavenging has been made a punishable offence. Scheduled Caste communities traditionally faced the trauma of manually cleaning human waste. To force any person to do manual scavenging is now accepted to be a crime against humanity.

51. James. P.A. and Reddy. G.Sreenivas, *Commissioner for Scheduled castes and Scheduled Tribes*, (1979), Economic and Political Weekly, Vol.14, No.26.

State governments are empowered to impose collective fines in those areas where the inhabitants are collectively guilty of committing untouchability. Simultaneously, the punishment for untouchability offences has been considerably enhanced, and both imprisonment and fines are awarded for such offences. The courts have held that the literal meaning of the statute must be adhered to when there is no ambiguity in ascertaining the legislative intent⁵².

5.4.2. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

The Protection of Civil Rights (Amendment) Act, 1976 had been enacted by Parliament to protect the weaker sections of society⁵³ by preventing offences against members of the Scheduled Castes and Scheduled Tribes. Unfortunately, offences continued. The need for a stricter law was felt. Thus the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 came to be passed.

A Special Court was set up for the trial of offences against SC and ST persons. Stringent punishment for offenders, and relief and rehabilitation to victims were envisaged.

The term of „atrocities“ is listed in the Indian Penal Code, but was clearly elaborated under this Act⁵⁴. The definition of „atrocities“ emerges by implication, given the list of specific offences⁵⁵.

5.4.2.1 Protection of Scheduled Tribes from various kinds of atrocities

This Act provides special protection to Scheduled Tribes from various kinds of atrocities including social disabilities, misappropriation of property, malicious persecution, curtailment of political rights, and

52. Prithvi pai sing Bedi v. Union of India, AIR 1982 S.C.1413

53. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

54. Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

55. Section 2 (1) (a) mentions that Atrocities would mean all that offence which are punishable under section 3 of SC/ST (Prevention of Atrocities) Act, 1989.

sexual or economic exploitation. Section 3 of the Act contains substantive penal clauses. Sub-section 1, clauses (i) to (xv)⁵⁶ and sub-section 2, clauses (i) to (vii)⁵⁷ describe

56. Under section 3 states following punishment for the offence of Atrocities. Under section (1) whoever not being a member of scheduled caste and Scheduled tribes; (i) *Force a member of a scheduled caste and Scheduled tribes to drink or eat any inedible or obnoxious substance.* (ii) *Acts with intent to cause injury, insult or annoyance to any member of a scheduled caste and Scheduled tribes by dumping excreta, waste mater, carcasses or any other obnoxious substance in his premises or neighbourhood;* (iii) *Forcible remove cloths from the person of a member of a scheduled caste and Scheduled tribes or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;* (iv) *Wrongfully occupies or cultivates any land owned by or allotted to, or notified by any competent authority to allotted to, a member of a scheduled caste and Scheduled tribes or gets the land allotted to him transferred;*(v) *Wrongfully dispossesses a member of scheduled caste and Scheduled tribes from his land or premises or interference with the enjoyment of the right over any land, premises or water;* (vi) *Compels or entices a member of a scheduled caste and Scheduled tribes to do beggar or other similar forms of forced or bonded labour other than compulsory service for the public purpose imposes by government;* (vii) *Forces or intimidates a member of a scheduled caste and Scheduled tribes not to vote or to vote to particular candidate or to vote in manner other than that provided by law;* (viii) *Institutes false, malicious or vexation suit or criminal or other thereby causes such public servants to use his lawful power to the injury or annoyance of a member of a scheduled caste and Scheduled tribes;* (ix) *Gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a scheduled caste and Scheduled tribes;* (x) *Assault or uses a force to any woman belonging to the of a scheduled caste and Scheduled tribes and uses with intend to dishonour or outrage her modesty;* (xi) *Being in a position to dominate the will of the woman belonging to a member of scheduled caste and Scheduled tribes and uses that position to exploit her sexually to which she would not have etherise agreed;* (xii) *Corrupt or foul of water of any spring reservoir or any other sources ordinarily used by the member of a scheduled caste and Scheduled tribes so as to render it to less fit for the purpose for which it is ordinarily used;* (xiii) *Denied the member of a scheduled caste and Scheduled tribes any customary Right of passage to a place of public resort to which other member o the public or nay section thereof have a right to use or access to;* (xiv) *Forces or cause a member of a scheduled caste and Scheduled tribes to leave his house, village or other place of residence.*

57. Under section3 states following punishment for the offence of Atrocities. Under section (2) whoever not being a member of scheduled caste and Scheduled tribes; (i) *Give or fabricates evidence intending thereby to cause, or knowing it to be likely that thereby cause, any member of a scheduled caste and Scheduled tribes to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for the life and with fine , and if an innocent member of the scheduled caste and Scheduled tribes to be convicted and executed in consequence of such false or fabricated evidence the person , who gives or fabricates such false evidence, shall be punished with death;* (ii) *Give or fabricates evidence intending thereby to cause, or knowing it to be likely that thereby cause, any member of a scheduled caste and Scheduled tribes to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not less than six months but which any extent to seven year or upward and with fine;* (iii) *Commits mischief by fire or any explosive substance intending to cause or knowing it to be like that he will thereby cause the damages to any property belonging to member of scheduled caste and Scheduled tribes, shall be punishable with imprisonment for a term which shall not less than six months but which any extent to seven year or upward and with fine;* (iv) *Commits mischief by fire or any explosive substance intending to cause or knowing it to be like that he will thereby cause the destruction of any building which is ordinarily used as place of worship or as a place for human dwelling or as a place for custody of the property by member of scheduled caste and Scheduled tribes, shall be punishable with imprisonment for a life and with fine;* (v) *Commits any offence under the Indian panel code punishable with imprisonment for a term of ten years' yards or property on the ground that such person is a member of scheduled caste and Scheduled tribes or such property belong to such member, shall be punishable with imprisonment for a life and with fine;* (vi) *Knowingly or having reason to believe that an offence has been committed under this section, the cause any evidence of the commission of that offence to disappear with the intention gives any information respecting the offence which he knows or believes to be false, shall be punishable the offence punishment provided for that offence;* or (vii) *Being public servant, commits any offence under this section, shall be unusable with imprisonment for a term which shall not be less one years but which may extend to the punishment provided for that offence.*

Various offences and provide punishment for the same. As specified therein, Sub-sections (1) and (2) do not apply to any accused who is a member of Scheduled Castes and Scheduled Tribe.

5.4. 2.2. Neglect of Duties

According to this Act, if a public servant, who is not a member of a Scheduled Caste or a Scheduled Tribe, deliberately neglects his duties he shall be punished in accordance with law.

The essential ingredient of an offence is that⁵⁸ (a) the accused must be a public servant, (b) the accused is neither a member of the Scheduled Castes nor the Scheduled Tribes and (c) the accused has wilfully neglected his duties which he is required to perform under this Act.

The word „wilfully“ suggests *mens rea*, which has to be proved by the prosecution. If the negligence is not wilful the accused cannot be convicted under this section. The accused public servant has been made liable to punishment of not less than six months which may be extended to one year.

5.4. 2.3. Subsequent Punishment

Under this Act, a second conviction attracts enhanced punishment of not less than one year's imprisonment, provided that the offence is a repetition of the offence and is not a separate offence.

There are five conditions which must be fulfilled before a person can be awarded enhanced punishment:⁵⁹

- a. he must have been previously convicted in India of an offence which is punishable with imprisonment for at least three years;

58. See, Section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

59. Section 5 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

- b. the offence of which he had been convicted, and with which he is subsequently charged must be included under sub-section (ii) or sub-section (xvii);
- c. the offence must have been committed in India;
- d. he must be subsequently charged with an offence punishable with imprisonment for at least three years;
- e. he must have committed the subsequent offence after his previous conviction.

5.4.2.4. Power of the special court to remove the person likely to commit an offence

The Act⁶⁰ empowers the special court to order the removal of a person who is reported likely to commit an offence in a Scheduled Area or Tribal Area from that area and not to return for the ordered period not exceeding two years⁶¹. It also obliges the special court to communicate to the person directed to be removed from such area the grounds of his removal⁶². However, it also entitles the special court to revoke or modify the order made under Sub-section 1 by recording the reason thereof.

If the person fails to remove himself from the area, and enters thereon after removal, the court also has the power to cause the accused to be arrested and removed by the police⁶³. The court can issue an order for the return of a person for a temporary period, subject to certain conditions as may be specified in writing,⁶⁴ and it has the power to revoke any such provision⁶⁵.

The Act provides that any person shall remove himself outside of such area and shall not return within the unexpired period⁶⁶ or face arrest and

60. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

61. Section 10(1) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

62. Section 10(2)

63. Section 11(1)

64. Section 11(2)

65. Section 11(3)

66. Section 11(4)

removal⁶⁷. In addition, every person against whom an order has been made under Section 10 must cooperate with the police by allowing his measurement and photograph to be taken by the police officer,⁶⁸ or else the special court may authorise all lawfully necessary action to be taken⁶⁹. Resistance to taking of photograph shall be deemed to be an offence under section 136 sub-section (2) of the Indian Penal Code. The Act additionally prescribes a penalty for non-compliance with an order passed by the Special Court under Section 10, the punishment being imprisonment which may extend to one year, or a fine⁷⁰.

5.4. 2.5. Administrative Measures and Enforcement of the Act

The Act arranges for the establishment of the Special Court⁷¹. The state government, in agreement with the Chief Justice of the High Court, is to set up a District or Special Court for preventing atrocities against the SC/ST community under this Act. The Special Court also ensures speedy trials. Under the Act, a Special Public Prosecutor may be appointed to represent the victims in trials of offences under the Act in the Special Court⁷².

Here is an example. Five individuals were charge-sheeted and brought to trial for violating the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, by treating the plaintiff as an untouchable. One of the defendants had threatened the plaintiff, who was a member of the Scheduled Castes, with a gun, to stop the victim from drawing water from the village well. There were four Scheduled Caste witnesses. The court convicted the defendants. They filed an appeal in the High Court. The High Court rejected the testimony of the four witnesses, and acquitted all the defendants. Finally, the Supreme Court⁷³ granted relief to the plaintiff.

67. Section 11(5)

68. Section 12(1)

69. Section 12(2)

70. Section 13

71. Section 14

72. Section 15

73. State of Karnataka v. Ingale, (1992) 3SCR 284.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 grants powers to the Special Court to take cognizance of such offences. The offence must be in accordance with Section 13 of the Code of Criminal Procedure, commonly called the Criminal Procedure Code (CrPC). This means that a charge-sheet cannot be directly filed before the Special Court. If the Sessions Court is constituted as the Special Court, it cannot take cognizance of an offence unless it is expressly provided in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, but it is mandatory to go through the course established under the CrPC⁷⁴.

5.4. 2.6. Preventive Action

The District Magistrate or Sub-Divisional Magistrate or any other executive magistrate is empowered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to declare such area to be an area prone to atrocities for which it takes necessary action for maintenance of public peace, order and tranquillity⁷⁵.

The 1989 Act also empowers the state government to make a scheme or schemes specifying the manner for officers to take appropriate action, by notification in the Official Gazette. The purpose of the Act is to prevent atrocities or any kind of crime against members of the SCs/STs, and also to restore the feeling of security among them⁷⁶.

5.4. 2.7. Non-Applicability of Section 438 CrPC

Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989⁷⁷ bars the application of section 438 which relates to anticipatory bail, that is, direction for granting of bail to a person apprehending arrest, in the matter of an offence alleged to have been committed under the provision of this Act. The full bench of Rajasthan High

⁷⁴. Gangula Ashok v. State of A.P., AIR 2000 SC740

⁷⁵. Section 17(1)

⁷⁶. Section 17(2)

⁷⁷. See, *supra* Note 53

Court has laid down in the case of *Jai Singh & another v. Union of India & others*⁷⁸ the right of the anticipatory bail does not flow from Article 21 of the Constitution of India either expressly or impliedly. This right has been conferred by the Parliament which may also take it back by enacting another law. In another case of *Rajinder kumar Sharma v. State of Rajasthan*⁷⁹ it was held that Section 438 of the CrPC can be invoked only when a person is accused of a non-bailable offence.

However, since the benefit of bail is available even in cases of heinous offences, in *Dr. Ram Krishna Balothia v. Union Of India (Uoi) And Ors*⁸⁰ on 25 March, 1994, the Court held „that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are constitutionally valid, except Section 18 of the Act, which does not conform to the norms of justice and fair play and prescribed a procedure which is impermissible under the Constitution and is liable to be struck down. Accordingly we strike down Section 18 of the Act as violative of Article 14 and Article 21 of the Constitution of India.

5.4. 2.8. Non-Applicability of Section 360 of the CrPC

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 bars the application of Section 360 of the CrPC in cases which come under the Act. Section 360 of the CrPC provides for order to release on probation of good conduct or after admonition, when any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years, or less⁸¹.

78. AIR 1993 Raj.177(FB)

79. AIR 1993 Raj. Cr.P.C 197, 170(Raj)

80. AIR 1994 PM 143

81. See *supra* Note at 77

5.4. 2.9 Duty of the State to Implement the Act

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 empowers to the state government to take various measures⁸² for the effective implementation of the Act ⁸³ .The measures include providing adequate facilities, travelling and maintenance expenses, economic rehabilitation to the victim, appointment of officers for initiating or exercising supervision over the prosecution, conducting a periodic survey of the working of the provisions of this Act, and identification of the areas subject to atrocities.

5.4. 2.10. Investigation

According to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Central Government has been empowered to make the rules for carrying out the purpose. Every such rule has to be laid before Parliament for approval. The question arises whether the rules are validly framed to carry out the purpose of the Act. That can be determined on the analysis of the provisions of the Act⁸⁴.

An officer not below the rank of Deputy Superintend of Police can investigate an offence committed under the SC/ST Act⁸⁵. Provisions of Rule 7 are mandatory and in case the investigation is carried out by an officer below the rank of DSP⁸⁶ or the charge-sheet is filed by an officer below the rank of DSP, the same shall be liable, and deemed, to be quashed⁸⁷.

82. Section 21 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

83. Section 21(2)

84. Section 23

85. Rule 7(1), Scheduled castes and scheduled tribes (prevention of Atrocities) Rule 1995

86. M.Kathiresam v. State of Tamil Nadu, 1999CrLJ3938

87. Dr. Ramlinga Reddy v. State of AP, 1999CrLJ 2918

5.4.3 Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

Manual scavenging is probably the most degrading of all occupations and forms of labour thrust upon „untouchables“ by the caste-based social order. It involves cleaning human waste from public and private latrines, using a broom, a tin plate and a basket in which to carry the waste to dumping grounds or disposal sites.

The practice of manual scavenging has been prohibited by law,⁸⁸ and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 bars any person to engage in, or employ, or permit to be engaged in or employed any other persons for manually carving human excreta or construction of a dry latrine⁸⁹. The Act also empowers the state governments to make one or more schemes for regulating conversion of dry latrines into water-sealed latrines⁹⁰. The Act mandates a time-bound phased programme for the latter, provision of technical or financial assistance for alternate low-cost sanitation, construction and maintenance of community latrines, registration of (former) manual scavengers and their rehabilitation. According to this Act violation of the law is deemed to be an offence punishable with imprisonment for term which may extend to one year or with a fine or with both.

In pursuance of the Act, the Ministry of Urban Development operates a scheme for conversion of dry latrines into water-sealed latrines, in which some element of subsidy is provided by the Central Government. The Ministry of Rural Development administers rural sanitation programmes for the construction of sanitary latrines in rural areas, for conversion of dry latrines and for the construction of a village complex for women. The Ministry of Social Justice and Empowerment has a centrally sponsored scheme called the

^{88.} Employment of Manual Scavengers and Construction of dry Latrines (prohibition) Act, 1993

^{89.} Section 3(1)(a)

^{90.} Section 6(1)

National Scheme for Liberation and Rehabilitation of Scavengers. The Government of India set up a National Commission for Safai Karamchahris under an Act of Parliament to monitor the progress of the programmes for the elimination of manual scavenging and the rehabilitation of liberated scavengers.

5.4.4. Bonded Labour System (Abolition) Act, 1976

The Bonded Labour System (Abolition) Act, 1976 aims to prevent the economic and physical exploitation of the depressed classes. The Bonded Labour System refers to work in slave-like condition in order to repay a debt. Poor people belonging to the Scheduled Tribes incur debts for basic necessities of life, for which they are charged exorbitant interest. Due to their illiteracy, lack of bargaining power, and extremely low wage, their debts are never liquidated and consequently the debtor has to render labour in lieu thereof.

The System of the Bonded Labour infringes upon basic human rights as well Constitutional law of India. Article 23 of the Indian Constitution prohibits *begar* and other similar forms of forced labour. Any contravention of the provision shall be deemed an offence and punished in accordance with law. Article 35(a)(ii) of the Constitution not only confers the power on the Parliament to provide for the punishment for the contravention of the said provision of Article 23(1) but it expressly takes away the power of the state legislature to make any legislation with regard to the said matter. Accordingly, the Bonded Labour System (Abolition) Ordinance was passed in 1975 and this ordinance was replaced by the Bonded Labour System (Abolition) Act, 1976. The latter abolished all agreement and obligations including customary sanctions which permit bonded labour in various forms.

The 1976 Act also releases all labour from such obligations, cancels their outstanding debts and prohibits the creation of any new bondage agreement. According to this Act, the state government is authorised to confer such powers and impose such duties on the district magistrate as it deems fit for the purpose. The Act also mandatorily provides for the economic rehabilitation of freed bonded labour, by the State.

Bonded labour is a violation of law and is punishable with a sentence of three years' imprisonment and a fine of Rs.2000/-. The Ministry of Labour operates a centrally sponsored scheme for the rehabilitation of released bonded labourers.

5.4.5 The Minimum Wages Act, 1948

The Minimum Wages Act, 1948 provides for fixing of minimum rates of wages in different types of employment, and the appointment of committees or sub-committees for this purpose. The Act also fixes the norms of hours of work, rest, and overtime rates. The machinery for the enforcement of the Act has also been provided for the protection of the Scheduled Tribes. Many domestic workers belong to the Scheduled Tribes. According to this Act, domestic workers should not be discriminated against on the grounds of minimum wages. The principle of equal pay for work of equal value must be ensured. The Act recognises the economic and social contribution of these workers.

5.4.6. Equal Remuneration Act, 1976

The Act mandates that there shall be no discrimination in the payment of wages to women workers performing the same work or work of a similar nature as men.

5.4.7. Child Labour (Prohibition and Regulation) Act, 1976

The Act prohibits the engagement of children in certain employment, and regulates the conditions of work. A large number of child labourers belong to the Schedule Tribes. The 1976 Act outlines severe penalties for those violating its provisions. This Act also provides for a Child Labour Technical Advisory Committee to advise the Central Government on which occupations and industrial processes the employment of Child Labour should be prohibited.

Over time, various laws were enacted to prohibit the employment of child labour on grounds of safety etc., including the Children (Pledging of Labour) Act, 1933; the Employment of Children Act, 1938; the Factories Act, 1948; the Plantation Labour Act, 1961; the Bidi Cigar Workers (Condition of Employment) Act, 1966; and the Shops and Commercial Establishments Act in each state. The Child Labour (Prohibition and Regulation) Act of 1986 prohibits the employment of children below the age of 14 years in hazardous occupations identified in a list by the law.

5.4.8. The Scheduled Tribes and other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006

The purpose of this Act is to ensure the traditional forest dwellers rights to the forests are recognized. Most forest dwellers belong to the Scheduled Tribes.

5.4.9. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

This Act is a safeguard against the displacement of the Scheduled Tribes. The special provision has been made for the Schedule Castes and Scheduled Tribes and it also lays down the procedure and manner of rehabilitation and resettlement⁹¹.

5.4.10. The Panchayats (Extension to Scheduled Areas) Act, 1996

The purpose of this Act is to ensure due consultation with the Gram Sabha or the Panchayat before acquisition of land in the Scheduled Areas for the purpose of any development projects. It also requires the resettling or rehabilitation of the Schedule Tribes which are affected by the projects in the Scheduled Areas.

5.5. Conclusion

The Goa State Commission for Scheduled Castes and Scheduled Tribes should recommend to the Government of Goa to give special training to all government servants connected with tribal rights. It also needs to establish an inter-departmental task force for implementation and monitoring of Constitutional safeguards and other laws related to the Scheduled Tribes. The state government is also required to monitor departmental programmes to ensure tribal rights and welfare schemes. The state government should monitor the performance of officers to ensure that they are sensitive about the constitutional rights and other laws related to Scheduled Tribes. Where there are complaints of official misbehavior resulting in tribal rights violations,

⁹¹. Section 41 and section 42(RFCTLARR) of Act, 2013

there should be a speedy inquiry within a prescribed period and exemplary action should be taken.

CHAPTER-VI

IMPLEMENTATION OF RESERVATION POLICY AND WELFARE SCHEMES IN STATE OF GOA

“The rule of law is a dynamic concept for expansion and fulfilment. Jurists are primarily responsible and which should be employed not only to safeguard and advance the civil and political rights of individual in free society, but also established social, economic, educational and cultural condition under which legitimate aspirations and dignity may be realized”¹.

Justice V.R. Krishna Iyer

6.1 INTRODUCTION

The empirical study of this research work, as we made a mention in the first chapter, is confined to the State of Goa. The reason for such a selection was that absolutely no research on reservation policy and welfare schemes had been conducted to assess, evaluate and analytically examine the working of the schemes in this State. The researcher being Assistant Director, Centre for Study of Social Exclusion and Inclusive Policy, Goa University, was another potent and a persuading factor for picking up the State of Goa as the area of research. Again, for the purpose of expediency, and keeping in view various constraints, only a few government departments, a few educational institutions and the SC & ST Commission in the State of Goa were selected for the study. Further an attempt was made to test the hypothesis of the study with the collected data. The data was collected by using both primary and secondary sources.

This chapter is the yolk of the thesis, where the substance and content of the provisions dealing with the administration of legal services is clearly, intently and critically looked into. It deals with the compilation and analysis of the statistical and empirical data collected by the researcher.

For the purpose of convenience, this chapter is divided into two parts. Part A deals with the statistical data collected from government departments, educational institutions and the Goa State SC/ST Commission. The compilation and analysis of data is also shown in the form of tables, bar graphs and pie charts. Part B deals with empirical data collected through the questionnaire method i.e. an opinion survey of various complainants, tribal

1. Jaswal Vikram Singh, Jaswal Sweta, *Justice V.R.Krishna Iyer's Concept of Social Justice*, (2011), Deep & Deep Publication, New Delhi, pp, at 102.

leaders and other tribals, advocates and judges. The same is analysed and depicted in the form of tables, bar graphs and pie charts.

6.2. Implementation of the Reservation Policy in the State of Goa

In the current chapter Part, A, various factors are taken into consideration relating to the status of the implementation of the reservation policy in government departments and educational institutions. The researcher also considers some important factors in the utilization of funds under the Tribal Sub-Plan in twenty-three government departments. The main technique of this study is to gather information through questionnaires and from this information to compile secondary statistical data.

6.2.1. The Status of the Reservation Policy in Government Departments

The researcher selected several government departments to find out the status of their implementation of the reservation policy. These departments are: the Directorate of Sports and Youth Affairs, Directorate of Skill Development & Entrepreneurship, Directorate of Women & Child Development, Directorate of Municipality Administration/Urban Development, Directorate of Tribal Welfare, Office of the Department of Tourism, Office of the Department of Information Technology, Department of Animal Husbandry & Veterinary Services, Office of the Commissioner, Labour & Employment, Directorate of Planning, Statistics & Evaluation, Directorate of Fisheries, Directorate of Industries Trade and Commerce, Directorate of Archives and Archaeology, Directorate of Social Welfare, Directorate of Art & Culture, Office of the Chief Engineer Water Resources Department, Directorate of Education, and Office of the Principal Chief Conservator of Forests, Forest Department.

It is obligatory for each department to maintain a service roster for the recruitment of staff. It is also mandatory to appoint a nodal officer to keep track of the implementation of the reservation policy in the department. Some

government departments had poor documentation facilities. This study has aimed to verify the status of the implementation of the reservation policy in the above government departments by examining recruitment, backlog, shortfall, etc. The tables, pie-charts and graphs show the demographic details of the said governments departments.

At the State level, the reservation quotas in service / posts in the Public Sector Enterprises under the Government of India, State and Nationalized / Public Sector Banks, Autonomous Bodies, etc. is fixed at 12% for the Scheduled Tribes.

The data in the table below is classified into three heads, namely, status of reservation policy in government departments, total number of posts filled, and total number of posts advertised. The statistical data about the implementation of the reservation policy from 2009 to 2019 is clubbed together and compiled below.

Table 1

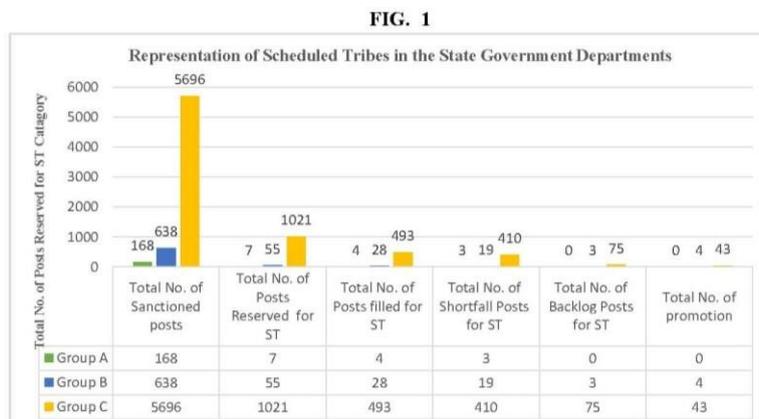
Representation of Scheduled Tribes in the State Government Departments (2009 to 2019)

Name of the Posts	Total No. of Sanctioned posts	Total No. of Posts Reserved for ST	Total No. of Posts filled for ST	Total No. of Shortfall Posts for ST	Total No. of Backlog Posts for ST	Total No. of Promotion for ST
Group A	168	7	4	3	0	0
Group B	638	55	28	19	3	4
Group C	5696	1021	493	410	75	43

Source: Government of Goa.

It is evident from Table 1. that the reservation policy is not properly implemented in the State Government Services and the State Public Sector Undertakings, because the appointments made by the State Government departments in various Groups A, B and C are not as per the allotted reservation quota of 12%. It may be observed that around 60 % of the 12%

reserved posts have remained unfilled. The details of the table are shown in Fig. 1.



The year-wise posts filled in the ST reserved category are shown in Table 2.

Table 2

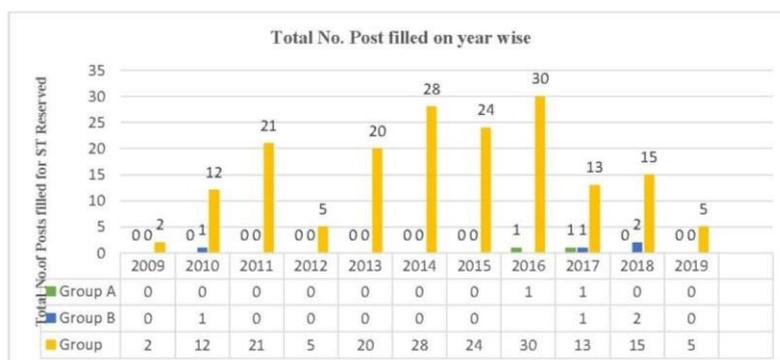
Total no. of posts filled year-wise

Name of the Posts	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Group A	0	0	0	0	0	0	0	01	01	0	0
Group B	0	1	0	0	0	0	0		01	02	0
Group C	02	12	21	05	20	28	24	30	13	15	05

Source: Government of Goa.

It is observed that the representation of Scheduled Tribes in higher positions of government – Group A and Group B – is very low compared to Group C. Based on Table 2 it is evident that only in group C more people benefited compared to Groups A and B. It is also evident that the beneficiaries are gradually increasing though the percentage is low. The details are shown in the form of bar graphs in (Fig. 2)

FIG. 2



6.2.2. Status of the Reservation Policy in educational institutions in service matters

One of the main objectives of the current research is to find out the reservation policy in educational institutions with regard to service matters in the State of Goa. In order to statistically analyse the implementation of the roster policy in educational institutions the following data was collected. The researcher has selected eighteen educational institutions (government and aided) for this study.

Aided colleges and government colleges are controlled by the Directorate of Higher Education and follow the rules and regulations of the UGC. Table 3 below shows the number of posts reserved for the Scheduled Tribes in educational institutions in the State of Goa.

