

THE CONSEQUENCES OF LEGAL PROVISION ON THE KALBELIA TRIBE IN RAJASTHAN

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Abstract: The Kalbelia tribe, a nomadic group in Rajasthan, has a rich cultural heritage as snake charmers and entertainers, but has faced marginalisation and discrimination throughout history. They were wrongly classified as criminal tribes under the British Criminal Tribes Act of 1871, which significantly impacted their societal standing. After India's independence in 1947, they were recognised as a Scheduled Tribe, which granted them some constitutional protections. Despite this, they continue to struggle with equality, facing challenges from the Wildlife Protection Act of 1972, which hindered their traditional livelihoods, and the Forest Rights Act of 2006, which requires them to adapt to modern legal frameworks. The community continues to lack access to essential rights and amenities such as education and healthcare, leading to high dropout rates and persistent poverty. Although UNESCO recognises their cultural heritage, the Kalbelia people face issues of land tenure, government recognition, and economic opportunities, as well as social stigmatisation due to their socio-economic status.

Keywords: Kalbelia Tribe; Nomadic; Snake Charmers; Criminal Tribe; Scheduled Tribe; UNESCO.

INTRODUCTION

The Kalbelia community, distinguished by its unique heritage in snake charming and a nomadic lifestyle, serves as a poignant representation of marginalised groups within Indian society, particularly in the culturally diverse state of Rajasthan. For centuries, the Kalbelias have leveraged their ancestral expertise in serpent handling to engage audiences, a practice intricately tied to their cultural identity. However, the perpetuation of their nomadic existence, sustained across generations, poses considerable challenges for their integration into modern socio-economic frameworks. Despite their historical roots in Rajasthan, the Kalbelias encounter significant obstacles in obtaining even a minimal plot of land, often limited to a mere two yards, in the arid terrain of the Thar Desert. This underscores the complexities of land rights and social inclusion for marginalised communities in a rapidly modernising India (Robertson, 1997).

UNESCO recognises the Kalbelia tribe's traditional art form as part of their cultural heritage, but the state often overlooks their significance as custodians of identity. The tribe's roots trace back to Kanifnath, who demonstrated faith by consuming poison and gained the ability to control snakes. The term "Kalbelia" reflects Kanifnath's heritage of transcending death. Known for snake rearing and the trade of venom, the Kalbelia tribe

has a strong connection to reptiles. It views Sage Kanifnath as their spiritual guide, actively mediating between humans and nature by capturing and relocating snakes (Supraja, 2023).

IDENTITY AND RIGHTS OF THE KALBELIA TRIBE

The Kalbelia tribe is renowned for its rich musical heritage, a vital component of their cultural identity (Khairnar, 2023). Their performances tell intricate stories through dance and traditional instruments, such as the khartal and dholak. Important life events are marked by elaborate rituals that strengthen familial bonds and community identity (Higgins, 2010). The tribe emphasises cooperation and mutual aid within a structured social framework, allowing for resilience in the face of challenges. They migrate between villages, showcasing their snake-handling skills and living in practical temporary dwellings called 'dera.' The women support their families by performing traditional dances to solicit alms. In terms of burial practices, they uniquely practice burial rather than cremation, marking graves with a statue of Lord Shiva's bull, Nandi, reflecting their spiritual beliefs and cultural heritage. This blend of traditions highlights their resilience and identity within Indian society. They engage in cultural exchanges with neighboring communities, which helps preserve their unique traditions while navigating modern influences and globalisation.

The Kalbelia tribe has a dynamic cultural identity and intricate traditions shaped by their historical and social evolution. Their communal legal and social structures govern family dynamics, social responsibilities, and conflict resolution, fostering cohesion and identity. Colonial rule disrupted their traditional way of life, but post-colonial efforts have aimed to address historical injustices and promote community autonomy. Today, the Kalbelia are recognised as a Scheduled Tribe in India, granting them specific rights and protection essential for preserving their ancestral lands and culture. Despite legal recognition, challenges persist in enforcing and applying jurisdiction. Government welfare programs are linked to their recipients' socio-economic status, supporting their conditions. Recent initiatives focus on preserving their cultural legacy, including music and dance, while seeking legal protection for their artistic expressions. These efforts aim to raise awareness and foster mutual respect between the Kalbelia community and the broader society.

