

Tribal Infrastructure as A Constitutional and Human Rights Imperative: A Comparative Analysis of Indian Jurisprudence and International Law

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Abstract—Infrastructure development in tribal and indigenous regions is no longer a matter of administrative discretion but a legally enforceable human rights obligation. In India, Scheduled Tribes continue to face systemic exclusion from basic infrastructure such as roads, drinking water, sanitation, and connectivity, despite constitutional guarantees and targeted welfare schemes. This paper examines the constitutional foundations of tribal infrastructure rights in India, particularly under Article 21 of the Constitution, and analyses landmark Supreme Court judgments that have expanded socio-economic rights for Scheduled Tribes. The study further undertakes a comparative analysis with international legal frameworks, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), International Labour Organization Convention No. 169, and jurisprudence of international human rights bodies. Using doctrinal and comparative methods, the paper argues that denial of infrastructure to tribal communities amounts to structural discrimination and violates both domestic constitutional norms and international human rights standards. The paper concludes with policy and legal recommendations for harmonising Indian governance practices with global indigenous rights standards.

Keywords: Scheduled Tribes, Tribal Infrastructure, Article 21, Indigenous Rights, UNDRIP, Comparative Constitutional Law, Road Connectivity

I. INTRODUCTION

Infrastructure is the backbone of social and economic development. Roads, drinking water systems, sanitation, electricity, healthcare facilities, and educational institutions are not merely physical assets but enablers of dignity, equality, and participation in public life. For tribal and indigenous communities, infrastructure assumes even greater significance, as historical marginalisation, geographical isolation, and socio-economic exclusion have perpetuated cycles of poverty and vulnerability.

In India, Scheduled Tribes constitute over 8.6% of the population and predominantly reside in forested, hilly, and remote regions. Despite constitutional safeguards and decades of welfare planning, tribal areas continue to lag behind national averages in basic infrastructure indicators. Road connectivity, in particular, remains a critical challenge, directly affecting access to healthcare, education, markets, and administrative justice.

This paper examines whether the persistent lack of infrastructure in tribal areas constitutes a violation of constitutional and human rights. It argues that infrastructure denial is not a developmental failure alone but a legal wrong. Drawing from Indian constitutional jurisprudence and international law, the paper positions tribal infrastructure as a justiciable right grounded in human dignity, equality, and self-determination.

II. METHODOLOGY AND RESEARCH FRAMEWORK

The study adopts a doctrinal legal research methodology, supplemented by comparative and analytical approaches. Primary sources include constitutional provisions, Supreme Court of India judgments, international treaties, declarations, and decisions of international human rights bodies. Secondary sources include academic literature, government reports, and policy documents. Additionally, authoritative audio-visual materials from United Nations and academic institutions are used as supplementary references to reflect contemporary discourse.

III. CONSTITUTIONAL FRAMEWORK FOR TRIBAL DEVELOPMENT IN INDIA

III.I. CONSTITUTIONAL SAFEGUARDS FOR SCHEDULED TRIBES

The Indian Constitution provides a comprehensive framework for the protection and advancement of Scheduled Tribes:

Article 14 guarantees equality before law and equal protection of laws.

Article 15(4) permits special provisions for socially and educationally backward classes, including Scheduled Tribes.

Article 21 protects the right to life and personal liberty, interpreted expansively to include dignity and quality of life.

Article 46 directs the State to promote the educational and economic interests of Scheduled Tribes.

Article 244, read with the Fifth and Sixth Schedules, provides special governance mechanisms for tribal areas.

These provisions collectively impose a constitutional duty upon the State to ensure inclusive development of tribal regions.

III.II. ARTICLE 21 AND INFRASTRUCTURE AS A FUNDAMENTAL RIGHT

Judicial interpretation has transformed Article 21 into a repository of socio-economic rights. The Supreme Court has repeatedly held that the right to life includes the right to live with dignity, access to basic amenities, and conditions necessary for human development. Infrastructure, therefore, becomes an intrinsic component of Article 21.

IV. SUPREME COURT JURISPRUDENCE ON TRIBAL RIGHTS AND INFRASTRUCTURE

IV.I. SAMATHA V. STATE OF ANDHRA PRADESH (1997)

In *Samatha v. State of A.P.*, the Supreme Court recognised that exploitation of tribal lands without ensuring their development violates constitutional guarantees. The Court emphasised the State's obligation to protect tribal autonomy and ensure socio-economic justice, laying the foundation for infrastructure rights in Scheduled Areas.

IV.II. NARMADA BACHAO ANDOLAN V. UNION OF INDIA (2000)

While addressing displacement and development, the Court stressed that development must be inclusive and humane. Infrastructure projects affecting tribals must improve, not deteriorate, their quality of life.