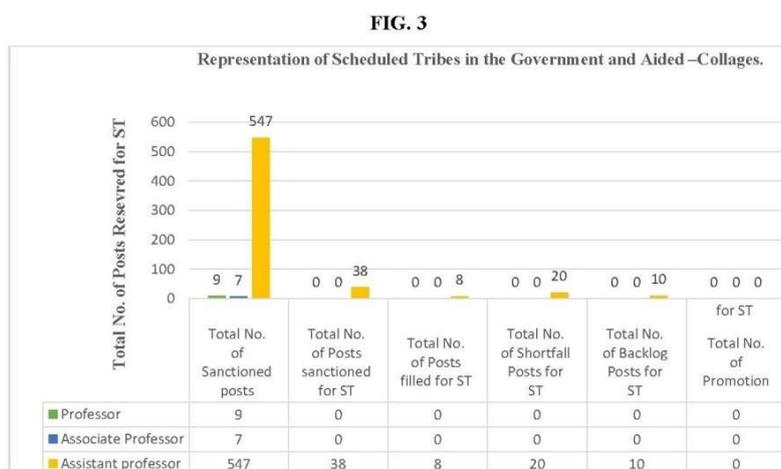
Table 3
Representation of Scheduled Tribes in Government and Aided Colleges
(2009 to 2019)

Name of the Posts	Total No. of Sanctioned posts	Total No. of Posts sanctioned for ST	Total No. of Posts filled for ST	Total No. of Shortfall Posts for ST	Total No. of Backlog Posts for ST	Total No. of Promotion for ST
Professor	09	0	0	0	0	0
Associate Professor	07	0	0	0	0	0
Assistant professor	547	38	08	20	10	0

Source: Government and Aided Colleges

Table 3 shows that though the sanctioned posts for the ST category were 38, only 8 were filled. It indicates the non-availability of suitable ST candidates. It also shows that the reservation for the STs is applicable at the level of Assistant Professor only and not for Associate Professor and Professor. Reservation quotas in universities and government or aided colleges are fixed at 12% for ST candidates.

The above table clearly shows that the Scheduled Tribes representation at the level of Assistant Professor in government colleges and aided colleges is very low. The implementation of the Reserved Quota for STs is not proportionate. This would indicate that the state government is not monitoring the status of reservations in colleges. The details are shown in the following bar graph (Fig. 3).



In educational institutions the reservation policy ought to be followed even in non-teaching posts as per the roster system.

Table 4

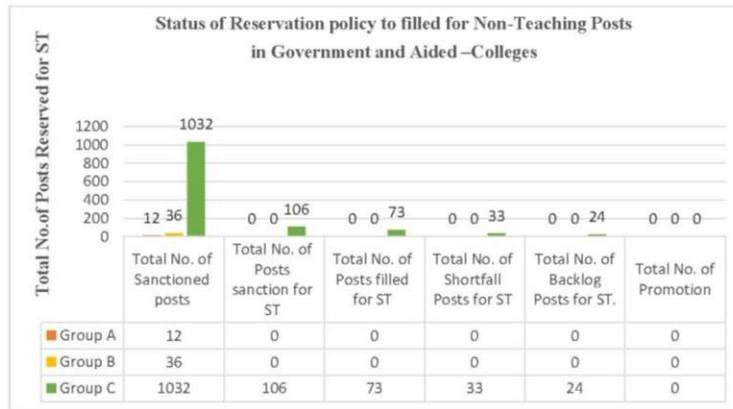
Status of Implementation of Reservation policy of Non-Teaching Posts in Government and Aided Colleges

Name of the Posts	Total No. of Sanctioned posts	Total No. of Posts sanction for ST	Total No. of Posts filled for ST	Total No. of Shortfall Posts for ST	Total No. of Backlog Posts for ST.	Total No. of Promotion for ST
Group A	12	0	0	0	0	0
Group B	36	0	0	0	0	0
Group C	1032	106	73	33	24	0

Source: Government and Aided Colleges, Government of Goa

It is observed that the representation of Scheduled Tribes in higher positions of educational institutions – Group A and Group B – is very low compared to Group C. It is apparent that reservation is negative in promotions. The details are shown in the following bar graph (Fig. 4).

FIG. 4



6.2.3. Status of Political Reservation for Scheduled Tribes in Panchayats

Every government has a mandatory duty to follow the reservation system in elections to Panchayats, Zilla Parishads and municipalities.

(i) **Panchayat Election 2012**

In the State of Goa, the Reservation Policy in political institutions is to be followed by allocating seats in the Reserved Category according to the proportion of STs in the population.

Table 5

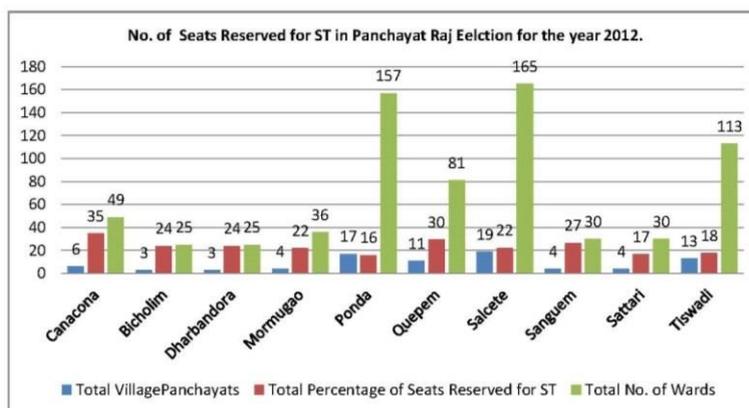
Total No. of seats Reserved for ST in Panchayat Raj Election 2012.

Name of the Talukas	Total Village Panchayats	Total Percentage of Seats Reserved for ST	Total No. of Wards
Canacona	6	35	49
Bicholim	3	24	25
Dharbandora	3	24	25
Mormugao	4	22	36
Ponda	17	16	157
Quepem	11	30	81
Salcete	19	22	165
Sanguem	4	27	30
Sattari	4	17	30
Tiswadi	13	18	113

Source: Goa State Election Commission, Altinho-Panaji-Goa

It is evident that the reservation of seats depends upon the strength of the population which can be understood by observing the number of wards. It was evident that Canacona Taluka has highest percentage of seats reserved for STs since their population is highest in that taluka in the State of Goa. The details are mentioned below in the form of a bar graph (**Fig. 5**).

FIG-5



(ii) Panchayat Election 2017

Table 6

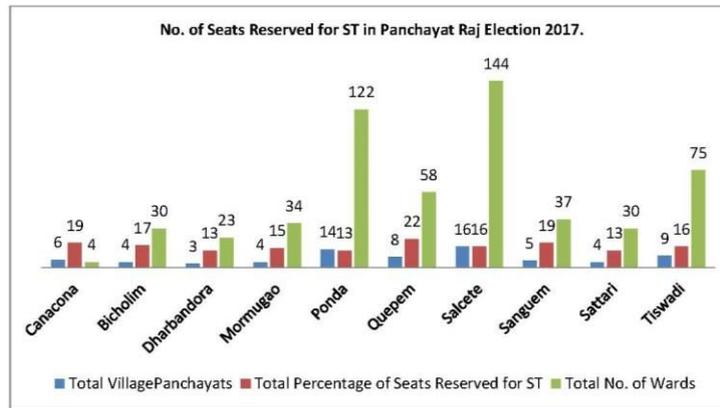
Total No. of seats Reserved for STs in Panchayat Raj Election 2017

Name of The Talukas	Total Village Panchayats	Total Percentage of Seats Reserved for ST	Total No. of Wards
Canacona	6	19	4
Bicholim	4	17	30
Dharbandora	3	13	23
Mormugao	4	15	34
Ponda	14	13	122
Quepem	8	22	58
Salcete	16	16	144
Sanguem	5	19	37
Sattari	4	13	30
Tiswadi	9	16	75

Source: Goa State Election Commission, Altino-Panaji-Goa

Table 6 indicates that the allotment of seats in the ST reserved category was slightly different from that of 2012 due to rotation. The details are depicted in the form of the bar graph (Fig. 6) below.

FIG-6



6.2.4. Status of Reserved Seats for Scheduled Tribes in Zilla panchayats

Under the Goa Panchayat Raj Act, 1994, in every Zilla / Taluka Panchayat reserved seats for Scheduled castes and Scheduled Tribes² are in the same proportion to the total number of seats in the Zilla Panchayat³ as the population of the Scheduled Castes and the Scheduled Tribes in the that constituency bears to the total population of the Zilla Panchayat area.

(i) Zilla Panchayat Election 2010

Primary data obtained in the Goa Zilla Panchayat election of 2010 is compiled and analysed below.

Table 7

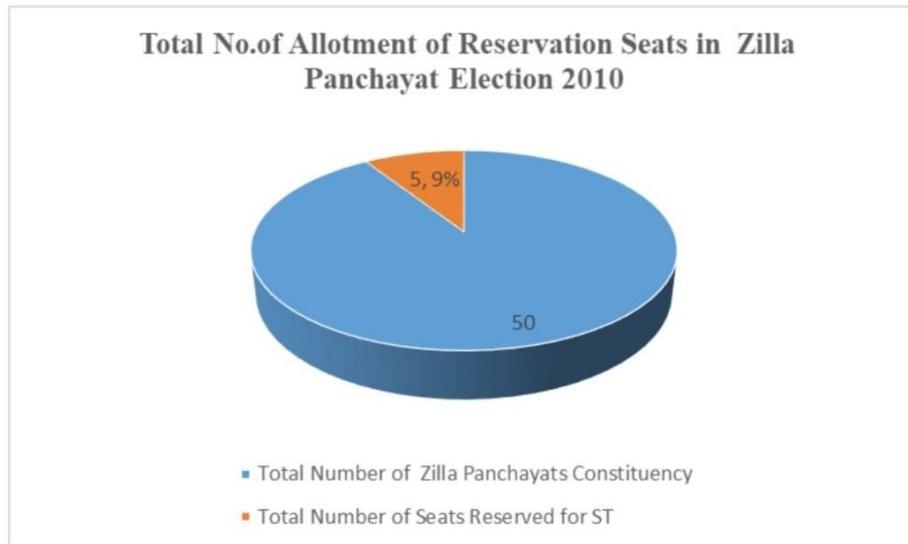
Total No. of Seats Reserved for STs in Zilla Panchayate Election 2010

Total Number of Zilla Panchayat Seats	Total Number of Seats Reserved for ST
50	5

The above results are expressed below in the form of a pie chart (Fig. 7).

2. Section 7(4) of Goa Panchayat Raj Act, 1994
 3. Section 7(5) of Goa Panchayat Raj Act, 1994

FIG. 7



6.2.5. Status of Reserved Seats for Scheduled Tribes in Municipal Elections

According to the Goa Municipalities Act, 1968, in every municipality reserved seats for Scheduled castes and Scheduled Tribes⁴ are in the same proportion to the total number of seats in the municipality⁵ as the population of the Scheduled Castes and the Scheduled Tribes in that constituency bears to the total population of the municipal area, and one-third of these seats will be reserved for women belonging to the above groups⁶. The results of the 2010 municipal election are tabulated below.

(i) Municipality Election 2010

The reserved seats are allotted on a rotation basis in municipal elections. Primary data obtained in the Goa Municipalities Election 2010 is compiled and analysed in Table 8 and the bar graph in Fig. 8 below.

4. Section 7(4) of Goa Panchayat Raj Act, 1994

5. Section 7(5) of Goa Panchayat Raj Act, 1994

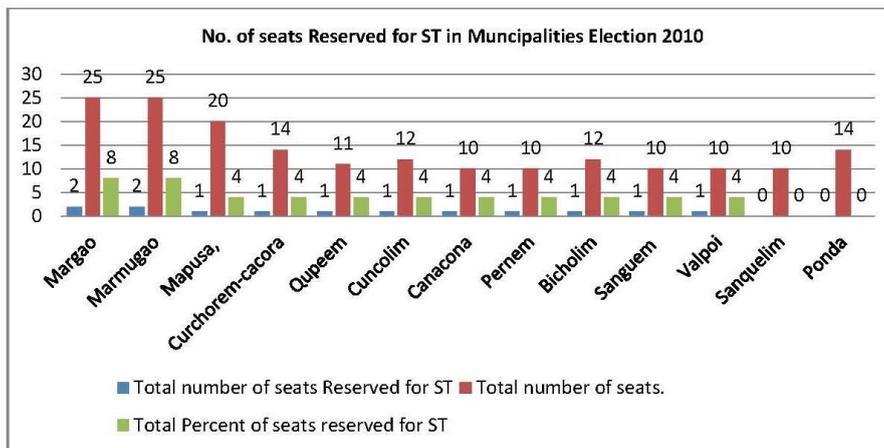
6. Section 9(2)(c) of Goa Municipalities Act, 1994

Table 8
Total No. of Seats Reserved for STs in Municipality Election 2010

Sr. No.	Name of the Municipality	Total No. of Seats Reserved for STs	Total No. of Seats	Total % of seats Reserved for ST
1.	Margao	2	25	8
2.	Marmugao,	2	25	8
3.	Mapusa,	1	20	4
4.	Curchoem-cacora,	1	14	4
5.	Qupeem,	1	11	4
6.	Cuncolim,	1	12	4
7.	Canacona,	1	10	4
8.	pernem,	1	10	4
9.	Bicholim,	1	12	4
10.	Sanguem ,	1	10	4
11.	Valpoi	1	10	4
12.	sanquelim	-	10	0
13.	ponda	-	14	0

Source: Goa State Election Commission, Altino-Panaji-Goa

FIG. 8



(ii) Municipality Election 2015

In the Goa Municipalities election of 2015, there were no reserved seats for the ST category in the municipalities of Mapusa and Mormugao, due to rotation of reservations. The remaining municipalities fared as represented in Table 9 and the bar graph in Fig. 9 below.

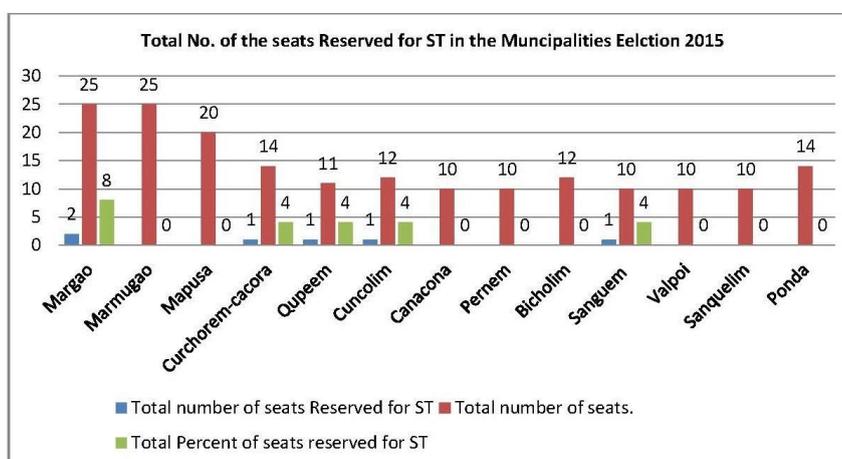
Table 9

Total No. of seats Reserved for STs in Municipality Election 2015

Sr. No.	Name of the Municipality	Total No. of Seta's Reserved for ST.	Total No .of Seats	Total % of seats Reserved for ST
1.	Margao	2	25	8
2.	Marmugao,	0	25	0
3.	Mapusa,	0	20	0
4.	Curchorem-cacora,	1	14	4
5.	Qupeem,	1	11	4
6.	Cuncolim,	1	12	4
7.	Canacona,	0	10	0
8.	pernem,	0	10	0
9.	Bicholim,	0	12	0
10.	Sanguem ,	1	10	4
11.	Valpoi	0	10	0
12.	Sanquelim	0	10	0
13.	Ponda	0	14	0

Source: Goa State Election Commission, Altino-Panaji-Goa

FIG. 9



6.1.6. Status of Reserved Seats for Scheduled Tribes in the Corporation of the City of Panaji

According to the City of Panaji Corporation Act, 2002, the Corporation reserves seats for Scheduled Castes and Scheduled Tribes⁷ in the same proportion to the total number of seats in the City of Panaji Corporation⁸ as the population of the Scheduled Castes and Scheduled Tribes bears to the total population within the City of Panaji Corporation area, and one-third of these seats will be reserved for women belonging to these groups.⁹

Municipal Corporation of the City of Panaji Elections 2010 & 2015

The Goa State Election Commission determines that seats shall be reserved for persons belonging to the category of Scheduled Tribes according to the same proportion as the ST population bears to the total population of the City of Panaji Corporation area. Out of 30 seats, therefore, only 1 seat was reserved for the ST category in the elections of 2010 and 2015, which is far short of 12% reservation. The present researcher collected the following data from the Goa State Election Commission, Panaji-Goa, and it also has shown in Table 10 and Fig. 10 below.

Table 10

Total No. of Seats Reserved for Scheduled Tribes in the Municipality Corporation City of Panaji Election 2010

Sr.no	Ward no.	Total number of seats Reserved for ST.	Total number of seats
1.	1	1	30

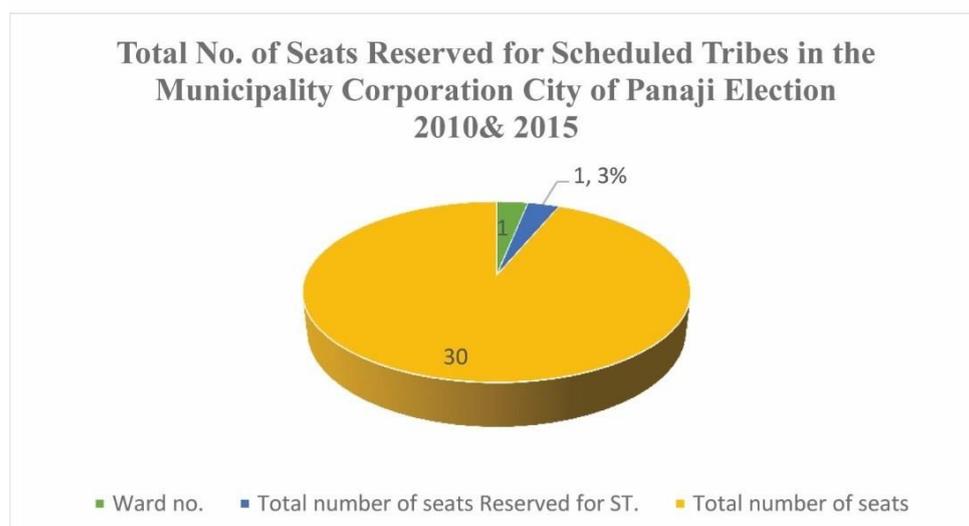
Source: Goa State Election Commission, Altino-Panaji-Goa

7. Section 10(1) of Goa Panchayat Raj Act,1994

8. Section10(2) of Goa Panchayat Raj Act,1994

9. Section 10(4) of Goa Panchayat Raj Act,1994

FIG. 10



6.3. Allocation of Funds under Tribal Sub-Plan to Government Departments in the State of Goa

The Central Government has issued guidelines for the formulation, implementation and monitoring of a Special Component Plan for the Scheduled Castes, and a Tribal Sub-Plan for the Scheduled Tribes from time to time.

The objective of the Special Component Plan and Tribal Sub-Plan is to channelize the flow of outlays and benefits from the general sectors in the Central Ministries/Departments for the development of Scheduled Castes and Scheduled Tribes at least in proportion to their population, both in physical and financial terms.

In the Mid-Term Appraisal of the Tenth Five-Year Plan it was observed that several Central Ministries/Departments did not earmark adequate funds through through the Special Component Plan (SCP) and Tribal Sub-Plan (TSP) proportionate to the share of SCs and STs in the population¹⁰.

The SCPs and TSPs should be an integral part of Annual Plans as well as Five-Year Plans, making provisions therein non-divertible and non-

¹⁰. Guideline for Utilization of TSP Funds issued by the R. Sridharan, joint Secretary (SP) to the Planning Secretary, D.O.No.M-13011/3/2005-SP-Co dated October 31,2005

lapsable, with the clear objective of bridging the gap in the socio-economic development of the SCs and STs within a period of 10 years¹¹.

The broad objectives of the SCP and TSP are: substantial reduction in poverty and unemployment, and creation of productive assets in favour of Scheduled Castes and Scheduled Tribes. The sustained growth likely to accrue through development efforts, and human resource development of the Scheduled Castes and Scheduled Tribes by providing adequate educational and health services, are provisions of physical and financial security against all types of exploitation and oppression.

A. Special Component Plan and Tribal Sub-Plan

The details of these plans are as follows-

- I. Those schemes that ensure immediate benefits for individuals or families of Scheduled Castes or Scheduled Tribes would be included in the SCP / TSP scheme.
- II. Area-oriented outlay for Scheduled Castes hamlets / villages with a plurality of Scheduled Castes population / tribal hamlets and villages shall be included in the SCP and TSP.
- III. Priority should be given to the provision of basic minimum services such as primary education, health care, drinking water, food, rural housing, rural electrification and rural road connections.
- IV. The wage component should not be included in the SCP / TSP, in particular under rural employment schemes.
- V. Schemes for the development of agriculture and related activities such as animal husbandry, dairy production, vocational training, etc. which provide a livelihood for SC and ST populations should be included.
- VI. Innovative initiatives focused on corporate financing may be drawn up in order to offset the allocation of the budget.

The state governments should take the initiative to generate awareness through electronic and print media among the general public about the

11. The importance of the Special Component Plan (SCP) and Tribal Sub-Plan (TSP) has been underlined by the Hon'ble Prime Minister while addressing the 51st Meeting of the National Development Council held on 27th June, 2005.

schemes to be implemented or being implemented for the development of SCs and STs by the different departments.

B. Monitoring of Special Component Plan and Tribal Sub-Plan

In every state, for monitoring these plans the following provisions were recommended:

- I. State and district / block oversight committees should be set up to monitor the implementation of various schemes under the SCP and TSP. The district / block level committees may review the progress of implementation of schemes and utilisation of funds on a monthly basis and the state level committee may review the progress on a quarterly basis.
- II. District and block level committees may be constituted on a similar basis of district and block level committees created by the Ministry of Rural Development, comprising elected members (MPs, MLAs and Panchayat members and other influential district leaders) or the same committees may be entrusted with monitoring responsibilities for such programs.
- III. The nodal department should ensure timely disbursement of funds to the development departments concerned that, in effect, should ensure immediate disbursement of funds shortly after receiving funds from the nodal department to their implementing agencies at field level. Any lag on the part of implementing agencies at field level in the timely use of funds and the proper implementation of schemes may be viewed as a serious lapse.
- IV. The non-marking of SCP and TSP funds that leads to the non-approval of State / UT Plans may be viewed seriously.
- V. The Ministries of Social Justice and Empowerment and Indigenous Affairs must actively participate in the process of finalising the State / UT Annual Plans.
- VI. The evaluation of the effect of SCP economic development schemes on the socio-economic conditions of SCs may be carried out on a regular basis by the nodal department. The nodal department may be

responsible for disseminating information to SCs throughout the State / UT on the schemes / programs available for their creation. The nodal department can also provide for the schemes implemented and maintenance of proper records on assets created under SCP in the district or block.

6.3.1. Allocation of Tribal Sub-plan funds to Directorate of Agriculture

The researcher has collected data from various government departments relating to the allocation of funds under the TSP. The Directorate of Tribal Welfare, Government of Goa, has allotted funds under TSP to the Directorate of Agriculture to utilize in schemes and projects for the welfare of the tribal community. Statistical data about the utilization of funds under TSP from 2006 to 2019 is clubbed together, analyzed, and shown in Table 11 and Fig. 11 below.

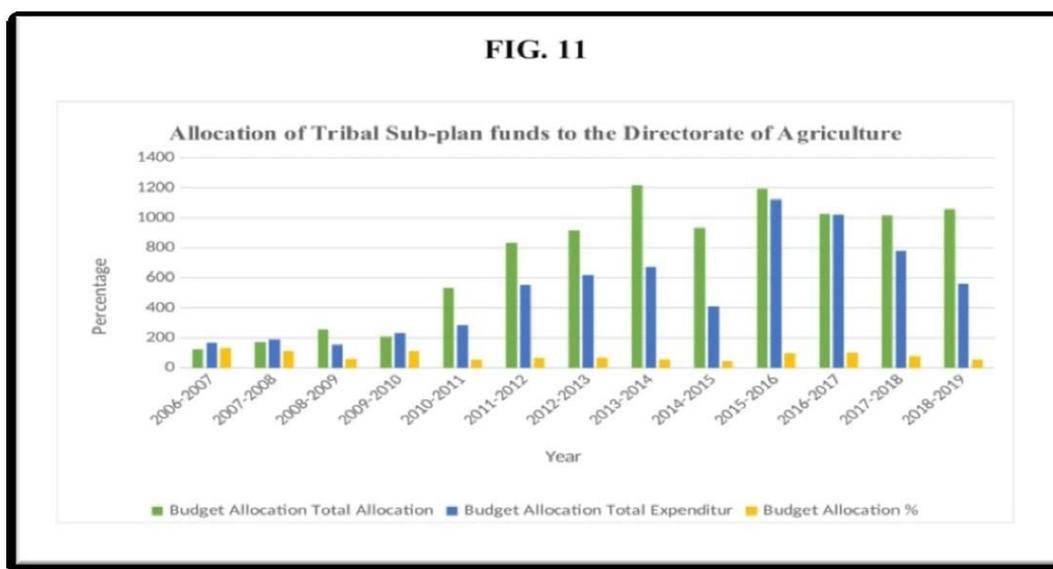
Table 11

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	123.80	165.78	133.90
2007-2008	170.68	189.82	111.21
2008-2009	257.00	152.29	59.25
2009-2010	208.00	230.79	110.95
2010-2011	530.64	282.41	53.22
2011-2012	831.84	553.73	66.56
2012-2013	916.27	620.12	67.67
2013-2014	1217.67	673.06	55.27
2014-2015	934.00	408.11	43.69
2015-2016	1191.00	1120.63	94.09
2016-2017	1025.00	1019.28	99.44
2017-2018	1015.00	777.59	76.60
2018-2019	1058.24	562.60	53.16

Source of Data: Directorate of Tribal Welfare, Government of Goa

According to the guidelines of the Tribal Sub-Plan, the Directorate of Agriculture has prepared new schemes and projects like financial assistance for purchases of agricultural input, support price and crop compensation, soil

and water conservation etc., for the benefit of tribal farmers and communities. But it is evident that in the years 2010-2011, 2013-14, 2014-15 and 2018-19 the department only spent approximately 50% of the allotted amount. It can be observed that during 2008-2009, 2011-2012 and 2012-2013, the actual total expenditure was lower than the actual total budget allocation. The details are depicted in the bar graph at Fig. 11.



6.3.2. Allocation of TSP Funds to the Directorate of Water Resources

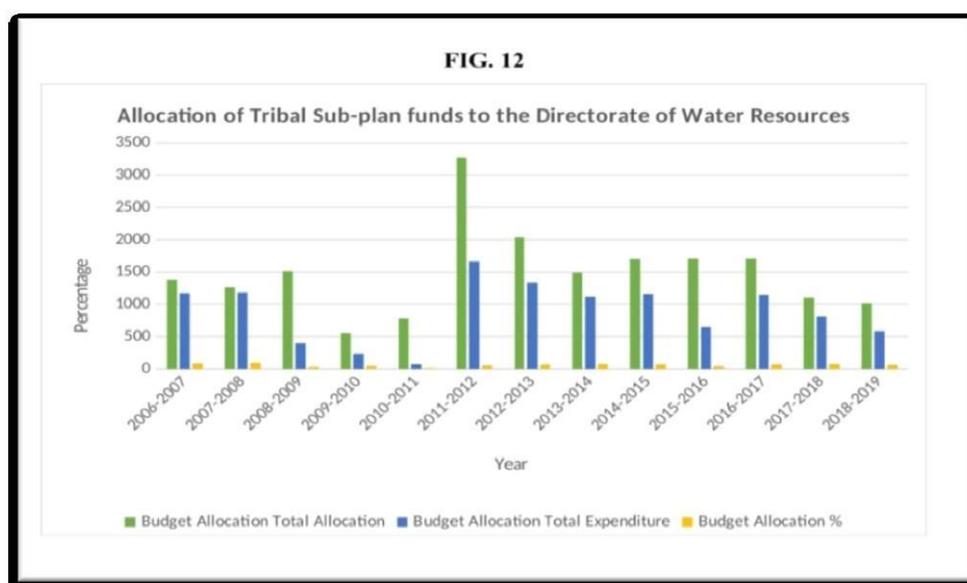
According to each Annual Plan, the Directorate of Tribal Welfare, Government of Goa has allotted funds under the TSP to the Directorate of Water Resources. These funds are to be utilized for schemes or new development projects namely major, minor and medium irrigation, flood control and anti-sea erosion and drainage in tribal dominated areas. The statistical data about the utilization of funds under the TSP from 2006 to 2019 is compiled and analyzed below.

Table 12

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	1381.65	1171.45	84.78
2007-2008	1265.72	1181.80	93.36
2008-2009	1515.00	393.50	25.97
2009-2010	554.00	234.35	42.30
2010-2011	780.00	72.72	9.32
2011-2012	3271.34	1662.35	50.81
2012-2013	2033.45	1330.29	65.42
2013-2014	1489.00	1112.24	74.69
2014-2015	1701.15	1160.04	68.19
2015-2016	1707.10	643.33	37.68
2016-2017	1706.20	1147.24	67.23
2017-2018	1100.15	813.70	73.97
2018-2019	1015.00	584.02	57.53

Source of Data: Directorate of Tribal Welfare, Government of Goa

It is evident that in the years 2008-2009 and 2010-11 the Directorate of Water Resources has hardly spend the money for the various water resources projects it was meant for, whereas in the years 2009-2010, 2011-2012 and 2015-16 there is a significant shortfall in the utilization of funds. The details are depicted in the form of a bar graph (Fig.12) below.



