

Decentralised Governance in Tribal India

Decentralised Governance in Tribal India:
Negotiating Space between the State,
Community and Civil Society

Aruna Kumar Monditoka

CAMBRIDGE
SCHOLARS

P U B L I S H I N G

Decentralised Governance in Tribal India:
Negotiating Space between the State, Community and Civil Society,
by Aruna Kumar Monditoka

This book first published 2010

Cambridge Scholars Publishing

12 Back Chapman Street, Newcastle upon Tyne, NE6 2XX, UK

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

Copyright © 2010 by Aruna Kumar Monditoka

All rights for this book reserved. No part of this book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the copyright owner.

ISBN (10): 1-4438-2065-2, ISBN (13): 978-1-4438-2065-3

Dedicated to MY MOM

“God could not be everywhere, so he created mothers”

CONTENTS

Acknowledgements	xi
Foreword	xiii
Satyajit Singh	
List of Abbreviations	xv
Chapter One.....	1
Introduction	
1.1 Historical View on Law and Policy for the Scheduled Areas	
1.2 Governance in Scheduled Areas	
1.3 Scheduled Areas in Andhra Pradesh	
1.4 Significance of the Study	
1.5 Objectives of the Study	
1.6 Study Area	
1.7 Methodology	
1.8 Design of the Book	
Chapter Two	25
Decentralization, Civil society and Panchayats: An Overview	
2.1 Decentralization	
2.2 Civil Society and NGOs	
2.3 Social Capital	
2.4 Participation	
2.5 Panchayats & Gram Sabha	
2.6 Summing up	
Chapter Three	71
Governance in Scheduled Areas in Andhra Pradesh	
3.1 The Legal Perspective on Panchayats and Scheduled Areas	
3.2 Powers and Authorities of the Gram Sabha and Panchayat	
3.3 Andhra Pradesh Conformity Act - PESA	
3.5 PESA and Common Property Resources (CPR)	
3.6 General view - PESA	
3.7 Positive View- PESA	
3.8 Negative Aspects - PESA	
3.9 Summing up	

Chapter Four	91
Panchayats and the Tribals	
4.1 Visakhapatnam- A Profile	
4.2 Munching Put Mandal- A Profile	
4.3 Laxmipuram Gram Panchayat: A Profile	
4.4 Kilagada Village Panchayat- A Profile	
4.5 Paderu Mandal- A Profile	
4.6. Vanjangi village Panchayat- A Profile	
4.7 Major Tribes in Study Area	
4.8 Socio – Demographic Profile of Study Area	
4.9. The Socio-Political Profile of Study Area	
4.10. Development Programmes in Study Area	
4.12 Summing up	
Chapter Five	135
How Governace Works: Lessons from Field	
Tribals and Panchayats	
5.1 Awareness - Panchayat Raj	
5.2. Awareness of Panchayat Programme	
5.3 Sources of Information about Panchayat Programmes	
5.4 Panchayats - Major activities	
5.5. Panchayats -NGOs	
5.6. Awareness -Community Property Resources (CPR)	
5.7 Awareness - Government officials and people Representatives	
Tribals – Gram Sabha	
5.8 Participation - Gram Sabha	
5.9 Regularity of Gram Sabha	
5.10 Presenting Agenda - Gram Sabha	
5.11 Mobilization - Gram Sabha	
5.12 Problems - Gram Sabha	
5.13 Issues- Gram Sabha	
Tribals - PESA	
5.14 Awareness- PESA Act	
5.15. Relevance - PESA	
Tribals- NGOs	
5.16 Activities - NGOs	
5.17 NGO's Intervention	
5.18. Political Parties- Panchayats	
5.19 Planning and Identification of the Schemes	
5.20 Utilization of funds	
5.21 Summing up	

Chapter Six	185
Governance and Natural Resources: In Search for a Better Life	
6.1 Introduction	
6.2 Minor forest Produce (MFP)	
6.3 Minor Water Bodies	
6.4 Recognizing rights over Natural Resources	
6.5 Parallel bodies	
6.6 Summing Up	
Chapter Seven.....	215
Unfinished Pursuit for Decentralized Governance	
References	225

ACKNOWLEDGEMENTS

It is a great pleasure to write this section where I can remember the invaluable contributions made by several people in the course of writing this book. Though this has been primarily my work, it wouldn't have been possible without the help, encouragement and interest of many others.

It is an honor for me that **Prof. Satyajit Singh** has written foreword for this book. I am deeply indebted to him for his invaluable guidance and motivation during the course of my book work. I am grateful to him, especially for his thoughtful and creative comments, and more generally for exploring with me the boundaries of professional friendship.

Arun Patnaik, My Research Guru and Mentor in Academics, I thank him for giving me the privilege and luxury of working under conditions of freedom without any constraints what so ever. By being liberal, he trained me to carry out independent work. This apart, he was readily available to me without bothering about the odd timing and his pressing preoccupations.

