
TRIBAL WOMEN AND LEGAL EMPOWERMENT

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ABSTRACT

The historical and contemporary realities of tribal women in India reveal a trajectory shaped by both resilience and systematic marginalisation. In pre-colonial times, many tribal societies sustained relatively egalitarian norms in which women held economic, social, and community leadership roles. Colonial interventions—especially the state appropriation of forests and revenue reforms—disrupted these structures, restricted resource access, and diminished women’s autonomy. The freedom struggle saw leaders such as Budwal Devi, Sobha Ganda, and the Koya queen Bângarâ Devi, yet their contributions remain underacknowledged. An intersectional lens, as articulated by Kimberlé Crenshaw, illuminates how gender, indigeneity, and class interact to produce distinctive, indivisible forms of oppression tied to broader power systems. Legal and policy regimes—from constitutional guarantees to forest and panchayat laws—offer frameworks for empowerment, while developments in environmental jurisprudence, including Rights of Nature debates, signal evolving approaches to resource governance. Persistent barriers include low educational attainment, health disparities, economic precarity, weak enforcement of protective laws, and underrepresentation in governance. Nevertheless, advances in land rights, anti-violence measures, education, and political participation—bolstered by civil society initiatives and Gram Sabha institutions—demonstrate pathways to substantive equality. Sustained, intersectional policy action and collaborative state–community–NGO efforts remain crucial to ensure tribal women’s equitable access to justice, resources, safety, and leadership.

Keywords: Tribal women; Legal empowerment; Intersectionality; Land rights; Access to justice

INTRODUCTION

Historically, many tribal societies in India were marked by relatively egalitarian social relations, where women contributed decisively to agriculture, resource management, and community governance. Decision-making often included women and accorded them respect not commonly observed in non-tribal contexts of the time.

British colonial rule transformed this landscape. Forests were declared state property; revenue and land tenure reforms displaced communities and weakened tribal authority, including that of influential women. Forest laws curtailed access to vital resources, eroding women's economic independence and intensifying vulnerability.

During the freedom struggle, tribal women such as Budwal Devi, Sobha Ganda, and the Koya queen Bângarâ Devi led and inspired resistance. Yet mainstream histories often obscure their centrality. The entwined effects of colonialism, gender hierarchies, and indigenous status steadily diminished autonomy—a legacy that continues to shape contemporary realities.

Intersectional discrimination: gender, ethnicity, and class

Kimberlé Crenshaw's intersectionality offers a powerful framework for understanding discrimination arising from overlapping identities. It challenges single-axis approaches that isolate gender, race, or class, which often render the distinct experiences of, for example, racial minority women invisible.

An intersectional lens reveals that oppression at the nexus of identities is not additive but qualitatively different. The experiences of a racial minority woman diverge from those of racial minority men or majority-caste/ethnic women due to stereotypes and structural barriers specific to the intersection. Crucially, intersectionality connects lived experiences to broader systems of privilege and dis-privilege, treating identity categories as socially constructed vectors for vulnerability and advantage within power structures. Its aim is to transform systems producing intersectional disadvantage.

CONSTITUTIONAL AND LEGAL FRAMEWORKS: EVOLVING DEBATES ON NATURE, RIGHTS, AND ENFORCEMENT

Rights of Nature (RoN) reflect an ecocentric turn in legal thought, advocating legal personhood

for natural entities—rivers, forests, ecosystems—to grant standing and incorporate broader scientific evidence in decision-making. Rooted in Christopher Stone’s 1972 “Should trees have standing?”, RoN seeks a “Rule of Law for Nature,” countering the anthropocentric and fragmented character of modern environmental regulation. Notable examples include Ecuador’s constitutional recognition of “Pacha Mama,” New Zealand’s personhood for the Whanganui River and Te Urewara, and court decisions in Colombia, India, and Bangladesh.