6.3.3. Allocation of Tribal Sub-Plan Funds to the Public Works

Department

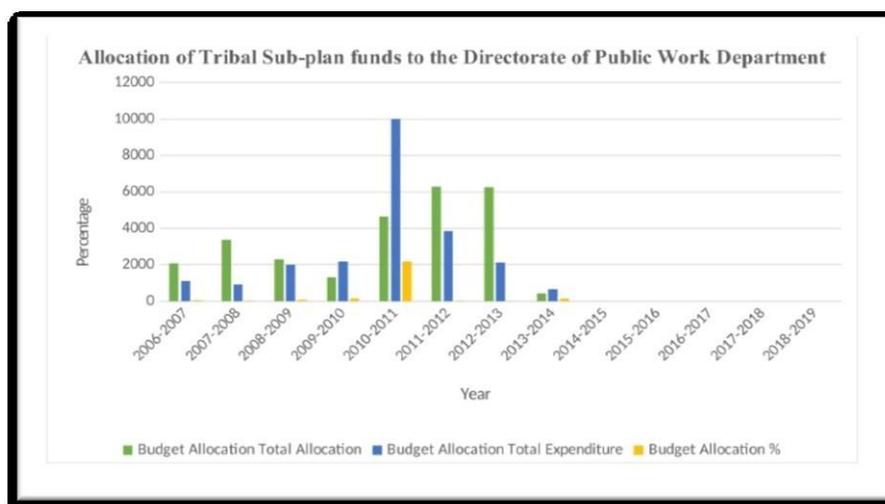
According to each Annual Plan, the Directorate of Tribal Welfare, Government of Goa has allotted funds under the TSP to the Public Works Department. These funds are to be utilized for schemes or new development projects namely water supply, sanitation and roads in rural areas with a predominant tribal population. The statistical data about the utilization of funds under the TSP from 2006 to 2019 is compiled and analyzed below.

Table 13

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	2054.52	1103.05	53.68
2007-2008	3381.00	916.84	27.11
2008-2009	2278.85	1978.06	86.80
2009-2010	1302.69	2157.88	165.64
2010-2011	4638.00	10009.92	2158.82
2011-2012	6291.44	3855.46	31.28
2012-2013	6260.58	2098.47	8.33
2013-2014	429.93	657.00	152.81
2014-2015	0.00	0.00	0
2015-2016	0.00	0.00	0
2016-2017	0.00	0.00	0
2017-2018	0.00	0.00	0
2018-2019	0.00	0.00	0

Source of Data: Directorate of Tribal Welfare, Government of Goa

According to the TSP guidelines, the PWD must utilize 100% of the allocated funds before the end of the financial year for development projects in tribal areas. The projects include road facilities, house construction, drains etc. But it is evident that unfortunately in the years 2014-15 through 2018-19 the PWD has not spend any amount for these welfare projects. Poor utilization of funds may also be observed in the years 2007-2008, 2011-12 and 2012-13. The details are depicted in the form of the bar graph in Fig. 13.

FIG-13

6.3.4. Allocation of Tribal Sub-Plan Funds to the Directorate of Municipal Administration

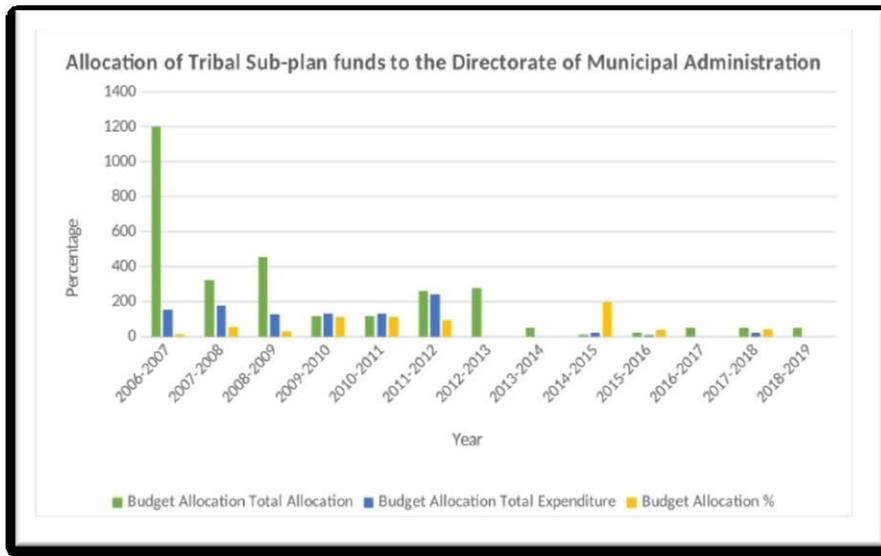
In every financial year TSP funds are allotted to the Directorate of Municipal Administration for schemes and projects like infrastructure development, improvement of roads, gutters, flood paths etc. As can be seen from Table 14 and the bar graph (Fig. 14) below, the utilization of the said funds has been very uneven. Some years the funds were not utilized at all.

Table 14

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	1200.00	151.64	12.63
2007-2008	324.00	177.76	54.86
2008-2009	456.00	128.60	28.20
2009-2010	118.00	131.96	111.83
2010-2011	118.00	132.55	112.33
2011-2012	262.00	242.22	92.45
2012-2013	276.00	0.00	0
2013-2014	50.00	0.00	0
2014-2015	10.00	19.78	197.8
2015-2016	20.00	7.55	37.75
2016-2017	50.00	0.00	0
2017-2018	50.00	19.97	39.94
2018-2019	50.00	0.00	0

Source of Data: Directorate of Tribal Welfare, Government of Goa

FIG. 14



6.3.5. Allocation of Tribal Sub-Plan Funds to the Directorate of Social Welfare

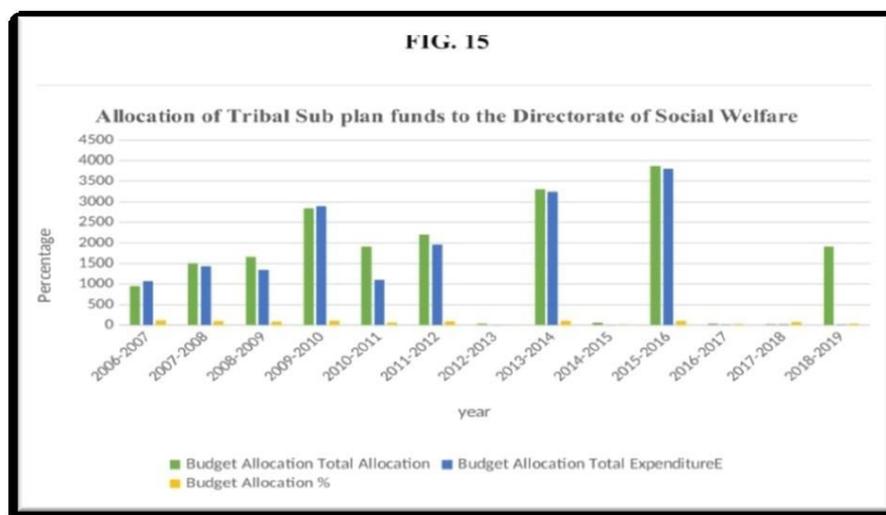
The Directorate of Social Welfare, Government of Goa, has a special responsibility to utilize the annual TSP funds for the welfare of the tribal community. Among the projects to be covered are education programmes including coaching classes for STs, construction of hostels, grants-in-aid for running hostels, housing programmes, protection of civil rights, Kanya Dhan Scheme for girls' education, award for inter-caste marriages, and Dayanand Social Security Scheme. As may be see in the following table (Table 15) and bar graph (Fig, 15), the data from 2006 to 2019 shows sometimes good and other times poor utilization of funds for welfare schemes.

Table 15

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	945.75	1070.77	113.21
2007-2008	1501.25	1440.25	95.93
2008-2009	1655.50	1349.62	81.52
2009-2010	2840.50	2897.52	102.00
2010-2011	1910.70	1100.00	57.57
2011-2012	2212.20	1957.68	88.49
2012-2013	29.00	1.35	4.65
2013-2014	3300.00	3240.89	98.28
2014-2015	53.00	2.97	5.60
2015-2016	3877.00	3806.15	98.17
2016-2017	31.00	6.97	22.48
2017-2018	17.00	11.95	70.29
2018-2019	1910.70	9.76	31.48

Source of Data: Directorate of Tribal Welfare, Government of Goa

The data shows particularly low utilisation of funds during 2012-13, 2014-15, 2016-17 and 2018-19.



6.3.6. Allocation of Tribal Sub-Plan Funds to the Directorate of Education

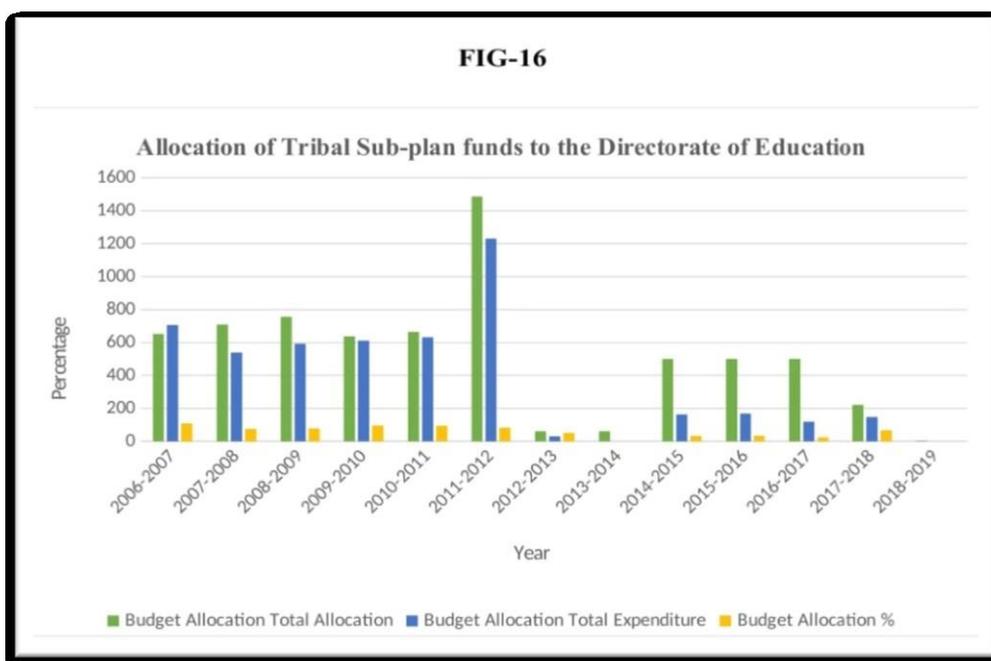
To see how the Directorate of Education utilized the Tribal Sub-Plan funds from 2006 to 2019, the relevant data is tabulated below.

Table 16

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	652.20	707.38	108.46
2007-2008	710.20	539.54	75.97
2008-2009	756.73	593.59	78.44
2009-2010	637.74	612.58	96.05
2010-2011	665.00	632.37	95.09
2011-2012	1486.00	1230.96	82.83
2012-2013	60.00	30.00	50
2013-2014	60.00	0	0
2014-2015	500.00	163.43	32.68
2015-2016	500.00	168.04	33.68
2016-2017	500.00	118.29	23.65
2017-2018	222.05	148.22	66.75
2018-2019	3.00	0.00	0

Source of Data: Directorate of Tribal Welfare, Government of Goa

According to the guidelines of the TSP, the Directorate of Education needs to prepare a good educational scheme for the empowerment of students belonging to tribal communities. The scheme should include building a school or college where necessary. It is evident the Directorate has not shown sufficient interest in the welfare of tribal students. Table 16 indicates that in 2013-14 and 2018-19 the Directorate has not spent even a rupee on the welfare of tribal students. In the years 2014-15, 2015-16 and 2016-17 less than 35% of the allotted fund has been spent. The details are shown in the form of a bar graph (Fig. 16).



6.3.7. Allocation of Tribal Sub-Plan Funds to the Electricity Department

Funds are allocated to the Electricity Department every year to give power connections to needy tribal households. The following statistical data about the utilization of the said funds tells its own story.

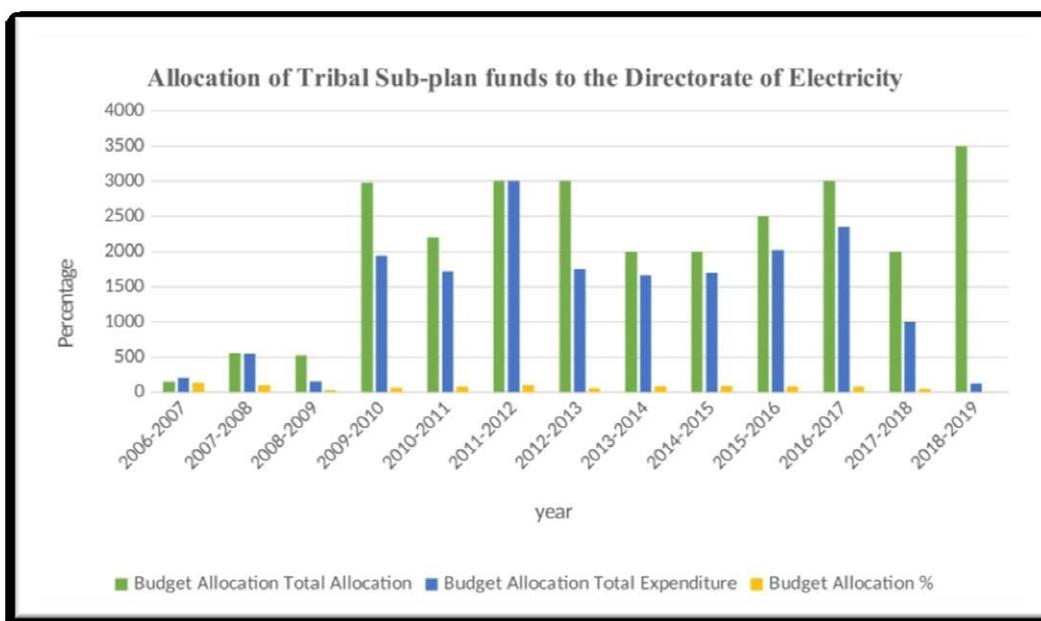
Table 17

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	150.00	206.92	137.94
2007-2008	556.76	548.83	98.57
2008-2009	524.91	150.75	28.71
2009-2010	2980.00	1942.32	65.17
2010-2011	2200.00	1719.97	78.18
2011-2012	3000.00	3002.94	100.09
2012-2013	3000.00	1749.69	58.32
2013-2014	2000.00	1662.25	83.11
2014-2015	2000.00	1702.18	85.10
2015-2016	2500.00	2022.14	80.88
2016-2017	3000.00	2350.54	78.35
2017-2018	2000.00	999.40	49.97
2018-2019	3500.00	128.40	3.66

Source of Data: Directorate of Tribal Welfare, Government of Goa

Like other departments, the Electricity Department also has not fulfilled their duty to utilize the TSP funds properly. It is evident that in 2018-19 the department has not utilized even 5 % of the funds, while in 2008-09 not even 30% has it spent. But in 2006-07 the department has utilized 37% more than the allotted funds. The details can be seen in the bar graph below.

FIG. 17



6.3.8. Allocation of TSP Funds to the Directorate of Sports & Youth Affairs

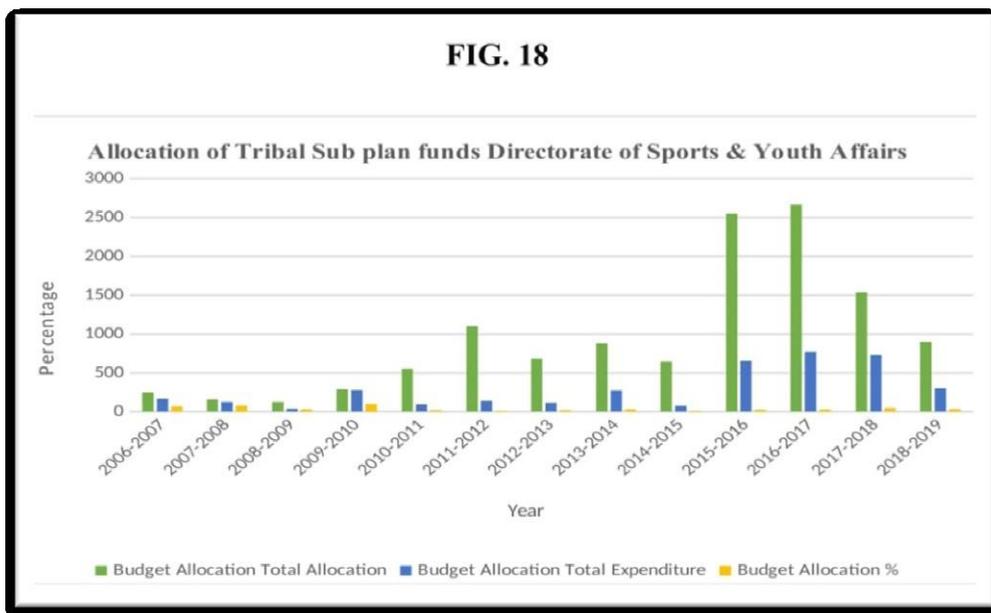
The Directorate of Sports & Youth Affairs has an obligation to utilise the TSP funds on projects for the welfare of young people from the tribal community. Here below (Table 18) is how the directorate has fared.

Table 18

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	250	169.60	67.84
2007-2008	158.00	124.53	78.81
2008-2009	125.00	38.45	30.76
2009-2010	287.00	277.94	96.84
2010-2011	554.76	93.23	16.80
2011-2012	1102.56	137.47	12.46
2012-2013	684.36	114.07	16.66
2013-2014	880.00	273.75	31.10
2014-2015	646.00	74.26	11.49
2015-2016	2550.00	656.09	25.72
2016-2017	2665.00	771.38	28.94
2017-2018	1537.85	729.89	47.46
2018-2019	900.00	300.55	33.39

Source of Data: Directorate of Tribal Welfare, Government of Goa

It can be observed that the Directorate of Sports & Youth Affairs has not utilized the allocated funds properly for several years. It is also evident that not even the 40% of the funds were spent for 9 years out of the 13 years. Only in the year 2009-2010 the directorate spent the expected amount. The details are depicted in the form of a bar graph (**Fig 18**).



6.3.9. Allocation of Tribal Sub-Plan Funds to the Directorate of Women & Child Development

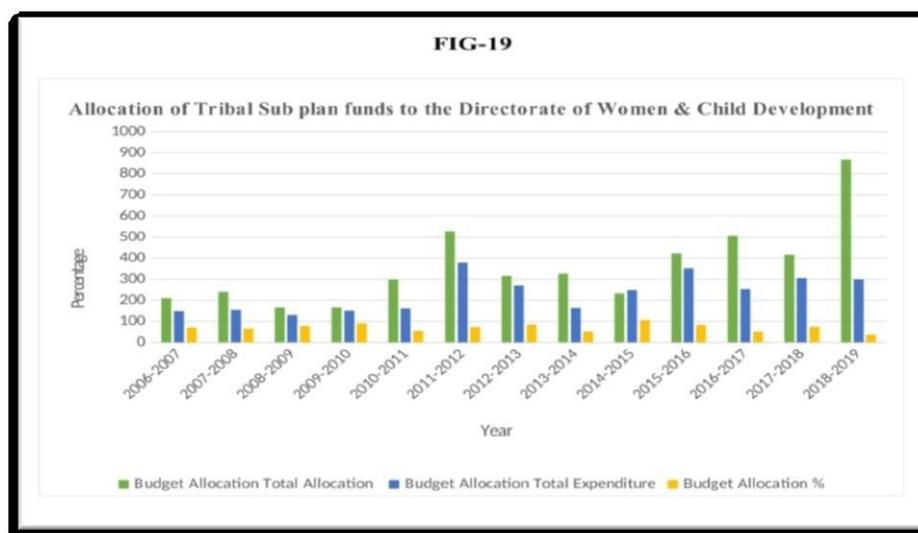
Funds are annually allocated under the TSP to the Directorate of Women & Child Development to be utilized for integrated child development services and supplementary nutrition programmes for the welfare of the tribal community. From 2006 to 2019, the directorate utilized the following amounts.

Table 19

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	210.84	147.14	69.78
2007-2008	237.84	153.19	64.40
2008-2009	165.24	128.33	77.66
2009-2010	165.24	149.17	90.17
2010-2011	298.57	160.62	53.79
2011-2012	528.05	378.50	71.67
2012-2013	316.70	269.07	84.96
2013-2014	326.30	162.44	49.78
2014-2015	231.26	246.82	106.72
2015-2016	423.61	349.79	82.57
2016-2017	506.21	251.97	49.77
2017-2018	417.23	306.37	73.42
2018-2019	868.79	299.46	34.46

Source of Data: Directorate of Tribal Welfare, Government of Goa

It can be observed that the Directorate of Women & Child Development has utilised the funds allocated under the TSP better than other departments, with more than 65% spent during several years. Only in 2013-14, 2016-17 and 2018-19 less than 50% was spent. The details can be seen at a glance in the bar graph below (**Fig. 19**).



6.3.10. Allocation of Tribal Sub-Plan Funds to the Directorate of Health

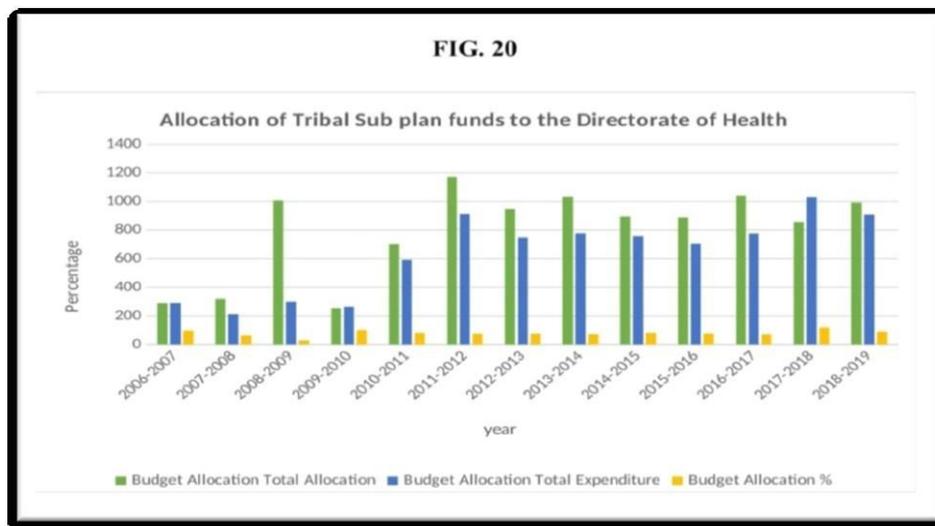
The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the TSP to the Directorate of Health for health schemes for the welfare of the tribal community. The statistical data compiled below at Table 20 and Fig. 20 show that from 2006 to 2019 the Directorate of Health has consistently utilized the funds allotted to it every year. Except for the year 2008-2009, the utilization has been in the range of 60% and above. In 2017-18 the Directorate spent well over 100% of the allocation.

Table 20

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	290.86	292.74	100.64
2007-2008	321.00	211.96	66.03
2008-2009	1006.00	301.71	29.99
2009-2010	255.00	265.67	104.18
2010-2011	705.00	591.00	83.82
2011-2012	1173.25	913.73	77.88
2012-2013	949.75	749.04	78.86
2013-2014	1031.47	777.38	75.36
2014-2015	895.50	759.41	84.80
2015-2016	890.01	706.65	79.39
2016-2017	1040.01	775.23	74.54
2017-2018	855.69	1029.61	120.32
2018-2019	991.30	909.66	91.76

Source of Data: Directorate of Tribal Welfare, Government of Goa

The bar graph at Fig. 20 clearly shows that this department has functioned properly, playing the vital role entrusted to it.



6.3.11. Allocation of Tribal Sub-Plan Funds to the Directorate of Animal Husbandry and Veterinary Services

The Directorate of Animal Husbandry and Veterinary Services has to utilize the allocated funds for such schemes as the purchase of milch animals, tribal farmers' training including study tours, etc. The statistical data from 2006 to 2019, clubbed together in Table 21, shows the following results.

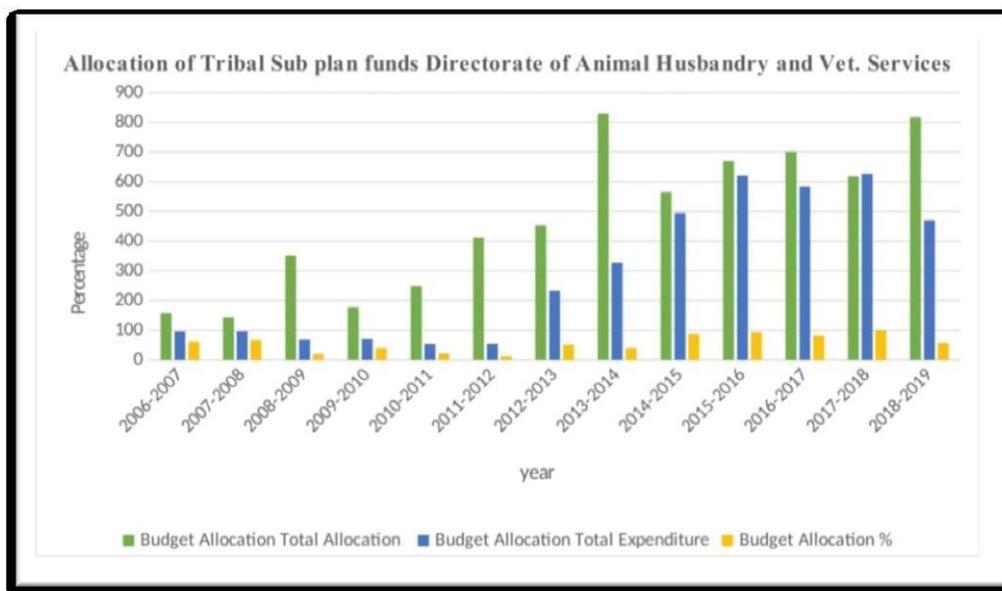
Table 21

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	157.10	96.14	61.67
2007-2008	144.00	96.89	67.28
2008-2009	352.00	68.46	19.44
2009-2010	177.06	70.33	39.72
2010-2011	247.72	53.88	21.75
2011-2012	410.88	54.85	13.34
2012-2013	452.44	233.64	51.63
2013-2014	830.10	328.20	39.53
2014-2015	564.93	494.29	87.49
2015-2016	669.93	621.00	92.69
2016-2017	700.36	584.44	83.44
2017-2018	617.63	626.93	101.50
2018-2019	817.63	470.17	57.50

Source of Data: Directorate of Tribal Welfare, Government of Goa

Table 21 shows that for five years out of the thirteen years studied, the Directorate of Animal Husbandry and Veterinary Services failed to utilize the allocated funds well. Except for the years 2015-16 and 2017-18, it has not spent more than 90% of the funds. The details can be seen in the bar graph on Fig. 21.

FIG-21



6.3.12. Allocation of Tribal Sub-Plan Funds to the Forest Department

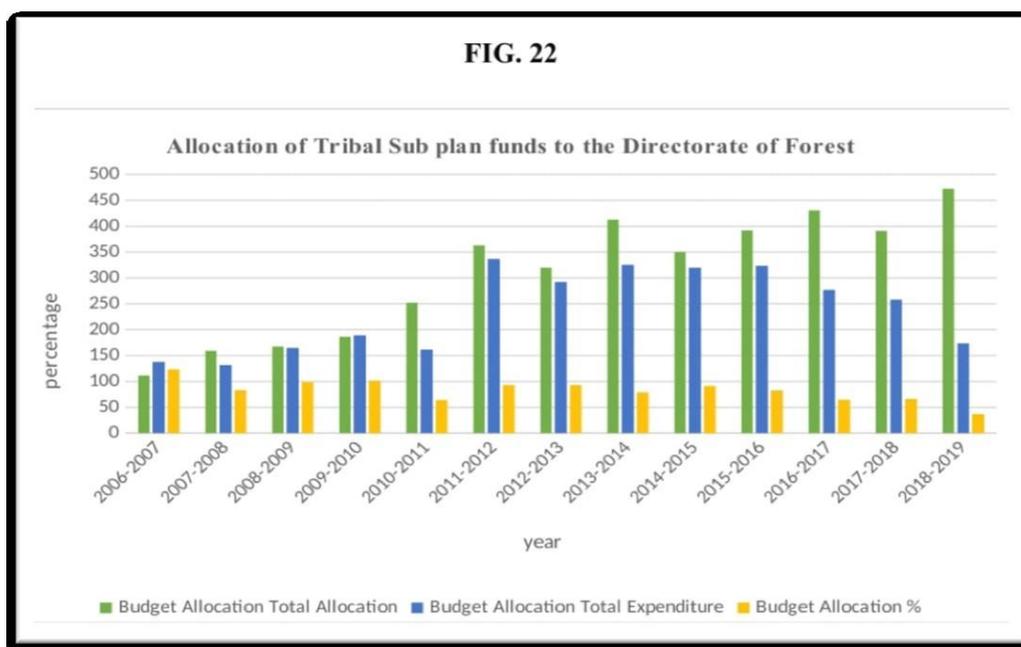
The Forest Department receives yearly funds under the TSP for the establishment and maintenances of firewood depots, for raising plantations under social forestry, for raising and maintaining nurseries and plantations, and for promoting eco-tourism especially benefiting the tribal community. The utilisation pattern from 2006 to 2019 is compiled below at Table 22.

