



THE CHALLENGES CONTEMPORANEOUS WITH DE-NOTIFIED AND NOMADIC TRIBES OF MAHARASHTRA: AN INTRODUCTORY STUDY

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ABSTRACT

The Nomadic and De-notified tribes constitute about five million of population in Maharashtra and about 60 million all over India. Due to the wandering traditions over hundreds of years without any ostensible means of livelihood under the influence of the caste system, they are forced to live under sub human conditions. The large section of these tribes is known as “Vimukta jaatis” or the Ex-Criminal Tribes because they were branded as criminals by birth under the “Criminal Tribes Act 1871”, enacted by the British Government. There are 313 Nomadic Tribes and 198 De-notified Tribes. The names of the De-notified tribes in the state of Maharashtra, some of which are featured in this paper, are Berad, Bestar, Bhatma, Kaikadi, Kankarbhat, Katabu, Lamani, Phase-Pardhi, Raj-Pardhi, Rajput-Bhatma, Ramoshi, Vadar, Waghari and Chhapparbandh. The Nomadic Tribes are Bawa, Beldar, Bharadi, Bhute, Chalwadi, Chitrakathi, Garudi, Ghisadi, Golla, Gondhali, Gopal, Helwe, Joshi, Kasi-Kapadi, Kolhati, Mairal, MasanJogi, Nandi-Wale, Pangul, Raval, Shikalgar, Thakar, Vaidu, Vasudeo.

KEYWORDS: social category , Ex-Criminal Tribes , Scheduled Tribes.

INTRODUCTION

The social category generally known as the De-notified and Nomadic tribes of India covers a population approximately of 60 million. Some of them are included in the list of Scheduled castes, some others in the Scheduled Tribes, and quite a few in Other Backward Classes. But still there are many tribes, which do not find place in any of the above mentioned tribes. What is common to all these DNTs is the fate of being branded as 'born' criminals.

HISTORICAL PERSPECTIVE OF THE PROBLEM

In the year 1950, the list of Scheduled Castes and Scheduled Tribes was released. The Criminal Tribes Act was repealed in 1952. Though the Criminal Tribes Act Enquiry committee had categorically made the recommendations to the Central Government regarding these tribes they were deprived of the Constitutional safeguards due to both the acts of commission and omission. Thereafter the issue was swept aside due to the conflicts of the state formation on the linguistic pattern and these tribes in Maharashtra became victims in the process.

Following the linguistic pattern of state formation the territory of the early Nizam state was shared by Andhra Pradesh, Maharashtra and Karnataka. While the tribes in the territory included in Andhra Pradesh and Karnataka enjoy the constitutional status and priviledges, the same tribes in the territory of Marathwada region included in Maharashtra are deprived of it for no fault of theirs. Similarly, it is ironical that tribes like the Kaikadi and Pardhi in Vidarbha, which was previously a part of Madhya Pradesh, enjoy the constitutional status, in the rest of



Maharashtra they are deprived of it.

Since the Nomadic and the De-notified tribes which form the lowest rungs of the society fulfill all the criteria applicable to the ST they enjoy the constitutional status in most other states. Unfortunately, their counterparts in Maharashtra, though they share the same dialect, life style, cultural practices, social customs and blood relations they are deprived of the status of the Schedule Tribes. Instead of doing away with the injustice, the government went on including more and more castes and tribes in the Schedule of the NT's and DNT's pushing the original tribe against the wall.

CRITERIA FOR CONSTITUTIONAL SAFEGUARDS

After Independence, under Article 366 (25) of the Constitution of India certain tribes were classified as Scheduled Tribes and have been provided with constitutional safeguards under Article 342 (2) on a national basis. The classification was made on the basis of the following criteria, which are fulfilled by the NT's and the DNT's being the most depressed sections of society i.e. Primitive Traits, Distinct Cultural Identity, Geographical Isolation, Social Backwardness, Nomadic Way of Life, Stigma and Criminality.

Contemporary challenges to De-Notified and Nomadic Tribes of Maharashtra:

Now a day's De-notified tribe and Nomadic Tribes problems not only emerge because of contemporary circumstances, but also has deeply rooted since from pre-colonial era. However, after completion of 70 years of independent India still they suffer from various problems like pre-independence era. The present paper tries to effort some key tribulations, which led in the direction of the exclusion of De-notified tribes in India.

Here we are going to discuss five major contemporary issues regarding problems of DNT i.e. Not Counting in Census, Classification and Enumeration, Reservation Policy, Policy Making and Caste Base Violence.

1. Not Counting in Census:

In the present day, DNT's are facing the problem of population estimation. Denotified and Nomadic Tribes are not enumerated separately in the decennial census as it is done for the Schedule Castes and Schedule Tribes. Therefore, the Denotified Tribes correct estimation is not available. The 1931 Census is the last census where community wise figures are provided. We made statistical projections from the census and combined estimates of a committee appointed earlier by the government of Maharashtra. Following this method, the population of the DNTs in Maharashtra in 1991 was estimated around 6.5 million persons. This estimate has been on a liberal side. It came to about 7 per cent of the state population in 1991 and compared well with 11 per cent SCs and 9 per cent STs. It is necessary to have a clear idea of the population of the DNT to make plans for their development. However, this seems difficult in the near future. The idea of a special census is mooted by their organizations, however, but the obvious problem that would arise is that many forged people might include themselves as DNT, as has happened in the case of the STs without neglecting the fact which has accrued in case of scheduled tribes in India . In addition, if caste associations are allowed to enumerate their numbers, there is a danger of overstatement. Hence, for the time being, the planning process will have to proceed without exact numbers of DNT.

2. Challenges of Classification and Enumeration:

The first and foremost problem of the DNT is that of classification and enumeration. The DNT's are not categorized as a class under the constitutional schedules like the scheduled castes (SCs) and scheduled tribes (STs). Some of them have been included in the respective state lists of SCs and STs, but there is no uniformity across the country. For example, in Maharashtra, the 'Phanse Pardhis' are included in the STs but their counterparts, the Haran Shikaris or Gaon Pardhis are categorized under the VJNTs (Vimukta Jatis and Nomadic Tribes, as per the categorization of Gov. of Maharashtra). Similarly, the Kaikadis in the Vidarbha

region are grouped under the SCs but those from the rest of the state are under the VJNTs. The same Kaikadis are categorized as STs in Andhra Pradesh.

For example, the Banjaras or Lambdas (and their sub-sections) are included in the VJNTs in Maharashtra but categorized as SCs in Karnataka. This problem has arisen due to a number of reasons. In the first place when we say DNT we consider them as homogeneous but in reality DNT means Denotified Tribe and Nomadic Tribe. Here we need to clearly define differences between Denotified Tribe and Nomadic Tribe. Government of India should mention in constitution of India the term of Denotified Tribe and Nomadic Tribe. Because of this ambiguity in definition many problems create on policy level, research level and academic level. De-notified tribes during the British era were identified as “criminal tribes”. It was only in 1952 when the de-notification order was passed that they were termed as de-notified. Therefore, the issue of including them as a group did not arise when the schedules were prepared in 1950. Some of the individual tribes, on their respective merits, were included in the schedules (as mentioned above). The major shortcoming of the schedules was that a set of norms were prescribed for eligibility and only those communities, which supposedly fulfilled those norms, were included. Though the lists were modified a couple of times later, a great deal of anomalies and discrepancies have persisted. For example, the list of VJNTs in Maharashtra includes some sedentary communities whereas some genuine nomads have been excluded. The ‘not nomadic’ communities are comparatively well developed and usurp most of the benefits meant for true nomads. The DNT suffers a variety of handicaps because of their exclusion from the constitutional schedules; the first and foremost being the lack of protective safeguards. The DNT is not covered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989), under which the SCs and STs are protected. As a result, the violation of human rights cannot be addressed effectively.

3. Challenges of Reservation Policy:

The third handicap is that the DNTs are deprived of central political reservations and concessions although in some states they get the state facilities. In Maharashtra Denotified Tribe and Nomadic Tribe are categorizing as A, B, C, D (Denotified Tribe and Nomadic Tribe are know as the VJNTs in Maharashtra). 11 per cent seats are reserved for the VJNTs (For A 3.5%, B 2.5%, C 3% and D 2%) in the state sector. In 1952 Government create a new classification like A B C and D because inclusion of Dhanagars and Vanjaris (mind Vanjaris and not Banjara) in Denotified Tribe and Nomadic Tribe category they are included in Nomadic Tribe. Today Dhanagars and Vanjaris are separately categories as C and D and they are getting total 5% reservation out of total VJNTs reservation. This kind of internal variations are creating problem within the Denotified and Nomadic Tribe of Maharashtra from this kind of problem DNT are most suffered. As in the case of the STs, the problem of pseudo-identities also affects the DNT. Other communities having a similar classification usurp the concessions of the DNT. 4. Challenges of Policy Making: The Draft National Policy on Tribals also fails to refer to the denotified tribals. The British India adopted the Criminal Tribes Act of 1871 to identify certain groups as criminal tribes which was very racist act. In 1952, Government of India officially "denotified" the stigmatized ones but enacted the Habitual Offender's Act, which is not much different from the Criminal Tribes Act of 1871. Both the Criminal Tribes Act and the Habitual Offenders Act negate the universally proclaimed principles that “all human being are born free and equal”. The listing of certain tribes under the Habitual Offenders Act negates the cardinal principle of the criminal justice system the presumption of innocence before proven guilty. The five year plans to rehabilitate the Denotified Tribes have failed. In the first five year plan, the Planning Commission made a provision of Rs. 3.5 crores for the resettlement of ex-criminal tribes and for training them in the ways of settled community life. In the second plan, a provision of Rs. 2.94 crores was made. The 3rd Five Year Plan allocated “Rs. 4 crores.

During the 4th Five Year Plan, a plan outlay of Rs 4.5 crores was made. Thereafter, no specific programmes were included in the Five Year Plans. This is despite the fact that the Planning Commission in the Third Five Year Plan urged that “In view of the small results achieved thus far in rehabilitating denotified tribes, it is considered that their needs should be studied in each area at close range and suitable programmes should be formulated, keeping in view the long-term and complex nature of the problems

involved”. Both the National Human Rights Commission of India and the National Commission on the Review on the Working of the Constitution made specific recommendations on the Denotified Tribes Communities Few years ago but failed to evoke positive response from the Central government and the state governments.

Although the Draft National Policy envisages halting “stigmatization” of the so called Primitive Tribes, one wonders as to how such stigmatizations can be halted when the Draft National Policy uses such Derogatory terms. A Draft National Policy must conform with existing international standards, which secure understanding of and respect for the dignity of the human person and not provide impetus to archaic notions, which promote the doctrines of racial superiority. The Draft National Policy on Tribals should use the term “indigenous and tribal people consistent with India’s obligation as a ratifying party to the ILO Convention No 107 and “disadvantage groups among indigenous and tribal peoples” to describe the so called “primitive tribes.” In addition, the characteristics given by President of India to identify “scheduled tribes” are deleted and the characteristics accorded under ILO Convention No 107 and ILO Convention No 169 be adopted to describe these communities. The National Policy on Tribals must abandon any policy of assimilation with regard to the vulnerable groups amongst indigenous and tribal peoples, provide mechanisms for follow up and implementation of the recommendations of the sub-groups of the National Commission on Populations on the demographic problems of these vulnerable groups, conduct evaluation of the schemes undertaken for the development of the so called Primitive Tribal Groups with a view to improve implementation of the existing schemes and include the Denotified Tribes under its Five Year Plans programmes.

5. CHALLENGES OF CASTE BASE VIOLENCE:

Despite the repeal of the Criminal Tribe Act in 1949, members of the ‘denotified’ tribes are continue to face harassment at the hands of the police, leaders of the Dominant castes and culturally elite caste in all over India . The ministry of social justice does not favor the setting up of a permanent commission for them because it cannot find evidence of large-scale atrocities (the NCDNSNT has recommended bringing them under the Prevention of Atrocities Act, 1989). DNT leaders (the formation of tribe-wise associations has led to the absence of a cohesive leadership t hat can speak on behalf of all the Denotified tribes) want the government to add a chapter in the Third Schedule of the Constitution and categories them as Scheduled DNT (EPW Editorial, Oct. 4, 2008).

CONCLUSION:

Now a days ‘Denotified Tribes’ are struggling with both the political and economic opportunities. But the fact that the denotified tribal people are combating for, and sometimes receiving, their piece of the pie is itself a sign of change. It is becoming more difficult for the dominant castes from Maharashtra to keep them marginalized.

Criminal Tribes Act to deal with these ‘suspect’ communities nomadic or forest based and prepared a list of communities that were ‘notified’ under the Act as being ‘criminal’. The Act provided for registration of members, restrictions on their place of residence, and their ‘reform’ by confinement in special camps where low-paid work could be extracted from them. By 1921, the Criminal Tribes Act was extended to all parts of India and new communities were continuously added to the list of ‘criminal tribes’.

Since independence, the government, realizing that the Criminal Tribes Act was a shameful colonial legacy, repealed the Act in 1952. Tribes that were ‘notified’ became ‘Denotified’. However, the government did not simultaneously take any steps towards finding a livelihood for members of de-notified and nomadic tribes. In 1959, new laws in the form of the Habitual Offenders Act were introduced in various states. These Acts retained many of the provisions of the Criminal Tribes Act such as registration, restrictions on movement, and incarceration in ‘corrective settlements’ earmarked for ‘habitual offenders’. The bias against nomads lingered. The police routinely used the Habitual Offenders Act against members of nomadic and Denotified communities. Although the National Human Rights Commission and the United Nations

Committee on the Elimination of Racial Discrimination recommended that the Habitual Offenders Act be repealed, the offensive Act has not been repealed till date.

They being branded as 'criminals' during the long period of British rule, and the absence of rehabilitation following independence, has left a mark on the way most Indians continue to think about nomadic communities. They are outcaste, live outside villages their children are not allowed into schools as well as they are denied any steady jobs. Villagers and even administrative officials consider them criminals, and they remain easy targets for the police.

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