



Human Rights of Indigenous People – An Analysis 'A focus on Human Rights Conditions of De-notified Tribes'

Mr. Sankha Pallab Chakrabarti

M.B.A, (HR & Marketing), Research Scholar, NIT Agartala

Assistant Lecturer

Entrepreneurship Development Institute of Tripura

Agartala, West Tripura, India

Abstract:

Every human being has some fundamental rights. We have inherited those rights by our nature and without which we cannot live as human beings. The idea concerning the conduct of men towards each other and the desirable structure of the community has been conceived by enlightened individuals in the course of history¹. But the rights of indigenous people came into limelight only in the recent past. Those people are identified as “primitive savages” or “uncivilized” by the civil society. Historically, often they have been disposed of their lands or deprived of their access to valuable resources. Time immemorial those groups of people have been wiped out, either by war, diseases, exploitations, cultural assimilation, colonizing people or through policies of extermination. The social conditions of the indigenous peoples in India are dark and gloomy. Amongst them the most disadvantageous communities are DNTs. This study focuses on the human rights situation of the indigenous people in India with emphasis on De-notified, nomadic and semi-nomadic tribes (DNTs), who are branded as “born criminals” or “habitual offenders”. The study is based on secondary data collected from various sources which have been duly acknowledged.

Keywords: Human Rights, Indigenous People, Denotified Tribes, Born Criminals, Habitual Offenders.

1. Human Rights – A definition

“Human rights are commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being”.²

The concept of human rights is not something new that had originated in the recent past. Earlier in Greek philosophy and also in various other religious epics, there were illustrations about human rights. It was during the 18th century that the concept of human rights has emerged as an unambiguous category. Man and woman were seen as independent individual, gifted by nature with certain undeniable fundamental rights that could be invoked against a government and should be safeguarded by it. Human rights were seen as elementary preconditions for human existence. United Nations’ “Universal Declaration of Human Rights” states that,

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”.³

As described by Mr. Magdalena Sepulveda in his book entitled “Human Rights Reference Handbook”, human rights differ from other rights in few aspects.

- Human beings by virtue of their humanity inherit those rights. They neither have to purchase it nor needed to be granted by others.
- Human rights are indisputable in character within specified legal boundaries.
- Human rights are equally applicable to all individuals without any discrimination.
- The state and their authorities or agents are the sole custodians of human rights.

2. Indigenous People

Though there have been numerous efforts to find out a definitive definition of the term ‘indigenous people’ but there is no generally accepted definition that has emerged. Generally indigenous people are those who historically belong to a particular region or country before it’s pre-colonization, pre-invasion or transformation into a nation or state. They are different and unique in their tradition, culture and approaches towards land, life and religion. They are distinct from the other sections of the societies now prevailing and dominating those territories. They are descendents of those who once inhabited a country or region at the time when the people of dominant culture or ethnic group invaded or occupied the country.

The first international standard on indigenous populations was ILO 107 (1957), revised and reformulated in 1989 and amended in ILO 169. In this Convention, a definition of indigenous peoples is given in Article 1(1):

- a. Tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.
- b. Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all their own social, economic, cultural and political institutions.⁴

3. History of Denotified Tribes

The Denotified and Nomadic Tribes (DNTs), formally known and notified as the "Criminal Tribes of India" (1871) and subsequently "de-notified" (1952), constitute a total population of about 60 million of India's population. While these communities are enlisted in various disadvantaged sub categories by the government, what they all share is the stigma of being 'born criminals'.⁵

The Criminal Tribes Act, 1871 had identified the following six categories as belonging to 'criminal tribes':

- Petty traders who used to carry their merchandise on the back of animals and supplied villages with varied items like salt, forest produce, etc.
- Communities that entertained the public through performing arts. Among these were musicians, dancers, singers, storytellers, acrobats, gymnasts, puppeteers and tightrope walkers.
- Communities that entertained the public with the help of performing animals such as bears, monkeys, snakes, owls, birds, etc.
- Pastoral groups and the hunting, gathering, shifting cultivator communities within forests that traded not just in forest produce, but in animals as well. They were also herders, and traded in meat or milk products.