Table 22

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	111.30	137.44	123.48
2007-2008	159.00	131.79	82.88
2008-2009	167.52	164.62	98.26
2009-2010	186.30	188.96	101.42
2010-2011	252.00	161.54	64.10
2011-2012	362.90	336.68	92.77
2012-2013	319.92	292.19	92.89
2013-2014	412.50	325.46	78.89
2014-2015	350.00	319.78	91.36
2015-2016	392.00	323.29	82.47
2016-2017	430.50	276.96	64.33
2017-2018	391.07	258.25	66.03
2018-2019	472.50	173.31	36.67

Source of Data: Directorate of Tribal Welfare, Government of Goa

Based on Table 22 the following observations may be made. Except in the year 2018-19, the Forest Department has utilized more than 60% funds allocated yearly for the specified purpose. It can be observed that the department has been functioning properly in the matter of utilizing the funds for tribal communities. The details are highlighted below in the form of a bar graph (**Fig. 22**).



6.3.13. Allocation of Tribal Sub-Plan Funds to the Department of Rural Development

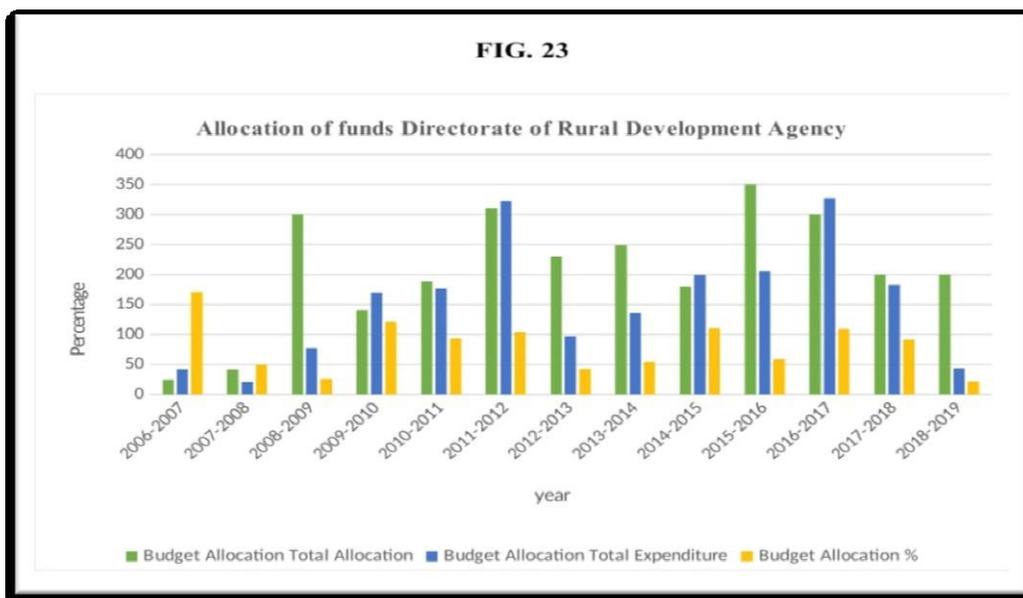
The Department of Rural Development is one of the important departments in implementing tribal welfare schemes, namely Indira Awaas Yojana/ Pradhan Mantri Gramin Awaas Yojana, and Sampoorna Grameen Rojgar, in the State of Goa. The statistical data about the utilization of funds from 2006 to 2019 is compiled in Table 23.

Table 23

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	24.60	42.06	170.97
2007-2008	42.00	20.75	49.40
2008-2009	300.00	77.34	25.78
2009-2010	140.60	169.84	120.79
2010-2011	188.80	176.67	93.57
2011-2012	310.00	322.32	103.97
2012-2013	230.00	97.31	42.30
2013-2014	249.00	136.23	54.71
2014-2015	180.25	199.53	110.69
2015-2016	350.00	205.05	58.58
2016-2017	300.00	327.43	109.14
2017-2018	200.00	182.58	91.29
2018-2019	200.00	43.54	21.77

Source of Data: Directorate of Tribal Welfare, Government of Goa

An analysis of Table 23 reveals that the funds were unevenly utilised for the welfare of the tribals for the last 13 years. Only in 9 years did the department spend more than 50% of the money. It is also evident that during 2008-09, 2018-19 the department has failed to fulfil the objectives of the welfare schemes. The details are depicted in the form of the bar graph at Fig. 23.



6.3.14. Allocation of Tribal Sub-Plan Funds to the Directorate of Panchayats

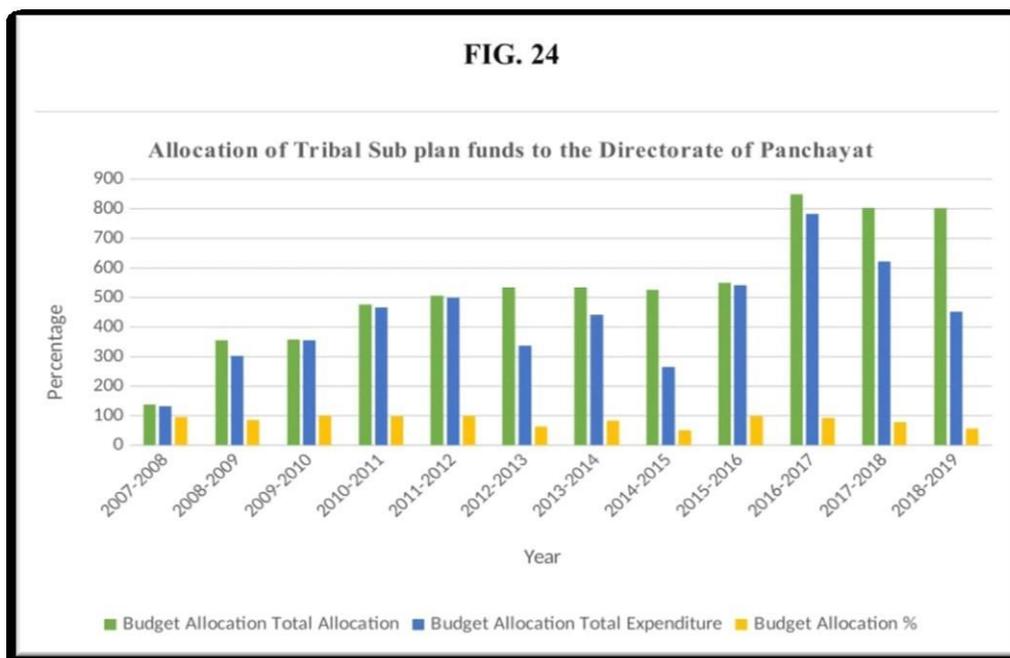
The Directorate of Panchayats is also given an important role in the welfare of tribal communities. For several welfare schemes it receives funds from the Government under the TSP. The statistical data about the utilization of these funds from 2006 to 2019 is clubbed together in Table 24.

Table 24

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2007-2008	138.00	131.64	95.39
2008-2009	355.00	302.43	85.19
2009-2010	357.50	355.00	99.30
2010-2011	476.00	466.06	97.91
2011-2012	505.68	499.62	98.80
2012-2013	534.47	336.80	63.01
2013-2014	534.47	441.72	82.64
2014-2015	525.80	264.78	50.35
2015-2016	550.00	541.35	98.42
2016-2017	849.02	782.39	92.15
2017-2018	802.12	621.98	77.54
2018-2019	802.00	452.12	56.37

Source of Data: Directorate of Tribal Welfare, Government of Goa

As can be seen from the Table 24, and pictorially in the bar graph in Fig 24, the Directorate of Panchayats has performed well by spending approximately 90% of the allocated the money during 8 years out of the 13 years in this study. It can also be observed that during the remaining 5 years it successfully spent more than 60 % of the allocated the funds. This shows that the Directorate of Panchayats has substantially fulfilled the objectives of the TSP.



6.3.15. Allocation of Tribal Sub-Plan Funds to the Directorate of Fisheries

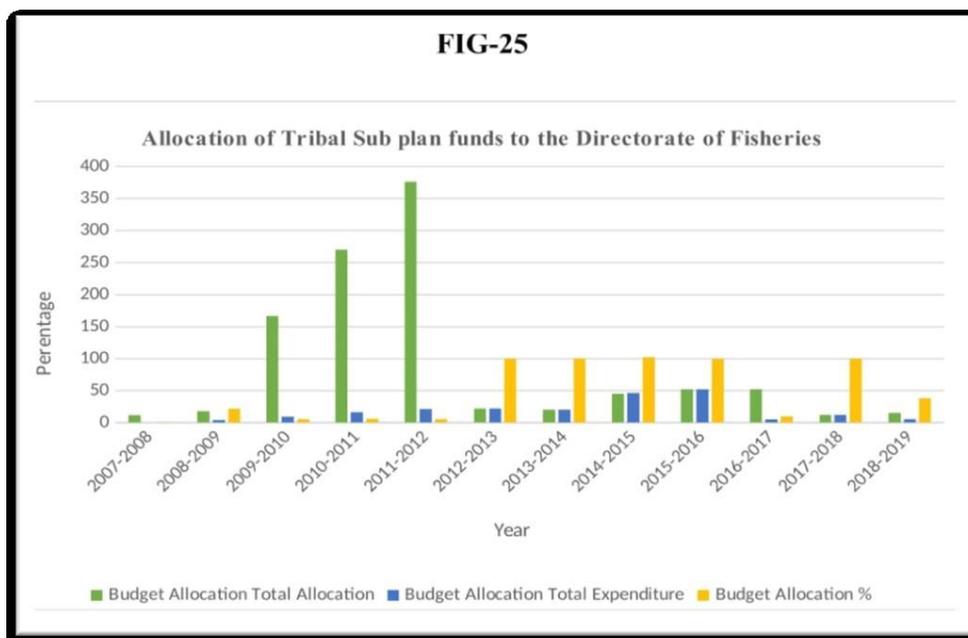
The Directorate of Fisheries receives TSP funds annually to implement several programmes for the welfare of the Scheduled Tribes in the State of Goa. The utilization of the above funds during the years 2006 to 2019 is tabulated below.

Table 25

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2007-2008	11.60	0.06	0.51
2008-2009	17.94	3.86	21.51
2009-2010	166.95	9.40	5.63
2010-2011	270.00	16.36	6.05
2011-2012	376.00	21.30	5.66
2012-2013	22.00	22.00	100
2013-2014	20.00	20.00	100
2014-2015	45.2	46.27	102.36
2015-2016	52.00	51.77	99.55
2016-2017	52.00	4.99	9.59
2017-2018	12.00	11.99	99.91
2018-2019	15.00	5.70	38

Source of Data: Directorate of Tribal Welfare, Government of Goa

From Table 25 and the bar graph in Fig. 25, it is evident that the Directorate of Fisheries has seen ups and downs in the utilization of TSP funds. From 2012 to 2016 proper utilization was made, whereas in some years, even when the allocated funds were less than 25 lakhs, less than 10 % of the funds were used.



6.3.16. Allocation of Tribal Sub-Plan Funds to the State Directorate of Craftsmen Training

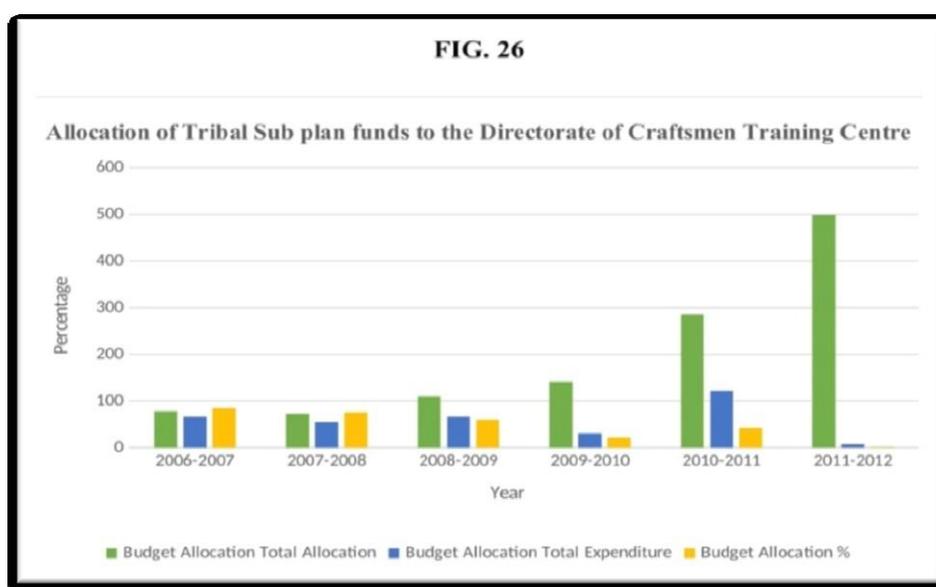
The Directorate of Craftsmen Training is mainly established for the purpose of training unemployed youth in various skills. Under the TSP funds are allocated the for tribal people to learn various skills in the training center. The statistical data on the utilization of the said funds from 2006 to 2012 is shown below in Table 26 and Fig. 26.

Table No.26

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	78.00	66.30	85
2007-2008	72.60	54.98	75.73
2008-2009	110.00	66.24	60.21
2009-2010	141.00	30.68	21.75
2010-2011	285.25	122.31	42.87
2011-2012	499.20	7.66	1.534

Source of Data: Directorate of Tribal Welfare, Government of Goa

The above table reveals that for three years the utilization of funds was above 60%, while for the next three years the directorate failed to utilize the funds appropriately. The bar graph below reveals this more starkly.



6.3.17. Allocation of Tribal Sub-Plan Funds to the Directorate of Industry, Trade and Commerce

The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the Tribal Sub-Plan to the Directorate of Industry, Trade and Commerce every year. The utilization of funds for the welfare of the tribal community from 2012 to 2019 is shown below at Table 27 and Fig. 27.

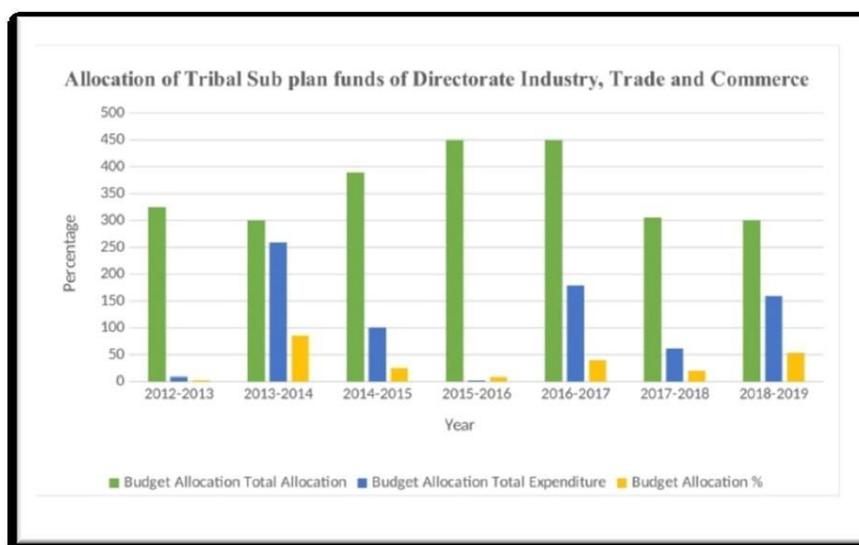
Table 27

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2012-2013	325.00	9.00	2.76
2013-2014	300.00	258.81	86.27
2014-2015	390.00	100.73	25.82
2015-2016	450.00	2.23	8.49
2016-2017	450.00	178.75	39.72
2017-2018	306.00	61.82	20.20
2018-2019	300.00	159.34	53.11

Source of Data: Directorate of Tribal Welfare, Government of Goa

Table 27 reveals that except for the year 2013-14, in the remaining years the department has failed to utilize the funds properly, and it is also evident that in 2012-13 the department almost did not utilize the funds. The details are visible in the bar graph below (Fig.27).

FIG. 27



6.3.18. Allocation of Tribal Sub-Plan Funds to the Directorate of Information Technology

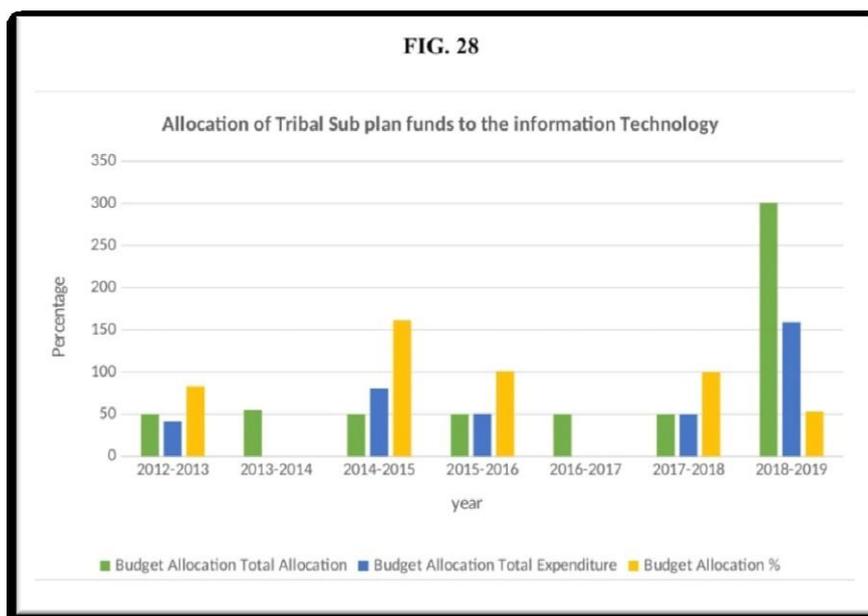
The Directorate of Information Technology also receives yearly funds under the Tribal Sub-Plan to be utilized through various schemes and projects. The statistical data on the utilization of these funds from 2012 to 2019 is shown in Table 28.

Table 28

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2012-2013	50.00	41.41	82.82
2013-2014	55.00	0.00	0
2014-2015	50.00	80.72	161.44
2015-2016	50.00	50.53	101.06
2016-2017	50.00	0.00	0
2017-2018	50.00	50.00	100
2018-2019	300.00	159.34	53.11

Source of Data: Directorate of Tribal Welfare, Government of Goa

The data shows that the Directorate of Information Technology completely failed to utilize the funds in 2013-14 and 2016-17, but did well in the remaining years.



6.3.19. Allocation of Tribal Sub-Plan Funds to the Registrar of Cooperative Societies

The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the TSP to the Registrar of Cooperative Societies for empowering the tribal community. The statistical data about the utilization of funds from 2012 to 2019 is compiled in Table 29.

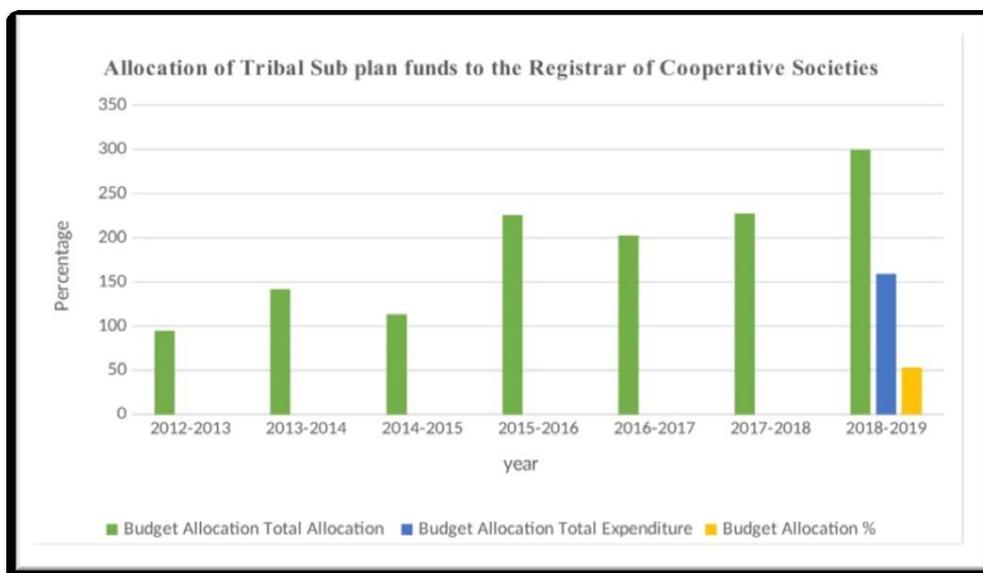
Table 29

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2012-2013	94.90	0.00	0
2013-2014	142.10	0.00	0
2014-2015	113.25	0.00	0
2015-2016	225.60	0.00	0
2016-2017	202.43	0.00	0
2017-2018	227.52	0.00	0
2018-2019	300.00	159.34	53.11

Source of Data: Directorate of Tribal Welfare, Government of Goa

It observed that the Registrar of Cooperative Societies has totally failed in utilizing the allocated funds from 2012-13 to 2017-2018. Only in the year 2018-19 some funds were utilized. The details are depicted in Fig. 29.

FIG. 29



6.3.20. Allocation of Tribal Sub-Plan Funds to the Directorate of Skill Development & Entrepreneurship

The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the TSP to the Directorate of Skill Development and Entrepreneurship for empowering the tribal community. The statistical data about the utilization of funds from 2012 to 2019 is compiled in Table 30.

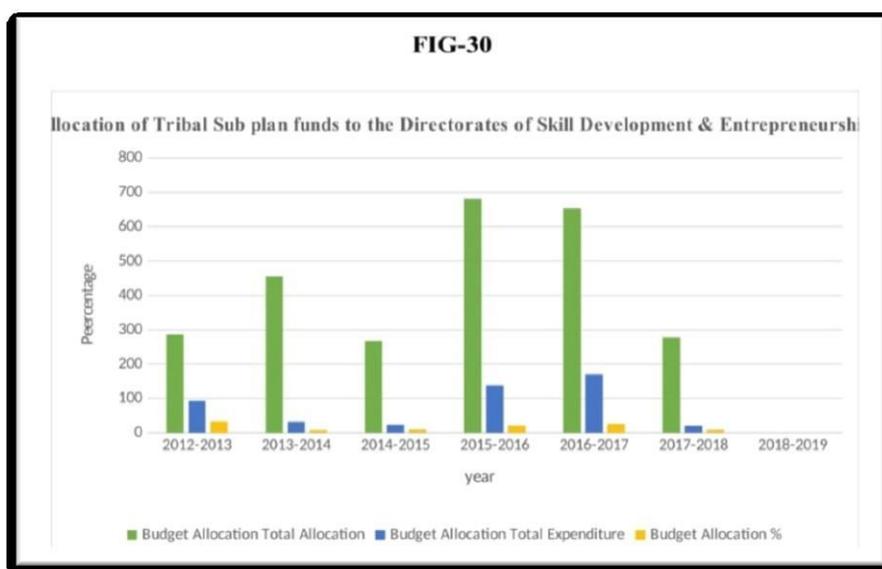
Table 30

(Rs. in Lakhs)

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2012-2013	286.00	92.43	32.31
2013-2014	456.30	31.46	6.89
2014-2015	267.75	23.28	8.69
2015-2016	680.00	138.52	20.37
2016-2017	652.95	169.62	25.97
2017-2018	277.44	20.78	7.48

Source of Data: Directorate of Tribal Welfare, Government of Goa

It is evident from Table 30 that the Directorate of Skill Development & Entrepreneurship drastically failed to utilize the funds given to it for the welfare of the STs. Out of the six years for which the present researcher has collected information, not even in a single year has the directorate spent more than 33% of the allocated funds. This shows that it has failed to function for the welfare of tribal people in the State of Goa. The details are depicted in the form of a bar graph at Fig. 30.



6.3.21. Allocation of funds to the Directorate of Art & Culture

The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the TSP to the Directorate of Art and Culture for empowering the tribal community and facilitating the preservation of their unique culture. The Directorate is expected to conduct cultural shows/course/camps/workshops, provide financial assistance for organizing Kala Sanman, and disburse special grants to cultural institutions and organizations. The statistical data about the utilization of funds from 2006 to 2019 is compiled in Table 31.

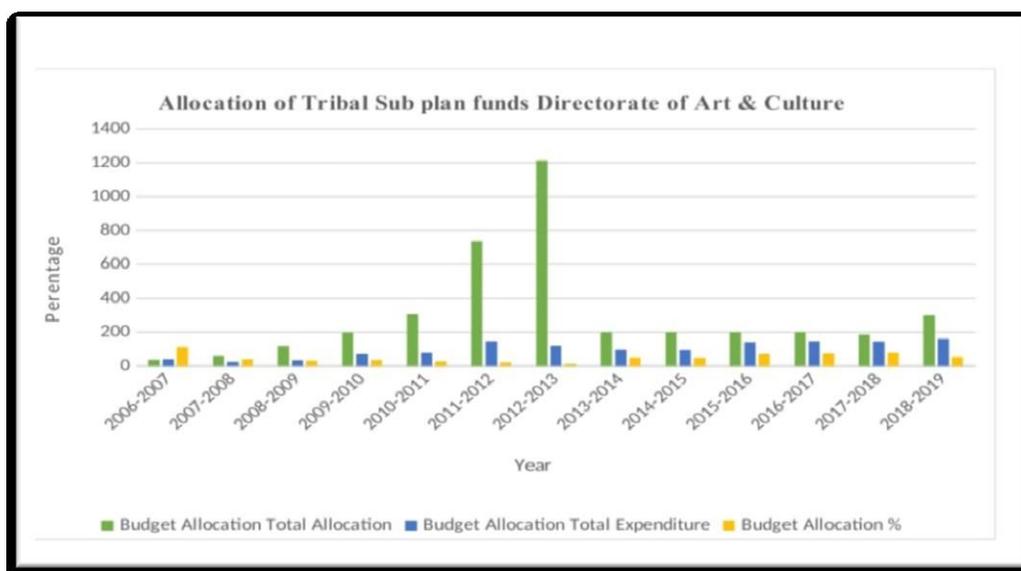
Table 31

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2006-2007	36.22	39.90	110.16
2007-2008	57.50	22.99	39.98
2008-2009	115.48	33.08	28.64
2009-2010	197.43	69.22	35.06
2010-2011	306.00	78.08	25.51
2011-2012	736.72	144.83	19.65
2012-2013	1213.07	117.43	9.68
2013-2014	200.00	97.70	48.85
2014-2015	200.00	94.68	47.34
2015-2016	200.00	138.24	69.12
2016-2017	200.00	145.62	72.81
2017-2018	184.73	143.96	77.92
2018-2019	300.00	159.34	53.11

Source of Data: Directorate of Tribal Welfare, Government of Goa.

From Table 31 it is evident that only in 2006-7 did the Directorate of Art & Culture fully utilize the funds allotted to it for the benefit of the tribal community. In all the other years, not much effort was shown. The bar graph below illustrates this.

FIG. 31



6.3.22. Allocation of Tribal Sub-Plan Funds to the Tourism Department

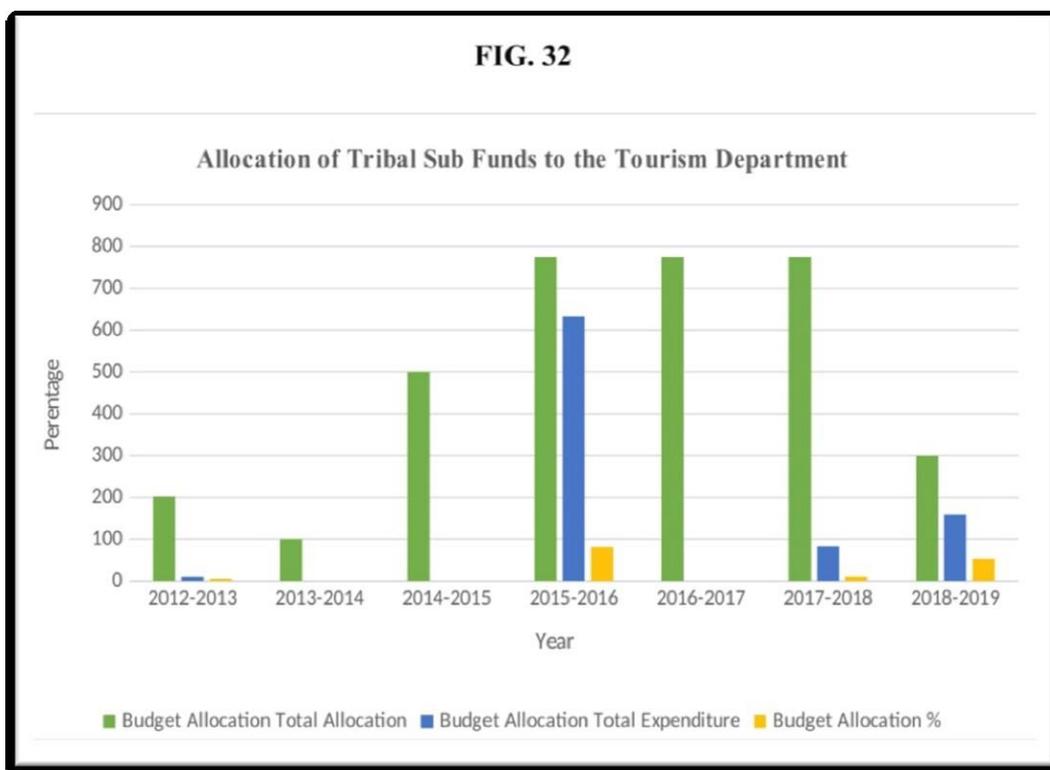
The Directorate of Tribal Welfare, Government of Goa, has allotted funds under the TSP to the Tourism Department for empowering the tribal community. The statistical data about the utilization of funds from 2012 to 2019 is compiled in Table 32.

