RIGHT TO HEALTH OF CHILDREN BELONGING TO PARTICULARLY VULNERABLE TRIBAL GROUPS IN INDIA: A CRITICAL APPRAISAL OF LEGAL FRAMEWORKS AND GOVERNMENT INTERVENTIONS

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ABSTRACT

Children belonging to the Particularly Tribal Vulnerable group are extremely marginalized and experience severe health inequalities despite having Constitutional safeguards and a robust legal and policy framework. Geographical isolation, poverty, social and cultural barrier further dilute their health status. This article has been written mainly in a doctrinal approach where secondary sources like journal articles, government reports, policies and initiatives has been explored to examine National and International legal and policy frameworks of Right to Health of Children belonging to Particularly Vulnerable Tribal Groups in India to assess whether their rights are being realized. It further discusses implementation deficits of developmental schemes, barriers to healthcare accessibility and an absence of culturally inclusive and appropriate healthcare system among these groups. The article concludes that India is in need of legal health framework enforceable by Courts for the effective realization of Right to Health of Children belonging to Particularly Vulnerable Tribal Groups because child healthcare measures are grappling with severe implementation challenges which provides them with restricted access to quality healthcare services.

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INTRODUCTION

India has a substantial tribal population, constituting 8.6% of its total population in India[1]. Their distinct socio-cultural identities, indigenous knowledge, and practices require special constitutional and human rights protection. The State has ensured to include child healthcare at the center of all human rights concerns which the Constitution of India and international obligations mandate. However, tribal children, especially among the Particularly Vulnerable Groups (hereinafter referred as PVTGs), require special attention owing to their distinct vulnerability and extreme marginalization.

The Dhebar Commission (1960-1961) observed a pattern of inequality in the rate of development, so the least developed tribes were categorized as "Primitive Tribal Groups", which later in 2006, the Government of India renamed as "Particularly Vulnerable Tribal Groups."[2] These are "indigenous communities, distinguished by their unique cultural practices, traditional lifestyles, and geographical isolation. Their health status is often precarious due to strong traditional health practices, limited access to healthcare, inadequate nutrition, and exposure to community-acquired diseases."[3] Child healthcare indicators are also very low among them. India has 75 PVTGs all across the State each one having their own unique identity and challenges.

One of the significant issues that needs to be highlighted are Child Healthcare issues. Child health includes physical, mental, social well being which leads to their full fledged growth. This article aims to critically evaluate India's Laws and policies directed towards the development and protection of child health of PVTGs.

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Despite the India's childcare initiatives, tribal children especially those belonging to Particularly Vulnerable Tribal Group suffers from huge healthcare inequalities. Right to Health has been considered to be a fundamental right in numerous judicial decisions[4] under as it forms a "part and

[1] Expert Committee on Tribal Health in India, *Executive Summary: Report of the Expert Committee on Tribal Health in India, Bridging the Gap and Roadmap for the Future* (2018), http://tribalhealthreport.in/executive-summary/.
[2] Abhay Krishna Singh, Status of Particularly Vulnerable Tribal Groups (PVTGs) in India: Special Reference to the State of Chhattisgarh, Geo Analyst 24 (2017).
[3] N. Bhoi & S. K. Acharya, Health Status of Particularly Vulnerable Tribal Groups (PVTGs) of Odisha: A Narrative Review, 43 J. Health Popul. Nutr. 176 (2024).
[4] Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802.

parcel of Right to Life guaranteed under Art. 21 of The Constitution of India."[5] Since tribal children largely depend upon their traditional and indigenous healing remedies, so it becomes necessary to critically appraise the government initiatives and policies toward the protection and realization of the Right to Health of children belonging to Particularly Vulnerable Tribal Group.

RIGHT TO HEALTH OF CHILDREN – MEANING

The "World Health Organization", has stated that "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."[6]

According to Art. 24 of the Conventions on Rights of Child, every child has the right to achieve "highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health". Hence it is the duty of the State to ensure no child is deprived of their Right to access such healthcare services.[7]

The above two definitions shed light on what child healthcare encompasses – it is not merely the "absence of disease or infirmity" but a state where a child can realize their full potential in order to become an upstanding citizen of this country. So it is the responsibility of the State to provide a comprehensive child health care which includes preventative, nutritional and rehabilitative measures. In order for the effective realization of right to health of the children, measures has to be taken to:

- Reduce child and infant mortality rates;
- Make proper arrangements available for clean drinking water and proper nutritious food;
- Ensure proper sanitation and hygiene;
- Take appropriate steps for preventive healthcare like vaccination and immunization;
- Ensure all child health care services are effectively accessible to them.[8]

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SPECIAL NEED FOR THE PROTECTION OF PVTG CHILDREN

Tribes who are categorized as Particularly Vulnerable Tribal Group holds the status of Scheduled Tribes, a constitutionally recognized group which deserves special protection owing to their cultural, educational and economical backwardness.[9] So to further categorize them in a special

[5] INDIA CONST.
[6] World Health Organization, Summary Reports on Proceedings, Minutes and Final Acts of the International Health Conference Held in New York from 19 June to 22 July 1946 (1948), https://apps.who.int/iris/handle/10665/85573 .
[7] Convention on the Rights of the Child (CRC), Nov. 20, 1989, 1577 U.N.T.S. 3.
[8] *Id.*
[9] INDIA CONST. art. 342.

group clearly suggests that these tribes are in need of more attention due to their economical, social, geographical limitations. India has 75 Particularly Vulnerable Tribal Groups across all the States and Union Territories,[10] and all of them historically suffers from geographical isolation, extreme marginalization and policy exclusion. Children from these groups suffer from diseases, malnutrition from infancy and most of the parents are unaware of Government schemes and policies that might benefit their children. Therefore making good and quality child health care services accessible to them and making them aware of measures taken by the State for their development and protection becomes a State liabilty for the Children among PVTGs to realize their right to health effectively.

CONSTITUTIONAL FRAMEWORK FOR RIGHT TO HEALTH

According to Art. 21 of Constitution of India, "No person shall be deprived of his life or personal liberty except according to procedure established by law."[11] The term "Right to life" doesn't mean right to have basic subsistence for survival, but all the facets people need in order to have a life of quality, which includes but are not limited to, clean air, clean drinking water, proper hygiene and sanitation, nutritious food and good health. So right to be and remain in a proper health condition is a bare minimum right all citizens must have by the virtue of being a human being. Hence, the Constitution therefore guarantees all the facets of right to life including right to health not only as a "basic human right" but also as an "enforceable right" fundamental to our well being.

The Constitution of India, 1950, also guarantees equal protection of laws which means equality among equals but reasonable classification can be made for the purpose of protection and development of marginalized communities.[12] Equal healthcare access thus comes under yet another fundamental right which makes State liable to make quality healthcare services accessible and available to children belonging to marginal communities like PVTGs. Art. 15 (3) also empowers the State "to make special provisions for the protection of children".[13]

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Along with these justiciable rights Constitution of India, 1950, also provides "Directive Principles of State policy" as a guideline for the State to follow to take appropriate steps to

[10] Press Information Bureau, Ministry of Tribal Affairs, Gov't of India, Welfare of Particularly Vulnerable Tribal Groups (July 4, 2019, 3:11 PM), https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1577166&reg=3&lang=2 (last visited May 19, 2026).
[11] INDIA CONST. art. 21.
[12] Id. art. 14.
[13] Id. art. 15(3).

enforce the "Fundamental Rights" enumerated in Part III. The "Directive Principles" related to health of the child are as follows:

- Art. 39 (e) & (f) – These two articles specifically talks about the State responsibility to value the tender age of the child so that it is not abused or exploited for economic constraints and financial necessities and to provide opportunities so they are able to develop in a healthy manner.[14]
- Art. 47 directs the State to build measures to elevate standard of living and nutrition in order to improve the condition of public health.[15]
- Lastly Art. 46 mandates the State to take special care "to protect educational and economic interests of the weaker section of the society, especially Scheduled Castes and Scheduled Tribes" to alleviate social inequalities and injustice faced by them.[16]

A brief perusal of the Constitutional provisions, both justiciable and non-justiciable will reveal that the framers of the Constitution had the dire conditions that these marginalized communities like PVTGs suffer historically in mind while drafting the Constitution and to what extent the protection of all children is necessary for the country as a whole. Despite a robust constitutional structure of protection dedicated towards children of these marginalized community, they still suffer from extreme health inequalities.

INTERNATIONAL OBLIGATIONS OF THE STATE

- "Indigenous and Tribal Populations Convention, 1957 (International Labour Organization Convention No. 107)"[17] establishes a framework which holds State responsible for the welfare of Tribal and Indigenous people. It is one of the first international treaties which specifically addressed the plight of tribal and indigenous people. While the Convention doesn't have child health specific provisions, Art. 20 mandates the Government to take responsibility for providing adequate health services for the population concerned.[18]
- "International Covenant on Civil and Political Rights (ICCPR), 1966", recognizes right of every person to be "treated equally and with dignity irrespective of their minority origin".[19]

[14] INDIA CONST. art. 39(e), (f).
[15] Id. art. 47.
[16] Id. art. 46.
[17] Indigenous and Tribal Populations Convention, 1957 (No. 107), June 26, 1957, 328 U.N.T.S. 247.
[18] Id. art. 20.
[19] International Covenant on Civil and Political Rights (ICCPR) arts. 26–27, Dec. 16, 1966, 999 U.N.T.S. 171.

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- "International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966", by its Art. 12 recognizes the "right to enjoy the highest attainable standards of physical and mental health". Keeping the healthy development of child as a primary objective of State, it further directs the States to take appropriate steps to reduce the rate of still-birth and child mortality.[20]United Nations Committee on Economic, Social and Cultural Rights issued an authoritative interpretation of Art. 12 in the year 2000, to explain what Right to Health actually means, state responsibility and the method in which health care services must be delivered.[21] It also introduces AAAQ standard for good health care services.

A healthcare would be appropriate only if its :

I) Available – There must be sufficient healthcare centres, hospital, doctors, nurses, medicine etc. to meet the demands posed by indigenous communities;

II) Accessible – People belonging from tribal groups must be able to access the healthcare services provided by the State without discrimination.

III) Acceptable – The healthcare services provided by the State must be culturally appropriate and inclusive.

IV) Quality – Along with availability and accessibility the health care services must be of proper quality, doctors and nurses must have proper certification which makes them competent enough to treat patients effectively. Special focus must be given to the delivery of scientifically tested and unexpired drugs, clean water and maintaining proper sanitation.[22]

- "Convention on the Rights of the Child (CRC), 1989"[23] is one of the most robust treaty for the protection of Children since it makes it obligatory for the member states to uphold and integrate the provisions mentioned thereto to their national legislation. Despite it not being a tribal child specific convention it declares the rights enshrined under this Convention must be respected and the State shall endeavor to take every step to ensure the rights are being realized by every child without any kind of discrimination like "race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property,

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[20] International Covenant on Economic, Social and Cultural Rights (ICESCR) art. 12, Dec. 16, 1966, 993 U.N.T.S. 3.
[21] Comm. on Econ., Soc. & Cultural Rts., General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), ¶ 1, U.N. Doc. E/C.12/2000/4 (Aug. 11, 2000).
[22] Id. ¶ 12.
[23] Convention on the Rights of the Child (CRC), Nov. 20, 1989, 1577 U.N.T.S. 3.

disability, birth or other status."[24] This seminal convention comprehensively puts greater emphasis on child's right to attain highest achievable standards of health with obligation of State to ensure no child is deprived of their "right to access healthcare services provided by the State".[25] Furthermore attention has been given for the full fledged development of children by reducing infant and child mortality, developing primary health care programme for the children, combating diseases and malnutrition, ensuring prenatal and post natal healthcare for mothers and developing preventive healthcare programme. In addition to this States are also directed to take all course of action educating parents and the society to develop safe and hygienic health practices by providing them basic knowledge about food, nutrition and sanitation in order for them to abandon traditional practices detrimental to the health of the children.[26]All these pave way for State parties "to recognize the right of every child to a standard of living, adequate for the child's physical, mental, spiritual, moral and social development."[27]

- "United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)", 2007 although a non binding declaration but stands as a terrific model law for the protection of rights of indigenous people.[28] Art. 21 affirms the right of indigenous people to develop their social and economic conditions including health and sanitation which is further strengthened by adding Art. 24 which recognizes Right to health of indigenous people including their right to access State delivered health services, and to practice their traditional healing methods and medicines.[29]
- "Alma-Ata Declaration on Primary Health Care, 1978", reaffirms that "right to health is a fundamental human right" and the Governments are responsible for the health of their people by developing primary healthcare for children including promotion of healthy living practices, sanitation, adequate supply of clean drinking water, nutritious food, "immunization against infectious diseases, prevention and control of endemic diseases and appropriate treatment of common diseases."[30]

[24] Id. art. 2.
[25] Id. art. 24.
[26] Id.
[27] Id. art. 27.
[28] United Nations Declaration on the Rights of Indigenous Peoples, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Sept. 13, 2007).
[29] Id. arts. 21, 24.
[30] Declaration of Alma-Ata ¶ VII(3), International Conference on Primary Health Care, Alma-Ata, USSR, Sept. 6–12, 1978.

- "UNICEF Declaration" of the Rights of the Child, 1959 and "World Declaration on the Survival, Protection and Development of Children, 1990" also recognize the importance of development of child health and nutrition.

India is a party to all the conventions and covenants cited above, so India is bound by its international obligation to protect and develop health of all children without discrimination. The declarations, even though non-binding, serves as an excellent framework on how child health should be protected. "United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007", is a tribal health specific declaration which draws attention on the plight of indigenous people around the world, but since it is non binding, India has no obligation to infuse the same in its domestic laws.

NATIONAL POLICIES AND DEVELOPMENTAL SCHEMES TAKEN BY INDIA TO PROTECT THE RIGHT OF TRIBAL CHILDREN IN FULL REALIZATIONS OF THEIR HEALTH

- "National Health Policy 2017": This policy, recognizing the special needs of tribal groups for the development of their health, recommended measures tailored to their need like delivery of health care services through Mobile Medical Units (MMUs) and availability of free drugs, free diagnostics and free emergency care services in all public hospitals. and free emergency care services in all public hospitals.[31]
- "National Health Mission": It is a public health initiative launched by the Government of India with "an aim to fulfill target set up by National Health Policy, 2017" and to provide "universal access to equitable, affordable and quality health care services."[32] One of its major programmatic components, is "Reproductive, Maternal, Newborn, Child and Adolescent Health Services (RMNCH + A)" which is a strategic approach to ameliorate problems of child mortality and delay in access of child healthcare services, especially in marginalized and disadvantageous portions of society.
- "Integrated Child Development Services (ICDS) scheme" – This scheme was launched in 1975 as a community based developmental programme for the "improvement of health

[31] Ministry of Health & Family Welfare, Gov't of India, National Health Policy, 2017, https://www.nhp.gov.in/nhpfiles/national_health_policy_2017.pdf (last visited May 19, 2026).
[32] National Health Mission, Ministry of Health & Family Welfare, Gov't of India, Reproductive, Maternal, Newborn, Child and Adolescent Health (RMNCH+A), https://nhm.gov.in/index1.php?lang=1&level=1&sublinkid=794&lid=168 (last visited May 25, 2026).

and nutritious status of children between 0-6 years of age, pregnant women and lactating mothers."[33]The primary goal was to deal with issues like "child malnutrition, poor school readiness, and fragmented service delivery with a special focus on reaching rural, tribal, and economically disadvantaged communities."[34] It is community based because the central point of service delivery was on the hands of 'Anganwadi' (AWC) located within a specific community. It is managed by a local woman, called the Anganwadi worker, who is given 3 months of training in child development. An intermediary between State health functionaries and the community, the Anganwadi worker, streamlines essential child health service delivery within the community.[35]

- "POSHAN Abhiyaan": It is an initiative taken by the State to deal with the problem of malnutrition in children. It brings together more than "26 ministries and departments under a unified nutrition framework, recognizing that malnutrition cannot be addressed by the health or food sector alone — it requires simultaneous action on sanitation, education, water, women's empowerment, and income."[36]
- "Rashtriya Bal Swasthya Karyakram (RBSK)": This programme was launched to diagnose birth defects in infants and screening for diseases and developmental delays of every children in the community. Identifying the affected children and to provide early intervention to combat the same was one of the primary objective of this scheme which included community screening of children upto 18 years of age at Anganwadi and government schools and providing supportive care of affected children by establishing District Early Intervention Centres (DEIC).[37]
- "Tribal Sub-Plan (TSP)": Now known as "Development Action Plan for Scheduled Tribes (DAPST)" was adopted in 1974-75 as a strategy to channelize certain percentage of funds

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[33] Dep't of Women & Child Dev., Ministry of Hum. Res. Dev., Gov't of India, Annual Report 1995–96, Part IV 5–6 (1996).
[34] UNESCO, Integrated Child Development Services (ICDS): A Decentralized and Inclusive Approach to Early Childhood Care, https://www.unesco.org/en/early-childhood-education/integrated-child-development-services-icds-decentralized-and-inclusive-approach-early-childhood-care (last visited May 20, 2026).
[35] Y. Sachdev & J. Dasgupta, Integrated Child Development Services (ICDS) Scheme, 57 Med. J. Armed Forces India 139 (2001).
[36] Ministry of Women & Child Dev., Gov't of India, "POSHAN Abhiyaan" (Prime Minister's Overarching Scheme for Holistic Nourishment), https://www.pib.gov.in/PressReleasePage.aspx?PRID=2251769 (last visited May 20, 2026).
[37] Ministry of Health & Family Welfare, Gov't of India, "Rashtriya Bal Swasthya Karyakram (RBSK)", https://rbsk.gov.in/RBSKLive/ last visited May 20, 2026).

allocated to various departments for the development of Scheduled Tribes in the country in different sectors like education, health, agriculture, irrigation, roads etc.[38]

- "Scheme of Development of Particularly Vulnerable Tribal Groups (PVTGs)": The Government of India identified 75 groups having "pre-agricultural level of technology, low level of literacy, economic backwardness, a declining or stagnant population" as "Particularly Vulnerable Tribal Groups".[39] So priority of development was accorded to them for their welfare in health, education, livelihood, nutrition etc. Greater emphasis was planned to be given to creation of special health centres, undertaking periodical health assessments, training paramedics among the tribal people, prevention of malaria and ensuring 100% health facility coverage for immunization of children.[40]
- "The Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act)"[41]: This act was passed in 1996 in pursuance of the Fifth Schedule of the Constitution of India, 1950 ensuring local self governance to for tribal groups. Despite it not being directly linked to health rights of children but it statutorily ensures the involvement of tribal communities in the decision making process in the governmental welfare projects directed towards them. Gram Sabhas are empowered to select the beneficiaries of a particular scheme, approval of such scheme and protection of community resources.[42]
- "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006": This act doesn't explicitly mention tribal children's right to health, but is linked to overall development of children because it focuses on right to land, livelihood, forest resources, community autonomy and habitat protection which directly influences child's nutrition, food security, mental well being, mortality and access to tribal medicines.[43]
- "Pradhan Mantri Janjati Adivasi Nyaya Maha Abhiyan (PM JANMAN)": This scheme was developed by the Prime Minister for "socio-economic development of Particularly Vulnerable Tribal Groups in 2023", aimed at securing "safe housing, clean drinking water

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[38] Ministry of Tribal Affairs, Gov't of India, "STC Monitoring", https://tribal.nic.in/STCMonitoring.aspx (last visited May 20, 2026).
[39] Ministry of Tribal Affairs, Gov't of India, "Scheme for Development of Particularly Vulnerable Tribal Groups (PVTGs)", https://tribal.nic.in (last visited May 25, 2026).
[40] *Id.*
[41] The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, No. 40 of 1996.
[42] Id. § 4.
[43] The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007.

and improved access to education, health and nutrition, road and telecom connectivity, electrification of non electrified households and sustainable livelihood opportunities in 3 years."[44] This is a progressive mission with a fixed timeline which will uplift health status of PVTG children and ultimately lead to the realization of their right to health if implemented effectively.

CHALLENGES FACED BY THE PVTG CHILDREN IN REALIZATION OF THEIR RIGHT TO HEALTH

Before critically analyzing the laws and policies, it is necessary to discuss the challenges faced by children among PVTGs throughout the country.

1. Geographical Isolation: Most of these vulnerable tribal groups are identified by their remote habitat far from the main city. Impoverished rural are provide less employment opportunities which forces these people into poverty and restricted access to medical services. With economic deprivation and limited opportunities, "out-migration of the young and better educated results in unbalanced age distributions, leaving those remaining more vulnerable and with inadequate support."[45]

2. Malnutrition: Research has shown maximum children from PVTGs are suffering from malnutrition due to less availability of food during infancy and good nutritional support to pregnant mothers. In "Kurumbas tribal group" of Tamil Nadu, researcher have noticed "malnutrition as a common health problem and birth weight of the baby is only 1 to 1.5 kg."[46] A high incidence of malnutrition was observed in Phulbani, Koraput and Sundargarh districts of Orissa, also among "Bhil, Garasia of Rajasthan, Padar, Rabari, and Charan of Gujarat and Bonda of Orissa." [47]

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3. Lack of Healthcare Infrastructure: Geographical isolation of these tribes lead to lack of healthcare infrastructure, where availability of trained and skilled doctors, medical equipment, emergency health care services are scarce. An audit of public healthcare infrastructure in Odisha,

[44] Ministry of Tribal Affairs, Gov't of India, "Pradhan Mantri Janjati Adivasi Nyaya Maha Abhiyan (PM-JANMAN)", https://tribal.nic.in/PM-JANMAN.aspx (last visited May 23, 2026).
[45] David Mechanic & Jennifer Tanner, "Vulnerable People, Groups, and Populations: Societal View", 26 Health Affs. 1220, 1225 (2007).
[46] R. Saraswathi Nandhini & K. Sathyamurthi, A Qualitative Study on the Health and Education of Primitive Tribal Groups (PTGS) of Gudalur, Tamil Nadu, 3 Int'l J. Info. Res. & Rev. 2161, 2167 (2016).
[47] Aloke Kumar Kalla & P. C. Joshi eds., Tribal Health and Medicines 106 (Concept Publ'g Co. 2004).

revealed there is significant shortfall against the prescribe norms of Indian Public Health Standards of primary healthcare centres.[48]

4. Dependence on Traditional Healing & Lack of Awareness: PVTGs are highly dependent on their traditional healing practices which make them less likely to trust modern healthcare system. This is exacerbated by ignorance of safe health practices has made them more susceptible to diseases that can only be managed by modern health care system. For example, in "Odisha's Kandhamal district", a study focusing on "the Kutia Kandha in 2023, revealed only 7.6% practiced proper oral hygiene using adequate toothbrushes or toothpaste, indicating a lack of awareness."[49]

5. Cultural and Linguistic barriers: Most tribal communities are socially insular and suspicious of external interference. This becomes the major barrier for them to receive good medical care for their children. PVTGs use different different language for communication which leads to communication gap between them and health care workers, like inability to explain symptoms, difficulty in understanding medical instructions. Healthcare workers, doctors, nurses are often not sensitized about their cultural practices which becomes a major reason of distrust among the PVTGs. Failure to provide importance and lack of integration of their indigenous healing methods may lead to "distrust and reluctance" among tribal populations to seek healthcare services from modern facilities.[50]

6. Poor Implementation of schemes: The healthcare of PVTGs and their children remains at risk because healthcare delivery among these communities remain uneven and many of the tribal areas still lack basic healthcare infrastructure.[51] A lot of studies show implementation gaps due to "systemic exclusion due to geographical isolation, lack of political will, and cultural disconnect in policy formulation."[52] Implementation across states remains fragmented due to bureaucratic inefficiencies and lack of coordination.[53]

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[48] Comptroller & Auditor Gen. of India, "Report of the Comptroller and Auditor General of India on Public Health Infrastructure and Management of Health Services in the State, Government of Odisha, Health & Family Welfare Department", Report No. 7 of 2024 (2024), https://cag.gov.in/ag2/odisha/en/audit-report/details/120945 (last visited May 24, 2026).
[49] Supra note 3, at 9.
[50] A.D. Roy, D. Das & H. Mondal, "The Tribal Health System in India: Challenges in Healthcare Delivery in Comparison to the Global Healthcare Systems", 15 Cureus e39867 (2023).
[51] Rutuja Khobragade & Arun Tandon, Tribal Health: A Comprehensive Review of Challenges, Interventions, and Future Directions, 3 J. Epidemiology Found. India 6 (2025).
[52] *Id.*
[53] *Id.*

CRITICAL ANALYSIS OF NATIONAL AND INTERNATIONAL FRAMEWORK RELATING TO RIGHT TO HEALTH OF CHILDREN OF PVTGS

After carefully analyzing all national & international instruments, constitutional framework, law & policies of India, it can be deduced that India has been exceptionally prolific in its legislative output by introducing plethora of laws and policies for the welfare of tribal communities including PVTGs. May be there lies the problem, because all the policies and schemes for the development of healthcare of children are welfare based, they are not enforceable in the Court of Law so even though Right to health is judicially recognized as a fundamental right but such is practices in reality. "Bandhua Mukti Morcha v. Union of India"[54], one of the very initial Supreme Court cases where "Art. 21 of the Constitution of India was expanded to include right to live with human dignity, which includes, health, nutrition and humane conditions". Accessibility of emergency healthcare also comes under our Fundamental right to life also has been recognized by the Apex Court.[55] But in reality people belonging to Particularly Vulnerable Tribal Group are located in geographically isolated area far from the modern amenities a Government hospital can provide. In situation of emergency they have to travel far to get treatment which can have adverse effect on their health. Studies have found, "the majority of tribal people lack access to health care owing for number of reasons, including lack of public transportation, no all-weather roads, lack of public transportation, a shortage of health workers in the health centres, poor service quality, and a lack of access to health facilities."[56] But in a landmark case, "Paschim Banga Khet Mazdoor Samity v. State of West Bengal"[57], where a person with severe injuries was denied treatment by multiple hospitals due to lack of facilities, the Supreme Court clarified, State has a constitutional obligation under Art. 21 to provide adequate medical services on time.

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India has constitutional safeguards, child healthcare initiatives, nutrition programme, welfare scheme for PVTGs, but still cases of malnutrition, oral health issues, healthcare inaccessibility remains rampantly high. So the primary problem lies in the ineffective implementation of various schemes, and governance failure. In "People's Union for Civil Liberties v. Union of India"[58], Supreme Court intervened and ordered the State the implementation of Integrated Child

[54] AIR 1984 SC 812.
[55] *"Parmanand Katara v. Union of India", (1989)* 4 SCC 286.
[56] S.R. Shrivastava, P.S. Shrivastava & J. Ramasamy, Implementation of Public Health Practices in Tribal Populations of India: Challenges and Remedies, 1 Healthcare Low-Resource Settings e3 (2013).
[57] (1996) 4 SCC 37.
[58] AIR 1997 SC 568.

Development Services (ICDS) scheme, nutritional scheme including mid-day meal even in remote areas where PVTGs live. One can argue that the Court cannot force the State to implement policies, but in reality Supreme Court has constantly emphasized the role of the State in upholding the "Right to health" of people, so it is in fact not only State failure to implement policies and scheme, its the failure to secure rights of the people which is fundamental to their being.

Most government healthcare is tailored to urban and modern areas which is unsuitable and non-inclusive for PVTGs, since they have over dependence on traditional healing practices, and a culturally non inclusive system creates more distrust over modern healthcare system. Moreover different PVTGs have different health issues, so a one size fits all approach may not always work. As discussed above in UNDRIP, a healthcare system needs to pass a "AAAQ" framework, which means availability, accessibility, acceptability and quality. "Acceptability" essentially means health care system must be culturally appropriate. Therefore the healthcare worker, angadwadi workers, doctors, nurses catering to PVTGs and their children must be sensitized about their culture and traditional belief.

Moreover mere establishment of healthcare centres in areas where PVTGs live doesn't satisfy the "AAAQ" framework. "Availibility" doesn't ensure "Accessibility". Creating infrastructure like proper road and conveyance to ensure people can reach to the hospitals are also "responsibility of the Government" as a substantive requirement of the "Right to Health".

To combat the problem of child malnutrition, Government has launched several nutrition programmes like ICDS, POSHAN scheme, mid day meals etc but the ironical fact is the most prevalent health problems among PVTG children is malnutrition. The primary reason of this is poor healthcare delivery, ignorance of varied dietary requirement of PVTG children and "household food security, education, income, nutritional status of mother, access to clean water and sanitation, access to primary health care, sex and age of child."[59]

The "Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act)", allows the tribal community to be actively involved in healthcare governance but there is very low participation of members of PVTGs.

[59] Uposoma Dey & Samiran Bisai, The Prevalence of Under-Nutrition Among the Tribal Children in India: A Systematic Review, 82 Anthropological Rev. 203 (2019).

CONCLUSION & RECOMMENDATIONS

The Government has categorized 75 groups as PVTGs, as they require special governance attention but it is not a statutory definition which lacks legal sanction. Mere legal recognition through unenforceable policies and scheme remains symbolic, in practicality "Rights" require institutions, funding, accessibility, monitoring and accountability which is only possible through targeted legislative strategies. In India, all the health laws are fragmented and universally applicable. Conversely, India has suggested 75 groups as particularly vulnerable, all of them having distinct features and health issues therefore they need targeted health interventions which all the universally applicable fragmented laws cannot provide. India needs a health law enforcing the fundamental Right to Health specifically targeting the Particularly Vulnerable Tribal Groups, which will address their various healthcare issues including how to combat the common issue of malnutrition among PVTG children. The assumed homogeneity about PVTGs reflected in the policies obscure the unique vulnerabilities these children suffer.

Healthcare accessibility is the biggest issue since most of the PVTGs live in geographically secluded area, to combat this problem tele-medicine facility must be effectively implemented and emergency transportation and ambulance services must be provided. Deployment of mobile pediatric health units to provide appropriate care to pregnant mothers and to enable early screening of diseases. Communication barrier must be mitigated by involving people from tribal communities as healthcare workers who will act as mediators and understand their language leading to better understanding of health risks and symptoms.

Primary healthcare centres must be increased and equipped with trained healthcare workers in order to deliver emergency healthcare services. Existing nutritional programmes must be strengthened by allocating budget for tribal child health. Angadwadi centres can assume a pivotal role in the development of tribal children if the Government can ensure uninterrupted food supply, improve infrastructure and appoint trained tribal community workers.

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Modern healthcare services should be culturally appropriate by including traditional medicine and integrating indigenous medical practices. Healthcare awareness programme should be conducted in tribal languages so the community is aware of safe health practices, basic hygiene, sanitation and importance of nutrition in child health. PESA Act should be effectively implemented to increase community participation in healthcare governance of PVTGs. Gram sabhas should be

empowered to participate actively in healthcare planning, nutrition monitoring, selection of beneficiaries of Government welfare schemes and their implementation.

A separate monitoring system should be established to oversee the progress of the healthcare initiatives for the development of children in PVTGs, for mitigating with delay in implementation, and to ensure healthcare services meet the AAAQ standard.

The Right to Health of children of Particularly Vulnerable Groups are one of the essential components in fulfilling social justice as set out in the Preamble to the Constitution.[60] Children from this group continue to remain in a poor health status due to geographical seclusion, poverty, illiteracy, malnutrition, lack of proper healthcare infrastructure tailored to their health needs. The State in pursuance to its International and Constitutional obligation recognizes "Right to health as a fundamental right", the realization of these rights among the PVTGs in India remains inadequate. India has a robust set of schemes and policies targeted for the development of PVTG children but the core issue lies in their implementation. Removing bureaucratic red tapes, taking legal accountability, involving tribal communities in health governance, making modern healthcare inclusive and respecting the culture and traditional way of healing practices, India can go a long way in securing the rights of these people because these will enable their trust and ensure healthcare accessibility among them.

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[60] Supra note 5.