

Economic Impact of Prohibition of Sale of Land Owned by Scheduled Tribes to Non-Scheduled Tribes in India

Dr. Manas Ghose¹

Assistant Professor, Department of Economics, Bagnan College, Howrah, West Bengal, India.

ORCID ID-0000-0001-8745-6630

DOI: <https://doi.org/10.5281/zenodo.18442788>

Published Date: 31-January-2026

Abstract: The West Bengal Land Reforms Act-1955 imposed a restriction on sale of land owned by a Scheduled Tribe to a non- Scheduled Tribe person. Not only West Bengal, but most of the Indian states (which have Scheduled area) imposed this type of restriction to protect the Rights of Land to the Scheduled Tribes as well as from unwanted and distress sale of land by the Scheduled Tribes. This paper tries to explore the economic impact of this restriction theoretically. This restriction divides the entire land market into two segments. One segment is for Scheduled Tribes and another segment is for non-Scheduled Tribes. Imposition of this restriction makes the Scheduled Tribes land owner a lame duck. Non-Scheduled Tribes land owner also loses from this restriction. Only difference is that the extent of per unit loss is higher for Scheduled Tribes land owner. In this act a discretionary power is given to the land Revenue Officer regarding permission to sale a piece of land to a non- Scheduled Tribes by the Scheduled Tribes. That opens up the broad avenue of corruption. The Land Revenue Officer may take a bribe for granting permission to sale a piece of land owned by a Scheduled Tribe to a non- Scheduled Tribe. In that case the policy originates a source of corruption with/without prohibiting unwanted and distress sale of land of Scheduled Tribes land owner. The policy makes land acquisition more difficult and retarding economic development of the country by slowing down industrialisation, urbanisation etc.

Keywords: West Bengal Land Reforms Act-1955, Scheduled Tribe, Scheduled Tribe person. slowing down industrialisation, urbanisation etc.

I. INTRODUCTION

According to Gilbert (2005) about 70 million Indigenous people was living in India. It was about 8 percent of total population. These Indigenous people are living in different parts of India starting from Northern Mountains to the Central and Southern Part of the country which represents a complex and rich diversity of India and the World. Schedule Tribe population is 10 percent according to NFHS-2015. These Indigenous peoples are most deprived and vulnerable section of Indian population often exploited by others. Article 46 (Directive Principle) of Indian Constitutions directs the State to promote educational & economic interests of Scheduled Castes/ Scheduled Tribes, especially protecting them from social injustice and exploitation, including land exploitation. Fifth Schedule (Article 244(1)) of the Indian Constitution empowers State Governors to prohibit or restrict land transfer from tribals in Scheduled Areas. Using the powers of the Governor in 1955 the cabinet of West Bengal², a state of India, passed West Bengal Land Reforms Act imposes restrictions on the

¹Assistant Professor, Department of Economics, Bagnan College, Howrah, West Bengal, India. Email- manasghose@yahoo.co.in ORCID ID-0000-0001-8745-6630

All the states of India where Scheduled Tribe communities present passed this type of act by their own. Though the case of West Bengal is considered here but the case of all the Indian states are same.

alienation (transfer) of land by individuals belonging to Scheduled Tribes (STs) to protect their land rights. The purpose of these provisions is to prevent land alienation from Scheduled Tribes, ensuring they retain their ancestral lands. Many Scheduled Tribe communities have historically been vulnerable to exploitation, losing land due to economic distress, coercion, or fraudulent transactions (Aparna P, 2018). The key provisions by which (Section 14C of West Bengal Land Reforms Act-1955) Scheduled Tribe landowners can transfer land only in limited ways, such as:

1. Complete usufructuary mortgage to another Scheduled Tribe person (max 7 years).
2. Sale/gift to the Government for public or charitable purposes.
3. Mortgage to Govt., cooperative societies, or financial institutions.
4. Gift/will to another Scheduled Tribe person.
5. Sale/exchange to another Scheduled Tribe person.
6. Sale to a non- Scheduled Tribe person only with prior approval from Land Revenue Officer, ensuring no Scheduled Tribe buyer is available and the purpose is valid.