I would like to express my gratitude to **Prof. Gopinath Reddy** at Centre for Economic and Social Studies, Hyderabad who has been very encouraging and his suggestions were very effective in the making of this book.

I would like to thank **Mr. Lakhi**, Director, and the staff of CCN(NGO) for being really concerned about me and for the care they took of me during my fieldwork.

The interaction with **My Respondents** has been most gratifying. I still cherish my meetings and informal sessions with them. I feel indebted to them for confiding in me and allowing me to look into their personal and social lives. This book would not have been possible without their valuable inputs.

I owe my deepest and sincere thanks to my friends. I feel am lucky to have such wonderful friends. Thank you, **Stevee** for helping me in the typing of this book most often than not, I have troubled him at odd hours. Thank you, **Nagaraju Anna** for helping me in editing the work and for his constant encouragement; **Harish** for being with me, we 'Keep Walking' whenever possible. **Sajja** has probably been my best critic and his good advices will always keep me going. **Praveen** has been encouraging as always, especially, when I wasn't having the best of times; **Eashwarappa**, over the years has been very encouraging too; **Chiya** has been wonderful

over the years, helping me and being with me, ‘everytime I asked for’; **Rajini**, as always, has been cheerful and **Vasan**, for encouraging me everywhere and every time.

Thank you, **Sree**, my best buddy, who have been with me all through, in my highs and lows and for being very supportive of my every cause. She has been one of the toughest critics as well as among my most enduring sources of support.

Above all, I want to thank my wife, **Shashi** who supported and encouraged me in spite of all the time it took me away from her. **My family** has been a great source of inspiration to me. I owe much to them for their love and affection towards me. I feel no words are capable enough to express my gratitude towards them. My family is the source of ‘*what I am today*’ and ‘*what I can become*’.

Last, but not least, I wish to sincerely appreciate my editors at Cambridge Scholars Publishing who nagged me ever so affectionately to finish this book while I procrastinated endlessly. My Heartfelt thanks to **Carol** and **Amanda** for their constant support and help in the making of this book. I feel honored by their enthusiasm to ensure that my writings become more widely available.

—Aruna Kumar Monditoka

FOREWORD

It is my pleasure to introduce perhaps the first full length monograph on Panchayats Extension of Scheduled Areas Act (PESA), 1996 that has been written by a young political scientist and a colleague. This brief act has the potential to fundamentally transform governance in tribal areas when colonial and independent India adopted policies that facilitated the exploitation of natural resources and alienated the tribal people from their land, forests and resources. At a time when the growing discontentment of the tribal people in the country is being exploited by extremist forces, this little used legislation can form the basis of wining back the livelihoods of the marginalized tribal population. The Act goes beyond the provisions of the Panchayati Raj Act, 1993 and gives special autonomy and powers to the people and village level institutions for local governance, conservation of natural resources, and preservation of their traditional rights over the use of local resources. The Act also has a provision that within a year of its enactment, all legislation that are not in letter and spirit with it have to be amended to bring them in line with the provisions that are laid down here. In other words, there is room to change the fundamental character of two alienating laws in order to improve the life and economy of the tribal people – Indian Forests Act, 1927 and the Land Acquisition Act, 1894. An effective implementation of PESA in the states of Andhra Pradesh, Bihar, Jharkhand, Gujarat, Himachal Pradesh, Madhya Pradesh, Chattisgarh, Orissa, Maharashtra and Rajasthan will ensure that all developmental projects pass through local institutions and not through what is increasingly been seen as an ineffective and corrupt state machinery. Not only infrastructure and employment related schemes like those of Bharat Nirman and Mahatma Gandhi National Rural Employment Guarantee Program but also the delivery of those related to education, health and other poverty alleviation programs have to be decided by the people themselves.

This book looks at the implementation of PESA in three villages in Andhra Pradesh and raises important issues that relate to the state, village and society. This study points out that (i) tribal society can be integrated with the new decentralized institutions for local governance, (ii) the community gets an institutional space to govern itself in an accountable manner, and (iii) new institutions facilitates representation and participation

in local governance. Within this rubric this book bring out a rich analysis of village level politics, the changing power structure and its negotiation of development, service provision and distribution of resources. This is not only a study of institutions and politics of state and non-state agencies but also of the changing dynamics of tribal society, perceptions of leadership, hierarchy, representation, kinship, gender, fairness and accountability. The study points out that state governments have to invest in their own capacity to be able to assist local institutions manage the transition from being ruled to being self-governed. I am sure this work will inspire others to work on this exciting area of local politics and local institutions of governance.