Table 32

Year	Budget Allocation		
	Total Allocation (Rs. in Lakhs)	Total Expenditure (Rs. in Lakhs)	%
2012-2013	202.32	10.41	5.14
2013-2014	100.00	0.00	0
2014-2015	500.00	0.00	0
2015-2016	775.00	632.94	81.66
2016-2017	775.00	0.00	0
2017-2018	775.00	82.94	10.70
2018-2019	300.00	159.34	53.11

Source of Data: Directorate of Tribal Welfare, Government of Goa

By observing Table 32 it is clear that only in the years 2015-16 and 2018-19 the Tourism Department utilized more than 50% of the allotted funds. In the remaining five years, the expenditure is not more than 10%, in fact it is nil during 2013-14, 2015-16 and 2016-17. The details are depicted below in bar graph form.



6.4. Study on the Performance of the SC/ST Commission

The State Commission for the SC/STs has the right to hear complaints from any aggrieved persons on the subject of atrocities committed on members of SC/STs, the non-implementation of the Reservation Policy and other related issues.

In order to statistically analyses the number of complaints pending and disposed of before it, the following data was collected from the Goa State Commission for Scheduled Castes and Scheduled Tribes.

6.4.1. Complaints of Atrocities against STs

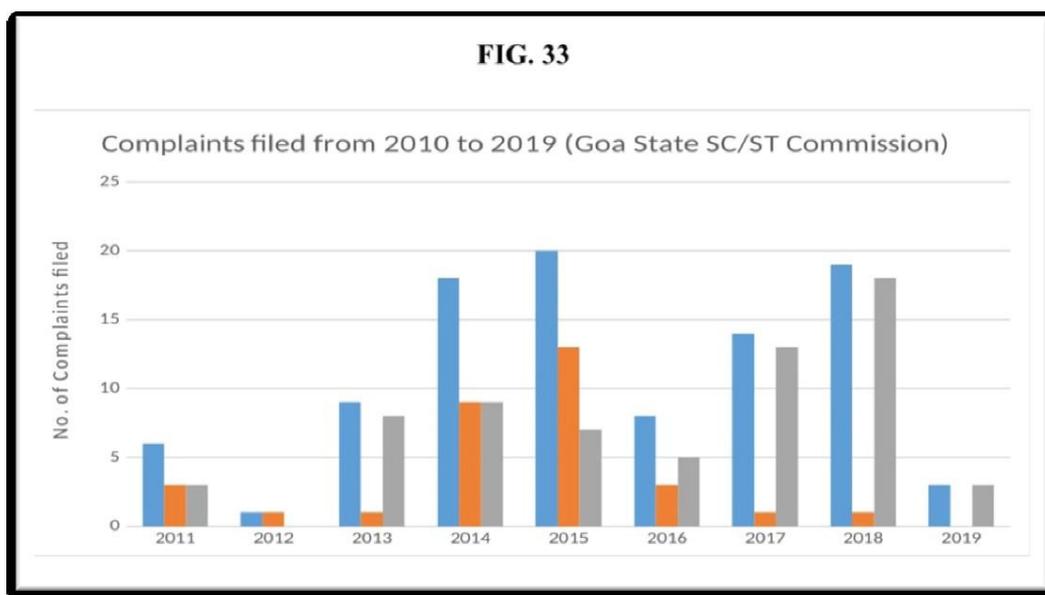
The present researcher collected the following statistical data personally by visiting the Goa State Commission for SC/ST, and thereafter the collected data was compiled, and analyzed into three heads, namely, complaints filed, disposed of, and pending before the State Commission. The data covers a nine-year period.

Table 33

Year	No. of Complaints Filed	Disposed of	Pending
2011	6	3	3
2012	1	1	0
2013	9	1	8
2014	18	9	9
2015	20	13	7
2016	8	3	5
2017	14	1	13
2018	19	1	18
2019	3	0	3
	Total: 98	Total: 32	Total: 66

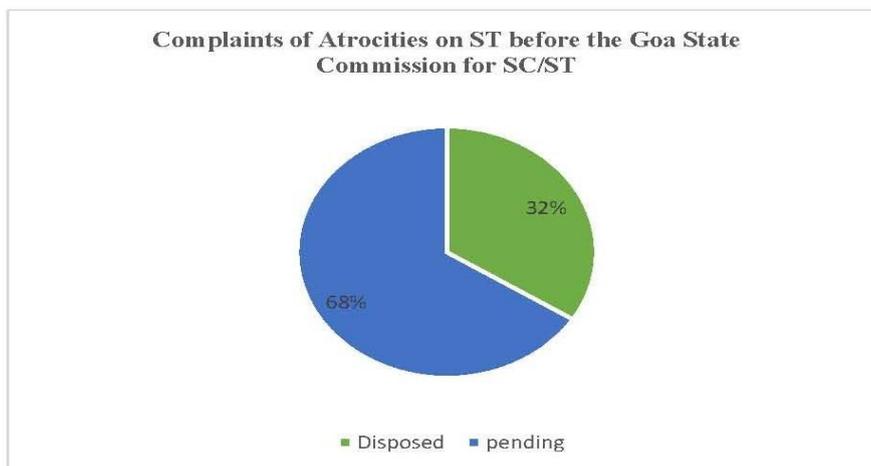
Source: Records of Goa State SC/ST Commission

From the Table 33 above, it is observed that more than 50% of the cases are pending before the Commission. The details are depicted in the form of the bar graph at Fig. 33.



The performance of the Commission proved ineffective in the speedy disposal of complaints. The Commission has not disposed of more than 40% of the cases, as can be seen at a glance from the pie chart below at Fig. 34.

FIG. 34



6.4.2. Complaints of Non-Implementation of the Reservation Policy

There are several complaints filed before the Commission on non-implementation of the reservation policy. At least one complaint was filed in each year from 2011 to 2019. The collected data has been compiled in the following table.

Table 34

Year	Total No. of Complaints	Disposed	pending
2011	1	0	1
2012	5	1	4
2013	5	1	4
2014	5	2	3
2015	4	2	2
2016	7	5	2
2017	16	7	9
2018	6	1	5
2019	1	0	1
	Total: 50	20	30

Source: Records of Goa State SC/ST Commission complaints filed from 2010 to 2019

It is observed that except in 2012-13, the Commission has failed to disposed of 60% of the cases. The details depicted in the bar graph at Fig. 35 and the pie chart at Fig. 36.

FIG. 35

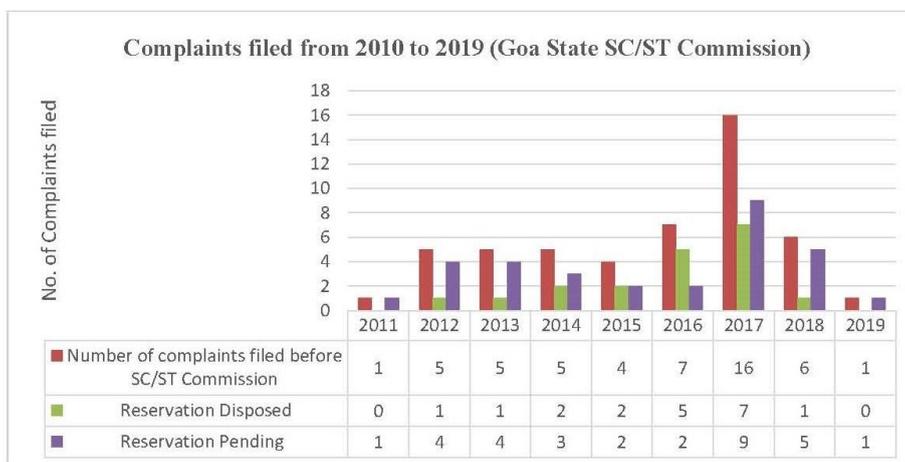
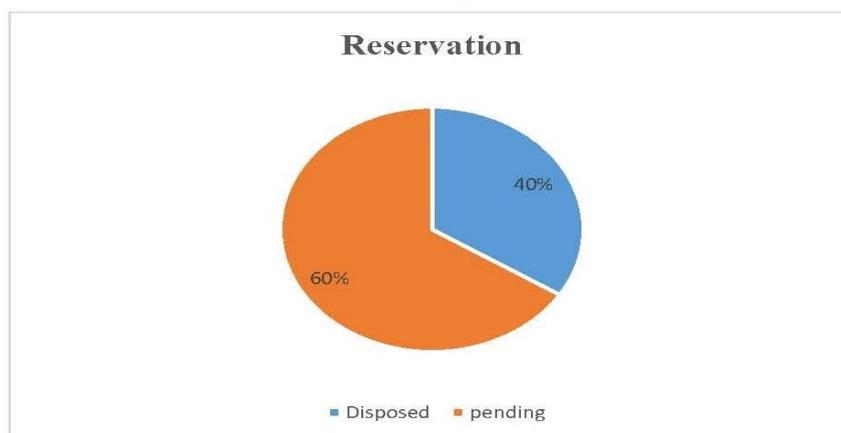


FIG. 36



6.4.3. Complaints of Non-Implementation of Reservation Policy in Promotions

As per the Constitutional mandate the State has to follow the Reservation Policy even in promotions. The present researcher has collected data of nine years with regard to complaints of non-implementation the Reservation Policy in promotions. The data is shown in the following table.

Table 35

Year	Total No. of Complaints	Disposed of	Pending
2011	2	1	1
2012	1	1	0
2013	1	1	0
2014	3	3	0
2015	3	2	1
2016	1	0	1
2017	4	2	2
2018	5	0	5
2019	2	1	1
	Total:22	11	11

Source: Records of Goa State SC/ST Commission complaints filed from 2010 to 2019

It is observed from Table 35, that the Commission has disposed of only 50% of the cases only 50%. The same is depicted below at Fig. 37 and Fig. 38.

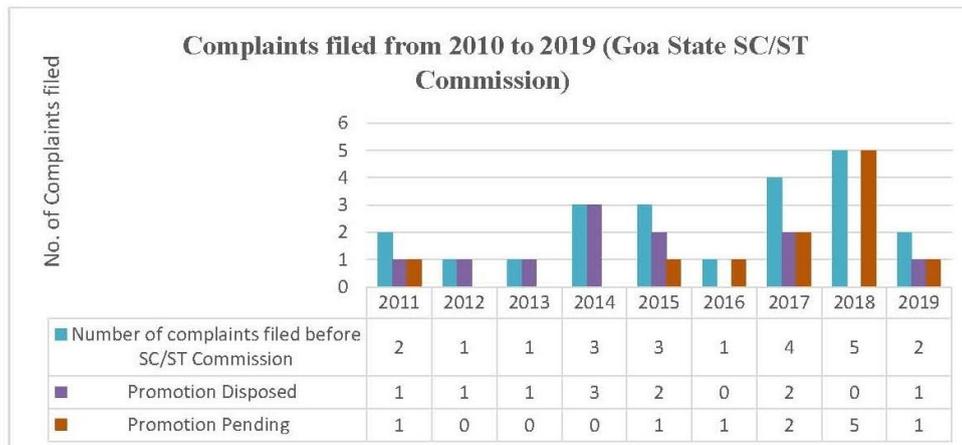
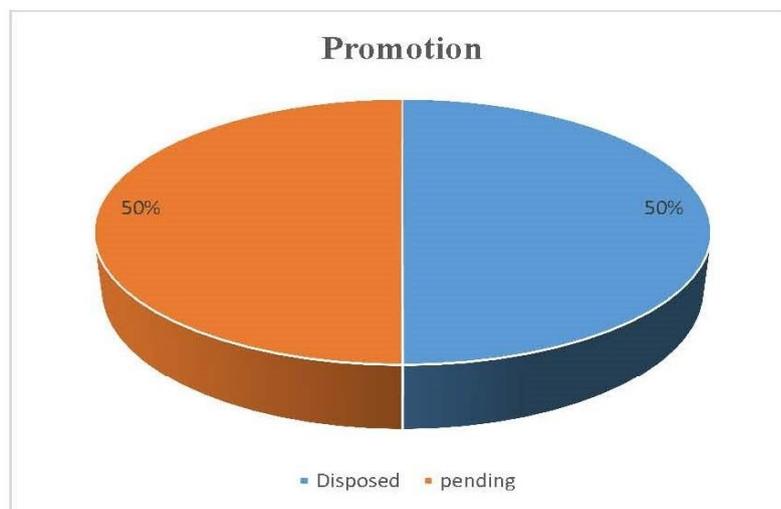
FIG. 37

FIG. 38



6.4.4. Complaints about Other Issues

The Commission has also can hear complaints with regard to property matters like encroachment on tribal lands etc. The data collected relates to complaints in this category over a period of nine years. The same is compiled in the table below.

Table 36

Year	Total No. of Complaints	Disposed of	Pending
2011	1	0	1
2012	3	0	3
2013	6	6	0
2014	1	0	1
2015	1	1	0
2016	2	1	1
2017	10	01	09
2018	15	03	12
2019	1	0	1
	Total:40	Total:12	Total:28

Source: Records of Goa State SC/ST Commission complaints filed from 2010 to 2019

It is evident from Table 36 that the Commission has disposed of only 33% of the cases which are pending from 2011. The details are depicted in the form of a bar graph (Fig. 39) showing individual years and a pie chart (Fig. 40) showing all the years together.

FIG. 39

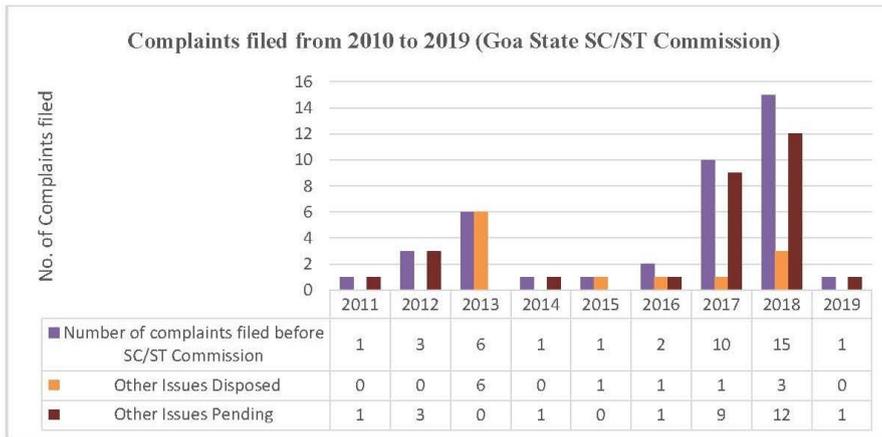
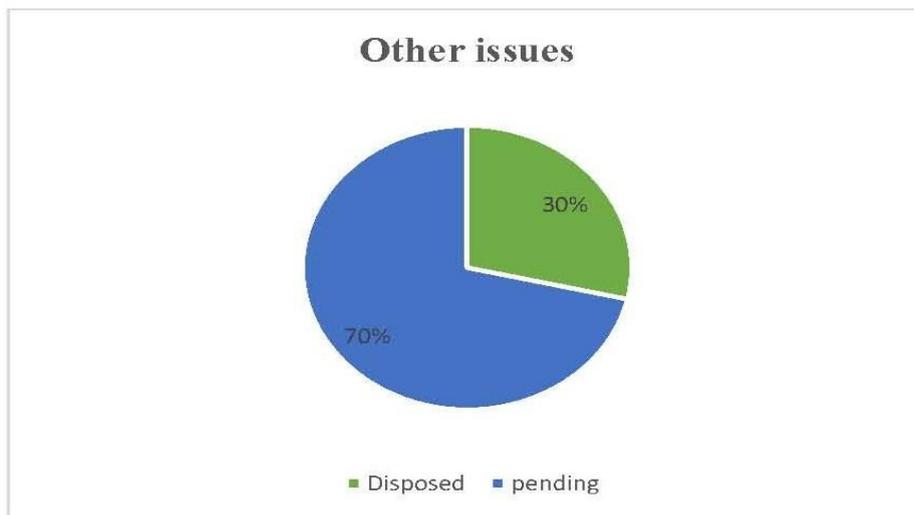


FIG. 40



6.5. Investigation into the Working of the Goa State Commission for Scheduled Castes and Scheduled Tribes

The Constitutional safeguards to the Scheduled Tribes are important to ensure the uplift of the members of the Scheduled Tribes in the country. The concept of social justice guides the administration of social welfare facilities in every state. Here we discuss how such facilities have been implemented in the State of Goa.

For the purpose of in-depth research, data was collected from complainants before SC/ST Commission, from tribal leaders and from members of the ST communities in North and South Goa. Further, the present researcher interviewed a few tribal leaders, advocates who are directly involved with matters related to members of the ST communities. Three sets of questionnaires were prepared to gather the information. The table below shows the number of respondents.

Table 37

Sr. No.	Total No.	Total No. Of Tribal People.	Total No. of Complainants	Total No. of Tribal Leaders
1.	609	500	78	31

6.5.1. Opinion Survey of Complainants by Questionnaire Method

This part of the thesis discusses how the Goa State Commission for Scheduled Castes and Scheduled Tribes is functioning. For the purpose of in-depth research, the data was collected from the various complaints before the Commission. 78 complainants were selected at random from North and South Goa. The complainants consisted of tribal leaders and tribal people. This sample therefore, represents the opinion of the Scheduled Tribes in the State of Goa. The information collected through the questionnaires was tabulated and summarized. For the benefit of clarity and brevity, each question is shown separately with the help of a table and a chart.

All the respondents gave a positive response about the need for the Goa State Commission for Scheduled Castes and Scheduled Tribes. Significantly, 10% of the above were of the unanimous opinion that the Chairperson of the Commission must be a graduate in law.

1. How are people aware about the Goa State Commission for Scheduled Castes and Scheduled Tribes?

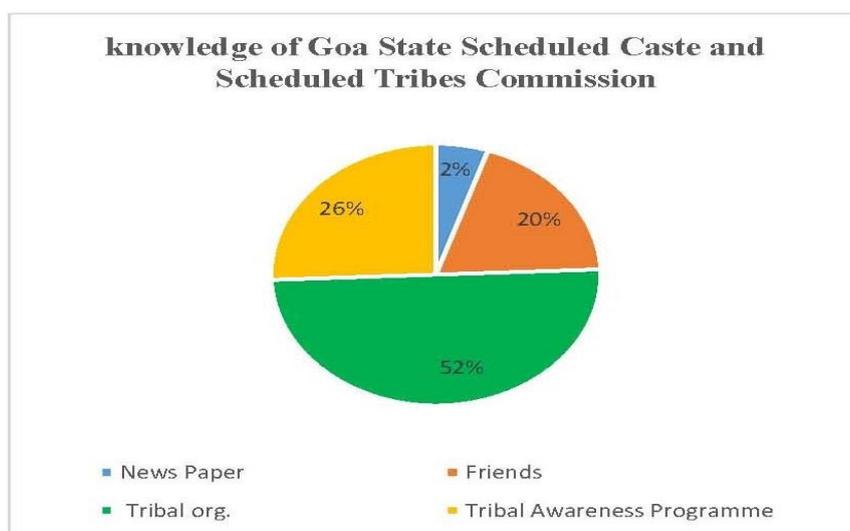
Table 38

	Subject	Answers
1.	Newspapers	4
3.	Friends	15
4.	Tribal organisations	39
5.	Tribal awareness programmes	20
	Total	78

Source: Data collected through interview, letter and email

Asked how they were aware about the existence of the Goa State Commission for Scheduled Castes and Scheduled Tribes, 40% said their awareness came through tribal originations, 20% through tribal awareness programmes, 15% and 4% through friends and newspapers respectively. The details of the table are shown in the form of a pie chart (**Fig. 41**).

FIG. 41



2. Nature of Complaint

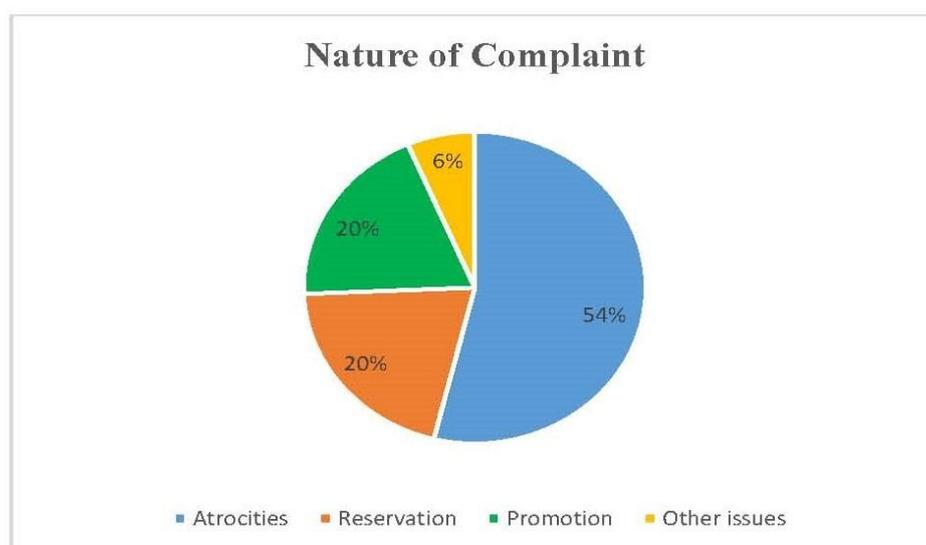
Table 39
Nature of Complaint

	Subject	Complaints
1.	Atrocities	42
2.	Reservation	16
3.	Promotion	15
4.	Other Issues	05
	Total	78

Source: Primary data through interview method

The information was received from the complainants about the nature of complaints filed by them before the commission. It was observed that major portion (54%) of the complaints relate to atrocities on Scheduled Tribes. The second most common complaints are with regard to the non-implementation of the reservation policy. Lastly, promotion and other issues like property issues are 20% and 6% respectively. It was observed that atrocities on members of the ST community are still prevalent in society. Also, the reservation policy introduced in 1950 is not properly implemented even now. The details are shown in Fig 42.

FIG. 42



3. Mode of Representing the Complaint

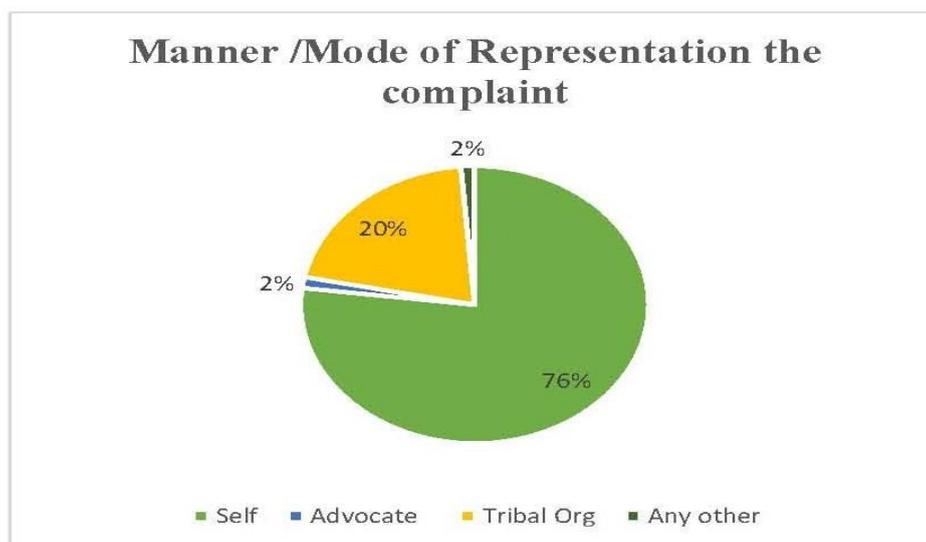
Table 40

	Subject	Complaint
1.	Self	60
2.	Advocate	01
3.	Tribal Organization	16
4.	Any other	01
	Total	78

Source: Data collected through interview, letter and email

Asked how they presented their complaint before the Commission, the majority (76%) of the complainants said they fielded their own complaints. 20% said their complaints were fielded through a tribal organization. At a glance, the details can be seen in the pie chart below (**Fig. 43**).

FIG-43



4. Whether legal or other fees were paid.

Table 41

	Subject	Complaint
1.	Agree	19
2.	Disagree	59
	Total	78

Source: Data collected through interview, letter and email

It was observed that the majority of complainants (around 76%) agreed that they have not paid fees to file complaints before SC/ST Commission, having themselves filled the required form and represented themselves, without any legal counsel. The remaining 24% complainants said that they incurred expenditure to file complaints before SC/ST Commission. The details are depicted in the form of a pie chart (**Fig. 44**).

FIG. 44



5. Number of hearings

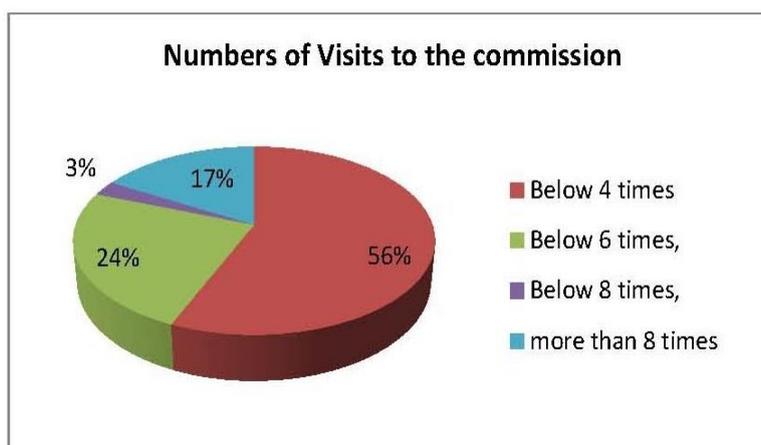
Table 42

	Subject	Complaint
1.	Below 4 times	44
2.	Below 6 times,	19
3.	Below 8 times,	02
4.	More than 8 times	13
	Total	78

Source: Data collected through field work, interview, letter and email

The information received as to the number of hearings which were conducted in each complaint, 56% of complainants replied that they visited the SC/ST Commission less than 4 times. 24% complainants responded that they visited the SC/ST Commission less than 6 times, 3% less than 8 times and 17% more than 8 times. The details are depicted in the form of the pie chart at Fig. 45.

FIG. 45



6. Time taken to decide the complaint

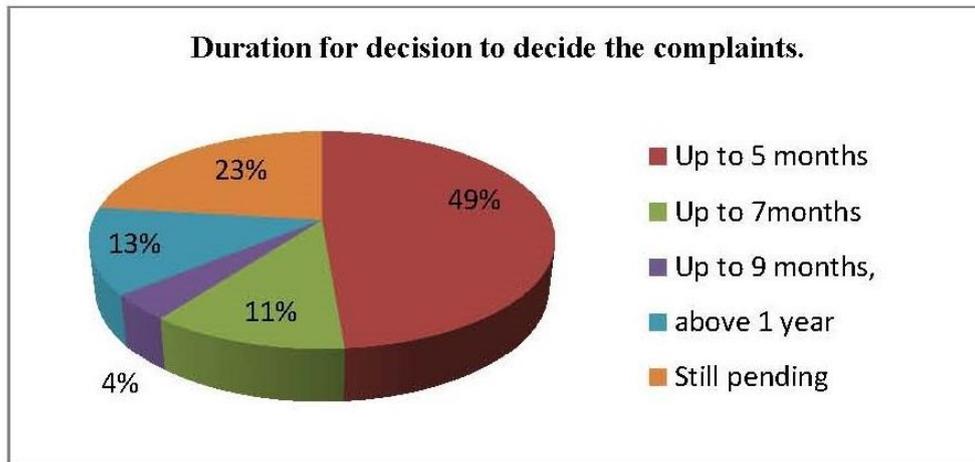
Table 43

	Subject	Complaint
1.	Up to 5 months	38
2.	Up to 7 months	09
3.	Up to 9 months,	03
4.	above 1 year	10
5.	Still pending	18
	Total	78

Source: Data collected through interview, letter and email

The response from 49% of the complainants was that their complaints were settled within 5 months. Some decisions took up to 9 months. Pendency was 23% which is not little. The details are depicted below in the form of a pie chart.