The Wildlife (Protection) Act, 1972, has had a significant impact on the Kalbelia Tribe, fundamentally reshaping their traditional ecological practices and their symbiotic relationship with the environment. While the Act aims to protect endangered species and conserve critical habitats, it has also imposed considerable constraints on the Kalbelia, a community historically renowned for their expertise as snake charmers and their sustainable management of forest resources—practices intrinsic to their cultural identity and subsistence strategies. The regulatory framework established by the Act has restricted these traditional livelihoods, posing challenges that threaten both their economic viability and the continuity of cultural customs that have evolved over generations. The Kalbelia Tribe has developed adaptive strategies to address challenges in wildlife conservation while preserving their cultural heritage. This situation exemplifies the complex relationship between conservation efforts and the rights of indigenous populations. The Kalbelia experience underscores the need for a balanced approach that integrates indigenous rights into modern conservation policies.

The Wildlife (Protection) Act, 1972, prompted the Kalbelia tribe to abandon the practice of capturing wild animals and instead focus on

performance arts, particularly the Kalbelia dance, as a means of livelihood, primarily for women. Despite being a nomadic community, they gained recognition for their dance. The act pushed them to rely on cultural expression for survival amid challenges such as land access and cultural conflicts over burial practices (Mishra, 2015), resulting in tensions with the dominant caste in their area (Srinivas, 1959). This situation highlights their resilience in facing socio-economic difficulties and cultural dilemmas.

The Forest Rights Act (FRA) of 2006 in India aims to recognise and allocate forest rights to forest-dwelling communities, particularly Scheduled Tribes and Other Traditional Forest Dwellers (OTFD), addressing historical injustices related to land alienation. The Kalbelia community from Rajasthan, identified as an OTFD, stands to benefit from this act. The FRA grants legal recognition of historically occupied lands, supporting the livelihoods and cultural identity of these communities amid ecological and economic pressures. It promotes sustainable development by integrating their rights into conservation and development efforts.

REVIEW OF LITERATURE

The Kalbelia community, an ethnically and culturally significant nomadic group in Rajasthan, grapples with the ramifications of the Wildlife (Protection) Act of 1972, which has significantly affected their traditional ways of life. This literature review examines the complexities of their lived experiences, emphasising the critical challenges they face regarding subsistence, which are compounded by legislative disruptions to their traditional livelihoods. It also considers the broader cultural implications of such policies and highlights the community's resilience and adaptive strategies in navigating these challenges.

In her recent analysis, Ambika Singh Kahma (2023) highlights the Kalbelia's limited access to healthcare, essential services, and legal awareness, which contributes to their marginalisation and economic hardship. Mehta et al. (2024) highlight the quilt-making traditions of the Kalbelia Gudadis, showcasing both their cultural significance and economic potential, while advocating for design interventions to enhance artisans' skills and increase market visibility.

Akanksha Pareek et al. (2023) investigate the traditional quilt-making craft known as gari, revealing its challenges related to market viability due to its reliance on reclaimed textiles and underscoring the urgent need for initiatives aimed at fostering socio-economic upliftment and preserving this artisanal practice. Maria Angelillo (2013) explores the concept of peripatetic service nomadism among the Kalbelia, examining how they preserve their cultural identity and self-sufficiency in the face of socio-economic change. Carter Hawthorne Higgins (2010) situates the Kalbelia within the Nath Siddhas tradition, classifying them as a lower subcaste and examining their historical and cultural legacy, thus providing depth to their understanding within the broader framework of socio-cultural dynamics.

Ayla Joncheere (2017) conducts a critical examination of the Kalbelia dance form, highlighting its contemporary rise in popularity, which is significantly driven by cinematic representations. However, she raises pertinent questions regarding the historical authenticity of these portrayals (Joncheere & Vandevelde, 2016). Robertson (1997) critiques the ingrained patriarchal structures within Kalbelia society, highlighting the subordinate roles women occupy both within the domestic sphere and in the broader community. Inka Shree Verma (2024) addresses the adversities faced by folk artists, particularly within the Kalbelia and similar communities, emphasising issues such as declining patronage, financial insecurity, and calls for systematic interventions aimed at preserving their musical heritage.

Swatantra Mishra (2015) outlines the systemic discrimination faced by the Kalbelia in Bhilwara, mainly through barriers that restrict their burial customs and access to essential resources, including clean drinking water and adequate housing. Navin Narayan (2011) examines the community's reliance on traditional livelihoods, such as snake charming, which are experiencing a significant decline, resulting in worsening poverty and disenfranchisement. Furthermore, the interplay of educational deficits, along with inadequate healthcare and rights awareness, exacerbates their marginalisation, frequently leading to reliance on begging or forced labor as survival strategies.