—Satyajit Singh
Dean and Professor
School of Development Studies
Ambedkar University, Delhi

ABBREVIATIONS

BSP	Bahujan Samaj Party
CBO	Community Based Organization
CCN	Community Coordination Network
CCT	Community Coordination Network
CPR	Community Property Resources
DNRM	Decentralized Natural Resource Management
DRD	Department of Rural Development
DWCRA	Development of Women and Children in Rural Areas
GADS	General Administrative Departments
GCC	Girijan Cooperative corporation
GP	Gram Panchayat
GS	Gram Sabha
IFAD	International Fund for Agriculture Development
INDIRAMMA	Integrated Novel Development in Rural Areas and Model Municipal Areas
ITDA	Integrated Tribal Development Agency
JFM	Joint Forest Management
JGSY	Jawahar Gram Samridhi Yojana
MDO	Mandal Development Officer
MFP	Minor Forest Produce
MLA	Member of Legislative Assembly
MP	Member of Parliament
MPDO	Mandal Parishad Development Officer
MPLADS	Member of Parliament Local Area Development Scheme
MRO	Mandal Revenue Officer
MWB	Minor Water Bodies
NGO	Non Governmental Organization
NRM	Natural Resources Management
NTEP	Non -Timber Forest Produce
PCT	Personal Construct Theory
PESA	Panchayats Extension to Scheduled Areas
PFM	Participatory Forest Management
PIA	Participatory Impact Assessment
PP	Panchayat Programmes
PRI	Panchayat Raj Institutions
PTG	Primitive Tribal Groups

SHG	Self Help Groups
ST	Scheduled Tribes
TAC	Tribal Advisory Council
VHP	Vishwa Hindu Parishad
VLW	Village Level Worker
VSS	Vana Samrakshna Samiti
VTDA	Village Tribal Development Agency
VWC	Village Working Committee

CHAPTER ONE

INTRODUCTION

Decentralized governance is an essential pre-requisite for inclusive governance. Decentralizing, governance from the national level to regions, districts, towns, municipalities, rural settlements and communities enable the people to participate more directly in the governing process. It empowers people who were excluded previously, from the decision-making process. In this way, a country can create and sustain equitable opportunities for all the people. Closer contact between Government officials, local communities and organizations will also encourage exchange of information which can be used to make development programs according to specific local needs and priorities. The success of governance programs and projects is greatly dependent on the way they are designed and implemented.

In India, in order to fulfill the objectives of decentralization as mentioned above, the three-tier Panchayati Raj system has been implemented and in that direction, the 73rd Constitutional Amendment Act and Panchayats (Extension to the Scheduled Areas) Act, 1996(PESA) have been enacted. The grassroot development requirements and changing the local leadership aspirations, worked as a backbone for initiating and process of 73rd constitutional amendment.

The provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996(PESA) came into force on 24th December 1996. The Central Act extends Panchayat Raj system to the tribal Areas in eight States namely, Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Orissa and Rajasthan. The intention was to enable the tribal society to assume control over their own destiny by preserving and conserving their traditional rights over the natural resources.

The socio-economic and cultural life of the tribal groups of India varies from tribe-to-tribe and region-to-region. They belong to various ethnic stocks, have distinct patterns of economy, technology and religious behavior and speak a large number of languages and dialects. Though there is diversity in their 'life style' and 'mode of life', yet there exists a great deal of similarity in their socio-cultural and psychological levels.

Even today, the tribes are more or less trying to retain their separate social identity, customs and regulations. On the whole, they can be regarded as comparatively isolated and backward category.

Indian tribals may be classified in terms of their language, race, levels of integration and also in terms of their subsistence technology and economy. Vidyarthi¹ (1966) made an attempt to classify the tribal people into six cultural types – (i) forest hunting type, (ii) hill cultivation type, (iii) plain agriculture type, (iv) the simple artisan type, (v) the pastoral and cattle-breeder type, and (vi) urban industrial type. He considered five factors to identify these culture types. These are –their economy, their ecology and socio-cultural adaptation of the tribes to ecology and the economy, their religious beliefs and emerging contemporary situation, influx of other groups of people.

The dictionary of Anthropology views a tribe as a social group, usually with a definite Area, dialect, cultural homogeneity and unifying social organization. The term ‘tribe’ in that sense refers to a type of society and marks a stage of evolution in the human society. As a type of society, the term signifies a set of characteristic features and as a stage of evolution; it connotes a specific mode of social organization.

Anthropologists define tribe as a collection of groups of people who share similar patterns of speech, basic cultural characteristics, and in the traditional sense, a common territory. According to Ghurye (1963)², ‘the common features possessed by all the tribal groups are as follows: (1) they live away from the civilized world in inaccessible parts in the forests and hills. (2) They speak the same tribal dialect. (3) They belong to either one of the three stocks – Negritos, Austroloid or Mongoloids. (4) They profess primitive religion known as animism in which worship of ghosts and spirits is the most important element. (5) They follow primitive occupation such as gleaning, hunting and gathering of forest products. (6) They are largely carnivorous. (7) They live either naked or semi-naked. (8) They have nomadic habits and love for drink and dance.