Thus, under this act there are six alternative provisions through which a raiyat belonging to Scheduled Tribe may transfer his holding partly or fully. Among these provisions only through sixth provision a Schedule Tribe people may transfer his land to a non- Scheduled Tribe people but there are some restrictions. These are the raiyat must have a written request for seeking permission from the Land Revenue Officer about transfer of his land to a non-Scheduled Tribe people and the permission will be granted by the Land Revenue Officer only when he is satisfied that no purchaser belonging to a Scheduled Tribe is willing to pay the fair market price of the holding or any part thereof and that the proposed sale is intended to be made for one or more of the following purposes, namely :- (1) for the improvement of any other part of the holding, or (2) for investment, or (3) for such other purposes as may be prescribed.

These restrictions create an obstacle for free market to play in case of land market because Scheduled Tribe peoples can not freely transfer their land to a people not belonging to Scheduled Tribes. They can freely transfer their lands only within the 10 percent of total populations, as Schedule Tribe population is 10 percent according to NFHS-2015. Thus, these restrictions clearly divide the entire land market into two segments one is for Scheduled Tribes and another for non- Scheduled Tribes. Imposition of these restrictions lead to many problems associated with urbanisation, industrialisation and a financial loss to the Scheduled Tribes by making a dualistic structure of land market. Market economy can always maximize social welfare. In the market economy imposition of any restriction leads to a deadweight loss to buyers and sellers i.e., a welfare loss of the society. In the democratic system, sometimes the policy makers (Politicians) are either ignorant or forget the economic fact at the time of policy design as they may have some political agenda to fulfil for re-election so that they design such a policy which create an obstruction on the fair market to play. If free market is obstructed then that generates a deadweight loss to the society. Sometimes the beneficiaries themselves have to bear the deadweight loss created due to such policy change. If this is the case then beneficiaries may not be benefitted at all but evaluation of net benefit (benefit – cost) is very difficult. Most of the beneficiaries are unable to evaluate the cost and benefit of such policy change. As a result, most of the beneficiaries (decision of the majority is very important in a democratic setting) and the policy makers (ruling party and bureaucrats) think that the policy change increase net benefit (benefit - cost) of a large group of people. But real situation may be completely different from their thinking. In such a situation this paper tries to identify the problems arise out due to the imposition of these restrictions on transfer of land owned by a Schedule Tribe to non- Scheduled Tribe people. Who have borne the cost ultimately and how much?

I.I. Objectives

The present paper deals with the following objectives:

1. To identify the financial loss of Scheduled Tribes due to the imposition of the restriction of transfer of land owned by a Scheduled Tribe to non- Scheduled Tribe.
2. To identify the effect of the restriction of transfer of land owned by a Scheduled Tribe to non- Scheduled Tribe on economic growth.

In this section of the paper a brief introduction is given. In section-II, a brief literature review is given. In section-III, a theoretical model have been developed to understand the economic impact of the imposition of restriction on land alienation and finally conclusion is given in section-IV.

II. REVIEW OF LITERATURE

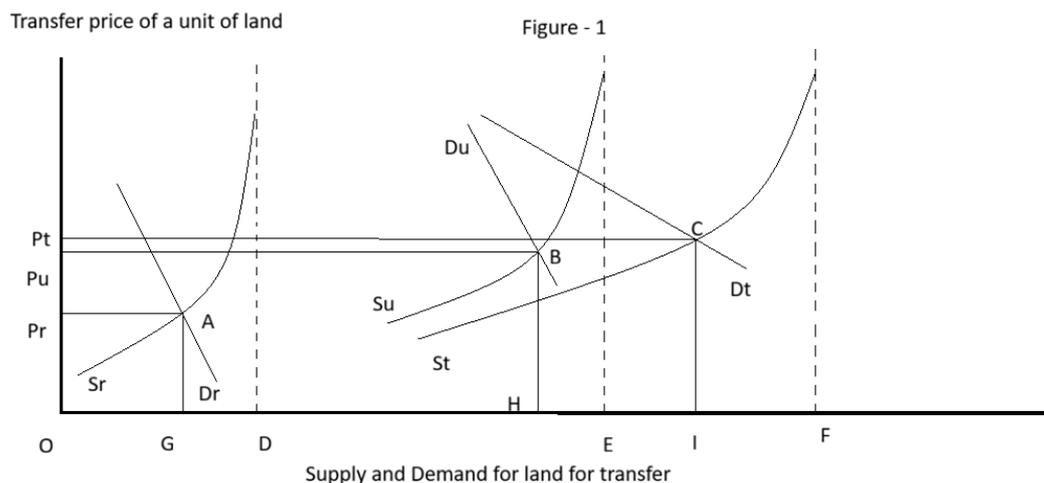
After reviewing the existing literature, it is found that land alienation was the root cause of all evils of tribal population (Elwin V, 1943, Patel, 1998 and Fernandes W, 2012). They found that when there was no land, tribals lost their resistance power and unable to sustain without any source of livelihood. That also lead to mounting indebtedness problem of Scheduled Tribe's. They forced to work as bonded labour.