In Europe, RoN has faced critical appraisal. Despite its fresh perspective, critics contend it is often symbolic, encountering the same enforcement gaps as traditional environmental laws, law already embeds environmental protection, sustainable development, and principles like precaution and polluter pays.

ACCESS TO JUSTICE AND LEGAL REPRESENTATION

Contemporary barriers to justice for tribal women are multifaceted:

- a. Educational deficits—exacerbated by financial hardship, household burdens, language barriers, and inadequate schools—limit rights awareness.
- b. Health disparities—high maternal/infant mortality, malnutrition, severe anemia, and untreated mental health issues—constrain mobility and advocacy.
- c. Economic marginalisation—limited land and resource access, insecure informal work—reduces bargaining power and legal recourse.

Strengthening access to justice requires survivor-centric services, gender-sensitive institutions, legal aid and representation (including NGO-led support), and consistent, transparent enforcement.

LAND RIGHTS AND RESOURCE MANAGEMENT

Land and resource rights are foundational to tribal women’s well-being and cultural identity. A significant milestone came in *Ram Charan & Ors. v. Sukhram & Ors.* (2025), where the Supreme Court upheld a tribal woman’s equal share in ancestral property. The Court affirmed that customary law cannot override constitutional equality and invoked justice, equity, and good conscience and Article 14 to hold that exclusion of female heirs entrenches

discrimination. Importantly, it shifted the burden of proof: where customs are silent on women's inheritance, the opposing party must prove a custom prohibiting such rights.

Tribal land regimes frequently emphasise collective stewardship and rights to resource use, viewing individual private property as an intrusive external model. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) mandates joint registration of individual forest rights in the names of both spouses and situates governance under the Gram Sabha. Constitutional frameworks—Fifth and Sixth Schedules—and the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) empower Gram Sabhas to manage community resources and safeguard customs, including women's resource rights. Judicial recognitions, including *Samatha* and *Niyamgiri*, reinforce these protections.

Challenges remain. In *Manni Devi v. Rama Devi & Ors.* (2025), the Rajasthan High Court called for legislative reform to address tribal women's exclusion from the Hindu Succession Act. Efforts to codify customary law while upholding constitutional values are vital for gender-just resource governance.

PROTECTION FROM GENDER-BASED VIOLENCE

Tribal women face heightened risks of sexual and other forms of violence, compounded by stereotypes (including pernicious notions of “promiscuity”) and intersecting discrimination.

Barriers include:

- a. Low reporting due to fear, stigma, and lack of trust in the justice system.
- b. Weak implementation of laws such as the Protection of Women from Domestic Violence Act (2005) and the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act (1989), driven by police apathy, corruption, and inadequate gender sensitivity.
- c. Male and upper-caste dominance in local governance, impeding fair recourse.

A multi-pronged strategy is essential: strict and timely enforcement, gender-sensitive and trauma-informed training for police, judiciary, and service providers, and survivor-centric institutions offering medical, psychological, legal, and rehabilitative support. Socio-cultural

transformation—through sustained awareness and gender sensitisation by governments and NGOs—is crucial. Lessons from several North-Eastern tribal societies, where women often have greater autonomy (despite challenges like poverty and conflict), can inform policy design.

Economic empowerment, including secure land rights and skills, reduces vulnerability.

ROLE OF EDUCATION IN LEGAL EMPOWERMENT

The Indian Constitution guarantees key rights that underpin empowerment: Equality (Article 14), Life and Personal Liberty (Article 21), Education (Article 21A), and protection against exploitation (Articles 23–24). It also provides special support for Scheduled Tribes (Articles 15(4), 46, 275). The 73rd Constitutional Amendment reserves seats for women—including tribal women—in Panchayati Raj Institutions, expanding local political participation.