T.B. Naik (1972)³, however, proposed seven criteria by which a ‘tribe’ can be recognized. They are: (i) functional interdependence within the community; (ii) economic backwardness; (iii) geographical isolation; (iv) common dialect; (v) politically a unit under a common tribal authority; (vi) own traditional laws and (vii) members are averse to change. Vimal

¹ L.P. Vidyarthi, (1968), *Applied Anthropology in India*, Allahabad, Kitab Mahal.

² G.S. Ghurye, (1963), *The Scheduled Tribes*, Bombay, Populart Book Depot.

³ T.K. Naik, (1972), *Applied Anthropology in India*, in *Survey of Research in Sociology and Anthropology*, Vol.III, Indian Council of Social Science Research, Bombay: Popular Prakasam.

Chandra⁴ was of the view that primitiveness and backwardness are the tests applied for specifying a 'Scheduled tribe'. The main characteristics common to all the Scheduled Tribes are; (1) tribal origin (2) primitive way of life, (3) habitat in remote and less accessible areas and (4) general backwardness in all respects. However, the Scheduled Tribes could be defined in general as the "oldest strong kinship bonds with distinct customs, moral codes, religious beliefs and rituals and low level of technological development". Today it would be difficult for a number of communities to satisfy all these criteria, to be termed as Scheduled Tribes. Although some differences have been found among various tribal groups, most of them share certain common characteristics, viz., "Nature of reality, speciality of illiteracy, economic backwardness and social deprivation".

Almost everyone uses the term 'Tribe' to distinguish a type of society from others, one specific mode of social organization from other modes of organization in society – 'bands', 'States' etc. Evolutionists' used the term 'tribe' as a stage of evolution and held that each stage of evolution is characterized by a specific mode of social organization.

Since, the term 'Tribe' has been defined in different ways by different individual scholars; there is no universally accepted definition. It is also nowhere defined in the Indian Constitution. It only declares that the Scheduled Tribes are "the tribes or the tribal communities or parts of or groups within tribes or tribal communities" which the President of the country may specify by public notification (Constitution of India, Article 342). The most acceptable definition in the Indian context is propounded by D.N. Majumdar⁵ (1958), according to him, "a tribe is a collection of families or groups of families bearing a common name, members of which occupy the same territory, speak the same language and observe certain taboos regarding marriage, profession or occupation and have developed a well-assessed system of reciprocity and mutuality of obligations"

1.1 Historical View on Law and Policy for the Scheduled Areas

During the colonial period, the British made efforts to penetrate into the tribal Areas through the policy of territorial conquest with the aim of laying the foundation for modern State. As a response, the tribals resorted

⁴ Vimal Chandra (1964), The Constitutional safeguards and Privileges accorded to Tribals in *Vanyajati* 11(4) 161-172

⁵ D.N. Majumdar (1958) *Caste and Communication in Indian village*, Asia Publishing house, Bombay

to armed revolts whenever their traditional territorial habitat was encroached. However, as part of their mercantile colonial expansionist strategy, the Britishers made reconciliatory efforts by declaring them as non-regulatory areas and recognized their traditional system of administration. Further, in order to count and classify 'subject' people, the colonial Government undertook a more detailed study of isolated social groups, especially the Tribals. It was the first attempt to gather information about all these isolated Tribes.

The first enactment, which dealt with these Areas as a class, was the Scheduled District Act, 1884. The executive, under this law, was given the power to exclude the Scheduled Areas from the normal operations of ordinary law and give them such protection as they might need. Even the Montague-Chelmsford Report concluded some years later, that the political reforms contemplated for the rest of India could not apply to these backward areas as "there was no material on which to establish political institutions".

The Scheduled District Act of 1874 (Act XIV of 1874) was enacted to keep large tracts of tribal areas outside the jurisdiction of normal administration. For these areas, the executive was endowed with wide powers. The administrative policy was based on the principle of non-interference into the affairs of the tribals and isolation. All the provinces were provided with autonomy to rule the tribal Areas under their control, following broad guidelines formulated for this purpose. In accordance with this policy, Agency Rules have been formulated in the year 1924 by the Government of Madras Province (G.O. No.1116-Revenue, dated 23-7-1924) subsuming all the existing rules. The Agency Rules provided for the Revenue and Judicial administration of the areas. In the new system of administration, the position of local chiefs of the tribal Areas were recognized for administrative purposes and hence, they acquired linkages with the higher levels of administration.

The policy of having excluded areas was extended further by the Government of India Act, 1919 which divided these areas "based on their backwardness". Accordingly, the areas were divided into two categories: those that were wholly excluded from the scope of reforms as they were considered very backward and those, where a system of modified exclusion was applied. In the former, neither the Central nor the provincial legislature had the power to make laws. The power of legislation was vested only in the Governor and his executive council. However, these arrangements for total exclusion applied only to the three backward Areas of Chittagong Hill Tracts in Bengal.