According to Sanathanam Velluva (2006) in a study of forest areas of Kerala concluded that tribals are mostly worked as wage labourers. A majority of the tribal households' farm income share lies below 20% and only a very small percentage of households depend exclusively on agriculture.

Pankaj and Pandey (2014) identified land and caste as the two major determinants of social exclusion in rural society. So, Rights of land should be established for the Tribals otherwise they will be socially and economically excluded.

III. THEORETICAL MODEL

A model can be developed to show the financial loss of Scheduled Tribes due to the imposition of the restriction on transfer of land owned by a Scheduled Tribes to non- Scheduled Tribes. In figure-1 the people of Scheduled Tribes (termed as reserved) category owned OD amount of land and unreserved category of peoples (non-Scheduled Tribes) owned OE amount of land. If OF is the total supply of land clearly, $OD + OE = OF$. Though the total amount of land owned by reserved category and unreserved category are fixed but supply curve of land for sale is upward rising curve³ for both the categories of people like any other commodities. In figure-1, Sr is the supply curve of land for transfer owned by the Scheduled Tribes, Su is the supply curve of land for transfer owned by the non-Scheduled Tribes and St is the supply curve of land for transfer owned jointly by the Scheduled Tribes and non- Scheduled Tribes. Clearly, St is the horizontal summation of Sr and Su.



Before imposition of the restriction on sale of land owned by Scheduled Tribes, there were no reserved people, all were unreserved. So, any one (Scheduled Tribes and non-Scheduled Tribes) can sell his/her land to any people. In such a situation supply curve for total land (owned by Scheduled Tribes and non-Scheduled Tribes) becomes St and demand curve for total land for transfer is Dt (Dt is also horizontal summation of Dr and Du) in figure-1. They intersect each other at point C and determine an equilibrium price of a unit of land as OP_t . But, after imposition of the restriction on sale of land owned by Scheduled Tribes, the land market has been divided or segmented, one market is, solely, for Scheduled Tribes and another for unreserved (non-Scheduled Tribes). In the land market for Scheduled Tribes a person from non-Scheduled Tribes can enter as buyer in the market only in a very strict condition. On the other hand, a Scheduled Tribes buyer can easily buy a piece of land from a non-Scheduled Tribes but he can't buy there at a high price. Thus, it can be said that imposition of the restriction divides the land market, clearly, into two segments. The figure-1 can rightly depict the situation of the land market before and after imposition of the restrictions. In the land market for Scheduled Tribes, Sr is the supply curve for

³ Peoples offer more land for sale only if they get higher price.