- Artisan communities that worked with bamboo, iron, clay etc. and made and repaired a variety of useful articles, implements and artifacts. They traded or sold them to settled villagers.
- Nomadic individuals who subsisted on charity, or were paid in kind for 'spiritual' services rendered to traditional Indian society. Such sadhus, fakirs, religious mendicants, fortune tellers, genealogists and traditional faith healers had a low but legitimate place in the social hierarchy of settled people. Some carried medicinal herbs and provided healing services as well.⁶

Originally "notified" by the British colonial government as criminals in 1871, the DNTs should have enjoyed the freedom of independence that came to rest of India in 1947. Instead, they have languished as the most handicapped community in the nation, with health, literacy and employment levels far below the average.

The British designated these communities as 'criminals' for political reasons. Originally, the tribes were nomadic and traditionally carried important commodities such as salt and honey between the coasts and the inland forests. The British relied on these networks to establish their own trading relationships and to guide their armies through unknown regions. Indeed, these traders and transporters of goods were crucial informants for the new rulers, who benefited from adivasi knowledge of flora and fauna, transportation as well as communication. As railways and telegraphs were built in the 1850s such networks became redundant. The colonial authorities grew nervous about people who moved around, carrying intelligence they could not control directly. In the aftermath of the Sepoy Rebellion of 1857 these former allies were seen as potential enemies. In 1871, an Act was passed for "the notification of criminal tribes". Hundreds of tribes that traditionally collected food from the forest became criminals. When they could not be forcibly settled, they were sometimes shot on sight. Those who were settled were subjected to a pass system to control their movements and were rehabilitated through rigorous labor.

The 1871 Act was enforced in the northern part of British India first. Later it was extended to Bengal (1876) and other areas, with the Madras Presidency being the last to enact it in 1911. Under the Act, 151 notified castes of "hereditary criminals" within the Hindu system were to be kept under police surveillance. More castes were added to the list. The branding of these communities as "criminal" was not based on the notion of heredity but rather as a community profession passed on from one generation to the next.

The Act, therefore, provided for establishing reformatory schools and settlements for the reclamation of these people. Their movements were restricted to specific areas and the Act provided for their arrest without warrant if there was any violation. The crimes covered included counterfeiting of coins and currency, murder, theft, robbery, dacoity and house breaking. Children in the age group of 6 to 18 were separated from their parents and put in reformatory schools.

The stated purpose of the Act was to "ensure peace, law and order" by bringing under "effective control anti-social elements addicted to criminal activities." The District Magistrate notified the tribes. The Superintendent of Police maintained a register, secured fingerprints of members of the tribes and issued identification passes to them and required them to report to the police at regular intervals. In the settlements, work was extracted from them for nominal wages. Various landed communities and castes were behind the branding of the nomadic and adivasi people as "criminals" with a view to use them for land reclamation and agricultural operations.

After Independence, nationalist leaders voiced their protest against the Criminal Tribes Act (CTA). Making entire communities responsible for offences committed by a few individuals was viewed as unjust. The Act was finally repealed in 1952 and the communities earlier "notified" under the Act were "de-notified" under the Habitual Offenders Acts (HOAs). The de-notification and the passing of the Habitual Offenders Acts should have ended the misery of the communities penalized under the CTA. But that has not happened. The HOA that replaced the CTA contains the same draconian laws as the CTA. The police as well as the people in general were taught to look upon the 'Criminal Tribes' as born criminals during the colonial times. This attitude continues to persist even today. The CTA continues to be part of the syllabus of police training, determining attitudes of the legal machinery. The land possessed by the criminal tribes was already alienated during the colonial rule. After independence, various state governments have done little to restore their land to them. Scheme for economic development do not reach them. The illiteracy rate among the denotified communities is higher than among members of the Scheduled Castes and the Scheduled Tribes, malnutrition more frequent and provisions for education and health care almost negligible since most of the denotified communities have remained nomadic in habit. Being illiterate and ignorant of the law, the denotified communities know very little about legal procedures and therefore, they often get into difficult situations. They are in short, one of the most vulnerable populations in India. All denotified communities who

are identified as “born criminals” by society and law and who are deprived of permanent occupations for a secure living face the following problems.