"The Excluded and partially Excluded Areas Act," which came into

existence in 1935, provided for non-applicability of any legislation of the Provincial Governments to tribal areas, except on the direction of the Central Government. The Act also enabled Governors to pass special regulations for the tribal areas with prior consent of the Governor-General. In accordance with the provisions of the Scheduled Districts Act of 1874, Ganjam and Vizagapattam Act was promulgated in 1939. The Act (Act No.XXXIV of 1939) provided for administrative justice in both civil and criminal matters in the tribal areas of Gangjam and Vizagapattam Agencies in Madras Presidency, rights of collection and superintendence of Revenue of every description within the tracts of the country specified.

After the Independence, The Government of India appointed a sub-committee in 1947 with Sri A.V. Thakkar ⁶ as its Chairman to study the position of Excluded and Partially Excluded Areas of the erstwhile British Government. The Committee made several recommendations. One of the important recommendations was that the State should bear the responsibility of the tribal people. It laid emphasis on the protection of tribal lands and prevention of exploitation by moneylenders. It also suggested certain statutory safeguards for the protection of tribals.

Although, the Thakkar Committee's jurisdiction was restricted to the excluded and partially excluded Areas, the committee was conscious of a sizeable population of tribals in the non-excluded portions of British India. The Committee therefore recommended, "The whole tribal population should be treated as a minority community, for the welfare of whom, certain special measures are necessary". The committee felt that geographical inaccessibility of these areas was largely responsible for the exclusion and the backward condition of these areas.

The Thakkar Committee had recommended that the Constitution should provide for setting up of a body in each province, which would keep the provincial Government constantly in touch with the welfare of the tribes in general and the needs of the aboriginal tracts in particular. This body was known as the Tribal Advisory Council (TAC). The TAC was to have a strong element of representation of the tribals. Interestingly in subjects, the application of law would be suspended if the TAC considered such a law as unsuitable. These subjects included matters of village management, including the establishment of village Panchayats.

In fact, the State Government was statutorily enjoined to give effect to the advice of the Council. It was obligatory for the Governor to act accordingly on the advice of TAC on matters such as land, village

⁶ A.V. Thakkar, (August 18, 1947), *Report of the Excluded and Partially Excluded Areas sub-Committee*. Government of India

administration and village Panchayats and customs of tribes. The transfer of land in a Scheduled Area from a tribal to a non-tribal was forbidden and the State Government was prohibited from allotting State land in a Scheduled Area to the non-tribals. Likewise, if advised by the Council, the Governor was obliged to license money lending. These complicated provisions were reconsidered by the drafting committee and it was felt that conferring so much legislative and executive powers on the Tribal Council in complicated matters of law and legal procedure might adversely affect the safeguarding of the interests of the tribal population. Consequently, several amendments were proposed and the role of the TAC was eventually reduced to a purely consultative body. The responsibility for the welfare of Scheduled Areas was squarely on the State Government subject to the control the Central Government.

The founders of the Indian Constitution were deeply conscious of the miserable conditions of the tribals who were segregated from the national mainstream. Also during this period, social scientists focused their attention towards the conditions of the tribals and began to discuss how best to deal with them. One school of thought led by Elwin, argued to protect the aborigines by completely isolating them from the rest of India. Elwin later shifted his stance. A second school of thought led by Ghurye⁷ (1963) opined total assimilation of the tribals into national mainstream as essential. A third school believed that tribals should be integrated into the Indian society but not necessarily assimilated; which means that it aims to preserve their identity. Ghurye made an elaborate discussion and proposed three solutions for the tribal questions, vis., i) no change and revivalism; ii) isolationism and preservation; and iii) assimilation

After Indian Independence, the tribals acquired a new significance as they were subjugated through a number of conscious and elaborate influences. The Government of India has launched various projects for tribal welfare, and various special provisions have been laid down in the Constitution as planned economic development has been inaugurated by the post independence Government. Under the Constitution of India, special provisions have been made for the promotion of socio, economic and educational development of Scheduled tribes. The main provisions relating to Scheduled Tribes are contained in the Articles 15(4), 16(4), 19(5), 23, 29, 46, 164, 275(1), 330, 332, 334, 335, 338, 342, and Fifth and Sixth Schedules of the Constitution.

⁷ G.S. Ghurye, (1963), *The Scheduled Tribes*, Bombay, Popular Book Depot.

Article 15(4) and 16(4):

Both these provisions are for safeguarding the interests of backward classes but while Article 15(4) enables the State to offer protective discrimination to the backward classes in all its dealings, Article 16(4) specially provides for protective discrimination in the matter of employment in the services under the State.

Article 19(5):

While the rights of free movement and residence throughout the territory of India and of acquisition and disposition of properties are granted to every citizen, special restrictions may be imposed by the State to protect interest of the members of the Scheduled Tribes under Article 19(5).

Article 23:

Article 23 prohibits traffic in human beings, *beggar* and other similar forms of forced labour.

Article 29:

According to Article 29, a cultural or linguistic minority has the right to conserve its language or culture. This Article provides protection to Scheduled Tribe Communities to preserve their languages, dialects and cultures. The State would not by law, enforce upon it any other culture or language.