Janardan Gond (2021) provides an in-depth analysis of the socio-cultural challenges faced by the Kalbelia tribe, particularly their reliance on

snake-related practices for both cultural identity and economic sustenance. Despite achieving a degree of cultural recognition, the tribe faces ongoing marginalisation and adverse living conditions exacerbated by capitalist dynamics and wildlife conservation policies. Peeyush Sekhsaria et al. (2023) explore the socio-economic adversities faced by the Kalbelia, focusing on the criminalization of traditional practices and the resultant social stigma. Notably, their capacity to handle snakebite incidents has declined significantly following the COVID-19 pandemic, revealing a stark disparity compared to the Irula tribe, which has benefited from cooperative antivenom distribution initiatives. Triloknath Kalbelia (2024) highlights the community's protracted struggle for access to cremation grounds in Rajasthan, an issue they have faced despite their long-standing presence in the region. After enduring two years of protests, they secured limited burial land; however, many community members remain without official ownership.

Ranwa (2021) critiques the lack of meaningful community engagement in the preservation of Kalbelia dance as cultural heritage, highlighting the oppressive regulations imposed by state authorities that undermine the tribe's agency in safeguarding their traditions. Shefali Martins (2022) emphasises the artistic skills of Kalbelia women in beadwork, which produces intricate jewelry reflective of their cultural identity. Nonetheless, their limited market presence restricts their economic opportunities, hindering the preservation of their heritage. Prachi Pal (2022) highlights the considerable challenges faced by the Kalbelia community in Rajasthan, which are primarily driven by the implications of the Criminal Tribes Act and resulting poverty. Issues such as open defecation persist due to inadequate sanitation infrastructure and water scarcity, heavily impacting women, children, and individuals with disabilities. Despite initiatives like the Swachh Bharat Mission, community members have articulated a pressing need for enhanced governmental support and robust infrastructure. Manthan Sanstha is actively working to cultivate trust and engage the community in formulating sanitation solutions, emphasizing that meaningful change requires improved infrastructure alongside increased community involvement to foster agency and dignity.

Significance of the study: This study investigates the relationship between the Kalbelia Tribe's cultural identity and legal entitlements, emphasizing the influence of legal frameworks on their artistic expressions and social standing. The tribe faces challenges like systemic discrimination, economic marginalisation, and loss of traditional livelihoods, worsened by a lack of identity documentation and barriers to education and healthcare. The Wildlife Protection Act of 1972, the Forest Rights Act (FRA) of 2006 and globalisation have negatively affected their economic activities, such as snake charming and traditional dance. Government intervention is necessary to promote community engagement, protect cultural heritage, and enhance socio-economic development. The research explores solutions for integrating the Kalbelia community into mainstream society.

Theoretical Perspective: Sociologists and social anthropologists use the term 'caste' in two contexts: as a rigid class system with defined boundaries and as a descriptor of social organisation in traditional Indian societies (Jaspal, 2011). The debate over whether caste is cultural or structural includes perspectives categorised into Pre-Dumontian, Dumontian, and Post-Dumontian groups. Max Weber viewed caste as a crucial aspect of Hindu identity, closely tied to religious beliefs and the concept of karma (Cox, 1950). Louis Dumont emphasised hierarchy, purity, and interdependence (Dumont, 1969). Stanley Freed focused on the interactional dynamics of caste based on food exchanges (Freed, 1970). Dirks highlighted the historical relationship between kingship and caste, noting colonial transformations that impacted political rights and social structures (DeNicola, 2003).

Subedi (2018) identifies a tripartite system in Rwanda that resembles caste due to ascribed status and endogamous practices. G.S. Ghurye discusses non-Brahmin movements that challenge caste hierarchies (Meinhard & Ghurye, 1972), while M.N. Srinivas examines how modern technologies promote the consolidation of caste identities (Srinivas, 1997). Sharma (2007) distinguishes between structural and peripheral changes driven by advancements in education and infrastructure, suggesting that traditional caste roles are losing importance. Increasing educational attainment enables lower castes to enhance their economic

status, disrupting established occupational roles and raising questions about the persistence of caste in modern labour markets. Nonetheless, higher castes tend to dominate prestigious jobs, leaving lower castes in lower-income positions, highlighting the complex relationship between caste and class.