4. Problems faced by Denotified Tribes

- Lack of ownership over land and other capital.
- Stigma of criminality and ignorance of the law, fundamental rights and constitutional framework.
- Low literacy levels.
- Poverty due to irrelevance of traditional occupations and lack of opportunities for practicing alternative means of livelihood.
- Denial of electoral rights.
- Absence of social and legal support networks for protection of their human rights.
- Absence of community based organisations among the denotified communities that can raise community concerns and mobilize themselves for assertion of their rights.
- A general lack of awareness about the causes of their marginalization and absence of community leadership to bring about constructive changes in their lives.
- Social, economic and political exploitation due to the above.
- Loss of traditional livelihood.⁷

Even after 65 years of Indian independence, there has been no census of the Denotified, Nomadic and Semi-Nomadic Tribes (DNTs) of India though it is estimated that their numbers run into millions. They are found in almost all the States. They are spread across the SC, ST and OBC categories. Some other communities are there, who are not covered under any of the above mentioned categories. They do not get any of the benefits provided to SC/ST or OBCs. Even those covered under the categories of SC/ST or OBCs are often not able to avail of the benefits because of either not having caste certificates, or because the relevant allocations are exhausted by the non-nomadic/non-denotified communities in the reserved categories. Moreover, a number of States have not prepared lists of either the De-notified or Nomadic communities, and the status of such people is unknown. As a result, DNTs are among the most underprivileged and destitute communities in India today.⁸

About 60 million of India's population comprises of people from denotified and nomadic tribal groups. In India there are 313 Nomadic Tribes and 198 Denotified Tribes. Out of this huge population of nomadic and denotified tribes living in different states of India, names of few which are featured in this paper are:

Sl. No.	State	Denotified Tribes	Nomadic Tribes
1	Maharashtra	Berad, Bestar, Bhatma, Kaikadi, Kankarbhat, Katabu, Lamani, Phase-Pardhi, Raj-Pardhi, Rajput-Bhatma, Waghari, etc.	Bawa, Beldar, Bharadi, Bhute, Chalwadi, Chitrakathi, Garudi, etc.
2	West Bengal	Lodha, Kheria Sabar and Dhikaru	-

Figure 1: Sources: Devi Mahasweta, on India's Denotified Tribes, India Together, Year of Birth – 1871, www.indiatogether.org/bhasha/budhan/birth1871.html. (Accessed on 10/11/2012).

Branded 'Born' Criminals, Racial Abuses Against Denotified and Nomadic Tribes in India, The Resist Initiative International.

<http://www2.ohchr.org/english/bodies/cerd/docs/ngos/resist.pdf>. (Accessed on 10/11/2012)

5. Human Rights violation of Indigenous People

Human Rights situation of the Indigenous and Tribal peoples in India is dark and gloomy. Time immemorial indigenous peoples are victims of urbanization, development and encroachment by the non-tribal peoples. The development initiatives taken by the government do not reach to the bottom and is unable to protect them from becoming marginalized. This deprivation ultimately leads them to extremism and terrorism. The glaring examples are the Naxalite and terrorist afflicted states of eastern and the north-eastern India. The infinite discriminations that they are facing since the British period are:

5.1 Land alienation

The 5th and 6th schedule of the Constitution of India prohibits transfer of land of the tribal people, but it has failed to prevent widespread land alienation of the tribal's. The root cause of the land alienation has been the Land Acquisition Act of 1894 under which the

government can exercise its sovereign power to take away any land in the name of “public purposes”. The non-tribal peoples have also illegally occupied thousands of acres of land belonging to tribal either by force, allurements or acquiring tribal lands in the name of tribal wives after marrying them.

5.2 Victimization on account of Development projects

Every year, thousands of indigenous/tribal peoples are displaced on account of mega development projects like dams, mining, industries and conservation of nature etc. As India’s economy is booming simultaneously the indigenous people are facing more displacement.

5.3 Failure to ensure forest rights

In 1980 when the Forest Conservation Act came into force, hundreds of thousand of tribal people became encroachers overnight on the lands they had been living for generations.