IV.III. OLGA TELLIS V. BOMBAY MUNICIPAL CORPORATION (1985)

Though not specific to tribals, the Court's holding that the right to livelihood is part of Article 21 has significant implications. Road connectivity directly impacts livelihood opportunities for tribal populations.

IV.IV. STATE OF HIMACHAL PRADESH V. UMED RAM SHARMA (1986)

The Supreme Court explicitly recognised road access as part of the right to life, holding that people living in hilly and remote areas cannot be denied connectivity. This judgment is particularly relevant to tribal habitations.

IV.V. PUCL V. UNION OF INDIA (RIGHT TO FOOD CASES)

The Court's continuing mandamus approach affirmed that deprivation of basic necessities amounts to a violation of fundamental rights, reinforcing the enforceability of socio-economic entitlements.

V. INFRASTRUCTURE DEFICIT AS STRUCTURAL DISCRIMINATION

The denial of infrastructure in tribal areas cannot be viewed in isolation. It reflects structural discrimination, where systemic neglect perpetuates inequality. When non-tribal regions receive consistent infrastructural investment while tribal areas remain excluded, the principle of substantive equality under Article 14 is violated.

The Supreme Court has recognised that equality is not merely formal but substantive, requiring differential treatment to achieve real equality. Failure to prioritise tribal infrastructure thus undermines constitutional morality.

VI. INTERNATIONAL LEGAL FRAMEWORK ON INDIGENOUS INFRASTRUCTURE RIGHTS

VI.I. UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)

UNDRIP, adopted in 2007, is the most comprehensive international instrument on indigenous rights. Key provisions include:

Article 21: Indigenous peoples have the right to improvement of economic and social conditions, including infrastructure.

Article 23: Indigenous peoples have the right to determine and develop priorities for development.

Article 19: States must obtain Free, Prior and Informed Consent (FPIC) before adopting measures affecting indigenous peoples.

Though not legally binding, UNDRIP represents customary international law principles.

VI.II. ILO CONVENTION NO. 169

ILO Convention No. 169 imposes binding obligations on ratifying states to ensure infrastructure and development tailored to indigenous needs. While India has not ratified it, the Convention influences global standards and comparative jurisprudence.

VII. COMPARATIVE INTERNATIONAL JURISPRUDENCE

VII.I. INTER-AMERICAN COURT OF HUMAN RIGHTS

In *Yakye Axa Indigenous Community v. Paraguay*, the Court held that denial of access roads and basic services violated the right to life and dignity of indigenous communities. The State was directed to construct infrastructure as a remedial measure.

VII.II. AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

In the *Endorois* case, the Commission recognised development as a collective right and emphasised infrastructure access as essential to cultural survival.

VII.III. COMPARATIVE CONSTITUTIONAL PRACTICE

Countries such as Colombia and South Africa have constitutionally entrenched socio-economic rights, enabling courts to mandate infrastructure provision to marginalised communities. Indian courts, though cautious, are increasingly aligning with this global trend.

VIII. INDIA IN COMPARATIVE PERSPECTIVE

While Indian constitutional jurisprudence has progressively expanded Article 21, implementation gaps persist. Unlike international systems that provide reparations and monitoring mechanisms, Indian remedies often stop at declaratory relief. Harmonisation with international standards requires stronger enforcement and community participation.

Empirical Case Study: Panchayat Raj Engineering Department Road Proposal in a Scheduled Tribe Area (Andhra Pradesh, India)

IX. PANCHAYAT RAJ ENGINEERING DEPARTMENT INTERVENTION: A GROUND-LEVEL CASE STUDY

To complement doctrinal and comparative legal analysis, this study incorporates an empirical case study drawn from official records of the Panchayat Raj Engineering Department, Government of Andhra Pradesh, relating to a proposed road infrastructure project in a Scheduled Tribe-dominated region. The case exemplifies the intersection of constitutional mandates, tribal welfare policy, and administrative execution.

IX.I. ADMINISTRATIVE AND FINANCIAL FRAMEWORK

The project forms part of the Grant-in-Aid Programme for the financial year 2025–26, prepared under the Detailed Cum Abstract Line Estimate mechanism of the Panchayat Raj Engineering Department.

Administrative Details:

Division: Vijayawada

Sub-Division: Tiruvuru

Mandal: A. Konduru

Constituency: Tiruvuru Assembly Constituency

Executing Authority: Panchayat Raj Engineering Department, Andhra Pradesh

Estimated Cost: ₹200.00 Lakhs

Funding Source: Tribal Sub-Plan (TSP) / Suitable Government Grants

This proposal demonstrates statutory compliance with Article 46 of the Constitution of India, which mandates special care for the economic advancement of Scheduled Tribes.