land and D_r is the demand curve for land for transfer, they intersect each other at point A and determine the equilibrium price of a unit of land as OP_r . On the other hand, in the market for land of non- Scheduled Tribes, S_u is the supply curve for land and D_u is the demand curve for land for transfer, they intersect at point B and determine the equilibrium price of a unit of land as OP_u . Clearly, OP_u is higher than OP_r . This is because of higher demand for land in the market for land of non-Scheduled Tribes⁴. It is clear that $OP_r < OP_u < OP_t$. Thus, imposition of the restriction on sale of land owned by Scheduled Tribes to non- Scheduled Tribes create a deadweight loss to both Scheduled Tribes as well as to non- Scheduled Tribes and surely the deadweight loss to Scheduled Tribes is higher than the deadweight loss of non- Scheduled Tribes. Per unit deadweight loss for Scheduled Tribes is $OP_t - OP_r = PrPt$ and same for the Scheduled Tribes is $OP_t - OP_u = PuPt$ (surely, $PrPt > PuPt$). Thus, imposition of restriction on sale of land owned by Scheduled Tribes to non-Scheduled Tribes through West Bengal Land Reforms Act-1955 was an interference in the free market of land. This interference shaped the land market a dualistic structure and also made the owner loser, extent of loss is higher for Scheduled Tribes compare to non-Scheduled Tribes. Actually, this restriction was designed and implemented to protect the Rights of Land to Scheduled Tribes as well as to protect unwanted and distress sale by the Scheduled Tribes but returned as boomerang for them.

Like money, gold, bond and share etc., land is also an important asset for any person. But to protect an unwanted sale of land for Scheduled Tribes, when the government imposes a restriction that clearly creates an obstacle for free market to play and generate a deadweight loss, reduces the asset value and the owner of the land becomes loser. Scheduled Tribe peoples loose more as per unit deadweight loss is higher for Scheduled Tribes compare to non-Scheduled Tribes. If land market is not perfect then anyone will not be interested to invest on that asset. This phenomenon makes the land a less profitable alternative for investment compare to other alternatives like money, gold, bond, share etc. (where such restriction is absent). That also reduces the demand for land in the market for Scheduled Tribes which will further reduce the price of a unit of land owned by Scheduled Tribes and further increase per unit deadweight loss.

Some may argue that the policy does not create any problem, it just segregated the land market of Scheduled Tribes from the non- Scheduled Tribes and reduces land price in both the markets. There is no problem if all Scheduled Tribes (both buyers and sellers) face the same price and all non- Scheduled Tribes (both buyers and sellers) face the same (but different from price faced by Scheduled Tribes) price. Yes, it would not create any problem if land distribution⁵ within the Scheduled Tribes and non- Scheduled Tribes are exactly same as well as sale and purchase amount of land by each member within the categories must be same. But this is impossible. Neither the land distribution be uniform nor sale and purchase amount be same for all the members within the categories. Thus, it creates some problem. The problem is that it redistributes land wealth in favour of purchaser of land and against the owner or seller of land. The policy does not protect land owner rather favours the land purchaser. It only protects redistribution of land wealth across the categories⁶ but not within the category.

This act or the restriction brings another problem by reserving discretionary power to the land Revenue Officer regarding permission to sale a piece of land to a non- Scheduled Tribes by the Scheduled Tribes. In this act if a Scheduled Tribe do not find any buyer from Scheduled Tribes but he/she has a genuine requirement (mentioned in the clause of West Bengal Land Reforms Act -1955) for sale of his/her land then he/she can sell his/her land to a non- Scheduled Tribes if the land Revenue Officer give the permission in response to his/her written request, provided that non- Scheduled Tribe buyer give market price of the land to the Scheduled Tribe seller. Thus, in this act land Revenue Officer enjoys the entire discretionary power about such permission. Discretionary power generates a source of corruption (Klitgaard, 1998). The Land Revenue Officer may take a bribe (as he enjoys discretionary power) either from Scheduled Tribe seller or from non-Scheduled Tribe buyer or from both to give the permission for such sale. If such sale is really happened in exchange of bribe, then the basic objective of the act is not fulfilled. In this case maximum amount of bribe can be $PuPr$, in figure-1, and this amount can be given either by Scheduled Tribe seller or by non-Scheduled Tribe buyer or jointly by them. If the amount of bribe is less than $PuPr$ then only either Scheduled Tribe seller or non-Scheduled Tribe buyer or both of them can be benefitted. The Land Revenue Officer is always benefitted for any positive amount of bribe. He also knows the maximum limit of the bribe. He always tries to maximize the amount of bribe within the limit. A Scheduled Tribe seller can be benefitted if he receives more

⁴ As number of buyers in the land market for unreserved is sufficiently larger than the number of buyers in the market of land for Scheduled Tribes, that leads the demand curve D_u lies above and right of the demand curve D_r . As D_t is the horizontal summation of D_r and D_u , so D_t will lie above and right of both D_r and D_u .

⁵ Land distribution within the categories must be same but across categories it may be different.

⁶ If the policy is implemented properly and no corruption is generated.

than OPr for per unit of land. On the other hand, a non- Scheduled Tribe buyer can be benefitted if he has to pay less than OPu for a unit of land. Thus, there is a high chance for formation of an illegal cartel for sale of a land owned by a Scheduled Tribe to a non-Scheduled Tribe. The cartel has been formed either by Land Revenue Officer and Scheduled Tribe seller or by Land Revenue Officer and non-Scheduled Tribe buyer or by Land Revenue Officer, Scheduled Tribe seller and non-Scheduled Tribe buyer.

The restriction on sale of land owned by Scheduled Tribes to a non- Scheduled Tribes also creates some obstacles in economic development of the country by slowing down industrialisation and urbanisation etc. This restriction obstructed the growth of real estate market and reducing the availability of land for development projects and boosting economic growth in the region. Fragmented land within the Scheduled Tribes largely obstructed industrialisation and urbanisation. In many cases, Scheduled Tribes owned small plots of land that were often fragmented across multiple locations, making it difficult for them to utilize their land effectively. They can not sell their small plot of lands easily to purchase a big plot. Generally, industrialisation and urbanisation require a large number of adjacent plot of lands but within these plots some non-transferrable plots of Scheduled Tribes cancelled or delayed the entire project to be operative. So, private entrepreneur will not come to invest in direct productive activities that hinders the economic growth of the country. This restriction impedes economic growth by retarding investment in various sectors of the economy like real estate, construction, agriculture, and tourism, among others.

Feeling the harsh reality the cabinet of Odisha, an Indian state, realised the fact and amended Orissa Scheduled Areas Transfer of Immovable Property (OSATIP) Regulation, 1956 and the Odisha Land Reforms Act, 1960 (OLR Act) in 2000. After amendment, Scheduled Tribes of Odisha can sell their land to non-tribals. This policy increases economic benefits of the Scheduled Tribes as well as non- Scheduled Tribes. Under the previous law, Scheduled Tribes were restricted from selling their land to non- Scheduled Tribes unless they obtained permission from the government. The amendment removes this requirement, making it easier for Scheduled Tribes to sell their land to anyone, including non- Scheduled Tribes. Overall, the amendment to the land sale law in Odisha represents a step towards empowering Scheduled Tribes and providing them with more opportunities. It is expected to have a positive impact on the economy of the state while ensuring the protection of the rights and interests of Scheduled Tribes.

IV. CONCLUSION

The West Bengal Land Reforms Act-1955 imposed a restriction on sale of land owned by a Scheduled Tribe to a non-Scheduled Tribe person. This restriction has clearly divided the entire land market into two segments. One segment is for Scheduled Tribes and another segment is for non-Scheduled Tribes.

In the land market for non-Scheduled Tribes both buyers and sellers come from non-Scheduled Tribes. Scheduled Tribe buyers can enter into this market but usually not, because of higher price of land in this market compare to the land market for Scheduled Tribes. In the land market for Scheduled Tribes both sellers and buyers come from Scheduled Tribes. Non-Scheduled Tribe buyers can enter into the market in a very restrictive condition. The conditions are- the Scheduled Tribe seller do not find any buyer from Scheduled Tribes at existing market price, the purpose of sale of land is valid. In such a situation if Scheduled Tribe seller makes a written request to the Land Revenue Officer and the Land Revenue Officer has given him an approval for sale to a non- Scheduled Tribes then only a Scheduled Tribe seller can sell his land to a non-Scheduled Tribe buyer.

The population size is an important determinant of demand for any goods and services so, demand for land in the market for Scheduled Tribes is lower than in the market for non-Scheduled Tribes. Lower demand in the market for land of Scheduled Tribes produces a lower price of a unit of land owned by Scheduled Tribes compare to a unit of land owned by a non- Scheduled Tribe. Thus, imposition of this restriction on sale of land makes the Scheduled Tribes land owner a lame duck. Not only Scheduled Tribes land owner loses due to imposition of this restriction but non-Scheduled Tribes land owner also loses from this restriction. Only difference is that the extent of per unit loss is higher for Scheduled Tribes land owner. This is because if the restriction was not imposed then land market would not be divided into segments and entire population would be the potential buyer as a result demand for land in the undivided land market will be higher than in the market for Scheduled Tribes as well as for non- Scheduled Tribes. The higher demand could produce a higher price for a unit of land. The price difference PtPu (in figure-1) is the per unit loss of the non- Scheduled Tribes owner and PtPr (in figure-1) is the per unit loss of the Scheduled Tribes owner. Thus, Imposition of the restriction on sale of land fulfils its original objective (from unwanted and distress sale of land of Scheduled Tribes) at the cost of lower asset (Land) price and makes them distress after sale not only the Scheduled Tribes land owner but also the non-Scheduled Tribes land owner.

The restriction on sale of land owned by Scheduled Tribes to non-Scheduled Tribes creates another problem. The problem is that it redistributes land wealth in favour of purchaser of land and against the owner or seller of land. The policy does not protect land owner rather favours the land purchaser. It only protects redistribution of land wealth across the categories but not within the category.

The policy has also another adverse effect. By reserving discretionary power to the land Revenue Officer regarding permission to sale a piece of land to a non- Scheduled Tribes by the Scheduled Tribes opens up the broad avenue of corruption. The Land Revenue Officer may take a bribe for granting permission to sale a piece of land owned by a Scheduled Tribe to a non- Scheduled Tribe. In that case the policy originates a source of corruption with or without prohibiting unwanted and distress sale of land of Scheduled Tribes land owner.

The policy also creates some obstacles in economic development of the country by slowing down industrialisation and urbanisation etc. This restriction obstructed the growth of real estate market and reducing the availability of land for development projects and boosting economic growth in the region. Thus, the restriction impedes economic growth by retarding investment in various sectors of the economy like real estate, construction, agriculture, and tourism, among others.

Policy Suggestions

From the aforesaid analysis it is clear that imposition of the restriction on sale of land owned by Scheduled Tribes to non-Scheduled Tribes creates many problems especially, the would-be beneficiary becomes a lame duck. In this situation the present paper suggests to abolish this restriction that will benefit both Scheduled Tribe owners as well as non- Scheduled Tribe owners and make land market perfect. Role of the Land Revenue Officer should be as observer. He should observe whether all the land transaction by the Scheduled Tribes to non- Scheduled Tribes are made at fair market price against a genuine necessity and entire sales proceed must be deposited to the bank account of Scheduled Tribes before Land Registration.

REFERENCES

- [1] Aparna, P., (2018), The Effect of Land Alienation on the Livelihood of Scheduled Tribes in Kerala, International Journal of Trend in Scientific Research and Development, Vol.- 2, Issue-3.
- [2] Elwin, V., (1943), The Aborigines, Oxford University Press, New Delhi.
- [3] Fernandes, W., (2012), Tribal customary and formal law interface in North East India: Implications for Land relations. Concept Publishing Company, New Delhi.
- [4] Gilbert, J., (2005), "India: The Blur of a Distinction: Adivasis Experience With Land Rights, Self-Rule and Autonomy." 269-292.
- [5] India 2015-16 National Family Health Survey Final Report (2015), <https://dhsprogram.com/publications/publication-fr339-dhs-final-reports.cfm>
- [6] Klitgaard, R., (1998), International cooperations against corruption, Finance & Development, 3-6. Available at <https://www.imf.org/external/pubs/ft/fandd/1998/03/pdf/klitgaard.pdf>
- [7] Pankaj, K. A., & Pandey, K. A., (Ed.). (2014), Subalternity, Exclusion and Social Change in India. Foundation Books.
- [8] Patel, M. L., (1998), Agrarian Transformation in Tribal India. M D Publication Pvt Ltd.
- [9] The West Bengal Land Reforms Act., 1955, <https://wbllroa.in/wp-content/uploads/2021/10/WBLR-Act-1955.pdf>