5.5 Armed Forces (Special Powers) Act

There are endless cases of inhuman torture, arbitrary detention and even killing in the hands of the security forces due to the imposition of the Armed Forces (Special Powers) Act, 1958 (AFSPA) in parts of the Northeast. The Act was based on a 1942 British ordinance to crush the Indian Independence Movement during the World War II. The Act grants arbitrary powers to the armed forces to shoot at sight, arrest people on flimsy grounds, conduct search operations without warrants and demolish structures in the name of “aiding civil power”.

6. Case Studies on Human Rights Violation in India

- Tehelka, Vol. 5, Issue 35, Dated September 06, 2008 reported the case of Maibam Ratan Kumar Singh, a faculty member at S. Kula Women’s College and Ph.D scholar from Manipur University. On the night of July 29, 2007 some soldiers from the J&K Light Infantry barged into his home and searched every nook and corner. Despite of looking at his educational certificates and identity card, he was blindfolded and whipped away without issuing an arrest warrant. They took him to their camp and tied his hands and legs. In the name of

interrogation they put a cloth on his face and forced water into his mouth and nose, administering electric shocks in between. They tortured him for almost two hours. At around 9 am in the morning he was removed of his blindfold and was taken to the supervisor's room. The officer apologized for wrongly arresting him and on the next day he was released. The traumatic experience left a permanent scar in his heart and for months later he suffered from depression.

- Tehelka, Vol. 5, Issue 35, Dated September 06, 2008 reported the case study of Buddheswar Moran. On May 5th, 2007, Buddheswar Moran, 24, was killed by the troops of the 5 Jammu & Kashmir Rifles under the Doomdooma police station, Laopatty, Assam. The army claimed he was a ULFA militant possessing arms, ammunition and incriminating documents. However, the villagers testified that Buddheswar was innocent — he was a poor man learning metal welding from the army's vocational training programme 'Operation Sadbhavana', a caretaker in a private tea estate, and a father of two children. Irate villagers came out on the streets in large numbers to protest the killing by blocking National Highways 37 and 52, They protested tirelessly, refusing to accept the body of Buddheswar for his last rites. On May 8, three days after the killing, Tinsukia district administration officials had to beat a hasty retreat as a move to impose Section 144 of the CrPC at Dholla, Doomdooma and Kakopathar was met with stiff public resistance. Four people were killed and several were wounded in clashes between the people and the authorities. On May 9, four days after the killing, the GOC of the 2nd Mountain Division, Major General NC Marwah addressed the media and called the killing of Buddheswar Moran "unfortunate". He said he would institute an army inquiry to look into the incident and assured the press that the inquiry would be impartial and time-bound. The GOC later went to Rupai, where he spoke to the agitated crowd and reassured them that an Army inquiry was on.
- Tehelka, Vol. 5, Issue 35, Dated September 06, 2008 reported the case study of 'shooting at student gathering'. On September 30, 2005, nine tribal students were killed in an indiscriminate firing by the CRPF personnel. Among the casualties five were killed at Williamnagar in the East Garo Hills district, and four at Tura in the West Garo Hills district. The students were protesting against the transfer of the headquarters of the Meghalaya Board of Secondary Education, from Tura

to Shillong. On the morning of September 30, 2005, civil society groups and citizens of Tura gathered at the Chandmari grounds for a public meeting on the ongoing agitation by the Garo Students Union. The Deputy Commissioner of West Garo Hills permitted this public meeting. However, at the last minute, the district administration personnel from the CRPF and the Meghalaya Police, present at the venue, disallowed the meeting. After several pleas, permission was finally given to them to speak for 10 minutes only. But as soon as Sengrak D. Marak, Chairperson of the Joint Action Committee for the meeting started to speak, the Meghalaya Police personnel attempted to arrest him. When the protestors tried to reason with the police, the security personnel started firing teargas shells at the gathering. This created confusion and panic among the people. Some at the gathering also attempted to throw the teargas shells away from them. It was then that the CRPF started firing into the air. As the confused protestors tried to run away from the location, the armed personnel soldiers trained leveled their guns towards them and started firing indiscriminately. Four students died on the spot and nearly 30 were injured.