Article 46:

This Article provides for promotion of educational and economic interest of Scheduled Castes, Scheduled Tribes and other weaker sections.

Article 164:

This Article provides for a minister in charge of tribal welfare in the State of Bihar, Orissa and Madhya Pradesh.

Article 330, 332 and 334:

Seats shall be reserved in the house of the people for Scheduled Castes and Schedule Tribes (330).

Seats shall also be reserved for the Scheduled Castes and Scheduled Tribes in the legislative Assembly of every State (332).

Such Reservations shall cease to have effect on the expiration of period of 40 years from the commencement of the Constitution i.e. 1990 (334).

Article 335:

The claims of members of Scheduled Castes and Scheduled Tribes shall be taken into consideration in the matter of appointment to the service and posts under the Union and the States as far as may be

consistent with the maintenance of efficiency of administration.

Article 338:

There shall be a special officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President. It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution.

According to Article 366(25) of the Indian Constitution, the Scheduled Tribes are such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342. The President under Article 342 may specify the Scheduled Tribes through a public notification. The Parliament may, by law, include or exclude from the list of Scheduled Tribes any tribal community or part thereof in any State or Union Territory.

The term ‘*Schedule*’ is defined as “an appended Statement of supplementary details usually accompanying a legal or legislative document and after taking the form of a detailed list of relevant matter.” The territories mentioned in the First Schedule of the Scheduled Districts Act, 1874 came to be known as Scheduled Districts. Later on, in exercise of the powers conferred by Sub-Para (1) of Para (6) of the Fifth Schedule of the Constitution of India, the President of India was pleased to issue the Scheduled Areas (Part A States) order, 1950 to declare East Godavari, West Godavari and Vishakapatnam Agencies as Scheduled Areas. Under Article.366 (23) of the Constitution of India, Schedule means a schedule to this Constitution. Since these Areas were declared as per provisions of the Fifth Schedule, these Areas came to be known as Scheduled Areas.

Excluded Areas were placed under the provincial rule of the Governor acting in his/her discretion, whereas the Partially Excluded Areas were within the field of ministerial responsibility: in which Governor exercised special responsibility in respect of administration of these areas. No Act of Federal or Provincial Legislatures would apply, but the Governor had the authority to apply such Acts with such modifications as considered necessary.

1.2 Governance in Scheduled Areas

The term Scheduled Areas has been defined in the Indian Constitution as “such areas as the President may by order declare to be Scheduled Areas under the Central Act”. The criteria followed for declaring an Area as Scheduled Area are preponderance of tribal population, compactness

and reasonable size of the area; underdeveloped nature of the area; and marked disparity in economic standards of the people. These criteria though not spelt out in the Constitution of India have become well established. They embody, broadly the principles followed in declaring 'Excluded' and 'Partially Excluded Areas' under the Government of India Act, 1935; and spelt out in the Report of the Scheduled Areas and Scheduled Tribes Commission, 1961.

In exercise of the Constitutional provisions, the President after consultation with the State Governments concerned had passed the Orders called, 'the Scheduled Areas (Part A States) order, 1950 and the Scheduled Areas (Part B States) order 1950 which set out the Scheduled Areas in the States. Further, by Order; namely the Madras Scheduled Areas (Censer) Order, 1951 and 'the Andhra Scheduled Areas (Censer) Order, 1955' certain Areas of the then East Godavari and Vishakapatnam districts were de-Scheduled. At the time of formulating and adopting the strategy of Tribal Sub-Plan (TSP) for socio-economic development of Scheduled tribes during Fifth Five Year Plan I (1974-79), certain areas besides the then existing Scheduled Areas, were also found to be having preponderance of tribal population.

In August 1976, it was decided to make the boundaries of the Scheduled Areas aca-terminus with the Tribal Sub-Plan Areas. Accordingly, Clause (2) of Paragraph 6 of the Schedule was amended vide the Constitution (Amendment) Act, 1976 to empower the President to increase the Area of any Scheduled Area in any State. Pursuant to the above, the President has issued from time to time, orders specifying Scheduled Areas afresh in relation to the States of Bihar, Gujarat, Madhya Pradesh, Maharashtra, Orissa and Rajasthan.

The main features of the Fifth Schedule include:

1. Special Legislative Powers of the Governor.
2. Governor's Report to the President.
3. Tribal Advisory Council.

1. The Governor of a State has special powers of legislation with respect to the Scheduled Area. They are: legislation by notification and legislation by regulation. The Governor of a State is responsible for deciding whether an act of Parliament or of the State legislature is suitable or unsuitable for Scheduled Areas. The State Governor by public notification can direct that any act of Parliament or the State Legislature

shall not apply to a Scheduled Area⁸. The Governor can issue the notification without any reference either to the Tribal Advisory Council or to the President of India. The Governor has been empowered to make regulations for peace and good Government of Scheduled Areas. Such regulations may in particular prohibit or restrict the transfer of Scheduled Area land by or among members of the Scheduled Tribes. The regulations may regulate the allotment of Scheduled Area land to members of the Scheduled Tribes. The regulations are also concerned with regulating the business of moneylenders, who lend money to members of the Scheduled Tribes in Scheduled Areas. The regulation making power of the Governor is subject to some limitations as specified in the Fifth schedule of the Constitution. The regulation should be made with prior consultation of the Tribal Advisory Council. The regulation should be submitted to the President and shall not have effect until assented to by him.