Labelling theory (Becker, 1963) is essential for understanding the stigma faced by the Kalbelia community. Key figures include Howard S. Becker, whose work, "Outsiders," highlights that deviance arises from social rules rather than the inherent qualities of acts (Bernburg, 2019). It highlights how societal labels impact self-perception and behaviour, shedding light on the challenges they encounter and how these imposed identities affect their interactions with others. This can lead to deviance due to stigma, particularly affecting minorities (Conyers & Calhoun, 2015). Edwin M. Lemert distinguished between primary deviance (minor rule-breaking) and secondary deviance (internalising labels), a theory applicable to areas like mental health and sexual orientation (Davis & Lemert, 1951).

RESEARCH METHODOLOGY

This research concentrates on Ashok Nagar, a village situated within the Gram Panchayat of Khatoli in the Uniara Tehsil of the Tonk district, Rajasthan. Utilising a random sampling technique, data were collected from a cohort of 60 individuals from the Kalbelia community. The study aimed to investigate and elucidate various facets of their social, economic, and religious dynamics, thereby highlighting the distinctive cultural characteristics that define this vibrant group. A comprehensive research strategy was used to analyse Kalbelia society, which included a review of existing scholarly literature on their socio-cultural dynamics. This study employs thematic analysis to examine the impact of legal provisions on the Kalbelia tribe in Rajasthan, with a focus on the intricate relationships between regulatory frameworks and the tribe's cultural practices, social structures, and economic realities. Key themes emerge that underscore the tensions between legal constraints and the preservation of cultural identity, as well as the community's adaptive responses in pursuit of sustainable livelihoods. The investigation

critically assesses how these legal constraints influence social cohesion and heritage conservation efforts within the Kalbelia community.

Through a rigorous qualitative methodology, this research aims to deepen the understanding of the dynamic relationship between legal norms and indigenous practices in Rajasthan, thereby contributing to broader discourses on cultural resilience and the field of legal anthropology. Contemporary newspaper articles were examined to identify current socio-economic and political issues facing the community. Qualitative data were collected through personal interviews with Kalbelia community members, providing first-hand perspectives. Additionally, both published and unpublished documents were reviewed to deepen the understanding of the subject—this integrative approach aimed to address core research questions and develop actionable recommendations.

RESULT

The contemporary landscape of globalisation has ignited a profound desire for stability, a longing that remains elusive for the Kalbelia community. This yearning is rooted in their dispossession, which followed the implementation of the Wildlife Protection Act of 1972, stripping them of their traditional lands and livelihoods. Lacking formal recognition or documentation from governmental authorities, the Kalbelia often find themselves in precarious situations, with begging emerging as a primary survival strategy. Ironically, while they are celebrated for their vibrant dance culture, attracting numerous patrons and enthusiasts, the community safeguarding this invaluable cultural heritage endures systemic neglect and marginalisation.

The Kalbelia community is classified as untouchables, despite legal protections under the Untouchability Offences Act of 1955. **Permanent residence** permits individuals to reside and work in a country indefinitely, offering stability and security. It also grants access to benefits such as healthcare, education, and social services, and can lead to potential citizenship. Only 10% of the respondents were able to build permanent homes in or around the city; the remaining 90% of the Kalbelias were forced to construct temporary tent houses located 2 kilometers away from the village

boundary. This situation arises because the permanent residents, known as the dominant caste, do not permit them to build permanent houses, which violates Article 19 of the Indian Constitution. Dominant castes perpetuate negative stereotypes about them, often resulting in exploitation that forces the Kalbelia to work in harsh conditions for little or no pay. Attempts to settle in village areas without consent from dominant castes can lead to violent consequences, including the destruction of their homes.

The Kalbelias occupy the lowest position in the Indian caste hierarchy, and their lack of stable housing prevents their children from accessing **education**. Approximately 90% of the population is illiterate, and those who are educated have mainly attained only primary education. Only 1% have completed 12th grade or higher, and they are actively trying to educate others in their community in collaboration with NGOs.

The "**right to employment**" is a fundamental human right that ensures every individual has the right to work and choose their employment under fair conditions. According to Article 41 of the Indian Constitution, the State is responsible for securing rights to work, education, and public assistance in cases of unemployment, within its economic capacity and development limits. The study reveals that only about 20% reported earning more from singing or other work than the daily wages available in the region. The majority struggle to make ends meet or resort to begging. Many residents of Rajasthan refuse to employ them due to perceptions of them as untouchables or members of criminal tribes.