FIG. 46



7. Reasons for delay in deciding complaints

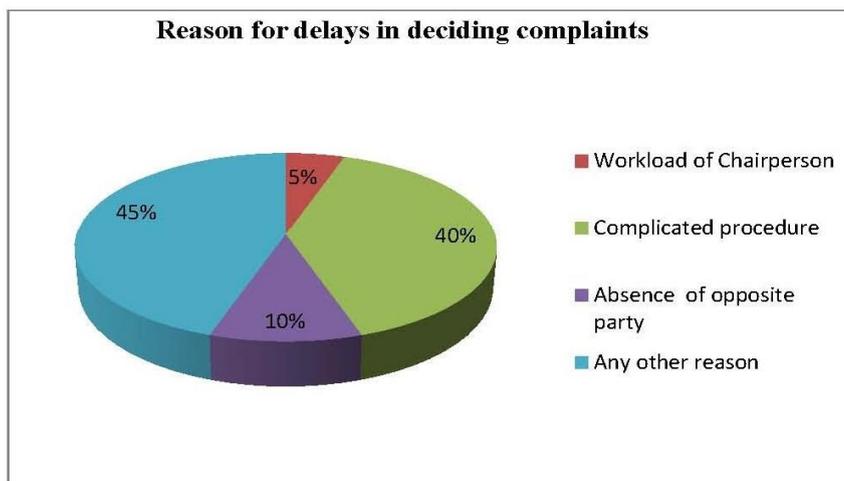
Table 44

	Subject	Complaint
1.	Workload of Chairperson	04
2.	Complicated procedure before the Commission	31
3.	Non-appearance of opposite party	08
4.	Any other reason	35
	Total	78

Source: Data collected through interview, letter and email

From Table 44 it can be seen that in 40% of cases the complicated procedure is one of the obstacles to deciding complaints speedily. Occasionally, the chairperson, being a member of several committees, is busy attending other meetings, and so postpones deciding the complaint. There are many other reasons cited for delays, as can be seen in the pie chart below.

FIG. 47



8. The Scheduled Tribes’ satisfaction with the Commission

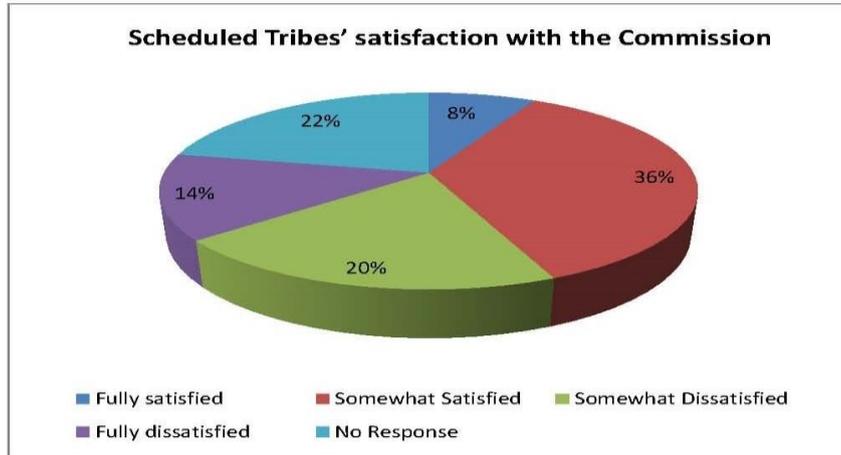
Table 45

	Subject	Complaint
1.	Fully satisfied	06
2.	Somewhat Satisfied	28
3.	Somewhat Dissatisfied	16
4.	Fully dissatisfied	11
5.	No Response	17
	Total	78

Source: Data collected through interview, letter and email

The analysis of Table 45 above reflects both positive and negative replies, while 22% did not respond. 8% were fully satisfied whereas 36% were somewhat satisfied. 14% were totally dissatisfied. It appears that the Commission is not functioning up to the expectations of the complainants. The details are depicted in the form of a pie chart (Fig. 48).

FIG. 48



9. Chairperson's Requirement of Specific Qualifications

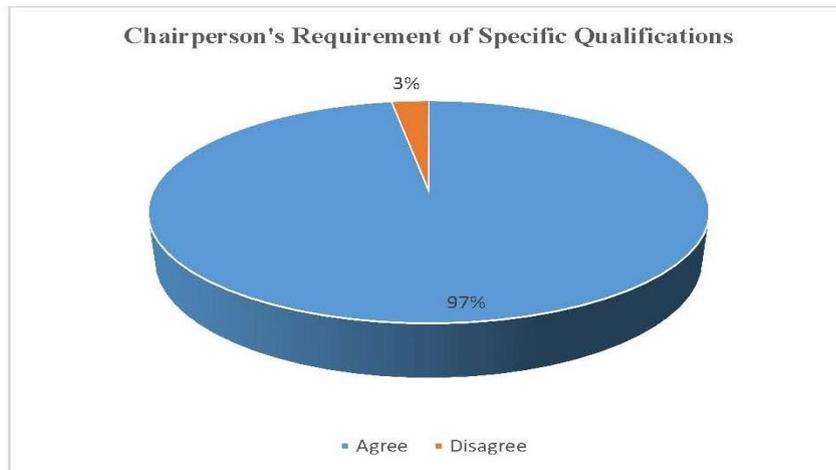
Table 46

	Subject	Complaint
1.	Agree	76
2.	Disagree	02
	Total	78

Source: Data collected through interview, letter and email

With regard to the qualifications of the chairperson, the response of 97% was that the chairperson should be a law graduate. Thus:

FIG. 49



6.5.1.1. Suggestions obtained from complainants through questionnaires

The following are the suggestions made by complainants with regard to their redressal through the Goa Commission for Scheduled Castes and Scheduled Tribes.

(i) To provide a free legal aid service

The State-sponsored free legal aid to deserving persons can also be extended to representation before the Goa Commission for Scheduled Castes and Scheduled Tribes, by which the tribal people can represent their grievances properly. In addition, the legal service authority would need to conduct legal awareness programmes among the tribal people.

(ii) Chairperson's Qualification

It is desirable that only a person trained in law be appointed as chairperson of the Goa Commission for Scheduled Castes and Scheduled Tribes. The option of appointing a person who has experience in social work may be deleted.

(iii) Direction of the commission must have sanctity

The directions issued by the Commission must be recognised as on par with the award of a tribunal. The Government has to give importance to the Goa Commission for Scheduled Castes and Scheduled Tribes, and has to follow its directions strictly, so that people will trust the Commission.

(iv) Compensation

The Commission must have the authority to pass an order of compensation from the accused to the victim.

(v) Simple Procedure

The procedure of dealing with complaints before the SC/ST Commission has to be made simple so that tribal people can access the Commission confidently.

(vi) Full-time Commission

The Commission must function six days in a week so that grievances can be settled expeditiously.

6.5.2. Opinion Survey of Tribal Leaders by the Questionnaire Method

To find out the opinions of tribal leaders with regard to the implementation of the reservation policy and the administration of social welfare schemes within the State of Goa, the present researcher used the questionnaire method. In this way he interviewed 31 tribal leaders including MLAs, community organization leaders, teachers who actively participate in the tribal organizations, judicial officers and advocates belonging to the tribal community. The following is the categorization of respondents who answered the questionnaire.

Table 47

Sr. No.	Category	No.of Respondents
1.	MLA	02
2.	Communities Organisation Leaders	18
3.	Teachers	03
4.	Judges	02
5.	Advocates	05
6.	Public Servants	01
	Total	31

1. Tribal policy helps the tribals to come into the mainstream

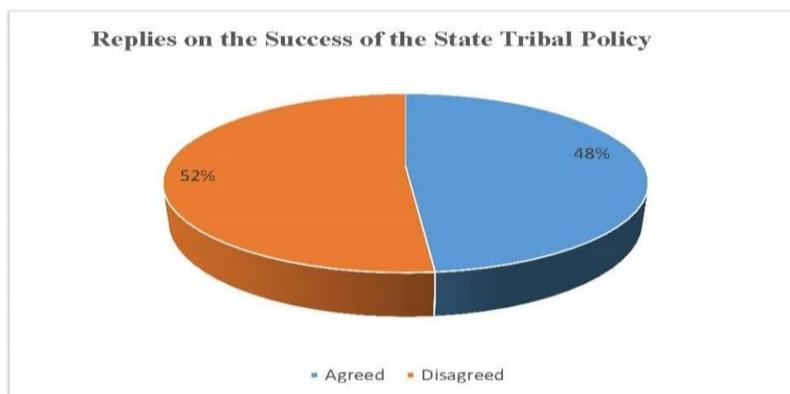
Table 48

	Profession	Agreed	Disagreed
1.	Judge	2	0
2.	Advocate	2	3
3.	Public servant	1	0
4.	MLA	1	1
5.	Tribal leader	06	12
6.	Teacher	3	0
		15	16

Source: Data collected through questionnaires

The responses have been analyzed and compiled in the form of percentages in the following pie chart. It is evident that 48% of respondents agreed and 52% disagreed that the state government's tribal policy, seeking to bring the Scheduled Tribes into the mainstream of society through various schemes, is on the right track.

FIG-50



2. Scheduled Tribes in the State of Goa are receiving the benefits of Constitutional and legal rights

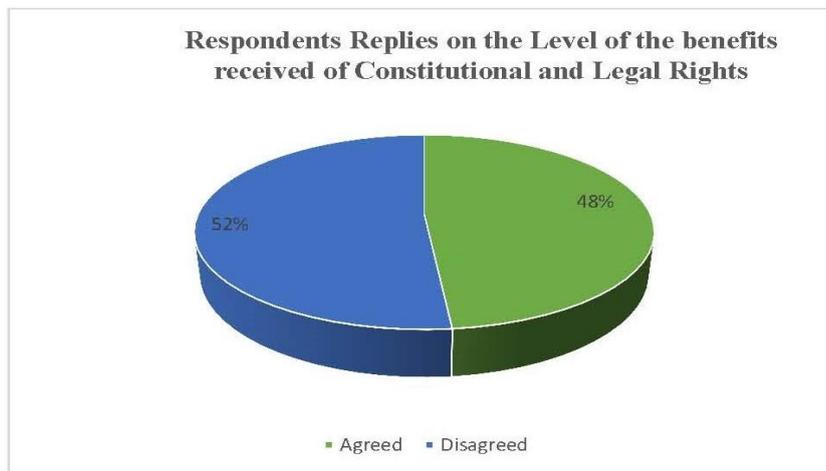
Table 49

	Profession	Agreed	Disagreed
1.	Judge	1	1
2.	Advocate	2	3
3.	Public servant	-	1
4.	MLA	1	1
5.	Tribal leader	02	16
6.	Teacher	3	-
	Total	15	16

Source: Data collected through questionnaires

The responses have been analyzed and compiled in the form of percentages in the following pie chart (Fig. 51). It is evident that 48% admitted that tribal people are receiving their constitutional and legal rights. But 52% of the respondents, including almost all the tribal leaders, expressed dissatisfaction in the matter.

FIG. 51



3. Are government departments, colleges and the University implementing the reservation policy satisfactorily?

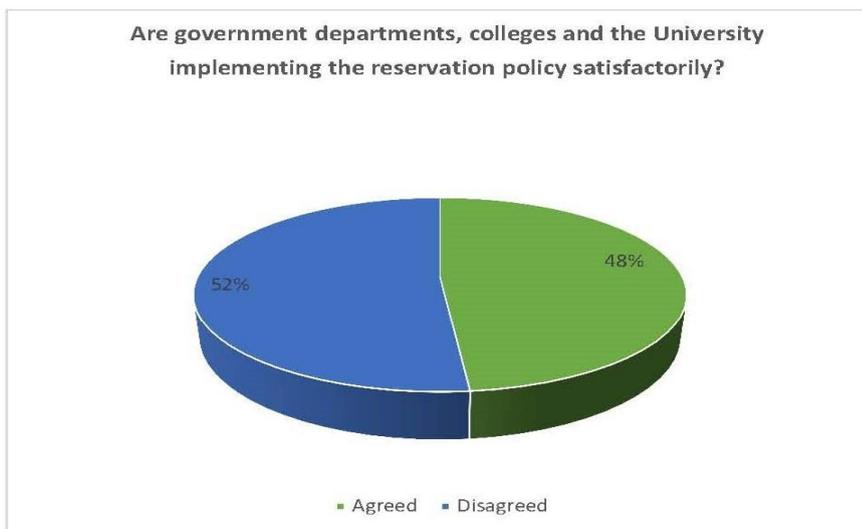
Table 50

	Profession	Agreed	Disagreed
1.	Judge	2	0
2.	Advocate	2	3
3.	Public servant	1	0
4.	MLA	1	1
5.	Tribal leader	06	12
6.	Teacher	3	0
		15	16

Source: Data collected through questionnaires

It can be observed that opinions are almost evenly divided, as 48% of tribal influencers agreed and 52% disagreed that government departments and educational institutions in Goa implement the reservation policy according to law.

FIG. 52



4. Has the Government of Goa been fulfilling the demands of Scheduled Tribes with regard to political reservation?

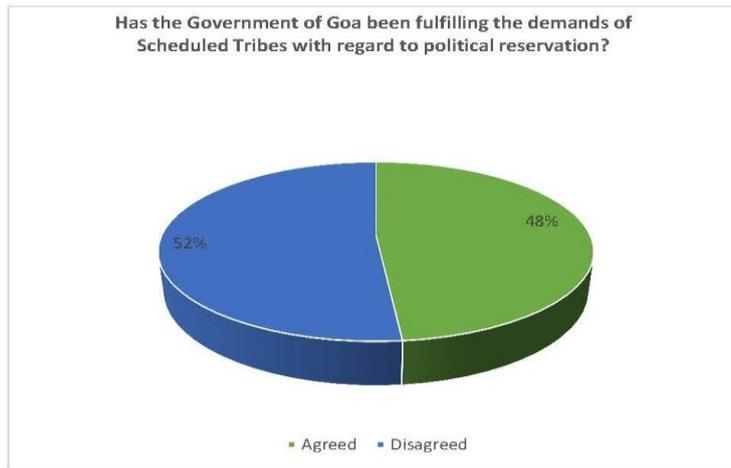
Table 51

	Profession	Agreed	Disagreed
1.	Judge	1	1
2.	Advocate	2	3
3.	Public servant	0	1
4.	MLA	1	1
5.	Tribal leader	01	17
6.	Teacher	1	2
		15	16

Source: Data collected through questionnaires

As can be seen from Table 51 above, 48% of the respondents replied in a positive way, while 52% replied that the government has not been fulfilling the demands of tribal people in the State of Goa. The responses are shown as percentages in the pie chart below.

FIG. 53



5 Has the Government of Goa been satisfactorily implementing welfare policies for the development of STs?

Table 52

	Profession	Fully satisfied	Somewhat Satisfied	Somewhat Dissatisfied	Fully dissatisfied	No Response
1.	Judge	0	2	0	0	0
2.	Advocate	0	0	2	0	3
3.	Public servant	0	1	0	0	0
4.	MLA	0		1	0	1
5.	Tribal leader	1	9	07	0	1
6.	Teacher	1	2	0	0	0

Source: Data collected through questionnaires

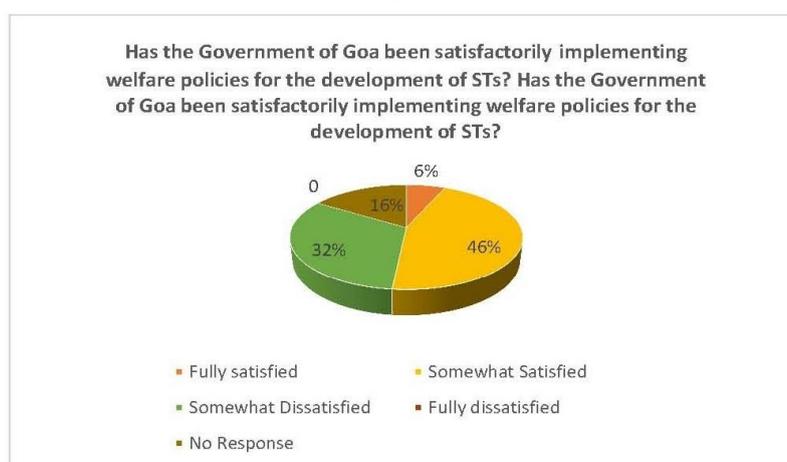
The responses have been compiled in Table 52 and shown as percentages in the pie chart at Fig. 53.

Table 53

Total Respondents	No.	Fully satisfied	Somewhat Satisfied	Somewhat Dissatisfied	Fully dissatisfied	No Response
31		02	14	10	0	05

Only 6% of the respondents are fully satisfied and 46% respondents are somewhat satisfied about implementing welfare policies for the development of STs. 32% are somewhat dissatisfied and the remaining 16% have not responded.

FIG. 54



6 Is the Goa Commission for Scheduled Castes and Scheduled Tribes functioning satisfactorily?

Table 54

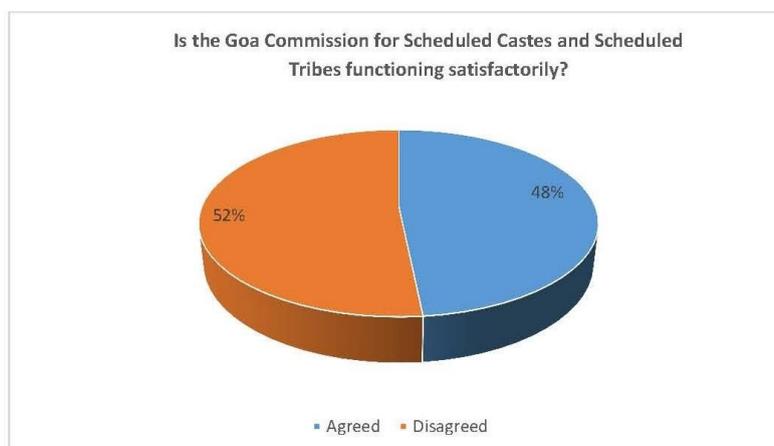
	Profession	Agreed	Disagreed
1.	Judge	1	1
2.	Advocate	3	2
3.	Public servant	0	1
4.	MLA	2	0
5.	Tribal leader	08	10
6.	Teacher	2	1
		15	16

Source: Data collected through questionnaires

The pie chart below (Fig. 54) reflects that 48 % of tribal leaders seem to be satisfied about the functioning of the Goa Commission for SCs and STs.

But it is interesting to see that 52% are not satisfied with the effectiveness of the Commission in protecting the Scheduled Tribes in Goa.

FIG. 55



7. Is the implementation of the Tribal Sub-Plan satisfactory?

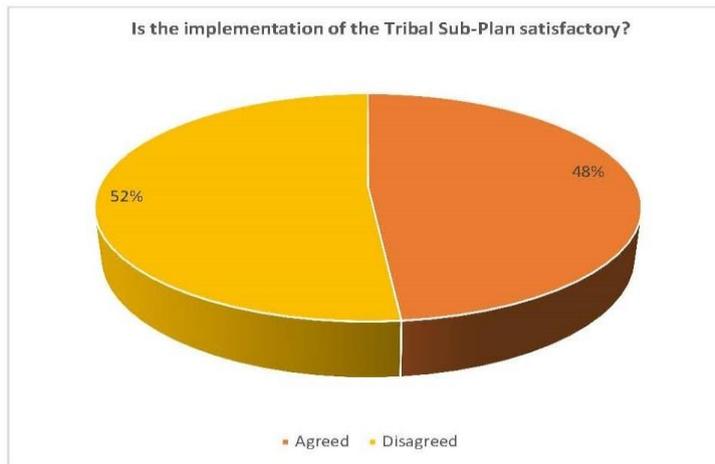
Table 55

	Profession	Agreed	Disagreed
1.	Judge	1	1
2.	Advocate	3	2
3.	Public servant	0	2
4.	MLA	1	1
5.	Tribal leader	06	12
6.	Teacher	1	2
		11	20

Source: Data collected through questionnaires

36% of the respondents agreed that the TSP was satisfactorily implemented, whereas the remaining 64% expressed their dissatisfaction. The details are shown in the form of the pie chart at Fig, 55.

FIG. 56



8. Are the concerned departments properly utilizing the funds allocated under the Tribal Sub-Plan?

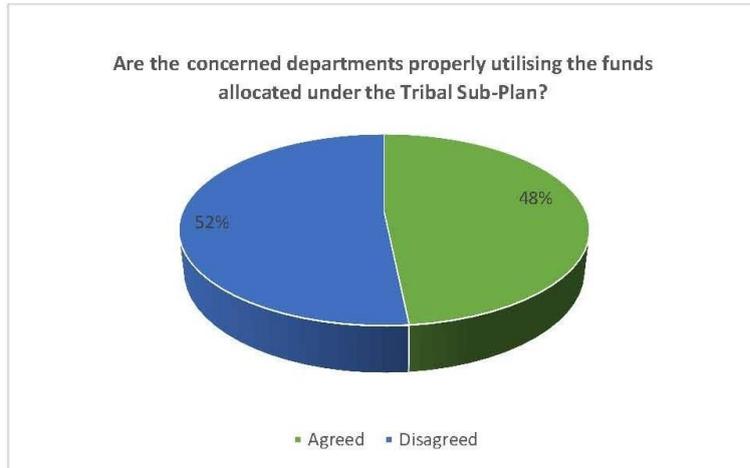
Table 56

	Professional	Agreed	Disagreed
1.	Judge	1	1
2.	Advocate	0	5
3.	Public servant	0	1
4.	MLA	0	2
5.	Tribal leader	0	18
6.	Teacher	1	2
		15	16

Source: Data collected through questionnaires

Almost 50% answered positively and it is evident that the remaining responded negatively. The details are shown in the form of the pie chart at Fig. 56.

FIG. 57



9. There is need of a special legislation for the protection and empowerment of Scheduled Tribes.

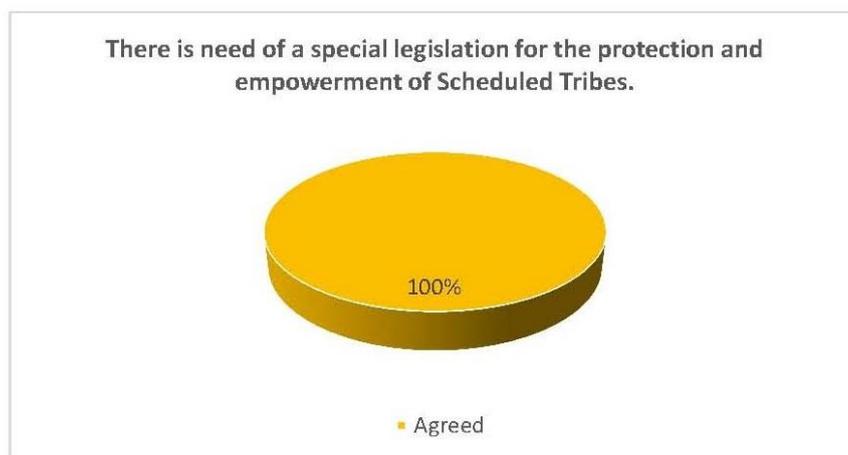
Table 57

	Profession	Agreed	Disagreed
1.	Judge	2	0
2.	Advocate	5	0
3.	Public servant	1	0
4.	MLA	2	0
5.	Tribal leader	18	0
6.	Teacher	03	0
		31	0

Source: Data collected through questionnaires

100% of the tribal influencers opined that there is need of a special legislation to protect their constitutional rights and empower the Scheduled Tribes in the State of Goa.

FIG. 58



6.5.2.1. Suggestions obtained from tribal leaders through the above questionnaire

The following are the suggestions made by tribal leaders and influencers for better access to justice and welfare by the Scheduled Tribes in the State of Goa.

(i) Proper monitoring of implementation of the reservation policy

It is suggested that the chairperson of Goa State SC/ST Commission monitor properly the implementation of the reservation policy including in educational institutions.

(ii) Understanding the problems

The chairperson of the Goa State SC/ST Commission must have a sensitive and right attitude to understand the problems of Scheduled Tribes which come up in cases. In addition, a thorough understanding of the Constitutional mandate on SCs and STs is required. For this purpose, the chairperson must be a trained legal person.

(iii) Goa State Commission for Scheduled Castes and Scheduled Tribes must have power to impose penalties.

The state Commission, instead of being merely an advisory body, must have power to impose a penalty on the wrongdoer on par with the Consumer Forum.

(iv) To Monitor the Tribal Sub-Plan

The implementation of the Tribal Sub-Plan has to be properly monitored by the Goa Commission for Scheduled Castes and Scheduled Tribes and concerned government departments to achieve the aims of the Directive Principles of State Policy.

(v) To notify reserved constituencies for Scheduled Tribes in the State of Goa

It is high time some constituencies were reserved for Scheduled Tribes.

(vi) Declare the Fifth Schedule Areas in the State of Goa

The Goa Government needs to take the initiative for to declare Fifth Schedule Areas and to set up a Tribal Advisory Council in the State of Goa.

(vii) Need of Legislation

There is a need for a law which protects tribal's in preserving their culture, customs and traditions, and by which their properties are also protected.

6.5.3. Opinion Survey of Tribal People by the Questionnaire Method

To survey the opinions of tribal people with regard to the implementation of the reservation policy and the administration of social welfare schemes within the State of Goa, the present researcher used the questionnaire method. In this manner he interviewed 500 tribal people, mainly the heads of families. The present study was carried out in ten different village panchayats situated in North and South Goa, namely Kirpla, Dharbandora, Cumbharjua, Shristhal, Loliem, Gaodongrim, Carambolim, Betki Khandola, Madkai and Santa Cruz.

1. Awareness about schemes prepared under the Tribal Sub-Plan

Table 58

Sr. No.	Name of the Village Panchayat	Aware	Unaware
1	Kirpla	14	36
2	Dharbandora	22	28
3	Cumbharjua	40	10
4	Shrithal	14	36
5	Loliem	20	30
6	Gaodongrim	28	22
7	Carambolim	05	45
8	Betki Khandola	07	43
9	Madkai	12	38
10	Santa Cruz	15	35

Source: Opinion Survey

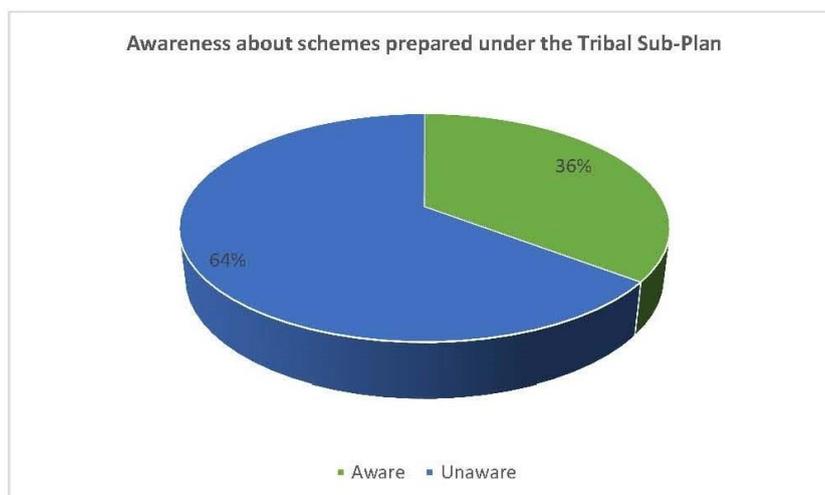
The above responses were compiled in the Table 59 below.

Table 59

Total No. of Respondents	Aware	Unaware
500	177	323

As can be seen at a glance in the pie chart at Fig. 59, 36% of the people were aware about the schemes under the Tribal Sub-Plan implemented by the state government through various departments, whereas, 64% were not aware. When the present researcher enquired about the reason for not knowing about the schemes some of them replied that there was no effort on the part of the departments concerned to publish the schemes for the information of the public. Further, the researcher observed that several people, being illiterate, face difficulties even in finding the concerned departments to enquire whether any schemes are being implemented for the welfare of the tribals. The details are shown in the pie chart below as percentages of all the responses.

FIG. 59



2. Government schemes beneficiaries

Table 60

Sr. No.	Name of the Village Panchayat	Availed of Government Scheme	Not Availed of Government Scheme
1	Kirpla	13	37
2	Dharbandora	12	38
3	Cumbharjua	20	30
4	Shristhal	36	14
5	Loliem	30	20
6	Gaodongrim	32	18
7	Carmbolim	07	43
8	Betki Khandola	20	30
9	Madkai	09	41
10	Santa Cruz	27	23

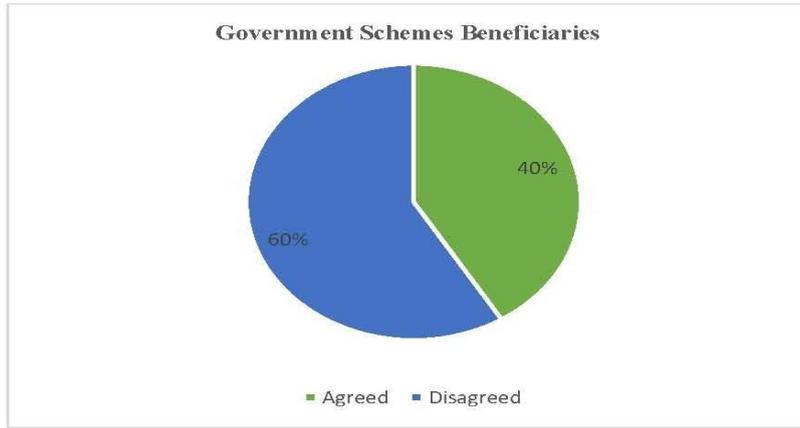
Source: Opinion Survey

Table 61

Total No. of Respondents	Beneficiaries	Non-beneficiaries
500	206	294

Table 61 reveals that 40% of those interviewed received the benefit of schemes implemented by the government. But 60% of those interviewed opined they neither received any benefits nor were they aware of the schemes. The details are depicted in the form of a pie chart below.