7. Violation among the DNTs'

- The Telegraph July 31, 1998 reported on the reasoning behind the lack of progress on integrating the DNTs: "Madhya Pradesh Chief Minister Digvijay Singh today expressed concern over a series of recent robberies in Madhya Pradesh by Pardhi tribals, identified as having criminal antecedents. These tribes, listed as criminal ethnic groups, have defied the efforts of the government to rehabilitate them. The CM said state projects to provide these people with education did not have any impact on their criminal instincts. Pardhis have "criminal antecedents" are "listed as a criminal ethnic group" and nothing the state does seems able to change "their criminal instincts." This article shows the brutality, racism, and prejudice towards the DNTs remains part of Indian culture.
- On January 30th 2007, the Forum for Fact-Finding and Advocacy filed a petition to National Human Rights Commission. Deba Paharia, was allegedly murdered in a remote village on January 6, 2007. In response, several men and 3 ladies were arrested and taken to Sundarpahar police station in Jharkhand on January 9 (the

police contest this date and claimed that the arrests occurred on January 11). The men were allegedly physically assaulted, and witnesses confirm that there were tell-tale marks of police brutality on their bodies. The three female victims (all aged between 28 and 31) claim that they were illegally detained, and that during that detention they were subjected to torture, rape, that they were stripped and paraded naked around the police station, and that the police stole Rs.120 from them. The victims have identified the perpetrators as the officer-in-charge, Dipnarayan Mandel and another officer, Mahadev Oraon.

- In 2006, the Government of Jharkhand initiated a scheme to form an armed police battalion comprising of primitive tribes. It was allegedly an attempt to rehabilitate the Paharias, one of the nine primitive tribes in Jharkland. It appeared to be a battalion of a special police force. Out of the 1.92 lakh primitive tribe population in the state, comprising as many as nine groups, as many as one lakh happen to be Paharias. Among all the primitive tribes in the state, there are only 101 graduates, according to welfare department officials. Although supposedly a rehabilitation initiative, it derives from the fundamental basis of discrimination that these tribes were born with criminals or with criminal attributes. The Forum for Fact-Finding and Advocacy filed a complaint to the National Human Rights Commission on this issue. Without providing a chance for defending the case to Forum for Fact-finding Documentation and Advocacy, National Human Rights Commission dismissed the complaint. It is against the principle of cardinal principle of natural justice. The Government of India permitted the State Government of Jharkhand to form the tribal battalion on the basis of their ethnicity.
- According to the Indian Confederation of Indigenous and Tribal People, more than 40,000 tribal women, mainly from Orissa and Bihar, have been forced into situations of economic and sexual exploitation; many come from tribes that were driven off the land by national park schemes. Special courts to hear complaints of atrocities committed against tribal people were to have been established under the Protection of Civil Rights Act, but this never was accomplished.
- In September 2006, a Bhil woman was attacked and raped by a Madhya Pradesh police officer while her brother-in-law was tied up and beaten after trying to protest her rape. After in incident, on arrival at the police station to report crime,

the police harassed the pair and refused to file their complaint. The situation erupted and subsequently other Bhil tribal members, due to the inaction towards the perpetrators, fought with police.

- The Tribal Welfare Research Institute, a Jharkhand government organisation, has undertaken an intensive survey of the Primitive Tribal Groups. In their reports, it was found that the two Pahariya groups in Pakur district have pledged for loans around 2,500 acres of precious agricultural land. The official survey by the institute has revealed that out of 22 districts, in 14 districts the Primitive Tribal Groups have taken loan of over Rs 1.4 crore of which only Rs 64 lakh have been disbursed by the banks. This loan amount was overwhelming especially when considering that 80 per cent of the populations were making a living of less than Rs 600 per month. Only 1.09 per cent had an income of more than Rs 1,000. They belonged to Korwa tribe living in Garhwa district.
- In 2003, the government in Jharkhand aimed to acquire tribal land from the Paharias in order to pursue a coal-mining project in the region. The project breeched the Land Acquisition Act and the Santhal Pargana Tendency Act, would have deleterious effects for over 50,000 tribal members.
- In Madhya Pradesh, the impoverished status of many of the Bhil people has resulted in the International Labor Organization finding that they constitute a significant portion of bonded labor in the agricultural sector there. In perhaps the most publicized of these cases, the threat of submersion posed by the Narmada Valley damn project is borne primarily by the Bhil tribe. They are the primary inhabitants of the and in the Narmada Valley, having occupied it for centuries. The perception of the Bhil's as 'criminal' seems to render their rights unimportant in the eyes of the government and private enterprises, which seek to benefit from harnessing the resources of the region.
- On August the 28th 2001 a Pardhi woman, after her sons were falsely arrested, ignited herself in protest in court. This incident led to merchants burning down over 100 homes belonging to Pardhi villagers.⁹
- Between 1979 and 1982, 42 denotified Lodha tribals were mob-lynched not for crimes committed, but for being born as "Lodhas."