In India, our Constitution guarantees the freedom to practice any religion under Article 25. However, within the casteist society, nearly every Kalbelia has lost their **right to worship** at some point and has faced humiliation when attempting to worship in temples. The **right to cremation** was affirmed by the Honorable Supreme Court in the case of *Parmanand Katara vs. Union of India* and others, declaring that respectful cremation is a right under Article 21 of the Indian Constitution. Nevertheless, about 85% of the Kalbelia community has struggled with the Prabhu caste over the burial of their ancestors, often having to bury their deceased relatives in or around their residences. Fundamental rights and freedoms apply to all individuals and are protected by laws. The

Kalbelia people in India are among the most deprived communities, as highlighted by the Human Development Index. They remain largely invisible to the government in the context of globalization. The Kalbelia community faces severe challenges, including poverty, illiteracy, and social contempt, impacting future generations.

This struggle extends beyond mere social exclusion, revealing a profound apathy on the part of the government. The Kalbelia community frequently faces barriers in acquiring essential legal documentation, such as proof of residence, ration cards, and voter ID cards, leading to their practical invisibility within state frameworks. This lack of recognition not only undermines their identity as citizens but also obstructs access to crucial government services, including potable water, housing under initiatives like the Pradhan Mantri Awas Yojana, educational opportunities for children, infrastructural improvements, and subsidised food programs. Furthermore, systematic exclusion from national surveys, such as those conducted by the National Sample Survey Office (NSSO) and the Census, complicates their visibility and access to essential health services, particularly during critical life events like childbirth and vaccination. The **right to health** is regarded as a fundamental aspect of the right to life and personal liberty guaranteed under Article 21 of the Indian Constitution. However, due to the **lack of permanent residences** and official documentation, coupled with the dominant caste's refusal to let them settle, the Kalbelia people are **deprived of health, nutrition, and public health services**, which violates Article 47 of the Constitution. Despite this, only 44% of the Kalbelias were found to benefit from health-related schemes implemented by the state government. The nomadic lifestyle of the Kalbelia, combined with their limited access to land, severely hinders their youth's educational opportunities. This palpable inequality exacerbates their marginalisation and frustration, propelling them further into the social periphery—an experience that resonates with Émile Durkheim's sociological analysis of social phenomena and Karl Marx's theory of alienation. These theoretical frameworks elucidate how structural inequalities and social disorganisation catalyse both individual and collective alienation from the prevailing social order.

CONCLUSION

The Kalbelia community faces significant systemic challenges stemming from its dispossession following the enactment of the Wildlife Protection Act of 1972, which led to the loss of traditional lands and livelihoods. The community lacks formal legal recognition, leading many of its members to resort to begging as a survival strategy, despite its cultural recognition for vibrant dance traditions. Classified socially as untouchables, they experience isolation from village centers, are subjected to pejorative stereotypes, and often find themselves in exploitative low-wage labor situations. Government neglect exacerbates their plight, creating obstacles in obtaining essential documentation necessary for accessing fundamental services such as housing, education, and healthcare. With nearly 90% illiteracy, the community faces significant challenges in rights awareness and advocacy. Their nomadic lifestyle further complicates educational access, contributing to pronounced disparities for their youth. This entrenchment of systemic inequality reinforces their marginalisation, resonating with sociological theories of alienation and social disorganisation, highlighting the profound intersection of socio-economic and cultural factors at play. The government must adopt a more compassionate and proactive stance towards the Kalbelia community, implementing strategies that address social, educational, economic, and political opportunities. These efforts must go beyond mere policy statements and be implemented to yield tangible benefits. Accountability should be established among government officials to ensure that the Kalbelia community can finally access the fundamental rights enshrined in the Constitution and receive the equal protection of the law (Article 14 of the Indian Constitution) they deserve.

The examination of legal provisions affecting the Kalbelia Tribe in Rajasthan reveals critical insights that contribute to both academic discourse and practical applications. This research investigates the nuanced ways in which legal frameworks shape the tribe's cultural practices and social dynamics. It elucidates the interplay between legal systems and indigenous rights, highlighting how these laws can either constrain or facilitate the preservation of the Kalbelia's unique cultural

heritage. The findings underscore the necessity for the formulation of more inclusive and culturally attuned policies. Such measures would not only safeguard the rights of the Kalbelia community but also foster productive engagement between legal

practitioners and cultural representatives, ultimately promoting a more sustainable balance between traditional practices and contemporary governance structures.

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