

## 5. Constitutional Policy for Ethnic Tribes in India

Mr. Gagan K,

UGC Junior Research Fellow,

Department of Studies in Law, University of Mysore

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### Abstract

*Tribes are ethnic groups bound by strong bond of kinship and trust. India is a country of diverse cultures and as a consequence, we find many ethnic tribes. There are debates in about the treatment of such ethnic groups. One group of anthropologists feel that these groups should be allowed to have their own existence in isolation and no interference should be made by the State. Another group opine that these groups are backward and need to be brought into the mainstream society. There is a mid-way approach professed by Nehru who said that the will of these groups should be respected.*

*As per the 2011 census, there are more than 1 million Scheduled Tribes in India. Certain areas are concentrated with these tribes, especially in the North-Eastern states. In the pre-independence days, these areas were excluded from the British rule. After independence, these areas were declared as 'Scheduled Areas' in the Constitution and they have been given autonomy under Article 244 read with Schedule V and VI. The objective of this paper is to analyse the socio-economic conditions; special Constitutional status given to these groups and find out the issues and challenges in developing inclusive policies for these groups.*

### Treatment of Ethnic Tribes

In Anthropology, there are broadly three approaches to treating the ethnic tribes. The first approach preaches that the ethnic tribes should be considered as museum pieces and should not be touched. They should be studied from a distance for academic purposes. And the Governments should not interfere with their affairs. The second approach preaches that these ethnic tribes should be given suitable assistance by the Government to lead a peaceful life wherever they live. The third approach states that the ethnic tribes should be brought into the mainstream of the society. Otherwise, they will

be deprived of the basic necessities of life (Cohen, 1978). It is a challenge for the policy makers to choose either of the approaches and to decide the suitable approach for policy making.

### **Objectives of the Paper**

This paper traces the historical background relating to the ethnic tribes and their treatment in the pre-colonial and colonial era. This paper also discusses the legal provisions for the benefit for ethnic tribes in India. It is also the objective of the paper to discuss the challenges to the policy makers to formulate policies for the ethnic tribes in the changed circumstances.

### **Research Methodology**

This paper uses descriptive and historical method of research. At a macro level, analytical method of study is applied. The Constituent Assembly Debates (Volume II) have been referred to for knowing the historical background and discussions relating to the ethnic tribes. The Constitution of India has been used a primary text to know the Constitutional provisions relating to the ethnic tribes. The data relating to the ethnic tribes has been collected from the reports of the Ministry of Tribal Affairs and periodicals.

### **Ethnic Tribes in India**

As per the 2011 census, there are 10.43 crore ethnic tribes in India. This amounts to 8.6% of our total population. India is a diverse country and we are united as one country despite the different cultures. We can find multiple cultures, multiple languages, and multiple ethnicities here. In one word, we can define India as a pluralist country. It is said that true values of a pluralist democracy can be found out by examining how it treats its minorities (Bhargava and others, 1999).

In pre-independence colonial times, even the British never interfered with the tribal areas. Even in the pre-colonial era, we find historical sources that point out the fact that the rulers did not interfere with the ethnic tribes and their affairs. In 1855, the famous Santhal rebellion happened when an attempt was made to interfere with the affairs of Santhal tribes near West Bengal (Culshaw and others, 1945).

In the Constituent Assembly Debates, we find that a sub-committee under the Chairmanship of Shri A.V. Thakar was constituted to study the needs of ethnic tribes and how their needs had to be accommodated within the Constitutional framework. There were several debates highlighting the need for special status for the tribal areas (Saksena, 1981).

### **Constitutional Provisions**

Constitution of India declares in its preamble that everyone is equal. The fundamental rights guarantee that every citizen shall be treated equally and will have equal protection of the laws (Article 14). Apart from the fundamental rights, there are specific provisions that give special protection for the ethnic tribes. Article 366(25) states that the term Scheduled Tribe (ST) is to be understood as defined in Article 342. This is important because certain special privileges in the field of education and employment are given to the scheduled tribes.

Article 244(1) and 244(2) read with Schedule V and VI of the Indian Constitution gives the special status given to the scheduled tribe area. Schedule VI deals with the tribal areas within the North Eastern states. Schedule V deals with the tribal areas apart from the North Eastern states (Rao, 1976). Schedule VI states that no general laws of the country are applicable to these areas and that specific laws that are applicable have to be notified. As per the schedule V, all the regular laws are applicable to these areas and those laws that are not applicable are notified specifically.

In this scheduled tribe areas, District and Regional Councils are constituted for the administrative purposes. These councils are given complete autonomy. They undertake administration of justice also. They have village councils that undertake the civil works like waste management, drains, roads etc. The land within these areas cannot be transferred to outsiders. There are strict restrictions on this matter. The money lenders are not allowed into these areas. This is in response to the problem of money lenders who used to exploit the innocent tribes.

## Changed Circumstances

The above mentioned provisions were formulated during 1950. From those days to the present day, lot of things has changed. In 1961, the population of Scheduled Tribes was 30.1 million. In 2011, their population has increased to 104.3 million. The increase is three times. The policy makers have take into consideration, this huge increase in the population and how new policies have to be formulated for improving their life.

When it comes to the matter of literacy, in 1961, 8.53% of the Scheduled Tribes were literates. In 2001, 47.10% were literates. In 2011, 58.96% are literates. When we compare these figures with the national average, in 1961, 28.3% of people were literates. In 2001, 64.84% were literates. In 2011, 72.99% were literates. The tribes are 14% less literate than the national average. This is not a positive development. The tribes are far behind the rest of the population when it comes to being literates

Apart from these, there is a problem of *Naxalism* in most of the tribal areas. Successive Governments have tried to snatch the land of these tribal people, due to which *naxalism* problem has escalated in these areas. The Chinese aggression in 1962 was a major development which disturbed the tribes in the North Eastern areas. The Bangla war of 1971 also caused some trouble. *Naga* and *Mizo* uprisings and rebellion is a cause of worry for the Government and internal security.

## Change in Policy

The important question that arises now is – whether there is a need to rethink the policy for ethnic tribes. This is to be answered in affirmative. Three approaches for dealing with ethnic tribes were discussed in the beginning. The researcher here points out that all three approaches are relevant for the policy makers. The policy should be formulated based on the needs of these ethnic tribes.

The first approach is total isolation. There are certain tribes like the *Jarawas* in the Andaman and Nicobar Islands. These tribes do not wish to make a contact with us. Such tribes should not be

contacted. We should better allow them to live as they are. Interfering with such tribes would cause lot of problems for them. Even if they wish to come in contact with the mainstream society, they will take a lot of time.

The second approach is to contact the tribes and help them. There are certain tribes like the *Jenu Kurubas* in Karnataka. These people have good contact with the mainstream society. However, they wish to live with their own group. They do not wish to join the mainstream society. Such tribes should be given assistance by the Government in matters of health, food and sanitation. They should be allowed to lead the life as per their wish.

The third approach is to bring the tribes to the mainstream society. There are several tribes who wish to join the mainstream society. We should welcome them with open arms. Government should make suitable policy to integrate them with the mainstream society. We should give them special privileges.

## Conclusion

It is apt at this juncture to recall the *panchsheela* principles laid down by the first Prime Minister of India Jawaharlal Nehru. He gave five principles for dealing with the tribes: do not impose our decisions on them; tribal rights over forest and land should be respected; self administration of tribal areas should be allowed; over administration of tribal areas is not suitable; we need to judge the results of development of these tribes not by money, but by the quality of human life. These principles seem very relevant even today.

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