- Between 1960 and 1998, more than 50 Kheria Sabars have been killed by the police, or mob-lynched. In the Lodha cases, no action has been taken by the police.
- February 98 - West Bengal. Budhan Sabar was tortured by police from 10-2-98 to 16-2-98. On 17-2-98 he was taken to prison, where he died. A case was filed in the Calcutta High Court, which was concluded in July.
- June 98 - Maharashtra. Pinya Hari Kale was killed in police custody in BARAMATI. He belonged to the denotified Pardhi community.
- May 98 - Maharashtra. Ramesh Kale of denotified Pardhi community was killed in police custody of FALTAN.
- May 98 - Maharashtra. At Doki village in Usmanabad district, a Pardhi woman was raped by police and her husband's genitals were crushed.
- October 98 - West Bengal. Mathur Sabar of denotified Kheria Sabar community was speared to death by the villagers.
- June 97 - West Bengal. Lalit Sabar of denotified Kheria Sabar community was sent for some day-labour job. Then he was tied to a tree and his right arm was chopped off.
- August 98 - Maharashtra. The railway police attacked, at Diksal village a group of Pardhi fishermen, women and children. A pregnant woman lost her child as she was kicked on the stomach.
- August 98 - Rajasthan. Alice Garg, a social worker, runs hostels for the children of the denotified Sansi community. The State Government is victimising her. She has been framed in many false criminal cases and has been forced to go underground.
- October 98 - Bombay. Raja Rathor of Ahmedabad had gone to Bombay. He belonged to the denotified CHHARA community. Railway police dragged him to lock up. He died. No details available.
- November 98 - Baroda. A man from the Bajania denotified community was lynched for stealing a gourd.¹⁰

8. Affirmative Actions

The United Nations has adopted and proclaimed by its General Assembly Resolution 217A (III) of 10 December 1948, the '**Universal Declaration of Human Rights**' with a

view to uphold, promote and protect the human rights of every individual. The Universal Declaration of Human Rights has set a common standard for people of all nations regarding protection of human rights ¹¹.

The Constitution of India has also guaranteed to all its citizens some Fundamental Rights. These are the basic rights, which are essential for the growth of an individual's personality and are enjoyed by each citizen irrespective of caste, colour, creed, religion, race and sex.

In addition to this, our Constitution has distinctive provisions to safeguard the rights and interest of the indigenous people. Let us have a look on the provisions laid down by the Constitution of India.

- Article 14: - Equality before law.
- Article 15: - Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- Article 16: - Equality of opportunity in matters of public employment.
- Article 46: - Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
- Article 243D: - Reservation of seats in Panchayats.
- Article 243T: - Reservation of seats in Municipalities.
- Article 244: - Administration of Scheduled Areas and Tribal Areas.
- Article 244 A: - Formation of an autonomous State comprising of certain tribal areas in Assam and creation of local Legislature or Council of Ministers or both therefore.
- Article 275: - Grants from the Union to certain States.
- Article 330: - Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the people.
- Article 332: - Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
- Article 335: - Claims of Scheduled Castes and Scheduled Tribes to services and posts. –
- Article 338A: - National Commission for Scheduled Tribes.-
- Article 339: - Control of the Union over the administration of scheduled Areas and the welfare of Scheduled Tribes.

- Article 366: - Definitions: - In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say. “Scheduled Tribes” means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution.
- Fifth Schedule – Provisions as the administration and control of scheduled Areas and Scheduled Tribes.
- Sixth schedule – Provisions as to the administration of Tribal Areas in [The States of Assam, Meghalaya, Tripura and Mizoram].