Several statutes intersect with legal empowerment and socio-economic security: FRA (2006) on forest and land rights; the Protection of Women from Domestic Violence Act (2005) and the Prohibition of Child Marriage Act (2006); and the National Rural Employment Guarantee Act (2005) on the right to work. Yet corruption, bureaucratic delay, and resistance often impede effective implementation of FRA. Weak enforcement of the Prevention of Atrocities Act (1989), coupled with legal illiteracy and dismissive policing, leaves violence underpunished.

Education is a primary means of empowerment, building knowledge, skills, confidence, and the capacity to evaluate and hold policy to account. However, tribal women's educational status remains critically low due to financial constraints, cultural biases, geographic isolation, and infrastructural deficits. Despite initiatives such as Sarva Shiksha Abhiyan and Kasturba Gandhi Balika Vidyalayas, poor implementation and cultural resistance curtail impact. Enhancing legal literacy and accountability mechanisms is essential to translate formal rights into lived equality.

POLITICAL PARTICIPATION AND LOCAL GOVERNANCE

Constitutional mandates (73rd and 74th Amendments) have expanded women's representation in Panchayati Raj Institutions (PRIs). Yet for tribal women, representation can be symbolic at the grassroots and minimal in higher legislatures. In Himachal Pradesh's Bharmour and Pangi, no tribal woman has been elected to the Legislative Assembly since 1971, despite favourable demographics. Barriers include patriarchal norms, limited institutional outreach, weak education infrastructure, remoteness, economic dependence, lack of mentorship, and scarce

financial support. Many elected women function as “proxy leaders” for male relatives, constraining independent decision-making and progression to higher office.

Contrastingly, Jharkhand, Odisha, and Chhattisgarh show improvements through targeted leadership programs, civil society support, and political will. Self-Help Groups (SHGs) serve as training grounds for awareness and leadership. Odisha’s Mission Shakti and the Biju Janata Dal’s 33% women’s ticket policy have increased the number of tribal women MLAs.

ADVOCACY, NGOS, AND GRASSROOTS INITIATIVES

NGOs are pivotal in bridging gaps where public systems fall short. They deliver legal aid, health, education, and livelihood support while advancing policy change and women’s leadership.

- a. Shiva NGOs: legal support and advocacy in domestic violence, land disputes, and rights violations; campaigns against early marriage and gender stereotypes.
- b. Indigenous Rights Advocacy Centre (IRAC): strategic advocacy, timely rights interventions, free legal representation, and capacity building within indigenous communities.
- c. Grassroots initiatives amplify these efforts:

CONTEMPORARY CHALLENGES AND POLICY RECOMMENDATIONS

Key challenges remain:

- a) Education: low attainment due to poverty, domestic responsibilities, language barriers, weak infrastructure, early marriage, and gendered roles leading to dropouts.
- b) Health: high maternal and infant mortality, malnutrition, severe anemia; limited access to quality care due to remoteness, infrastructure gaps, costs, and unhygienic childbirth practices; a hidden mental health crisis exacerbated by stigma and scarce services.
- c) Economy: marginalisation in land/resource access and formal employment; concentration in insecure, low-paid informal work.

Policy directions—grounded in intersectionality—include:

- a. Education: expand financial assistance and scholarships; strengthen school infrastructure; integrate culturally relevant, tribal-language curricula; improve implementation of SSA and KGBVs.
- b. Health: improve access to maternal and child healthcare; provide comprehensive nutrition; build community-based mental health services, including telepsychiatry and training local health workers.
- c. Economic empowerment: secure land rights; deliver vocational skilling; promote sustainable livelihoods through microfinance, cooperatives, and SHGs.

Collaborative action among government, NGOs, and tribal communities is essential for durable, dignified change.

CONCLUSION

Tribal women's legal empowerment rests on recognising their historical centrality, confronting intersectional disadvantage, and realising constitutional guarantees through effective enforcement. Advances in land rights, local governance, education, and safety—backed by

Gram Sabhas and civil society—show what is possible. The task ahead is to scale these gains, ensure accountability, and embed culturally grounded, rights-based approaches so that tribal women can exercise full agency over law, land, and life.

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