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Access to Justice for Scheduled Tribes: A Critical Analysis of Constitutional Safeguards, Legal Protection and Judicial Responses in India with Special Reference to Goa

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ABSTRACT
Access to justice is a fundamental requirement of constitutional democracy, the rule of law and the protection of human rights. For Scheduled Tribes in India, it extends beyond access to courts and includes free legal aid, speedy justice, protection against discrimination, recognition of land and forest rights, political representation and effective implementation of constitutional safeguards. Despite several constitutional and statutory protections, tribal communities continue to face institutional, procedural and socio-economic barriers in obtaining effective legal remedies.
The present study critically examines the constitutional and socio-legal dimensions of access to justice for Scheduled Tribes in India, with special reference to the Gawda, Kunbi and Velip communities of Goa. It analyses relevant constitutional provisions, particularly Articles 14, 15, 16, 21, 39A, 46, 244, 330, 332 and 338A, alongside important legislation, including the Legal Services Authorities Act, 1987, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Forest Rights Act, 2006. The study also examines the judicial interpretation of free legal aid, speedy trial, tribal land rights and community participation. Adopting a doctrinal legal research methodology based on secondary sources, including legislation, judicial decisions, government reports, books, academic journals and international human rights instruments, the research evaluates the effectiveness of existing legal and institutional mechanisms. It argues that meaningful access to justice requires stronger legal aid institutions, protection of tribal land and cultural identity, effective political representation, administrative accountability and accessible judicial infrastructure. The study concludes that strengthening constitutional safeguards and institutional coordination is essential for ensuring equality, dignity and social justice for Scheduled Tribes, particularly in Goa.

Keywords: Access to Justice; Constitutional Safeguards; Free Legal Aid; Human Rights; Social Justice; Forest Rights; Tribal Land Protection; Political Representation; Judicial Accountability.

1. Introduction

Access to justice is a fundamental principle of a democratic and constitutional society, ensuring that every individual has an equal opportunity to seek legal remedies, protect fundamental rights and obtain justice without discrimination based on social, economic or cultural circumstances. In India, the concept of access to justice has particular significance for Scheduled Tribes, who have historically experienced social exclusion, economic marginalisation, geographical isolation, land alienation and inadequate participation in decision-making institutions. Despite the constitutional commitment to equality, dignity and social justice, tribal communities continue to encounter difficulties in effectively exercising their legal and constitutional rights. The problem is not merely the absence of protective legislation but also the gap between the recognition of legal rights and their actual enforcement. Consequently, access to justice must be understood as a broader concept encompassing free legal aid, speedy trial, effective judicial remedies, protection of traditional land and forest rights, political representation and accountability of public authorities .
The Constitution of India provides an extensive framework for the protection and advancement of Scheduled Tribes through Articles 14, 15(4), 16(4), 21, 32, 39A, 46, 244 and 338A. These provisions seek to establish substantive equality, protect life and personal liberty, promote educational and economic interests and provide institutional mechanisms for safeguarding tribal rights. In particular, Article 39A recognises the importance of equal justice and free legal aid, while Article 46 directs the State to protect Scheduled Tribes against social injustice and exploitation. Furthermore, legislative measures such as the Legal Services Authorities Act, 1987, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provide important mechanisms for legal protection, rehabilitation and recognition of community rights. However, the effectiveness of these enactments depends upon administrative accountability, institutional accessibility, legal awareness and timely judicial intervention .
Judicial interpretation has further strengthened the constitutional understanding of access to justice. In Hussainara Khatoon v. Home Secretary, State of Bihar , the Supreme Court recognised speedy trial as an essential component of Article 21, while in Khatri v. State of Bihar , it emphasised the constitutional importance of free legal assistance. Similarly, Samatha v. State of Andhra Pradesh highlighted the importance of protecting tribal land in the context of applicable Scheduled Area legislation. In Orissa Mining Corporation Ltd. v. Ministry of Environment and Forests , the Supreme

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Court recognised the significance of Gram Sabha participation in determining the religious and community rights of tribal populations under the Forest Rights Act. Furthermore, Anita Kushwaha v. Pushap Sudan identified accessibility, affordability, speedy adjudication and the availability of effective adjudicatory mechanisms as essential elements of access to justice.

In the State of Goa, the question of access to justice assumes particular socio-legal importance in relation to the Gawda, Kunbi and Velip communities, which constitute the recognised Scheduled Tribe communities of the State. These communities have historically faced challenges concerning traditional land ownership, forest resources, socio-economic development, educational opportunities, political participation and protection of cultural identity. Earlier research on tribal social exclusion and constitutional safeguards in Goa has highlighted the relationship between legal protection, institutional responsibility and the socio-economic conditions of tribal communities . The geographical and administrative circumstances of tribal settlements further underline the need for accessible legal aid, effective grievance-redressal mechanisms and culturally responsive justice delivery.

Goa also presents a distinct constitutional situation because it does not presently have constitutionally notified Fifth Schedule Scheduled Areas. Therefore, the provisions of the Fifth Schedule and the Panchayats (Extension to Scheduled Areas) Act, 1996 cannot automatically be treated as applicable to the State. Nevertheless, the constitutional principles of tribal protection, community participation and social justice remain relevant to examining appropriate legal and administrative reforms. Particular attention is required to the implementation of the Forest Rights Act, 2006, prevention of illegal land alienation, reservation in education and public employment, political representation, utilisation of the Tribal Sub-Plan and strengthening of the State Commission for Scheduled Castes and Scheduled Tribes .

Against this background, the present study critically examines the constitutional, statutory and judicial framework governing access to justice for Scheduled Tribes in India, with particular reference to Goa. Adopting a doctrinal legal research approach based on secondary sources, including legislation, judicial decisions, books, scholarly journal articles, government reports and international human rights instruments, the study investigates the gap between legal guarantees and their practical enforcement. It argues that meaningful access to justice requires not only the formal recognition of rights but also effective legal aid, protection of tribal land and forest resources, speedy judicial remedies, gender-sensitive institutions, political participation and accountable governance. Ultimately, the study seeks to identify appropriate legal and institutional measures for strengthening constitutional justice, protecting tribal dignity and promoting inclusive development in Goa and India .

Review of Literature

The literature on access to justice for Scheduled Tribes may be examined at three interconnected levels: State-level literature concerning Goa, national literature dealing with tribal exclusion and constitutional protection, and international literature concerning indigenous peoples, human rights and effective remedies.

The concept of access to justice has developed beyond the narrow understanding that an individual must have the right to approach a court. It includes the practical ability to understand legal rights, obtain legal advice, initiate proceedings, participate effectively in adjudication and secure an enforceable remedy. Mauro Cappelletti and Bryant Garth explain that access to justice requires institutional and procedural reforms so that legal rights become effective in practice rather than remaining merely formal guarantees .

Marc Galanter's influential analysis of the legal system further demonstrates that persons and institutions possessing greater financial resources, legal knowledge and repeated experience of litigation may enjoy structural advantages over individuals who approach the legal system only occasionally . This distinction is particularly relevant to Scheduled Tribe communities, whose members may face financial constraints, geographical isolation, inadequate legal awareness and difficulties in dealing with formal institutions. Galanter and Jayanth K. Krishnan's study of legal services and Lok Adalats in India critically examines whether alternative dispute-resolution institutions necessarily deliver fair and effective justice to disadvantaged persons . Their analysis is useful in understanding that speedy disposal alone cannot be treated as the complete measure of access to justice; the quality of the outcome, fairness of the process and ability of weaker parties to participate must also be considered. Kotagin Srinivasa Rao's research on the development of legal aid in India, with particular reference to Goa, provides a useful state-level perspective on the relationship between legal services and access to justice . These works collectively establish that access to justice must be assessed through affordability, accessibility, legal assistance, procedural fairness and effective remedies.

The literature on tribal rights in India identifies constitutional protection as an important instrument for addressing historical exclusion and structural inequality. Virginius Xaxa's State, Society and Tribes: Issues in Post-Colonial India examines the changing relationship between tribal communities, the State and wider society . His work is significant because it places tribal development within the broader context of political representation, social identity, land, governance and the limitations of post-colonial development policies. It helps explain why constitutional recognition and welfare programmes must be accompanied by meaningful institutional participation and protection of community interests. A related contribution is Nandini Sundar's Subalterns and Sovereigns, which analyses the expansion of State authority and its historical consequences for tribal communities, particularly in relation to land, forests and customary institutions .