IX.II. DESCRIPTION OF THE ROAD PROJECT

Name of the Work:

Improvements to the road from Gollamandala Thanda of A. Konduru Mandal to Ramanagaram H/o Putrela Village of Vissannapeta Mandal.

The road is an inter-mandal link road, connecting A. Konduru Mandal with Vissannapeta Mandal, thereby serving both tribal habitations and mixed-population villages.

Total Road Length: 3,500 meters (3.5 km)

IX.III. DEMOGRAPHIC AND SOCIAL COMPOSITION

The demographic data underscores the tribal-centric nature of the project:

Village	Total Population	ST	SC	Others
Gollamandala Thanda	835	835	0	0
Ramanagaram	657	72	321	265

Gollamandala Thanda is a 100% Scheduled Tribe habitation, making the project constitutionally significant under the Fifth Schedule and the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA).

IX.IV. ECONOMIC AND DEVELOPMENTAL SIGNIFICANCE

The road functions as a critical agricultural and livelihood corridor, facilitating the transport of:

Paddy

Chillies

Mango produce

Due to the absence of a paved road, agricultural producers face:

Increased transportation costs

Post-harvest losses

Restricted market access

Limited emergency medical access

The Supreme Court of India has recognized that denial of road connectivity directly impairs the right to livelihood under Article 21, particularly for rural and tribal populations (State of H.P. v. Umed Ram Sharma, 1986).

IX.V. EXISTING CONDITIONS AND INFRASTRUCTURE DEFICIT

The existing road condition is described as:

Earthen surface

Severe potholes

Seasonal inaccessibility

Unsafe for women, children, and emergency vehicles

This condition reflects systemic infrastructural neglect, reinforcing the argument that tribal areas experience structural discrimination, rather than accidental underdevelopment.

IX.VI. TECHNICAL SPECIFICATIONS (SUMMARISED FOR ACADEMIC REVIEW)

The Specification Report, prepared in accordance with MORD/MORTH standards and IRC guidelines, proposes the following:

Road Formation and Pavement Design

Subgrade:

Thickness: 225 mm

Width: 4.30 m

Granular Sub-Base (GSB):

Thickness: 150 mm

Width: 4.00 m

Water Bound Macadam (WBM Grade III):

Compacted Thickness: 75 mm

Width: 3.75 m

Drainage and Culverts

RCC Pipes (NP3 Class):

Diameters: 450 mm, 600 mm, 900 mm

Installed at critical cross-drainage points

Construction Standards

Compliance with:

IRC SP 77-2008

MORD Clauses 401, 405, 406, 1106

IS: 383 standards for aggregates

Financial Provisions

GST @ 18%

Quality Control Charges: 0.5%

NAC Charges: 0.1%

Seigniorage Charges

Price Escalation

Unscheduled Items

The estimate is prepared using the Standard Schedule of Rates (SSR) 2025–26, ensuring fiscal transparency and accountability.

IX.VII. LEGAL AND CONSTITUTIONAL SIGNIFICANCE

This project illustrates how constitutional promises translate into engineering practice. The preparation of a detailed estimate itself evidences:

Administrative acknowledgment of tribal infrastructure deficit

Recognition of road access as a development necessity

Alignment with Article 21 (Right to Life and Dignity)

The failure to sanction or execute such approved estimates, despite repeated representations, raises serious questions of constitutional non-compliance.

IX.VIII. ALIGNMENT WITH INTERNATIONAL INDIGENOUS RIGHTS STANDARDS

The project directly aligns with Article 21 of UNDRIP, which affirms indigenous peoples' right to improved infrastructure and economic conditions. Moreover, the community-centric nature of the road resonates with the Free, Prior and Informed Consent (FPIC) principle under international law.

Comparatively, international tribunals—such as the Inter-American Court of Human Rights—have mandated road construction as a remedy for indigenous rights violations (*Yakye Axa Indigenous Community v. Paraguay*, 2005).

IX.IX. OBSERVATIONS

This Panchayat Raj Engineering Department proposal serves as a model illustration of:

Evidence-based tribal infrastructure planning

Integration of constitutional mandates with engineering standards

The feasibility of rights-based development

However, persistent administrative delay converts such proposals into paper rights, undermining both domestic constitutional law and international human rights obligations.