2. Fifth Schedule (Para 3) of the Constitution provides that the Governor of each State having Scheduled Areas should annually or whenever required so by the President make a report to the President, to keep the Union Government informed of the administration in Scheduled Areas. On the basis of this report, the Union Government issues directives to the respective State Governments for better administration of the Scheduled Areas⁹.

3. Clause 4 of the Fifth Schedule of the Constitution recommends Tribal Advisory Council in each State having Scheduled Areas. If the President directs so, this kind of Council may also be established in the States, which do not have Scheduled Areas. The Council's duty is to offer advice on matters pertaining to the welfare and advancement of the Scheduled tribes in the States as referred to them by the Governor. It is intended to act as a channel of discussion about the nature and different stages in which the general laws and rules should be applied to the Scheduled Areas. It is enumerated in the Constitution that the Tribes Advisory Council should be involved effectively apart from legislative process in policymaking, planning and supervision of the development schemes, as well as in effective administration of the Scheduled Areas.

⁸ R.C. Varma, (1995), *Indian Tribe Through the Ages*, Publication Division , Ministry of information and

Broadcasting ,Government of India, New Delhi. P.137-138.

⁹ Ibid. P. 142.

1.3 Scheduled Areas in Andhra Pradesh

The Scheduled Areas in Andhra Pradesh are spread over Andhra and Telangana Regions. While the former were under the British, the latter were under the Nizams' rule. Therefore, the Scheduled Areas in both these regions have different historical backgrounds. In coastal Andhra, the Scheduled Areas were declared by the British as 'Area' in 1874 with a popular Zamindari, Mutta, River etc as reference points while in Telangana, the Scheduled Areas were declared by the Nizam as villages. In the former case, doubts have arisen as to which of the villages constituted the Scheduled Areas. The list of villages published by Census of India during various census periods as Agency Villages need to be backed by authentic list of villages. However, to establish the link between the original Scheduled Areas and the list of Agency Villages, the old records have to be searched.

Andhra Pradesh is the traditional home of many tribal groups and most of these communities inhabit the border Areas in the North and Northeast parts of Andhra Pradesh. Identical tribal groups are found in the border areas of Maharashtra, Madhya Pradesh and Orissa. According to 1991 Census, out of 33 schedule tribes, 30 groups are found living in more than 6200 villages in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahaboobnagar districts of Andhra Pradesh. The Scheduled Areas of the State, which is the chief habitat of the tribal groups of Andhra Pradesh, constitute 11% of the total geographical Area of the State. The density of population is 125 in Scheduled Area as against 194 in the non-Scheduled Areas per Sq.Km. 33 tribal communities are notified as Scheduled Tribes and their population is 41.99 lakhs as per 1991 census reports. They constitute 6.75% of the total tribal population of the country.

The tribal sub plan Area extending to over 31,485.34 Sq.Kms. in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahaboobnagar constitute the traditional habitat of nearly 30 tribal groups. The three groups viz., Yerukula, Yanadi and Sugali or Lambada mainly live in the plain Areas outside the Scheduled Areas¹⁰.

The main occupation of the tribal groups living in Scheduled Areas is agriculture. 80% of the tribals living in nine Scheduled districts of A.P. make their living from agriculture and allied activities. In Visakhapatnam,

¹⁰ K. Mohan, Rao, (1999), *Tribal Development in Andhra Pradesh-Problems, Performances and Prospects*. Booklinks corporation, Hyderabad P.54.

Khammam and Adilabad districts where tribal groups constitute a large part of the population, more than 85% of the workers are dependent on cultivation as agricultural labourers. Out of 33 groups, only three groups viz., Gonds in Scheduled Areas of Andhra region, Yerukulas and Yanadis in the Non-Scheduled plain areas are not much dependent on agriculture. Gonds are basically farmers while Yanadis and Yerukulas are inland fishermen and basket makers respectively. These groups are also working as cultivators, and adopting cultivation or agricultural labour as their subsidiary occupation

The tribal communities are traditionally well versed in the regulation, control and conduct of their domestic, religious, socio-economic, political and judicial affairs through the combined wisdom of their traditional leaders and village councils. The Constitution (Seventy third) Amendment Act, 1992 which incorporated many path-breaking provisions for an effective local self-government practices, was not automatically made applicable to the Scheduled Areas (Article 243M) because of their unique characteristics and special needs as also, recognizing the special features of the Scheduled Areas and the tribal people. Subsequently, on the basis of expert advice as contained in the Bhuria Committee Report, 1995, an Amendment Act was enacted in December 1996 enabling extension of the seventy-third Amendment Act, 1992, in a modified form to the Scheduled Areas.