9. Enforcement of Fundamental Rights

Indian Constitution has also laid down the following provisions for the enforcement of fundamental Rights.

- The Fundamental Rights are guaranteed by the Constitution not only against the action of the Executive but also against the Legislature. Any act of the Executive or Legislature, which takes away or abridges away these rights, shall be void by the judiciary (Article 13).
- Also the Judiciary have been empowered to issue directions or orders or writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto, certiorari, in order to enforce any particular right against any authority in the state at the instance of an individual, whose rights has been violated [Article 32 (2)].
- The rights so guaranteed cannot be suspended, except during a proclamation of emergency in the manner laid down in the Constitution ¹².
- Apart from this, the Government of India has some wings like, Department of Tribal Welfare and several independent bodied such as, National Human Rights Commission, State Human Rights Commission, Minorities’ Commission, and National Commission for Women etc., to safeguard the human rights of Indigenous People.

10. Policies and Schemes of Ministry of Tribal Affairs:

- Special Central Assistance to the Tribal Sub-Plan (Central Sector Scheme)
- Grants under first proviso to Article 275 (1) of the Constitution

- Centrally Sponsored Scheme of Hostels of ST Boys and ST Girl
- Citizen's Client Charter, 2010-11
- Forrest Rights Act 2006.
- Protection of Civil Rights Act, 1955.
- SC/ST (Prevention of Atrocities) Act, 1989.
- The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996
- Eklavya Vidyalaya
- Establishment of Ashram Schools in Tribal Sub- Plan Areas
- National Forest Policy, 1988
- National Policy on Rehabilitation and Resettlement, 2007
- Rajiv Gandhi National Fellowship for ST Students
- Scheme of Coaching for scheduled tribes
- Scheme of Development of Primitive Tribal Groups (PTGs)
- Scheme of Marketing Development of Tribal Products/ Produce
- Tribal Cooperative Marketing Development Federation of India Ltd (TRIFED)
- Village Grain bank
- Vocational Training Centers in Tribal Areas¹³.

11.Failure In Implementation

In spite of international recognition and acceptance of the Universal Declaration of Human Rights, in practical terms the rights of indigenous people are not properly safeguarded. Throughout the history, the rights of indigenous people around the world are violated. Till date indigenous people continues to face serious threats to their basic existence due to systematic government policies. It is a matter of concern that Human Development Indices (HDIs) of the ST population continue to be much lower than the rest of the population in terms of all parameters such as education, health, income, etc. to further compound the problem these deprived section of the society also suffer from the geographical and cultural exclusion, which are not reflected in the HDI.

In its 2005-2006 Annual Report, the Ministry of Social Justice and Empowerment of the government of India stated that Rs 11.5 million and Rs 3 million was allocated to the National Commission for Denotified, Nomadic and Semi Nomadic Tribes during 2004-2005 and 2005-2006 respectively under Non Plan expenditure. Even these meager funds have not been fully utilized. Out of the Rs 11.5 million for 2004-2005, the Commission

utilized only Rs 6.2 million and not a single penny out of Rs 3 million was utilized for 2005-2006 as of 31 December 2006.

The draft National Tribal Policy of the Ministry of Tribal Affairs in fact made no reference to so-called “denotified tribes”.

On 14 March 2005, the Government of India constituted the National Commission for De-notified, Nomadic and Semi Nomadic Tribes under the Ministry of Social Justice and Empowerment to study various developmental aspects of these tribes but the terms of reference failed to mention application of the Habitual Offenders Act that stigmatises the DNTs. The Commission has been failed to make any recommendation so far¹⁴.

12. Conclusion

It is an impossible idea to claim that a person can be born a criminal. However, the DNTs are branded as ‘Born Criminals’. This is due to this discrimination that the legacy of their deprivation still continues. But it is to be felt that they are human like us. They feel every thing as we feel. The dominant section of the society has completely excluded them from the predominant history of human civilization. Every day they are facing many atrocities behind the veil of government policies. This is the high time that the issue needs to be addressed. There is also a need for adopting special policy measures for the DNTs and to make an end to the ‘Habitual Offenders Act’. With such a blot in our civilization, we can never be able to call India a secular and democratic country.

13.Reference

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