FIG. 60



3. Are the procedures to obtain the benefit of welfare schemes, prepared under the Tribal Sub-Plan, too complicated?

Table 62

Sr. No.	Name of the Village Panchayat	Agreed	Disagreed
1	Kirpla	22	28
2	Dharbandora	21	29
3	Cumbharjua	41	09
4	Shrithal	28	22
5	Loliem	33	17
6	Gaodongrim	35	15
7	Carmbolim	33	17
8	Betki Khandola	30	20
9	Madkai	46	04
10	Santa Cruz	39	11

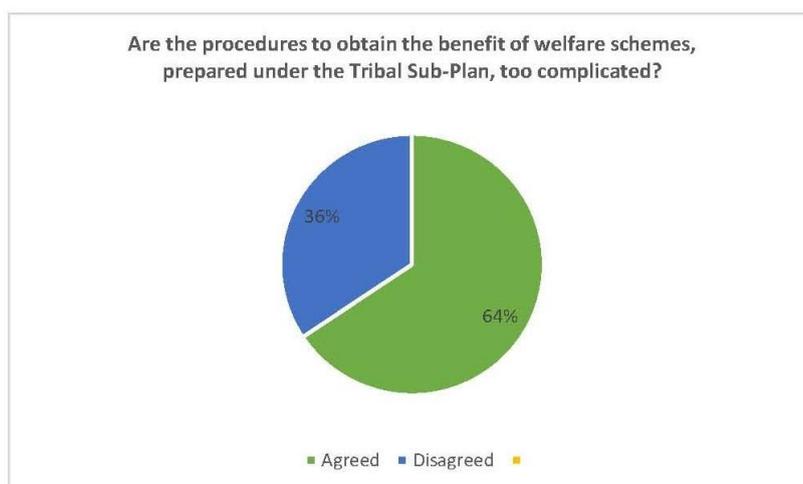
Source: Opinion Survey

Table 63

Total No. of Respondents	Agreed	Disagreed
500	328	172

Table 63 reveals that 64 % of the respondents agreed that the procedures for applying for government schemes are very complicated. 36% of the respondents stated that the procedures are simple, but only for educated people. The details are shown below in the form of a pie chart.

FIG. 61



4. Satisfaction about the schemes prepared under the Tribal Sub-Plan

Table 64

Sr. No	Name of the Village Panchayat	Very Satisfied	Somewhat Satisfied	Somewhat Dissatisfied	Very Dissatisfied	No Response
1	Kirpla	22	14	0	10	4
2	Dharbandora	17	14	0	0	27
3	Cumbharjua	7	25	6	0	12
4	Shristhal	10	20	4	4	12
5	Loliem	13	10	9	0	18
6	Gadongrim	10	27	3	0	10
7	Carambolim	01	05	05	0	38
8	Betki-Khandola	01	06	06	08	30
9	Madkai	0	02	12	02	34
10	Santa Cruz	05	03	14	06	22

Source: Opinion Survey

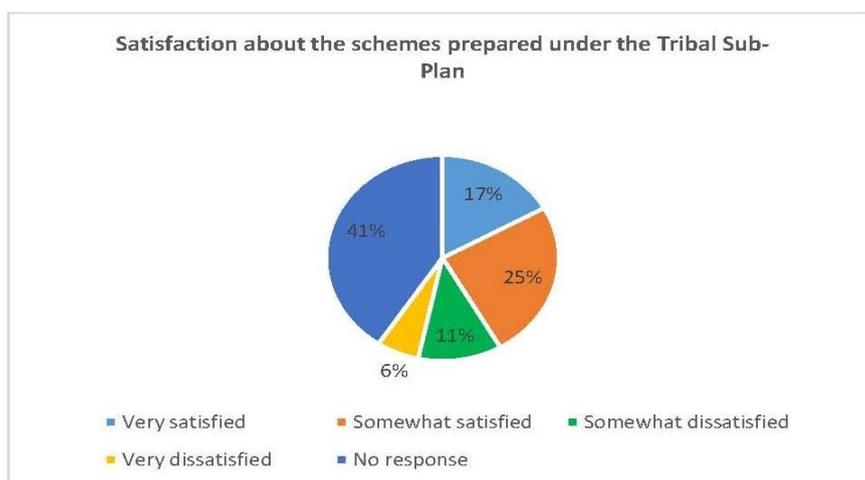
The results in brief can be seen in Table 65.

Table 65

Total No. of Respondents	Very satisfied	Somewhat satisfied	somewhat Dissatisfied	Very Dissatisfied	No Response
500	86	126	59	30	207

Expressed in percentages (please see the pie chart at Fig. 62) 16% of the respondents were fully satisfied and 24% respondents are somewhat satisfied about the schemes prepared under the Tribal Sub-Plan. More than 50% of the respondents were not satisfied about the implementation of the schemes by the various government departments.

FIG. 62



5. Do tribals face social discrimination?

Table 66

Sr.No.	Name of the Village Panchayat	Agreed	Disagreed
1	Kirpla	08	42
2	Dharbandora	08	42
3	Cumbharjua	24	26
4	Shristhal	27	23
5	Loliem	26	19
6	Gadongrim	18	32
7	Carmbolim	28	22
8	Betki Khandola	28	22
9	Madkai	40	10
10	Santa Cruz	35	15

Source: Opinion Survey

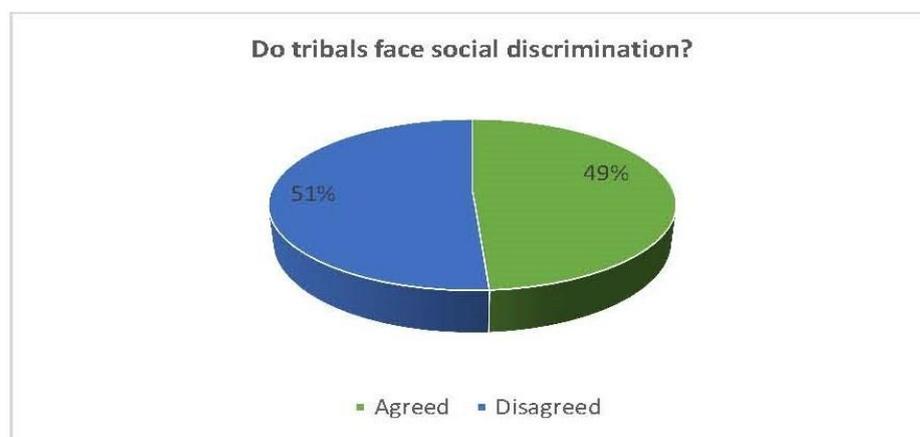
The answers are compiled in Table 67 below.

Table 67

Total No. of Respondents	Agreed	Disagreed
500	242	253

When the present researcher enquired about whether tribal people faced any discrimination in society, more than 50% replied in the negative. But 48% replied that they have experienced discrimination. This means that even in the present period tribal people sometimes face discrimination in spite of the many laws enacted.

FIG. 63



6. If harassed, did you file a complaint before the SC/ST Commission?

Table 68

Sr.No.	Name of the Village Panchayat	Total No. of Respondents who filed Complaints before SC/ST Commission	Total No. of Respondents did not file Complaints before SC/ST Commission
1	Kirpla	16	34
2	Dharbandora	01	49
3	Cumbharjua	04	46
4	Shristhal	02	48
	Loliem	03	47
	Gadongrim	02	48
	Carmbolim	02	48
	Betki Khandola	01	49
	Madkai	03	47
	Santa Cruz	02	48

Source: Opinion Survey

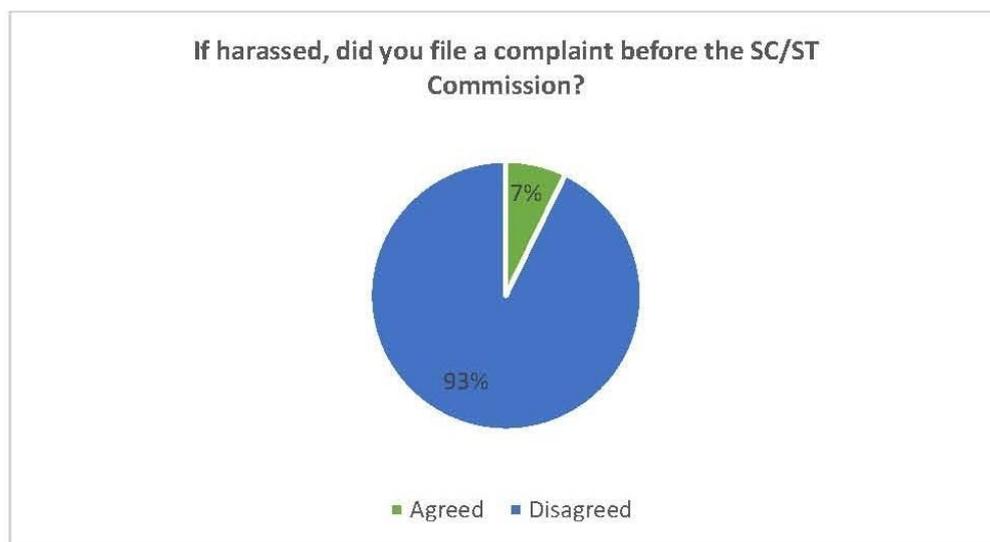
In brief, less than 8% or 36 aggrieved persons answered Yes.

Table 69

Total No. of Respondents	Yes	No
500	36	464

92 % of the respondents did not file any complaint before the Goa Commission for Scheduled Castes and Scheduled Tribes, in spite of experiencing harassment. Only 8% of the aggrieved people approached the commission for redressal. The proportion can well be seen in the pie chart below.

FIG. 64



7. Did the Commission's directive result in satisfactory action?

Table 70

Sr. No.	Name of the Village Panchayat	Action taken satisfactory	Action taken not satisfactory	Action not taken
1	Kirpla	01	04	11
2	Dharbandora	0	0	0
3	Cumbharjua	01	01	02
4	Shristhal	0	0	02
5	Loliem	0	0	03
6	Gaodongrim	0	0	02
7	Carambolim	0	02	0
8	Betki Khandola	0	0	01
9	Madkai	0	0	03
10	Santa Cruz	0	0	02

Source: Opinion Survey

Table 71 shows the percentage of those who were, respectively, satisfied and dissatisfied with the action taken.

Table 71

Total No. of Respondents	Satisfied with action taken	Dissatisfied with action taken
500	230%	270%

The present researcher collected information by questionnaire from the complainants about the functioning of the commission and whether the directives given by the commission were satisfactory or not. A very meagre percentage of the respondents were satisfied with the functioning of the commission. The majority of the people remained dissatisfied on various grounds including the directives given by the commission. The respondents expressed that in some cases the directives were satisfactory but the government failed to implement them properly.

FIG. 65



8. The impact of the reservation policy on tribal people has been positive.

Table 72

Sr.No.	Name of the Village Panchayat	Agreed	Disagreed
	Kirpla	35	15
	Dharbandora	35	15
	Cumbharjua	47	03
	Shristhal	36	14
	Loliem	28	22
	Gadongrim	36	16
	Carambolim	04	46
	Betki Khandola	25	25
	Madkai	14	36
	Santa Cruz	23	27

Source: Opinion Survey

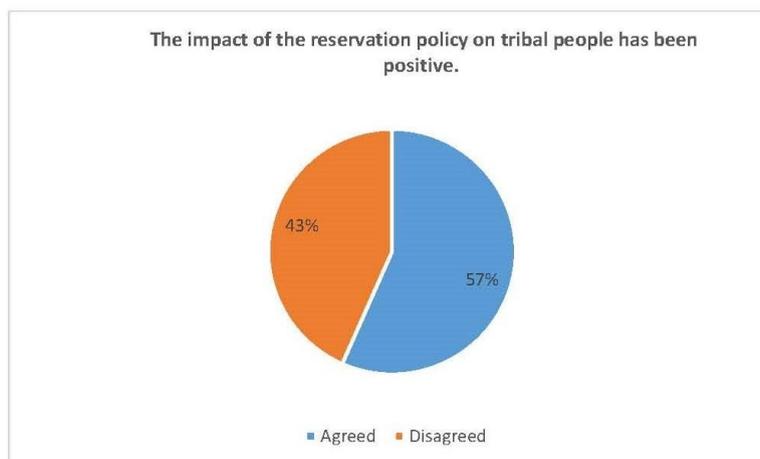
Table 73

Total No. of Respondents	Agreed	Disagreed
500	283%	217%

The researcher has also collected information from the tribal people about the impact of the reservation policy on their development and progress in their status. From the above table it is evident that 56 % of the respondents give positive reply, whereas the remaining respondents were not satisfied with

the impact of the reservation policy on tribal communities, and the details are mentioned below in Fig No.66

FIG-66



6.5.3.1. Suggestions obtained from tribal people through the questionnaire

The following are the suggestions made by tribal people for improving the functioning of the tribal welfare policy in the State of Goa.

(i) Proper utilization of TSP funds

The State Government needs to monitor the implementation of schemes and the substantial utilization of funds by the concerned departments to serve the purpose.

(ii) Awareness of tribal welfare schemes

Since many tribal people are illiterate, the government as well as the concerned departments have an obligation to conduct awareness programmes on welfare schemes and tribal laws.

(iii) Improve the socio-economic condition

The state government needs to play a vital role in improving the socio-economic condition of tribal people by introducing and implementing various schemes under the Tribal Sub-Plan.

(iv) Tribal zone in village panchayats

There is a need to notify a tribal zone in village panchayats where the tribal people can avail of welfare schemes.

(v) Procedures to be simple

To reach the benefits of welfare schemes to the people it is necessary that the procedures be made simple.

6.6. Conclusion

The data used here was collected from primary and secondary sources. The first part of this chapter analyzed the data collected from secondary sources about the current status of the Reservation Policy in various government departments, aided colleges, government colleges, and political institutions in the State of Goa. In addition, the present researcher has presented a detailed analysis of secondary data about the allocation of funds under the Tribal Sub-Plan, for the welfare of the Scheduled Tribes, in various government departments in the State of Goa.

The second part of this chapter discussed the data collected from primary sources. The latter included interviews with tribal peoples, especially with complainants before the Goa State Commission for Scheduled Castes and Scheduled Tribes, and with eminent tribals such as community leaders, elected representatives, and professionals. The detailed analysis of both primary and secondary data highlighted significant facts, thus objectively testing the initial hypotheses.

CHAPTER-VII

CONCLUSION

“Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over many. Equality without liberty will kill individual initiative. Without fraternity, liberty and equality would not become a natural course of things. It would require a constable to enforce them”¹

Dr. -B.R. Ambedkar

7. SUGGESTIONS AND CONCLUSION

In India, the wider discourse on compensatory discrimination revolves around the reservation policy. Whereas many other countries prefer the term „affirmative action“, in India we have measured tribal welfare to a great extent by the number of reserved positions.

The Constitution of India specifies that in the interests of social justice, classes of citizens who are socially, educationally and economically backward are entitled to the benefits of reservations in government jobs and in admission to institutions of higher education.

In the present context, the reservation policy needs to be part of a comprehensive understanding of compensatory jurisprudence, its legal framework and its political framework. The present study examines the system of compensatory discrimination for the Scheduled Tribes, which has never been a source of intense social conflicts, court cases or political stalemate².

The Scheduled Tribes were victims of active social discrimination through segregation and often geographical isolation for many centuries. The idea behind the reservation policy is that power should be so distributed as to maintain a balance between all communities, although reservation can be justified only on the ground of equality and not balance of power.

-
1. Robbin Jeaneth, *Dr. Ambedkar and His movement*, (1964), Dr. Ambedkar Publication Society, Hyderabad, pp.at 84
 2. Mishera Vinay Chandra, Dr. Parmanand Singh, *Reservation Crisis in India, Legal and Sociological Study on Mandal Commission Report*,1991, Universal Book Traders publication, New Delhi.

Compensatory Discrimination is a term coined for the policy or programmes that give preference to a group or groups of people with a stated goal of countering and compensating for the past or ongoing atrocities, excesses, injustice, or discrimination of any sort against them. The aim of compensatory discrimination is to offset the accumulated result of historic injustice³ and persecution or sociological, economic, cultural discrimination or exploitation against them. Compensatory discrimination or the compensatory package in the Indian context takes the form of a Constitutional reservation policy with regard to education, employment and political representation.

The reservation policy has been adopted for uplifting the weaker sections of a society. In India we use the term „reservation“ instead of „affirmative action“. Other countries like the USA, Belgium, Brazil and China called it „affirmative action“⁴. Both terms imply direct compensatory discrimination as can be seen in the reservation of seats in educational institutions and public service, and preference to such groups in government contracts. Protective discrimination was beautifully devised to serve the purposes of assimilation, integration and equal partnership in national building by contributing equally in the mainstream of our national life⁵.

7.1. Overview

As discussed in the initial chapter, an effective and functioning system of the Goa Commission for Scheduled Castes and Scheduled Tribes is one of the indicators of social justice to tribal communities. This study has been oriented towards the concept of rendering social justice, while there is an added obligation on the State to implement the reservation policy and provide social welfare schemes to the members of the Scheduled Tribes so that social justice prevails.

3. *Ibid at 190*

4. <http://lawtimesjournal.in/an-analysis-of-reservation-in-india/...> An Analysis of Reservation in India by Nitesh Mishra –dated 17th February, 2019

5. Prasad Anirudh, *Reservation policy and Practice in India: -A means to an End*, 1991, Deep & Deep Publication, New Delhi.p.362

Reservation is therefore an important concept and legal obligation for every state in India. Being a directive principle of the state policy, an important part of the Constitution of India, every state has an obligation to provide welfare facilities through various schemes to ST persons.

The second chapter gives due importance to this aspect of social justice, and the evolution of the concept of reservations and its relevance in pre-Independence India.

In ancient Indian society the caste or Varna system was a legal system which formed the basis of social stratification and differentiation. With the advent of the Portuguese, Dutch, French and British, the social position of the „untouchables“ recorded some high improvement. The Christian missionaries were the first to take up the cause of the depressed classes and worked to provide welfare for them. In British India, during the decades leading up to Independence, the Government of India Act, 1919, the Round Table Conferences and the 1935 Act played a vital role.

Dr. Ambedkar, the founding father of the Indian Constitution and architect of Modern India, dreamed of establishing India on the principles of equality, liberty and fraternity. Articles 15(4) and 16(4) of the Constitution provide for special treatment of SCs, STs and OBCs. Due to the paradox of inequality, protective discrimination becomes legal in the context of reservation. Reservation in education, employment, and political institutions is explained and illustrated in the third chapter.

The Constitutional provisions relating to the welfare of the Scheduled Tribes, various commissions established for their empowerment, and the role of five-year plans in empowering tribals, are critically analyzed in the fourth chapter.

If anyone anywhere speaks about social justice in India, the first thought that comes to mind is the Constitution of India, particularly the sections relating to fundamental rights and directive principles of state policy. No doubt, these principles became visible thanks to the five-year plans and

central and state welfare schemes to ensure the welfare of the tribals. Thanks to Dr. Ambedkar reservation for the poor and marginalized has become an enabling provision within the ambit of fundamental rights.

The schemes mentioned in Chapter fourth indicate that providing reservations is a sine qua non of social justice. If it were not for the uncompromising implementation of the reservation system and welfare schemes, social justice in its present form might have been delayed at least by half a century.

The effect of the National Commission for Scheduled Tribes and corresponding state commissions in the empowerment of the Scheduled Tribes is one of the important aspects of social justice. The importance of the Goa Commission for Scheduled Castes and Scheduled Tribes is discussed in the fifth chapter. That chapter is entirely devoted to the details of the role and effectiveness of the said commissions, their respective constitution, powers and functions. Through the commissions, there currently exists a system to deliver justice to the poor and marginalized.

The sixth chapter is the yolk of the thesis. The working of the Goa Commission for Scheduled Castes and Scheduled Tribes, the implementation of the reservation policy, and the administration of welfare schemes in the State of Goa, are critically looked at. The focus of the study being the State of Goa, it examines the implementation of the reservation policy in government departments, educational institutions and political institutions in the State of Goa.

The study included intensive field research and on the spot analysis wherein a number of tribal leaders, advocates, judges, teachers, public servant involved with the relevant institutions gave their opinions as answers to questionnaires. The present researcher has also assessed the documentary evidence from 2009 onwards and presented statistical data.

Considering that the concept of the social justice is not limited, the researcher took into consideration the various activities of the state

government and stressed upon the allocation and expenditure of funds under the Tribal Sub-Plan.

Through the questionnaire method, the researcher has also collected information from complainants before the Goa Commission for Scheduled Castes and Scheduled Tribes with regard to the functioning of the commission. Further, the researcher has gathered information from tribal people in the State of Goa about the implementation of various social welfare schemes for the tribals.

The researcher would like to review his hypothesis as below.

(i) Conclusion of the hypothesis

(ii) Suggestions

7.2. Conclusion of the Hypothesis

This chapter is related to the conclusions of the study. It captures the grey areas surrounding the functioning of the Goa Commission for Scheduled Castes and Scheduled Tribes. Based on the collected data and analysis, the researcher has drawn various implications and has given his recommendations for the effective implementation of the reservation policy, implementation of the Tribal Sub-Plan, and the strengthening of the Goa Commission for Scheduled Castes and Scheduled Tribes. The research hypothesis proposed by the researcher is tested in this chapter.

The researcher started with the hypothesis which he compared with (a) available statistical data, (b) original data collected by way of questionnaires, and (c) data from a brief opinion survey of selected legal experts and tribal leaders in the State of Goa. This systematically compiled data was analysed in Chapter VI and is used here to arrive at some conclusions.

7.2.1. Hypothesis I

The constitutional mandate protecting the interests of backward classes through reservation is poorly implemented in the State of Goa

By observing Table 1 at 6.1.1., it can be seen that beneficiaries of reservation in government departments are very few, which means most of the departments are not strictly implementing the roster system. It also appears that tribal people are mostly unaware of the provisions of the Constitution as well as of government policy.

It is apparent from Table 3 and Table 4 that the Education Department, both teaching and non-teaching, the beneficiaries few in number, by which it can be concluded that several backlog vacancies are not filled till now.

From Tables 5 to 9, it is apparent that the Government of Goa, through the Goa State Election Commission, implements reserved seats for the Scheduled Tribes as per their proportion of the total population in the state of Goa. For instance, section 6.1.6., titled „Status of Reserved Seats for Scheduled Tribes in the Corporation of the City of Panaji“, that the municipal corporation does not reserve seats for the Scheduled Tribes as per proportion of the total population of the city of Panaji.

Table 39 shows that 20% of the complaints before the Goa Commission for Scheduled Castes and Scheduled Tribes relate to non-implementation of quotas. The responses from the legal experts and tribal leaders to the questionnaires submitted to them (see Table 50) show assuredly that the government departments as well as educational institutions are not implementing the reservation policy properly.

From Table 72 it is apparent that more than fifty per cent of the people who replied to the questionnaire expressed a positive opinion with regard to the impact of the reservation policy in the State of Goa.

With regard to the first hypothesis, that the reservation policy is not implemented properly, is partly proved true by the responses to the questionnaire.

Because of the policies of the state government and the concerned departments it can be expected that in the near future the reservation policy can be implemented properly in the State of Goa.

7.2.2. Hypothesis-II

The State machinery has failed to utilize the funds allocated for the welfare of the Scheduled Tribes.

Most of the tables from Tables 11 to Table 32 show that only 50 % to 60 % of allocated TSP funds were utilized for the benefit of the tribals. It is clear that the funds were not utilized fully. Tables 13, 14, 15, 16, 18, 26, and 27 reveal that the PWD and Municipal Administration hardly utilized the funds, and also that from 2014 to 2019 there is no allocation of funds to the PWD for the welfare of tribals. This in itself shows that the government has not shown sufficient interest in monitoring the usage of the funds allotted for the purpose. The exceptions to the rule are the Directorate of Health which utilised the funds substantially (Table 20), and the Forest Department (Table 22).

The responses of tribal leaders and other tribals are relevant to this hypothesis. The majority of them (please see Tables 52 off, especially Table 65) were not satisfied with the implementation of the Tribal Sub-Plan. 60% of the respondents said they had not received the TSP benefits due to them under. More than 60% of the tribals found the procedure for obtaining the benefits too complicated.

With the above documentary as well as primary data, it is clear that several government departments do not utilise even 50% of allocated funds. One can conclude that hypothesis II is proved to be correct.

7.2.3. Hypothesis III

The Goa Commission for Scheduled Castes and Scheduled Tribes has been passive in safeguarding the interests of the tribal communities in the State of Goa.

Though the Goa Commission for Scheduled Castes and Scheduled Tribes was established to provide protection, security and social justice to the Scheduled Tribes, its functioning is not up to the expectations of the tribal communities.

Though the commission is theoretically favourable to members of the SCs/STs, in practice that does not seem to be the position. Those who have benefited from the commission are relatively few.

It is apparent from Table 45 that there is much dissatisfaction from complainants with the working of the commission. On the other hand, approximately 50 % of other tribal persons, including influencers, expressed satisfaction (see Table 54) with the working of the commission. Table 46 reveals that with regard to the qualifications of the commission's chairperson, almost all respondents would prefer a person qualified in law.

Thus, hypothesis III is partly proved right.

7.3. SUGGESTIONS

It may not be adequate to end this thesis merely with a conclusion. As an individual genuinely concerned about the system of reservation and welfare policies for tribal people, the present researcher feels that some concrete and pragmatic suggestions will help the authorities, so possible action could be initiated. The suggestions are:

1. Each government department in the State of Goa needs to fill up the backlog and shortfall posts in the ST reserved category as per the roster. For this purpose, the Goa Commission for Scheduled Castes and Scheduled Tribes needs to properly monitor the matter.

2. To achieve the objectives of the reservation policy, the government has to ensure that reservation is made in all direct recruitments in government departments.
3. The Goa Government needs to constitute a Committee under the chairmanship of the Secretary, Tribal Ministry, to identify the backlog vacancies in the reserved category of scheduled tribes in all government departments and educational institutions, to study the root cause of such a backlog and find solutions to fill up vacancies through a special recruitment drive within a stipulated period.
4. There is a need for enacting comprehensive rules for the implementation of the reservation policy effectively in government departments and educational institutions by the state government.
5. The reservation of seats for Scheduled Tribes in the Goa State Legislative Assembly has to be introduced to fulfil the objective of the reservation policy.
6. Each department must strictly follow the mandatory appointment of a nodal officer to ensure the roster system is implemented without fail. Every nodal officer must properly monitor vacancies so that there is no backlog.
7. Since the private sector in the State of Goa is progressive compared with government agencies, the reservation policy should also be extended to it.
8. The statutory obligation of the government to place the annual report of the Goa Commission for Scheduled Castes and Scheduled Tribes before the Goa State Legislative Assembly has to be strictly fulfilled.
9. The procedure for obtaining the caste certificate by the tribal communities has to be simplified, since a caste certificate is necessary for applying for various TSP benefits.

10. The chairperson of the Goa Commission for Scheduled Castes and Scheduled Tribes has to be an independent person without any political interference. Since, several complaints before the commission are related to legal matters the chairperson must be a law graduate.
11. By amending the Goa Commission for Scheduled Castes and Scheduled Tribes Act 2010, the power of the Commission may be strengthened to impose a penalty on the person who has violated the Constitutional rights of the tribal communities.
12. Since 12% of the population in the state of Goa belongs to tribal communities, it is necessary to declare the State of Goa the Fifth Scheduled Area of the Constitution, by which a Tribal Advisory Council will monitor and evaluate the implementation of the Tribal Sub-Plan in the State of Goa.
13. The state government has to appoint a nodal officer in each government department to monitor the effective implementation of the Tribal Sub-Plan at the grassroots, namely the Panchayats and municipalities.
14. The government has to introduce income generating schemes for Scheduled Tribes from the Special Central Assistance.
15. Before introducing any development programmes and schemes, the government needs to consult the concerned people, namely tribal citizens and tribal leaders to ensure maximum benefit.
16. The government needs to conduct, possibly through various agencies including NGOs, a survey of each village with a sizeable tribal population, to identify actual needs, so that the government can utilize funds according to those needs.

