India’s ST communities

Why in news?

Despite persistent demands by Adivasi organisations, 59% of India’s STs remain outside the purview of Article 244.

Status of Scheduled Tribes (ST) in India
• India has 705 ST communities in 26 States and 6 Union Territories making up 8.6% of the country’s population. • **Highest number -** As per Census 2011, - Madhya Pradesh- 14.7% - Maharashtra- 10.1% • **No STs -** Punjab, Chandigarh, Haryana, NCT Delhi, Puducherry • **PVTGs-** There are 75 PVTGs out of 705 STs, spread over 18 states and 1 Union Territory (A&N Islands) • **Characteristics of PVTGs-** PVTGs have - Declining or stagnant population - Low level of literacy - Pre-agricultural level of technology - Economically backward - Generally inhabit remote localities having poor infrastructure and administrative support

What are the constitutional provisions related to STs?

Article	About
366 (25)	It defined scheduled tribes as "such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this constitution".
342	The President may, with respect to any State (after consultation with the Governor) or Union territory, specify the scheduled tribes
244	Application of the provisions of the Fifth Schedule and Sixth Schedule
Fifth schedule	It shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than Assam, Meghalaya, Tripura and Mizoram
Sixth schedule	It shall apply to the administration of the tribal areas in Assam Meghalaya, Tripura and Mizoram.
Educational, Economic and Public Employment Related Safeguards	
15	Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
16	Equality of opportunity in matters of public employment
19	Protection of certain rights regarding freedom of speech etc.,

46	Promotion of educational and economic interests of Scheduled Castes (SC), STs and other weaker sections
335	Claims of SCs and STs to services and posts
Political safeguards	
330	Reservation of seats for SCs and STs in the House of the People
332	Reservation of seats for SCs and STs in the Legislative Assemblies of the States
334	Reservation of seats and special representation to cease after 60 years
243 D	Reservation of seats in Panchayats
243 T	Reservation of seats in Municipalities
Agency for monitoring safeguards	
338A	National Commission for Scheduled Tribe

What is the place for ST communities in India?

- **Scheduled Areas-** It cover 11.3% of India's land area, and have been notified in 10 States - Andhra Pradesh, Telangana, Odisha, Jharkhand, Chhattisgarh, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra, and Himachal Pradesh.
- However, 59% of India's STs remain outside the purview of Article 244.
- In 2015, Kerala proposed to notify certain scheduled areas but it awaits the Indian government's approval.
- **Denial of rights**- They are denied rights under the laws such as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and the Biological Diversity Act 2002.
- **Bhuria Committee**- Constituted in 1995 to look into the extension of Panchayat Raj to Scheduled Areas, it recommended the inclusion of these villages but this is yet to be done.
- **STs as minority**- The absence of viable ST-majority administrative units has been used to demand the denotification of parts of Scheduled Areas where STs are now a minority due to the influx of non-tribal individuals.

How the Scheduled area is governed?

The President of India notifies India's Scheduled Areas.

- **Role of President**- The *Fifth Schedule* confers powers exclusively on the *President* to declare any area to be a Scheduled Area.
- In 2006, the Supreme Court held that the identification of Scheduled Areas is an *executive function*, therefore it doesn't possess the expertise to scrutinise the empirical basis of the same.
- **Tribal advisory council**- States with Scheduled Areas need to constitute a *Tribal Advisory Council* with up to *20 ST members to* advise the Governor on matters regarding ST welfare.
- The Governor will then submit a report every year to the President regarding the administration of Scheduled Areas.

- **Role of Centre-** It can give directions to the State regarding the administration of Scheduled Areas.
- **Power of Governor**- The Governor can *repeal or amend any law* enacted by Parliament and the State Legislative Assembly in its application to the *Scheduled Area* of that State.
- The Governor can also make regulations for a Scheduled Area, especially to prohibit or restrict the transfer of tribal land by or among members of the STs.
- **The Panchayat Extension to Scheduled Areas (PESA) Act, 1996** - It was enacted to remove the bottlenecks of the authority that empowered the elected panchayat bodies.
- It states that the Gram Sabhas exercises substantial authority through direct democracy, and stated that structures at the higher levels do not assume the powers and authority of the gram sabha.

How are scheduled tribes identified?

Neither the Constitution nor any law provides any criteria to identify Scheduled Areas.

- **Dhebar Commission report 1961-** It provided the guiding norms to identify Scheduled Areas



- No law prescribes the minimum percentage of STs in such an area nor a cut-off date for its identification.
- **Scheduled Areas and Scheduled Tribes Commission 2002-** It had recommended that all revenue villages with 40% and more tribal population according to the 1951 census may be considered as Scheduled Area on merit.
- **Bhuria community**- It recognised a face-to-face community, a hamlet or a group of hamlets managing its own affairs to be the basic
- **PESA Act**- The Act defined a 'village' as a habitation or a hamlet comprising a community and managing its affairs in accordance with traditions and customs.
- All those whose names are included in the electoral rolls in such a village constituted the Gram Sabha.
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act or FRA, 2006 adopted this definition.
- The PESA definition of a village expanded it beyond Scheduled Areas to forest fringes and forest villages as well.
- **FRA 2006** – It requires them to demarcate community forest resource.
- The traditional or customary boundary within revenue and forest lands (where applicable) would constitute the territorial jurisdiction of the village in the Scheduled Area.

What lies ahead?

- All habitations outside Scheduled Areas in all States and Union Territories where STs

are the largest social group will need to be notified as Scheduled Areas irrespective of their contiguity.
- The geographical limit of these villages will need to extend to the community forest resource area on forest land under FRA 2006, and to the customary boundary within revenue lands made possible through suitable amendments to the relevant State laws.
- The geographical limits of the revenue village, panchayat, taluka, and district will need to be redrawn so that these are fully Scheduled Areas.

References

1. The Hindu- Explained ST 5th Schedule
2. Ministry of Tribal Affairs- ST Statistics Census 2011