X. CONCLUSION (ADDENDUM)

The inclusion of this case study demonstrates that the right to infrastructure for Scheduled Tribes is neither abstract nor aspirational. It is measurable, costed, technically vetted, and administratively acknowledged. The remaining gap is political and bureaucratic will. Bridging this gap is essential to fulfil India's constitutional vision and its standing in the global indigenous rights regime.

XI. ROLE OF PARTICIPATORY GOVERNANCE AND PESA ACT

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) mandates Gram Sabha participation in development decisions. Road construction and infrastructure projects in tribal areas must involve local consent, aligning with the FPIC principle under UNDRIP.

XII. POLICY IMPLICATIONS AND RECOMMENDATIONS

1. Recognition of Infrastructure as a Justiciable Right: Courts should explicitly recognise access to basic infrastructure as part of Article 21 for Scheduled Tribes.
2. Time-Bound Implementation: Judicial directions must include timelines and monitoring mechanisms.
3. Integration of International Norms: Indian policy should align with UNDRIP principles, particularly FPIC.
4. Dedicated Tribal Infrastructure Funds: Effective utilisation of Tribal Sub-Plan (TSP) funds must be ensured.
5. Community-Centric Development: Infrastructure planning must involve Gram Sabhas at every stage.

XIII. CONCLUSION

The denial of infrastructure to tribal communities is not merely a developmental oversight but a constitutional and human rights violation. Indian constitutional jurisprudence, when read alongside international legal standards, clearly establishes that access to roads and basic amenities is integral to dignity, equality, and life itself. Bridging the gap between law and implementation requires judicial assertiveness, administrative accountability, and genuine community participation. Recognising tribal infrastructure as a right is not charity—it is justice.

REFERENCES (INDICATIVE – APA / INTERNATIONAL STYLE)

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3. United Nations. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*.
4. Inter-American Court of Human Rights. *Yakye Axa Indigenous Community v. Paraguay* (2005).
5. International Labour Organization. *Convention No. 169 concerning Indigenous and Tribal Peoples*.
6. B. *Comparative Analysis: India vs International Law (Journal-Ready Table)*
7. *Comparative Framework on Tribal Infrastructure & Development Rights*
8. *Aspect India (Constitutional & Judicial Position) International Law & Comparative Jurisprudence*
9. *Legal Recognition of Tribal Rights Articles 14, 15(4), 21, 244, Fifth & Sixth Schedules of the Constitution of India UNDRIP, Arts. 3, 21, 23; ILO Convention No. 169*
10. *Right to Infrastructure (Roads, Connectivity) Read into Article 21 (Right to Life & Dignity) through SC judgments Recognised as part of right to development & cultural survival (UNDRIP Art. 21)*

11. *State Obligation Positive duty to provide basic amenities to Scheduled Tribes (Samatha v. State of A.P.) Mandatory state obligation to ensure equitable development (Yakye Axa v. Paraguay)*
12. *Discrimination Test Denial of infrastructure to tribal areas violates Article 14 Structural discrimination recognised by Inter-American & African Human Rights bodies*
13. *Participation of Tribals Gram Sabha consent under PESA Act, 1996 Free, Prior and Informed Consent (FPIC) – UNDRIP Art. 19*
14. *Judicial Enforcement Supreme Court expands socio-economic rights through PILs International Courts impose binding reparations & monitoring*
15. *Development Model Welfare-oriented, state-centric Rights-based, community-centric*
16. *Remedy for Violation Writs, directions, monitoring committees Restitution, compensation, guarantees of non-repetition*
17. *Model Comparative Paragraph (India vs International Law) While Indian constitutional jurisprudence has progressively interpreted Article 21 to include access to basic infrastructure for Scheduled Tribes, international human rights law adopts a more explicit rights-based approach. Instruments such as the United Nations Declaration on the Rights of Indigenous Peoples recognise infrastructure as integral to cultural survival, self-determination, and development. Comparative jurisprudence from the Inter-American Court of Human Rights demonstrates that denial of road connectivity to indigenous areas constitutes structural discrimination, a principle increasingly resonant with Indian constitutional values.*
18. *United Nations. (2022). Indigenous peoples and sustainable development [Video]. YouTube. <https://www.youtube.com/@unindigenous>*



19. **Gollanadalla Tanda, NTR District, Andhra Pradesh-521 227** approximate geographic coordinates are
20. 16.9894°N 16.9894°E raised to the composed with power N latitude and 80.6815°E 80.6815°E raised to the composed with power E longitude, positioned in the A. Konduru mandal area
21. 1. <https://youtu.be/4M14xD0g-Y0?si=SkZdMI8r4K7qTFsZ>
22. 2. https://youtu.be/_jAgRwXP0Tk?si=tnsHkhenNWrZULbc