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The literature also highlights the distinction between formal constitutional equality and substantive equality. Constitutional guarantees may provide a legal foundation for protection, but their practical value depends upon the capacity of individuals and communities to invoke them. In the context of Scheduled Tribes, these concerns arise in relation to access to legal services, protection against discrimination, implementation of reservation policies, representation in decision-making institutions and the enforcement of statutory safeguards.

The National Legal Services Authority's Protection and Enforcement of Tribal Rights Scheme, 2015 provides an institutional framework for strengthening legal assistance and awareness concerning tribal rights . It is relevant to the present research because it recognises the need for legal services directed towards the protection and enforcement of rights of tribal communities. The literature on legal aid therefore suggests that legal awareness programmes, community-level legal services, assistance in obtaining documents and access to competent legal representation are important conditions for meaningful access to justice. In Goa, this discussion requires attention to the geographical accessibility of legal services for Gawda, Kunbi and Velip communities and the capacity of district and State legal services institutions to respond to their specific legal difficulties.

The reviewed literature provides important conceptual, constitutional, socio-legal and Goa-specific insights. However, the existing works often examine access to justice, tribal land rights, forest rights, legal aid, social exclusion, human rights and political representation as separate subjects. There remains a need for an integrated doctrinal analysis that brings these issues together and examines how far the constitutional and statutory framework enables Scheduled Tribes to obtain effective remedies in practice. Goa requires particular attention because its tribal communities operate within a State-specific legal and administrative setting, and special legal arrangements applicable to notified Fifth Schedule areas cannot simply be presumed to apply.

Land is a central theme in the literature on tribal rights because it is connected with livelihood, identity, customary practices, social relationships and cultural continuity. Ankit Bhatia and Namita Wahi's research report, The Legal Regime and Political Economy of Land Rights of Scheduled Tribes in the Scheduled Areas of India, analyses the constitutional and statutory framework governing tribal land rights and identifies tensions between protective laws and development policies that may result in displacement and landlessness . The report is particularly useful for understanding the legal importance of land protection in areas covered by the Fifth and Sixth Schedules. However, its discussion of Scheduled Areas must not be mechanically applied to Goa, where the constitutional position is different.

Aashish Xaxa's study of the transformation of tribal hinterlands into urban spaces examines the consequences of urban development and land procurement for tribal communities in Fifth and Sixth Schedule areas . These works reveal that development-related land acquisition and administrative decisions may create serious questions concerning consultation, participation, rehabilitation and the protection of customary rights.

Research on land dispossession in Goa is especially relevant to the present study. Preeti Sampat's article, "The 'Goan Impasse': Land Rights and Resistance to SEZs in Goa, India," examines land conflicts and resistance to Special Economic Zones in the State . Solano Da Silva, Kenneth Bo Nielsen and Heather P. Bedic, in "Land Use Planning, Dispossession and Contestation in Goa, India," analyse the relationship between land-use planning, political interests and the possibility of dispossession . Their work provides an important framework for examining how planning decisions, land classification and administrative processes can affect rural communities. These studies are not exclusively about Scheduled Tribes; nevertheless, they offer valuable contextual material for understanding the wider land-governance environment in which tribal land and livelihood questions arise.

The broader literature on development-induced displacement also demonstrates that the consequences of development projects cannot be measured only in terms of economic growth or infrastructure creation. The work of Michael M. Cernea on impoverishment risks and reconstruction provides a framework for understanding the social and economic risks associated with displacement . Mike Levien's research on land dispossession in India examines the political economy of land acquisition and the relationship between State power, investment and dispossession . R. Sharan's discussion of tribal land alienation and restoration in Jharkhand further highlights the continuing importance of land restoration and effective enforcement of protective laws . These contributions are useful for evaluating the legal safeguards required to prevent dispossession and to ensure appropriate rehabilitation and compensation.

In the context of Goa, Gawas and Velip's article, "Tribes of Goa: Their Institution and Movement," discusses the historical and institutional position of Gawda, Kunbi and Velip communities and provides a basis for understanding their social and cultural context . Gawas's article, "Law and Social Justice to Scheduled Tribes Vis-à-Vis Constitution of India and Social Inclusion in Goa," considers constitutional rights and the challenges of social inclusion in the State . Another article by Gawas, "Human Rights and Reality of Problems of Tribals in Goa: Issues and Discourses," examines the human-rights concerns affecting tribal communities in Goa . These contributions are directly relevant to the present research because they provide Goa-specific academic perspectives on tribal institutions, social exclusion, constitutional safeguards and human rights.

Gawas,V.M, doctoral thesis, Constitutional Safeguards and Welfare Measures Relating to Scheduled Tribes: A Critical Study with Reference to the State of Goa, provides a more extensive Goa-focused study of constitutional safeguards and welfare measures . It is particularly useful as a state-specific academic source for examining the legal and institutional position of Scheduled Tribes in Goa. Gawas.V.M, article on forest rights in Goa also contributes to the discussion of the

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relationship between forest-dependent communities, legal recognition and the implementation of protective measures . These works provide a foundation for further examining whether existing legal and administrative mechanisms adequately address the practical difficulties faced by tribal communities

These studies are relevant to Goa, but their constitutional setting must be carefully distinguished. Goa does not have constitutionally notified Fifth Schedule Scheduled Areas. Consequently, PESA and the special administrative arrangements applicable to notified Scheduled Areas cannot be assumed to apply automatically throughout Goa. The present study must therefore examine the legal protections actually available to Scheduled Tribes in Goa and consider whether additional State-level institutional or legislative measures are necessary and constitutionally permissible. This distinction is important to avoid confusing the general constitutional protection of Scheduled Tribes with special provisions that operate only in constitutionally specified territories. The literature on rights-based legislation also provides a useful analytical perspective. Alf Gunvald Nilsen's review of India's turn to rights-based legislation examines the relationship between legal entitlements, social movements and the limitations of redistributive reforms .

The present study seeks to address this gap by analysing access to justice for Scheduled Tribes in India, with special reference to Goa. It examines constitutional safeguards, legal aid, protection against atrocities, forest and land rights, administrative remedies, judicial decisions and institutional accountability. It also considers the position of Gawda, Kunbi and Velip communities in the context of legal awareness, access to public institutions, protection of customary interests and participation in governance. The study is doctrinal and relies on secondary sources, including books, journal articles, research reports, academic theses and published legal materials. It does not claim to conduct fresh empirical fieldwork. Its contribution lies in bringing these strands of literature into a single constitutional and socio-legal framework and identifying the legal and institutional reforms required to make access to justice more meaningful for Scheduled Tribes in Goa and India.

Statement of the Research Problem

Despite the existence of constitutional guarantees and several protective legislative measures, Scheduled Tribes in India continue to face difficulties in obtaining effective and timely justice. The problem is not merely the absence of legal provisions but the gap between the formal recognition of rights and their actual enforcement. Legal illiteracy, economic vulnerability, geographical isolation, procedural complexity, inadequate legal assistance, administrative delays and unequal access to institutional decision-making may prevent tribal communities from obtaining effective remedies. In Goa, these concerns are particularly significant in relation to the Gawda, Kunbi and Velip communities, whose traditional relationships with land, forests, customary institutions and local governance require careful legal consideration.

The research problem is further reflected in the difficulties associated with land alienation, recognition of forest rights, access to reservation, protection against exploitation, effective investigation of atrocities, rehabilitation of displaced communities and participation in decision-making. Although the Forest Rights Act, 2006 and the SC/ST (Prevention of Atrocities) Act, 1989 provide important legal safeguards, their effectiveness depends upon institutional capacity, administrative accountability and the ability of affected persons to access legal remedies.

Accordingly, the central problem of this research is the continuing gap between constitutional and statutory protection and the practical realisation of justice by Scheduled Tribes, with particular reference to Goa. The study examines whether existing legal and institutional mechanisms are adequate to protect tribal rights and identifies reforms necessary to make access to justice more affordable, accessible, participatory and effective.

Objectives of the Study

The present study aims to critically examine the constitutional framework governing access to justice for Scheduled Tribes in India, particularly with reference to Articles 14, 15, 16, 21, 32, 39A, 46, 244, 330, 332 and 338A of the Constitution of India, and to analyse the principles of equality, human dignity, social justice, legal aid and affirmative action in protecting tribal communities. It further seeks to evaluate the effectiveness of important central and State-level legislative measures, including the Legal Services Authorities Act, 1987, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Right to Information Act, 2005 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, with particular emphasis on their implementation in Goa. The study also intends to identify the legal, institutional, socio-economic, geographical, cultural and gender-related barriers that restrict access to justice among the Gawda, Kunbi and Velip communities, including issues relating to tribal land rights, forest-rights claims, political representation, legal aid, customary practices, welfare schemes and institutional grievance redressal. Finally, it seeks to recommend appropriate constitutional, legislative, administrative and institutional reforms to strengthen access to justice through effective legal aid clinics, legal awareness programmes, local-language assistance, speedy trials, victim compensation, improved judicial infrastructure, digital justice facilities, political participation, representation of tribal women and better coordination among government departments, legal institutions and civil society organisations.

Research Hypotheses

The present study is based on the hypothesis that, although India has established an extensive constitutional and statutory framework for the protection of Scheduled Tribes, the practical effectiveness of these safeguards remains affected by

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deficiencies in implementation, institutional accountability and access to appropriate legal remedies. It further hypothesises that socio-economic disadvantage, geographical isolation, inadequate legal awareness, linguistic barriers and procedural complexities restrict the ability of tribal communities to approach and effectively participate in formal justice institutions. In the context of Goa, the study proceeds on the proposition that meaningful protection of the rights of Gawda, Kunbi and Velip communities requires stronger implementation of legal aid mechanisms, land and forest rights protections, political representation, welfare measures and institutional grievance-redressal systems. It also hypothesises that culturally responsive legal institutions, community participation, accessible legal literacy programmes and effective administrative accountability can substantially strengthen substantive access to justice, constitutional protection and social inclusion for Scheduled Tribes.

Research Questions

The present study seeks to examine the constitutional principles and statutory provisions governing access to justice for Scheduled Tribes in India and to assess the extent to which existing legal aid and human rights institutions provide effective remedies to tribal communities. It further explores the legal, socio-economic, geographical, cultural and institutional barriers that affect the ability of Scheduled Tribes to approach police stations, courts and administrative authorities and critically evaluates the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Goa. The study also investigates the relationship between tribal land protection, customary practices, political representation and access to justice, particularly in relation to the Gawda, Kunbi and Velip communities. Finally, it seeks to identify appropriate legal, constitutional, administrative and institutional reforms that can improve access to justice, strengthen the protection of tribal rights and promote the effective participation and protection of tribal women and other vulnerable members of tribal communities.

Research Methodology

The present research adopts a doctrinal legal research methodology based primarily on secondary sources. The doctrinal method is used to examine constitutional provisions, statutory enactments, rules, judicial precedents and established legal principles governing access to justice for Scheduled Tribes. The study analyses the relationship between fundamental rights, directive principles, affirmative action and protective legislation, with particular attention to Articles 14, 15, 16, 21, 32, 39A, 46, 244, 330, 332 and 338A of the Constitution of India.

The research relies on primary legal materials, including the Constitution of India, Acts of Parliament, applicable Goa legislation, rules, government notifications and judgments of the Supreme Court of India and relevant High Courts. Secondary sources include academic books, peer-reviewed journal articles, research papers, government publications, Census reports, annual reports of statutory commissions, publications of the Ministry of Tribal Affairs, National Legal Services Authority materials and reports of international organisations. Relevant international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the United Nations Declaration on the Rights of Indigenous Peoples, are examined as comparative normative sources.

The study follows an analytical and interpretative approach to examine the effectiveness of the legal framework and identify the gap between legislative objectives and institutional implementation. It also adopts a comparative perspective by examining national and international principles concerning legal aid, speedy trial, tribal land protection, community participation and effective remedies. The Goa-specific analysis focuses on the legal position of the Gawda, Kunbi and Velip communities and the functioning of relevant State institutions.

The study does not claim to establish primary empirical findings through household surveys, interviews or field investigations. Any numerical information used is derived from published official or secondary sources and is identified accordingly. The research is therefore principally doctrinal, with a socio-legal orientation, and its conclusions are limited to the analysis of available documentary evidence.

Constitutional Framework Governing Access to Justice for Scheduled Tribes

The Constitution of India provides a comprehensive legal and institutional framework for protecting the rights and interests of Scheduled Tribes. This framework is founded upon the constitutional principles of equality, human dignity, social justice, individual liberty, affirmative action and protection against exploitation. The constitutional scheme recognises that formal equality alone may not be sufficient to address historical discrimination and socio-economic disadvantage experienced by tribal communities. Accordingly, it combines enforceable Fundamental Rights with Directive Principles of State Policy and special constitutional provisions intended to promote the educational, economic, political and social advancement of Scheduled Tribes. Access to justice, in this context, must be understood not merely as the right to approach a court but also as the ability to obtain legal assistance, participate in fair proceedings, challenge unlawful administrative action and secure effective remedies. In Anita Kushwaha v. Pushap Sudan, the Supreme Court recognised access to justice as an aspect of Articles 14 and 21 and identified four essential requirements: an effective adjudicatory mechanism, reasonable accessibility, speedy adjudication and affordability .[1] These principles provide an

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important constitutional foundation for examining the legal position of Scheduled Tribes in India, particularly the Gawda, Kunbi and Velip communities in Goa.

Article 14 of the Constitution guarantees equality before the law and equal protection of the laws to every person within the territory of India. It requires the State to exercise its legislative, administrative and executive powers in a fair, reasonable and non-arbitrary manner. The constitutional guarantee is particularly significant for Scheduled Tribes because discriminatory administrative practices, arbitrary denial of statutory benefits, unequal treatment in public institutions and unlawful interference with livelihood or property interests may undermine their ability to enjoy equal protection of the law. The Supreme Court in E.P. Royappa v. State of Tamil Nadu explained the relationship between equality and arbitrariness, establishing that arbitrary State action is inconsistent with the constitutional guarantee of equality .[2] Further, in Maneka Gandhi v. Union of India, the Court emphasised that State action affecting personal liberty must satisfy the requirements of fairness, reasonableness and non-arbitrariness .[3] Therefore, Article 14 provides an important constitutional basis for challenging discriminatory treatment and seeking equal access to courts, administrative authorities and statutory grievance-redressal institutions.

Articles 15 and 16 establish constitutional safeguards against discrimination and provide a legal foundation for affirmative action in favour of disadvantaged sections of society. Article 15 prohibits discrimination against citizens on specified grounds, including religion, race, caste, sex and place of birth, while Article 15(4) enables the State to make special provisions for the advancement of socially and educationally backward classes of citizens and for Scheduled Castes and Scheduled Tribes. Article 15(5) further enables special provisions concerning admission to educational institutions, subject to its constitutional conditions and exceptions. Similarly, Article 16(1) guarantees equality of opportunity in matters of public employment, while Article 16(4) permits reservation in favour of a backward class of citizens which, in the opinion of the State, is not adequately represented in public services. Article 16(4A) specifically addresses reservation in promotion for Scheduled Castes and Scheduled Tribes under the conditions prescribed by the Constitution .[4] These provisions are intended to address structural inequalities and promote meaningful participation in education and public employment. In the context of Goa, their implementation should be examined with reference to the representation of tribal communities in educational institutions, public services and other constitutionally recognised opportunities.

Article 21 protects the life and personal liberty of every person and provides one of the most important constitutional foundations for access to justice. The Supreme Court has interpreted the expression 'life' broadly to include conditions necessary for a dignified and meaningful existence. In Olga Tellis v. Bombay Municipal Corporation, the Court recognised the relationship between livelihood and the right to life, holding that deprivation of the means of livelihood may affect the protection guaranteed under Article 21 .[5] This principle is relevant to Scheduled Tribes because land, forests and traditional livelihood resources may be closely connected with their economic survival, community relationships and cultural practices. In Hussainara Khatoon v. Home Secretary, State of Bihar, the Supreme Court recognised speedy trial as an essential component of Article 21, while in Khatri v. State of Bihar, it reaffirmed that free legal assistance is an essential element of a fair and reasonable procedure in appropriate criminal proceedings .[6] Accordingly, Article 21 provides a constitutional basis for examining issues relating to unlawful deprivation of liberty, custodial protection, livelihood, fair investigation, legal representation and timely adjudication. The principle is particularly important where economic or social disadvantage prevents tribal individuals from effectively defending their legal rights.

Articles 32 and 226 provide constitutional remedies for the enforcement of legal and fundamental rights. Article 32 guarantees the right to approach the Supreme Court for the enforcement of Fundamental Rights, whereas Article 226 empowers the High Courts to issue appropriate writs, directions and orders for the enforcement of Fundamental Rights and for other purposes. These provisions enable affected persons to challenge unlawful State action, administrative inaction, arbitrary decisions and violations of statutory or constitutional protections. The constitutional remedies are particularly important were Scheduled Tribe individuals or communities experience denial of legal entitlements, unlawful interference with livelihood, discriminatory treatment or failure of public authorities to perform their statutory duties. In Bandhua Mukti Morcha v. Union of India, the Supreme Court adopted a liberal approach to public interest litigation in addressing the exploitation and rights violations of disadvantaged persons .[7] In the context of Goa, Articles 32 and 226 may therefore be examined as important constitutional mechanisms for securing judicial intervention in cases involving violations of tribal rights, subject to the requirements of standing, maintainability and the appropriate remedy.

Article 39A directs the State to ensure that the operation of the legal system promotes justice on the basis of equal opportunity and that opportunities for securing justice are not denied to any citizen because of economic or other disabilities. It specifically requires the State to provide free legal aid through suitable legislation, schemes or other mechanisms. Although Article 39A forms part of the Directive Principles of State Policy and is not independently enforceable in the same manner as a Fundamental Right, it plays an important role in interpreting the constitutional commitment to fair procedure and equal access to justice. The principle has been reflected in the Legal Services Authorities Act, 1987, particularly Section 12(a), which expressly recognises members of Scheduled Castes and Scheduled Tribes as eligible categories for legal services, subject to the statutory framework .[8] The Supreme Court in Khatri v. State of Bihar held that the constitutional obligation to provide free legal services arises when the requirements of justice demand such assistance and is not confined merely to the commencement of the trial .[9] For Scheduled Tribes in Goa, Article 39A therefore supports the need for accessible legal aid, community-level legal awareness, assistance in

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criminal and civil proceedings and effective coordination between the Goa State Legal Services Authority, District Legal Services Authorities and other relevant institutions.

Article 46 directs the State to promote the educational and economic interests of Scheduled Castes and Scheduled Tribes with special care and to protect them from social injustice and all forms of exploitation. This provision reflects the constitutional responsibility to address the conditions that contribute to the marginalisation of tribal communities. Its significance extends beyond the provision of financial assistance and includes the need for effective educational opportunities, livelihood protection, access to welfare programmes, economic development and safeguards against exploitative practices. Article 46 must be read along with Articles 14, 15, 16 and 21 so that the State's developmental responsibilities remain consistent with equality, dignity and individual liberty .[10] In Goa, this constitutional directive is relevant to the implementation of tribal welfare schemes, educational scholarships, employment opportunities, protection of traditional livelihoods and measures intended to improve the socio-economic conditions of Gawda, Kunbi and Velip communities. It also provides a constitutional basis for examining whether public expenditure and welfare programmes are reaching their intended beneficiaries in an equitable and accountable manner.

Article 244 provides the constitutional framework for the administration of Scheduled Areas and tribal areas through the Fifth and Sixth Schedules. Article 244(1), read with the Fifth Schedule, concerns the administration and control of Scheduled Areas and Scheduled Tribes in States other than those covered by the Sixth Schedule. Article 244(2), read with the Sixth Schedule, provides special administrative arrangements for specified tribal areas in Assam, Meghalaya, Tripura and Mizoram. The Fifth Schedule includes provisions relating to the administration of Scheduled Areas, the responsibilities of Governors and the functioning of Tribal Advisory Councils in the constitutionally specified circumstances . However, the constitutional position of Goa requires separate consideration. Goa is not presently included among the States in which Fifth Schedule Scheduled Areas have been notified. The Ministry of Tribal Affairs explains that the declaration of Scheduled Areas is made by Presidential Order under paragraph 6 of the Fifth Schedule, following consultation with the Governor of the concerned State . Consequently, the special administrative arrangements of the Fifth Schedule and the Panchayats (Extension to Scheduled Areas) Act, 1996 cannot be presumed to apply automatically to Goa merely because Scheduled Tribes are recognised in the State. The applicability of PESA is linked to constitutionally notified Scheduled Areas .[13] Therefore, the present study examines the existing legal safeguards available to tribal communities in Goa and considers whether an appropriate State-specific legislative or institutional framework is necessary to strengthen tribal participation, protection of customary interests and access to justice.

Articles 330 and 332 provide for reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of the States, respectively, in accordance with the constitutional provisions governing representation and delimitation. These provisions recognise that political participation is an essential component of social justice because representation in legislative institutions enables historically disadvantaged communities to participate in public decision-making and raise matters concerning their rights, welfare and development .[14] In Goa, the Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025 (Act No. 21 of 2025) is an important legislative development intended to enable reservation of seats in the Goa Legislative Assembly in accordance with Article 332. The Act received Presidential assent on 13 August 2025 and was brought into force from 6 August 2026 by a Central Government notification .[15] Its implementation is significant for assessing the constitutional development of political representation of Scheduled Tribes in Goa. In addition, Articles 243D and 243T provide the constitutional framework for reservation in Panchayats and Municipalities, respectively, subject to the relevant constitutional provisions and applicable State laws. Thus, political representation must be examined as an important dimension of tribal participation, democratic accountability and access to justice.

Article 338A establishes the National Commission for Scheduled Tribes as a constitutional body responsible for monitoring and examining safeguards provided to Scheduled Tribes under the Constitution, other laws and Government orders. Under Article 338A(5), the Commission is empowered to investigate and monitor such safeguards, inquire into specific complaints concerning deprivation of rights, participate in and advise upon the planning process of socio-economic development and evaluate the progress of tribal development. It also submits reports to the President concerning the working of these safeguards. For the purpose of investigations, the Commission possesses powers of a civil court in respect of specified matters under Article 338A(8) .[16] The Commission therefore performs an important accountability and monitoring function in the constitutional protection of Scheduled Tribes. In relation to Goa, its role may be examined with reference to complaints concerning deprivation of tribal rights, implementation of welfare measures, political representation, land-related grievances and the performance of State authorities. The effectiveness of this constitutional mechanism ultimately depends upon timely inquiry, appropriate recommendations, cooperation by public authorities and meaningful follow-up action.

Important Laws Relating to Access to Justice for Scheduled Tribes

The legal protection of Scheduled Tribes in India is supported by several central enactments that address access to legal services, prevention of discrimination and atrocities, protection of land and forest rights, transparency in administration, human rights and the functioning of judicial institutions. These laws are intended to translate constitutional guarantees into enforceable rights and practical remedies. Their effectiveness, however, depends upon proper implementation by the

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police, courts, legal services authorities, revenue departments, forest authorities and other public institutions. For tribal communities, access to justice involves not only the availability of statutory remedies but also the ability to understand legal procedures, obtain assistance, approach competent authorities and secure timely relief. The following enactments are particularly relevant to the present study of access to justice for Scheduled Tribes in India, with special reference to Goa.

The Legal Services Authorities Act, 1987 is one of the most significant legislative measures for ensuring equal access to justice for economically and socially disadvantaged sections of society. It was enacted to establish legal services authorities at the national, State, district and other appropriate levels to provide free and competent legal assistance and to organise Lok Adalats for the settlement of disputes. Section 12(a) expressly recognises every member of a Scheduled Tribe as eligible for legal services under the Act, irrespective of the ordinary income-based eligibility criterion. Section 13 further deals with the entitlement to legal services, subject to the statutory conditions . The importance of this legislation lies in its recognition that financial hardship and social disadvantage should not prevent a person from approaching a court or defending a legal claim. For Scheduled Tribes in Goa, the Act provides a legal foundation for obtaining assistance in criminal cases, land disputes, claims relating to welfare entitlements, family disputes and other legal proceedings. The Goa State Legal Services Authority and the District Legal Services Authorities can play an important role by organising legal awareness programmes, providing competent legal representation, assisting eligible applicants with procedural requirements and developing legal aid services accessible to tribal communities.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted to prevent atrocities against members of Scheduled Castes and Scheduled Tribes and to provide for special courts, prosecution, relief and rehabilitation of victims. The Act recognises that ordinary criminal law may not, by itself, adequately address offences arising from caste-based and tribal identity-related oppression. Section 3 specifies punishable offences committed against members of Scheduled Castes and Scheduled Tribes in the circumstances defined by the legislation, while Section 4 provides for punishment for the neglect of duties by public servants. Section 14 provides for Special Courts or Exclusive Special Courts, and Section 15A protects the rights of victims and witnesses, including their rights concerning information, protection, participation and assistance during legal proceedings . The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, as amended, further provide for the implementation of relief, rehabilitation and other protective measures . For tribal communities in Goa, this legislation is particularly important in addressing legally defined atrocities, intimidation, unlawful interference with rights and failures by public authorities to discharge their statutory responsibilities. Its effective implementation requires accessible police services, prompt registration and investigation of offences, protection of victims and witnesses, appropriate prosecution and timely delivery of statutory relief.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, commonly known as the Forest Rights Act, was enacted to recognise and vest forest rights in forest-dwelling Scheduled Tribes and other traditional forest dwellers who satisfy the statutory requirements. The legislation acknowledges that historical restrictions and administrative practices have resulted in the non-recognition of certain customary and livelihood-related rights of forest-dependent communities. Section 3 identifies the categories of forest rights recognised under the Act, including individual and community rights, while Section 4 deals with the recognition and vesting of such rights. Section 5 provides for the responsibilities of rights holders and Gram Sabhas in protecting forests, biodiversity and cultural heritage, and Section 6 establishes the procedure and institutional mechanism for determining claims, beginning with the Gram Sabha . The Act is relevant to Goa because the State has published the Forest Rights Act, Rules and Guidelines through its official portal . Its implementation must nevertheless follow the eligibility conditions, evidentiary requirements and prescribed verification procedures contained in the Act and Rules. In the context of Gawda, Kunbi and Velip communities, the legislation is important for examining claims relating to individual occupation, community forest resources, customary access and livelihood protection. Effective implementation requires transparent claim processing, proper verification, meaningful participation of Gram Sabhas and reasoned decisions by the competent authorities.

The Right to Information Act, 2005 provides a statutory mechanism through which citizens can obtain information held by public authorities and promote transparency and accountability in public administration. The legislation is relevant to access to justice because individuals and communities frequently require official records, government orders, administrative decisions and information about the implementation of welfare programmes to establish or defend their legal claims. Section 3 recognises the right to information, while Section 4 imposes obligations upon public authorities concerning the maintenance and proactive disclosure of information. Sections 6 and 7 provide the procedure for submitting and deciding applications, and Section 19 establishes the appellate mechanism . For Scheduled Tribes in Goa, the Act may be used to obtain information concerning the status of forest-rights applications, tribal welfare expenditure, scholarship schemes, land records, reservation-related administrative decisions and action taken on representations or complaints. The practical value of the legislation depends upon awareness of the application procedure, timely responses from public authorities, availability of records and effective functioning of the information commissions. Therefore, access to information should be treated as an important supporting condition for legal accountability and the enforcement of tribal rights.

The Protection of Human Rights Act, 1993 establishes the statutory framework for the constitution and functioning of the National Human Rights Commission, State Human Rights Commissions and Human Rights Courts. The legislation

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provides an institutional mechanism for examining complaints involving violations of human rights or negligence in the prevention of such violations by public servants, within the scope of the Act. Section 12 specifies the functions of the National Human Rights Commission, including inquiry into complaints, intervention in relevant judicial proceedings with the permission of the court, review of constitutional and legal safeguards and examination of factors that inhibit the enjoyment of human rights. Section 18 deals with the steps that may be taken following an inquiry, including recommendations for compensation, prosecution or other appropriate action in accordance with law . The Act is relevant to Scheduled Tribes because violations involving unlawful detention, custodial violence, discrimination, deprivation of livelihood and failure of public authorities to protect basic rights may raise human-rights concerns. In Goa, the statutory framework should be examined alongside the functions of the competent human rights institutions and other grievance-redressal authorities. It is important to recognise, however, that the Commission's recommendations and powers operate within the statutory limits of the Act and do not replace the jurisdiction of ordinary courts or other specialised tribunals.

The Gram Nyayalayas Act, 2008 was enacted to establish village-level courts and improve access to justice for persons who experience geographical, economic or social difficulties in approaching conventional courts. The legislation seeks to make judicial services more accessible by providing for Gram Nyayalayas at the grassroots level. Section 3 provides for their establishment, while Section 9 enables the Nyayadhikari to hold mobile courts and conduct proceedings in villages. Sections 11 to 13 deal with jurisdiction, including criminal and civil jurisdiction, and Section 21 provides for the conduct of cases and legal aid to parties . The significance of the legislation for Scheduled Tribes lies in its potential to reduce the distance between rural communities and judicial institutions, thereby lowering the practical difficulties associated with travel, expenses and procedural formalities. In Goa, the possibility of strengthening grassroots judicial access should be examined with reference to the State's existing judicial infrastructure, the statutory requirements for establishing Gram Nyayalayas and the actual needs of tribal and rural communities. Their usefulness would depend upon adequate staffing, appropriate jurisdiction, legal aid facilities, awareness among local residents and coordination with the existing judicial system.

The Panchayats (Extension to Scheduled Areas) Act, 1996, commonly known as PESA, was enacted to extend the provisions of Part IX of the Constitution relating to Panchayats to constitutionally notified Fifth Schedule Scheduled Areas, subject to the modifications and special safeguards contained in the Act. It recognises the importance of Gram Sabhas and traditional community institutions in local self-governance and provides for community participation in matters relating to development, natural resources and customary practices. Its provisions concerning Gram Sabha powers, consultation and local decision-making are important in understanding the relationship between tribal self-governance and access to justice . However, an important constitutional distinction must be maintained in the present research: PESA applies to the Scheduled Areas specified within its constitutional and statutory framework, and Goa does not presently have constitutionally notified Fifth Schedule Scheduled Areas. Therefore, PESA cannot be described as an existing general law governing Panchayats in Goa. Its principles may be examined comparatively while considering the need for an appropriate State-specific framework that strengthens community participation, customary institutions and local accountability in Goa, subject to constitutional and legislative requirements.

The Protection of Civil Rights Act, 1955 was enacted to give effect to the constitutional prohibition of untouchability under Article 17 and to provide punishment for the enforcement of disabilities arising from the practice of untouchability. Although the Act primarily addresses the specific constitutional problem of untouchability and is not a general tribal land-rights statute, it forms part of the wider legislative framework for combating caste-based exclusion and denial of civil rights. Its provisions are relevant to understanding the relationship between constitutional equality, social dignity and legal remedies against discriminatory practices . For Scheduled Tribes, the Act should be considered in conjunction with the broader safeguards under Articles 14, 15 and 17 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In the context of Goa, its relevance lies in examining whether persons belonging to historically disadvantaged communities can exercise their civil rights without discrimination and whether complaints of legally prohibited practices are effectively addressed by the competent authorities.

The Bonded Labour System (Abolition) Act, 1976 was enacted to abolish the bonded labour system and prohibit the continuation of practices involving forced labour arising from bonded indebtedness. The legislation provides for the extinguishment of bonded labour obligations and the release of persons subjected to such practices. Section 4 abolishes the bonded labour system, while Section 5 renders agreements, customs and obligations requiring a person to render bonded labour void. The Act also provides for the implementation of its provisions through designated authorities and vigilance committees . The legislation is relevant to Scheduled Tribes because economic vulnerability, indebtedness, landlessness and exploitative labour arrangements may increase the risk of coercion and deprivation of personal liberty. Its importance must also be understood in light of Article 23 of the Constitution, which prohibits trafficking in human beings and forced labour. In Goa, effective protection requires identification of vulnerable workers, accessible complaint mechanisms, appropriate investigation, rehabilitation and coordination among labour authorities, police officials and legal services institutions.

The Rights of Persons with Disabilities Act, 2016 provides a statutory framework for protecting the rights and ensuring the inclusion of persons with disabilities. It is relevant to access to justice because persons with disabilities may face additional barriers in approaching police stations, courts, administrative offices and legal services institutions. The Act

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recognises equality and non-discrimination, accessibility, reasonable accommodation and specific rights relating to education, employment and social security . Its relevance to Scheduled Tribes is particularly important where tribal individuals experience the combined effects of disability, geographical isolation, poverty and social disadvantage. Legal institutions must therefore take appropriate steps to ensure accessible buildings, suitable communication facilities, procedural assistance and reasonable accommodation during legal proceedings. In Goa, the implementation of this legislation should be examined alongside the legal services framework to ensure that tribal persons with disabilities are not excluded from access to legal remedies merely because of physical, communication or institutional barriers.

The enactment of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Adhiniyam, 2023 represents a significant change in India's criminal justice framework. These three enactments replaced the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, respectively, with effect from 1 July 2024, subject to the applicable statutory provisions and savings . The Bharatiya Nyaya Sanhita, 2023 consolidates and amends the substantive criminal law relating to offences and punishments; the Bharatiya Nagarik Suraksha Sanhita, 2023 governs criminal procedure, including investigation, arrest, bail, inquiry and trial; and the Bharatiya Sakshya Adhiniyam, 2023 provides the rules and principles governing evidence in judicial proceedings . These enactments are relevant to Scheduled Tribes because the ability to report offences, participate in investigation, obtain legal representation, present evidence and receive a fair and timely trial is central to access to criminal justice. Their implementation must also be read together with the special protective provisions of the SC/ST (Prevention of Atrocities) Act, 1989, which continues to operate as a separate special legislation. In Goa, effective access to criminal justice requires adequate police training, accessible procedures, legal assistance, victim and witness protection, appropriate interpretation facilities where necessary and effective coordination between investigating agencies, prosecutors and courts.

Important Legal Principles Relating to Access to Justice

1. Right to speedy trial: The right to speedy trial forms an essential component of Article 21. Prolonged criminal proceedings and unnecessary delays may seriously prejudice the rights of victims and accused persons. For Scheduled Tribes, delays may increase economic hardship, travel expenses and dependence on intermediaries. In Hussainara Khatoon v. Home Secretary, State of Bihar, the Supreme Court recognised the constitutional significance of speedy trial and addressed the plight of undertrial prisoners who remained incarcerated for excessive periods.
2. Right to free legal aid: Free legal aid is an important element of equal justice. Article 39A requires the State to ensure that economic or other disabilities do not prevent individuals from securing justice. In Khatri v. State of Bihar, the Supreme Court held that the right to free legal services is implicit in Article 21 and that the State's obligation arises when the accused is first produced before a magistrate, where the circumstances and requirements of justice demand it. For Scheduled Tribes, legal aid must extend beyond criminal defence to appropriate civil, administrative and statutory proceedings.
3. Public Interest Litigation and access to justice: Public Interest Litigation has broadened the possibilities of judicial intervention in matters involving disadvantaged communities. The relaxation of traditional rules of locus standi enables public-spirited individuals and organisations to approach constitutional courts in appropriate cases involving public injury, environmental degradation, unlawful displacement and violations of fundamental rights. In Bandhua Mukti Morcha v. Union of India, the Supreme Court adopted a rights-oriented approach towards the protection of vulnerable labourers. The principles of this decision are relevant to tribal communities facing exploitation, forced labour and denial of basic human dignity.
4. Right to livelihood under Article 21: The right to livelihood is closely associated with the right to life. In Olga Tellis v. Bombay Municipal Corporation, the Supreme Court recognised the relationship between livelihood and the right to life under Article 21. This principle is relevant to tribal communities whose livelihood depends upon land, forests, agriculture and traditional occupations. Development-related interference with livelihood must therefore be assessed in accordance with applicable law, due process and constitutional protections.
5. Protection of tribal land and natural resources: Land protection is central to tribal justice because land frequently provides the material foundation of community identity, livelihood and cultural continuity. In Samatha v. State of Andhra Pradesh, the Supreme Court examined restrictions on the transfer of land in Scheduled Areas and the relationship between tribal land protection and constitutional safeguards. The judgment must be applied in its statutory and Scheduled Area context; its reasoning is persuasive for understanding the importance of protecting tribal land, but it does not automatically create a Fifth Schedule prohibition applicable to Goa.
6. Judicial infrastructure and speedy justice: Effective access to justice requires sufficient courts, trained judicial personnel, legal aid lawyers, translation facilities, accessible buildings and efficient case-management systems. The absence of such facilities can make legal remedies practically unavailable to remote tribal communities. The principles laid down in Anita Kushwaha v. Pushap Sudan provide a useful framework for assessing geographical accessibility, affordability, effectiveness and speed of adjudication.
7. Tribal religious and community rights: Tribal religious and cultural practices form an important aspect of collective identity. Article 25 protects freedom of conscience and religion, subject to constitutional limitations. Articles 29 and 30 provide relevant cultural and educational protections in their respective fields. The Forest Rights Act, 2006 also recognises

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certain community and customary rights. In Orissa Mining Corporation Ltd. v. Ministry of Environment and Forests, the Supreme Court recognised the important role of Gram Sabhas in determining the religious and community rights of the Dongria Kondh in the Niyamgiri hills.

8. Access to justice as a fundamental aspect of Article 21: Access to justice has been recognised as an essential constitutional requirement. In Anita Kushwaha v. Pushap Sudan, the Supreme Court identified four essential elements: an effective adjudicatory mechanism, reasonable accessibility in terms of distance, speedy adjudication and affordability. These elements provide a practical constitutional test for assessing whether Scheduled Tribes can genuinely approach the justice system and obtain effective remedies.

Judicial Interpretation: Important Supreme Court Judgments

The Supreme Court of India has significantly contributed to the development of constitutional principles relating to access to justice, legal aid, speedy trial, livelihood, tribal land rights, rehabilitation and human dignity. The following judgments explain the role of the judiciary in protecting the rights of Scheduled Tribes and other disadvantaged communities. In this landmark judgment, the Supreme Court recognised the right to a speedy trial as an essential component of Article 21 of the Constitution. The Court highlighted the injustice caused by the prolonged detention of undertrial prisoners . The decision is relevant to Scheduled Tribes because poverty, lack of legal awareness and limited access to legal representation may expose tribal persons to prolonged detention and delay in criminal proceedings.

In another important case, the Supreme Court held that free legal aid is an essential element of a fair, just and reasonable procedure under Article 21. The State has a constitutional responsibility to provide legal assistance to persons who cannot afford legal representation . This judgment is particularly important for Scheduled Tribes because it strengthens their right to receive effective legal assistance during criminal proceedings. It was recognised by the Supreme Court that the right to livelihood forms an important part of the right to life under Article 21. The judgment established that deprivation of livelihood directly affects human dignity and survival . Its relevance to Scheduled Tribes lies in the protection of traditional occupations, land-based livelihoods and access to natural resources, subject to applicable laws and constitutional procedures. Further the Supreme Court examined the constitutional framework governing reservation and affirmative action under Articles 15 and 16. The judgment explained the importance of substantive equality and special measures for socially and educationally disadvantaged groups . Although the case principally concerned Other Backward Classes, its constitutional discussion provides a broader understanding of affirmative action and the protection of disadvantaged communities, including Scheduled Tribes.

The Supreme Court considered the protection of tribal land in Scheduled Areas and examined restrictions on the transfer of tribal land for mining activities. The judgment emphasised the importance of protecting tribal land, resources and community interests under the applicable Scheduled Area legal framework . For Goa, this decision is a significant comparative judicial reference; however, its specific legal restrictions cannot automatically be extended to areas that are not governed by the same Scheduled Area framework.

In this judgment, the Supreme Court examined issues relating to development projects, displacement, environmental concerns and rehabilitation . The judgment is relevant to the study of access to justice because development-related decisions may directly affect the homes, livelihoods and cultural identity of tribal communities. It highlights the importance of examining rehabilitation and applicable legal safeguards when development projects affect vulnerable populations.

The Supreme Court examined the State's responsibility to protect tribal communities from violence and unconstitutional practices associated with the Salwa Judum arrangements. The Court emphasised that the State cannot avoid its constitutional duty to protect life, liberty and human dignity . The decision is important for understanding the rights of tribal populations to security, equality and effective constitutional protection.

Further the Supreme Court recognised the authority of Gram Sabhas to consider claims concerning community, religious and cultural rights under the Forest Rights Act, 2006, particularly in relation to the Dongria Kondh community . The judgment is significant because it acknowledges the importance of tribal participation in decisions affecting their religious beliefs, cultural identity and traditional relationship with forest resources. It provides an important judicial reference for examining community participation and forest rights in Goa.

On the Connection of the access to justice, the Supreme Court judgment explained that access to justice is an essential constitutional requirement and identified four important elements: an effective adjudicatory mechanism, reasonable geographical accessibility, speedy adjudication and affordability of legal proceedings . These principles provide a useful framework for evaluating the accessibility of courts, legal services institutions and grievance-redressal mechanisms for Scheduled Tribes in Goa and other parts of India.

Most important that the Supreme Court recognised the right to privacy as a fundamental right protected under Article 21 and other freedoms guaranteed by Part III of the Constitution. The judgment strengthened the constitutional protection of individual autonomy, dignity and personal liberty . Its principles are relevant to Scheduled Tribes in matters involving personal information, identity, community data and the protection of dignity while accessing public services and justice-delivery institutions.

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Results of the Study

The doctrinal examination of constitutional provisions, statutory legislation, judicial decisions and secondary literature reveals several important findings concerning access to justice for Scheduled Tribes in India, particularly in Goa.

First, the Constitution of India provides a substantial framework for protecting Scheduled Tribes through equality, affirmative action, legal aid, political representation and protection against exploitation. However, the effectiveness of these constitutional guarantees depends upon their proper implementation by government departments, police authorities, legal services institutions and judicial bodies.

Second, the Legal Services Authorities Act, 1987 provides a direct statutory entitlement to free legal services for members of Scheduled Tribes under Section 12(a). Nevertheless, the existence of this entitlement must be accompanied by accessible legal aid clinics, competent lawyers, legal awareness and continuous institutional monitoring. The statutory entitlement is an important foundation for ensuring that economic disadvantage does not prevent tribal persons from obtaining legal representation.

Third, the study identifies land alienation and the recognition of forest rights as important legal issues affecting tribal communities. The Forest Rights Act, 2006 provides a framework for recognising individual and community rights. However, the official figures available up to 30 June 2026 show substantial pendency in Goa's forest-rights claims. The reported position of 10,377 claims received, 1,270 titles distributed and 7,206 claims pending demonstrates the importance of strengthening administrative and legal mechanisms for claim settlement.[13]

Fourth, the research identifies the importance of political representation as an essential dimension of access to justice. The Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025 provides an important legislative development. However, its actual implementation must be assessed through the completion of the statutory and constitutional processes governing constituency readjustment and reservation.

Fifth, the analysis indicates that geographical accessibility, linguistic barriers and procedural complexity can affect the ability of tribal communities to approach police stations, administrative authorities, legal aid institutions and courts. Therefore, access to justice must include institutional facilities in or near tribal settlements and assistance in languages understood by the concerned communities.

Sixth, the research highlights the importance of tribal women's access to justice. Legal protection against violence, exploitation and discrimination must be accompanied by gender-sensitive legal aid, effective investigation, compensation and participation in decision-making.

Seventh, the study identifies the importance of institutional coordination. The Goa State Legal Services Authority, District Legal Services Authorities, Directorate of Tribal Welfare, State Commission for Scheduled Castes and Scheduled Tribes, Human Rights Commission, police authorities and local-government institutions must operate through an integrated approach.

Finally, the study finds that access to justice cannot be understood only as the right to approach a court. It includes legal awareness, access to information, protection of livelihood, recognition of customary rights, participation in governance and effective enforcement of legal remedies. The constitutional principles laid down in Anita Kushwaha v. Pushap Sudan provide a useful framework for evaluating these requirements. These findings represent conclusions drawn from the doctrinal and documentary analysis. They should not be interpreted as statistical findings from a primary field survey.

Discussion

The relationship between constitutional safeguards and the actual experience of Scheduled Tribes demonstrates that access to justice is both a legal and a social question. The constitutional framework provides formal recognition of equality, dignity, livelihood, political representation and legal assistance. However, the practical enjoyment of these rights depends upon the capacity of tribal individuals and communities to approach institutions and obtains effective remedies. The discussion must therefore move beyond the existence of legislation and examine the institutional conditions necessary for its implementation.

One of the central issues is the distinction between formal justice and substantive justice. Formal justice requires the availability of legal rules and judicial institutions, whereas substantive justice requires that individuals have a realistic opportunity to use those institutions. A tribal person who has a legal right but lacks information, financial resources, documentary assistance or access to legal representation may remain unable to enforce that right. Galanter's analysis of the unequal capacity of different groups to use legal institutions is relevant in this context. The legal system must therefore take account of the unequal social and economic conditions in which disputes arise.

The constitutional development of Article 21 provides an important foundation for understanding access to justice. The Supreme Court's decisions in Hussainara Khatoon and Khatri establish that speedy trial and free legal assistance are integral to fair procedure. Similarly, Anita Kushwaha explains that an effective adjudicatory mechanism must be geographically accessible, affordable and capable of delivering timely decisions. These principles have particular relevance for tribal communities in geographically remote areas. A court may formally exist within the State, but its remedies may remain practically inaccessible if individuals must travel long distances, incur substantial expenses or depend upon intermediaries.

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The protection of land and livelihood is another important dimension of the discussion. For many tribal communities, land is connected with agriculture, housing, cultural identity, traditional practices and social security. Land alienation may therefore produce consequences extending beyond the loss of property. It can affect access to food, employment, community resources and cultural continuity. The Forest Rights Act, 2006 attempts to address historical injustices by recognising legally protected individual and community forest rights. However, the substantial pendency of forest-rights claims reported in Goa illustrates the continuing importance of administrative capacity, transparent decision-making and accessible legal remedies.

The principle recognised in Orissa Mining Corporation Ltd. v. Ministry of Environment and Forests is also relevant because it demonstrates the importance of community participation in decisions affecting tribal religious and cultural rights. The decision highlights that the State cannot disregard the statutory role of Gram Sabhas when determining matters falling within the Forest Rights Act. For Goa, this principle offers an important reference for strengthening meaningful community participation, while the precise statutory applicability of each provision must be assessed according to the governing legislation.

Political representation must also be understood as a dimension of substantive justice. Tribal communities require opportunities to participate in legislative institutions and local self-government because decisions concerning land, welfare, education, employment and development directly affect their interests. The 2025 Goa legislation on readjustment of Scheduled Tribe representation is therefore important. However, representation must lead to meaningful participation in policy formulation, budgetary decisions and administrative accountability. It should not remain limited to the numerical presence of representatives.

The discussion further demonstrates that legal institutions must be culturally and linguistically responsive. Legal terminology and court procedures may be difficult for persons who have limited familiarity with formal legal systems. This problem can be addressed through local legal aid clinics, trained para-legal volunteers, simplified legal materials, translation facilities and community-based awareness programmes. Such measures are not merely administrative conveniences; they are important conditions for equal access to justice. Gender justice requires a separate and integrated approach. Tribal women may face discrimination in land-related matters, domestic violence, exploitation and exclusion from community decision-making. Their access to justice must include confidential complaint mechanisms, appropriate legal representation, protection against intimidation, compensation and participation in institutional processes. Customary institutions should be recognised where legally appropriate, but their functioning must remain consistent with constitutional guarantees of equality and dignity.

Finally, the role of statutory commissions and welfare institutions requires strengthening. The National Commission for Scheduled Tribes, State Commission for Scheduled Castes and Scheduled Tribes, Human Rights Commission and legal services institutions can provide important avenues for grievance redressal. Their effectiveness depends upon institutional independence, adequate staff, timely consideration of complaints, coordination with government departments and transparent reporting. Access to justice must therefore be viewed as a shared responsibility of the judiciary, executive authorities, statutory commissions and civil society.

Suggestions and Recommendations

On the basis of the constitutional, statutory and judicial analysis, the following recommendations are proposed to strengthen access to justice for Scheduled Tribes in India, with particular reference to Goa.

1. Establish more legal aid clinics in rural and tribal areas: Permanent or regularly functioning legal aid clinics should be established in tribal-dominated areas, particularly Canacona, Quepem, Sanguem and Dharbandora. These clinics should provide free legal advice, assistance with applications, support for land and forest-rights claims and referrals to appropriate authorities. Mobile legal aid clinics should supplement permanent facilities in remote settlements.
2. Organise regular legal awareness programmes: The Goa State Legal Services Authority and District Legal Services Authorities should organise regular awareness programmes concerning constitutional rights, free legal aid, forest rights, protection against atrocities, reservation, land disputes, women's rights and welfare entitlements. Programmes should be conducted in accessible community settings rather than being restricted to government offices.
3. Strengthen National and State Legal Services Authorities: The legal services institutions should improve the quality of legal representation provided to Scheduled Tribes. Special panels of trained lawyers with knowledge of tribal rights, land laws, human rights and criminal procedure should be developed. Legal aid lawyers should be monitored through performance reviews, client feedback and institutional accountability.
4. Improve the functioning of Gram Nyayalayas: The Gram Nyayalayas Act, 2008 provides a framework for establishing accessible rural courts. The State should examine the feasibility of strengthening rural justice infrastructure and improving the availability of appropriate local adjudicatory mechanisms. Such mechanisms should be accessible, affordable and consistent with procedural fairness.
5. Provide legal assistance in local and tribal languages: Legal aid services, application forms, awareness materials and procedural explanations should be made available in languages understood by the concerned tribal communities. Translation and interpretation assistance should be provided where necessary. Community-based para-legal volunteers should help bridge communication gaps between tribal residents and formal legal institutions.

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6. Ensure speedy disposal of cases: Special attention should be given to delays in cases involving tribal land disputes, atrocities, forest-rights claims, compensation and rehabilitation. Judicial and administrative authorities should establish appropriate monitoring mechanisms to identify long-pending matters and ensure timely decisions without compromising due process.
7. Strengthen victim compensation mechanisms: The implementation of victim compensation and rehabilitation provisions under the SC/ST (Prevention of Atrocities) Act, 1989 must be improved. Victims and witnesses should receive timely financial assistance, protection, medical support and rehabilitation in accordance with applicable law. Administrative delays in releasing compensation should be monitored.
8. Improve judicial infrastructure: The State should improve court infrastructure in areas where geographical distance restricts access to justice. Facilities should include accessible buildings, adequate courtrooms, digital filing support, interpretation services, waiting facilities and assistance desks for vulnerable litigants.
9. Promote digital literacy and accessible e-Courts: Digital justice initiatives should be accompanied by digital literacy programmes in tribal settlements. Assistance should be available for accessing case information, online legal aid applications, court notices, government portals and welfare databases. Digital facilities must supplement rather than replace physical access to justice.
10. Strengthen implementation of tribal welfare legislation: The State should conduct regular reviews of the implementation of the Forest Rights Act, 2006, the SC/ST (Prevention of Atrocities) Act, 1989 and other relevant protective legislation. Departments should publish information concerning applications received, decisions taken, claims rejected, compensation distributed and pending matters.
11. Increase women's participation in justice institutions: Tribal women should receive greater representation in legal aid committees, local governance institutions, community consultations and relevant welfare bodies. Gender-sensitive legal aid and support services should be strengthened to address violence, exploitation, property disputes and discrimination.
12. Ensure accountability of police and administrative authorities: Police officers and administrative authorities should receive training concerning constitutional rights, the SC/ST (Prevention of Atrocities) Act, forest-rights legislation and the specific challenges experienced by tribal communities. Complaints concerning refusal to register FIRs, discriminatory treatment, delay in investigation and administrative negligence should be examined through appropriate accountability mechanisms.
13. Promote mediation and Lok Adalats: Lok Adalats and appropriate mediation mechanisms may be used to resolve legally suitable disputes involving land, family matters, compensation and other civil issues. However, mediation must be voluntary and fair. Serious criminal offences, atrocities and matters involving coercion or unequal bargaining power must not be improperly diverted into informal settlements.
14. Strengthen research and documentation of human rights violations: Government institutions, universities, research organisations and civil society bodies should promote systematic research concerning tribal land alienation, forest-rights implementation, violence, displacement, access to legal aid and welfare delivery. Reliable documentation will assist policy formulation and institutional monitoring.
15. Improve coordination between government departments, legal institutions and civil society: A coordinated institutional mechanism should be developed involving the Directorate of Tribal Welfare, Goa State Legal Services Authority, District Legal Services Authorities, police departments, local-government institutions, statutory commissions, educational institutions and civil society organisations. Periodic review meetings should identify pending grievances, implementation gaps and appropriate remedial measures.
16. Ensure proper implementation of reservation in education and public employment: The State should ensure that reservation provisions are implemented transparently in educational institutions and public services in accordance with constitutional requirements and applicable rules. Delays in issuing and verifying Scheduled Tribe certificates should be reduced through efficient administrative procedures and accessible grievance redressal.
17. Strengthen political representation of Scheduled Tribes: The statutory process initiated under the Readjustment of Representation of Scheduled Tribes in Assembly Constituencies of the State of Goa Act, 2025 should be completed in accordance with constitutional and electoral requirements. The State should also ensure proper implementation of reservation provisions in Panchayats and Municipalities, and examine representation within the applicable framework governing the Corporation of the City of Panaji.
18. Consider an appropriate Fifth Schedule framework for Goa: The State Government should examine the constitutional, demographic and administrative feasibility of providing an enhanced constitutional framework for tribal self-governance and protection of traditional resources in eligible tribal areas. Any proposal for Fifth Schedule coverage must follow the constitutional procedure for notification of Scheduled Areas. The establishment of a Tribal Advisory Council should be considered in connection with the applicable constitutional framework and any legally permissible State-level advisory arrangements.
19. Strengthen protection against illegal land alienation: A specialised mechanism should examine complaints concerning unlawful transfer, encroachment, fraudulent transactions and dispossession involving tribal land. The State should consider whether a dedicated legislative framework for the restoration and protection of tribal land is necessary, taking into account existing Goa land laws and constitutional requirements.

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20. Ensure effective utilisation of the Tribal Sub-Plan: The State should improve the planning, allocation, utilisation and monitoring of funds under the Development Action Plan for Scheduled Tribes. Expenditure should be linked to measurable improvements in education, healthcare, housing, livelihood, drinking water, transport, legal aid and basic infrastructure. Public disclosure of allocations and actual expenditure should be ensured.
21. Strengthen State and National Tribal Commissions: The National Commission for Scheduled Tribes and the Goa State Commission for Scheduled Castes and Scheduled Tribes should receive adequate institutional support. Vacancies should be filled promptly, complaints should be examined efficiently and annual reporting should provide meaningful information concerning the implementation of tribal safeguards.
22. Protect tribal customary, religious and cultural rights: The State should ensure that lawful customary practices, traditional religious sites, community resources and cultural knowledge are protected against unlawful interference. Development and conservation decisions affecting tribal communities should involve meaningful consultation and compliance with the applicable statutory framework.

Conclusion

Access to justice is an indispensable requirement for the protection of constitutional rights, human dignity and social justice. For Scheduled Tribes in India, it is not merely the ability to approach a court or obtain a legal remedy; it is the effective opportunity to understand, assert and enforce rights concerning equality, livelihood, land, forests, education, healthcare, political representation, cultural identity and protection against exploitation. The constitutional framework of India, particularly Articles 14, 15, 16, 21, 32, 39A, 46, 244, 330, 332 and 338A, provides an important foundation for ensuring substantive justice to historically disadvantaged tribal communities.

The present research demonstrates that the existence of constitutional safeguards and protective legislation does not automatically result in the effective enjoyment of rights. The practical availability of justice depends upon the functioning of legal aid institutions, the accessibility of courts, the efficiency of police and administrative authorities, the timely settlement of claims, the availability of information and the participation of affected communities in decision-making. The decisions of the Supreme Court in Hussainara Khatoon, Khatri, Samatha, Orissa Mining Corporation and Anita Kushwaha demonstrate that constitutional justice requires more than formal recognition of legal entitlements. It requires fair procedures, effective remedies, protection of livelihood and meaningful institutional participation.

The experience of Goa requires particular attention because the State has its own historical, geographical, cultural and administrative context. The Gawda, Kunbi and Velip communities have received constitutional recognition as Scheduled Tribes, but effective protection of their rights requires continued attention to traditional land ownership, forest-rights claims, access to legal assistance, reservation in education and employment, political participation and protection against exploitation. The 2025 legislation concerning the readjustment of Scheduled Tribe representation in the Goa Legislative Assembly is an important constitutional development. Its implementation should contribute to meaningful participation of tribal communities in democratic governance and policy formulation.

The Forest Rights Act, 2006 deserves particular attention in Goa because the recognition of individual and community forest rights is directly connected with livelihood security, traditional occupation and cultural identity. The substantial pendency of forest-rights claims reported in 2026 demonstrates the necessity of improving administrative coordination, legal assistance and transparent claim-settlement procedures. Similarly, the effective implementation of the SC/ST (Prevention of Atrocities) Act, 1989 requires prompt investigation, protection of victims and witnesses, timely compensation and accountability of public authorities.

The research also emphasises that access to justice must be gender-sensitive and culturally responsive. Tribal women must have equal opportunities to participate in community and political institutions and must receive effective protection against violence, discrimination and exploitation. Customary institutions and traditional knowledge systems deserve appropriate recognition, subject to the constitutional requirements of equality, dignity and fundamental rights.

An effective access-to-justice framework for Scheduled Tribes in Goa should therefore integrate judicial remedies, free legal aid, local legal awareness, land protection, forest rights, political representation, welfare administration and institutional accountability. The Goa State Legal Services Authority, District Legal Services Authorities, Directorate of Tribal Welfare, State Commission for Scheduled Castes and Scheduled Tribes, Human Rights Commission and other public institutions must work in coordination to ensure that constitutional protections become practically accessible to tribal communities.

The study ultimately argues that access to justice must be recognised as a substantive constitutional commitment and not merely a procedural formality. A democratic State can achieve meaningful social justice only when its most vulnerable communities have the ability to participate in governance, protect their resources, preserve their cultural identity and obtain effective remedies against violations of their rights. The protection of Scheduled Tribes is therefore not simply a matter of welfare administration; it is a constitutional responsibility connected with equality, dignity, inclusive development and the democratic values of the Republic of India.

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