17. Free legal aid facility needs to be provided to the tribal people to represent them before the Goa Commission for Scheduled Castes and Scheduled Tribes.
18. Welfare schemes awareness programmes should focus on the village people, especially where uneducated, needy or working class tribals reside. They can be instructed by means of an interesting lecture given by a good and effective speaker in simple language.
19. The government has to take steps to train the tribal people in such a way that they will be eligible for the various employment schemes where the reservation quota is applicable. For this the government has to conduct various training programmes in tribal areas free of cost.
20. The police and the judiciary have to play a vital role while dealing with atrocities on tribals, on the recommendation of the Goa Commission for Scheduled Castes and Scheduled Tribes. The police need to investigate and the judiciary try the cases expeditiously.
21. The state government must set up healthcare centres under the Tribal Sub-Plan within the precincts of the tribal villages.
22. When the government acquires lands from tribal people, under the Land Acquisition Act, it has to ensure that reasonable compensation is paid to the concerned people by which they can economically sustain themselves, and also some rehabilitative arrangement has to be provided.
23. The Government of Goa should ensure the implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amended Rule 2012, and see that it is properly monitored, to serve the objectives of social and economic justice.

24. The Government of Goa should implement a time-bound programme to provide basic facilities to the tribal communities living in hilly areas and forests.
25. The state needs to prepare educational schemes on a subsidised basis, to empower the tribal students to pursue higher education within the country and abroad.
26. The government should carefully give priority in reservation to the weakest among the weaker sections of the Scheduled Tribes.
27. Victims of atrocities should be ensured adequate security and special economic assistance during the trial their cases before the Goa Commission for Scheduled Castes and Scheduled Tribes.
28. The government should liberalize the procedures for tribal people to obtain loans from various financial institutions.
29. The government has to take stern action against any officers who fail to perform their duties while implementing schemes under the Tribal Sub-Plan.

7.4. CONCLUSION

To conclude, it is hoped that some of the suggestions will empower tribal people through education and employment, thus raising the status of tribals in the State of Goa to the extent of fulfilling the objectives of the Constitution.

As the present researcher has been involved the progress of tribals at the grassroots level in the State of Goa, he has developed unique insights into the dynamic of welfare schemes here. So he has made efforts to motivate further research wherever he found lacunae. It is hoped that with more in-depth studies and research work, there will be abundant practical results, and Goa will be a model for other states.

BIBLIOGRAPHY

A. BOOKS

1. Agrawal N.D, *Goa Land Revenue Code (Act No.9 of 1969)*, (2003), Goa Institute of Rural Development & Administration, Ela Farm, Old Goa.
2. Adv.K.K.Jayashankar, & Johnson, Philip, (2011), *Constitutional Law*, Delhi: published by Pacific Books International.
3. Ahir D.C., (1997), *Dr.Ambedkar and Indian Constitution*, New Delhi: published by D.K.Publishers Distributors (p) Ltd.
4. Acharya. B.C., (2011), *A Handbook of women's Human Right*, New Delhi : Published by wisdom press.
5. Sharma. B.D., (1995), *Globalization the tribal encounter*, New Delhi: published by Ashok Gosain for Law Anand Publication and printed at Nice Prixtiy Press.
6. Bajpati, Anil. Kumar., (1995), *Judicial Responses to the problem of Reservations*, New Delhi: published by Banerje Khama.
7. Bharti, K.S., (1998), Vol-IX, *Encyclopaedia of Eminent Thinkers,the Political thought of Ambedkar*, New Delhi: published by Ashok Kumar Mittal,Cocept publishing Company.
8. C.Mish. Frederick, (Tenth Edition 2001), *Meririan-Webster Collegiate Dictionary*, U.S.A.: published by Meririan-Webster,Incorporated Springfield ,Massachusetts.
9. Chandra. Umesh., (Sixth Edition 2005), *Human Rights*, Allahabad: published by Allahabad Law Agency Publciation.
10. Chakraborty, Anirban, ((2014), *Law of Consumer Protection Advocacy and Protection*, Haryana India.: published by Lexis Nexis (A Division of Reed Elsevier India Pvt.Ltd).
11. Chaudhary, Ram. Naresh, (2004), *Dr.Ambedkar's Vision of Social justice in Indian Constitution*, New Delhi: published by Regal Publications.
12. Chitkara, M. G., (2002), *Dr.Ambedkar and Social justice*, New Delhi.: Published by S.B.Nangia,APH, Publishing Corporation .
13. Dr.I.S.Vidyasagar, (First Published 2005), *Concept of Humanism of Dr.Ambedkar*, (Rajasthan)India.: Published by ABD Publishers.
14. Dr.J.N.Pandey, (41th Edition 2004), *Constitutional Law of India*, Allahabad-2: Published by Central Law Agency.

15. Dr.J.N.Pandey, (44 th Edition 2007), *Constitutional Law of India*, Allahabad-2: Published by Central Law Agency.
16. Dr.Durga Das Basu, (19th edition Reprinted 2007),introduction to the Constitution of India, Delhi: published by wadhwa and company Law publisher.
17. Dr.J.N.Pandey, (2003), *Constitutional Law of India*, Allahabad-2: Published by Central Law Agency.
18. Dr.K.S.Kshirsagar, (2013), *Reservation :A Quest for Justice*, Delhi.: published by Kalpaz Publication.
19. Dr.N.V.Paranjape, (*Third Edition 2001*), Studies in Jurisprudence and Legal Theory, Allahabad: published by Central Law Agency.
20. Dr.R.B.Rao., (1993), *Bharat-RatnaDr.Ambedkar*, Allahabad India.: published by Chugh Publications.
21. Dr.S.N.Salawade.,(2011), *Dr.B.R.Ambedkar and Emancipation of women*, New Delhi: published by Oxford Book Company.
22. Dr.S.P.Meena, (2015), *Human Rights of Tribes: Problems and Perspective*, Jaipur.: published by Pointer publisher .
23. Dr. Myneni.S.R., (5th Edition 2012), *A Legal Research Methodology*, Haryana.: published by Allahabad Law Agency.
24. Dr.SwapnaH.Samel., (first publication 2004), *Dalit Movement in South India 1857-1950*, Delhi: published by serials Publications .
25. Dr.Rajeevan R., (2010), *Towards Political Empowerment* , Delhi: published by Kalpaz Publications.
26. Dr.Shailendra Kumar Singh., (2010), *Political and Social thought of Ambedkar*, Rajesthan: published by ABD Publisher.
27. G.K.Ghosh. , (1992), *Tribal and their Culture in Manipur and Naganland Volume-III*, New Delhi.: published by S-B,Nangia for Ashish publishing house .
28. G.S.Pande., (Tenth Edition 2007), *Constitutional Law of India(As Amended up to Ninety-Third Amendment)Vol-I*, Chaura Rasta-Jaipure: published by M/s.University Book House(p)Ltd.
29. Gupta, Dr.Pallavi., (2012). *Backward Class Reservation and Concept of Creamy Layer*. New Delhi: published by Deep & Deep Publications pvt.Ltd.

30. Gupta, D. (2012). *Backward Class Reservation and Concept of Creamy Layer*. New Delhi: published by Deep & Deep Publications pvt.Ltd.
31. Gupta, Dr. Shyam.Shankar.Prasad., ((2010)),*Ambedkar and Caste Politics in India*, New Delhi.: published by Centrum press.
32. Gupta, Manik. Lal., (1989), *Constitutional Development of India (From the Regulating Act (1773) to the Indian Independence*,New Delhi: Published by Atlantic Publishers & Distributors (P) Ltd.
33. Gupta, Aman., (2005), (In two volume) vol-I & II, Human Right of Indigenous People's (*Comparative Analysis of Indigenous Peoples*),New Delhi: Published by Isha books Publication.
34. Gupta, Aman., (2005), (In two volume) vol-I & II, Human Right of Indigenous People's (*Protecting the Rghts of Indigenous Peoples*),New Delhi: Published by Isha books Publication.
35. Hansaria, Vijay., (Third Edition 2010), *Sixth Scheduled to the Constitution*,New Delhi: published by Universal Law Publication Co.pot Ltd.
36. IrudayamSJ, Aloysius., & Mangubhai, Jayshree. P, (1994), *Adivasis Speak Out Atrocities against Adivasis in Tamil Nadu*, Banglore: Published by Book Change (A Unit of Action Aid Karnataka Projects).
37. J.C.Johari, (1995), *The Constitution of India: A Politico-Legal Study*, New Delhi.: published by Sterling Publishers Private Limited.
38. Jain.M.P, (Fourth Edition, 2002), *Indian Constitution Law*, Nagpur.: published by Smt.Rampyari wadhwa for wadhwa and Company, Law Publishers.
39. Jain. Prof. M.P, (Fifth Edition, 2008), *Indian Constitution Law:with instant feedback of Amendment Acts up to Constitution (Ninety-fourth Amnedment) Act*, Nagpur,,: published byLexisNexis Butterworth's Wadhwa.
40. Jaisingh, Pawar., ((2001), *Rajarshi Shahu Smarak Granth*, Kolhapur-India.: published by Maharashtra Itihasa Prabodhini.
41. Jaswal, Vikram. Singh., & Jaswal , Sweta., (2011), *Justice V.R.Krishna Iyer's Cocnept of Social Justice* , New Delhi.: published by Deep & Deep Publication Pvt.Ltd.
42. K.D.Purane., (2000), *Untouchability and the Law:- The Ground Reality*, New Delhi.: published by Gyan Publishing House .

43. K.L.Chanchreek, Prasad , Mr. Saroj, & Kumar , Rakesh., (first Edition 1991), *Dr.B.R.Ambedkar (1891-1991) patriot Philosopher and Statesman Fight for the Rights of the depressed Classes volume-I.*, New Delhi: published by H.K.Publishers and Distributors.
44. K.S.Chalam., (first publication 2007), *Cast- based Reservations and Human Development in India*, New Delhi: published by Sage Publications India Pvt ltd.
45. K.S.Singh., (1990), *Jawahral Nehur , Tribes and Tribal Policy(Anthropological survey of India calcatta 1989)* . calcatta: published on behalf of ASI and printed by Naveen kishore, seagull book,.
46. Kashyap, Subhash.C., (Edition 2008)), *Constitutional Law of India (In 2 volumes*,New Delhi: published by Universal Law Publishing co.pvt.Ltd.
47. Kashyap, Subhash. C., (1990), *Jawaharlal Nehru and the constitution*, New Delhi: Published by B. V Gupta,Managing director metropolitan book co.pvt. limited .
48. Kashyap, Subhash. C., (3rd Edition 2001),*Jour constitution:An Introducation to India's Constitution and Constitution law*, New Delhi: Published by the *Director National book Trust* .
49. Keer, Dhananjay., (Fourth Publication 2004), *Dr.Ambedkar Life and Mission*, Mumbai: Published by Popular Prakashan Pvt.Ltd.
50. Khan.Hussain.p., (First Publication 2009),political Participation of Scheduled Castes in India, *New Delhi*: Published by Alfa Publication.
51. Kshirsagar, K. R.,(1994), *Dalit Movement in India and Its Leaders*, New Delhi.: published by M. D. Publications Pvt. Ltd. .
52. Kumar, Mahesh., Tyagrajan, K. R., & Manoj Sharma, R. V. , (2011), *Indian Consitution*, New Delhi: published by Anmol publication Pvt.Ltd .
53. Lachman M.Khubchandani., (1997), *Tribal identity;-A language and communication perspective*, shimla: published by secretary for Indian institute of advance study.
54. Lal, Shyam., & Saxena, K. S., (2008), *Ambedkar and nation building*, Jaipur- (India): published by Prem Rawat for Rawat publications.
55. LloyedL.weinreb., (1987)), *Natural Law and Justice*, London-England.: published by Harvard University Press -Cambridge Massachusetts .

56. M.H.Makwana, & Pais, Richar., (2011), *Backward Classes and Social Justice*, New Delhi: published by Rawat Publication.
57. Meheta, Piarey. Lal., (First published 1991), *Constitutional Protection to Scheduled Tribes in India-In Retrospect and Prospects*, New Delhi: Published by H.K.Publishers & Distrubutors.
58. Mishera, Vinay Chandra., & Singh, Dr. Parmanand, (Edition 1991), *Reservation Crisis In India,a Legal Study and Sociological Study on Mandal Commission Report*, New Delhi: published by the Bar Council of India Trust.
59. N.K.Behura, & Panigrahi, Nilakantha., (2006), *Tribal's and the Indian Constitution*, Jaipur,India: published by Prem Rawat for Rawat Publications.
60. panda.Dr.N.K., (2006), *Politic Programmes and Strategies for Tribal Development*, New Delhi: published by Kalpaz Publications.
61. Pathy Jaganath., (first Edition 1984), *Tribal Peasantry Dynamics of Development*, New Delhi: published by M.C.Mital,Inter-India Publications.
62. P.M.Bakshi., (Reprint 1999), *The Constitution of India: With Comments & Subject Index*, New Delhi: published by Universal Law Publishing Co.Pvt.Ltd.
63. P.M.Bakshi., (*Tenth Edition 2010*), *The Constitution of India* , New Delhi.: Published by Universal Law.
64. P.Singh, Mahendra., (11 th Edition 2008)), *V.N.Shukla's Consitutuion of India*, Lucknow.: published by Eastern Book Company.
65. Prasad, Anirudh. Singh, Pratap.,& Sen Chandra, (2017). *Reservation: Policy, practice and itsimpact on Society scheduled Castes, scheduled Tribes and other Backward Classe, Vol-I,& Vol-II*, New Delhi: published Deep & Deep publications pvt.Ltd.
66. Prasad. Ishwari., (1996) , *Reservation Action for Social Equality*, New Delhi.: published by criterion Publications.
67. Prabhash, J., (2001), *Affirmative Action and Social Changes* , New Delhi.: published by Anmol publication Pvt.Ltd.,
68. Prof.MadhusoodanTripathi, & Tripathi, Adarsh Kumar, (2012), *Indian Politics and Reservation Policy*, published by OMEGA Publication: New Delhi.

69. R.N.Choudhry, & Naqvi, S. K. A., (2012), *Commentary on the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989* , New Delhi: published by orient Publishing Company.
70. Raju. C.B., (1995),*Social justice and the constitutional of India (with reference to SC's and ST's)*, New Delhi: published by Banerje Khama publication.
71. Rajawat, Mamta., (First Publication 2014)), *Encyclopaedia of Dalits in India Vol.-7 Human Rights and Dalits*, New Delhi: Published by Anmol Publications Pvt.Ltd.
72. Rajawat, Mamta., (2005), *Dalit and Law (Encyclopedia of Dalits in India Series)*, New Delhi.: published by Anmol Publication Pvt.Ltd.
73. Ram, Sita., (first published 2010), *Dr.B.R.Ambedkar on Constitutional Maker*, (u.p):. published by current publication Agra.
74. Robbin, Jeaneth., (1964), *Dr.Ambedkar and His movement*, Hyderabad: published by Dr.AmbedkarPublication Society .
75. S.N.Singh.,(1996)), *Reservation Policy for Backward Classes*, Delhi.: published by Rawat Publication.
76. S.R.Sharma.,(2006),*Life and Work of B.R.Ambedkar*,Jaipur India.: published by enclave .
77. S.T.Das., (first Edition 1979), *The Problem of Scheduled cast and Schedule tribe in India*, Delhi: published by N.Gopinath for light and wife publishers and printed by P.C.Printers.
78. Sen, Amarty., (2009), *The idea of Justice*, England.: Published by penguin Group.
79. Sengupta, Sarthak ., (1994), *Tribe of North east India (biological and cultural perspectives)*,New Delhi.: published by Gyan publishing house .
80. Sengupta, Dr.Pradeep Kumar ., (first Edition 1991), *India: Consituitional Dynamic in a changing Polity*, Allahabad-India.: published by chugh Publications .
81. Shabbir, Mohammad., (2011), *Ambedkar on Law,Consituion and Social Justice*, Jaipur-India.: published by premRawat for Rawat Publication.
82. shrama, Kusum., (1992), *Ambedkar and Indian Consituition*, New Delhi: published by S.B.Nangia Ashish Publishing House.
83. Singh, Amar. Kumar., & Jabbi, M. K., (1996), *Status of Tribal's in India*, New Delhi.: published by Har-Anand publication.

84. Saksena .k.p., (2003), *Human Rigths and the Consitution: vision and the reality* , New Delhi.: published by Gyan publication House.
85. Sinha.P.C., (First Edition 2011), *Human Rigths and Indian Consitution: vision and the reality* , Nagpur.: published by Prism Books (India).
86. T.R.Naval., (2004),*Legally Combating Atrocities on Scheduled castes and Scheduled Tribes*, New Delhi: published by Concept publishing Company.
87. Tope, Trimbak. Krishna., (Third Edition.1971),*The Constitution of India*,Bombay.: published by G.R.Bhatkal for Popular Prakashan.
88. Thomas.Johan.k., (2005), (In two volume) vol-I & II, *Human Rights of Tribals (status of tribals in India)*,New Delhi: Published by Isha books Publication.
89. Thomas.Johan.k., (2005), (In two volume) vol-I & II, *Human Rights of Tribals (Empowered and Protection of the rigths of tribal's)*,New Delhi: Published by Isha books Publication.
90. Thakur Devendra, Thakur D.N., (1994), *Tribal Life and Forest (Tribal Life in India-I)*, New Delhi: Published by Deep & Deep Publications.
91. Vdkar.Praveen, (2000), *cocnept , theories and practice of Human Righth*, New Delhi: published by Rajat Publications .
92. V.K, Garg.,(1st Edition 2011), *Untouchability and Caste System*,New Delhi: published by Alfa Publications .
93. V.K.Pant, & Bisht, B. S., (1999), *Backward Communities (Identity Development and Transformation)* , New Delhi.: published Gyan Publishing House .
94. V.R.KrishnaIyer, (1990), *Dr. Ambedkar and the Dalit future*, Delhi: published by B.R. Publishing Corporation .
95. vidyarthi, Lalita. Prasad., & Rai, Binay kumar., (1985),*The Tribal Culture of India*,New Delhi: published by concept publishing company.
96. Vijay, Mankar.,(Second Edition 2013), *Poona Pact: Historical Harms by Gandhi, Gandhism and Congress- an Inquiry*, Nagpur.: Published by Blue World Series.
97. Vijayan, p.p.,(2006) ,*Reservation Policy and Judicial Activism*,Delhi.: published by Kalpaz Publication .
98. Vohra, Gautam., (1994),*The Tribal experience ,An investigation into poverty and Survival*, New Delhi.: published by Ashok Gosain for Har-Anand publication.

99. Virginius, Dev. Nathan., (First Edition 2012), *Social Exclusion and adverse Inclusion, Development and deprivation of Adivasis in India*, New Delhi.: published by oxfords University press.

B. Articles

1. Dr. Badal Sarkar, (2014), Constitutional Provisions for Tribal Development in India, *Indian Journal of Research*, *paripex. volume:3, issue:2.*
2. Gaurav. Redhal, & Dahiy, UPasana. (2013), Rights of Tribal's in India with Respect to access to justice, *published in International Journal of Socio-Legal Analysis and Rural Development Volume-2 ,Issue-1,ISSN-24554049.*
3. Halavath, Krishna., (2014), Human Rights and Realities of Tribal's' Lives in India: A Perfect Storm, *published in IOSR Journal Of Humanities And Social Science (IOSR-JHSS), Volume 19, Issue 4, Ver. II.*
4. Jani, Neepa., (2013), Articles 21 of Constitution of India and Rights to livelihood, *published in Voice of Research, Vol. 2 Issue 2.*
5. pal, Uma., (2014), Right to equality-A Fundamental Right, *published Research Articles on: <http://www.legalserviceindia.com>.*
6. Raj, Prof.Nirmal., (2015), The Distribution of social justice by Rajarshi Krishnraj Wodeyar IV, *Published EPRA International Journal of Economic and Business Review, ISSN:2349-0187, Vol-3, Issue-3.*
7. Subramanyachary, Dr. P., (2013), Status of Schedule Tribes in Andhra Pradesh, *published in "The Dawn Journal, Vol. 2, No.1.*
8. Maske Dr. Pradeep, *Tribal Communities in Goa: Uncertain Future Under Mafia-Minster-police Raj.* (2011), Atharva publication journal, Goa

C. Statistical Data.

1. Collection of Statistical Data of Reservation of Roaster of Government Departments, Government of Goa.
2. Collection of Statistical Data of Reservation of Roaster of Government collages /Institutions, Government of Goa.
3. Collection of Statistical Data of Reservation of Roaster of Aided Collages, in the state of Goa.
4. Collection of Statistical data for Tribal Sub-plan funds, from Directorate of Tribal Welfare, Government of Goa.
5. Collection of Statistical data total number of cases registered from Goa State SC/ST Commission, Government of Goa.
6. Collection of Statistical data of Scheduled tribe in India 2010, from Ministry of Tribal Affairs, Statistics Division Government of India, New Delhi.

D. Report.

1. First Annual Report of the National Commission for Scheduled Tribes, 2004-05 and 2005-06, Government of India , see www.ncst.gov.in

E. Constituent Assembly Debates

1. Constituent Assembly Debates, Vol. I. Book No.1 (official Report) Tabular Statement & Vol.No. I –VI, from 9th December 1948 to 27th January 1948, (Third Reprint), published by Constituent Drafting Committee, Lok Sabha Secretariat, New Delhi.
2. Constituent Assembly Debates, Vol. No. VII. Book No.2, from 4th November 1948 to 8th January 1948, (Third Reprint), published by Constituent Drafting Committee, Lok Sabha Secretariat, New Delhi.
3. Constituent Assembly Debates, Vol. No.- VIII, Book No.3, from 16th May 1949 to 16th June 1949, (Third Reprint), published by Constituent Drafting Committee, Lok Sabha Secretariat, New Delhi.

- 4 Constituent Assembly Debates, Vol. No. IX, Book No.4, from 30th July 1949 to 18th September 1949, (Third Reprint), published by Constituent Drafting Committee, Lok Sabha Secretariat, New Delhi.
- 5 Constituent Assembly Debates, Vol. No. X-XII, Book No.5, from 6th October 1949 to 24th January 1949, (Third Reprint), published by Constituent Drafting Committee, Lok Sabha Secretariat, New Delhi.

F. Census Reports

1. Census of India 2001, see <http://www.censusindia.gov.in>
2. Census of India 2011, see <http://www.censusindia.gov.in>

G. Gazettes/Gazetteers

1. The Government of Goa issued the order No.13/3/84-LAWD/OBC dated 12-6-87 and thereafter deleted the order No.13/3/84-LAWD/OBC dated 9-7-87 and Addendum No.13/1/97-SWD/(Vol.II)/4094 dated 6-12-2001 due to inclusion of the communities in the list of Scheduled Tribes, published in official Gazette, Government of Goa issued Notification No.13/14/90-SWD(Vol.II)/191
2. The Scheduled castes and Scheduled Tribes order (Amendment) Act, 2002 (central Act 10 of 2003 which has been passed by the parliament and assented to by the president of India on 7-1-2003 and published in the Gazette of India, Extraordinary, part II, Section 1, dated 8-1-2003 published official Gazette, Government of Goa under Notification No.10/3/2003-LA.
3. The Government of Goa issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2273 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute Executive Committee of the state of Goa for evaluation and monitoring of implementation of the Annual Tribal Sub plan.
4. The Government of Goa issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2274 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute District Level Planning & Monitoring Committee for North Goa District of the state of

Goa for evaluation and monitoring of implementation of the Annual Tribal Sub-plan.

5. The Government of Goa issued the Notification No:-DTW/STAT-TSP/NOTIFICATION/2017-18/2275 in official Gazette, Government of Goa, Series –II No.14, dated 06-07-2017 to constitute Tribal Advisory Council of the state of Goa to formulate, implement and monitor the Tribal Sub plan at higher level on regular Basis.
6. Guideline for Utilization of TSP Funds issued by the R. Sridharan, joint Secretary (SP) to the Planning Secretary, D.O.No.M-13011/3/2005-SP-Co dated October 31,2005

H . Websites

<http://lawtimesjournal.in>

<http://www.censusindia.gove.in>

<http:// www.tribal.nic.in>

<http://www.legalserviceindia.com>,

www.planningcommission.gov.in

<http://lawtimesjournal.in>

<https://tribal.nic.in>

<https://www.uok.ac.in>

<https://www.uniqueiasacademy.com>

<https://ncst.nic.in>

<https://www.ncst.gov.in>

<https://csatforu.blogspot.com>

<https://docplayer.net>

<https://shodhganga.inflibnet.ac.in>

<https://core.ac.uk>

<https://csatforu.blogspot.com>

<https://openbudgetsindia.org/>

ANNEXURE-I
QUESTIONNAIRE-I

(To be filled by COMPLAINANTS BEFORE SC/ST COMMISSION)

Personal Information: -

Name: _____
Last First Middle

Sex: Male Female Place: _____ Caste: _____

Mark Tick in appropriate boxes

1. How did you come to know about the Goa State Scheduled Caste and Scheduled Tribes Commission?

News Paper Magazine Friends
Tribal org. Tribal Awareness Programme

2. On what issue did you file compliant before the Commission.

Atrocities Reservation Promotion
Any other issue

3. How did you represent the complaint before the Chairperson of Goa State Scheduled Caste and Scheduled Tribes Commission?

Self Advocate Tribal Org.
Any other

4. Did you pay any fee to the Advocate/ any person to file complaint before the Commission?

Yes No

5. How many times did you visit the Commission with regard to your complaint?

Below 4 times Below 6 times,
Below 8 times, more than 8 times?

6. What is the time taken by the commission in deciding your complaint?

Up to 5 months Up to 7months
Up to 9 months above 1 year
Still Pending

7. What is the reason for delay in deciding your complaint?

Workload of Chairperson

Complicated procedure before the Commission

Non-appearance of opposite party Any other reason

8. Are you **satisfied** with the functioning of the Commission?

Fully satisfied Somewhat Satisfied

Somewhat Dissatisfied

Fully dissatisfied No Response

9. Do you suggest that the Qualification of a Chairperson of the Commission has to be a Law Graduate?

Yes

No

10. Any other Observations/Suggestions

6. Do you think that the Goa State Commission of SC/ST plays important role to protection, welfare, development and advancement of the scheduled tribe in Goa.

Yes No

7. Do you feel that implementation of Tribal Sub-Plan is satisfactory regarding to improve the Socio-Economic Condition of the Tribal People in Goa.

Yes No

8. Do you think that the all concerned departments are properly utilizing the funds under tribal sub-plan through preparing the various schemes and development programmes for empowerment of scheduled tribes in Goa?

Yes No

9. Do you think that there is need of a legislation for Protection and Empowerment of Scheduled tribes in Goa?

Yes No

10. Please suggest any steps towards the development of Scheduled Tribes in Goa.

A.

B.

C.

ANNEXURE-III
QUESTIONNAIRE-III

(To be filled by TRIBAL PEOPLE)

Section-A

Information Related to status of family.

1. Please specify the status of your household in the table given below?

Sr. No	Name of Head of the Household	Relationship with Respondent	H. No.	Age	sex	Educational Qualification	Marital Status	Occupation
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

2. Family Annul Income: Below Rs. 60,000
 Above 60,000 but Below 2,50,000

Section-B

Information Related to Avail Scheme

1. Are you aware about the scheme prepared under tribal sub-plan by departments?

Yes No

1a. If yes, Name of the scheme -----

2. Do you receive any government scheme:

Yes No

2a. If yes, Name of the Scheme ----- and Name of the Department -----

3. Does any of your family member receive any government scheme:
 Yes No
- 3a. If yes Name of the Scheme ----- and Name of the Department -----
4. Do you feel the procedures are too complicate to obtain the benefit under welfare schemes prepared under tribal sub-plan by departments?
 Yes No
- 5a. If yes, what difficulty did you face.
 Lack of documents Lack of knowledge of procedure
 Lack of Knowledge of Schemes Any other
5. Are you satisfied the scheme prepared under tribal sub-plan by various departments.
 Very satisfied Somewhat Satisfied
 Somewhat Dissatisfied Very dissatisfied
 No Response

Section-C

Information Related to Atrocities

1. Did you ever face any problem of discrimination in the society?
 Yes No
2. Did you ever felt harassed by a Non-tribal person?
 Yes No
- 2a. If yes, in what sense
 Verbal Physical Mental Any other
3. Do you file a complaint before SC/ST Commission?
 Yes No
- 3a. If yes, what is outcome of your complaint.
 Action taken satisfactory Action is not satisfactory
 Action no taken

Section-D

Information to about Reservation to Scheduled Tribes.

1. Are you aware about the Reservation in Employment of scheduled tribes?

Yes No

1a. If yes, Did you or any of your family member ever availed such reservation for Employment.

Yes No

2. Are you aware about the Reservation in State Legislative, Panchayat, Municipality, Zilla panchayat, parliament of scheduled Tribes?

Yes No

2a. If yes, Did you and your family member ever availed such reservation in state Legislative, Panchayat, Municipality, Zilla panchayat or parliament of scheduled Tribes?

Yes No

2b. Did you hear of any person your friend or from locality who contested the elections on reserved seats?

Yes No

3. Are you aware about the Education Reservation of scheduled Tribes?

Yes No

3a. If yes, Did you or your family member ever availed of reservation for Education for your children.

Yes No

4. Are you aware about the various Legislation relating to protection of scheduled tribes

Yes No

5. Do you think the policy of reservation has made any difference to the life of tribal's in Goa.

Yes No

6. State any other problems :

a)

b)

c)

Name of Village -----

Name of Village pancyahte -----

Total household of village-----

Name of Taluka -----

Name of District -----

Name of Constituency -----

Name of Reacher -----

Name of Respondent -----

Email id:

Mobile Number: