

ADMINISTRATION IN SCHEDULED AREAS

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**LEGACY, LAW & LIVELIHOODS**



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# PRE-CONSTITUTION HISTORY

## ▶ The Core Philosophy :

- ▶ Recognition that general laws (complex procedures, high litigation costs) were tools of exploitation in tribal areas.
- ▶ **"Rough and Ready Justice"**: The need for a direct, paternalistic executive to shield "Simple Tribes" from "Sophisticated Plainsmen."

## ▶ Ganjam and Vizagapatam Act, 1839:

- ▶ The genesis of the **"Agency"** system.
- ▶ District Collector designated as "Agent to the Governor," merging Judicial and Executive powers.

## ▶ Scheduled Districts Act, 1874:

- ▶ Formalized the concept of "Scheduled Districts."
- ▶ Executive empowered to decide which general laws apply (and with what modifications).

## ▶ Government of India Acts (1919 & 1935):

- ▶ **1919**: Created "Backward Tracts" (Wholly vs. Modified Exclusion)
- ▶ **1935**: Classified areas into:
  - ▶ Excluded Areas: Governor's total discretion (no legislative interference).
  - ▶ Partially Excluded Areas: (e.g., Bhadrachalam) Ministers had a say, but Governor retained "Special Responsibility."



# CONSTITUTIONAL FRAMEWORK & FINANCIAL RIGHTS

- ▶ Article 244(1) & Fifth Schedule:
  - ▶ Para 5(1): Governor's power to notify that any Act of Parliament/ State Legislature shall not apply or apply with modifications.
  - ▶ Para 5(2): Power to make regulations (LTR, Money Lending) to prohibit land transfer and regulate business.
- ▶ Article 275(1):
  - ▶ "Charged" Grants from the Consolidated Fund of India.
  - ▶ Purpose: Promoting the welfare of STs and "raising the level of administration" to that of the rest of the state.
- ▶ Telangana SC/ST SDF Act, 2017:
  - ▶ Replaced the old "Tribal Sub-Plan (TSP)" policy.
  - ▶ Statutory Guarantee: Earmarking of plan funds in proportion to ST population (approx. 10%).
  - ▶ Non-Lapsable: Unspent funds carry forward to the next fiscal year (a rarity in public finance).
  - ▶ 70% Rule: Schemes must benefit STs directly (avoiding "notional" allocation for general infrastructure).



# THE EXECUTIVE ENGINE – AGENT & ITDA

- ▶ The "Agent to Government":
  - ▶ The District Collector holds this title in Scheduled Areas.
  - ▶ Source of Authority: [Andhra Pradesh Agency Rules, 1924](#).
  - ▶ Role: Not just administrative head, but the [persona designate of the Governor](#).
- ▶ The "Additional Agent":
  - ▶ Project Officer (PO), ITDA is delegated powers of the Additional Agent.
  - ▶ Jurisdiction: Exercises control over the "Agency Area" (Scheduled Mandals), distinct from the general revenue division.
- ▶ Integrated Tribal Development Agency (ITDA):
  - ▶ Structure: Registered Society (headed by Collector as Chairman, PO as Chief Executive).



# SINGLE LINE ADMINISTRATION

- ▶ The Problem: "Departmental Silos." (e.g., R&B builds a road, but RTC won't run a bus; Health Dept builds a PHC, but Electricity Dept hasn't given a connection).
- ▶ The Solution: G.O. Ms. No. G.O. Ms. No. 57:
  - ▶ Unified Command: All District Officers (EEs, DM&HO, Dy. Directors) of development departments are under the administrative control of the PO ITDA for Agency works.
- ▶ The Powers of PO:
  - ▶ ACR Authority: PO writes/reviews Annual Confidential Reports of these district officers.
  - ▶ Transfers & Postings: Power to transfer non-gazetted staff within the ITDA area.
  - ▶ Financial Sanction: Budget releases for Agency areas require PO's counter-signature or administrative sanction.



# LAND PROTECTION (LTR) & AGENCY COURTS

## ▶ LTR 1 of 1970 (The Shield):

- ▶ Amends the 1959 Regulation to prohibit any transfer of land in Scheduled Areas to a non-tribal. (Crucial date 03-02-1970)
- ▶ Absolute Prohibition: Even Non-Tribal to Non-Tribal transfer is void.
- ▶ Presumption Clause (Section 3(1)(b)): If a non-tribal is in possession, the burden of proof is on them to show valid title predating the regulation. It's a **cognizable offence**.

## ▶ Agency Civil Courts:

- ▶ Procedural Law: governed by Agency Rules, 1924 (CPC applies only in spirit, not letter).
- ▶ Hierarchy:
  - ▶ Agency Munsif: Tehsildar (Local suits).
  - ▶ Agency Divisional Officer (ADO): RDO/Sub-Collector (Appeals).
  - ▶ Agent to Govt: Collector (District Judge powers).
  - ▶ High Court: Final appellate authority.
- ▶ Philosophy: To prevent non-tribals from using superior legal counsel to defeat tribals in court.



# GRASSROOTS EMPOWERMENT – PESA & FRA

## ▶ PESA Act, 1996 (The Political Shift):

- ▶ Recognizes Gram Sabha (village assembly) as the supreme decision-making body.
- ▶ Mandatory Consultation: For land acquisition and mining leases.
- ▶ Power over Resources: Control over Minor Water Bodies, Intoxicants (Liquor), and Local Markets.

## ▶ FRA 2006 (The Economic Shift):

- ▶ Individual Forest Rights (IFR): Title (Patta) for self-cultivation (up to 4 Ha).
- ▶ Community Forest Rights (CFR): Right to protect, regenerate, and manage community forest resources.
- ▶ MFP Rights: Ownership of Minor Forest Produce (Bamboo, Tendu leaves) - a major source of revenue.
- ▶ PO's Role: Chairperson/Convener of the District Level Committee (DLC) effectively (technically Collector is Chair, PO is Member-Secretary).
- ▶ Many Revenue vs Forest issues in Scheduled Areas are still pending in Telangana



# MODERN LEGAL CHALLENGES & THE WAY FORWARD

## ▶ The Chebrolu Judgment (2020):

- ▶ Chebrolu Leela Prasad Rao vs. State of A.P.
- ▶ Verdict: Supreme Court struck down [G.O. Ms. No. 3](#) (100% reservation for ST teachers in Agency areas).
- ▶ Rationale: Schedule V powers do not override Fundamental Rights (Articles 14/16). 100% reservation is unconstitutional.
- ▶ Impact: Recruitment crisis in remote schools (non-tribals unwilling to join/stay).

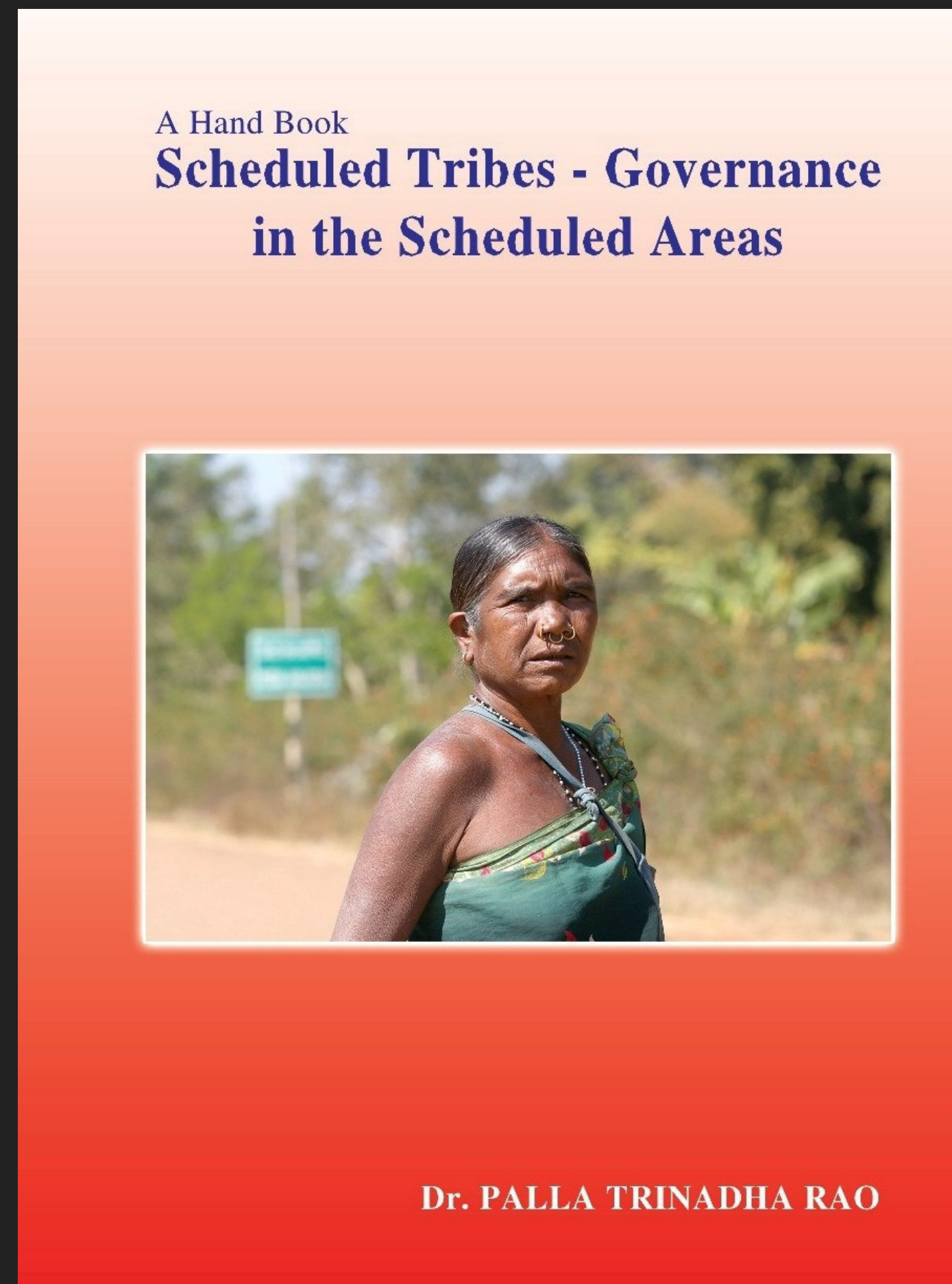
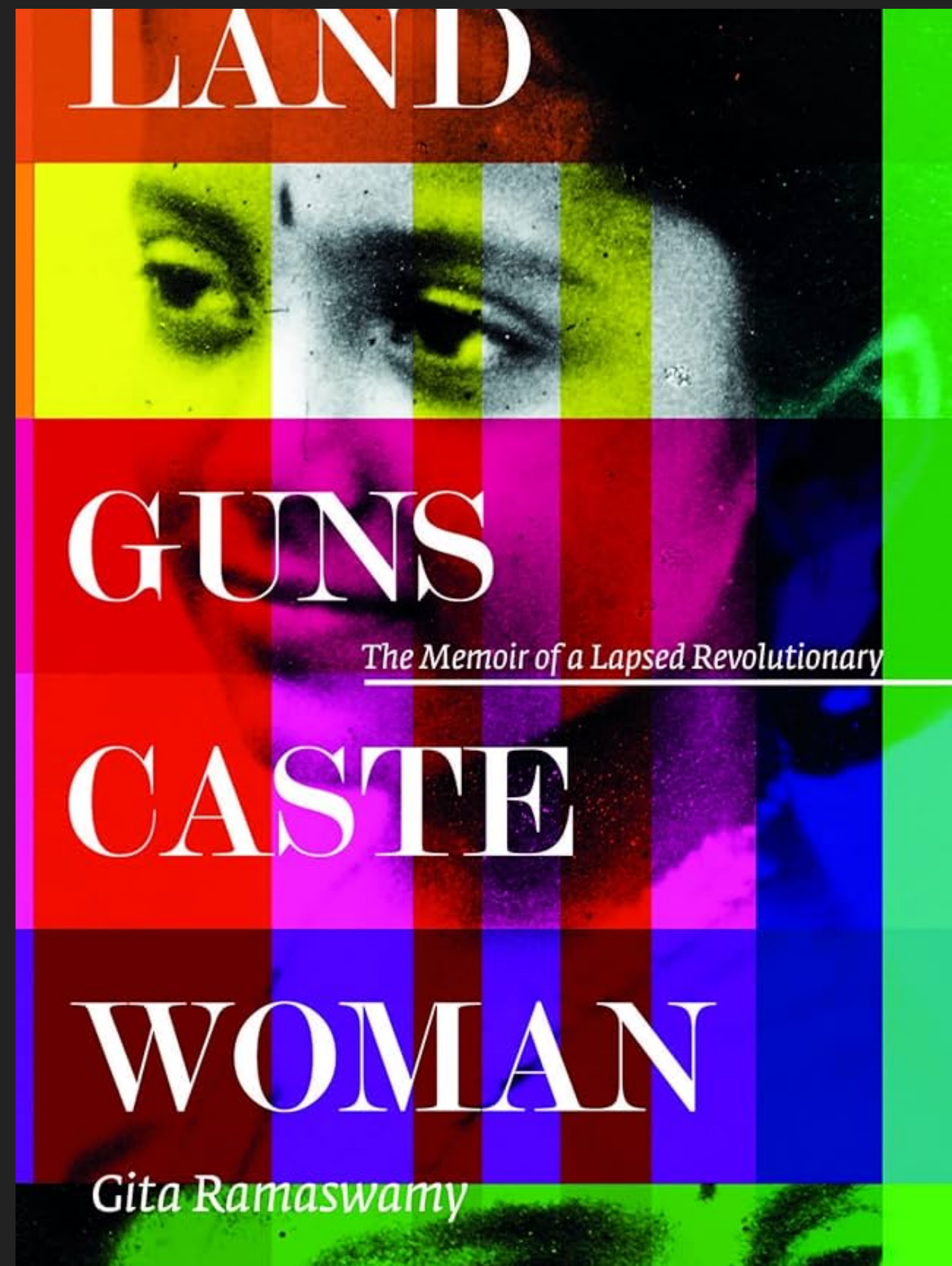
## ▶ The Conflict of Interest:

- ▶ Reconciling the "Preservation of Culture" with "Modern Aspiration."
- ▶ Balancing "Environmental Protection" (Forest Dept) with "Tribal Rights" (FRA).
- ▶ Internal conflicts among the Tribal Populations

## ▶ Conclusion:

- ▶ Administration must evolve from "Paternalism" to "Facilitation."
- ▶ The Ultimate Objective: To make the ITDA redundant by empowering the Gram Sabha to be truly self-reliant.
- ▶ The Officer's Legacy: Not the infrastructure left behind, but the institutional capacity built within the tribal community.





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