It can thus be seen that even before the provisions relating to Panchayats in part IX of the Constitution were extended to Scheduled Areas in 1996 (Panchayats Extension to Scheduled Areas, hereafter PESA) in a modified form, many Constitutional provisions were available to many States to protect and promote the interests of the Scheduled Tribes in the Scheduled Areas. For the first-time, the PESA gives radical self-governance powers to the tribal community and recognizes its traditional community rights over natural resources. Prior to the passage of this Act, laws passed by Central and State Governments were applied mechanically to tribal areas even when these laws disregarded traditional tribal practices and institutions. For instance, the Gram Sabha, which is a locus of political power under the PESA, may be in other States was no more than a convenient administrative label for the relevant Assembly. However, under the PESA the law focuses on settlements, which the tribal people themselves perceive to be traditional and organic entities. In fact this is the first law that empowers people to redefine their own administrative boundaries. The PESA provides that the tribal Gram Sabha so defined would be empowered to approve all development plans, control all functionaries and institutions of all social sectors, as well as control all

minor water bodies, minor minerals and non-timber forest resources. It would also have the authority to control land alienation, impose prohibition, and manage village markets and resolve internal conflicts.

The Act creates a space for people's empowerment, genuine popular political participation, convergent community action, sustainable people oriented development and auto-generated emancipation. But in reality, its passage has almost been forgotten and has not become part of mainstream political or policy discourse. Many State Governments have passed laws not fully in conformity with the Central law. The tribal communities greeted the provisions of the law with enthusiasm but found themselves progressively handicapped by the lack of actual preparedness to negotiate development and democratization in the manner envisaged by the law. It is important here to discuss the role of the civil society in bringing about political participation of people and in preventing the political abuse of power.

1.4 Significance of the Study

Despite the fact that many laws have been passed for the up-liftment of the people living in the Scheduled Areas, there has been inefficient functioning of those laws.

The most important feature of the 1996 Panchayat Act is to make the people in Scheduled Areas govern themselves. It is quite impossible for this law to be successfully implemented without participation of the people. Hence, "people's participation" gains much importance in the above mentioned context.

The nature of people's participation is mainly confined to the sphere of basic amenities. The political consciousness generated by the local Government in Scheduled Areas has not been properly channelised towards democratic secular direction. The involvement of independent voluntary organizations, cooperatives and Farmers' Associations for generating people's participation supplement the work of Panchayat Raj but they have failed to act as checks and balances to the Panchayat Raj Institutions. All these institutions and local bodies are facing shortage of resources.

In the present administration at lower level, people's participation has been used as a tool of manipulation by which dominant tribes and privileged groups have been benefited. The main hindrance in generating people's participation is the lack of knowledge, means and methods of approaching people, absence of support from higher-level officials and non-officials and general apathy of the local level functionaries. In

addition, caste and political pressure are more frequently used as tools of manipulation in power politics within the formal committees of Panchayati Raj Organizations in agency area.

The success of decentralization programme lies not only in the deconcentration of functions, finances and powers but also a change in the attitude, behavior and cultural conditions conducive for the growth of decentralization. This change can be brought about only through civil society.

The present study focuses on how the tribals are participating in local Self-Governance through Panchayati Raj Institutions and through the intervention of civil society. The study also focusses on the nature of functioning of Gram Sabhas in Scheduled Areas to perform their duties.

1.5 Objectives of the Study

1. To study how Governace works in the Scheduled Areas.
2. To analyse the awareness and participation levels of the tribals in Democratic form of Governace.
3. To discuss various Policy Aspects related to governace in Scheduled areas in Andhra Pradesh.
4. How do State and civil society groups mobilize the tribal people in development process?
5. How Traditional Institutions operative in the Area?
6. Understanding the functioning of Natural resources within the frame work of Governace.

1.6 Study Area

Visakhapatnam district is one of the eight districts with a high tribal concentration, situated in the coastal belt of Andhra Pradesh. 56 percent of the total geographical Area of 11.67 square kilometers constitutes tribal region. Visakhapatnam District is one of the North –Eastern Coastal Districts of Andhra Pradesh lying between 17⁰–15' and 18⁰ -32' of North latitude and 83⁰-54' and 83⁰-30' of Eastern longitude. It is partly bound by Vizianagaram in the north, East Godavari district in the south and Orissa in the northwest, and Bay of Bengal in the east. The Visakhapatnam district presents two distinct geographical divisions: the strip of land along the coast and the interior called the 'Plains Division' and hilly Area of the Eastern Ghats flanking it on the North and West called 'Agency Division'. The Agency Division of the region is covered by the Eastern Ghats with